Human rights assessment template

For full information about when a human rights assessment is required and how to complete this template, see the accompanying NRPF Network practice guidance: [When and how to undertake a human rights assessment](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/) (https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment).

When can the template be used?

This template is a tool to assist local authorities with the process of undertaking a human rights assessment to determine whether social services’ support can be provided to a person who is ‘in breach of immigration laws’ (i.e. is without lawful status in the UK) or is in another excluded group listed in [section 3.3 of the practice guidance](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/initial-information/#33-excluded-groups).

When a person who is ‘in breach of immigration laws’ qualifies for social services’ support, Schedule 3 of the Nationality, Immigration and Asylum Act 2002 requires the local authority to determine whether the person can be reasonably expected to return to their country of origin to avoid a breach of human rights arising from their destitution in the UK. In order to determine this, the local authority must undertake a human rights assessment in addition to the needs assessment.

Schedule 3 only applies when a person qualifies for support or assistance under the legislation that is listed at [section 3.1 of the practice guidance](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/initial-information/#31-eligibility-for-social-services-support). This legislation enables accommodation and financial support to be provided to people with no recourse to public funds. For the purpose of the template and practice guidance, the term ‘social services’ support’ refers to:

* Care and support (including accommodation and financial support) provided to an adult with care needs.
* Accommodation and financial support provided to a family with a child in need.
* Leaving care support provided to a former looked after child who is age 18 or older.

The template can be used by local authorities in England, Wales and Scotland, and Health and Social Care Trusts in Northern Ireland.

When is a human rights assessment not required?

This template is intended to be used solely for the purpose of applying Schedule 3 and determining whether a person is able to return to their country of origin to avoid destitution in the UK. It is not intended to be used to inform other human rights-based considerations that may be made when needs assessments are undertaken by social services.

Schedule 3 does not apply to a person who is seeking asylum or who is lawfully resident in the UK. In such cases, a human rights assessment will not be required and the usual eligibility criteria for social services’ support must be applied. For example, the template should not be used when a person has leave to remain that is subject to the ‘No Recourse to Public Funds’ (NRPF) condition or pre-settled status granted under the EU Settlement Scheme.

How to use the template

The template is set out in three parts:

* Part A: Background information
* Part B: Barriers to return
* Part C: Considering return

When a barrier to return to country of origin is identified, it will only be necessary to complete parts A and B of the template. When no barriers to return are identified, all three parts will need to be completed.

Local authorities are welcome to reproduce or adapt the template to reflect internal service arrangements but are advised to seek advice from their own legal team before any changes are made. It is up to a local authority whether to use the template in all cases when Schedule 3 applies, in order to clearly document any identified barriers to return, or only when return is being considered and part C needs to be completed.

This template may be updated at any time by the NRPF Network, so it is advisable to refer to the current version of the template and accompanying guidance on our website at: <https://www.nrpfnetwork.org.uk/information-and-resources/guidance-for-councils>.

Disclaimer

The template and accompanying guidance are not intended to constitute advice in relation to a specific case. Case-specific advice should be sought from the local authority’s own legal team. We provide no warranty as to the accuracy of the information contained in the guidance and accept no liability for any loss, damage or inconvenience caused as a result of reliance on such information, including when the template is adapted or altered by a local authority for its own use.

Feedback

We are keen to ensure that the template remains a useful tool. If you have any feedback or any questions about using the template, please get in touch with us at nrpf@islington.gov.uk.

Part A: Background information

To be completed in all cases. For help completing this part of the assessment, see [chapter 3 of the practice guidance](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/initial-information/).

Main applicant details

|  |  |
| --- | --- |
| Name |  |
| Date of birth  |  |
| Nationality  |  |

Dependant details (family households)

Dependant one

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| --- | --- |
| Name |  |
| Date of birth  |  |
| Relationship to main applicant |  |

Dependant two

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| --- | --- |
| Name |  |
| Date of birth  |  |
| Relationship to main applicant |  |

[Add additional dependants as required.]

Eligibility for social services’ support

A.1 What is the legal basis for providing support?

Select one option

A.2 Summarise the presenting reasons and/or why the person/family qualifies for accommodation and financial support.

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A.3 Provide details and the outcome of any needs assessment/care plan/pathway plan that has been undertaken.

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A.4 Is the person/ family reliant on the local authority to provide accommodation and financial support to avoid an Article 3 breach arising from their destitution in the UK?

