



Home Office

# Medical evidence in asylum claims

Version 2.0

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# About this guidance

This guidance tells you about managing cases where there is a request to delay the asylum process so that medical evidence of torture or serious harm, usually a Medico-Legal Report (MLR), can be provided. It also covers how to consider medical evidence submitted as part of an asylum claim.

This guidance does not cover considering medical evidence in the context of making detention decisions, which is covered in the Adults at risk policy. There is also separate guidance for cases involving Age disputes.

This guidance does not cover how to consider medical evidence provided in support of a human rights application based on physical or mental health needs. See Human rights claims on medical grounds and Discretionary Leave guidance.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Clearance

Below is information on when this version of the guidance was cleared:

- version **2.0**
- published for Home Office staff on **26 August 2022**

## Changes from last version of this guidance

- decision makers signposted to relevant version of assessing credibility and refugee status guidance depending on whether the asylum claim was made before or after 28 June 2022
- standard of proof section updated following commencement of section 32 of the Nationality and Borders Act 2022

### Related content

[Contents](#)

# Introduction

This guidance explains how you must process and consider asylum cases involving allegations of torture or serious harm, where a claimant intends to submit medical evidence or has already provided a report to support their claim. This includes specific guidance on:

- the case management of letters of interest or referrals from external organisations intending to provide medical evidence
- the circumstances in which it may be appropriate to delay a decision to await medical evidence and active management of the case whilst a report is pending
- considering asylum claims involving allegations of torture or serious harm where a medical report forms part of the evidence

This guidance must be read in conjunction with other relevant guidance when considering the asylum claim, including but not limited to the following:

- Assessing credibility and refugee status (select the version that relates to the date of the claim)
- Asylum interviews
- Gender issues in the asylum claim
- Humanitarian Protection
- Discretionary Leave
- Further Submissions
- Modern slavery
- Family and private life

You must have had specific training to deal with asylum claims which involve the submission of MLRs and decisions reviewed by a Second Pair of Eyes (a technical specialist or a senior caseworker).

When a referral for medical evidence is received for a claimant who is detained, their detention must be reviewed in accordance with the Adults at risk in immigration detention policy, the Rule 35 process, and the Detained Asylum Casework (DAC) process.

When considering Human Rights on medical grounds, you must refer to the guidance on Medical claims under Articles 3 and 8 of the European Convention on Human Rights (ECHR).

## Background

Torture, trauma and serious harm may form part of any asylum or human rights claim. Victims and survivors of such harm may find it difficult to recount or disclose details of what has happened to them because of the traumatic and sensitive nature of those experiences. Where a person claims to have been tortured or suffered serious harm, you must consider all relevant information to inform your decision on their claim. This will involve carefully considering written and oral evidence provided

by the claimant and any MLRs, mental health reports or other medical evidence provided by clinicians that are submitted as additional evidence to support the claim.

It is vital that all relevant evidence is properly considered and given appropriate weight and, where appropriate, decisions may be delayed for a reasonable [time](#) to allow for medical evidence to be provided and considered. However, it is also important to ensure that decisions are made without unnecessary delay, which requires effective management of any cases on hold.

## Policy intention

The policy objective when processing claims involving allegations of torture or serious harm and considering medical evidence in the context of asylum claims is to ensure that:

- asylum claims are properly considered in a timely and sensitive way on an individual, objective and impartial basis
- all relevant medical evidence provided in support of the claim is properly considered and given appropriate weight
- all claims are managed effectively throughout the asylum process to avoid unnecessary delay

## Application in respect of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State for the Home Department to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. The section 55 duty applies whether the child applies in their own right or as the dependant of a parent or guardian.

The statutory guidance, [Every Child Matters – Change for Children](#), sets out the key principles to take into account in all actions concerning children. All decisions must demonstrate that the child's best interests have been a primary (albeit not necessarily the only) consideration.

It is important to carefully consider medical evidence when provided, having regard to the impact of torture or serious harm inflicted on a child, either physically or mentally and ensure, where there are any safeguarding concerns, that the Asylum Safeguarding Hub is engaged without delay so that any safeguarding measures are taken promptly.

Specially trained caseworkers deal with asylum claims from children and must follow the Assessing age guidance on considering and weighing up medical evidence in relation to age disputes. For further information, see also Processing children's asylum claims.

## Safeguarding

You do not have to stop making the asylum decision whilst a safeguarding issue is investigated. However, you must speak to your senior caseworker to check whether service of the asylum decision is appropriate, or if the safeguarding issue needs to be considered together with the asylum claim. You must make a referral to the Asylum Safeguarding Hub in order for safeguarding staff to liaise with the statutory authorities.

If you become concerned that a claimant may be in danger, you need to take immediate action to ensure their safety. Where there are child welfare or protection concerns that may involve safeguarding issues within the family unit the case must be referred immediately to the Asylum Safeguarding Hub, who will refer the case to the relevant local authority. There is no requirement to obtain the consent of any adults involved as safeguarding the child is our primary responsibility. In an emergency the case must be referred to the police without delay. The Safeguarding Advice and Children's Champion (SACC) can also offer specialist safeguarding and welfare advice on issues relating to children, including family court proceedings and complex child protection cases.

