Home Office

Illegal Working as a Breach of Asylum Support Conditions

Version 2.0

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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 dependants 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 **2.0**
- published for Home Office staff on **18 November 2026**

Changes from last version of this guidance

Changes to reflect the Immigration Rule changes to Paragraph 360 (found in Statement of Changes HC 1691).
Removal of background information regarding the statutory instruments that were laid ahead of publication of version 1 of this policy guidance.

Inclusion of illegal working operations legislation.

This version of the guidance sets out the new approach to illegal working referrals and investigations. This includes referrals both from Immigration Enforcement and outside Immigration Enforcement. The guidance reflects the evidential thresholds that should be followed by compliance officers, which aligns with the approach already used by Immigration Enforcement.

The guidance has been restructured to set out more clearly the steps that compliance officers should follow.

Related content
Contents
Conditions of support

Related external links

Asylum support (asylum instructions) - GOV.UK
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
- 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 worker"** refers to an individual is working while disqualified from carrying out the work (as defined in the Immigration Act 1971, Section 24B(10) in question by reason of their immigration status (and working in these circumstances is referred to as "**illegal working**"). This includes an individual who has not been granted leave to enter or remain in the UK, or whose leave to enter or remain in the UK:
  - is invalid
  - has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise, or
  - is subject to a condition preventing them from accepting the employment, such as not being permitted to work, restrictions on the type of work that can be conducted or limits on the number of hours that can be worked
- **"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 accommodation 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 dependants 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. Those whose claim has been outstanding for more than 12 months through no fault of their own may apply for permission to work. Where granted, permission is

restricted to eligible roles specified in the Immigration Rules and ends when the asylum claim is finally determined and any appeal rights are exhausted.
Where a person claims asylum while they have existing leave which permits work, their existing leave, including its work conditions, may be extended by section 3C of the Immigration Act 1971 where the relevant requirements are met. If the asylum claim is made after that leave has expired, section 3C does not apply and the previous permission to work will have ended. Further detail is set out in the Permission to work and volunteering for asylum seekers guidance.
Asylum seekers may volunteer without permission to work, provided the activity does not amount to employment or engagement as a worker.
It is a criminal offence for a person to work at a time when he is disqualified from working by reason of his immigration status and at that time he knows or has reasonable cause to believe that he is disqualified from working by reason of his immigration status. However, previously asylum support could not be suspended or discontinued on the basis of illegal working alone.
The Asylum Support Regulations 2000 were amended in March 2026, so that illegal working is a ground for suspending or discontinuing Section 95 and Section 98 support. The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 were also amended in March 2026, so that it can be made a condition of the continuing provision of support under Section 4 that the supported person does not engage in illegal working. This change came into force in June 2026.
This policy was introduced to provide a clear consequence for those who work illegally while benefiting from asylum support and support the broader strategy to deal with illegal working and strengthen the immigration system. 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
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Legislation

Asylum Support 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 to prevent destitution while individuals await the determination of their asylum claim and to enable accommodation to be provided to failed asylum seekers.

Notification of conditions of support

Asylum support under sections 98, 95, and 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 sections 95(10) and 98(3) of the 1999 Act.

The regulatory framework for the conditions of support under sections 95 and 98 and the context in which support can be suspended or discontinued is set out in the Asylum Support Regulations 2000. Specifically, regulation 20(1)(l) provides that asylum support may be suspended or discontinued if the Secretary of State has reasonable grounds to believe that the supported person or their dependant has engaged in illegal working.

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) and 4(3) are governed by regulation 6 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 (amended in 2026). 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 engage in illegal working.

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

Illegal Working Operations Legislation

The legislative framework governing illegal working sets out restrictions on employment, the checks employers must undertake before employing a person subject to immigration control, and the consequences of employing or working without the required permission. The principal provisions are contained in sections 14A to 25 of the Immigration, Asylum and Nationality Act (IANA) 2006, and the Immigration (Restrictions on Employment) Order 2007.

Section 48 extends the regime beyond traditional employer-employee relationships, including to certain worker, subcontractor and online matching arrangements.

Section 24B of the Immigration Act 1971 sets out the offence of illegal working and section 21 of the Immigration, Asylum and Nationality Act 2006 sets out the offence of employing a migrant who has no right to work.

