



UK Visas
& Immigration

Breach of conditions instruction

This asylum support instruction deals with determining whether a breach of conditions has occurred and the appropriate actions to take.

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Table of contents

Table of contents

Chapter 1- Background

1.1 Introduction

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

Chapter 2 - Conditions of Support

2.1 Reasons to suspend or discontinue support

2.2 Right of Appeal

Chapter 3 - Change of Circumstances

3.1 Duty to declare significant changes to circumstances

3.2 Recognised changes of circumstances

3.3 No Longer destitute

3.4 Ceases to reside

3.5 Reasonable excuse

Chapter 4 - Investigating a Breach of Conditions

4.1 Where fraud is suspected

4.2 Rep ARC

Chapter 5 - Discontinuation of Support

5.1 Discontinuation of support to families with children

Chapter 6 - Reinstatement of Support

Chapter 7 - Document Control

7.1 Change Record

Chapter 1- Background

1.1 Introduction

Asylum support is provided on the basis that a supported person and/or his dependant(s) adheres to the terms and conditions attached to it. The conditions are currently outlined to the supported person in the Asylum Support agreement. A breach of the conditions of support may lead to an early suspension or discontinuation of support. A supported person has the right of appeal against a decision to discontinue asylum support.

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

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Home Office 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 Home Office instruction 'Every Child Matters; Change for Children' sets out the key principles to take into account in all immigration related 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.

[Back to contents](#)

Chapter 2 - Conditions of Support

2.1 Reasons to suspend or discontinue support

Under [regulation 20 of The Asylum Support Regulations 2000](#) as amended in 2005 asylum support for a supported person or a dependant of his may be suspended or discontinued if:

- there are reasonable grounds to believe that the supported person or any dependant of his for whom support is being provided has committed a serious breach of the rules of his accommodation (provided he is housed in collective accommodation);
- there are reasonable grounds to believe that the supported person or any dependant of his for whom support is being provided has committed an act of seriously violent behaviour, either in asylum support accommodation, at the authorised address or elsewhere;
- the supported person or any dependant of his for whom support is being provided has committed an offence under Part VI of the Immigration and Asylum Act 1999;
- there are reasonable grounds to believe that the supported person or any dependant of his for whom support is being provided has abandoned the authorised address without permission;
- the supported person has not complied with a request for information relating to:
 1. his asylum support (within 5 days of receipt); or
 2. his asylum claim (within 10 days of receipt);
- fails without reasonable excuse to attend an interview relating to his asylum support;
- there are reasonable grounds to believe that the supported person or any dependant of his for whom support is being provided has concealed financial resources such that the supported person or a dependant of his has unduly benefited from asylum support;
- the supported person or any dependant of his for whom support is being provided has not complied with a reporting requirement;
- there are reasonable grounds to believe that the supported person or any dependant of his for whom support is being provided has made a claim for asylum and before it has been determined makes or seeks to make a further and separate claim in the same or different name; or
- The supported person or any dependant of his for whom support is being provided has failed without reasonable excuse to comply with a reporting restriction.

Further information can be obtained from [Regulations 19 and 20 of the Asylum Support Regulations 2000](#) as amended.

[Back to contents](#)

2.2 Right of Appeal

A supported person has the right of appeal under Section 103 of the Immigration and Asylum Act 1999 against a decision to discontinue asylum support before that support would otherwise have come to an end. The supported person will appeal to the Tribunals Service – Asylum Support and is informed of this right when his support claim for accommodation, subsistence or both has been set to ‘In Termination.’

For further guidance on Appeals refer to [Section 103 of The Immigration and Asylum Act 1999](#)

[Back to contents](#)

Chapter 3 - Change of Circumstances

3.1 Duty to declare significant changes to circumstances

A supported person must inform the Home Office of any significant change in his circumstances as stated in regulation 15 (1) of the [Asylum Support Regulations 2000](#). Failure to do so without reasonable excuse is an offence under [section 105\(1\) \(c\) of the Immigration and Asylum Act 1999](#).

