ADJUDICATION AND OPERATIONS CIRCULAR

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<td>Families given extended leave to remain in UK, granted exceptionally outside Immigration Rules, as a result of Home Secretary’s announcement of 24 October 2003</td>
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Guidance Manual

The information in this circular affects the content of the HB/CTB Guidance Manual. Please annotate this circular number against paragraphs C7.121-7.122.

Queries

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Families given indefinite leave to remain under a special project

Background

1. On 24 October 2003, the Home Secretary announced that up to 15,000 families who were seeking asylum in the United Kingdom (UK) would be allowed to remain. He stated that, subject to meeting Home Office criteria, indefinite leave to remain would be granted to these families.

2. Many of these families will be from the Balkan States and the majority are either living in London or supported by a London local authority (LA).

3. For the family to qualify for inclusion in the project, the applicant must have
   - applied for asylum before 2 October 2000, and
   - at present, at least one dependant in the UK who
     - is aged under 18 years of age, and
     - has been living in the UK since 2 October 2000

4. Most of these families are currently receiving support and accommodation through the National Asylum Support Service (NASS) or their LA. Some, who claimed asylum before the rules changed on 3 April 2000, may still be in receipt of HB/CTB and their claims will continue as normal.

5. On receipt of a positive decision letter from the Home Office, these families will have recourse to public funds and will be able to claim HB/CTB. As with all people who receive permission to remain in the UK from the Home Office, they have a 28-day period of continued support from two days after the decision letter is sent to the customer. During this 28-day period a claim can be made for HB/CTB. A copy of the positive decision letter is shown at Appendix 1.

Home Office questionnaire

6. To identify which asylum seekers satisfy these criteria, the Home Office has designed a questionnaire in consultation with Jobcentre Plus and other partners. The questionnaire is being sent out to these families in a phased programme from December 2003 to April 2004.

7. Those families, who agree to have their cases decided in this way and receive a positive decision, waive their rights to be considered for refugee status through the normal route. Unsuccessful candidates will continue through the normal application process.
The Home Office database

8 The Home Office has created a web-based database specifically for these families. Jobcentre Plus was involved in the discussions around the development of the database and the information it would hold, eg

- All people in the household
- Dates of birth
- Current address
- National Insurance Numbers (NINOs)
- Method of support
- Local Authority
- Date questionnaire issued
- Date questionnaire returned
- Type of decision made
- Date decision made
- Date decision issued

This list is not exhaustive.

9 LA access to this database is restricted to specific individuals within HB/CTB sections. This has been organised through the ILR Project Steering Group. Details of the users within you LA should be available via your Regional Consortium. Users can

- access individual records to
  - track individuals progress through the process
  - check information given against that held by the Home Office
- use the database as a planning tool to identify capacity issues

10 On return of the completed questionnaire, the Home Office makes the decision whether indefinite leave to remain under this project can be granted. Positive decision details are sent to Glasgow Central Control Unit (CCU) for NINO allocation, see paragraph 22, then within five days returned to the Home Office. The positive decision letter is then posted to the customers. These decision letters are now being issued to these families. This process is tracked on the database.

Identifying these cases

11 As their circumstances vary from those individuals coming through the standard immigration process, as defined in existing guidance, it is essential that these customers are clearly identified and processed correctly, should they contact HB/CTB Sections.
Current guidance and processes

12 Most of the processes for these customers are the same as those applicable to others with leave to remain granted by the Home Office. Existing guidance should be used along with this circular when dealing with these cases.

Specific differences for these customers

13 These
- families have been given indefinite leave to remain in the UK, granted exceptionally, outside the Immigration Rules. The positive decision letter, shown at Appendix 1, makes this clear
- families have **not** been given refugee status, so **do not** have the right to seek a back payment of HB/CTB from the date of their asylum application to the date of their decision
- customers are exempted from the Habitual Residence Test
  
  *Reg 7A of The Housing Benefit (General) Regulations 1987 and Reg 4A of The Council Tax Benefit Regulations 1992*

14 Those cases that are currently supported by an LA will have a form showing details of their LA support, which will allow speedy processing of benefit. A copy of this form is shown at Appendix 2.

