



Discontinuing asylum support after failure to report With ARC

This policy instruction deals with discontinuation of support to Section 95 supported persons who have failed to attend a scheduled event at a reporting centre or Police station.

V3.0

Table of contents

Table of contents

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

Chapter1- Background

Chapter 2 - Conditions of Support

2.1 The support agreement

2.2 First Rep-ARC event

Chapter 3 - ARC and Reporting

3.1 The automated process for suspension of cash support

3.2 The paper-based process for suspension of cash support

3.2.1 Warning letters

3.3 Reasonable excuses for not reporting

3.4 Attempts to contact the supported person

Chapter 4 - Discontinuation of Support

4.1 Appeals

Chapter 5 - Document control

Change record

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 Home Office' sets out the key principles to take into account in all activities where a child/children are involved.

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.

Chapter1- Background

Section 95(9A) of the 1999 Act permits the Secretary of State to make the provision of support subject to the condition that the asylum-seeker complies with a restriction imposed in connection with Temporary Admission (TA) under paragraph 21 of Schedule 2 to the Immigration Act 1971;

"Section 95(9A) - A condition imposed under subsection (9) may, in particular, relate to -

- (a) any matter relating to the use of the support provided,
- (b) compliance with a restriction imposed under paragraph 21 of Schedule 2 to the 1971 Act (temporary admission or release from detention) or paragraph 2 or 5 of Schedule 3 to that Act (restriction pending deportation)."

Subsections 95(10) and 95(11) requires that these conditions must be set out in writing, and that a copy given to the supported person.

Asylum support is provided on the basis a supported person and/or his dependant(s) adheres to the terms and conditions outlined to the supported person in the Asylum Support agreement. A breach of the conditions of support may lead to an early suspension or discontinuation of support.

Specifically, under [regulation 20\(1\)\(i\) of The Asylum Support Regulations 2000](#) asylum support for a supported person or a dependant of his may be suspended or discontinued if:

"the supported person or a dependent of his for whom support is being provided has not complied with a reporting requirement."

To Note: For instructions on how to discontinue support under Section 4 in these circumstances please refer to the Asylum support Section 4 Policy and process instructions.

[Back to contents](#)

Chapter 2 - Conditions of Support

2.1 The support agreement

The Asylum Support Agreement is issued to all applicants supported under Section 95 of the 1999 Act, and includes a provision that makes compliance with reporting conditions a condition of support. A copy is provided to the supported person in his primary language, or English if a suitable translation is not available

The applicant's copy should be signed, dated by the supported person and returned to the asylum support team to be kept on the person's file. It will be included in any subsequent appeal bundle.

If the signed agreement is not returned within one month of issue this should be recorded on the supported person's records. The reporting process outlined continues because; the supported person will have been served with form IS.96 (in illegal entry cases) or form IS.248 (in time, in country application cases). These forms explicitly outline the supported person's residence and reporting restrictions.

[Back to contents](#)

2.2 First Rep-ARC event

Caseworkers should send each asylum applicant that is required to report a letter instructing them to attend their first reporting event. The letter will also explain that failure to report:

- Will make them liable to detention;
- May mean that their support is discontinued. Section 95 support is dependent upon compliance with this condition (as per Section 95(9A) of the 1999 Act).

Supported persons who fail to attend their first reporting event and have already had their ARC activated, will not yet have had their ARC updated with a Next Reporting Date (NRD). In these cases subsistence support via their ARC card will not be automatically suspended because the NRD will have been initially set for a date in the future. Such cases will therefore have to be treated as non-automated / "[Paper-based](#)" Rep-ARC cases and the asylum support team will manually suspend ARC payments (with a one week tolerance date) until either compliance occurs or discontinuation proceedings are instigated.

The supported person will be invited to one further reporting event before discontinuation proceedings begin.