A supported person should notify the Home Office of a change of circumstances in a signed written declaration. A copy of the declaration should be attached to the supported person's file.

The level and type of support provided must be reassessed following a change of circumstances. Caseworkers will act so as to minimise the chance that the supported person will be left destitute for any period of time. A change of circumstance may indicate that the supported person no longer requires asylum support.

Where a caseworker learns of an apparent change of circumstances which has not been notified to the Home Office, he should in the first instance inform the supported person that he should make a declaration without delay or run the risk of support being discontinued.

[Back to contents](#)

3.2 Recognised changes of circumstances

Regulation 15(2) of the [Asylum Support Regulations 2000](#) states that a relevant change of circumstances occurs where a supported person or a dependant of his-

- (a) is joined in the United Kingdom by a dependant, or as the case may be, another dependant, of the supported person;
- (b) receives or gains access to any money, or other asset mentioned in regulation 6(5), that has not previously been declared to the Secretary of State;
- (c) becomes employed;
- (d) becomes unemployed;
- (e) changes his name;
- (f) gets married;
- (ff) forms a civil partnership;
- (g) starts living with a person as if married to that person;
- (gg) starts living with a person as if a civil partner of that person
- (h) gets divorced;
- (hh) becomes a former civil partner on the dissolution of his civil partnership;
- (i) separates from a spouse, or from a person with whom he has been living as if married to that person;
- (ii) separates from his civil partner or from the person with whom he has been living as if a civil partner of that person;

- (j) becomes pregnant;
- (k) has a child;
- (l) leaves school;
- (m) starts to share his accommodation with another person;
- (n) moves to a different address, or otherwise leaves his accommodation;
- (o) goes into hospital;
- (p) goes to prison or is otherwise held in custody;
- (q) leaves the United Kingdom; or
- (r) Dies.

For further guidance refer to Regulation 15 of the [Asylum Support Regulations 2000](#).

[Back to contents](#)

3.3 No Longer destitute

Information may indicate that a supported person is no longer destitute and therefore no longer entitled to asylum support.

Section 95(3) of the Immigration and Asylum Act 1999 states that a person is destitute if:

- he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or
- He has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.

For further guidance see: Assessing Destitution

A supported person may inform the Home Office that he will not be destitute for a specific period of time. In such cases, support may be suspended. Caseworkers should reassess the support for the period specified..

In cases where a supported person indicates that they are no longer destitute or no longer require asylum support the caseworker should inform a designated Investigating Officer.

[Back to contents](#)

3.4 Ceases to reside

Where a supported person has ceased to reside at his authorised address his support may be discontinued under Section 20(1)(d) of the Asylum Support regulations 2000. However, under regulation 20(1)(a), a reasonableness test is used and where the reason for leaving the

authorised address involves a matter which the Home Office is investigating, regulation 20(1)(a) may be used.

[Back to contents](#)

3.5 Reasonable excuse

A supported person may contact the caseworker to give an explanation for a breach of conditions. Should the explanation lead a caseworker to believe that the breach of condition was unavoidable the explanation may be deemed a 'Reasonable Excuse'. If this explanation is provided before support is fully discontinued the caseworker should take action to ensure that support continues without interruption.

Caseworkers should also consider whether the 'Reasonable Excuse' indicates that there has been a Change of Circumstances and if appropriate reassess the person's entitlement to support. For example, if a supported person explains she has given birth, the caseworker should consider whether the person qualifies for a maternity benefit, and should reassess the level of support to include the new dependant. If the supported person leaves asylum support accommodation and requests subsistence only support, the caseworker should consider whether the person is entitled to that support.

[Back to contents](#)

Chapter 4 - Investigating a Breach of Conditions

4.1 Where fraud is suspected

Where there is a suspicion of fraud or a failure to report changes in the circumstances relating to asylum support, caseworker should complete an Investigations Referral form to alert an Investigating Officer. The following should always be investigated:

- paid employment
- ownership of a motor vehicle
- undisclosed assets
- voucher fraud/fraudulent asylum support claim/multiple asylum support claims
- claiming of benefits
- overpayments
- cohabiting or sub letting of beds in asylum support accommodation
- unexplained absence from an asylum support address
- vandalised/damaged asylum support accommodation
- possession of forged documents
- stealing or selling of stolen goods
- abusing or dealing in illicit drugs
- possession of an offensive weapon
- the applicant being verbally/physically threatening or assaulting others
- anti-social behaviour
- public harassment
- domestic violence
- Child protection issues.

