

## Reforming support for failed asylum seekers and other illegal migrants

### Introduction

The Immigration Bill published on 17 September 2015 introduces new measures to reform the support provided to failed asylum seekers and other illegal migrants. The measures will ensure that asylum seekers who would otherwise be destitute<sup>1</sup> continue to receive adequate support while their claim is considered, but will rebalance the support system so that it does not incentivise failed asylum seekers and other illegal migrants to remain in the UK where they have no lawful basis for doing so.

Under the Bill, those with children with them when their asylum claim and any appeal are rejected will no longer be treated as though they were still asylum seekers and will cease to be eligible for support under section 95 of the Immigration and Asylum Act 1999. In addition, section 4 of the 1999 Act will be repealed and support will only be available to failed asylum seekers and any dependent children if they would otherwise be destitute and there is a genuine obstacle that prevents them from leaving the UK.

This PES assesses the potential impacts of the support measures contained in the Immigration Bill published on 17 September. It will be updated as appropriate, including in light of the secondary legislation and operational processes designed to implement the measures in the Bill.

### Policy context

The UK is committed to fulfilling its international obligations to meet minimum standards for asylum seekers who would otherwise be destitute until their asylum claim has been finally determined. These minimum standards are met through the support provided under section 95 of the Immigration and Asylum Act 1999. Support is usually provided in the form of furnished accommodation (with no utility bills or Council Tax to pay) and a weekly cash allowance to cover the asylum seeker's essential living needs; free access to healthcare and schooling is also provided. At 31 March 2015, we were providing section 95 support to an estimated 20,400<sup>2</sup> asylum seekers whose asylum claim had yet to be finally determined, including pending the outcome of an appeal, and who would otherwise be destitute. In 2014-15, such support cost an estimated £100 million.

<sup>1</sup> Under section 95(3) of the Immigration and Asylum Act 1999, a person is destitute if (a) they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met); or (b) they have adequate accommodation or the means of obtaining it, but cannot meet their other essential living needs.

<sup>2</sup> This figure has been extrapolated from published Official Statistics as at 31 March 2015.

But support is also being provided to large numbers of failed asylum seekers. Section 94(5) of the 1999 Act allows section 95 support to continue after the asylum claim has been finally determined if the failed asylum seeker has with them a dependent child. At 31 March 2015, an estimated 2,900 families (around 10,100 people; approximately 33 per cent of the total on section 95 support) were supported on this basis. In 2014-15, such support cost an estimated £45 million.

Section 4 of the 1999 Act provides for support for other categories of failed asylum seeker and others. At 31 March 2015, around 4,900 persons were supported under section 4 of the 1999 Act. In 2014-15, such support cost an estimated £28 million.

So, in total, at 31 March 2015, we were providing support to an estimated 15,000<sup>3</sup> failed asylum seekers, their dependants and others. In 2014-15, such support cost an estimated £73 million.

This means that the system of support for which Parliament legislated in the 1999 Act to discharge our international obligations towards those seeking asylum in the UK is now being used in large measure to support those whose asylum claim has failed and who have established no lawful basis to remain in the UK. This is wrong in principle and sends entirely the wrong message to those migrants who do not require our protection but who may seek to exploit the system. It also undermines public confidence in our asylum system.

### **Policy objectives and outcomes**

We expect more illegal migrants to leave the UK rather than access support from the taxpayer.

The measures contained in the Immigration Bill will restrict the support the Home Office gives to migrants whose claims for asylum have been found unsubstantiated, and their dependants, to those who are destitute and face a genuine obstacle to leaving the UK. The Bill measures will:

- Ensure that asylum seekers who would otherwise be destitute continue to receive adequate support while their claim is under consideration.
- Rebalance the support system so that failed asylum seekers and other illegal migrants have no financial incentive to remain in the UK and avoid return to their own countries.
- Retain important safeguards for children.
- Reduce costs to the public purse.

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<sup>3</sup> This figure has been extrapolated from published Official Statistics as at 31 March 2015.

## **Overview of policy changes**

The Immigration Bill will make these key changes to the existing support framework:

- Those who have children with them when their asylum claim and any appeal are rejected will no longer be treated as though they were still asylum seekers and will cease to be eligible for support under section 95 of the Immigration and Asylum Act 1999.
- Section 4 of the 1999 Act will be repealed and Home Office support will only be available to failed asylum seekers and any dependent children if there is a genuine obstacle that prevents them from leaving the UK.