## Signposting to support services

The asylum claimant receives the [information leaflet for asylum applications](#) which includes information on support services and you can refer them to the contacts for appropriate support which are detailed in this leaflet.

### Related content

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# Relevant legislation

## International conventions

The [Refugee Convention](#) provides the framework for international refugee protection. It has been supplemented by the progressive development of international human rights law.

The Convention for the Protection of Human Rights and Fundamental Freedoms (commonly referred to as the European Convention on Human Rights (ECHR)) seeks to secure a fair balance between the general interests of society and protection of the claimant's fundamental rights. The articles of particular relevance are:

Article 3 - provides protection against torture or inhuman or degrading treatment or punishment (this is an absolute right).

Article 8 - provides that everyone has the right to respect for their private and family life - a claimant's medical condition is relevant to their moral and physical integrity, which is a component of private life (unlike Article 3, Article 8 is a qualified right).

The [Human Rights Act 1998](#) incorporated into UK domestic legislation our obligations under the ECHR. It allows cases concerning ECHR rights to be brought in the UK courts.

## Nationality and Borders Act 2022

The [Nationality and Borders Act 2022](#) (the '2022 Act') made changes to the way in which asylum claims made after 28 June 2022 are determined.

The medical evidence in asylum claims guidance is relevant to all asylum claims, irrespective of whether they were made before or after 28 June 2022. However, there are 2 separate instructions for Assessing credibility and refugee status depending on the date that the claim was made and whether transitional arrangements apply, and you must ensure you refer to the relevant instruction when considering medical evidence submitted as part of an asylum claim.

For further information please see Assessing credibility and refugee status guidance.

## Immigration Rules

[The Refugee or Person in Need of International Protection \(Qualification\) Regulations 2006](#), the [Asylum \(Procedures\) Regulations 2007](#) and the [Immigration Rules](#) lay down the minimum standards for the qualification and status of third country nationals or stateless persons as refugees and the procedures for granting and withdrawing refugee status.



[Part 11 of the Immigration Rules](#) sets out provisions for considering asylum claims and reflects our international obligations. The following paragraphs are of particular relevance to this guidance:

[Paragraph 333A](#) states that:

The Secretary of State shall ensure that a decision is taken on each application for asylum as soon as possible, without prejudice to an adequate and complete examination.

Where a decision on an application for asylum cannot be taken within six months of the date it was recorded, the Secretary of State shall either:

- (a) inform the applicant of the delay; or
  - (b) if the applicant has made a specific written request for it, provide information on the timeframe within which the decision on their application is to be expected.
- The provision of such information shall not oblige the Secretary of State to take a decision within the stipulated time-frame.

[Paragraph 339K](#) states that:

The fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

[Paragraph 339C](#) sets out what needs to be satisfied for grants of Humanitarian Protection.

[Paragraph 339J](#) states that the assessment by the Secretary of State of an asylum claim, eligibility for a grant of humanitarian protection or a human rights claim will be carried out on an individual, objective and impartial basis. This includes factors to be taken into account, the following of which are of particular relevance to this guidance:

- (ii) relevant statements and documentation presented by the person including information on whether the person has been or may be subject to persecution or serious harm
- (iii) the individual position and personal circumstances of the person, including factors such as background, gender and age, so as to assess whether, on the basis of the person's personal circumstances, the acts to which the person has been or could be exposed would amount to persecution or serious harm

## The Istanbul Protocol

The Istanbul Protocol is a specialist UN manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (the [Istanbul Protocol](#)). The Istanbul Protocol was developed to facilitate effective documentation of incidents of torture, not only to ensure that perpetrators can be held accountable but also to support human rights investigations including the evaluation of asylum claims.

The Istanbul Protocol is not presented as a fixed protocol but rather as guidelines and principles on minimum standards. Other standards may be applied to the examination and drafting of medical evidence.

The following paragraphs of the Istanbul Protocol are particularly relevant:

Paragraph 161 states that the absence of “physical evidence should not be construed to suggest that torture did not occur, since such acts of violence against persons frequently leave no marks or permanent scars”.

Similarly, paragraph 236 of the Protocol states that, “It is important to recognize that not everyone who has been tortured develops a diagnosable mental illness. However, many victims experience profound emotional reactions and psychological symptoms”.

Paragraph 234 of the Protocol though makes clear that, “The psychological consequences of torture, however, occur in the context of personal attribution of meaning, personality development and social, political and cultural factors”.

Paragraph 187 states that medical reports should indicate the degree of consistency between injuries sustained and the claimant’s account as to how the harm was inflicted:

The following discussion is not meant to be an exhaustive discussion of all forms of torture, but it is intended to describe in more detail the medical aspects of many of the more common forms of torture. For each lesion and for the overall pattern of lesions, the physician should indicate the degree of consistency between it and the attribution given by the patient. The following terms are generally used:

- (a) Not consistent: the lesion could not have been caused by the trauma described;
- (b) Consistent with: the lesion could have been caused by the trauma described, but it is non-specific and there are many other possible causes;
- (c) Highly consistent: the lesion could have been caused by the trauma described, and there are few other possible causes;
- (d) Typical of: this is an appearance that is usually found with this type of trauma, but there are other possible causes;
- (e) Diagnostic of: this appearance could not have been caused in any way other than that described.

