

DISCONTINUING ASYLUM SUPPORT AFTER FAILURE TO REPORT WITH ARC

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Introduction

This instruction contains guidance on the procedure for discontinuing support to asylum applicants who are in receipt of support under section 95 of the Immigration and Asylum Act 1999 (“the 1999 Act”) and who have failed to attend a scheduled Reporting with Application Registration Card (RepARC) event at a reporting centre (RC) or Police station.

N.B. The RepARC process is **not** to be applied to applicants in receipt of section 4 support. For instructions on how to discontinue support under section 4 in these circumstances please refer to the [Section 4 support](#) instruction.

Application of this instruction in respect of children and those with children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction ‘Every Child Matters; Change for Children’ sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child’s interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

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Background

Section 95(9A) of the 1999 Act permits the Secretary of State to make the provision of support subject to the condition that the asylum-seeker complies with a restriction imposed in connection with Temporary Admission (TA) under paragraph 21 of Schedule 2 to the Immigration Act 1971;

"Section 95(9A) - A condition imposed under subsection (9) may, in particular, relate to -

- (a) any matter relating to the use of the support provided,*
- (b) compliance with a restriction imposed under paragraph 21 of Schedule 2 to the 1971 Act (temporary admission or release from detention) or paragraph 2 or 5 of Schedule 3 to that Act (restriction pending deportation)."*

Further to this, subsections 95(10) and 95(11) provide that these conditions must be set out in writing and that a copy of the conditions must be given to the supported person.

Asylum support is provided on the basis a supported person and/or his dependant(s) adheres to the terms and conditions attached to it. The conditions are outlined to the supported person in the Asylum Support agreement (formally known as 'NASS agreement'). A breach of the conditions of support may lead to an early suspension or discontinuation of support.

Under [regulation 20\(1\)\(i\) of The Asylum Support Regulations 2000](#) asylum support for a supported person or a dependant of his may be suspended or discontinued if:

" the supported person or a dependent of his for whom support is being provided has not complied with a reporting requirement."

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Conditions of Support

The Asylum Support Agreement (“the Agreement”) is issued to all applicants supported under section 95 of the 1999 Act. The Agreement includes a provision that makes compliance with reporting conditions a condition of support.

Each supported person is provided with a copy of the Agreement in their primary language, or English if a suitable translation is not available.

This should be signed and dated by the supported person and returned to the Asylum Support Team to be kept on the supported person’s records (note: it should be scanned onto ASYS) and will form an essential part of any subsequent First Tier Tribunal – Asylum Support appeal bundle if support is discontinued.

If the signed agreement is not returned within one month of issue this should be recorded on the supported person’s records and the RepARC process, outlined in this instruction, continues. It should be noted that, even in the event that the agreement is not signed and returned, the supported person has been served with form IS.96 (in illegal entry cases) or form IS.248 (in time, in country application cases), by the UK Border Agency. These forms explicitly outline the supported person’s residence and reporting restrictions.

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First RepARC event

A letter should be sent by the Asylum Case Owner to each applicant that is required to report instructing them to attend their first reporting event (FRE). The letter will explain the implications of a failure to report, i.e. that they are liable to be detained and that the continuation of section 95 support is dependent upon compliance with this condition (as per Section 95(9A) of the 1999 Act).

N.B. Although the Asylum Support Team will carry out most, if not all, of the support functions on behalf of the Asylum Case Owner, it is the Asylum Case Owner who retains overall responsibility for ensuring these functions are carried out.

Applicants who fail to attend their first reporting event and have already had their ARC activated, will not yet have had their ARC updated with a Next Reporting Date (NRD). In these cases subsistence support via their ARC card will not be automatically suspended by the automated RepARC system because the NRD will have been initially set for a date far in the future. Such cases will therefore have to be treated as non-automated / “Paper-based” RepARC cases and the Asylum Support Team will manually suspend ARC payments on ASYS (with a one week tolerance date) until either compliance occurs or discontinuation proceedings are instigated. **N.B. The supported person will be invited to one further reporting event before discontinuation proceedings begin.**

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ARC and Reporting: The Automated Process for Suspension of Cash Support

Cash support is accessed by the supported person presenting their ARC at a designated Post Office. The Post Office Counter Staff place the ARC into a Point of Sale (POS) terminal and the ARC microchip is read “unlocking” the applicant’s due amount within the payment system. This chip contains a “Next Reporting Date” (NRD) field. Payment will only be authorised by the POS reader if the NRD indicates a future date. If not, payment will be denied. This provides the automated link between RepARC and the cash payments process.

If an invalid NRD causes payment to be denied by a POS terminal, payment data upon ASYS will not be automatically suspended or end-dated. Collection is therefore dictated by the ARC and not the Asylum Support Team.