15 A leaflet in English and three other languages, Albanian, Turkish and Polish, designed for this project only, has been issued with each decision letter and is shown at Appendix 3. If a customer brings this with them to the interview, it will help you to identify that the Home Secretary’s announcement applies to them and what action is appropriate.

Positive decision

Establishing identity (ID) – main applicant

16 These customers have to satisfy the same ID criteria as other customers. However, if they are unable to provide evidence documents, eg passport, driving license, etc, the single decision letter, reference ACD 2302, and the NASS35/LA support letter may be all that these families have by way of confirmation of their ID and right to remain in the UK. **Remember:** One document alone does not suffice as proof of identity. Refer to the guidance listed about proof of ID. If you still have doubts, the case will have to go to a decision maker. These should be kept to a minimum.
Establishing ID – adult dependants

17 The head of households, spouses or partners and all dependants over 16 will be issued with separate decision letters. The Home Secretary’s announcement, and the status granted, apply to all members of the family unit. If individuals are unable to provide evidence documents, eg passport, driving license, etc the single decision letter may be all that they have by way of confirmation of their ID and right to remain in the UK. Remember: One document alone does not suffice as proof of identity. Refer to the guidance listed on proof of ID. If you still have doubts, the case will have to go to a decision maker. These should be kept to a minimum.

Estranged dependants

18 If the householder and their partner/spouse separate, the partner/spouse will be able to claim HB/CTB in their own right as they will have their own decision letter granting them leave to remain in the UK.

19 If a dependant under 18 leaves the household after leave has been granted, their status is unaffected. If the estrangement happened during the 28 days, the young person would not be entitled to severe hardship until the end of that time. The normal assessment rules of the benefit they claim would apply.

Customer attends without a positive decision letter

20 It is possible that estrangement may have occurred before the family completes this process. If someone claims to be part of this project, whether they appear on the database or not, refer them to
- NASS, if NASS supported
- their Local Authority, if LA supported, or
- the Home Office, if they are in receipt of HB/CTB under transitional protection

Accommodation issues

21 Most of these families will be allowed to remain in their current accommodation. Most are currently not in receipt of HB or CTB, but will need to apply. Many families may choose to move within their current location, or move to a different part of the country. Normal change of address and transfer processes will apply. However, the extent to which families may move is unknown. LAs are aware of this project.

NINO allocation

22 The asylum seeker NINO fast-path pilot scheme that is currently being run in all regions – except London and the South East – is being used to process these applications. Successful applications will be referred from the Home Office to Glasgow CCU for processing.

23 Glasgow CCU will perform full specialist DCI trace action. If no account is found, a NINO will be allocated and form DCI10A will be issued to the Home Office, see Appendix 4 for a copy of this form.
24 If an existing NINO is traced, form DCI10ILR will be sent to the Home Office to confirm the NINO. The Home Office will then send both the positive decision letter and NINO notification to the customer at the same time. All NINOs will be processed in this manner.

25 If you identify a customer who is part of this project but who does not have a NINO, you should contact Glasgow CCU on 0845 641 5031, 5032 or 5033 to obtain the current position with regards to the allocation of the NINO.

Access to Jobcentre Plus Programmes and New Deal

26 These customers and their adult dependants will have day-one eligibility to Jobcentre Plus programmes such as Work Based Learning for Adults (WBLA) or Training for Work (TfW) under the Refugee Early Entry category.

27 Those customers who claim JSA will also have voluntary early entry to the New Deal appropriate to their age, except New Deal 50 plus which has no early entry categories, as part of the Hardest to Help group of customers.

28 Lone Parents will have day one eligibility to New Deal Lone Parent (NDLP), subject to the normal early entry criteria for the programme applied for.

Negative decision

29 Some of these customers will receive a negative decision, see Appendix 5, relating to the Home Secretary announcement. There is no right of appeal. A negative decision on the ILR project does not affect their ongoing application with the Home Office. These customers will continue in the immigration process as they did prior to the Home Secretary’s announcement. Therefore their current support will continue until the Home Office makes a decision on their original asylum application or pending appeal. Those who are in receipt of Income Support Urgent Case Payments will continue on these.

30 Those being supported by NASS/LA do not have recourse to public funds and therefore they are not eligible for HB/CTB. If any of these customers contact HB/CTB sections, they should be referred to NASS or their LA as appropriate.
Positive decision letter

Home Office

Dear Salutation

Re: Title Forenames Surname Nationality Date of Birth

You have been granted indefinite leave to enter/remain. This is exceptional leave, granted outside the Immigration Rules. Your passport, which is enclosed, has been endorsed with vignette number number.

