



Ceasing asylum support instruction

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

V12

Table of Contents

Table of Contents

Chapter 1 – Introduction

1.1 Introduction

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

Chapter 2 – When Ceasing Support may be Appropriate

2.1 Asylum/Article 3 application refused outright

2.1.1 Appeal rights following refusal of an asylum/article 3 application

2.1.2 Actions following claim determination

2.2 Withdrawn Asylum Claims

2.3 No Longer Destitute

2.4 Claim refused - no appeal

2.5. No longer in the UK

2.5.1 Applicant leaves with Home Office assistance

2.5.2 Applicant leaves UK without Home Office knowledge

2.6 Applicants granted Leave to Enter/Remain in the UK

2.7 Suspension of support

Chapter 3 – When Support should not be Ceased

3.1 Prescribed periods

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

3.2 High Court Injunctions

Chapter 4 - Document Control

Change Record

Chapter 1 – Introduction

1.1 Introduction

Section 95 of the 1999 Act enables the provision of support to asylum-seekers or dependants of asylum-seekers who appear to the Secretary of State to be destitute or be likely to become destitute within 14 days. An asylum seeker is defined as a person who has made a claim for asylum which has been recorded by the Secretary of State but which has not been determined.

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

Failed asylum seekers who meet the eligibility criteria may be supported under Section 4(2) and their dependants under Section 4(3).

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

[Back to Contents](#)

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 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.

[Back to Contents](#)

Chapter 2 – When Ceasing Support may be Appropriate

2.1 Asylum/Article 3 application refused outright

If an applicant no longer has an undetermined asylum claim, an undetermined Article 3 claim under the European Convention of Human Rights or a pending appeal, they cease to be eligible for Section 95 support under the provisions of the Immigration and Asylum Act 1999 and support must be discontinued unless their household includes a [dependent child under the age of 18](#).

2.1.1 Appeal rights following refusal of an asylum/article 3 application

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

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

2.1.2 Actions following claim determination

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

- On the day on which the Secretary of State notifies the applicant of his decision on the claim; or
- If the applicant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of.

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

A review should be set for the 11th day after the decision to refuse leave was received by the applicant to establish whether an appeal has been submitted.

[Back to Contents](#)

2.2 Withdrawn Asylum Claims

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

Casework considerations:

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

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

[Back to Contents](#)

2.3 No Longer Destitute

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

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

[Back to Contents](#)

2.4 Claim refused - no appeal

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

- If an appeal is submitted, support cannot be ceased until the applicant is appeal rights exhausted. If their household contains a dependant under 18, refer to [Supported persons whose household includes a dependent child under the age of 18.](#)

The grace period will commence on the date the appeal is Finally Determined. Caseworkers must ensure that the asylum support paperwork is served as close to the

ARE date as possible. The date support ends will be the end of the grace period, currently 21 days from the date the appeal ceases to be pending.

- If an appeal is submitted after support is ceased and it is accepted as “in time” then the applicant becomes eligible for support. If, at this time, support has been fully terminated because no appeal was received, then a new application for support must be made.

If support has not been fully terminated then support should continue until the applicant becomes Appeal Rights Exhausted.

[Back to Contents](#)

2.5. No longer in the UK

2.5.1 Applicant leaves with Home Office assistance

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

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

2.5.2 Applicant leaves UK without Home Office knowledge

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

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

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

[Back to Contents](#)

2.6 Applicants granted Leave to Enter/Remain in the UK

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

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

Casework actions:

- Where the supported person is in receipt of subsistence support, enter details of the date of their final payment and the amount of that final payment into the termination letter. This must be sent to the applicant along with the DWP notification letter.
- notify the relevant voluntary sector service;
- notify the accommodation provider; to issue the applicant with a minimum 7 day notice to quit;;
- place copies of all correspondence on file.
- Fully minute details of all actions taken including telephone conversations with the provider or any other parties;
- Complete the .Letter to the DWP :
 - Send it with the termination letter for the person to present to the JobCentre Plus when applying for benefits; include a photograph. If no photograph is available, for example when a dependent is granted status separately or the photograph is unusable, then the discontinuation letter must be sent with a request that photographs be submitted. DWP form may be issued;
 - Included the benefit information leaflet with the termination letter, in an appropriate language.

If a DWP form is produced and sent out in error, perhaps with incorrect personal details about the applicant, then before a new form is issued and/or support reinstated the applicant must return the erroneous one to the Home Office.

[Back to Contents](#)

2.7 Suspension of support

For in-depth information on overpayments, support reinstatement and terminating support see the relevant standing instructions on [Gov. UK](#) (Asylum support instructions). However; in some situations a change of circumstances may warrant only a suspension of support.

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

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

Casework actions and considerations:

- ensure that each case is treated on its individual merits, including giving consideration to whether the person is to be considered a vulnerable person.
- If the applicant and their dependants' essential living needs will be met for longer than 30 days, support must be terminated.
- if the applicant is sentenced to more than 30 days in detention, support should be terminated immediately. However cases should be considered on a case by case basis where a release date is known;
- ensure that the accommodation provider and relevant voluntary services are informed of the suspension decision;
- ensure that that the applicant is given written reasons for the suspension of support.
- minute actions taken onto the electronic system.

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

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

[Back to Contents](#)

Chapter 3 – When Support should not be Ceased

3.1 Prescribed periods

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

The prescribed periods are:

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

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

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

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

Support should not be discontinued in these cases unless:

- refugee status or other leave to remain is granted; or
- they fail to comply with the conditions of asylum support. ;

Caseworkers should:

- amend case record to show the new status of the asylum claim, but also continue to reflect the current status of the asylum support application;
- use a "bring forward" system to signal 4 weeks before the youngest child's 18th birthday in order that support can be ended on the birthday, and 21 days notice given.

To note:

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

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

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

[Back to Contents](#)

3.2 High Court Injunctions

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

[Back to Contents](#)

Chapter 4 - Document Control

Change Record

Version	Author	Date	Change made
1.0	BF	22/02/07	Style changed to suit web 'look' and amalgamated with support processes
2.0	M.Miller	28/03/07	Removed reference to voided instruction
3.0	M.Miller	08/05/07	Added NASS 64 Confirmation slip
4.0	B.Foyle	11/06/07	Addition of Integration Loan information
5.0	C.Brow ne	25/06/07	Amendment to grace period
6.0	MMiller	31/10/07	Addition of minimum data set to be entered into ASYS
7.0	M Miller	31/10/08	Re-branded
8.0	M Miller/B Foyle	07/01/09	Reflects decision to cease printing NASS35s on secure paper, and laminating. Update to branding. Removal of NASS 64 confirmation slip. Amendment to appeal submitted procedure. Update to legislation
9.0	M-A Marshal leck	October 2009	Inclusion of No Longer Destitute Process
10	GL	11/07/14	Rebranding and unlocking imbedded documents
11	GL	23/01/15	Redrafted document. No policy changes.
12	GL	22/04/15	Added to 3.11 children in household

[Back to contents](#)