[Back to contents](#)

Chapter 3 - ARC and Reporting

3.1 The automated process for suspension of cash support

Cash support is accessed by the applicant presenting their ARC at a designated Post Office. The Post Office Counter Staff place the ARC into a Point of Sale (POS) terminal and the ARC microchip is read “unlocking” the applicant’s due amount within the payment system. This chip contains a “Next Reporting Date” (NRD) field. Payment will only be authorised by the POS reader if the NRD indicates a future date. If not, payment will be denied. This provides the automated link between Rep-ARC and the cash payments process.

If an invalid NRD causes payment to be denied by a POS terminal, payment data will not be automatically suspended or end-dated. Collection is therefore dictated by the ARC and not the asylum support team.

The ARC NRD will be updated at each reporting event, usually for one week past the next scheduled reporting date. This provides a tolerance of one week, so should the reporting cycle be interrupted for reasons such as the need to attend an interview, ill health, or transport problems, etc., then support will still be available on the ARC for another week.

Only the main supported person’s ARC will be updated, i.e. the card used to collect regular payments.

An expired NRD will generate a transaction ‘Code 4’ (Invalid reporting date). The applicant will only be able to access their regular payments if they resume reporting, whereby their ARC receives a new, valid, NRD.

[Back to contents](#)

3.2 The paper-based process for suspension of cash support

Where the equipment necessary to update the ARC NRD is not available, (e.g. at Police Stations), a “paper-based” process that requires manual intervention by asylum support team is used.

If the supported person subsequently reports, support is re-allocated from that date, i.e. via ARC payments, with emergency support to cover until it begins. Support is not backdated to the preceding (suspended) payments unless acceptance of a “reasonable excuse” is advised by the Home Office.

Paper-based cases are tracked for two successive scheduled reporting events and, if the asylum support team is not advised that the applicant has reported, discontinuation proceedings may be initiated.

3.2.1 Warning letters

Reporting Centre staff will send the applicant a Warning Letter upon each failure to report, that includes text relating to cash payments. The applicant is therefore warned on one occasion, that support may be discontinued before the discontinuation decision itself is sent.

[Back to contents](#)

3.3 Reasonable excuses for not reporting

A supported person may not have been able to report due to circumstances beyond their control, e.g. illness, family emergency, family death, an asylum interview, transport strike, adverse weather conditions, etc. The validity of such reasons should be fully assessed. If staff in a reporting centre receives such “Reasonable” excuses they should forward them to the relevant asylum caseworker or Support Team.

If the reasonable excuse occurs upon the first sequential automated reporting event, the 1-week event tolerance will enable cash payment to be collected the following week.

If the reasonable excuse occurs upon a second / third event, access to payment will be denied by the ARC’s NRD. At this point (with the agreement of the caseworker) the asylum support team may issue emergency support to maintain continuous payment from the date that ARC payments will stop. The reporting centre then informs the asylum support team or caseworker of:

- each further ‘reasonable excuse’, triggering emergency support as above.
- a non-reasonable excuse, whereby the case is tracked towards potential discontinuation.
- the date of compliance so that, as ARC payments will again be available.

If a paper-based reasonable excuse is received after support has been manually suspended by the asylum support team, ARC payments are re-allocated and emergency support sent (covering from the date of compliance) until that begins.

Emergency support to destitute supported persons should be provided at the standard 24 hour turnaround.

[Back to contents](#)

3.4 Attempts to contact the supported person

The officer responsible for actioning the failure to report discontinuation process must attempt to contact the supported person as soon as possible (within 2 working days) by telephoning them if a telephone number has been provided. Staff should regularly ask for or confirm contact numbers. Telephone number(s) should be recorded and be available to view on the case record.

If a telephone number is not held or contact is not possible, officers should contact the supported person's representative to:

- confirm whether or not the representative still represents the supported person and/or is still in contact with them
- if still the supported person's representative, confirm whether the representative is aware that the supported person failed to attend their reporting event
- establish whether there is a reasonable explanation for the supported person's failure to report
- determine whether there are any ongoing issues or concerns that may affect the supported person's ability to physically report in the future.

