



Home Office

Ceasing Section 95 Support instruction

Version 2.0

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About this guidance

This guidance sets out how and when to cease support following a change in the person's immigration status, or eligibility for asylum support.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **07 July 2023**

Changes from last version of this guidance

- new subsection on ceasing asylum support for those granted interim Discretionary Leave (KTT) or Temporary Permission to Stay (VTS) Leave

Related content

For full context on asylum support policy see Asylum support policy and process instructions pages

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Related external links

[Asylum support instruction pages](#)

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 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.

Caseworkers 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 relevant 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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Introduction

Background

Section 95 of the Immigration and Asylum Act 1999 enables the Secretary of State to provide, or arrange for the provision of, support for asylum seekers or dependants of asylum seekers who appear to be destitute or are likely to become destitute within a prescribed period set out in the Asylum Support Regulations 2000. In cases where the person is applying for section 95 support the prescribed period, as provided for in regulation 7 of the 2000 Regulations, is 14 calendar days from the date an application for support falls to be determined. In cases where the person is already receiving support the prescribed is 56 calendar days.

Section 103(2) of the Immigration and Asylum Act 1999, states if the Secretary of State decides to stop providing support for a person under Section 95 before that support would otherwise have come to an end, that person may appeal to the First Tier Tribunal.

Failed asylum seekers who meet the eligibility criteria may be supported under Section 4(2) and their dependants under Section 4(3). But see: Withdrawing support to families refused asylum.

For actions to take in Section 4 cases see: Asylum support Section 4(2) policy and process.

Dependants include spouses, civil partners, people who have lived as husband and wife for 2 of the last 3 years, children and close family members who have a disability. There is no requirement for the dependant to have been a dependant on the asylum claim.

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When ceasing support may be appropriate

Asylum/Article 3 application refused outright

If an applicant no longer has an undetermined asylum claim, an undetermined Article 3 claim under the European Convention of Human Rights or a pending appeal, they cease to be eligible for Section 95 support under the provisions of the Immigration and Asylum Act 1999 and support must be discontinued unless their household includes a [dependent child under the age of 18](#). For where consideration should be given to withdrawing support from failed asylum seeking families see: Withdrawing support to families refused asylum.

Appeal rights following refusal of an asylum/Article 3 application

Section 17(2) of the [UK Borders Act 2007](#), allows that a person remains an asylum seeker during the period when they can bring an in country right of appeal or an in country right of appeal is brought. If the applicant has an in country right of appeal, support will cease 21 days after the applicant is notified of the decision on their claim. The applicant has 10 working days after they receive the decision on their asylum claim in which to lodge an appeal.

If the applicant has an out of country right of appeal, support will cease 21 days after the applicant is notified of the decision on their asylum application unless the household includes a [dependent child under the age of 18](#).

For withdrawal of support from families certified as failing without reasonable excuse, to take reasonable steps to leave the UK voluntarily; or place themselves in a position in which they are able to leave the UK voluntarily see: Withdrawing support to families refused asylum.

Actions following claim determination

A claim for asylum is determined at the end of a period of either 21 or 28 days beginning, either:

- on the day on which the Secretary of State notifies the applicant of his decision on the claim (including where a claim is declared inadmissible)
- if the applicant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of

Applicants are warned that their support is going to be ceased in 21 days, allowing 2 extra days if posted, when they are advised of the determination of their asylum claim.

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A review should be set for the eleventh day after the decision to refuse leave was received by the applicant to establish whether an appeal has been submitted. See also: Withdrawing support to families refused asylum.

Withdrawn asylum claims

If an applicant withdraws their asylum claim, they are not eligible for asylum support as they are no longer someone who has made a claim for asylum. Applicants are not entitled to a grace period as there has not been a decision on the asylum claim.

Casework considerations:

- if the application for support is still under consideration when the asylum application is withdrawn, the application for support should be refused on the grounds that the person is not an asylum seeker
- if the person is already being supported then cash support should be discontinued immediately - accommodation providers must be given 10 business days notice that an applicant is required to leave the accommodation so they can give the statutory 7 day notice to quit
- if the supported person occupies dispersal, emergency, or spot-booked accommodation, ensure that the accommodation provider is notified that the accommodation is now cancelled

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There is no right of appeal against termination of support where the asylum claim has been withdrawn.

No longer destitute

A change in the applicant's circumstances indicates they are no longer in need of asylum support such as no longer destitute. The change may be, for example, that the person is working, imprisoned, or has been detained pending removal. Any information received must be verified before support is terminated or suspended.

If a case has been referred for an investigation, caseworkers must contact the Compliance team before taking any action to suspend or terminate support; any on-going investigation must be concluded. If information received leads a caseworker to believe that a change of circumstances warrants an investigation, the case should be referred to a Compliance officer.

