



Dependants on an asylum support application

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1 Introduction

This is an instruction on determining whether a person is a dependant for asylum support purposes. It also includes guidance on adding dependants to, and removing dependants from, an asylum support application. The principles set out in this instruction apply irrespective of whether the application for support is under section 4, 95 or 98 of the Immigration and Asylum Act 1999.

1.1 Definition of dependant

For support purposes, a "dependant" is a person who meets one or more of the definitions in regulation 2 of the Asylum Support Regulations 2000 (see [Extract](#)).

For general asylum purposes, dependants are defined in the Asylum Instruction Dependants.

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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 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom sets out the key principles to take into account in all Home Office 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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2 Dependants included on the initial support application

When an application for a dependant to be included in a support application is received, caseworkers should ensure that they search ASYS and CID for any existing asylum or asylum support applications for the person.

2.1 Persons who are already a dependant on the asylum claim

In line with regulation 2(4)(i) of the Asylum Support Regulations 2000, a person should always be regarded as a dependant for support purposes if they are being treated as a dependant on an asylum claim. In this scenario, the dependant is not expected to provide any additional evidence of their relationship to the principal applicant.

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2.2 Persons who are not a dependant on the asylum claim

A person may be treated as a dependant for support purposes, even if they are not a dependant on an asylum claim, provided that they meet one of the criteria set out in regulation 2 of the Asylum Support Regulations 2000 (see [Extract](#)).

The prospective dependant will be expected to provide evidence to show that their relationship with the main support applicant is genuine. The level of evidence that is acceptable to demonstrate such a relationship will vary according to the circumstances of the particular case. For example, it may not always be reasonable to expect a couple who have fled persecution to be able to provide a marriage certificate unless the marriage has taken place since they arrived in the UK. Factors such as whether the alleged dependant was mentioned during the initial Immigration Service screening interview may be important when it comes to assessing credibility. Forgery checks should be conducted on any documentary evidence wherever possible.

If, after considering the evidence provided, the caseworker is not satisfied that the purported dependant should be included in the support application, the reasons for the decision should be set out in writing. Caseworkers should refer to ASYS User Manual Producing a Generic ASYS Letter and use the template provided. The decision will attract a right of appeal under Section 103(1) of the Immigration and Asylum Act 1999 to an Asylum Support Judge. The letter should enclose the Tribunals Service – Asylum Support Notice of Appeal Form and envelope.

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3 Applications to add dependants after support has been allocated

A request for a prospective dependant to be added to a support application should be made in writing. Evidence must be provided to show that the person meets the requirements of a dependant as set out in regulation 2 of the Asylum Support Regulations 2000 (see [Extract](#)).

It is not necessary for dependants to submit a new asylum support application form (ASF1) when applying to be added as a dependant to an existing asylum support claim.

If a failed asylum seeker is still being treated as an asylum seeker for support purposes because they had a dependent child under the age of 18 at the point appeal rights were exhausted, additional dependants may be added to the section 95 application (providing they meet the definition of a dependant (see [Extract](#)).

If appropriate evidence has not been received, caseworkers should write to the applicant requesting further information using the template at [Letters](#).

If, the caseworker is not satisfied that the purported dependant is eligible to be included in the support application, the reasons for the decision should be set out in writing. Caseworkers should refer to ASYS User Manual Producing a Generic ASYS Letter and use the template provided. This decision will attract a right of appeal to an Asylum Support Tribunal Judge. The letter should enclose the Tribunals Service – Asylum Support Notice of Appeal Form.

If it is decided that the applicant is eligible to be added to the support application, caseworkers should follow the instructions in the ASYS User Manual: Adding/Removing a Dependant.

The applicant should be advised of the decision in writing. Caseworkers will need to produce a generic ASYS letter - see ASYS User Manual Producing a Generic ASYS Letter and enter the text provided at [Letters](#).

In cases where the applicant is residing in support accommodation caseworkers need to assess whether the current accommodation remains suitable for the newly amended household.

To check suitability of the applicant's accommodation

- Open the ASYS application
- Click Accommodation (Tab 6)
- The text box - Type of Accommodation gives the number of people that the accommodation can support. The accommodation is unsuitable for the applicant if the accommodation cannot support the number of family members living there.

