



Rwanda removals plan: for solicitors

On 25th April 2024, the Safety of Rwanda (Asylum and Immigration) Act 2024 became legislation. On 28th April 2024, it was announced that the Home Office intend to launch an operation to detain asylum seekers across the UK with a view to removing them to Rwanda.

Who is at risk?

Inadmissibility

Essentially, anyone who has arrived in the UK **without valid permission AND meets the inadmissibility rules** is at risk of receiving a removal notice to Rwanda. They must have claimed asylum after **1 January 2022**, and be over 18 years old.

As a reminder, for an asylum claim to be deemed inadmissible, the Home Office needs to be satisfied that a person has been present in a **safe third country**. This includes whether they had status in that country or not; they could simply have been transiting there and could reasonably have claimed asylum. There are slightly different thresholds depending on whether a person claimed asylum before or after 22 June 2022.

If the Home Office believes that a claim for asylum might be inadmissible, they will not consider the asylum claim substantively and will issue a **Notice of Intent (NOI)**. The NOI asks for submissions as to why a person:

- May not meet the inadmissibility criteria; and
- Should not be removed to the third country specified (in this case Rwanda).

If after considering the evidence, the Home Office believe a claim should be inadmissible, they will issue an **inadmissibility decision** and then a **removal notice** which sets out the country to which a person will be removed. The removal notice, in this situation, will be for removal to Rwanda. It is not necessary for a person to have any connection at all to Rwanda.

This means that anyone who has claimed asylum in the UK after 1 January 2022 and has received one of the following is at risk of being removed to Rwanda:

- A **notice of intent** under the inadmissibility rules;
- An **inadmissibility decision** (even if it is from 2022);
- A **removal decision/removal directions to Rwanda**

Right to Remain have created an excellent [resource](#) to set out who is at risk of detention and removal.



Appeal Rights Exhausted

On 13 May 2024, the Home Office also confirmed that they can remove people to Rwanda if they are appeal rights exhausted.

This means that they have been refused asylum and have unsuccessfully gone through their various appeal/court processes. According to the Home Office guidance, this applies even if you arrived before 1 January 2022. Fresh claims for asylum must still be considered by the Home Office according to existing processes.

This development significantly expands the category of people eligible for Rwanda. We recommend you read the Home Office guidance [here](#).

Who is not at risk?

The following people are not at risk of removal to Rwanda:

- Those whose **asylum claims are underway** and they have had substantive asylum interviews etc. Those in the appeal process are also not at risk.
- **Unaccompanied asylum-seeking children**. This does not include those who have been assessed by adults by the Home Office. If a young person has since turned 18 years old and their claim has not progressed, it is possible that they are still eligible for removal to Rwanda.

Whilst not excluded under the inadmissibility rules, some specific categories are considered to be unsuitable for **immigration detention** under the Home Office guidance including:

- Those suffering from **serious mental health and physical health conditions**;
- **Victims of torture**;
- Potential victims of **trafficking/modern slavery**;
- **Families with children** under the age of 18;
- **Pregnant women**.

Challenging removals to Rwanda

Notice of Intent

When it comes to challenging the Rwanda policy, you must submit your legal representations to the Home Office's **Notice of Intent (NOI)** within **7 days** (if client detained) or **14 days** (if not detained). There is a possibility to request an **extension to this timescale**, and we strongly recommend that such an extension request is made to allow time to gather evidence.

There is no form to respond to a Notice of Intent (NOI) - you set out arguments and evidence **in a letter**. You are preparing arguments on (a) why inadmissibility action is not appropriate, and (b) anything relevant to your client as regards their safety in Rwanda.



(a) Inadmissibility is not appropriate

Age disputed young people:

If you are representing a young person who states they are under 18 (or arrived in the UK and claimed asylum prior to turning 18) but they have been assessed by the Home Office as adults, it is crucial that you provide legal advice in relation to their age dispute. As we explained above, unaccompanied children are excluded by the inadmissibility rules and therefore should not be sent to Rwanda at present. As such, for a young person to have their age accepted by the Home Office is more important than ever now.

You can also [contact us](#) directly as we routinely assist unaccompanied asylum seeking children and age disputed young people. Whilst we might not have capacity to take individual cases on, we are happy to provide second-tier advice on age disputed queries.

Victims of trafficking:

If you are representing a person who is a potential victim of trafficking, this can be very important. If a person was being transported, transferred, or harboured in or through a safe third country with a view to them being exploited, then you should strongly argue to the Home Office that they do not meet the inadmissibility criteria. This is because they were in a situation where they could not reasonably claim asylum in that country. If they are not already referred to the National Referral Mechanism, then you should take steps to contact a First Responder with a view to a referral being made.

Other circumstances:

There may be other circumstances relating to health or vulnerability that means your client may not have been able to reasonably claim asylum in a third country.

If your client has an old inadmissibility decision outstanding from 2022, we recommend you give urgent advice around challenging it even if there have not been any removal directions to Rwanda.



(b) Safety in Rwanda

The Safety of Rwanda (Asylum and Immigration) Act 2024 forces decision makers to find that Rwanda is a safe country. This means that the 'Safety in Rwanda' element of an inadmissibility decision, or a Rwanda removal notice **cannot** be challenged on the basis of Rwanda being **generally unsafe**.

However, individuals can challenge decisions under the Act where it can be argued that a person would face a **real, imminent and foreseeable risk of serious and irreversible harm** if removed to Rwanda. We give some tips in relation to the section below.

