



Home Office

Illegal working as a breach of asylum support conditions

Version 1.0

Contents

Contents.....	2
About this guidance	3
Contacts	3
Publication.....	3
Changes from last version of this guidance	3
Introduction	4
Policy intention.....	4
Application of this policy in respect of children and those with children	6
Legislation.....	7
Notification of conditions of support	7
Section 98 and section 95 support	7
Section 4 support	7
Actions to take when illegal working is suspected.....	9
Considerations during the investigation process.....	10
Pregnancy	10
Vulnerabilities.....	10
Actions following a compliance investigation.....	11
Failure to comply with a request.....	11
Where an investigation determines illegal working has not occurred	11
Where an investigation determines illegal working has occurred	11
Right of appeal	13
Further applications for support.....	13

About this guidance

This guidance advises caseworkers and asylum accommodation providers on how to apply the illegal working as a breach of asylum support conditions policy. This policy applies to individuals and their dependents who are in receipt of asylum support under section 98, section 95, section 4(2) or section 4(3) of the Immigration and Asylum Act 1999 ('the 1999 act').

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, 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 **1.0**
- published for Home Office staff on **2 June 2026**

Changes from last version of this guidance

This is the first version of this policy guidance.

Related content

[Contents](#)

Conditions of support

Related external links

[Asylum support \(asylum instructions\)](#)

[The Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005](#)

[The Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) \(Amendment\) Regulations 2026](#)

[The Asylum Support Regulations 2000](#)

[The Asylum Support \(Amendment\) Regulations 2005](#)

[Immigration and Asylum Act 1999](#)

[The Asylum Support \(Amendment\) Regulations 2000](#)

[The Asylum Support \(Amendment\) Regulations 2026](#)

[Borders, Citizenship and Immigration Act 2009](#)

[Nationality, Immigration and Asylum Act 2002](#)

Introduction

This document provides guidance to caseworkers and accommodation providers on the following:

- actions to take when an individual is suspected of working illegally
- the approach to consider when investigating cases referred for suspected illegal working
- action to take following an investigation that concludes that an individual has been working illegally

For the purposes of this guidance, unless otherwise specified:

- **illegal working** refers to work undertaken by an individual when they are disqualified from doing so by reason of their immigration status - this includes where the individual has not been granted permission to work, where their permission has ceased to be valid, and where they fail to comply with the conditions of their permission (this includes those with permission to work but who are working in a role not included in the Immigration Salary List)
- **asylum support** refers to support provided under sections 98, 95, 4(2) or 4(3) of the 1999 act
- **supported individual** or **individual** refers to those individuals or their dependants for whom support is provided under sections 98, 95, 4(2) or 4(3) of the 1999 act
- **accommodation** refers to Home Office housing provided under sections 98, 95, 4(2) or 4(3) of the 1999 act

Policy intention

Asylum seekers who would otherwise be destitute can obtain asylum support under Section 95 and Section 98 of the Immigration and Asylum Act 1999. This support can be provided in the form of accommodation, subsistence payments, or a combination of both.

Failed asylum seekers, individuals whose asylum claims have been declared inadmissible under sections 80A or 80B of the [Nationality, Immigration and Asylum Act 2002](#), and their dependents may be eligible for support under Section 4 of the Immigration and Asylum Act 1999, provided they meet specific eligibility criteria. This support is offered as a combination package of accommodation and subsistence; it cannot be provided as subsistence-only.

Asylum seekers are not normally allowed to work while their claim is considered. Asylum seekers whose claim has been outstanding for more than 12 months through no fault of their own may apply for permission to work. Those who are granted permission are restricted to jobs on the [Immigration Salary List](#) (previously known as the Shortage Occupation List).

Asylum seekers who enter the UK with a valid visa and lodge an asylum claim before their visa expires will be granted [section 3C](#) leave until a decision is made on their application. Asylum seekers with section 3C leave remain subject to the conditions attached to their extant leave, unless the conditions of their leave is varied by the Secretary of State, which includes conditions regarding employment.