Paragraph 188 states that “Ultimately, it is the overall evaluation of all lesions and not the consistency of each lesion with a particular form of torture that is important in assessing the torture story”.

## **Related content**

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# Case management

## Referrals to MLR providers

Where an asylum claimant alleges incidents of torture or serious harm, any referral to a clinician or clinical organisation for the purposes of providing a Medico-Legal Report (MLR) always comes via their legal representatives.

There may be an appropriate NHS service that the claimant's doctor could refer them to for care and treatment or they may wish to approach a specialist clinical organisation such as Freedom from Torture or the Helen Bamber Foundation, who provide care and treatment.

Where there is evidence that a claimant may have suffered torture or serious harm you must consider suggesting that they may wish to approach a specialist provider for care and treatment. However, it is for the claimant or their legal representative to decide whether to seek an appointment. Where you suggest a referral, this should not be taken to mean that the claim of torture has been accepted at this point.

## Cases accepted by an MLR provider for assessment

Where you are informed in writing by the claimant's legal representative that the claimant has been accepted for an appointment with a reputable provider and or an organisation that applies a rigorous methodology to the production of reports, for the purposes of producing an MLR, you should normally suspend the substantive decision. It will normally only be appropriate to delay a decision where an MLR is relevant to the outcome of the asylum claim, and the evidence already provided does not warrant a grant of any form of leave. See [Deciding a claim without waiting for medical evidence](#).

Where you are informed by telephone that a claimant has been accepted for an appointment with a MLR provider, you must ask the legal representative to provide written confirmation of this, along with an explanation from the clinical organisation or legal representative as to why an MLR is relevant to inform a decision on their asylum claim. If the consideration of a case may be delayed as a result of a claimant's appointment with an MLR provider then the claimant or their legal representative must additionally provide the evidence as set out below, see [Referral paperwork and evidence required](#).

## Referral paperwork and evidence required

Information about the claimant's referral for an MLR and updates on progress can be provided to the Home Office by email or letter. The Home Office will not consider delaying consideration of an asylum claim in accordance with this guidance unless the following information is provided:

- personal details of the claimant being referred including full name, any aliases, nationality, date of birth

- whether the claimant has been seen in person by a clinician as part of any pre-assessment process
- details of the clinician or organisation the claimant has been referred to
- full details of the clinician's or specialist clinical organisation's qualifications, expertise and experience that relate specifically to the individual case
- name, address and company details of the legal representative making the referral
- date the claimant was referred for assessment and date by which a report is expected
- reason for referral – this must include supporting evidence as to why the claimant warrants further assessment and specifically why it is necessary to delay a decision to wait for a medical report
- confirmation that regular updates on progress will be provided or if attempts to contact the legal representative prove unsuccessful, that the Home Office can contact the provider directly where there are unexplained delays

Any report that documents medical evidence of torture or serious harm must usually be completed in accordance with international guidelines for the documentation of torture set out in the [Istanbul Protocol](#). MLRs compiled in accordance with the Istanbul guidelines assert the consistency of the evidence they find with the individual's account.

A non-Istanbul Protocol guided report from a reputable provider or organisation that applies a rigorous methodology to the production of medical reports may still provide evidence of torture. Some MLRs in asylum claims are compiled for different reasons and so will not refer to the Istanbul Protocol. Non-exhaustive examples include, assessments of mental capacity, cognitive impairment/learning disability or severity of condition and prognosis. See [Considering medical evidence](#) sections for further information.

## Deciding whether to delay a decision

Where a claimant has been accepted for a pre-assessment appointment, intends to provide medical evidence and the appropriate information has been provided, you must decide whether it is appropriate to delay a decision. This will depend on the individual facts of the case and the importance and relevance of the evidence to the assessment of protection needs. You must assess whether the medical evidence would be relevant to the outcome of the asylum claim and seek advice from a senior caseworker if in doubt. Where you consider that medical evidence is likely to be relevant to the question of whether the claimant qualifies for protection, you must normally allow a reasonable time for an MLR to be submitted before deciding the claim, see [Delaying a decision: time limits](#).

Where you decide to delay the decision pending receipt of a report, you must write to the claimant and their legal representative to confirm that the decision has been placed on hold using letter template ICD.1100. You must update Home Office records when a case is delayed ensuring that the basis of the delay is clear for anyone else who may need to handle the case, for example detained cases would need to factor delays into detention considerations.

## Detained cases

In certain circumstances immigration offenders or illegal migrants who claim asylum may be detained. They can seek medical evidence in support of their claim in the same way claimants who are not detained. If a referral form is submitted or a clinician agrees to produce a report, you must consider whether to delay a decision in accordance with this guidance.

A claimant's suitability for detention is a separate issue and must be considered in accordance with the Adults at risk policy and Detention criteria and Rule 35 processes.

## Deciding a claim without waiting for medical evidence

Where you do not consider it is appropriate to delay a decision to wait for medical evidence, you must discuss the case with a senior caseworker or Second Pair of Eyes before making a decision. You must also contact the claimant and their legal representative and give them an opportunity to provide further representations as to why the decision should be suspended pending receipt of medical evidence. For example, it will not normally be appropriate to delay a decision in the following circumstances:

### Refugee status or humanitarian protection is being granted

If it is clear, on the evidence already available, that refugee status or humanitarian protection is appropriate there is no need to wait for medical evidence and a decision must not be delayed. It is important that those in genuine need of protection are granted leave without unnecessary delay.