Inadmissibility Decisions & Rwanda Removal Notices

If the Home Office do not accept your representations in relation to the NOI, they will issue two decisions. The first is an **inadmissibility decision** and the second is a **removal notice**. Both are challengeable by Judicial Review. It seems likely that for proposed removals to Rwanda, both decisions will be issued at once.

We strongly recommend that you read the Home Office guidance on 'Safety of Rwanda' [here](#).

Free Movement have also produced a detailed briefing here:

<https://freemovement.org.uk/briefing-safety-of-rwanda-act-what-happens-now/>

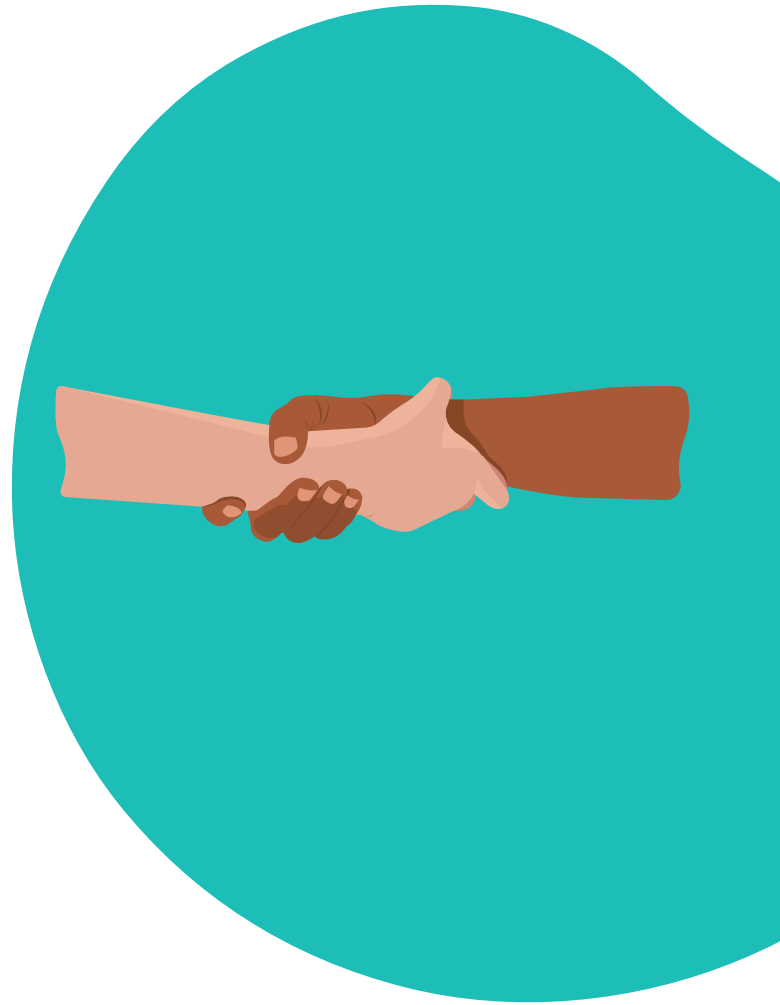


Key tips for challenges

Here are some key points for solicitors to support your clients in responding to NOIs and the subsequent decisions:

- **Request an extension** period to respond to the Home Office. The two points to do this are when you receive the NOI, and when a removal notice is received (they have a 5 day notice period before removal). It will be difficult to build a sufficient case without more time, especially considering many asylum seekers reside in hotels or your client may be in detention.
- With respect to safety in Rwanda, you need to produce “**compelling evidence**” showing (a) your client has circumstances that would place them at risk of harm (e.g. they are LGBT+, mental health, victim of trafficking, nationality considerations etc.); and (b) that they would be at risk of harm in Rwanda because of their specific circumstances.
- At the very least this should include a **witness statement** from the client. This can cover their time in third countries and if they could reasonably claim asylum, but also reasons why they would not be safe in Rwanda. Evidence can also include medical evidence, documents, etc. that can be obtained in the timescales. You should use objective evidence, or consider instructing an independent expert country report, to demonstrate risk in Rwanda.
- **Medical evidence** is measured against the existing legal standards (AM (Zimbabwe)/Paposhvili test) – if instructing expert medical evidence, make this clear to the Home Office to prevent removal without it;
- Home Office decision-makers **must conclude the below as a given**, so try and tailor your legal arguments bearing this in mind:
 - The Rwandan state does not place life and liberty at risk by reason of Refugee Convention grounds. We would still **strongly recommend** arguing this though, especially for LGBT+ cases and where nationality/political opinions are relevant;
 - Rwanda will not return a person to their country of origin, or another country where they will meet harm;
 - The expectation is that a person will claim asylum and be processed in Rwanda.

- Remember to consider making a **bail application** while you are writing your legal arguments.
- If the Home Office agrees to overturn the decision in the NOI, they can then allow the person's **asylum claim to be considered**. However, if the UK Government bring the Illegal Migration Act 2023 into force, then it may be that their asylum claim remains inadmissible and they are left in legal limbo. You can read more about the Illegal Migration Act [here](#).



We have also produced the following resources for asylum seekers themselves, as well as support workers. Please feel free to share:

- [Rwanda removals plan: what you can do to support asylum seekers in Scotland](#)
- [Rwanda removals plan: what you need to know](#)

JustRight Scotland

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