Asylum seekers can volunteer whilst their asylum claim is considered without being granted permission to work. However, this must not amount to engagement as an 'employee' or a 'worker', and it is the responsibility of the individual and the organisation they are volunteering for to check that such activity does not mean they are working in breach of conditions.

For further information on volunteering, please see: [Permission to work and volunteering for asylum seekers guidance](#).

If an asylum seeker is found to be working illegally, this constitutes a criminal offence. However, previously asylum support could not be suspended or discontinued on the basis of illegal working alone.

On 5 March 2026, 2 statutory instruments were laid before Parliament that make illegal working a condition under which asylum support may be discontinued. The first instrument is The Asylum Support (Amendment) Regulations 2026, which applies to those receiving Section 95 and Section 98 support and came into force on 27 March 2026. The second instrument is The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) (Amendment) Regulations 2026, which applies to those receiving Section 4 support and came into force on 2 June 2026.

For those receiving support under section 95 or section 98, the legislation provides that means to suspend or discontinue asylum support where the Secretary of State for the Home Department has reasonable grounds to believe that an individual has worked illegally. For those receiving support under section 4(2) or 4(3), the continued provision of accommodation may be subject to conditions as the Secretary of State for the Home Department may determine and as are set out in a notice in writing to the accommodated person. This includes complying with a requirement not to work. The legislation permits support to be discontinued where the Secretary of State can demonstrate that the condition had been set out in a notice in writing, and where on the balance of probabilities, the person had been working illegally.

Previously, when an asylum seeker was suspected of working illegally, this was investigated as fraud / concealment of funds to prove that the individual was no longer destitute, and they had unduly benefited from the receipt of asylum support. This policy is being introduced to implement the powers granted by these instruments and provide a clear consequence for those who work illegally while benefiting from asylum support. This policy forms part of the government's commitment to [restore order and control](#) within the asylum system.

In practice, working illegally constitutes a breach of the conditions of asylum support with which individuals in receipt of support are required to comply. Under this policy, an allegation that someone is working illegally does not result in an immediate

discontinuation of support. Instead, the allegation is investigated to establish if, on the balance of probabilities, the individual has engaged in illegal working.

This guidance should be read alongside the conditions of support [guidance](#).

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

Section 55 of the [Borders, Citizenship and Immigration Act 2009](#) (the 2009 act) requires the Home Office to carry out its existing functions in a way that considers the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions or override existing functions. Under [Section 122 of the Immigration and Asylum Act 1999](#), the Secretary of State has a duty to provide support to asylum seekers with dependents under the age of 18, where they appear to be destitute.

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 consider 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

For further information on the key principles to take into account, see: '[Every child matters: statutory guidance](#)'.

The need to safeguard and promote the welfare of children in the UK has been considered. Any consideration to discontinue support to families with minors will be made in line with consideration of [section 55 of the Borders, Citizenship, and Immigration Act 2009](#).

Related content
[Contents](#)

Legislation

The Secretary of State has the power to provide accommodation and / or subsistence support to individuals seeking asylum in the UK, as well as to certain individuals whose asylum claims have been refused or those whose claims are declared inadmissible under sections 80A or 80B of the [Nationality, Immigration and Asylum Act 2002](#). This support is provided under the Immigration and Asylum Act 1999 and is intended to prevent destitution while individuals await the determination of their asylum claim or make arrangements to leave the UK.

[Section 95 of the Immigration and Asylum Act 1999](#) sets out the persons for whom support may be provided and that support may be provided subject to conditions. Eligibility for support is dependent on an individual appearing to be destitute, or likely to become destitute within such period as may be prescribed.

[Regulation 6\(2\) of the Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005 \(amended in 2026\)](#) sets out the types of conditions to which the continued provision of accommodation to a person falling within [section 4\(2\) or \(3\) of the Immigration and Asylum Act 1999](#) can be made subject.

Notification of conditions of support

Asylum support under sections 98, 95, 4(2) and 4(3) of the 1999 act is provided on the basis that the individual and any dependants they have adhere to the terms and relevant conditions attached to that support.