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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 illegal working, a referral should be made to the Asylum Support National Compliance Team. Referrals may be made from different sources, including referrals from Immigration Enforcement.

The evidential threshold that should be applied when investigating illegal working is the balance of probabilities. This aligns with the threshold applied by Immigration Enforcement when investigating illegal working and should apply to those in receipt of section 98, section 95 or section 4 support. A suspicion or allegation of illegal working is not, on its own, sufficient to establish that illegal working has taken place. All available information and evidence should be considered in accordance with the legislative test and procedures in this guidance.

Referrals from Immigration Enforcement

This route will see the Asylum Support National Compliance Team using evidence provided through an Immigration Enforcement investigation into an individual working illegally. The Asylum Support National Compliance Team will then undertake a destitution test prior to discontinuation of support.

Immigration Enforcement officers conduct illegal working operations to identify and investigate employers who knowingly employ an illegal worker, or fail to demonstrate a statutory excuse, meaning they conducted the correct right-to-work checks before employing the individual. These cases are referred to the Civil Penalty Compliance team who can take action against employers, while the Immigration Enforcement investigations can also result in action against individual workers.

Immigration Enforcement Investigations

Immigration Enforcement investigations involve interviews, documentary evidence, and direct observations. This framework is designed to meet a high evidential threshold and support civil penalty action against employers, along with criminal enforcement action where appropriate. Civil penalties are issued by the Civil Penalty Compliance Team.

See also: Illegal working operations

In addition to issuing civil penalties to employers, Immigration Enforcement can identify and enforce illegal working breaches on individual workers if they prove, on the balance of probabilities, that an individual has worked in breach of the conditions of their immigration status or worked without the relevant permission. Their permission may be cancelled, such that they may become liable to administrative removal. To enforce a breach on an individual, there must be firm and recent evidence (normally within 6 months, but this is considered on a case-by-case basis) of working in breach, including at least one of the following:

- an admission by the offender of working in breach
- a statement by the employer implicating the suspect
- documentary evidence such as payslips, the offender's details on the pay roll, national insurance records, tax records, P45
- sight by the Immigration Officer, or by a police officer who gives a statement to that effect, of the offender working, preferably on 2 or more separate occasions, or on one occasion over an extended period, or of wearing the employer's uniform

In practice, sight only evidence will be insufficient and must be backed up by other evidence.

See also: Initial consideration and assessment of liability to administrative removal

When conducting an illegal working operation, Immigration Enforcement officers may identify an individual in receipt of section 98, section 95 or section 4 support, who they suspect is working without having the right or permission to work. Immigration Enforcement officers should continue to conduct their visit following their usual processes. Once the operation has concluded, referrals from Immigration Enforcement will be sent to the Asylum Support National Compliance Team. The compliance team will be responsible for reviewing these cases and determining if discontinuation of support is appropriate.
Immigration Enforcement will also refer the case to the Civil Penalty Compliance Team who will investigate the employer to determine if they have knowingly employed an illegal worker or fail to demonstrate a statutory excuse. This referral is likely to be made at the same time as the referral to the Asylum Support National Compliance Team. The civil penalty investigation and outcome will be separate to any investigation being undertaken by the Asylum Support National Compliance Team; however, both investigations may occur at the same time.
The evidence gathered by Immigration Enforcement will be recorded on Pronto. When a referral is made to the Asylum Support National Compliance Team, the compliance officer should check Pronto and review the evidence that has been recorded against the case. Where the Immigration Enforcement investigation concludes that the individual has been working in breach of the conditions of their immigration status or worked without the relevant permission using two of the above pieces of evidence, the Asylum Support National Compliance officer should take this evidence as proof of illegal working. There is no requirement for the Asylum Support Compliance officer to investigate this again, or to interview the individual, if illegal working has already been proven by Immigration Enforcement. The Asylum Support Compliance officer should not contact the employer as this could compromise any investigation being completed by the Civil Penalty Compliance Team.
If the referral from Immigration Enforcement does not prove that the individual has been working in breach of the conditions of their immigration status or worked without the relevant permission using two pieces of evidence as outlined above, the compliance officer should complete an investigation to determine if illegal working has occurred as outlined in the section below.