The ARC NRD will be updated at each reporting event, usually for one week past the next scheduled reporting date. This provides a tolerance of one week, so should the reporting cycle be interrupted for reasons such as the need to attend an interview, ill health, or transport problems, etc., then support will still be available on the ARC for another week.

Only the main supported person’s ARC will be updated, i.e. the card used to collect regular payments.

An expired NRD will generate a transaction ‘Code 4’ (Invalid reporting date). The supported person will only be able to access their regular payments if they resume reporting, whereby their ARC receives a new, valid, NRD.

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ARC and Reporting: The Paper-Based Process for Suspension of Cash Support

The equipment necessary to update the ARC NRD is not available at all locations (e.g. some reporting events may take place in UK Border Agency staffed Police Stations). Due to the lack of automation, this aspect of RepARC is termed the “paper-based” process and requires manual intervention by Asylum Support Teams.

In this instance, the UK Border Agency reporting centre staff, identify and collate non-reporting applicants (by the Asylum Support reference number and schedule of reporting) on a daily basis. This information is relayed by spreadsheet to the Asylum Support Teams. ARC-based payments are then suspended on ASYS by the Asylum Support Team (with the same 1-week tolerance as at ARC and Reporting: the Automated Process and a Warning Letter (ISE 343) is sent to the applicant by the reporting centre staff. The Asylum Support Team should also send out their own, separate warning letter to the supported person notifying them of a date upon which cash support will be suspended.

If the supported person subsequently reports, support is re-allocated from that date, i.e. via ARC payments, with emergency support to cover until it begins. Support is not backdated to the preceding (suspended) payments *unless* acceptance of a “reasonable excuse” is advised by the UK Border Agency.

Paper-based cases are tracked for two successive scheduled reporting events and, if the Asylum Support Team is not advised that the applicant has reported, discontinuation proceedings may be initiated.

Warning Letters

The Reporting Centre staff will send the applicant a Warning Letter - ISE 343 upon each failure to report, and this includes text relating to cash payments. The supported person is therefore warned on one occasion, that support may be discontinued before the discontinuation decision itself is sent.

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Reasonable Excuses for not Reporting

A supported person must report to enable continued access to cash payments. However, the supported person may comply with this condition but still not be paid, e.g. a lost or stolen ARC, faulty updating equipment, human error in updating etc. In these instances, emergency support will be provided. To verify the supported person's attendance and ensure that (particularly in the case of paper-based RepARC) continuity is maintained on these cases, the necessary remedial action is to be taken by the Asylum Support Team.

A supported person may not have been able to report due to circumstances beyond their control, e.g. illness, family emergency, family death, an asylum interview, transport strike, adverse weather conditions, etc. The validity of such reasons should be assessed by the Asylum Case Owner. Reasonable excuses for not reporting should be forwarded to the Asylum Case Owner or Support Team if received by staff in the reporting centre.

If the reasonable excuse occurs upon the first sequential automated reporting event, the 1-week event tolerance will enable cash payment to be collected the following week.

If the reasonable excuse occurs upon a second / third event, access to payment will be denied by the ARC's NRD. At this point (with the agreement of the Case Owner) the Asylum Support Team issues emergency support to maintain continuous payment from the date that ARC payments will stop. The reporting centre then informs the Asylum Support Team or Case Owner of:

- a) each further 'reasonable excuse', triggering emergency support as above.
- b) a non-reasonable excuse, whereby the case is tracked towards potential discontinuation.
- c) the date of compliance so that, as ARC payments will again be available, the Asylum Support Team can check if duplicate emergency support has been collected and amend payments as necessary, e.g. the covering period for an Emergency Support Token (EST) overlaps with a collected ARC payment.

If a paper-based reasonable excuse is received after support has been manually suspended by the Asylum Support Team, ARC payments are re-allocated and emergency support sent (covering from the date of compliance) until that begins.

Emergency support to destitute supported persons is provided at the standard 24 hour turnaround.

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Attempts to Contact Supported Person

The UK Border Agency officer responsible for actioning the failure to report discontinuation process, must make every reasonable attempt to contact the supported person as soon as possible (within 2 working days) by telephoning them if a telephone number (whether landline or mobile) has been provided. **(N.B.** It is recommended that staff regularly ask for or confirm a contact number, in the event that the supported person's telephone number has changed).

The telephone number(s) should be recorded and available to view on the "maintain address" screen on CID. It is suggested that the most recent number(s), landline, mobile or both are kept here and that "historical" numbers linked to the supported person and addresses are recorded on CID Notes.