### Medical evidence will not affect the outcome

Where medical evidence is not material to the assessment of risk on return or any human rights issues you may proceed to a decision without waiting for receipt of medical evidence. This may apply where the claimant's account of events, including incidents of torture, is accepted but does not give rise to a need for international protection. This may occur, for example, where the country situation has changed such that they are no longer at risk of harm or there is sufficiency of protection on return.

Where material facts can be accepted without waiting for medical evidence and there are sufficiency of protection or internal relocation options for the claimant, and there would be no breach in Human Rights, senior caseworkers must be consulted to agree that the decision can be made.

In such cases you may proceed to a decision without waiting for the medical evidence but should first contact the claimant and their legal representative (if represented) and give them an opportunity to provide representations as to why the decision should be suspended to wait medical evidence.

You must discuss a decision to proceed with a senior caseworker or Second Pair of Eyes where you are minded to refuse the claim outright. In all cases, where an individual is detained, detention must be reviewed in accordance with the Adults at risk guidance to consider whether detention remains appropriate.

## Delaying a decision: time limits

There is no obligation to suspend decision making without reasonable cause – this is not beneficial for those in genuine need of protection and it hinders the overall effective management of the asylum process. Where medical evidence is considered relevant to the outcome of the claim and you are not minded to grant any form of leave, it will be appropriate to delay a decision to allow the claimant a reasonable amount of time to submit medical evidence. However, it is not acceptable for cases to be on hold indefinitely whilst waiting for evidence. Therefore, you must set a reasonable time limit, in line with the following timeframes, for receipt of such evidence, after which the case should normally be decided.

Timeframes:

- 5 to 10 working days will usually be reasonable to provide general evidence about existing healthcare needs or treatment the claimant is receiving
- 28 days will usually be reasonable where evidence has to be commissioned, from a clinician, unless a good reason is given to support a longer period of time
- 5 months, in general, will be a reasonable time limit for receipt of an MLR (specialist clinical organisations like the Helen Bamber Foundation and Freedom from Torture aim to produce a full MLR within 5 months of the date that the legal representative or claimant has been notified in writing that the claim has been placed on hold by the Home Office)

The timeframe may be extended in exceptional circumstances, depending on the facts of the case. There may also be circumstances in which it would be appropriate to agree a shorter timescale, for example, in cases where the claimant is detained or has lodged a late asylum claim after a deportation order has been signed.

You must act reasonably in deciding whether to allow more time beyond these targets where there are good reasons for the delay and a clear timescale for the medical evidence to be produced is provided. There are several factors that may lead to a delay in providing medical evidence which may justify additional time. These include, but are not limited to:

- a high level of trauma and/or a long history of torture and/or multiple injuries requiring additional clinical sessions
- the need to match the claimant with a particular specialist
- missed appointments due to travel disruption
- illness on the part of the claimant, clinician or interpreter
- in children's cases, securing the appropriate clinical resources and expertise

You must take into account any explanation provided by the claimant or their legal representative when considering a request for more time. However, the request must be reasonable.

## Ongoing case management: regular updates

Cases must be actively managed whilst waiting for any medical evidence. You must ensure regular contact with the claimant or their legal representative (if represented) is maintained to minimise delays. You must clearly document on the Home Office records all communication with the claimant or their legal representative, including any failure to provide updates on the progress of the case when requested to do so or by specified deadlines. If there is no indication given as to why the case has been delayed, you must consider whether it is appropriate to proceed to a substantive decision. Before making a decision to proceed to substantive decision, you must ensure that every effort has been made to discuss the progress of the case with the claimant or their legal representative (where applicable).

Legal representatives are expected to assist in avoiding unnecessary delays by providing regular updates in writing (either by email or letter) on:

- the progress of a case if a date for the provision of medical evidence by a clinician has not yet been set out by the clinician
- promptly upon completion of a medical report or the decision not to submit a report
- promptly after a provider has declined to provide a report
- if the claimant wishes to proceed with their claim without waiting for a report

If legal representatives do not comply with these requirements after making a request to delay a decision, inquiries must be made as to the status of the case. Clinicians are usually instructed by the legal representative on behalf of the claimant, so direct communication between the clinicians and the Home Office will normally be inappropriate. Where repeated attempts to contact the legal representative are unsuccessful however, you may write directly to the relevant clinician, who can then follow up cases directly with the legal representative. In the absence of a legal representative, you may contact the relevant clinician directly and vice versa.

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### Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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### Official – sensitive: End of section

## Medical evidence received after deadline

If medical evidence is submitted after the deadline agreed, you must still consider the evidence if a decision has not yet been made. It is important to consider all

evidence in the round, including any medical evidence, before reaching conclusions on credibility. See guidance on [Assessing credibility](#) and [refugee status guidance](#).

In cases where medical evidence is submitted after the claim has been refused, the case should be reviewed before any appeal. The report must be carefully considered taking all evidence into account. It is important to fully consider the medical evidence in the context of the evidence as a whole to properly assess whether such evidence may have resulted in a different overall assessment of credibility and evaluation of future risk had it been available before the initial decision. It is not sufficient to maintain, without clear explanation, that previous adverse credibility findings mean the medical evidence makes no difference to those findings.