If the current accommodation is deemed to be unsuitable, the details of the case should be referred to the Relocations inbox. If the current accommodation is deemed to be suitable, caseworkers should assess the level of support and allocate support, see the ASYS User Manuals: Using the Automated Assessment Tool and Using the Subsistence "Allocation Calculator" Tool.

If new accommodation needs to be found caseworkers should refer to the Asylum Instruction Change of Address for further guidance.

Where a dependant has been added, caseworkers must place a minute in the ASYS Minute Sheet. The minute must include the name of applicant who has been added (or removed), any changes in the level of support the main applicant will receive, the date the new level of support will commence and details of any emergency support generated in the interim.

3.1 Adding British citizen dependants and persons with valid leave

The definition of dependant for support purposes does not exclude British citizens or persons with valid leave to remain in the UK. However, caseworkers must take into account the sources of income likely to be available to these persons and make appropriate enquiries to establish destitution.

The section [Applications to add dependants after support has been allocated](#) sets out the evidence required to add a dependant and the action Officers must take when adding or refusing to add a dependant.

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3.2 Date support should commence from

When a decision is made to add a new dependant (with the exception of new born babies) the provision of subsistence support should be backdated to commence on the day that the Home Office received sufficient supporting evidence of the relationship.

When determining the date that supporting evidence was received, caseworkers should look for the date that the evidence was entered on to ASYS. Evidence received should have been minuted in tab 5 on ASYS by the person who scanned the evidence onto ASYS and be visible in tab 9 (Correspondence).

3.3 New born dependants

In the case of new born dependants, subsistence support should be backdated to commence from the date of the birth provided there is sufficient supporting evidence of the birth. An original letter or certificate recording the birth of the child that has been issued by a treating clinician or hospital may be accepted as interim evidence to establish the relationship and register the child as a dependant. If this evidence is provided within 14 calendar days of the birth subsistence support should be backdated to the date of birth. If the evidence is provided after 14 calendar days of birth subsistence support should only be backdated if there is a reasonable explanation for the delay.

Although documentation from clinicians may be accepted as interim evidence of the newly born child's relationship to the supported person the full birth certificate should still be requested and generally be provided within 49 calendar days. The support claim should be reviewed if the full certificate is not provided within that time (N.B. parents are required to register a birth within 42 calendar days of delivery).

Payments to accommodation providers should generally commence at the same time subsistence payments commence. However, where earlier notification of the addition of a newly born child to the household is received direct from the accommodation provider (through the relevant "discrepancy report") payment to the provider should normally commence from the date of that notification.

4 Removing a dependant after support has been allocated

A request for a dependant to be removed from a support application should be made in writing.

If caseworkers are concerned about the welfare of a child dependant they should, in the first instance, contact Social Services.

Where a dependant wishes to be removed from a main applicant's asylum support application, the main applicant should be informed that the person no longer wants to be supported as his/her dependant. Caseworkers should be aware that it may not be reasonable to expect confirmation from the main applicant in some circumstances and should pay particular attention to the circumstances of the case. For example, if the dependant is subject to domestic violence it would not be reasonable to expect signed confirmation.

Whenever a dependant is removed from a support application the level of support provided will need to be adjusted to reflect the reduction in people on the application. If the applicant is living in asylum support accommodation which, following the removal of a dependant is not suitable, new accommodation may need to be found. Caseworkers should refer to the Asylum Instruction Change of Address for guidance.

Caseworkers should also be aware that removing a dependant from a support application may have implications for the support arrangements for the main applicant. For example, if the main applicant is a failed asylum seeker who was only receiving section 95 support because he has a child under 18, the caseworker will need to review the position if the child is no longer regarded as a dependant and a part of the main applicant's household.

Caseworkers may be notified by the police, the accommodation provider, the main applicant or dependant that they wish to be removed from the asylum support application because of incident(s) of domestic violence. Caseworkers should refer to Asylum Support Policy Bulletin 70: Domestic Violence and the Asylum Instruction titled Change of Address.

If it is decided that the applicant should be removed from the support application, caseworkers should follow the instructions in the ASYS User Manual: Adding/Removing a Dependant.

The applicant should be advised of the decision in writing. Caseworkers will need to produce a generic ASYS letter- see ASYS User Manual Producing a Generic ASYS Letter and enter the text provided at [Letters](#).

