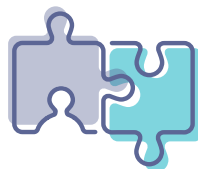




Guidance for Children seeking asylum in Wales



Canolfan
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y Plant
Cymru

Children's
Legal
Centre
Wales

Applying to stay in Wales

Wales is part of the UK. Your right to stay in Wales depends on the UK's immigration rules.

Asylum

Means a place that is safe. The word is used to describe a process for giving people permission to stay in the UK because they are in danger in the country that they come from.

You can claim *asylum* in the UK if you've left your own country because you were treated badly for a reason including your race, your religion, your nationality, belonging to a particular social group (such as child soldiers or trafficked children) or holding a political opinion - or you're scared that you will be treated cruelly for one of these reasons. .

The law says that asylum claims should be made as soon as possible after someone arrives in the UK.



Who can help

Local Authority

also known as the council, the organisation that looks after the area of Wales where you live.

A lawyer – They can help you with your asylum claim. They must be regulated by the Law Society or registered with the OISC (Office of the Immigration Services Commissioner) at the right level. Your *local authority* should make sure you have a lawyer.

Your lawyer should talk to you politely and should give you information about what to do if you are not happy with the service they give you. Complaining about a lawyer will not harm your asylum case and you can find a different lawyer if you need to.

You do not have to pay for a lawyer. It is paid for by the government, like hospitals or schools, but the lawyers do not report to the government.



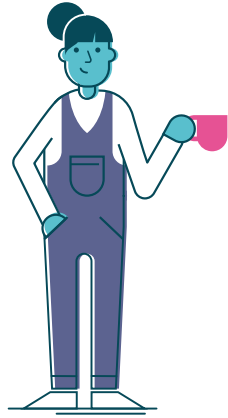
A translator or interpreter - This is so you can understand what's happening and make sure you are understood. They can help in any interviews with the home office and any meetings with your lawyer.

Best Interest

Please see Being 'looked after' on page 16 for more information.

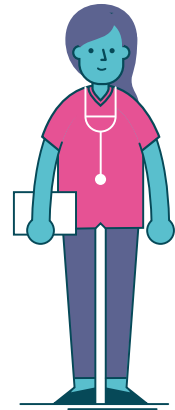
A Social Worker – Someone employed by the local authority to help and support children and adults when they need it. They can help you access services you are entitled to and should act in your *'best interest'*.





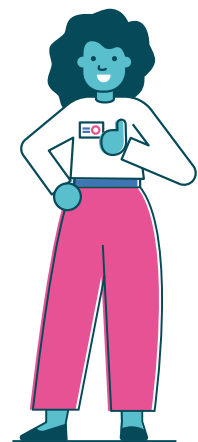
A Foster Carer – You may live with them and they will look after you on a day-to-day basis by providing food, clothes and emotional support.

A Nurse or Doctor – These are medical professionals that can support all your health care needs. They will work with your social worker to make sure you are well. Healthcare in Wales is free.



A Teacher – These are the people you will be with every day at school or college and are responsible for your learning.

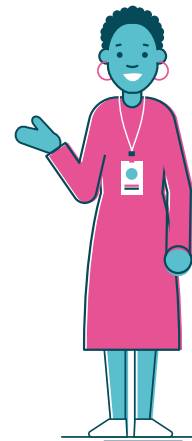
Advocate – is independent and offers support to a child or young person who is looked after including a care leaver. They speak up for you, help ensure your views are listened to and taken seriously by decision makers, your rights are respected and work with you to resolve issues.





Key Worker – depending on where you live you may have staff at your accommodation to help with your care. One member of staff maybe asked to work closely with you and that person is called your key worker.

Young Person's Advisor (YPA) – all those “leaving care” aged 16-18 will be given an advisor, by the LA, who works with you to help you learn the skills you need to live independently.



The Asylum processes

Welfare (small) interview

Home Office – a government department that deals with immigration, which includes asylum.

Home Office Caseworkers are the people who will look into your reasons for wanting asylum and make a decision on whether you can stay.

You will be invited by the **Home Office** to attend a welfare (small interview) to check you're ok.