Having considered the medical evidence, if it is clear that a grant of leave is appropriate, the original decision must be withdrawn and a new decision must be served. The case must be fully minuted to explain the change.

Where the outcome of the decision remains unchanged, you must amend the reasons for refusal letter to reflect that the medical evidence has been carefully considered. If the refusal had already been served and is to be maintained, a supplementary reasons for refusal letter must be provided setting out how the evidence has been considered and why the decision is to be maintained. You must ensure that the legal representative is provided with a copy of the refusal letter prior to the appeal to ensure that the appeal can proceed without delay.

If the appeal stage has already been reached when the medical evidence is received, follow [Medical evidence submitted following refusal of asylum](#).

Where an appeal has already been heard and dismissed and appeal rights are exhausted, any further evidence must be dealt with and considered in accordance with the Further submissions process. Also, see section on [Referrals and medical evidence in further submissions](#).

## Medical evidence is not provided

A clinician may decide not to write a report for several reasons and the absence of a report must not be taken as a reason to refuse the claim. You must not draw adverse inferences about the credibility of an asylum claimant solely from the decision not to invite the claimant for an assessment or produce a medical report. The decision of a clinician not to accept the claimant into their service may be based on a number of reasons including a lack of capacity, or the claimant falling outside the organisation's remit. The reasons a clinician may decline to write a report may include:

- where it was felt another clinician would be better placed to document the evidence
- where they cannot match the testimony to the injury
- where there is no apparent physical scarring or psychological consequences of torture or serious harm to document
- where injuries have already been documented and the clinician has nothing more to add



It is recognised in the Istanbul Protocol that the absence of “physical evidence should not be construed to suggest that torture did not occur, since such acts of violence against persons frequently leave no marks or permanent scars” (paragraph 161). It is also “important to recognize that not everyone who has been tortured develops a diagnosable mental illness. However, many victims experience profound emotional reactions and psychological symptoms” (paragraph 236).

In cases where claimants are not accepted for a medical report appointment, the claimant or their legal representative are expected to inform the Home Office immediately to ensure the case is not unnecessarily delayed any further. See [Ongoing case management: regular updates](#).

## Interim reports

A clinician may produce an interim report. This may occur for several reasons. For example, a clinician may consider that they cannot yet be as comprehensive as they might in a full report, or because a full history has not yet been obtained (for clinical reasons). There may nevertheless be significant factors to report.

Where a clinician has provided an interim report, it will depend entirely on the individual facts of the case and the content of the report as to whether it would be appropriate to proceed to a decision. If an interim report provides sufficient evidence to justify a grant of leave, there is no need to wait for the full report. The principles set out in [Considering medical evidence](#) must be applied.

### Related content

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# Case handling at the interview stage

## Requests to delay substantive interviews

An asylum interview must not be delayed pending receipt of a medical report unless sufficient medical evidence, or information raising concerns that require medical evidence, is provided that a medical condition may prevent the claimant from attending or participating fully with the interview process. Any request from the clinician or legal representative to delay an interview must clearly state why the claimant is unable to participate in the interview and provide sufficient medical evidence to support that assertion. Such evidence should also give an indication as to when the claimant may be able to attend an interview and or whether a request for reasonable adjustments is being made. See Asylum interviews guidance for further information.

## Dealing with torture claims at the substantive interview

You must check the Home Office file before an interview as part of your preparation to see whether:

- there is any indication that the claimant intends to submit medical evidence
- the claimant has approached a medical practitioner
- the claimant may require particular care during the interview or there are any safeguarding concerns
- the screening interview notes refer to any medical conditions, medication, other treatment or other relevant information

Where the claimant provides oral evidence during the interview that they have been tortured or suffered serious harm you must consider suggesting that they could approach a specialist provider for care and treatment and speak to their legal representative about instructing for and submitting medical evidence. If the claimant indicates that they or their legal representative intends to provide medical evidence, you must make a note of this on the interview record, photocopy any evidence of a medical appointment, and place this on the Home Office file.

Where evidence of a medical appointment is not available at the interview you must note that in the interview record and ask for a copy to be provided (by email or letter) no later than 5 working days after the interview. The interview must, where possible, establish the relevance of the medical evidence to the claim. You must be mindful that oral evidence provided during an interview may be enough to accept an account of torture or serious harm (to the relevant standard of proof) without the need for further documentary evidence.

Where you agree to delay a decision pending receipt of further evidence, it must be made clear to the claimant that the report must be submitted as soon as possible and that without an explanation for any subsequent delay, a decision will not necessarily be delayed beyond an agreed date. The claimant and or legal

representative must be informed (by email or letter) of the agreed deadline for receipt of further evidence. See Case management and Intention to seek medical evidence.

## Conducting the interview

It is extremely important that you are aware of the following and for information on conducting the interview you must refer to the Asylum interviews guidance and Assessing credibility and refugee status guidance.

The traumatic nature of torture means that particular care and sensitivity is required when interviewing those who claim to be victims of torture or serious harm. You must be familiar with guidance on interviewing alleged victims of torture in the Asylum interviews policy. You must also be aware that not all forms of torture necessarily result in physical scars or injuries that are identifiable during a medical examination or are visible to an interviewing officer. You must never ask a claimant to undress to show you any scars.