Claim refused - no appeal

If an appeal is not received, asylum support can be ceased unless their household includes a dependant child under the age of 18. But to note:

- if an appeal is submitted, support cannot be ceased until the applicant is appeal rights exhausted - if their household contains a dependant under 18, refer to [Supported persons whose household includes a dependent child under the age of 18:](#)
 - the grace period will commence on the date the appeal is finally determined - caseworkers must ensure that the asylum support paperwork is served as close to the appeal rights exhausted (ARE) date as possible - the date support ends will be the end of the grace period, currently 21 days from the date the appeal ceases to be pending
- if an appeal is submitted after support is ceased and it is accepted as “in time” then the applicant becomes eligible for support - if, at this time, support has been fully terminated because no appeal was received, then a new application for support must be made:
 - if support has not been fully terminated then support should continue until the applicant becomes ARE

No longer in the UK

Applicant leaves with Home Office assistance

If an applicant (single or with dependants) has been removed from the UK, or the applicant has utilised the Assisted Voluntary Return (AVR) programme support must be discontinued without delay, once the information has been verified.

Where departure is confirmed, no letter needs to be sent to the applicant, but the accommodation provider should be informed.

Applicant leaves UK without Home Office knowledge

If information is received indicating that the applicant has left the UK of their own accord, support must be discontinued as soon as the information has been verified. No verification is needed where an Immigration Officer's report confirms embarkation.

Write to the asylum seeker at their authorised address advising them that information has been received that they have left the United Kingdom, that their support is being discontinued and that they must respond immediately if they require support. If they fail to reply within 5 days their support must be terminated with immediate effect.

Applicants are not entitled to a right of appeal as the asylum claim is treated as being withdrawn or appeal abandoned.

Applicants granted leave to enter/remain in the UK

Applicants who are granted Asylum, Humanitarian Protection or Discretionary Leave are not eligible to receive asylum support after the 28-day grace period has come to an end.

When the decision to grant leave is served on the applicant, the applicant is informed that their asylum support will cease in 28 days.

Casework actions:

- where the supported person is in receipt of subsistence support, the case owner must enter details of the date of their final payment and the amount of that final payment into the termination letter
- notify the relevant voluntary sector service where appropriate
- notify the accommodation provider; to issue the applicant with a minimum 7 day notice to quit - where the supported person is living in dispersal, initial or spot booked accommodation post the letter to the Collaborative Business Portal
- place copies of all correspondence on file
- fully minute Home Office case working system with details of all actions taken including telephone conversations with the provider or any other parties

Applicant granted temporary leave with outstanding asylum claim

Applicants granted interim Discretionary Leave (KTT) or Temporary permission to stay for victims of human trafficking and slavery (VTS Leave) who still have outstanding asylum claims cease to be eligible for Section 95 support. This is because they have the right to work and can access public funds, which therefore

causes a change in the applicant's circumstances which indicates they are no longer in need of asylum support as they are no longer likely to become destitute within 56 days.

When the decision to grant leave is served on the applicant, the applicant should be informed that their asylum support will cease in 28 days.

For more information on interim Discretionary Leave see: Modern Slavery cases (including human trafficking) section in the Discretionary Leave guidance. For more information on VTS Leave see:

Temporary Permission to Stay for Victims of Human Trafficking or Slavery.

Applicant declared inadmissible

Where an applicant is declared inadmissible, their entitlement to asylum support will be the same to that of a failed asylum seeker. They then cease to be eligible for section 95 support under the provisions of the Immigration and Asylum Act 1999 and support must be discontinued unless their household includes a dependent child under the age of 18.

Where an applicant is declared inadmissible and their section 95 support under the provisions of the Immigration and Asylum Act 1999 has been discontinued, they may be supported under section 4(2) of the Immigration and Asylum Act 1999 if they meet the eligibility criteria.

Where an applicant is declared inadmissible, following discontinuation of their section 95 support of the Immigration and Asylum Act 1999, it is the applicant's responsibility to apply for section 4(2) support of the Immigration and Asylum Act 1999 should they wish to do so.

For more information on section 4 support see: Asylum Support Section 4 policy and process.

Where an applicant declared inadmissible is supported under section 4(2) but the Secretary of State nonetheless decides to consider the asylum claim in accordance with section 80B(7) of the Nationality, Immigration and Asylum Act 2002, they cease to be eligible for section 4(2) support of the Immigration and Asylum Act 1999 and become eligible for section 95 support of the Immigration and Asylum Act 1999. The operational work to enable the applicant's transfer from section 4(2) support to section 95 support is to be completed by the Home Office on behalf of the applicant.

For more information on section 95 support see: Asylum Support Policy Bulletin.