Investigations into anti-social behaviour, public harassment, Domestic Violence, child protection and minor fraud should be conducted only by a trained Compliance Officer. Cases involving serious fraud must be referred by completing the Investigations Referral form. In the event a caseworker is unsure they should consult with a team leader or a Compliance Officer.

[Back to contents](#)

4.2 Rep ARC

In the event that a supported person reports a denial of support payments as a result of a failure to report, he should be instructed to return to his designated reporting centre and inform him that further failure to comply with reporting requirements will result in discontinuation of support.

In the event that a supported person fails to comply with 2 consecutive reporting requirement events the caseworker should follow the guidance in the Discontinuing Asylum Support, after Failure to Report with ARC Instruction.

The Compliance Officer will identify the extent of any breach of conditions and discontinue support where appropriate. An email report of the outcome and action should be sent to the caseworker and placed on the file.

Chapter 5 - Discontinuation of Support

Any decision to discontinue support 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.

Clear reasons should be given for any discontinuation of asylum support.

[Back to contents](#)

5.1 Discontinuation of support to families with children

When considering whether to discontinue the provision of support under Section 95 of the Immigration & Asylum Act 1999 to families with minors, the course of action taken must be consistent with the Home Office's obligations under [Section 55](#) of the Borders, Citizenship and Immigration Act 2009.

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 Home Office must take in to account the impact of any decision on the family before proceeding. Such decisions should be discussed with a team leader before proceeding.

If the Home Office considers that the supported family are eligible for support provided by the local authority, but the local authority refuses to provide immediate support, the provision of asylum support must be maintained until the local authority provides support.

[Back to contents](#)

Chapter 6 - Reinstatement of Support

Where an asylum support application has been discontinued an asylum applicant wishing to receive support again must submit a new application for asylum support. Caseworkers will consider whether, in all the circumstances of the case, it is appropriate to reinstate support.

Where support has been suspended or discontinued under either Regulation: Regulation 20(1)(d) (abandoning an address without permission) or Regulation 20(1)(i) (failing to comply with a reporting requirement) of the Asylum Support Regulations 2000 as amended regulation 20(5) of the Asylum Support Regulations 2000 applies. This Regulation provides that if the supported person is traced or reports voluntarily and either he has not appealed against the previous suspension or discontinuation, or has appealed and that appeal is outstanding, a decision must be taken, based on the reasons for the disappearance, as to whether some or all of the supported person's (and/or his dependant's) support should be reinstated. In practice, the caseworker should take this decision.

In all other cases where support has been suspended or discontinued under Regulation 20, Regulation 21 of the Asylum Support Regulations 2000 applies. This regulation provides that the new application need not be entertained unless the Secretary of State considers that there are exceptional circumstances which justify its being entertained. A material change of circumstances is one which, if the applicant were a supported person, would have to be notified to the Home Office under regulation 15 of the Asylum Support Regulations 2000 as amended.

For further information regarding when an application may not be entertained see: Asylum Support: Policy Bulletins Instruction (chapter 10)

[Back to contents](#)

Chapter 7 - Document Control

7.1 Change Record

Version	Name	Date	Change record
1.0	MM	01/12/06	Approved draft
2.0	BF	22/02/07	Incorporating asylum support process instruction and implementing web format
3.0	BF	03/11/08	Update branding only
4.0	BF	28/09/09	Children's Duty Paragraph
5.0	JL	26/11/10	Change to failure to report policy
6.0	SK	16/03/11	Update all hyperlinks
7.0	GL	15/07/14	Rebrand/reformat
8.0	GL	28/04/15	Redraft to sharpen

[Back to contents](#)