Your social worker or foster carer can help you make an appointment with United Kingdom Visas and Immigration. You will be asked some basic questions, such as your name, your date of birth, your nationality, your ethnicity, your religion, and about your family members. You don't need to go into details about your asylum claim right now. They will also take your photograph and record your fingerprints.

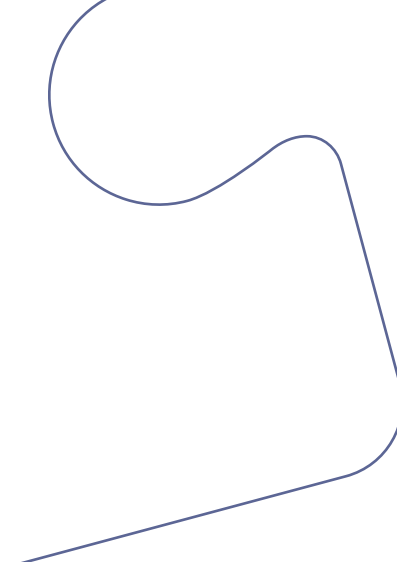


Statement of Evidence Form

After your short interview you will get a form. This is called a Statement of Evidence Form (SEF). You should get help from a lawyer to fill this in.

The SEF has to be completed in English and be must sent to the Home Office within 60 working days from the date your claim for asylum was made (normally the day of your Welfare Interview but may be longer as it is the date you receive the paperwork). This deadline can be extended.

The SEF asks questions about your family and your journey to the UK. It also asks for a statement. This is a piece of writing



that explains what has happened to you and what you are afraid will happen to you if you had to leave the UK.

If you don't have a lawyer when you get this form, your foster carer, key worker or social worker will help you find one. Your lawyer will ask you if you have any evidence (information/ letters) to support what you have said about what you think would happen to you if you are returned to your country. Lots of people do not have any evidence on paper and it will not stop you being allowed to stay in the UK if you do not.

Anything you say is **confidential** – this means your lawyer cannot repeat anything you tell them without your consent (if you do not want them to). The only times they can tell someone else what you have said is if they think that you are going to harm yourself, someone else, or if you are threatening terrorism. You can have someone to support you in meetings with your lawyer if you want, but you do not have to. You should be asked if you are happy with who is in the room with you.

If it is difficult to speak about what has happened there are lots of things that can be done to help.

- ▶ If possible, find an adult you trust to help write it down for you and ask you questions if some things are not clear.
- ▶ You may also find it easier to draw pictures or find pictures on the internet to help explain what you want to say.
- ▶ You could try recording yourself speaking
- ▶ In your appointments with your lawyer, ask for an interpreter if you need one. Even if your English is good it is often harder to talk about difficult things in a different language. If you are not comfortable with the interpreter, it is important that you tell someone.
- ▶ Make sure you ask your lawyer to give you time to explain yourself and if you don't understand what they say, ask them to repeat or to explain it another way.

Sometimes if a person has been hurt badly they will need to go and see a doctor, to check that they are OK, both physically and mentally. This can help explain what has happened to them to the Home Office so that they don't have



to. It is not a bad thing if you have to see a doctor about your mental health, it is important for you to be fit and healthy.

Substantive (big) interview



If you are over 12 years old, you will normally have a big interview where the Home Office caseworker will ask you questions about why you came to the UK, your journey, your life before the UK. If your lawyer does not think you are fit enough, physically, mentally or emotionally to be interviewed then they can write to the Home Office and ask them to decide your case in another way.

The interview is where the Home Office tries to find out more about what scared you so much that you had to leave your own country, or what your family said might happen to you if you stayed. They will already have the information in your SEF form and statement. They should not ask you questions about what you have already told them unless they don't understand something. If you came to the UK without a passport or other documents to show what country you are from, they might ask you some questions about your home country (for example important places, the money that is used or sports teams). They might also ask you to speak to someone on the telephone so they can learn more about where you are from the way you speak; this is called a 'language assessment'.

Who's in the Interview and why?