Casework actions:

- Third Country Unit (TCU) case workers to notify the applicant of inadmissibility decision, information on likely cessation of section 95 support of the Immigration and Asylum Act 1999 and provide information relating to eligibility to apply for section 4(2) support of the Immigration and Asylum Act 1999

- TCU case workers to share information on inadmissibility decision with Asylum Support teams to consider discontinuation of section 95 support
- Asylum Support team to process discontinuation of section 95 support of the Immigration and Asylum Act 1999 and share information to the individual on applying for section 4 support

Applicant initially declared inadmissible, but subsequently considered in accordance with section 80B(7) of the Nationality, Immigration and Asylum Act 2002:

- TCU case workers to notify the applicant that despite the inadmissibility decision, their claim is now being considered in the UK and provide information relating to support options
- TCU case workers to notify Asylum Support team the applicant's claim is now being considered and will be transferred from section 4 support to section 95 support of the Immigration and Asylum Act 1999
- Asylum Support team will transfer the applicant from section 4 support to section 95 support of the Immigration and Asylum Act 1999 and notify the applicant this has been completed

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Suspension of support

For further information on overpayments, support reinstatement and terminating support see the relevant instructions on Asylum support. However, in some situations a change of circumstances may warrant only a suspension of support.

If a supported person has notified the Home Office that they will not be destitute for a specific period for example, because they are detained or imprisoned, the period of time they do not require support must be established. See also: Hospitalisation.

Accommodation and subsistence should only be suspended in cases where the suspension will last up to 30 days.

Casework actions and considerations:

- ensure that each case is treated on its individual merits, including giving consideration to whether the person is to be considered a vulnerable person
- if the applicant and their dependants' essential living needs will be met for longer than 30 days, support must be terminated
- if the applicant is in detention for more than 30 days, support should be terminated immediately - however cases should be considered on a case by case basis where a release date is known
- ensure that the accommodation provider and the applicant (or a voluntary organisation if relevant) are informed of the suspension decision via a suspension letter
- ensure that the applicant is given written reasons for the suspension of support
- minute actions taken onto the electronic system (Home Office case working system) - for how to do this see standing instructions on: Asylum support

If support is being suspended, there is not a right of appeal against that decision.

Applicants should inform the Home Office, in writing, if there is a further change in their circumstances which would allow for their regular support payments to be restarted.

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When support should not be ceased

Prescribed periods

Applicants are entitled to receive asylum support for a prescribed period after they have been notified of the decision on their asylum application or after the day on which their appeal is disposed of ([Section 94\(3\)\(B\) of the Immigration and Asylum Act 1999](#)). This gives applicants the opportunity to make arrangements for additional accommodation and support or to make arrangements for their departure from the UK. For support purposes, an applicant ceases to be an asylum seeker after the prescribed period ends.

The prescribed periods are:

- 28 days when the Secretary of State notifies the claimant of the decision to accept the asylum claim or the appeal is disposed of by being allowed; 30 days if the decision is served by post
- 21 days in any other case

There is no legislative power to provide support beyond the 21 or 28 day prescribed period. Therefore, support must be ceased at the end of the prescribed period unless the asylum seeker's household includes a dependent child, who was dependent on the asylum support application before the end of the prescribed period. See: [Supported persons whose household includes a dependent child under the age of 18](#).

Supported persons whose household includes a dependent child under the age of 18

If an asylum seeker's household includes a dependant child who is under 18, they are to be treated (for asylum support purposes) as continuing to be an asylum seeker while the child is under 18 and they and the child remain in the United Kingdom; providing the dependant was part of the household before the time when the applicant became appeal rights exhausted.

Support should not be discontinued in these cases unless, either:

- refugee status or other leave to remain is granted
- they fail to comply with the conditions of asylum support - see also: Breach of conditions and Withdrawing support to families refused asylum

Caseworkers should:

- amend Home Office case working system to show the new status of the asylum claim, but Home Office case working system should also continue to reflect the current status of the asylum support application

- use a "bring forward" (BF) system to signal 4 weeks before the youngest child's eighteenth birthday in order that support can be ended on the birthday, and 21 days notice given
- follow the extra requirements if it a schedule 3 case

A pregnant woman, whether single or part of a couple, who has no other minor dependants will cease to be eligible for support when her asylum claim is determined according to the definition in Section 94 (3) of the [Immigration and Asylum Act 1999](#). Flexibility for a transfer of support to Section 4 can be considered if a pregnant woman is close to giving birth.

Where a dependent child is born or (aged under 18) becomes part of the household within the 21-day grace period following the notification of the termination of support, Section 95 support can be reinstated.

If the only dependent child is born or (aged under 18) becomes part of the household outside of the 21-day grace period, the family will not be eligible for Section 95 support. They may be eligible for Section 4.

High Court injunctions

Support should not be stopped if a High Court injunction is obtained on behalf of the supported asylum seeker that prevents support from being withdrawn until the court decides one way or the other. Tribunal judges might also make such a ruling.

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