Where the compliance officer has two pieces of evidence to prove on the balance of probabilities that illegal working has occurred, this should be recorded as a breach of

asylum support conditions. This breach provides grounds for asylum support to be discontinued; however, the compliance officer must determine if discontinuation of support is an appropriate and proportionate outcome. The compliance officer should conduct a destitution test before discontinuing support, as set out in the where an investigation determines illegal working has occurred section. Following the destitution test, the compliance officer should consider any vulnerabilities or mitigating factors to determine if discontinuing support is appropriate.

Referrals from Outside Immigration Enforcement

Where a referral for suspected illegal working is made to the Asylum Support National Compliance Team from a source other than Immigration Enforcement, for example from an asylum accommodation provider, a compliance officer will conduct an investigation. The compliance officer should look for two pieces of evidence to determine that illegal working has occurred. These two pieces of evidence may be the same, but not limited to, the types of evidence that would be gathered in Immigration Enforcement investigations.

Where two pieces of evidence gathered are conflicting, the compliance officer should review this on a case-by-case basis. This may include gathering additional evidence to determine if illegal working has occurred.

Where an investigation determines illegal working has not occurred

Where a compliance officer completes an investigation following a referral from outside of Immigration Enforcement, 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.

Financial checks are no longer required to prove that an individual has worked illegally. However, it is possible that while investigating an allegation of illegal working a compliance officer identifies information proving that the individual has sufficient funds that means they are no longer destitute. In this scenario, support should be discontinued on this basis.

See also: Assessing destitution

Where an investigation determines illegal working has occurred

Where a compliance officer completes an investigation and determines that, on the balance of probabilities, an individual has been working illegally, the compliance officer should complete a destitution test. If this test determines that the individual has sufficient funds to support themselves, and any supported dependents, the compliance officer should begin the process to determine if it is appropriate and proportionate to discontinue support. Compliance officers should complete a destitution test in line with the conditions of support guidance and the assessing

destitution guidance, and give due consideration to any vulnerabilities of mitigating factors.

Before proceeding with discontinuing support, compliance officers must give consideration to whether the supported person, or their dependent, is a vulnerable person as described by Regulation 4 of the Asylum Seekers (Reception Conditions) Regulations 2005. Compliance officers must consider vulnerabilities on a case-by-case basis and determine if discontinuing support is appropriate based on the evidence they have.

Where a compliance officer 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 their right to work has resulted in the discontinuation of their asylum support.

Where evidence of a vulnerability is provided following support being discontinued, compliance officers should reassess whether discontinuation of support remains appropriate based on the evidence provided. If a compliance officer 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.

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 for families with minors, compliance officers should consult their senior caseworker before proceeding.

If the discontinuation of support is appropriate, compliance officers 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 compliance officer 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.

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Considerations during the investigation process

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, support may be suspended to encourage them to comply. If they continue to fail to comply with the request, support may be discontinued.

Failure to Attend an Interview

When a referral of suspected illegal working is received from a source outside of Immigration Enforcement, a compliance officer will complete an investigation to determine if the individual was working illegally. An interview between the individual and the compliance officer may form part of the investigation. Compliance officers will issue a letter to the individual inviting them to attend an interview, which could be face to face or via telephone.

If an individual fails to attend an interview without a reasonable excuse, support may be suspended to encourage compliance. If the individual continues to fail to comply, support should be discontinued on that basis.

Pregnancy

This policy applies to pregnant women, whether or not 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. The late stages of pregnancy are defined in the healthcare needs and pregnancy dispersal guidance as normally running from six weeks before the Estimated Date of Delivery (EDD) until a clinician has signed off on the postnatal checks. The latter will usually be around six weeks after birth, unless there have been complications.
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.

Potential Victims of Modern Slavery

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).

During a compliance investigation, the compliance officer may identify indicators that raise concerns that the individual has been forced into employment and is a potential victim of modern slavery. For more information on the indicators of modern slavery, compliance officers should refer to the Modern Slavery: Statutory Guidance for England and Wales and Non-Statutory Guidance for Scotland and Northern Ireland.

Where there are indicators of modern slavery and a referral has not been made previously to the NRM, the compliance officer should make a referral. Details on how to do this can be found here: National referral mechanism guidance: adult (England and Wales).

Vulnerabilities

This policy applies to everyone who is supported under section 98, section 95 or section 4(2) or (3) 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

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Following discontinuation of support

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. There is no right of appeal for discontinuation of Section 98 support.

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 compliance officer 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.

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