

ICAR signpost No. 1

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Modes of entry to the UK

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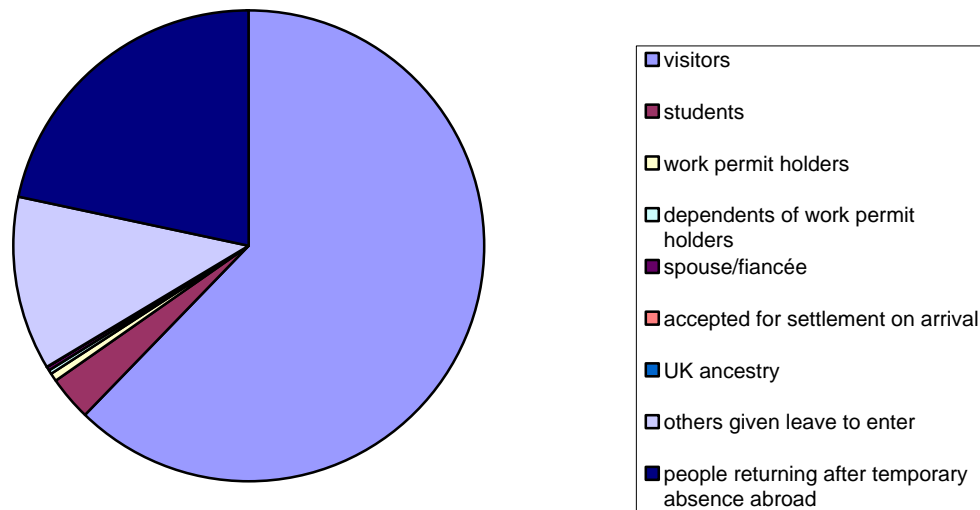
the INFORMATION CENTRE
about asylum and refugees
IN THE UK

Recent public debates on asylum, EU accession, the government's managed migration programmes, and the deaths of 19 Chinese cockle pickers in Morecambe have caused confusion over terminology (see [commonly confused terms](#) below), modes of entry, and the rights of different migrant groups in the UK (see [entering the UK](#) below). This ICAR *Signpost* provides a summary of the main issues, particularly as they relate to asylum and refugees, and includes [links](#) to relevant organisations, research, and sources of further information.

Entering the UK

Apart from British citizens and those who already have some sort of immigration status in the UK, non-British nationals need to obtain permission or 'leave' in order to enter and remain in the UK. This usually takes the form of a visa in the person's passport or other travel document. Citizens of some countries need to obtain this permission (known as entry clearance) before travelling and others can obtain it upon arrival in the UK. There are a number of different types of entry clearance. People may come to the UK as visitors, students, work permit holders, spouses, or on other grounds. The chart below provides a breakdown of the different ways in which people subject to immigration control were admitted to the UK in 2002. Each type of entry has different conditions attached, such as the length of time for which permission to stay is granted. For example, students are allowed to work whilst in the UK, but only up to a maximum of 20 hours per week during term-time, whereas visitors to the UK are not allowed to work; but both visitors and students must be able to support themselves without relying on public funds, such as welfare benefits.

Passengers given leave to enter the UK by purpose of journey, 2002



Source: Control of Immigration Statistics United Kingdom 2002, Cm 6053, Table 3.3

People from other EU and other European Economic Area countries do not need formal permission to enter the UK and have the right to move to and work in other member States, subject to certain conditions. It is the issue of whether the UK should impose conditions on nationals of the new members states which has been the subject of much recent debate. Details of the rights and entitlements of EU nationals in the UK is available on the UKvisas website.

<http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1018721068382>

How do asylum seekers and refugees come to the UK?

It is not possible to obtain entry clearance to travel to the UK as an asylum seeker. In most cases, those seeking asylum must travel to the UK and then seek leave to enter the country as a refugee, or they may apply for asylum after having entered the UK on another basis. This means that there is no legal travel route for asylum seekers to use if they are from countries whose citizens would normally require entry clearance before travelling to the UK. International refugee law recognises that asylum seekers may have no choice but to travel illegally to the State in which they intend to claim asylum. Article 31 of the 1951 UN Convention on the Status of Refugees (also known as the 'Refugee Convention') http://www.unhcr.ch/html/menu3/b/o_c_ref.htm makes provision for this and states that asylum seekers should not be penalised for entering the country illegally, provided they make an asylum claim without delay and show good reasons for their illegal entry or presence.

Some refugees who have already been granted asylum in other countries but cannot remain there safely or on a permanent basis, seek resettlement in other countries, such as the UK. The UK has traditionally run two resettlement programmes together with UNHCR. These are the mandate refugee programme, to allow refugees outside the UK to be reunited with close family members who are in the UK, and the 'ten or more scheme' for the resettlement of ten or more refugees with serious medical needs on the recommendation of UNHCR. According to UNHCR, 128 people were resettled in the UK in this way during 2002. In the

Nationality, Immigration and Asylum Act 2002, the UK introduced a new scheme, the 'quota refugee resettlement policy' and intends to resettle 500 Liberian refugees from either Guinea or Sierra Leone before the end of March 2004. Details of this programme are available from the Home Office [<http://www.ind.homeoffice.gov.uk/default.asp?Pageld=4010>] and from UNHCR. For more information see ICAR's Navigation Guide to Resettlement <http://www.icar.org.uk/content/res/nav/ng005/ng005-01.html>

Smuggling and trafficking

Though these terms are often confused, they have quite distinctive meanings. Whilst people being smuggled or trafficked may travel by similar means (for example using a false passport or visa, or concealed in lorries, boats or other vehicles for their journey), the difference relates to the element of choice or volition they exercise. Smuggling is the process of illegally crossing an international border with the assistance of an agent, to whom a financial or other payment may have been made, i.e. the relationship with the agent goes no further than facilitating entry to a country. However, trafficking is the process of transporting someone from their country of permanent residence or nationality through violence, deception or coercion for the purpose of forced labour, servitude or slavery-like practices. Being trafficked may also give grounds for an asylum claim.