A torture victim's potential shame, distress, embarrassment and humiliation about recounting their experiences are difficulties which may need to be overcome. A claimant may find talking about such experiences particularly difficult in the context of an official process. Those who have suffered at the hands of their own authorities may distrust officials in the UK, despite travelling to this country to seek refuge. All Home Office staff must be aware of this issue. Treating people with respect and adopting a professional and sensitive approach during the interview process will help to provide claimants with any reassurance they need. This includes making reasonable adjustments where necessary for a disabled claimant.

## Intention to seek medical evidence

If a claimant informs you that they intend to provide medical evidence but have not yet sought a referral, they are not entitled to have consideration of their claim suspended. In such instances, you must inform the claimant but make it clear that if a letter confirming an appointment with a clinician is received before a decision is made, the case may be placed on hold to await further evidence. Where the claimant is represented, you must contact the legal representative to confirm whether a referral has been made and if so, obtain details of the referral before proceeding with a decision. See [Referral paperwork and evidence required](#).

During the interview, you must establish whether there is any evidence that the claimant has seen or will be seeing a medical practitioner. Appointment and referral letters or letters relating to assessment or treatment must be photocopied and placed on file.

Interviews must not be suspended or cancelled solely on the basis that a claimant has informed the Home Office that they intend to seek medical evidence in support of their asylum claim. See Asylum interviews for guidance on the circumstances in which it may be appropriate to suspend or cancel the interview.

## Requests to submit medical evidence received after interview

Where the Home Office is notified later on in the process, after the substantive interview has already been completed, that medical evidence is being submitted, you must consider whether to delay a decision on the claim in accordance with this guidance. Where medical issues are raised for the first time at this point, you must carefully examine the request, and consider whether the medical evidence is relevant to the consideration of the claim. You must not make a clinical judgement about the relevance of potential medical evidence but must act reasonably in deciding whether to delay a decision and consider a suitable timeframe for it to be produced where you consider such evidence is necessary. See sections on [Case management](#) with regards to delaying decisions and time limits.

### Related content

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# Considering medical evidence

This section sets out how you must approach the consideration of medical evidence provided in support of an asylum claim. The key principle is that you must carefully consider such evidence in the round to reach an informed decision on whether the claimant needs protection. You must read this guidance in conjunction with asylum policy guidance on Assessing credibility and refugee status.

Medical evidence may be submitted from a range of sources and in different forms, from appointment slips to Medico-Legal Reports (MLR). Printouts of medical records or appointment slips may be sufficient to establish the existence of a condition and you must take into account the relevant standard of proof in assessing asylum claims.

Medical evidence must usually be printed on letter-headed paper, with the postal address, telephone number and email of the relevant hospital or medical practice providing the evidence. Medical reports should include the details of the individual, agency or organisation providing the report and should be dated and signed by the individual who drafted it.

## Credentials of clinicians

Clinicians preparing medical evidence should set out their relevant expertise, experience and training. Where they are writing independently, their report must be objective and unbiased. They should set out their reasoning for their findings and where a report documents evidence of torture, they should apply standards and a framework (for example, the [Istanbul Protocol](#)).

MLRs may be provided by a specialist clinical organisation such as the Helen Bamber Foundation or Freedom from Torture. The Helen Bamber Foundation and Freedom from Torture cannot accept all cases referred to them and referrals are considered by a panel for suitability. Clinicians who write reports for these organisations receive training and supervision. Reports writers from a specialist clinical organisation such as the Helen Bamber Foundation and Freedom from Torture are accepted by the Home Office as having recognised expertise in the assessment of the physical, psychological, psychiatric and social effects of torture.

Clinicians from reputable organisations that apply a rigorous methodology to the production of reports should be objective and unbiased. Reports and other medical evidence prepared by such organisations should be accepted as having been compiled by qualified, experienced and suitably trained clinicians and health care professionals. No medical evidence should be given little weight on the grounds that the writer, whether a doctor, consultant, other clinician or healthcare professional is not sufficiently qualified to write it - including, in relation to mental health conditions, where the writer has extensive experience in the field and are regulated professionals.

Medical evidence prepared by other regulated experts with extensive experience in this field should generally be accepted, where details of their qualifications, training

and experience have been provided, and it is clear that the evidence has been compiled using standards and a clear framework (for example, the Istanbul Protocol). Medical evidence should not be given little weight, including in relation to mental health conditions, because of the type of clinician preparing it where they have experience in that field and are regulated professionals.

If you have concerns about medical evidence and consider the writer does not appear qualified to write the evidence, you must discuss those concerns with a senior caseworker or Second Pair of Eyes. If necessary, the issue must be raised with the claimant's legal representative, clearly outlining the reasons for concern about their qualifications, so that the legal representative, who commissioned the evidence, can raise these concerns with the relevant clinician.

You can check whether a doctor or medical professional is registered with the General Medical Council (GMC). The [GMC website](#) contains a link to enable the registration status to be checked by entering the individual's name, GMC reference (and year of qualification if available). If they are registered, this will be confirmed on the website. If the name does not appear on the register, this may not necessarily mean they are not registered, you must contact the help number on the GMC website for further information. Any information obtained from the site, or through contacting the GMC, must be recorded on the Home Office case file.