- ▶ Your social worker (or a responsible adult) – are there to make sure that you are staying well, and to ask for breaks if you need them;
- ▶ Your lawyer - are there to observe and take notes, they cannot answer questions for you;
- ▶ An interpreter from the Home Office -If you would find it easier to have a man or a woman interpreter you can ask for that. You cannot ask for the interpreter to be from a specific country.

It can be a long and tiring interview, but you can ask for breaks if you are tired or upset. Your social worker or responsible adult can ask for these breaks for you.



After your asylum interview?

You should have a meeting with your lawyer after your asylum interview to check that you are ok with how it went. They should read the written record of your asylum interview back to you, to make sure that it was all written down correctly. They will be able to write to the Home Office if there is anything you need to add or change.

When you've made your claim

The Home Office can take many months to make a decision on your asylum claim. If you are worried you've been waiting too long for a decision, you can ask your lawyer to contact the Home Office.

The first thing the Home Office will decide is whether your claim can be processed in the UK, you should not be told that your claim cannot be decided in the UK because you have travelled through another country, but the Home Office will consider whether there are any family members in another country that could look after you. You will only be sent to live with them if both you and they agree and the Local Authority consider that it is in your best interests to live with them.

When the Home Office has made a decision, they must tell your social worker and lawyer what they have decided. Every case is different. but there are a number of different outcomes. If you are granted refugee status then how long you can stay in the UK will depend on how you travelled to the UK:

- ▶ If you came directly to the UK from your home country you will be granted permission to stay in the UK for 5 years and you will be able to apply for indefinite leave to remain at the end of that time (this is called being a 'Group 1' refugee)
- ▶ If you travelled through other countries where the Home Office does not accept that you were in danger then you would be considered a 'Group 2' refugee. You will be granted permission to stay 30 months (2 and a half years)

and you can apply to have this extended before it finishes. You will need to take specialist advice as to whether you apply for indefinite leave to remain after 5 or 10 years.

If you are fleeing a dangerous situation rather than persecution specific to you, you may be given 'humanitarian protection'. The rules for this type of protection are the same as for 'Group 2' refugees and you will be given permission to stay in blocks of 30 months. In some circumstances, if you came to the UK from somewhere else in the EU under s.67 of the Immigration Act and you are not granted asylum, you may get **s.67 leave** which means you will be able to stay in the UK for 5 years, receive financial support from the UK Government and access public services during that time. After 5 years you will be able to apply for 'Indefinite Leave to Remain' in the UK but there is no guarantee you will receive this.

Your case may be different to the above, and your lawyer will be able to explain more. If you aren't given asylum or humanitarian protection, and are not entitled to s.67 leave, you cannot be removed from the UK until you are 18 years old. If you are under 17 and a half years old when you are refused you will be given permission to stay either for 30 months or until you are 17 and a half years old. You can apply to extend this, if you'd like to stay longer in the UK.

If you don't agree with the decision that is made about your application, you can usually appeal. Your lawyer will talk to you about whether they can represent you for free in your appeal. Sometimes lawyers cannot do appeals for free because the chances of winning are not high enough.

Age assessment

If the Home Office thinks you look older (or younger) than the age you say you are, you may have to have an age assessment. This will be completed by social workers and should be done within 28 days.

You will be asked lots of questions across some different meetings – some may be quite personal and will cover lots of things to try and establish your age. You'll be asked if you have any documents with you that confirm who you are and your age.

Your **Appropriate Adult** should support, advise and assist and can be your social worker, key worker or another adult that can support you.

During these meetings, an *Appropriate Adult* can be there to make sure everything is okay during the assessment and to look out for you.

You should be treated as a child until the decision is made about your age. If the decision is that you are under 18, you will continue to be treated as a child. If the decision is that you are 18 or older, you will be treated as an adult and a different asylum system applies. If this happens, you can ask for help to have your age recognised and be treated as a child. You can talk to a lawyer for advice and representation.

The outcome of the age assessment must be communicated to you in a way you understand, and you have 3 months to challenge this outcome.