Answer: Select answer

Briefly explain this answer with reference to the outcome of the needs assessment/care plan/pathway plan. More detail will be required if the local authority is establishing whether a discretionary power is engaged to accommodate an adult with care and support needs and alternative sources of support have not already been considered.

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Excluded group

A.5 Record the current immigration status of the main applicant.

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Date of most recent immigration status check:

A.6 Which excluded group applies to the main applicant?

Answer: Select one excluded group

Summary

A.7 Does the person/ family qualify for social services’ support?

Answer: Select answer

A.8 Would the person/ family be destitute and at risk of an Article 3 breach if the local authority does not provide support when they qualify for this?

Answer: Select answer

A.9 Is the main applicant in an excluded group?

Answer: Select answer

Next steps

When all answers to questions A.7 – A.9 are ‘yes’, complete part B of the template.

When one or more answers questions A.7 – A.9 are ‘no’, do not proceed with the assessment as there is no legal requirement to consider the person’s ability to return to their country of origin.

Part B: Barriers to return

When a person/ family qualifies for social services’ support and is in an excluded group, the local authority must identify whether there is a legal barrier or practical obstacle preventing the person/ family from being able to return to their country of origin.

For family households, it is also necessary to record any legal barriers or practical obstacles that may apply to other members within the household.

For help completing this part of the assessment, see [chapter 4 of the practice guidance](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/barriers-to-return/).

Legal barriers

Human rights-based immigration claims

B.1 Does the person have a pending human rights application?

Answer: Select answer

Provide details with reference to any evidence.

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B.2 Does the person have a pending human rights appeal?

Answer: Select answer

Provide details with reference to any evidence.

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B.3 Does the person have an outstanding procedural right to pursue a human rights claim from within the UK?

Answer: Select answer

Provide details with reference to any evidence.

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Other legal action

B.4 Is there any other legal action pending or legal reason that requires the person to be in the UK or prevents them from leaving?

Answer: Select answer

Provide details with reference to any evidence.

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Practical obstacles

Medical/ health needs

B.5 Does the person have a medical condition, disability, or mental health condition, which prevents them from being able to travel or the local authority from being able to make return arrangements?

Answer: Select answer

B.6 If they have a health condition affecting travel, provide details with reference to any evidence and any information about how travel may be facilitated.

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Travel documentation

B.7 Does the person have valid travel documentation?

Answer: Select answer

B.8 If they do not have a valid document, can they reasonably be expected to obtain one?

Answer: Select answer

Provide details with reference to any evidence. If they can reasonably be expected to obtain travel documentation, explain how this can be obtained.

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Funds

B.9 Does the person have sufficient funds to arrange their travel? Select answer

B.10 If they do not have funds to arrange travel, explain how travel can be funded and arranged.

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Other obstacles

B.11 Are any other practical obstacles identified? Select answer

Provide details with reference to any evidence, and explain how any identified obstacles may be overcome.

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Conclusion

B.12 Summarise or list any barriers that have been identified based on the answers given to questions B.1 – B.11.

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B.13 What is the outcome of the assessment?

Answer: Select one outcome

Next steps

When a barrier to return is identified, the person/ family cannot be expected to return and social services’ support can be provided to prevent a breach of human rights, so the assessment can be concluded. To record what action will be needed to review this situation, complete B.14 & B.15 and sign off the assessment.

When no barriers preventing return have been identified, return to country of origin can be considered and Part C can be completed.

Further action when a barrier is identified

B.14 Confirm how regularly the status of the barrier needs to be reviewed and how this will be done.

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Date of next review:

B.15 Confirm when and how the main applicant has been informed about the outcome of the human rights assessment.

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Sign-off

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| --- | --- | --- | --- |
|  | Name  | Signature  | Date |
| Caseworker/social worker |  |  |  |
| Manager  |  |  |  |

Part C: Considering return

When there are no barriers preventing the person/ family from being able to return to their country of origin, the local authority must consider whether return would give rise to a human rights breach, taking account of the outcome of decisions that have been made by the Home Office and/ or appeal courts. If a barrier to return has been identified in part B then part C does not need to be completed.

For family households, the circumstances of each household member will also need to be considered in this part of the assessment.

For help completing this part of the assessment, see [chapter 5 of the practice guidance](https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/considering-return/).

Summary of relevant issues

C.1 Summarise information relevant to the assessment, such as: brief overview of local authority involvement and costs; health issues and/or care needs; family circumstances; immigration history etc.