Health care professionals who are not doctors are unlikely to be regulated by the GMC, so you may need to check with other regulators as relevant to verify registration with reference to the registration body named in the credentials section of the medical evidence.

## Assessing medical evidence

You must consider all evidence in the round, including any medical evidence submitted to support the asylum claim. As such, it is important that medical evidence is properly understood and given appropriate weight in the consideration process before reaching findings of fact on credibility.

## Appropriate weight

Medical evidence compiled in accordance with recognised standards and a framework, for example the [Istanbul Protocol](#), is expert evidence not simply a report on the credibility of a claim of torture. See section on [Istanbul Protocol](#). Such reports are intended to document evidence of torture from a medical perspective and are objective and unbiased. A medical report may be able to provide additional information that a claimant was unable to properly convey during their interview but was able to disclose during sessions with the clinician. You must bear this in mind when considering credibility.

You must give due consideration to the opinion of the clinician on the degree of consistency between clinical findings and the account of torture or serious harm, on the understanding that this does not impinge on your duty to make an overall finding on credibility. You must have in mind the approach to assessing the credibility of

past events set out in [Karanakaran \[2000\] EWCA Civ 11](#), which emphasises that evidence must not be excluded where some weight may be attached to it.

Medical evidence in support of a claim of torture or serious harm must not be dismissed, or have little or no weight attached to it, when the overall assessment of the credibility of the claim is made.

Unless exceptional circumstances apply, less weight would be accorded to evidence from a clinician who has assessed the claimant's records and never assessed or treated the claimant directly.

The UK Supreme Court examined the application of the Istanbul Protocol to MLRs in the case of [KV \(scarring - medical evidence\) Sri Lanka \[2019\] UKSC 10](#). The Istanbul Protocol requires consideration of whether injury may be exaggerated and the Supreme Court:

Supported "the function of the report as being to provide expert opinion on the degree of correlation between the asylum-seeker's presentation and his allegations of torture" (paragraph 23)

Accepted that when invited to investigate an allegation of torture, the expert should recognise the Istanbul Protocol as equally authoritative as the Tribunal Practice Direction 10 (paragraph 24) in an asylum appeal

Found in respect of assessments of physical injuries "decision-makers can legitimately receive assistance, often valuable, from medical experts who feel able, within their expertise, to offer an opinion about the consistency of their findings with the asylum-seeker's account of the circumstances in which the scarring was sustained, not limited to the mechanism by which it was sustained" (paragraph 20)

Agreed that "very considerable weight should be given to the fact that injuries which are SIBP [self-inflicted scarring by proxy] are likely to be extremely rare. An individual is highly unlikely to want to suffer the continuing pain and discomfort resulting from self-inflicted harm" (paragraph 35). If there are significant reasons to believe an injury may be self-inflicted or self-inflicted by proxy (by a third party) this should be considered, but it should also be taken into account that causing severe injury with protracted pain through self-infliction is a very extreme measure and self-infliction by proxy is very rare and generally very unlikely to be a cause of physical injury.

## Standard of proof

You must ensure you are familiar with the required standard of proof against which the claim must be assessed as set out in the Assessing credibility and refugee status guidance relevant to the date that the asylum claim was made.

. As with all asylum claims, you must assess according to the appropriate standard of proof whether:

- there is a well-founded fear of future persecution for a reason covered by the Refugee Convention – see Assessing credibility and refugee status
- there are substantial grounds for believing that, if removed, there is a real risk of torture or cruel, inhuman or degrading treatment or punishment – see Humanitarian Protection
- there are any other grounds for considering that Article 3 or Article 8 of the ECHR is engaged

The [Istanbul Protocol](#), the central importance of which is accepted by the UK courts in the context of asylum, makes clear that medical reports which document and evaluate a claim of torture for asylum proceedings need only provide ‘a relatively low level of proof of torture’. Where a report is compiled in accordance with the Istanbul Protocol, clinicians should have considered the possibility of ‘a false allegation’ of torture in forming a clinical view. Paragraphs 105(f) and 287(vi) require report writers to consider whether the clinical picture suggests a false allegation of torture. See section on the [Istanbul Protocol](#).

## Clinical judgements

It is not your role to dispute the clinical findings or make clinical judgements about medical evidence or medical matters generally. Examples of clinical judgements that are inappropriate for you to make include:

- what in your opinion ought to be physically possible or survivable
- speculation about causation of physical or psychological injuries
- questioning the accuracy of a diagnosis (based on selective quoting of the diagnostic criteria)
- substitution of your own opinion on late disclosure or discrepancies in the testimony when a clinical explanation has been provided in the medical report
- speculation about the amount of detail with which a particular traumatic event ought to be remembered

It is also inappropriate for you to provide your own subjective opinion either about the claimant’s behaviour, for example the reasons for not having sought or received treatment previously, or for refusing to consent to an examination. Some other examples include:

- the use of information obtained via the internet about diagnostic criteria or medication
- the use of statements made by a claimant at interview that they ‘feel well’ to subsequently dispute medical problems identified and documented in the medical report
- selective quoting from the medical report to challenge representations made by the claimant that the report supports when read properly and in its entirety

This is not exhaustive and if you are in doubt as to whether a finding is a clinical judgement, you must discuss the case with a senior caseworker or Second Pair of Eyes.



