



Legacy Cases 2

2nd August 2007

In April 2007, ILPA produced an information sheet on "Legacy Cases". That information sheet remains reliable and available at www.ilpa.org.uk/infoservice.html

However, there have been some recent developments. Moreover, there continues to be much confusion regarding this legacy. This information sheet has, therefore, been produced to add to the previous one.

Case resolution

The Home Office have renamed the directorate dealing with these cases. It is now called the Case Resolution Directorate. The Home Office now refer to 'legacy' as 'case resolution'. However, case resolution and legacy are the same thing.

Is there an amnesty?

There is no new amnesty. The Home Office have established the case resolution directorate in order to clear all legacy cases by July 2011. Some people, whose cases fall within legacy, may be granted status to remain in the UK. Others will find that steps are taken to remove them from the UK. This will generally depend upon whether the case falls within existing criteria for granting status.

Can legacy applications be made?

There is no such thing as a legacy application. A person is either within the legacy caseload or not. Information as to what sort of case will be a legacy case is given in the April 2007 information sheet.

When the Home Office decide to actively consider a case that is within legacy, they send the individual a questionnaire. This is to check whether some basic information on the Home Office file is accurate. The Home Office may also request passport-sized photographs. This does not indicate that status papers are likely to be issued. Photographs can be useful to the Home Office for a variety of reasons including obtaining travel documents on which individuals can be removed.

If someone has not been sent a questionnaire by the Home Office, obtaining a blank copy of another person's questionnaire will serve no purpose. This is because, until the Home Office decide to send a particular individual a questionnaire, the Home Office will generally not be looking at that individual's case. There is no reason to think that sending in a completed questionnaire, which was not requested by the Home Office, will cause them to open the individual's file.

Legal advice and assistance

Any person, who receives a questionnaire from the Home Office, may wish to seek legal advice at that time. This is because receiving the questionnaire indicates the Home Office are now actively looking at the individual's case. The questionnaire provides an opportunity for the individual to set out any reasons why the individual should be granted status. Advice and assistance for this is available under legal aid.

However, advisors who offer to obtain a questionnaire in order to make an application for legacy

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funded by JRCT

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Information sheets provide general information only.

ILPA members listed in the directory at www.ilpa.org.uk provide legal advice on individual cases. ILPA does not.

or for an amnesty are offering wrong advice. Some of these advisors may be acting in ways that are unethical. It may be appropriate for a complaint to be made about the advisor. If so, such a complaint ought to be sent to the Office for the Immigration Services Commissioner (OISC).

Any complaint made to the OISC about an advisor, who is regulated by another body, will be passed by the OISC to the appropriate body.

Delay

In *FH & Ors v SSHD* [2007] EWHC 1571 (Admin), the High Court decided that the delay caused in legacy cases is not generally unlawful. That judgment is available at:
<http://www.bailii.org/ew/cases/EWHC/Admin/2007/1571.html>

The High Court indicated that a legacy case, where the initial asylum or human rights claim was still undecided, ought not to be delayed. However, the Home Office were not prohibited from delaying a fresh claim or an application to extend leave to remain. (Some information on fresh claims is available from the “Fresh Asylum Claims” information sheet.)

The High Court also indicated that the Home Office ought to take steps to ensure against someone losing employment or benefits, if they would otherwise be entitled to continue to work or receive benefits. This will be particularly important to those who have made applications to extend leave.

Home Office information

The Border and Immigration Agency have now produced a Question & Answer sheet giving some information about legacy or case resolution. That Q&A sheet is available at:
<http://www.ind.homeoffice.gov.uk/applying/asylum/casesresolutionprogramme>