In cases where the applicant is residing in support accommodation caseworkers need to assess whether the current accommodation remains suitable. Caseworkers should check whether the current accommodation remains suitable.

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If the current accommodation is unsuitable, the details of the case should be referred to the Relocations inbox. If the current accommodation is suitable, caseworkers should assess the level of support and allocate support.

Where a dependant has been removed, caseworkers must place a minute in the ASYS Minute Sheet. The minute must include the name of the dependant who has been removed, any changes in the level of support the applicant will receive, the date the new level of support will commence and details of any emergency support generated if appropriate.

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5 Non-dependants who request to be accommodated together

Applicants who are eligible for asylum support but are not dependants of each other (for example, adult siblings) may request to be accommodated together. When considering requests for separate support applications to be 'linked together' in this way, caseworkers should take into account the wishes of all parties, the availability of suitable accommodation, Article 8 ECHR considerations (right to respect for private and family life), and any restrictions on who may be accommodated together as laid out in Annex C of the COMPASS Statement of Requirements.

The caseworker should advise the applicants of the decision in writing. Caseworkers should refer to ASYS User Manual Producing a Generic ASYS Letter and use the template provided. There is not a right of appeal against a negative decision in this regard.

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6 Child dependants turning 18

Children who have been accepted as a dependant on an asylum support application should not be expected to apply for support in their own right on turning 18 unless the main applicant is a failed asylum seeker and has no other child dependants. Their support will continue until such time as the main applicant becomes ineligible for support.

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7 Extract from the Asylum Support Regulations 2000 (regulation 2)

2.

(1) In these Regulations -

"the Act" means the Immigration and Asylum Act 1999;

"asylum support" means support provided under section 95 of the Act;

"dependant" has the meaning given by paragraphs (4) and (5);

"the interim Regulations" means the Asylum Support (Interim Provisions) Regulations 1999[2];

"married couple" means a man and woman who are married to each other and are members of the same household; and

"unmarried couple" means a man and woman who, though not married to each other, are living together as if married.

(2) The period of 14 days is prescribed for the purposes of section 94(3) of the Act (day on which a claim for asylum is determined).

(3) Paragraph (2) does not apply in relation to a case to which the interim Regulations apply (for which case, provision corresponding to paragraph (2) is made by regulation 2(6) of those Regulations).

(4) In these Regulations "dependant", in relation to an asylum-seeker, a supported person or an applicant for asylum support, means, subject to paragraph (5), a person in the United Kingdom ("the relevant person") who -

(a) is his spouse;

(b) is a child of his or of his spouse, is dependant on him and is, or was at the relevant time, under 18;

(c) is a member of his or his spouse's close family and is, or was at the relevant time, under 18;

(d) had been living as part of his household -

(i) for at least six of the twelve months before the relevant time, or

(ii) since birth,

and is, or was at the relevant time, under 18;

(e) is in need of care and attention from him or a member of his household by reason of a disability and would fall within sub-paragraph (c) or (d) but for the fact that he is not, and was not at the relevant time, under 18;

(f) had been living with him as a member of an unmarried couple for at least two of the three years before the relevant time;

(g) is living as part of his household and was, immediately before 6th December 1999 (the date when the interim Regulations came into force), receiving assistance from a local authority under section 17 of the Children Act 1989[3];

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(h) is living as part of his household and was, immediately before the coming into force of these Regulations, receiving assistance from a local authority under -

(i) section 22 of the Children (Scotland) Act 1995^[4]; or

(ii) Article 18 of the Children (Northern Ireland) Order 1995^[5]; or

(i) has made a claim for leave to enter or remain in the United Kingdom, or for variation of any such leave, which is being considered on the basis that he is dependant on the asylum-seeker; and in relation to a supported person, or an applicant for asylum support, who is himself a dependant of an asylum-seeker, also includes the asylum-seeker if in the United Kingdom.