## Past persecution

[Paragraph 339K](#) of the Immigration Rules makes clear where it is accepted that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, this will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

However, even where you accept that the claimant has been subjected to persecution or serious harm in the past, this will not justify a grant of protection on that basis alone. For example, a grant of protection may not be appropriate where there are significant and enduring improvements in conditions in the country such that past mistreatment does not give rise to a future fear of persecution or in circumstances where there is sufficient protection from the national authorities or internal relocation is reasonable. In such cases your decision must explain why there is no reasonable likelihood that the claimant will be at risk of such harm in the future.

## Mental health

A medical report may provide expert evidence about physical and or mental health conditions. Such reports may attribute mental health problems to experiences in the claimant's country of origin that relate to their asylum claim. You must carefully consider all such reports in the context of all the evidence available, including any treatment or support the claimant is receiving in the UK. You must also consider the evidence provided to the clinician and any inconsistencies between the claimant's accounts.

Clinical evidence may also indicate that there is a risk that removal would lead to a risk of suicide or self-harm. Where there are substantial grounds to believe that removal would expose a claimant to such a risk, you must consider the circumstances and what reasonable steps can be taken to minimise it (it is not necessary to eliminate the risk but all reasonable steps must be taken).

When considering Human Rights on medical grounds, you must refer to the guidance on Medical claims under Articles 3 and 8 of the European Convention on Human Rights (ECHR).

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### **Official - sensitive: Start of section**

The information in this section has been removed as it is restricted for internal Home Office use.

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### **Official - sensitive: End of section**

## Reaching conclusions on the evidence

A conclusion on the overall credibility of an account of past events must not be reached without careful consideration of the entirety of the claim and not solely on the findings in any medical report, whilst always giving due weight to the report. It is important that any medical evidence is considered in the context of all the evidence available and any credibility concerns have been put to the claimant.

Where an MLR has been produced in support of an allegation of torture or serious harm and you are minded to reject the claimant's account because other evidence outweighs the medical evidence, you must discuss this with a senior caseworker and provide your reasoning for review by a Second Pair of Eyes. If you decide to refuse the claim, your refusal letter must address the contents of the report and explain what weight has been given to the medical evidence and, where appropriate, why this does not outweigh other grounds for not accepting the claimant's account of events.

## Medical evidence submitted following refusal of asylum

In cases where medical evidence is submitted after the claim has been refused, such evidence should usually be reviewed before any appeal hearing. Medical reports must be carefully considered taking all evidence into account in accordance with the principles set out in this guidance. It is important to consider the report in the context of all the evidence to properly assess whether the report may have resulted in a different overall assessment of credibility and future risk had it been available before the initial decision. It is not enough to maintain, without clear explanation, that previous adverse credibility findings stand, and the report makes no difference to those findings.

Having considered the report, it may be appropriate to withdraw the decision before any appeal hearing but only where the new evidence should lead to a grant of leave. The Withdrawing decisions guidance must be followed.

## Medical evidence submitted during the appeal process

Where there is previous evidence that a claimant has notified the Home Office that a medical report is being produced and it has not been considered whether to delay the decision in accordance with this guidance, the case must be referred to the asylum casework team to consider the request. As with all claims, they must be assessed according to the appropriate [standard of proof](#).

If the Home Office is notified of the intention to provide a medical report for the first time during the appeal process, wherever possible presenting officers must contact the claimant's legal representatives to confirm whether a medical report is available and request a copy in advance of the appeal hearing to review the additional evidence.

Where the representatives confirm that the claimant is still waiting for a report, then presenting officers must exercise discretion on the basis of the information already on file, together with any information given by the representative as to the likely timescale for producing a report, and evidence in the appeal bundle to decide

whether to take any further action, bearing in mind the need to avoid unnecessary appeals. The Withdrawing decisions guidance must be followed and the principles set out in this guidance concerning medical evidence and delays, see [Case management](#) section.

Practice Direction 10 provides instructions for both representatives and experts. It sets out the manner in which expert evidence should be obtained and presented. This provides guidance on assessing the usefulness of expert evidence and should be referred to when forming the basis of any cross-examination (where the expert is appearing as a witness) and submissions.

As with caseworkers, it is not the role of presenting officers to dispute clinical findings in a medical report or make [clinic judgements](#) and such reports should be approached in the same way as any expert report and in accordance with the principles set out in this guidance, see [Considering medical evidence](#) section.

## Referrals and medical evidence in further submissions

Where a failed asylum seeker informs you that they intend to seek medical evidence as part of further submissions, a decision or removal action must not normally be suspended.

Where a refused asylum seeker submits evidence that they have been accepted for medical assessment with a view to an MLR being prepared by a reputable provider, and or an organisation that applies a rigorous methodology to the production of reports, consideration must be given to suspending decision making in line with this guidance. See [Case management](#) sections. To assist the assessment of whether to delay consideration of the further submissions, the claimant should specify how a report will be material to their claim in light of what has previously been determined.

Where an MLR is provided as part of any further submissions it must be fully considered and given appropriate weight in accordance with the principles set out in the [Considering medical evidence](#) section.

### Related content

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