**Section 95 of the 1999 Act** currently allows Home Office support to continue automatically and indefinitely if a failed asylum seeker has a child in their household. This is subject to the powers contained in Schedule 3 to the Nationality, Immigration and Asylum Act 2002 to cease support where it is certified that the persons are not taking reasonable steps to leave the UK voluntarily or to place themselves in a position in which they are able to leave the UK voluntarily. These powers, which place the onus on the Home Office to demonstrate non-compliance rather than on the failed asylum seeker to demonstrate compliance and which are subject to a right of appeal against a decision to cease support, have not been used since 2005. As at 31 March 2015, an estimated 2,900 families (around 10,100 people; approximately 33 per cent of the total on section 95 support) were supported on this basis and could therefore be subject to the Schedule 3 procedures where applicable.

Under the Immigration Bill, section 95 support for those with a child who become failed asylum seekers after the measures come into force will cease after a “grace period” (of at least 28 days) unless they can show that there is a genuine obstacle that prevents their departure from the UK, in which case they may be supported under a new power (“**section 95A support**”).

So failed asylum seekers with children will need to show that there is a genuine obstacle that prevents their departure from the UK (by which they could avoid any risk of destitution in the UK) in order to continue to be provided with Home Office support. The circumstances in which a genuine obstacle will be considered to exist will be set out in regulations, but common examples will be where medical evidence shows the person is unfit to travel or there is evidence that an application for the necessary travel document has been submitted and is still outstanding. As these will generally be straightforward matters of fact, the Immigration Bill does not provide a right of appeal against a decision not to provide section 95A support. The Bill also removes the right of appeal against a decision to cease support taken under Schedule 3 to the 2002 Act.

**Section 4(1) of the 1999 Act** allows support to be provided to migrants given temporary admission to the UK, released from immigration detention or placed on immigration bail. The power is most commonly exercised where an immigration detainee (generally a foreign national offender) asks to be provided with an address in order to make a bail application. If the Home Office is

satisfied the migrant is unable to obtain accommodation from another source (e.g. family or friends), it may provide an address and the migrant will move into this accommodation if they are granted bail. Home Office management information (**Annex A**), which is not produced in accordance with ONS protocols and is subject to change, indicates that at 30 March 2015 around 540 migrants (excluding dependants and almost all single males) were accommodated under these arrangements.

Section 4(1) is repealed by the Immigration Bill, which consolidates various forms of temporary status (e.g. temporary release and temporary admission) into a single bail category and, in paragraph 7 of Schedule 5, creates a new power, where there are exceptional circumstances, to provide accommodation to enable a person to meet bail conditions. This will provide the Secretary of State with the scope to provide accommodation on a case-by-case consideration of the individual circumstances, e.g. where the migrant being released from detention was unable to leave the UK because they were medically unfit to travel and was unable to obtain their own accommodation. The Home Office would not expect to exercise the new power where the migrant seeking bail could pay for their own accommodation or obtain it through family or friends, or could avoid being left homeless by leaving the UK.

**Section 4(2) of the 1999 Act** allows support to be provided to failed asylum seekers who would otherwise be destitute and who meet conditions set out in regulations. The regulations allow the provision of support if the person is destitute and temporarily unable to leave the UK, e.g. because there is a medical reason why they cannot travel or they have outstanding further submissions lodged with the Home Office as to why they should remain here on protection grounds. Section 4(2) provides this avenue of support to a migrant who is in the UK and has previously made a failed asylum claim. It means that support is provided to failed asylum seekers who should have left the UK when their claim failed, but who did not do so and remained here unlawfully. Our support arrangements need to reinforce our immigration controls rather than providing incentives to circumvent them.

Section 4(2) is repealed by the Immigration Bill, which provides that some categories of case previously supported under section 4(2) – those with outstanding further submissions lodged with the Home Office as to why they should remain here on protection grounds and those who have been granted permission to seek a judicial review of a decision to reject such further submissions without treating them as a fresh protection claim – will be able to apply for support under section 95 of the 1999 Act. At 30 March 2015, around 4,360 failed asylum seekers and dependants were supported under section 4(2) of the 1999 Act. Home Office management information (**Annex A**) indicates that most of those supported under section 4(2) fell into categories that, under the Immigration Bill, will, in terms of new cases, be able to apply for section 95 support.