A decision about your asylum claim should not be made until everyone has agreed on how old you are. If the decision is taken that you are over 18, the Home Office may decide that your asylum claim should not be processed in the UK and you may be taken to another country (Rwanda, which is in Africa) for your claim to be processed. If you are granted asylum there you will be granted permission to stay in Rwanda, but will not be brought back to the UK.

It is very important that you get specialist legal advice as quickly as possible if an age assessment states an age that is different to the one you have given.



My Rights

If you are under 18, you are treated 'as a child', and in accordance with the United Nations Convention on the Rights of the Child (UNCRC) this means:



- ▶ Decisions taken by adults about you should always be in your 'best interests'. However, the decision about whether you are allowed to stay in the UK can take into consideration other things.
- ▶ Your views should be listened to and taken into account when decisions are made
- ▶ Your language, culture and religion should be respected
- ▶ You should be kept safe from harm
- ▶ You shouldn't be detained

A decision that is in your 'best interests' is a decision taken by adults which takes into account all the relevant circumstances, including your views. It may not always be the decision you want. If you disagree with a decision that has been made about you, there are lawyers that can help advise you on whether you can challenge the decision. Your immigration lawyer might be able to help you to contact one of those lawyers.

If I can't stay in the UK

The process of applying for asylum can take a long time and it might be decided that you cannot stay in the UK. The UK Government has to consider its own rules about returning people to countries that it judges to be unsafe. Your lawyer will advise you. If you do have to return home, travel arrangements will be made by the UK Government. This might not happen straight away, and can be a very long time after you are refused asylum.

Detain

This means to keep you in a centre where you cannot leave.

At any time after you are 18 the Home Office can '**detain**' you. This should only happen if they are going to remove you from the UK quickly after they detain you.



Applying to stay for longer

If you want to apply for 'Indefinite Leave to Remain' in the UK, or want to extend your leave to remain in the UK, you must make your application before your existing leave runs out.

My family

If you have been granted refugee status and can stay in the UK, there are limited situations where you can apply for parents and siblings to join you, but it is very unlikely that they will be able to. Your lawyer will advise you. If you've come to Wales but your parents are in another EU country, the authorities may decide that it is in your 'best interests' to be reunited with your family in that other country.

If you have come to the UK to join family members here, you will still need to sort out your immigration status. Your lawyer will advise you.



Your rights when you are in Wales

Wales recognises the United Nations Convention on the Rights of the Child (UNCRC) which means that while you're in Wales, you should be able to enjoy life 'as a child'.

While you are in Wales, you have rights, including:

- ▶ The right to medical care
- ▶ The right to education
- ▶ The right to somewhere safe to live
- ▶ The right to be protected from abuse and neglect
- ▶ The right to play and relax
- ▶ The right to your religion and culture

You're not expected to manage on your own – there's help and support here for you.

Medical care in Wales

You are entitled to free healthcare from the National Health Service (NHS) in Wales. You can:

- ▶ See a doctor at a local surgery, or have dental treatment
- ▶ Go to hospital in an emergency (including a dental hospital)
- ▶ Get any medicines a doctor thinks you need



Education in Wales

- ▶ If you want to continue your education, you will be able to do this.
- ▶ You're entitled to free education in Wales until you're 18.
- ▶ You have to go to school, or be in some other kind of education, until you are 16.
- ▶ You will be supported to learn English and Welsh while you're at school in Wales.

Finding somewhere to live

If you're under 18, you will be provided with somewhere to live by the local authority. This could be:

- ▶ In 'foster care' – where you'll live in a 'family' environment, maybe with other children
- ▶ In a 'children's home' – where you will live with a small number of other looked after children
- ▶ In a flat or other accommodation that is suitable for you if you need more independence. You may live with other young people like yourself.

If you have accommodation from the local authority, you are 'looked after' by them.



Being 'Looked After'



Local authority

also known as the council, the organisation that looks after the area of Wales where you live.

Social worker

someone employed by the local authority to help and support children and adults when they need it

In Wales, we believe that every child needs the support of adults to help them grow and develop. If you're not with your parents, the **local authority** will provide support for you through a **social worker**. This is known as being 'looked after'.

Your social worker can't make decisions about whether you can stay in the UK, but they can help you with things like getting medical treatment, organising education or training, or with finding community support for you while you're living in Wales.