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Main applicant’s views

C.2 Record the person’s views about their life in the UK/ return/ future plans.

For family households include the views of any children (where this is age appropriate).

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Home Office decisions and legal advice

C.3 Record the following information:

* Dates of Home Office/ appeal court decisions relating to relevant immigration or asylum claims.
* The outcome of these decisions.
* Any findings that have been made in relation to human rights breaches (if this information is available/ known).

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C.4 Record the date and outcome of most recent independent legal advice sought by the main applicant in relation to their immigration or asylum case.

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Article 2 & Article 3

Article 2: the right to life

Article 3: the right not to be subjected to torture or to inhuman or degrading treatment or punishment

Issues to consider

C.5 Summarise the relevant issues relating to risk on return that may give rise to a breach of Articles 2 and/or Article 3, such as availability of medical treatment or protection (asylum) grounds.

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C.6 Does the main applicant need to obtain further legal advice about their immigration matter before return to country of origin can be considered?

Answer: Select answer

Explain this answer

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Next steps

When relevant matters have not been put before the Home Office, the local authority will not be able to conclude whether return to country of origin would breach a person’s human rights.

If the person requires further legal advice about their immigration options, complete the conclusion (C.12 & C.13) and next steps (C.14 & C.16), or alternatively pause the assessment whilst the person is obtaining advice.

If the person does not require further legal advice, go to C.7.

Human rights breach

C.7 Would return to country of origin give rise to a breach of Articles 2 or 3?

Answer: Select answer

Provide details with reference to any evidence and factual information being relied upon, including decisions made by the Home Office/ appeal courts (where applicable).

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Article 8

Article 8: the right to respect for private and family life

Issues to consider

C.8 Summarise any relevant issues relating to the person’s family and/or private life in the UK. For a family ensure that this is considered for all household members.

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C.9 Does the main applicant need to obtain further legal advice about their immigration matter before return to country of origin can be considered?

Answer: Select answer

Explain this answer

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Next steps

When relevant matters have not been put before the Home Office, the local authority will not be able to conclude whether return to country of origin would breach a person’s human rights.

If the person requires further legal advice about their immigration options, complete the conclusion (C.12 and C.13) and next steps (C.14 & C.16), or alternatively pause the assessment whilst advice is being obtained.

If the person does not require further legal advice, go to C.10.

Best interests of a child (family households only)

C.10 Would return to country of origin be in the best interests of any children in the household?

Answer: Select answer

Explain this answer.

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Human rights breach

C.11 Would return to country of origin give rise to a breach of Article 8?

Answer: Select answer

Explain this answer making reference to any evidence and factual information being relied upon, including decisions made by the Home Office/ appeal courts (where applicable), and the answer to question C.10.

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[Replicate these sections if a potential breach of any other Articles of the European Convention on Human Rights also needs to be considered.]

Conclusion

C.12 Based on the facts of the case and what can reasonably be established by the local authority, will return to country of origin cause a breach of human rights?

Answer: Select answer

Explain this answer with reference to the outcome of questions C.6 or C.9 (if the person requires legal advice), or C.7 & C.11 (if return to country of origin has been considered.

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C.13 What is the outcome of the human rights assessment?

Answer: Select one outcome

Next steps

If relevant matters need to be put before the Home Office before conclusions about return can be drawn, social services’ support can be provided to prevent a breach of human rights whilst legal advice is being obtained by the person/ family. To record what action will be need to be taken and how progress will be reviewed, complete C.14 & C.16.

If a breach of human rights can be avoided by return to country of origin, social services’ support can be withheld or withdrawn, although the local authority can provide assistance with return and support whilst this is being arranged. To record what action will be need to be taken, complete C.15 & C.16.

Further action: support provided in the UK

C.14 Confirm what action needs to be taken (such as access to legal advice), how regularly the situation will be reviewed, and how this will be done.

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Date of next review:

Further action: withholding or withdrawing support

C.15 Confirm the proposed next steps, including any support that will be provided whilst return is arranged.

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End date of service (if applicable):

Informing the main applicant

C.16 Confirm when and how the main applicant has been informed about the outcome of the human rights assessment. Record their response if support is being withheld or withdrawn.

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Sign-off

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| --- | --- | --- | --- |
|  | Name  | Signature  | Date |
| Caseworker/social worker |  |  |  |
| Manager  |  |  |  |