You have been granted indefinite leave to enter/remain. This is exceptional leave, granted outside the Immigration Rules.

You no longer need to report changes of address or other particulars to the police. Your police registration certificate, which is enclosed, has been stamped to show this.

You can now remain indefinitely in the United Kingdom.

You do not need permission from a Government Department to take up or change employment and you may engage in business or a profession as long as you comply with any general regulations for the business or professional activity.

If you need financial help you can make a claim for social security benefits (including income-based Job Seeker’s Allowance). However, as you have not been granted refugee status, you are not eligible for a back payment of social security benefits, covering the period during which your claim for asylum was being considered.

If you are thinking of going to live or work in the Isle of Man or one of the Channel Islands, you should first consult the immigration authorities of the Island concerned.

If you leave the United Kingdom, you will normally be re-admitted for settlement as a returning resident provided that:

- you did not receive assistance from public funds towards the cost of leaving this country;
- you had indefinite leave to enter or remain here when you last left;
- you have not been away for longer than 2 years; and

ACD, 2302
12/03

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● you are returning for the purpose of settlement.

In order to be considered as settled here you will have to be able to show that you are habitually and normally resident in this country, and that any absences have been of a temporary or occasional nature.

You will not be re-admitted as a returning resident if you are resident overseas and only return here for short periods.

If your absence from the United Kingdom is for longer than 2 years but you can still demonstrate that you had indefinite leave to enter or remain here when you last left, and you are returning for the purpose of settlement, you may still qualify for admission as a returning resident if, for example, you have maintained strong connections with this country.

You do not require a visa to return to the United Kingdom provided you are returning for settlement after an absence of 2 years or less. However, if you are returning for settlement to the United Kingdom after an absence of over 2 years, you are advised to apply for an entry clearance at the nearest British Diplomatic Post in the country in which you are living. This should then facilitate your re-admission to the United Kingdom.

If you obtain a new passport or travel document you may ask us to stamp it to show your immigration status before you travel. You should send it to this Directorate at the address at the top of this letter at least 2 months before you intend to travel.

If you do not have your passport stamped before you travel, when you return to the United Kingdom you will have to satisfy the immigration officer that you had indefinite leave to remain when you left. To do this you will need to produce either the enclosed passport or other documentary evidence such as bank statements, notices of income tax coding, school or employment records etc. relating to the earlier years of your residence in the United Kingdom. It may also be helpful to carry this letter with you.

A child born to you in the United Kingdom since 1 January 1983 who is not a British citizen may now be entitled to be registered as such a citizen and any child born to you while you remain settled here may be a British citizen automatically at birth. However, you should note that, where the parents of a child have never been married to each other, British Citizenship can only be derived from the mother.

More information about all aspects of British Citizenship (including by birth in the United Kingdom) and an application form for registration may be obtained from the IND website (http://www.ind.homeoffice.gov.uk). Alternatively, you can write to the Immigration and Nationality Policy Directorate, India Buildings, 3rd Floor, Water Street, Liverpool L2 0QN.

Telephone 0151-237-5200.

Yours faithfully/sincerely

Caseworker
Asylum Casework Directorate
Acting on behalf of the Secretary of State

Encs:
DRAFT NOTIFICATION ON CESSATION OF LA SUPPORT

This notification is designed to be issued by Local Authorities to inform customers of the cessation of LA support following the award of Indefinite Leave under exceptional conditions.

Name: Our address
Address: Our phone number

Dear

We are writing as you and the dependants listed overleaf are currently receiving support from this Local Authority under the Immigration & Asylum Act 1999: The Asylum Support (Interim) regulations.

We have been notified that you have been granted Indefinite Leave to Enter/Remain by the Home Office from (insert date) .... This is exceptional leave, granted outside of the Immigration Rules. The Home Office has also written to you to confirm this award.

You will no longer receive Local Authority support. However, if you need financial help, you can make a claim for Social Security benefits. The details of the final payment of Local Authority support are shown below:

Date of cessation of LA support:
Date of Final Payment:
Period of Final Payment:
Weekly rate:

If you wish to make a claim for Social Security benefits, then you should contact your local office as soon as possible to arrange an appointment.