If a telephone number is not held or contact is not possible, the UK Border Agency officer should contact the supported person's representative (if applicable) to:

- confirm whether or not the representative still represents the supported person and/or is still in contact with them
- if still the supported person's representative, confirm whether the representative is aware that the supported person failed to attend their reporting event
- establish whether there is a reasonable explanation for the supported person's failure to report
- determine whether there are any ongoing issues or concerns that may affect the supported person's ability to physically report in the future.

If the representative no longer represents the supported person, the UK Border Agency officer should ask if a new representative is known and, if so, they should repeat the above with the new representative.

If the supported person does not have a representative, the UK Border Agency officer should contact the Accommodation Provider (if applicable) to:

- confirm the supported person's address
- confirm whether or not the supported person is still present at the address
- ask for confirmation in writing, indicating last contact etc, if the supported person is not at the address and appears to have absconded.

The UK Border Agency officer may contact, if necessary, any family, friends or known associates of the supported person in order to ascertain the supported person's whereabouts.

The UK Border Agency officer must then update CID Notes with full details of actions taken and record any new information supplied either by the representative, the accommodation provider or family/friends.

Complete the FTR Minute Check Sheet, as appropriate

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Process for Discontinuation

If a supported person cannot be located or has not provided a reasonable excuse for missing a reporting event, discontinuation action must **not** be initiated immediately. Instead, the following procedure is to be completed jointly by Reporting Centre staff and the Asylum Support Team/Case Owner:

- Update CID Calendar Event to show that the supported person was a 'no show'
- Enter the breaches screen highlight the relevant restriction and add the breach type 'No Show (Reporting) and date of breach.
- A ISE 343 Failure to Report Warning letter on CID Document Generator must be completed and a copy of the ICD 3574 RepARC Information Letter printed off.
- Contact Asylum Support Team/Case Owner to advise of actions taken so far and to be completed. The Asylum Support Team should then send their own asylum support warning letter to the supported person.
- **If appropriate**, amend the supported person's reporting regime, if they are not subject to weekly reporting, by updating to a one-off reporting event for 7 working days from the date that this action is being completed. Issue a new IS96 for the event from CID Document Generator.
- Send the ISE343, ICD3574 and the new IS96 to the supported person's last known address by recorded delivery, plus a copy to the representative by 2nd class post, if applicable. This ensures a clear evidential trail that the warning was given and can be added to any future First-Tier Tribunal - Asylum Support appeal bundle should the supported person contest a decision to terminate support.
- If the supported person fails to attend the next reporting event and can still not be located, immediately initiate absconder action and refer to the Asylum Support Team/Case Owner for discontinuation of support. In cases where the supported person has been located but has failed to provide a reasonable excuse for a second consecutive time, refer to Asylum Support Team/Case Owner for discontinuation of support **without** initiating absconder action.
- Update FTR minute check sheet.
- If the supported person fails to attend two consecutive reporting events, they are considered in breach of clause 20(1)(i) of the Asylum Support Regulations 2000. At this point the Asylum Support Team places the case "In Termination" and a Discontinuation Letter should be sent.

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Discontinuation of Support

If the supported person fails to attend two consecutive events, they are considered in breach of clause 20(1)(i) of the Asylum Support Regulations 2000, i.e. failure to comply with a reporting condition. At this point, discontinuation proceedings commence; the Asylum Support Team places the case “In Termination” and issues a Discontinuation Letter. The Asylum Case Owner should be consulted throughout this process and made aware of any proposed and completed actions.

If the supported person does not comply within the 14 calendar day period following the “In-Termination” date, support will be formally discontinued. In line with the ARC Non-compliance procedure, and its use of 20(1)(i), the full support package (i.e. cash payments and accommodation) will be discontinued for single applicants.

- **Single asylum seekers** who fail to report for two consecutive events without a reasonable excuse will have their support under section 95 placed into discontinuation. This is the point at which the discontinuance action commences. The support package should be discontinued in line with the processes set out in the [Breach of Conditions](#) asylum support instruction. Under the discontinuation of support process, the asylum seeker will have the right to appeal.
- **Families with dependants under 18** will have access to their cash support denied after 2 consecutive missed reporting events. These families will not have their support discontinued; cash support will be inaccessible until the family complies with their reporting requirement. Although there is no formal discontinuation, cash support is still being withdrawn so there will be a right of appeal to the First-Tier Tribunal Service – Asylum Support in this instance.

The 14 calendar day Discontinuation period includes the 9 calendar day allowance for a Tribunal Service – Asylum Support appeal against discontinuation.

If the supported person complies within the 14 calendar day Discontinuation period, support will be reinstated by the Asylum Support Team. This will apply to both the paper based and automated Rep ARC cases. The discontinuation proceeding will therefore be cancelled.