Under the Immigration Bill, the new section 95A support will be available to failed asylum seekers and any dependants who are destitute and show they face a genuine obstacle that prevents their departure from the UK at the point that their asylum claim is finally rejected.

## **Consultation**

**Within government:** as well as within the Home Office (including UK Visas & Immigration, Immigration Enforcement and the Office of the Children's Champion), the departments consulted or involved in the formulation of the policy include the Department for Education, the Department for Communities and Local Government, the Department of Health, the Scotland Office, the Wales Office, the Northern Ireland Office and HM Treasury. We have also consulted the Scottish Government, the Welsh Government and the Northern Ireland Executive.

**Public consultation:** a 5-week public consultation on reforming support for failed asylum seekers and other illegal migrants was conducted from 4 August 2015 to 9 September 2015. 873 responses were received: 113 from non-governmental organisations; 42 from local authorities, local authority organisations and the Devolved Administrations; and the remainder from individuals. The response to consultation document can be found on GOV.UK at:

<https://www.gov.uk/government/publications/immigration-bill-part-5-support-for-certain-categories-of-migrant>

## **Public sector equality duty**

The public sector equality duty under section 149 of the Equality Act 2010 requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. And
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The equality duty covers the following eight protected characteristics: age; disability; gender reassignment; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); religion or belief; sex; and sexual orientation. Public authorities also need to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status.

Schedule 18 to the 2010 Act sets out exceptions to the equality duty. In relation to the exercise of immigration and nationality functions, section 149(1)(b) – advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – does not apply to the protected characteristics of age, race or religion or belief.

The table below summarises the expected equalities impacts of the changes according to each of the three aims of the equality duty.

<b>Policy</b>	<b>Eliminate unlawful discrimination</b>	<b>Advance equality of opportunity</b>	<b>Foster good relations</b>
<p>Changes to section 95/new section 95A</p> <p>Repeal of section 4(1)</p> <p>Repeal of section 4(2)</p>	<p>The policies will apply equally, regardless of any protected characteristic. Eligibility for continued support will be based solely on whether there is a genuine obstacle to departure from the UK. The relevant information about the protected characteristics that is available is set out below. To the extent this may indicate that indirect discrimination may arise, this is justified as a proportionate means of achieving the legitimate policy objectives set out on page 2 of this PES.</p>	<p>In relation to the exercise of immigration and nationality functions, this does not apply to the protected characteristics of age, race or religion or belief.</p> <p>In respect of disability, gender reassignment, pregnancy and maternity, sex and sexual orientation, we have considered whether there is a need to put measures in place to advance equality of opportunity and have concluded that such measures are not needed because there is little or no evidence to suggest persons with any of these characteristics will be adversely affected by the policies.</p>	<p>The new policies will foster good relations between persons who share a relevant protected characteristic and persons who do not share it by ensuring that more illegal migrants leave the UK rather than access taxpayer support. Those who do not need our protection and could return home should do so. The Bill will also enable the Home Office to develop a better basis of incentives and possible sanctions on which, together with local authorities, to engage with migrant families here unlawfully in a process that encourages and enables more to return home.</p>

**Direct discrimination**

The support changes in the Immigration Bill will apply to all failed asylum seekers whose appeal rights are exhausted on or after the date on which the changes are implemented, regardless of whether they have any of the eight protected characteristics, so there is no direct discrimination.

Paragraph 17 of Schedule 3 to the 2010 Act provides an exception from the prohibition on discriminating against a person in the provision of services or the

exercise of a public function because of his or her ethnic or national origins or nationality, in relation to the exercise of immigration functions.

### **Indirect discrimination**

The possibility of indirect discrimination is discussed below. Section 19 of the 2010 Act sets out that indirect discrimination does not occur if an individual is not put at a particular disadvantage when they have one or more protected characteristics and if the provision, criterion or practice can be shown to be a proportionate means of achieving a legitimate aim.

We must have due regard to “pregnancy and maternity” for the purposes of section 149, but indirect discrimination on the basis of pregnancy and maternity is excluded by virtue of section 19(3).