The relevant conditions of support are provided in writing to individuals when they are granted asylum support. A breach of the relevant conditions of support may lead to a suspension or discontinuation of support.

Section 98 and section 95 support

Section 98 and section 95 support is provided on the basis that the individual complies with the conditions of support, which are issued in writing at the point support is granted, in accordance with section 95(10) of the 1999 act.

The regulatory framework for the conditions of section 95 support and the context in which support can be suspended or discontinued is set out in the [Asylum Support Regulations 2000](#). Specifically, regulation 20(1)(i) provides that asylum support may be suspended or discontinued if the Secretary of State believes on the balance of probabilities that the supported person or their dependant has worked illegally.

Section 4 support

Support under sections 4(2) and 4(3) of the 1999 act is available to failed asylum seekers, individuals whose asylum claims are declared inadmissible under sections

80A or 80B of the [Nationality, Immigration and Asylum Act 2002](#) and their dependents.

Conditions of support under section 4(2) are governed by regulation 6 of the [Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005](#). Regulation 6(2) status allows the Secretary of State to make the continued provision of accommodation subject to a condition that the person does not work illegally.

Failure to comply with the conditions of support may result in support being suspended or discontinued. For more information see the conditions of support.

Related content

[Contents](#)

Actions to take when illegal working is suspected

Where an individual in receipt of section 98, section 95 or section 4 support is suspected of working illegally, a referral should be made to the Asylum Support National Compliance team. Referrals may be made from several sources, including but not limited to, asylum accommodation providers and Immigration Enforcement.

When making a referral to the Asylum Support National Compliance team, the referrer may identify indicators that the individual is a potential victim of modern slavery. If the referrer is a '[first responder](#)' they should make a referral into the National Referral Mechanism (NRM).

See also: [National referral mechanism guidance: adult \(England and Wales\)](#)

When a referral of suspected illegal working is received, a caseworker will complete an investigation to determine if the individual was working illegally, including whether fraud has been committed against the state. An interview between the individual and the caseworker will form part of the investigation. Caseworkers will issue a letter to the individual inviting them to attend an interview, which could be face to face or via telephone. As part of this investigation, a destitution test will also be completed to determine if the individual has sufficient funds to support themselves and / or any dependents.

If an individual fails to comply with a reasonable request as part of the investigation, such as providing information or attending an interview, support may be suspended to encourage compliance. If the individual continues to fail to comply, support should be discontinued on that basis.

See also: Assessing destitution.

During a compliance investigation the caseworker may identify indicators that raise concerns that the individual has been forced into employment and is a potential victim of modern slavery. Where this occurs, the caseworker should make a referral into the NRM.

Related content

[Contents](#)

Considerations during the investigation process

Pregnancy

This policy applies to pregnant women and pregnant women as part of a family group. However, it is recognised that pregnant women may have additional vulnerabilities. Decisions taken to discontinue support for pregnant women will be taken on a case-by-case basis, however, discontinuation will not apply in the late stages of pregnancy, where the Home Office are already aware of the pregnancy.

Where a pregnancy is raised for the first time in representations made under the policy, this would need to be accompanied by evidence, for example a letter from their treating clinician or a MATB1 form. This guidance should be read alongside the healthcare needs and pregnancy dispersal guidance.

Vulnerabilities

This policy applies to all cohorts who are supported under section 98, section 95 or section 4(2) of the 1999 act. However, it is recognised that some individuals in receipt of support may have vulnerabilities. Regulation 4 of the Asylum Seekers (Reception Conditions) Regulations 2005 states that a vulnerable person is:

- a minor
- a disabled person
- an elderly person
- a pregnant woman
- a lone parent with a minor child
- 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

There is no obligation to carry out an evaluation to see if the person has special needs.

The classification of an individual as vulnerable does not exclude them from the policy. However, caseworkers must consider vulnerabilities on a case-by-case basis and determine if discontinuing support is appropriate. As part of the decision-making process, due regard must be given as to whether discontinuing support would breach an individual's rights under [Article 3 of the ECHR](#).

