

POLICY BULLETIN 72

EMPLOYMENT and VOLUNTARY ACTIVITY

1 SCOPE

- 1.1 The purpose of this instruction is to assist UK Border Agency caseworkers dealing with enquiries from supported asylum seekers about their eligibility to work. It also covers voluntary activity by supported asylum seekers. Clarification of what is considered to be voluntary activity is given in section 2.8 below. Some asylum seekers may also seek to undertake vocational training which involves unpaid employment.
- 1.2 UK Border Agency staff are not responsible for granting permission to work or permission to undertake voluntary activity or vocational training. Responsibility for dealing with these applications rests with caseworkers in the Asylum Casework Directorate or the Immigration Service.
- 1.3 Asylum seekers who contact the UK Border Agency requesting permission to work should be directed in the first instance to the general inquiry line for ACD

0870 606 7766

- 1.4 Caseworkers do, however, have responsibility for reassessing eligibility for support to take account of earnings. Policy Bulletin 65 gives advice on how to recalculate support in such circumstances.

2 BACKGROUND

- 2.1 Generally speaking asylum seekers are not allowed to work whilst their claim for asylum is under consideration.
- 2.2 There are three exceptions to this general policy:

EMPLOYMENT

- 2.3 Until 23 July 2002 asylum seekers could seek permission to work if their application remained outstanding for longer than six months without an initial decision being made on it. Once granted, permission to work, was retained until a final decision was made on the claim. In announcing the abolition of the employment concession, Beverley Hughes, the then Minister of State for Immigration and Asylum made clear that Ministers retained discretion to allow asylum seekers to work in exceptional circumstances. In July 2003 Beverley Hughes said that an exceptional circumstance might arise where an application for asylum remained outstanding for longer than 12 months without a decision being made on it providing the reason for the delay was not attributable to the applicant.
- 2.4 As part of the implementation of the European Council Directive laying down minimum standards for the reception of asylum seekers, from 5 February 2005 specific provision is made in the Immigration Rules for asylum seekers who have

been waiting for 12 months for an initial decision to apply for permission to take up employment.

- 2.5 Paragraph 360 of the Immigration Rules provides that an asylum applicant who has been waiting for 12 months for the initial decision on his asylum claim may apply for permission to take employment which shall **not** include permission to become self employed or to engage in a business or professional activity. Such an application will only be considered, however, if the delay in reaching an initial decision cannot be attributed to the applicant himself. If permission is given it will only last until such time as the applicant's claim for asylum is finally determined (paragraph 360A).

Paragraph 360 can be accessed by the following link:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/immigration_rules/statement_of_changes11.html?

- 2.6 Dependants of asylum seekers are not allowed to take employment.

VOCATIONAL TRAINING

- 2.7 In most cases the conditions of temporary admission will preclude asylum seekers from taking employment paid or unpaid. Supported asylum seekers wishing to undertake vocational training may need to have the conditions attached to their temporary admission amended to allow unpaid employment. Supported asylum seekers accepted by a college on a vocational course which includes unpaid employment must notify the UK Border Agency in order that support can be reassessed and any training allowance taken into account.

VOLUNTARY ACTIVITY

- 2.8 Voluntary activity should not amount either to employment or to job substitution. Asylum seekers should not be expected to be out of pocket as a result of volunteering, and reimbursement may be made for meal or travel costs but should not be made as a flat rate allowance.
- 2.9 Care must be taken when dealing with assertions from asylum seekers that the nature of the continuing or proposed activity does not contravene their conditions of support.
- 3.0 Asylum seekers should not be led to believe that voluntary activity is regarded as a step towards refugee status.

4 Section 8 of the Asylum and Immigration Act 1996

- 4.1 Under section 8 of the Asylum and Immigration Act 1996 it is an offence for an employer to employ a person who requires leave to enter or remain in the United Kingdom and does not have it, or has leave which is subject to a condition prohibiting employment.

Document Control

Change Record

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