### **Best interests of the child**

Although being a child is not a protected characteristic under the public sector equality duty in section 149 of the Equality Act 2010, we have nevertheless carefully considered the impact of the support changes made by the Immigration Bill on children.

Those changes have regard to Article 3 of the UN Convention on the Rights of the Child and reflect the duty on the Secretary of State to have regard to the need to safeguard and promote the welfare of children in the UK in carrying out her immigration, asylum and nationality functions, as reflected in section 55 of the Borders, Citizenship and Immigration Act 2009.

The Home Office takes its responsibility for the welfare of children seriously and ensuring that we treat children with care and compassion is a priority. We have stringent statutory and policy safeguards in place regarding child welfare. This means that the needs of any child in the UK who forms part of any application or whom we know is affected by a decision will have the impact on their welfare taken into account. This means that the best interests of any child in the UK involved in a decision will always be taken into account as a primary consideration, together with other relevant considerations.

In particular, a failed asylum seeker family who have exhausted their appeal rights will have had both an asylum decision and a consideration of their right to respect for private and family life under Article 8 of the European Convention on Human Rights in which the best interests of the child will have been intrinsic to the proportionality assessment, and then (if they appealed) an appeal decision confirming that the family does not require our protection and their departure from the UK will not breach their human rights.

Our section 55 child welfare duty does not require that, if a failed asylum seeker family decides to remain here unlawfully when they could and should leave the UK, they should automatically and indefinitely continue to receive Home Office support simply because they have made a failed asylum claim. In further developing and implementing the new scheme under the Immigration Bill, we will ensure that we comply with our section 55 duty and enable local authorities to comply with their welfare and safeguarding responsibilities towards children.

In particular, under the Bill, failed asylum seekers with children will need to

show that there is a genuine obstacle that prevents their departure from the UK (by which they could avoid any risk of destitution in the UK) in order to continue to be provided with Home Office support. The circumstances in which a genuine obstacle will be considered to exist will be set out in regulations. The Home Office will reflect carefully on the detailed comments made in many of the consultation responses about this and will continue to work closely with local authority colleagues in particular in framing this aspect of the new arrangements and how it relates to local authority responsibilities for supporting and safeguarding children and families.

### **Family Test**

In accordance with the public sector equality duty, we have conducted this equality assessment of the support changes in the Immigration Bill. The additional Family Test, as reflected in guidance issued by the Department of Work and Pensions (DWP), is designed to support strong and stable family relationships among those families legally resident in the UK. The support changes in the Bill are designed to ensure that more illegal migrants leave the UK rather than access support from the taxpayer. Any impact on illegal migrant families while they remain in the UK which results from those changes is therefore temporary, until the point of their departure, and as such the Family Test is not formally engaged. Nevertheless, we have considered the Family Test questions identified in the DWP guidance:

#### 1. What kinds of impact might the policy have on family formation?

The impact would not be significant. Asylum seeker couples generally formed their relationship before they arrived in the UK. Some asylum seekers form a relationship here with a British citizen or person settled in the UK and then leave the asylum support system as their partner is able to support them. Some asylum seekers form a relationship here with another asylum seeker or a migrant and, if the couple are destitute, are able to access support: these arrangements will continue. Failed asylum seekers who can leave the UK are expected to do so; support will continue to be available to those who face a genuine obstacle to departure at the point that their asylum claim is finally rejected.

#### 2. What kind of impact will the policy have on families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring relationships or the onset of a long-term health problem?

The impact, if any, would not be significant. The subsistence support available to failed asylum seekers eligible for it will ensure that they can meet essential living needs. Those with a disability or significant social care or health care needs may receive additional support from local authorities or the NHS. The special payments and grants for pregnant women and women who have recently given birth will continue.<sup>4</sup>

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<sup>4</sup> These are currently paid under the Immigration and Asylum (Provision of Services or Facilities) Regulations 2007, SI 2007/3627: <http://www.legislation.gov.uk/uksi/2007/3627/made/data.pdf> The relevant guidance - Asylum Support, Section 4 Policy and Process – is at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/438472/asylum\\_support\\_section\\_4\\_policy\\_and\\_process\\_public\\_v5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/438472/asylum_support_section_4_policy_and_process_public_v5.pdf)

3. What impacts will the policy have on all family members' ability to play a role in family life, including with respect to parenting and other caring responsibilities?