- (5) Where a supported person or applicant for asylum support is himself a dependant of an asylum-seeker, a person who would otherwise be a dependant of the supported person, or of the applicant, for the purposes of these Regulations is not such a dependant unless he is also a dependant of the asylum-seeker or is the asylum-seeker.
- (6) In paragraph (4), "the relevant time", in relation to the relevant person, means -
- (a) the time when an application for asylum support for him was made in accordance with regulation 3(3); or
- (b) if he has joined a person who is already a supported person in the United Kingdom and sub-paragraph (a) does not apply, the time when he joined that person in the United Kingdom.
- (7) Where a person, by falling within a particular category in relation to an asylum-seeker or supported person, is by virtue of this regulation a dependant of the asylum-seeker or supported person for the purposes of these Regulations, that category is also a prescribed category for the purposes of paragraph (c) of the definition of "dependant" in section 94(1) of the Act and, accordingly, the person is a dependant of the asylum-seeker or supported person for the purposes of Part VI of the Act.
- (8) Paragraph (7) does not apply to a person who is already a dependant of the asylum-seeker or supported person for the purposes of Part VI of the Act because he falls within either of the categories mentioned in paragraphs (a) and (b) of the definition of "dependant" in section 94(1) of the Act.
- (9) Paragraph (7) does not apply for the purposes of any reference to a "dependant" in Schedule 9 to the Act.

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8 Letters

8.1 Request for further evidence letter

Dear

Thank you for your letter requesting the addition of your family members to your Asylum Support application.

The Home Office is unable to consider your request, as the following information is required:

- Your Dependant's SAL 1 or ARC Card
- Complete details of dependant (Full name, Date of birth, relationship to you)
- Asylum support reference number of your dependant (If possible)
- Original Full Birth Certificate
- Signed confirmation from your partner and yourself stating who will be the main applicant

We are unable to consider your request, at the present moment, without this information.

We have not retained a copy of your request, therefore, should you wish to pursue this matter you will need to re-submit your request with the above information within 5 working days.

A pre-paid, self-addressed, envelope is enclosed for your convenience.

Yours Sincerely

[Caseworkers name]

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8.2 Variation of support letter

Dear

This letter is confirmation that.....has been **added/removed** as a dependant to this application. Your regular support payments provided to you by the Home Office have been amended taking into consideration your current needs. The details of the support you will now receive is as follows:

Within 2 working days from the date of this letter, Sodexo Pass will be delivering (or will have delivered) an Emergency Support Token to your current address by courier. The Emergency Support Token is to the value of £00.00 and is to cover the period Day/Month/2007 until Day/Month/2007. This is to cover your essential living needs until your regular cash payments are available for collection from the Post Office.

You must make every effort to be at home to receive this pack, if you are not you will be left a telephone number to ring to arrange re-delivery. You will need to give your asylum support reference number to the courier and you must sign to confirm receipt of the pack.

Your Emergency Support Token must to be cashed at your designated Post Office. If you are not sure which is your designated post office, please contact the Sodexo Pass Helpline on 01276 687 099. Please note that no additional emergency support will be sent to you within the above period and therefore it is important that you carefully monitor your expenditure.

Your regular cash voucher issue has been amended, following the change to your current circumstances. The new details are outlined below:

Start Date	End Date	Value
Day/Month/Year	Day/Month/Year	£00.00
Day/Month/Year	Ongoing	£00.00

You are reminded that you are still required to comply with the terms of the agreement sent to you by Asylum Support when your original support package was provided.

It is your responsibility to inform the Immigration Office dealing with your case of your new address before you move. This should be done by telephoning the immigration office as soon as possible. The correct number can be found on the letter issued by the Immigration Service notifying you of your temporary admission to the United Kingdom (Form IS96).

Yours Sincerely

[Caseworkers name]

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9 Document control

9.1 Change Record

Version	Author	Date	Change Reference
1.0	BF	01/02/07	Formatting to website format and incorporating asylum support processes
2.0	BF	13/09/07	1.0
3.0	CS	03/10/08	Re branding only
4.0	CS	26/02/09	Minor addition of screen shots re accessing dependants details on ASYS
4.0 (unchanged)	RB	24/08/2009	Modernising Guidance Programme - correction of hyperlinks (Horizon only)
5.0	S M	11/09/09	Issuing of TSAS envelopes if right of appeal exists
6.0	SM	17/09/09	Children's Duty paragraph inserted
7.0	JL	22/08/13	When to start support for new born babies guidance
8.0	GL	18/07/14	Rebranding and reformatting

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