If the representative no longer represents the supported person, the officer should ask if a new representative is known and, if so, they should repeat the above with the new representative.

If the supported person does not have a representative, officers should contact the Accommodation Provider (if applicable) to:

- confirm the supported person's address
- confirm whether or not the supported person is still present at the address
- ask for confirmation in writing, indicating last contact etc, if the supported person is not at the address and appears to have absconded.

Officers may contact, if necessary, any family, friends or known associates of the supported person in order to ascertain the supported person's whereabouts.

Officers must then update case records with full details of actions taken; record any new information supplied and complete the FTR Minute Check Sheet, as appropriate

[Back to contents](#)

Chapter 4 - Discontinuation of Support

If the supported person fails to attend two consecutive events, they are considered in breach of clause 20(1)(i) of the Asylum Support Regulations 2000, i.e. failure to comply with a reporting condition.

If the supported person does not comply within the 14 calendar day period following the “In-Termination” date, support will be formally discontinued. In line with the ARC Non-compliance procedure, and its use of 20(1)(i). Reasons should be given for any discontinuation of section 95 support

- The 14 calendar day Discontinuation period includes the 9 calendar day allowance for a Tribunal Service – Asylum Support appeal against discontinuation.
- If the supported person complies within the 14 calendar day Discontinuation period, support will be reinstated by the asylum support team. This will apply to both the paper based and automated Rep ARC cases. The discontinuation proceeding will therefore be cancelled.
- If the applicant contacts the asylum case worker during the Discontinuation period, they must be advised to report to their designated reporting centre.
- A check is performed by the asylum support team upon the initiation of discontinuation proceedings to confirm non-compliance.
- Where the supported person voluntarily reports shortly after support has been discontinued for failure to report, a duly motivated decision based on the reasons for the disappearance must be taken as to the reinstatement of some or all of the support.
- Where Section 95 Support is being withdrawn following a breach of conditions the support application record will be set to ‘In Termination’. Where asylum support has been fully discontinued the asylum support team or case worker should ensure that the support application record is set to ‘Terminated’.

So:

Category	Caseworker action
Single asylum seekers who fail to report for two consecutive events without a reasonable excuse.	Discontinue support in line with the processes set out in the Breach of Conditions instruction. There will be a right to appeal.

<p>Families with dependants under 18 who miss 2 consecutive reporting events.</p>	<p>Will have access to their cash support denied but will not have their support discontinued; cash support will be inaccessible until the family complies with their reporting requirement. Although there is no formal discontinuation, cash support is still being withdrawn so there will be a right of appeal;</p>
<p>Vulnerable Supported People, as described by regulation 4 of the Asylum Seekers (Reception Conditions) Regulations 2005</p>	<p>Any decision to discontinue support must be taken individually, objectively and impartially, taking account of the degree of the breach or non-compliance. The decision should be based on the particular situation of the supported person concerned.</p>
<p>Discontinuation of support - family with children under regulation 20 of the Asylum Support Regulations 2000</p>	<p>When considering whether to discontinue the provision of support under section 95 of the 1999 Act to families with minors, the course of action taken must be consistent with the Home Offices obligations under section 55 of the Borders, Citizenship and Immigration Act 2009</p>

See also: Duty to offer support, Family Unity, Vulnerable Persons, Withdrawing Support

[Back to contents](#)

4.1 Appeals

If an appeal against discontinuation is made (within the termination warning period), an appeal bundle is prepared by the case working team and should be submitted to the Asylum Support Judge. .

[Back to contents](#)

Chapter 5 - Document control

Change record

Version	Author	Date	Change made
1.0	JL	22/10/2010	First version of instruction
2.0	GL	18/07/2014	Reformat and rebrand
3.0	GL	15/01/15	New Template and minor changes to language

[Back to contents](#)