

# Permission to Work for Asylum Seekers: FAQ

Asylum seekers have been allowed to apply for permission to work since February 2005. Historically this has not been very useful because:

- You must wait a year before applying
- You are only allowed to take up high-skilled jobs on the shortage occupation list, which most people are not qualified to do
- However with a rise in waiting times and the addition of more varied roles to the shortage occupation list, it could become more useful.

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# Where are the Rules?

The rules for permission to work can be found in [Part 11B of the Immigration Rules](#). They set out the circumstances in which permission to work can be granted.

There is also a useful policy called "[Permission to work and volunteering for asylum seekers](#)" which deals with the application process and also discretion to depart from the rules in 'exceptional circumstances.'

## When can you apply for permission to work?

### 1) If you are waiting on an initial decision

Rule 360 allows you to apply where:

- You have been waiting at least one year for a decision
- The delay is not your fault (in the opinion of the Home Office)

### 2) If you are waiting for a decision on further submissions

Rule 360C allows you to apply where:

- You have been waiting at least one year for a decision
- The delay is not your fault (in the opinion of the Home Office)

### 3) Where there are exceptional circumstances

Permission to work can sometimes be granted in 'exceptional circumstances.' These are supposed to be rare.

There is not much detail of what exceptional circumstances are. The policy refers to something called the [Council of Europe Convention on Action against Trafficking in Human Beings \(ECAT\)](#). This means victims of trafficking are most likely to qualify.

# How long is permission granted for?

Permission is granted:

- In the case of #1 above, until your asylum claim is 'finally determined'
  - If your claim is refused permission to work continues during any appeal, until all appeal rights are exhausted
- In the case of #2 above, until your further submissions are:
  - Rejected as not amounting to a fresh claim, or
  - All appeal rights are exhausted
- In the case of #3 above, it will likely depend on whether you are waiting on an initial decision on your asylum claim, or on a decision on your further submissions

Home Office caseworkers are supposed to monitor their caseload and revoke permission to work when these things happen. See the policy for details.

## What work is permitted?

If granted, permission to work is limited to jobs on the '[shortage occupation list](#).'

Self-employment is not permitted. Setting up a business is also not permitted.

Recent court cases have confirmed there is discretion to grant permission to work outside the shortage occupation list. According to the policy, 'exceptional circumstances' are required, as detailed above. Whether the policy is lawful is an open question.

## What is on the shortage occupation list?

The shortage occupation list can be found in two places - in the rules themselves (as linked to above) and split into two separate information pages on GOV.UK, as follows:

- [Skilled Worker visa: shortage occupations](#)
- [Skilled Worker visa: shortage occupations for healthcare and education](#)

Each job on the list has a 4-digit occupation code. The Office of National Statistics has an [occupation coding tool](#). Entering the 4-digit code into the coding tool will give you:

- A brief job description

- Entry requirements
- Tasks required by the role

In the past, the shortage occupation list was dominated by very high-skilled roles. Recently, some new roles have been added. If you do not have the qualifications for the higher skilled roles, these might be worth looking at:

- Artists (3411) - but you need to be talented and have a portfolio of work!
- Laboratory technicians (3111) - you need some qualifications for this
- Care workers and home carers (6145)\*
- Senior care workers (6146)
- Nursing auxiliaries and assistants (6141)

*\* from 15 February 2022*

There is currently a massive shortage of care workers.

These are just suggestions - there may be other jobs on the list that you can do with your particular skills and qualifications.

## How do you apply for permission to work?

The Application process is set out in the policy: "[Permission to work and volunteering for asylum seekers](#)." You need to write to the Home Office with the following information:

- Your full name, date of birth and nationality
- Your Home Office reference number
- A statement setting out your request for permission to work.
  - *This should include the date you claimed asylum (i.e. had your Screening Interview) as well as whether your substantive interview has taken place yet.*
  - *You do not need to include any information about your asylum claim or about what work you would like to do – a simple request for permission to work will be enough.*
- Your contact details
- Your legal representative's contact details (if you have one)

✉ If you are still waiting on a first decision on your asylum claim, you can write to: [AomPTW@homeoffice.gov.uk](mailto:AomPTW@homeoffice.gov.uk).

✉ If you are waiting for a decision on your further submissions/fresh claim, you can write to: [ACSCPTW@homeoffice.gov.uk](mailto:ACSCPTW@homeoffice.gov.uk).

## Are there any risks?

When you give information to the Home Office, they will always compare that information with anything you've said previously and look for inconsistencies that may harm your credibility.

The information required for a straightforward application based on #1 or #2 above is minimal. Therefore, there should be little or no risk of damaging a pending asylum claim or pending further submissions.

If you want to rely on 'exceptional circumstances' to apply before you have been waiting for a year or apply to work outside the shortage occupation list, then you would need to explain what those exceptional circumstances are. This is where there is more of a risk, as you need to give more information. It is best to get your legal representative to help you with an application based on exceptional circumstances.

It is possible that applying for permission to work will prompt the Home Office into making a decision on a claim. That decision may be a refusal, but not because you applied for permission to work (unless the above applies.)

Whatever the circumstances, **you should inform your legal representative that you intend to apply.**

## What about asylum support?

Being granted permission to work does not affect your eligibility for asylum support. However working does, as any income you receive may mean you are no longer destitute.

The policy states that you must provide employment details when available so that your support can be reviewed. It says failure to do so will lead to your support being stopped.

Having an income will affect whether you continue to be eligible for asylum support and accommodation, and could lead to your asylum support and maybe your accommodation being stopped. You should seek advice on these issues when applying for permission to work, and again when you are offered a job and know what

your salary and hours will be. You may need help to look for alternative accommodation and pay for deposits.

## Can dependents apply for permission to work?

Unfortunately, no - not unless they made an asylum claim or further submissions in their own right a year or more ago. Both Rule 360 and 360C limit the grant of permission to work to the person who is applying or making further submissions. This is confirmed in the policy.

## What about regulation?

You don't need to be regulated to request permission to work for yourself. If you need help to apply for permission to work, then you need a regulated immigration adviser:

- If you qualify under Rule 360 or 360C, then an OISC Level 1 in the Asylum & Protection category is enough - charities, non-profit organisations and CABs may be able to help with this.
- If you need to rely on 'exceptional circumstances to apply for permission outside the rules, or outside the shortage occupation list then you need a OISC Level 2 adviser or a solicitor. These can be harder to find.

## A note for unregulated caseworkers:

Permission to work applications for someone else should only be done by a regulated caseworker.

You can give out information (such as these notes) to people and read these notes to them in a language they can understand. However, you cannot answer any questions they may have and you cannot help them to compose an e-mail to the Home Office asking for permission to work.



## Further reading

In case you're interested in any of the caselaw associated with recent challenges to the policy - here's a list:

- [IJ \(Kosovo\) \[2020\] EWHC 3487](#) - This case acknowledged an incompatibility between the restrictions that are imposed under the rules and ECAT

- [C6 \(asylum seekers' permission to work\) \[2021\] UKUT 94 \(IAC\)](#) found that an earlier iteration of the policy which did not allow for any exceptions to the restrictions was unlawful
- [Cardona \[2021\] EWHC 2656 \(Admin\)](#) found that an earlier iteration of the policy failed to comply with the best interests of the child duty, as set out in section 55 of the Borders, Citizenship and Immigration Act 2009. The same wording is in the current guidance however the Court declined to make a finding on that version on the basis that the challenge under consideration was to the earlier version

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*Last updated 2 February 2022 by James Conyers*