You should take this letter, including the details of your dependants listed overleaf, to your appointment. You should also bring the notification from the Home Office, any other identification that you may have, along with any other information that may be required.

Your faithfully/sincerely,
Family Details held by Local Authority

Family name and title:
First name(s):
Address:

Postcode:
NINO:
Date of birth or age:
Date of Asylum Application:

Dependant Details

Name:
Date of birth or age:
Relationship:

Name:
Date of birth or age:
Relationship:

Name:
Date of birth or age:
Relationship:

Name:
Date of birth or age:
Relationship:
(Continue on separate sheet if necessary)

Accommodation Details

Nature of accommodation:
(B&B, private rented, etc.)

Signed ........................................... Date ..................

Page 2 of 2
Leaflet to accompany positive decision letter

What happens now?
Dhe tani, çfarë ndodh?
A co teraz?
Şimdi ne olacak?

jobcentreplus
Part of the Department for Work and Pensions

Adjudication and Operations circular
February 2004
1. You have received a letter that means you can stay in the United Kingdom (UK) and a leaflet ‘Financial help if you work or are looking for work’ about the help you can get from Jobcentre Plus.

1. Ju keni marrë një lehtëse e cila ju njofton se ju mund të qëndroni nëMbretënënë e Bashkuar’ (UK) si dhe flejtëpalojesen “Ndihma Financiare kur jeni në marrëdhënies pune ose jeni duke kërkuar punë” (“Financial help if you work or are looking for work”), e cila ju shpajгон ndihmën që mund të përfiton nga Jobcentre Plus.

1. Otrzymałeś list, który oznacza, iż możesz pozostać w Wielkiej Brytanii (United Kingdom - UK) oraz broszurę „Finansowa pomoc, w wypadku jeśli pracujesz lub szukasz pracy” (“Financial help if you work or are looking for work”) na temat pomocy, którą możesz otrzymać w Jobcentre Plus.

1. Birleşik Krallık’a (UK) kalabileceğinizi bildiren bir mektup ve Jobcentre Plus iş bulma kurumundan edinebileceğiniz yardıma açıklayan ‘Çalışıyorsanız ya da iş arıyorsanız alabileceğiniz paraları yardımlar’ ('Financial help if you work or are looking for work’) başlıklı bir kitapçık aldınız.

2. If you do not understand these you need to get advice and help with translation. You can find out about the local groups that can help you from your library. The addresses of some National Voluntary organisations are shown on the back of this leaflet.

2. Në rast se ju nuk e kuptoni, atëhere duhet të konsultoheni ose edhe të kërkonë që të përshëndetët. Këtë mund të kërkon nga shoqata të ndryshme vullnetare që mund t’i gjeni në libraturë. Adresat e disa prej shoqatave kombëtare vullnetare mund t’i gjeni në faqen e pasme të kësaj flejtëpalojes.

2. Eğer nie rozumiesz listu lub broszury, musisz się zwrócić po poradę i pomoc z tłumaczeniem. W Twojej bibliotece możesz się dowiedzieć o miejscowych grupach, które mogą Ci pomóc. Adresy niektórych ogólnokrajowych organizacji dobrowolnych są podane na drugiej stronie tej ulotki.

3. If you want to claim benefits you need to contact Jobcentre Plus to arrange an interview. You may lose money if you do not claim straight away. For your nearest office look for the advert in the business section of the phone book under Jobcentre Plus, Jobcentre or social security.

3. Në rast se do të kërkonis asistencë ju duhet të kontaktoni Jobcentre Plus për të caktuar datën dhe orën e takimit për të bërë një intervistë. Në qoftë se kërkesën nuk e paraqitnë menjëherë ju mund që edhe të humbi të drejtën për asistencë. Për të gjitur adresën e zyrës më të afër mund të referoheni Numëratorit Telefonit në kapitull Jobcentre Plus, zyra e punës ose ndihma sociale (Jobcentre or social security).


