

POLICY BULLETIN 17

FAILURE TO TRAVEL

1 SCOPE OF THE DOCUMENT

- 1.1 These instructions give guidance for dealing with asylum seekers who are offered dispersal accommodation by the UK Border Agency but fail to travel as arranged.

2 APPLICATION OF THIS INSTRUCTION IN RESPECT OF CHILDREN AND THOSE WITH CHILDREN

- 2.1 Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

3 OVERVIEW

- 3.1 Asylum seekers may be housed in temporary accommodation (either an Induction Centre or initial accommodation) pending a decision on their application for asylum support. While living in this temporary accommodation asylum seekers will be given assistance to complete their asylum support application form. Asylum seekers should be encouraged by those giving such

assistance to include all relevant information on the application form, including any information which may be considered to be an exceptional reason to be allocated support in a particular area or information about any ongoing treatment for a medical condition or illness.

- 3.2 Asylum support caseworkers must take into account all relevant information when deciding where to allocate support (see Policy Bulletin 31).
- 3.3 When the UK Border Agency decides that an asylum seeker qualifies for support and arrangements have been made for dispersal, affected people are sent a letter giving details of the location of the accommodation and of the travel arrangements. They are also provided with an agreement between the UK Border Agency and the supported person. This agreement contains certain conditions subject to which support is provided. One of these conditions is that the person must reside in the specific place or location that has been offered. Asylum seekers must comply with the dispersal and travel arrangements and the UK Border Agency letter warns the asylum seeker of the consequences of failing to comply.
- 3.4 If an asylum seeker fails to comply with dispersal and travel arrangements, the UK Border Agency will consider the reason for that failure. Asylum seekers must contact the UK Border Agency, using the telephone number provided in their letter, as soon as possible in order to provide any reasons for failing to travel. If the UK Border Agency decides that the asylum seeker has a reasonable excuse then travel will be re-arranged. If the UK Border Agency determines that the asylum seeker does not have a reasonable excuse they will be required to leave their temporary accommodation, but the offer of support, conditional on travel to and residence in the specified location, will be kept open.

4 THE PROCESS

- 4.1 The UK Border Agency should allow the asylum seeker one working day from the day they failed to travel to provide reasons for that failure. After that period the UK Border Agency will consider the reasons provided (if any).
- 4.2 If the UK Border Agency considers that the asylum seeker had a reasonable excuse for not travelling, travel will be re-arranged.
- 4.3 What constitutes an acceptable excuse for failing to travel will depend upon the circumstances of each case although excuses, which are considered to be reasonable, are few. For example, if an asylum seeker was too ill to travel and has provided medical evidence then this should be accepted. In addition if there is evidence that they have been accepted for treatment by the

Medical Foundation (see Asylum Support Policy Bulletin 19) then this would also be accepted as a reasonable excuse.

- 4.4 If an asylum seeker puts in last minute representations concerning the location of where support has been offered or seeking a deferral of dispersal then this should not normally be considered to be a reasonable excuse for not travelling (although this will depend on the issues raised and whether the information could have been submitted earlier). In making such decisions the potential impact of dispersal on the health or wellbeing of the applicant will be relevant. In particular, asylum support caseworkers must take into account continuity of care for those who are already receiving medical treatment, where this has been brought to the attention of the UK Border Agency. On an initial view, if dispersal is considered appropriate the asylum seeker should be advised to travel, and advised that the representations will be considered and written reasons given (if appropriate) after s/he has travelled.
- 4.5 Asylum seekers who are considered by the UK Border Agency to have failed to travel without a reasonable excuse should (after the one day period for providing us with their reasons) be sent a letter by the UK Border Agency advising them that they no longer have permission to remain in their temporary accommodation, that they will be required to leave in no less than two (2) working days (in the case of singles and childless couples) or five (5) working days (in the case of families with dependent minor children) but that the offer of support in the dispersal area remains open. There is no right of appeal to the Tribunal Service – Asylum Support against this decision.
- 4.6 The UK Border Agency decision letter should contain the specific date for eviction (see below for further details).

5 SINGLES AND CHILDLESS COUPLES

- 5.1 **Date of eviction:** For singles (and childless couples) the eviction date is the third working day after the day on which the decision is served - the day of service should not be counted as the first working day. If the decision letter is posted by first class post, it will normally be deemed to have been served on the second working day after the day it was posted - the day of postage does not count as the first working day; if it is faxed or served by hand, it is deemed to have been served on the day that it was faxed or served by hand. A working day is Monday to Friday (inclusive, but not bank or public holidays). Example 1: If the letter was issued and posted on Friday 5 August the eviction date is Friday 12 August. Example 2: If the letter was issued and posted on Tuesday 9 August the eviction date is Tuesday 16 August.
- 5.2 Singles or childless couples who have been notified by the UK Border Agency that they have failed to travel without reasonable excuse must leave

their temporary accommodation during the third working day after receipt of the decision letter, unless there are exceptional circumstances. They should not be allowed to remain in their temporary accommodation simply because they indicate that they are now willing to take up the offer of support and they should not be given permission to be readmitted to temporary accommodation for this reason.

5.3 Where a single or childless couple indicate that they wish to take up the UK Border Agency offer of asylum support in a dispersal area, such support will be arranged within 10 calendar days provided they sign a pro forma agreement that they will take this offer up. The UK Border Agency decision letter contains the contact telephone number and the pro forma. Pending travel arrangements being made, admittance to temporary accommodation will only be authorised by the UK Border Agency if this is necessary in order to avoid a breach of a person's rights under the European Convention on Human Rights (ECHR).

6 FAMILIES WITH DEPENDENT MINOR CHILDREN

6.1 **Date of Eviction:** For families the eviction date is the sixth working day after the day on which the decision letter is served - the day of service does not count as the first working day. If the decision letter is posted by first class post, it will normally be deemed to have been served on the second working day after the day it was posted - the day of postage should not be counted as the first working day; if it is faxed or served by hand, it is deemed to have been served on the day that it was faxed or served by hand. A working day is Monday to Friday (inclusive, but not bank or public holidays).

Example 1: If the letter was issued and posted on Friday 1 July the eviction date is Wednesday 13 July.

Example 2: If the letter was posted on Tuesday 5 July the eviction date is Friday 15 July.

6.2 Families who have failed to travel without reasonable excuse must leave their temporary accommodation during the sixth working day after receipt of their decision letter. They should not be allowed to remain in their temporary accommodation unless there are exceptional circumstances.

6.3 Where families have failed to travel they may have travel re-arranged and may be allowed to remain in their temporary accommodation pending those arrangements if they sign a pro forma agreement that they will take up the offer of support in a dispersal area. This applies either before or after they have left their temporary accommodation.

6.4 The UK Border Agency decision letter contains the contact telephone number and the pro forma.

Document Control

Change Record

Version	Authors	Date	Change Reference
4.0	BF	28/11/2008	Update branding only
5.0	SM	05/10/2009	Children's Duty paragraph added