If the supported person contacts the Asylum Case Owner during the Discontinuation period, they must be advised to report to their designated reporting centre.

A CID check is performed by the Asylum Support Team upon the initiation of discontinuation proceedings to confirm non-compliance.

Where the supported person voluntarily reports shortly after support has been discontinued for failure to report, a duly motivated decision based on the reasons for the disappearance must be taken as to the reinstatement of some or all of the support.

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Vulnerable Supported People

Any decision to discontinue support in any of the circumstances outlined above must be taken individually, objectively and impartially, taking account of the degree of the breach or non-compliance. The decision should be based on the particular situation of the supported person concerned and particular attention should be given to whether the supported person is a vulnerable person as described by regulation 4 of the Asylum Seekers (Reception Conditions) Regulations 2005. The regulation states that a vulnerable person is –

- a minor
- a disabled person
- an elderly person
- a pregnant woman
- a lone parent with a minor child; or
- a person who has been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence who has had an individual evaluation of his situation that confirms he has special needs.

Reasons should be given for any discontinuation of section 95 support.

Where section 95 support is being withdrawn following a breach of conditions the ASYS support application record will be set to 'In Termination'. Where asylum support has been fully discontinued the Asylum Support Team or Case Owner should ensure that the ASYS support application record is set to 'Terminated'.

For additional guidance on the discontinuation of support see Asylum Support Policy Bulletin 83: [Duty to offer support, Family Unity, Vulnerable Persons, Withdrawing Support](#)

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Discontinuation of support to families with children

When considering whether to discontinue the provision of support under section 95 of the 1999 Act to families with minors, the course of action taken must be consistent with the UK Border Agency's obligations under section 55 of the Borders, Citizenship and Immigration Act 2009, to ensure that the decision has regard to the need to safeguard and promote the welfare of children who are in the UK.

If a decision is being made as to whether it is appropriate to discontinue support to a family with children under [regulation 20 of the Asylum Support Regulations 2000](#), if the family are assessed as being destitute if it were not for the provision of the aforesaid support, the UK Border Agency must take in to account the impact of any decision on the family before proceeding.

Any decision as to whether it is appropriate to discontinue support must be proportionate to the situation. If the breach was minor, it may not be appropriate to discontinue the provision of support. When making decisions as to whether it would be appropriate to discontinue support, Case Owners should consult their Senior Caseworker before proceeding.

If the discontinuation of support is appropriate, the Case Owners should take appropriate steps to safeguard and promote the welfare of the children. Before any action is taken to begin the process to discontinue support, the Case Owner should liaise with the local authority, notifying them that the UK Border Agency plans to discontinue support from the family, and request that the local authority provides alternative support. If the local authority makes an offer of support, the provision of support under section 95 should be discontinued as soon as the family transfers in to local authority care.

If the Case Owner believes that the supported family might be eligible for support provided by the local authority, but the local authority refuses to provide support, the provision of asylum support must be maintained until the local authority provides support.

If a decision is taken that it would be appropriate to discontinue the provision of support to a family with children, the discontinuation letter should explain why the decision is consistent with the UK Border Agency's obligations under section 55 of the Borders, Citizenship and Immigration Act 2009.

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Appeals

If an appeal against discontinuation is made (within the termination warning period), an appeal bundle is prepared by the Case Owning Team and should be submitted to the Tribunal Service – Asylum Support Judge. The appeal bundle must include.

- a) all letters sent to the supported person by the UKBA (i.e. initial reporting schedule and subsequent non-compliance letters, stating the link between reporting and cash support)
- b) all letters sent by the Asylum Case Owner Support (i.e. Suspension / Discontinuation warning letters).
- c) a signed copy of the Asylum Support Agreement (or record of its non-receipt).

If a Tribunal Service – Asylum Support appeal is allowed, support will be re-instated immediately. The conditions of RepARC will continue to apply to the re-instated support case.

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Glossary

Term	Meaning
ISE 343	Warning letter sent to asylum applicants when they fail to report formally reminding them that TA has been granted as an alternative to detention.
ICD 3574	UKBA information letter, informing applicant that payment of cash is linked to reporting
IS96	Enforcement notification sent to people on Temporary Admission (TA) who are liable to be detained outlining the conditions of their admission.
Discontinuation Letter	Letter sent to supported person after two consecutively missed reporting events, informing them that their support has been suspended and will be fully discontinued in 14 days unless they report within that time. This letter also informs the supported person of their right of appeal against this decision.
Discontinuation of Support Warning Letter	Letter formally warning supported person that support will be discontinued if they miss their next reporting event without providing a reasonable excuse.

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	JL	22/10/2010	First version of instruction