4. You will then have to attend an interview to help you find a job and claim benefits. This will be at a Jobcentre Plus office, Jobcentre or social security office. You can have an interpreter with you at this interview. We can arrange this, you must tell us in advance if you want us to do this, or you can bring one with you. You must also bring the letter about being able to stay in the UK, with you to this interview. If, you or any of your adult dependants have a National Insurance Number please bring this with you as this will be required to process your claim. If you or any of your adult dependants do not yet have a National Insurance Number you must still attend the office and we will arrange an interview for you to apply for one.

4. Juve do të tu duhet të paraqiteni për një intervistë, e cila do të ndihmojë të gjithta e punës por edhe të paraqitjen e kërkesës për assistencë. Intervistë do të bëhet nga një nëpunës i. zyrës së Jobcentre Plus, zyrës së punës ose punonjësi i ndihmës sociale (Jobcentre or social security office), për këtë intervistë jëmë mund të kërkonë edhe një përketëjë. Përketëjësi mund të sigurohet, por këtë ju duhet ta kërkonë para së të caktuhen data e intervistës, ose ju vetë mund të vini me një përketëjë në diten e intervistës. Para intervistës ju dyhet të parqitni edhe letër që jë njofton se ju mund të qëndroni në UK. Në se ju, ose ndonjë person tëtër machor i familjes suaj disponon një Numër i Sigurancit Kombëtar (National Insurance Number), lutem të keni dokumentin me vetë pasi pr apo i aplikimit tug do ta kërkojnë një të chinë të tillë. Në se ju jà as edhe ndonjë anëtar tëtër machor i familjes suaj nuk disponon një numër të tillë, përsëri ju duhet të paraqiteni për intervistë pasi të njejtën koha ju mund të aplikoni edhe për National Insurance Number.


5. If you pay Rent or Council Tax you may be able to get help with paying them. See pages 14 and 31 of the enclosed leaflet for more information about these. If you are worried about your housing you should contact your Local Council.


6. You may also be able to claim Working Tax Credit and/or Child Tax Credit. If you decide to make a claim for Jobcentre Plus Benefits, Jobcentre Plus will be able to advice you about these. Otherwise you should contact the Tax Credit helpline 0845 300 3900 or visit any Inland Revenue Enquiry Centre.

6. Ju mund të aplikoni edhe për Financim për Taksën e të Ardhurave (Working Tax Credit) si edhe/ose për Financim për Taksën e Familjeve (Child Tax Credit). Në se u vëndosni të aplikoni për Mbështejje Financiare nga Jobcentre Plus (Jobcentre Plus Benefits), atëherë paraqituni tek Jobcentre Plus për të u arritur se si duhet të veproni. Në të kundërt ju duhet të kontaktoni me telefon në numrin 0845 300 3900, linja e telefonit të Flancimit të takseve (Tax Credit) ose paraqituni në çdo zyrë të takseve (Inland Revenue Enquiry Centre).

6. You may also be able to claim Working Tax Credit and/or Child Tax Credit. If you decide to make a claim for Jobcentre Plus Benefits, Jobcentre Plus will be able to advise you about these. Otherwise you should contact the Tax Credit helpline 0845 300 3900 or visit any Inland Revenue Enquiry Centre.


Addresses of some voluntary organisations:
Adresat e disa shoqatave vullnetare:
Adresy niektórych organizacji dobrowolnych:
Bazı gönüllü kuruluşların adresleri:

Asylum Aid
28 Commercial Street
London
E1 6LS
Telephone: 020 7377 5123

Refugee Legal Centre
Nelson House
153-157 Commercial Road
London
E1 2EB
Telephone: 020 7780 3200

Joint Council for the Welfare of Immigrants
115 Old Street,
London
EC1V 9RT
Telephone: 020 7251 8708

Migrant Helpline (01304) 203977
The Rendezvous Building
Freight Services Approach Road
Eastern Docks
Dover
CT16 1JA
Telephone: 020 7780 3200

The British Red Cross
UK Office
9 Grosvenor Crescent
LONDON
SW1X 7EJ
Telephone: 020 7235 5454

The Refugee Council
3 Bondway
LONDON
SW8 1SJ
Telephone: 020 7820 3000

Ref No. ASJCP January 2004
Form DCI 10A (Home Office)

Dear M,

About your National Insurance (NI) number

You recently filled in a questionnaire for the Family ILR exercise and applied for a National Insurance (NI) number.
Your NI number has been allocated and I can confirm it as:

[Boxed numbers indicating NI number]

Please note that this is not proof of identity.

