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40. Representatives

The right to have a representative present at interview is set out at chapter 38.2.

40.1. Complaints by representatives regarding interviews

If the representative makes an oral complaint during the course of the interview, record fully the nature of the complaint/issue and attempt to resolve it at that point. If unable to resolve it to the satisfaction of all parties, refer to the CIO (or the Custody Sergeant if at a police station).

If, as a result of alleged misconduct by an IO or an interpreter during an interview, a written complaint is made, the Customer Relations Unit at Status Park will normally conduct any investigation. Those who act reasonably and follow Home Office guidance can expect to receive the full support of ISHQ in the event of a vexatious complaint by a representative.

40.2. Persons who are not represented

Section 110 of the 2002 Act empowers the Secretary of State to make grants to voluntary organisations which provide advice or assistance to, or other services for the welfare of, persons who have rights of appeal under Part 5 of the 2002 Act.

The organisations funded under section 110 are:

- ◆ the Immigration Advisory Service (IAS);
- ◆ the Refugee Legal Centre (RLC); and

- ♦ the Law Centre (NI) in Northern Ireland.

There are many other organisations that offer good advice for free. A Citizens Advice Bureau, independent advice centre or law centre will normally be able to find a reputable advisor or solicitor. Information about the availability of free advice and assistance is provided, as appropriate, on the back of every notice of an appealable decision.

40.3. Immigration Advisory Service (IAS)

The IAS was founded in 1993, principally to assist those with rights of appeal in immigration (i.e. non-asylum) cases, but they have since expanded their services and now have several years' experience providing representation in asylum appeals. In addition to their Home Office grant funded services, the IAS also has a number of Community Legal Service contracts under a scheme administered by the Legal Services Commission.

The IAS operates throughout the UK with three offices in London (Central London, Ebury and Hounslow) and further offices in Birmingham, Cardiff, Derby, Glasgow, Leeds, Leicester, Liverpool, Manchester, Middlesbrough, Norwich, Peterborough and at Oakington. The address of their head office is:

Immigration Advisory Service

Head Office

3rd Floor, County House

190 Great Dover Street

London

SE1 4YB

Tel: 020 7967 1200

Fax: 020 7403 5875

40.4. Refugee Legal Centre (RLC)

The RLC exists to provide advice and assistance to asylum-seekers only. In addition to the Home Office grant, the RLC also receives some funding from the United Nations High Commissioner for Refugees (UNHCR).

The RLC has only one office in central London. Its ability to assist asylum-seekers is therefore largely confined to those living in the south east. Its address is:

Refugee Legal Centre
Nelson House
153 – 157 Commercial Road
London
E1 2DA
Tel: 020 7780 3200

40.5. Attendance as witnesses in court

The Immigration and Asylum Appeals (Procedure) Rules 2005 (No 230) provide the Appellate Authorities with the power to issue a witness summons to require any person in the UK to attend at an appeal hearing as a witness. There are also occasions when you may be called to appear as a witness in court. (For further information see IDIs chapter 12, section 11)

You should not agree to disclose any documents which the Home Office would not normally disclose (See chapter 32).

40.6. Court attendance - general

Do not go into the courtroom until you are called as a witness. Once you have given your evidence and have been discharged by the judge, you may sit in the public gallery.

Before giving evidence, refresh your memory thoroughly from any statement which you have made to the prosecution (or plaintiff/pursuer) or defence.

Tell the usher your religious persuasion so that he can provide the right form of oath and holy book. If you have no religious belief, tell the usher that you wish to affirm. Your evidence will then be on "affirmation" which is treated as a form of oath.

If lengthy standing causes you pain, ask the judge if you can sit down, but only do this if it is absolutely necessary. You may ask the judge for water if there is none in the witness box. You will

be asked to give your name, occupation and professional address (and possibly your home address) before giving your evidence. Listen to the questions carefully, take your time answering and always tell the truth. If you do not know the answer, say so. Do not guess.

Some counsel may try to rush you or become rude, aggressive or unpleasant in order to intimidate or unnerve you. Try to remain calm and polite. Keep your voice up. Address your answers to the jury or, in civil proceedings, to the judge.

The court may wish to know whether and for what period the person has been detained under the provisions of the 1971 Act. It is important that you know the answers to related immigration matters and in what part of the legislation answers to the most likely questions will be found.

40.7. Immigration Officers summoned as a witness - procedures

In criminal trials in Crown Courts and County Courts, address the judge as "Your Honour"; at the Old Bailey or in High Court; address him as "My Lord". The jury will comprise 10 or 12 people. In Scotland the jury will consist of 15 people. In civil proceedings, there is no jury and the person who brings the case is called the plaintiff (the pursuer in Scotland) instead of the prosecution.

If you are called as a witness for the prosecution, you will be examined by prosecuting counsel for the Crown. He will lead you through your statement but he must not ask leading questions. You will not be able to refer to your statement unless it was made contemporaneously to the events or unless the defence put a previous inconsistent statement to you. The defence will then cross examine and may ask leading questions. If new matters arise, the prosecution may then re-exam.

If you are called as a witness for the defence, the reverse process applies.

Where the authenticity of a passport or other travel document is in question, you should always seek the advice of the Immigration Service National Document and Fraud Unit (IS NDFU) well in advance of the court hearing (see chapter 32.10).

40.8. Expenses

If you are called as a witness your expenses must be paid to you **by the party that requested your attendance**. If the requesting party is the Home Office, you may claim subsistence and travelling expenses in the normal way.

40.9. Media interest in individual cases

Certain cases attract media interest and you should refrain from making any comment to the media about either your involvement or details of the case. Direct all enquiries to the Home Office Press Office Public Number (0207 035 4381) who should be immediately alerted about the media approach/interest (see chapter 32.4).