Chapter 23 – Index

23.	Deportation/asylum
23.1	Asylum claim made during interview before service of notice of intention to deport (formerly APP104)
23.2.	Post enforcement asylum claims
23.3.	Service of deportation orders and asylum refusal decisions
23.4	Supervised Departure/asylum claim
23.5.	Repeat Applicant cases – Project Janus
23.6.	Detained Fast Track and Detained Non-Suspensive Appeal Cases
23.7.	Induction centre cases
23.8.	Third country cases
23.9.	Raising a Single Case File
23.10.	Permission to work (PTW)
23.10.1	Permission to work - Pre-decision asylum applicants
23.10.2.	Permission to work for those with previous employment concession
23.10.3	Permission to work - Post decision asylum seekers
23.10.4.	Permission to work - Fresh claims
23.10.5	Permission to work - Non asylum claimants

23. Deportation/asylum

From 2 October 2000, with the entering into force of section 10 of the 1999 Act, enforcement offices have only dealt with new deportation cases referred to them by the relevant casework section. If there are any doubts as to the correct procedures to follow in an individual case, contact the relevant casework section.

23.1 Asylum claim made during interview before service of notice of intention to deport (formerly APP104)

Case-workers will not normally ask an enforcement office to serve one of the ICD notice of intention to deport forms (Chapter 16 refers), especially whilst there is an asylum claim outstanding. If case-workers do ask an enforcement office to serve a notice and the person claims asylum during the interview, do not serve the notice, note the file accordingly and inform the relevant case work section e.g. Criminal Casework Team (CCT) of the circumstances. Full details of the claim must be sent to the relevant casework section.

23.2 Post enforcement asylum claims

Where a person who has already been served with one of the ICD1071 series or a DO makes an application for asylum, send a copy of the SEF screening form to NASS and inform the relevant casework section immediately.

23.2. Service of deportation orders and asylum refusal decisions

Asylum deportation decisions will normally be served by post except where a DO is to be served simultaneously with an asylum refusal or when the applicant is detained. If so, the relevant casework section should send all the forms to be served to the enforcement office.

If service of any other asylum deportation decision is required, the relevant casework section will provide instructions detailing all notices to be served and the appropriate appeal forms.

23.4 Supervised Departure/asylum claim

A supervised departure must not be pursued once an asylum claim has been made unless the claim is subsequently withdrawn in writing, preferably, but not necessarily, on the asylum disclaimer form.
See also: Asylum process and the Single Case file

This chapter outlines the procedure to be followed once the screening interview has been completed.

All asylum cases and their dependants will be suitable for transfer to the relevant casework section under the Single Case file scheme, except for:

- Repeat Applicant cases;
- STANA cases;
- Oakington cases;
- Dover Induction Centre cases;
- Dual detained cases/prosecution cases not detained under IS powers;
- CIO bail cases.

23.5. Repeat Applicant cases – Project Janus

Procedures – Project Janus Poise link from

23.6. Detained Fast Track and Detained Non-Suspensive Appeal Cases

For guidance on identifying cases suitable for Detained Fast Track (DFT) and Detained Non-Suspensive Appeals (DNSA) processes, and for referring such cases to the Asylum Intake Unit (AIU) officers should refer to the
DFT & DNSA Intake Selection instruction.

This instruction is also for AIU who are responsible for assessing the suitability of cases referred for Detained Fast Track (DFT) and Detained Non-Suspensive Appeals (DNSA) processes; for assessing relevant operational factors connected to the potential entry, and for selecting the cases for entry to the appropriate process.

23.7. Induction centre cases

Dover and Northwest cases, which are suitable for inclusion in the Induction Centre process, should be dealt with in accordance with the current guidelines. The single case file tick box on CID (located in the 'case maintenance' field) should be ticked for all Induction Centre cases.

23.8. Third country cases

All Third Country/Dublin cases arriving in the United Kingdom are eligible for inclusion in the Single Case File process. This includes those that are definite third country cases and those cases that may be subject to concurrent substantive consideration. The only changes to existing Third Country procedures are:

- **Definite Third Country cases**

The decision whether a case is a definite Dublin runner rests solely with Third Country Unit. Where it has already been established that a case will be treated as Third Country only, the front cover of the file should be marked clearly:

Single Case File – Third Country Definite Runner

The SCF SEF Cover Letter should **NOT** be issued in definite third country cases, as the application is not being considered substantively.

The file should then be dispatched to the File Creation Unit.

♦ **Possible Third Country cases**

Where Third Country action will run concurrently to substantive consideration of a case, the front cover of the file should be clearly marked:

Single Case File – Third Country Concurrent Consideration

The file should then be dispatched to the File Creation Unit.

23.9. Raising a Single Case File

The Single Case Files should be organised in the following order:

On the left hand side of the file from top to bottom:

♦ Check lists, which should be accurately minuted, dated and signed by the IO/AIO.

♦ Minutes.

All minutes should be timed and dated by the AIO/IO, who should then sign them and legibly print their name. In the event that the case is handed to another officer for completion of actions, it should be clearly stated on file which actions have been done and which, if any, papers have been served.

On the right hand side of the file from top to bottom in the following order:

♦ IS151A

♦ IS158 fully completed and marked SINGLE CASE FILE across the top.

♦ IS96 where temporary release has been granted or IS91 series forms and MODCU 1 where the asylum seeker has been detained.

♦ IFB result. Where this is not attached, the officer should minute the reason on file.