No impact. The DWP guidance suggests that this question is mainly aimed at possible impacts on work/family life balance. This is not relevant to failed asylum seekers who are generally not allowed to work. The subsistence support available to failed asylum seekers eligible for it includes some provision for social and cultural activities.

4. How does the policy impact on families before, during and after couple separation?

No impact. Financial problems can contribute to couple separation, but the subsistence support available to failed asylum seekers eligible for it will ensure that they can meet essential living needs. There would remain no financial incentive for failed asylum seeker couples to separate.

5. How does the policy impact on families most at risk of deterioration of relationship quality and breakdown?

The impact, if any, would not be significant. Financial problems can contribute in some circumstances to family breakdown, but there is no evidence to suggest that family breakdown is more prevalent among this group. The subsistence support available to failed asylum seekers eligible for it will ensure that they can meet essential living needs and the full package of other support available is unchanged.

**Transitional arrangements**

The equality impact of the support changes made by the Immigration Bill is reduced by the transitional arrangements which provide that cases already receiving support under section 4 or section 95 of the Immigration and Asylum Act 1999 when the new measures come into force will continue to do so. This will be subject to the current conditions for that support and to the possible use of existing powers under which it can be discontinued. This will avoid the scenario in which large numbers of families lose support abruptly. The Bill allows scope for greater flexibility in how support may be provided in some existing cases.

**Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty**

**Sources of evidence**

A 5-week public consultation on reforming support for failed asylum seekers and other illegal migrants was conducted from 4 August 2015 to 9 September 2015. It specifically invited respondents to submit information or evidence that would help the Home Office to assess the potential impacts of the changes proposed in the consultation document on persons who have any of the protected characteristics defined in the Equality Act 2010.

The consultation document can be found on GOV.UK at:  
<https://www.gov.uk/government/consultations/reform-of-support-for-failed-asylum-seekers-and-other-illegal-migrants>

The consultation impact assessment can be found on GOV.UK at:  
<https://www.gov.uk/government/publications/reforming-support-for-failed-asylum-seekers-and-other-illegal-migrants-impact-assessment>

873 responses were received: 113 from non-governmental organisations; 42 from local authorities, local authority organisations and the Devolved Administrations; and the remainder from individuals. The response to consultation document can be found on GOV.UK at:  
<https://www.gov.uk/government/publications/immigration-bill-part-5-support-for-certain-categories-of-migrant>

This equality assessment has taken into account the responses to the consultation on the proposed changes, including any information or evidence relevant to the potential impacts of the changes on persons who have any of the protected characteristics.

Home Office management information, which is not produced in accordance with ONS protocols and is subject to change, is available on the numbers in receipt of support section 95 or section 4 of the Immigration and Asylum Act 1999 and some of their main characteristics (e.g. gender, nationality and whether they have children). This equality assessment draws on such management information in respect of those supported under section 95 or section 4 of the 1999 Act as at 30 March 2015 and families supported under section 95 who became Appeals Rights Exhausted in June-August 2013-15.

### **Consideration given to public sector equality duty**

This is summarised on page 6 of this PES.

### **Consideration given to those with protected characteristics**

#### **Age**

Home Office management information on the age of failed asylum seekers (main applicants) supported under section 95 or section 4 of the 1999 Act as at 30 March 2015 indicates that:

- 79 per cent of those supported under section 95 were aged 18-40.
- 79 per cent of those supported under section 4 were aged 18-40.
- Less than 2 per cent of those supported under section 95 or 4 were aged 60 or over.

Information about the age of dependants of failed asylum seekers in receipt of support (beyond whether or not they are under-18) is not available but, where adult dependants (i.e. partners) are concerned, the age profile is likely to be similar to that of the failed asylum seekers.

Home Office management information indicates that around 44 per cent of all those supported under section 95 or section 4 of the 1999 Act (failed asylum seekers and their dependants and others) as at 30 March 2015 were aged under 18. In particular:

- Around 3 per cent of those supported under section 4(1)(c) were aged under 18.
- Around 23 per cent of those supported under section 4(2) were aged under 18.
- Around 56 per cent of those in failed asylum seeker families supported under section 95 were aged under 18.