Related content

[Contents](#)

Actions following a compliance investigation

Failure to comply with a request

An individual may be asked to attend an interview or provide information during the course of the investigation. An individual will be given a minimum of 5 working days to respond to requests. If the individual fails to comply with this request without a reasonable excuse support may be suspended to encourage them to comply. If they continue to fail to comply with the request support may be discontinued.

Where an investigation determines illegal working has not occurred

Where a caseworker completes an investigation and determines that on the balance of probabilities the individual has not been working illegally, the investigation should be closed with no further action required.

As part of the investigation a caseworker will complete a destitution test to determine if the individual and any supported dependants would be destitute if their support was discontinued. If the investigation determines that, on the balance of probabilities, the individual was working illegally, but they would be destitute if support was discontinued, the caseworker should not proceed with the discontinuation.

If during the investigation, a caseworker determines that the individual has sufficient funds that means they are no longer destitute, support should be discontinued on this basis. As part of the decision-making process, caseworkers must give due regard as to whether discontinuing support would breach an individual's rights under [Article 3 of the ECHR](#).

See also: Assessing destitution

Where an investigation determines illegal working has occurred

Where a caseworker completes an investigation and determines that on the balance of probabilities an individual has been working illegally, the caseworker should complete a destitution test. If this determines that the individual has sufficient funds to support themselves, and any supported dependents, the caseworker should begin the process to discontinue support. Caseworkers must do so in line with the conditions of support guidance and the assessing destitution guidance.

Before proceeding with discontinuing support, caseworkers must give consideration to whether the supported person, or their dependents, is a vulnerable person as described by Regulation 4 of the [Asylum Seekers \(Reception Conditions\) Regulations 2005](#). Caseworkers must consider vulnerabilities on a case-by-case

basis and determine if discontinuing support is appropriate based on the evidence they have.

Where a caseworker decides that discontinuation of support is appropriate following consideration of any vulnerabilities, the Home Office will take reasonable steps to notify the individual that their support has been discontinued in a discontinuation of support letter. This notification will explain that their failure to comply with conditions regarding permission to work has resulted in the discontinuation of their asylum support.

Where evidence of a vulnerability is provided following support being discontinued, caseworkers should reassess if discontinuation of support remains appropriate based on the evidence provided. If a caseworker decides that discontinuation is no longer appropriate, support should be reinstated.

When considering whether to discontinue the provision of support under the 1999 act 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, 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 Home Office must take in to account the impact of any decision on the family.

Any decision as to whether it is appropriate to discontinue support must be proportionate to the situation. When making decisions as to whether it would be appropriate to discontinue support, caseworkers should consult their senior caseworker before proceeding.

If the discontinuation of support is appropriate, the caseworkers 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 caseworker should liaise with the local authority, notifying them that the Home Office 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 98, 95 or 4 should be discontinued as soon as the family transfers into local authority care.

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 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 Home Office's obligations under Section 55 of the Borders, Citizenship and Immigration Act 2009.

Right of appeal

For those supported under section 95, there is a right of appeal if the Home Office decides to stop providing support before that support would otherwise have come to an end. For those supported under section 4, there is a right of appeal if the Home Office decides not to continue to provide accommodation.

The individual must be notified of their right of appeal at the time any such decision is made. This notification is included when the Home Office takes reasonable steps to inform an individual that their support has been discontinued.

The individual has 3 working days, beginning with the date on which they received written notice of the decision they are challenging, in which to submit an appeal to the Asylum Support Tribunal. Where the notice is served via post the individual will be given 5 working days in which to submit an appeal. During this time support remains in place. If no appeal is received during the appeal period, the caseworker should discontinue support. This will include issuing a letter to the individual and the accommodation provider confirming that support has been discontinued.

For further information on the appeals processes and the help that a supported person can get, refer to the published guide: [appeal an asylum support decision](#).

Further applications for support

Where an individual submits a further application for support following a discontinuation of support, or following a dismissed appeal, steps should be taken in line with the conditions of support guidance.

Related content

[Contents](#)