The local authority must:

- ▶ Provide food to eat;
- ▶ Provide clothes to wear;
- ▶ Find out what other things you need for your health, education, and care.

If you are under 18, there are some decisions that should be made by whoever has parental responsibility for you. But you should be involved in all decisions about you.

You will be looked after until you are 18. If you are allowed to stay in the UK and have been 'looked after' for 13 weeks or more, you can get ongoing support beyond the age of 18.

You will be supported by adults' whichever type of accommodation is arranged for you. You could live in a 'family' environment with a foster carer, or in a children's home with other young people. If you are 16 or 17, you might be given somewhere to live that is more independent. Wherever you live, it must be safe for you. You will be expected to respect and follow the rules where you are living to keep everyone safe.



Your Care Plan

The services that the local authority will organise for you will be included in a Care Plan. This document will include:

- ▶ The support you need to make your asylum claim or deal with other immigration issues
- ▶ Details about your education and how you would like to progress and develop
- ▶ Any health problems that need to involve a doctor or dentist or other health professional
- ▶ Any needs you have in relation to your identity and culture
- ▶ What the outcomes should be for you
- ▶ Help you may need to develop independent living skills in preparation for becoming an adult
- ▶ Who is responsible for making sure your needs are met, and helping you to achieve your outcomes.



My rights when I'm being looked after

All children in Wales have rights under the United Nations Convention on the Rights of the Child (UNCRC). These rights apply to you if you're being 'looked after'. These include;

Best interests

A decision taken by adults which takes into account all the relevant circumstances, including your views. It may not always be the decision you want.

- ▶ Decisions taken by adults about you should be made in your '*best interests*'
- ▶ Your views should be listened to and taken into account when decisions are made
- ▶ Your language, culture and religion should be respected
- ▶ You should be kept safe from harm

Thinking about life as an adult

If you've been looked after for 13 weeks before you are 18, the local authority can continue to support you as you become an adult, if you would like this. Your social worker will work with you to prepare a **Pathway Plan**, and will explain to you what this Plan is and how it will help you.

When you turn 18 (or slightly earlier at 16 sometimes), another important person will replace your social worker and help you out – a Young Person Advisor. They will write everything they plan to do to help you in a Pathway Plan, after agreeing it with you.

If you aren't entitled to support once you are 18, or you don't want it, you may still be able to get some assistance, but this will depend on your right to stay in the UK.



Getting your voice heard

When you become 'looked after', you should be told about your right to **advocacy**. This is an independent service that can help you explain your problems with the help of a professional who is there to represent your views. Advocacy can help with any issue you have and aims to help you resolve your problem.



If things don't go well

If you don't agree with the way you are being looked after or something isn't going well, you can complain. Advocacy may help you make your complaint.

Every local authority has a complaints process and if needed your social worker can give you more information about this.

If the local authority doesn't deal with your complaint properly, you may be able to complain to the Local Government Ombudsman.

Organisations that can help you:



Asylum Justice
asylumjustice.org.uk
029 2049 9421



Welsh Refugee Council
welshrefugeecouncil.org.uk
029 20489 800



TGP Cymru
trosgynnal.org.uk
029 2039 6974



Ethnic Youth Support Team (EYST)
eyst.org.uk
01792 466980/1



Cardiff City of Sanctuary
cardiff.cityofsanctuary.org
029 2048 2478



Swansea City of Sanctuary
swansea.cityofsanctuary.org
07496 172895



Children's Commissioner for Wales
www.childcomwales.org.uk
0808 801 1000

Remember that the police in Wales are here to help you. Don't be afraid to contact them. If it is an emergency, call 999. Otherwise, you can call 101 to speak to the police



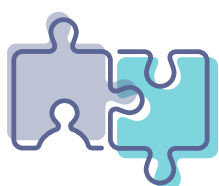


Find out more about children's rights and the law as it affects children in Wales on the Children's Legal Centre Wales Website.

🖱️ childrenslegalcentre.wales

☎️ 01792 295399

✉️ childrenslegalcentre@swansea.ac.uk



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