When you need to produce your NI number

You must give your employer your NI number when you start work. This will enable your NI contributions to be credited to your NI account.

If you fail to tell your employer your NI number, it may cause a delay in the payment of any benefits you may claim in the future.

If you claim a Social Security benefit or if you make an enquiry at a Social Security Office, you will need to provide your NI number and proof of your identity before they can access your records.

Please contact your local Social Security office if you:
- Change your name
- Change your address
- Get married/get divorced
- Are widowed
- Have your marriage annulled

If you require the National Insurance Number card please contact your local Social Security Office, you will need to provide proof of your identity.

Yours sincerely

For Manager
DCI 10A (HOME OFFICE)
Dear Salutation,

Thank you for returning the questionnaire we recently sent to you in connection with the Government’s exercise in relation to family applications for asylum lodged before 2 October 2000.

Thank you for your letter requesting inclusion in the Government’s exercise in relation to family applications for asylum lodged before 2 October 2000.

You were recently sent a questionnaire in connection with the Government’s exercise in relation to family applications for asylum lodged before 2 October 2000.

Careful consideration has been given to whether you are eligible for a grant of indefinite leave within the terms of the exercise, but for the reasons given below it has been concluded that you do not qualify.

In order to be eligible for the exercise your asylum claim must have been lodged before 2 October 2000 (that is, on or before 1 October 2000). I have to inform you that as your asylum claim was lodged on date you do not satisfy the eligibility criteria for inclusion in the exercise.

In addition, in order to be eligible for the exercise there must be a dependant on your claim born before 2 October 2000 (i.e. on or before 1 October 2000), and who has been living in the United Kingdom since that date, and is currently under the age of 18. From the information that you have provided and the information from your asylum application, I have noted that you do not have any dependants/you do not have any dependants currently in the United Kingdom/you do not have any dependants born before 2 October 2000/you do not have any dependants living in the United Kingdom since 2 October 2000/you do not have any minor dependants under the age of 18/ we are not satisfied that the notified dependant has been financially and emotionally dependent on you since 2 October 2000/free text. Therefore you do not satisfy the eligibility criteria for inclusion in the exercise.

AGD.2304
1/04

BUILDING A SAFE, JUST AND TOLERANT SOCIETY
In addition the terms of the exercise/The exercise will not apply to a family where the principal applicant or any of the dependants:

- have a criminal conviction,
- have or have had an anti-social behaviour order or sex offender order,
- have made (or attempted to make) an application for asylum in the United Kingdom in more than one identity,
- should have their asylum claim considered by another country (i.e. they are the subject of a possible third country removal)
- present a risk to security;
- fall within the scope of Article 1F of the Refugee Convention; or
- whose presence in the United Kingdom is not conducive to the public good.

As you have/have declared that you have a criminal conviction/an anti-social behaviour order or sex offender order/made (or attempted to make) an application for asylum in the United Kingdom in more than one identity you are excluded from the exercise.

As you should have your asylum claim considered by another country/you present a risk to security/you fall within the scope of Article 1F of the Refugee Convention/your presence in the United Kingdom is otherwise not conducive to the public good you are excluded from the exercise.

You were asked to return the questionnaire on or before date. However, we note from our records that you have not returned the questionnaire, and no explanation has been given. Without the information requested we are unable to determine that you satisfy the eligibility criteria for inclusion in the exercise. I should explain that should you return your questionnaire we may be in a position to review this decision.

One of the criteria for inclusion in the exercise is that you must have agreed to withdraw your outstanding asylum claim should you be granted leave under the exercise. As you have not agreed to withdraw your asylum claim you do not satisfy the eligibility criteria for inclusion in the exercise. I should explain that should you agree to withdraw your outstanding asylum claim we may be in a position to review this decision.

However, your outstanding asylum claim will be processed by the Immigration and Nationality Directorate as soon as practically possible. If this claim is refused, the immigration decision made in relation to it will attract a Right of Appeal.

However, you will still have the opportunity to pursue your outstanding appeal against the refusal of your application for asylum.

Yours sincerely

Caseworker
Asylum Casework Directorate
acting on behalf of the Secretary of State

Add. 2304
1/04
BUILDING A SAFE, JUST AND TOLERANT SOCIETY