Due to the difficulty of reaching the UK by legal means, as discussed above, a number of asylum seekers may resort to the use of smugglers in order to reach the UK and seek protection and recognition as a refugee.

Smuggling of migrants is not a new phenomenon. Oscar Schindler smuggled Jews out of Nazi occupied Europe during the Second World War and many of the Danish fishermen who ferried Jewish refugees to safety in the Second World War were known to have charged money for their services.

Commonly confused terms

Asylum seeker - a person who has submitted an application for asylum and is waiting to hear whether it has been accepted. Asylum seekers have a legal right to be in the UK whilst their claims are being determined, so there is no such thing as an illegal asylum seeker. People whose asylum claims have been turned down are sometimes referred to as 'failed asylum seekers'.

Illegal entrant – a person who has entered the UK illegally, either by bypassing immigration control altogether, or by deception as to his/her identity or reasons for coming to the UK.

Migrant – a general, non-legal term used to describe people who have travelled from their home country or region of origin for a significant period of time. Migration may take place for a variety of reasons, and can be internal migration (i.e. when people move from one part of a country to another). A distinction is often made in academic literature between forced and voluntary migration, the former applying to people who are compelled to migrate (due to war, persecution, etc.) and the latter describing those who choose to do so (such as people who study in another region or country, or go to live there in order to take up employment). Migrants are therefore a very diverse group and include students, retirees, unskilled workers, and executives of multinational corporations as well as refugees.

Refugee - a person who has been granted permission to stay in the UK under the terms of the 1951 UN Convention on the Status of Refugees. The Convention defines a refugee as a person who is unwilling or unable to return to their country or nationality or former habitual residence because of a well-founded fear of persecution on one of five specified grounds.

Links and further information

Entry to the UK

The **Immigration and Nationality Directorate** of the UK Home Office is responsible for immigration control at air and sea ports throughout the UK. Their website provides information about applying to stay in the UK.

<http://www.ind.homeoffice.gov.uk/>

UKvisas is a joint Foreign and Commonwealth Office and Home Office unit which runs the UK's visa service through British diplomatic posts around the world. Their website provides details of who needs a visa to enter the UK and how to apply for one.

<http://www.ukvisas.gov.uk>

The **Immigration Advisory Service's** website has an 'advice' section which provides details of different types of immigration to the UK: <http://www.iasuk.org/advice/ViewACategory.asp?CategoryID=16>

Wesley Gryk Solicitors have details of different modes of entry to the UK on their website:

<http://www.gryklaw.com/>

The **International Organization for Migration** works with migrants, governments and international and non-governmental organisations to address and advance understanding of migration issues throughout the world.

<http://www.iom.int/>

The **United Nations High Commissioner for Refugees (UNHCR)**, <http://www.unhcr.ch/> established in 1950, is mandated to lead and coordinate international action to protect refugees and resolve refugee issues worldwide. They assist with the resettlement of refugees from countries in their home region where they have sought asylum. Further details are available on their website: <http://www.unhcr.ch/cgi-bin/texis/vtx/home?page=PROTECT&id=3b8366bc4&ID=3b8366bc4&PUBLISHER=TWO>

Resettlement programmes

Home Office Quota Refugee Resettlement Programme – guidance to caseworkers, October 2003
<http://www.ind.homeoffice.gov.uk/default.asp?PageId=4448>

UNHCR's Easy Guide to Resettlement Programmes, 15 June 2003 [http://www.unhcr.ch/cgi-bin/texis/vtx/home/+AwwBme1FyDewxwwwwwwwwwwwwFqzvxm_mXmX6hFqA72ZR0gRfZntFqr72ZR0gRzFqmRbZAFqA72ZR0gRfZNDzmxwwwwwwwww1FqmRbZ/.opendoc.pdf]

Smuggling and trafficking

Anti-slavery International <http://www.antislavery.org/index.htm>

Real lives

Moving here - migration experiences to the UK from the last 200 years <http://www.movinghere.org.uk/>

In search of a better life? <http://news.bbc.co.uk/1/hi/uk/3480003.stm>

Further reading

Seddon, J (2002) *Immigration, nationality and refugee law* handbook (2002 edition), London: Joint Council for the Welfare of Immigrants.

Morrison, J. (1998) *The Cost of Survival*, London: British Refugee Council.

<http://www.refugeecouncil.org.uk/publications/pub004.htm#2>

Morrison, J. and Crosland, B. (2000) *The Smuggling and Trafficking of Refugees: the endgame in European Asylum Policy*, UNHCR.

<http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RESEARCH&id=3af66c9b4&page=research>

Koser, K. (1997) 'Negotiating entry into Fortress Europe: the migration strategies of 'spontaneous' asylum' in Muus P [ed.] *Exclusion and Inclusion of refugees in contemporary Europe*, European Research Centre on Migration and Ethnic Relations, Utrecht University.