♦ A copy of the ARC card and a signed receipt for this from the applicant. Where it is not possible to issue the ARC card, an exact copy of the SAL2 issued should be placed on file.

♦ SCF SEF Cover letter with the return date completed (except Third Country definite runners)

♦ SEF Screening form

♦ SCF Information document

♦ IS75 &76

♦ Photocopies of all relevant documents

In the pouch at the rear of the file should be:

- Passport (details should be noted on CID)
- Originals of any relevant documents
- Any forged or counterfeit documents which should be placed in a an envelope marked **FORGED DOCUMENT**.

SINGLE CASE FILE should be written prominently in capitals across the top of the front cover of the file.

When the file has been transferred to ICD, CRISIS/CRISH/CID should be updated with **CASE TRANSFERRED TO THE ACU.**

It is essential that the Single Case Files contain all the relevant documentation before the file is dispatched to the ACU, as mistakes cannot be rectified at a later date. The files will have to be checked before dispatch. It is a local management decision as to how this is achieved.

The files should be placed in file boxes with a list of the files being despatched to the FCU placed on top of the files. The boxes should then be sealed securely and labelled with the following address to which they should be sent by 1st Class Recorded Delivery. **No other method of postage is acceptable.** The packages must be readily identifiable as containing Single Case files to avoid processing delays when they reach the ACD.

23.10. Permission to work (PTW)

Although enforcement staff have used their powers under Paragraph 21 to Schedule 2 of the Immigration Act 1971 to set restrictions as to a person's employment when granting temporary admission/release, changes in the law to prevent illegal working, which came into effect on 1st May 2004, have meant that the IS96W ceased to be a valid document for the purpose of confirming a person's entitlement to work.

In addition on 1 April 2005, in line with a European Directive on asylum seekers' right to work, the following Immigration Rules change came into effect:

"360 An asylum applicant may apply to the Secretary of State for permission to take up employment which shall not include permission to become self employed or to engage in a business or professional activity if a decision at first instance has not been taken on the applicant's asylum

application within one year of the date on which it was recorded. The Secretary of State shall only consider such an application if, in his opinion, any delay in reaching a decision at first instance cannot be attributed to the applicant.

360A If an asylum applicant is granted permission to take up employment under rule 360 this shall only be until such time as his asylum application has been finally determined."

23.10.1 Permission to work - Pre-decision asylum applicants

Where an asylum applicant who has not yet received an initial decision on his application requests permission to work he must contact Asylum Casework Directorate's ACU1 in Croydon or ACU11 in Liverpool directly by writing to the relevant address below.

Border and Immigration Agency
ACU1, Lunar House, 40 Wellesley Road, Croydon CR9 2BY OR

Border and Immigration Agency
ACU11, PO Box 800, Liverpool, L69 2UJ

Asylum Casework Directorate will not deal with requests from asylum seekers who have already received an initial decision.

23.10.2. Permission to work for those with previous employment concession

If it is confirmed an asylum seeker was given PTW under the previous employment concession, before it was abolished in July 2002, **and** that person's claim has not yet been finally decided (i.e. appeal rights exhausted), the PTW continues. Such people should hold an employment permitted Application Registration Card (ARC). If an ARC is not held advise the person to apply for an employment permitted ARC to the Central Events Booking Unit (CEBU). CEBU can be contacted on tel: 0151 237 6375 or fax: 0151 237 6391. An IS96 **must not** be used to notify a person of his entitlement to work.

23.10.3 Permission to work - Post decision asylum seekers

An asylum applicant who has been granted PTW under the provisions of paragraph 360 of the Immigration Rules, only retains this entitlement until such time as his asylum application has been finally determined, i.e. until a decision has been made on the application and any appeal lodged within the time prescribed for doing so has been finally determined, withdrawn or abandoned. If an

appeal is lodged after the required date (out of time), this will not result in PTW being reinstated. If an asylum seeker who has already received a decision on his application requests PTW he should be advised that he does not qualify under the relevant Immigration Rules.

If you are aware that a person's entitlement to an employment permitted ARC has ceased (this should be checked against CID records) ask the person to surrender the card. If he has the card with him and is attending an ARC equipped site, the card should be taken in at that stage and a new, employment prohibited card issued immediately. If the person is not attending an ARC equipped site, he may apply to CEBU for an employment prohibited ARC instead. The person is not to be left without an ARC as it may be required for the ongoing collection of NASS cash support or other use. Any retained cards should be returned to the address on the back of the ARC. Before doing so the card is to be disabled by punching a hole through the chip.

23.10.4. Permission to work - Fresh claims

If a failed asylum seeker makes a fresh asylum claim then provided it is accepted as a fresh claim the procedures set out above should be followed, i.e. the claimant will be entitled to apply for PTW provided he satisfies the criteria in Paragraph 360 of the Rules, otherwise any request for PTW would be a mandatory refusal. If the new asylum claim is not accepted as a fresh claim the person will have no entitlement to apply for PTW.

23.10.5 Permission to work - Non asylum claimants

It is not the Department's policy for a person subject to enforcement action, i.e. person liable to deportation, section 10 removals or removal as an illegal entrant, to be granted PTW under any other circumstances than those described in this section. This is consistent with the Government's policy of preventing abuse of the immigration system and instead encouraging those people who wish to come to work in the United Kingdom to comply with the Immigration Rules by applying for the appropriate entry clearance and where necessary obtaining a work permit.