Under the Immigration Bill, persons seeking section 95A support will be expected to provide evidence of a genuine obstacle that prevents their departure from the UK. They may also be required to show that they are taking reasonable steps to overcome that obstacle. If that obstacle is the lack of a travel document, they may need to travel to their Embassy or High Commission to obtain that document. If that obstacle is a medical issue, they will need to travel to a medical appointment for assessment and to obtain the appropriate documentation. Such travel may be more onerous for the elderly and those with young children than for others and, though supported persons are generally housed within reasonable walking distance of primary health services, will in some cases require the provision of travel assistance.

Home Office management information indicates that as at 30 March 2015:

- There were 54 cases where the main applicant supported under section 4 was aged 65 or over.
- There were eight failed asylum seeker families supported under section 95 in which the main applicant was aged 65 or over.
- 87 failed asylum seeker families exhausted their appeal rights in June 2015, 83 in July 2015 and 92 in August 2015 (**Annex B**). The age of the children in these families is not recorded.

The policy and practical arrangements are already in place for the provision of travel assistance to enable failed asylum seekers on support to attend such appointments<sup>5</sup> and, under the scheme to be introduced under the Immigration Bill, similar arrangements will be available to those supported under the new section 95A of the 1999 Act.

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<sup>5</sup> Such provision is made under the Immigration and Asylum (Provision of Services or Facilities) Regulations 2007, SI 2007/3627: <http://www.legislation.gov.uk/uksi/2007/3627/made/data.pdf> The relevant guidance - Asylum Support, Section 4 Policy and Process – is at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/438472/asylum\\_support\\_section\\_4\\_policy\\_and\\_process\\_public\\_v5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/438472/asylum_support_section_4_policy_and_process_public_v5.pdf)

## ***Disability***

Information on failed asylum seekers with disabilities supported under section 95 or section 4 of the 1999 Act is not recorded. Generally, those with a disability or significant care need receive support from the local authority under the Care Act 2014 or the Children Act 1989 in England or under similar provision in Scotland, Wales and Northern Ireland.

Travel to an Embassy or High Commission or to a medical practitioner, to provide evidence that there is a genuine obstacle to departure from the UK or to take reasonable steps to overcome that obstacle, may be more difficult for those with a disability or significant care need, and in certain circumstances may require the provision of particular assistance, e.g. a person to escort them to an appointment or special travel assistance. In addition to the provision referred to above under the Immigration and Asylum (Provision of Services or Facilities) Regulations 2007 and relevant guidance, transport for those supported under section 4 of the 1999 Act can be provided by the accommodation provider; similar arrangements will be available to those supported under the new section 95A of the 1999 Act.

## ***Race (including ethnic or national origins, colour or nationality)***

Information on the race of failed asylum seekers and their dependants supported under section 95 or section 4 of the 1999 Act is not recorded. Home Office management information as at 30 March 2015 on their nationality indicates that around 52 per cent of failed asylum seekers and their dependants and others supported under section 95 or section 4 were from Pakistan, China, Nigeria or Iran.

In particular:

- Of those supported under section 4(1)(c) – 544, excluding dependants (18 children and 8 adults) – the top five nationalities were Iranian (47), Iraqi (41), Algerian (41), Nigeria (27) and Zimbabwean (21).
- Of those supported under section 4(2) – 3,066, excluding dependants (992 children and 308 adults) – the top five nationalities were Iranian (773), Iraqi (331), Chinese (282), Zimbabwe (247) and Eritrea (160).
- Of those failed asylum seeker families supported under section 95 – 2,893 families (10,071 persons, including 5,620 child dependants and 1,558 adult dependants) – the top five nationalities of those families were Pakistani (608), Chinese (511), Nigerian (373), Sri Lankan (149) and Albanian (149).
- Of those 92 failed asylum seeker families who exhausted their appeal rights in August 2015 (**Annex B**), the top five nationalities were Pakistani (17), Nigerian (14), Chinese (12), Iranian (6) and Bangladeshi (6).

Clearly, some undocumented non-EEA nationals may find it harder to obtain a travel document than others, depending on the procedures applied in their national Embassy or High Commission. This may in turn impact on the length of time they require support and in the longer term on the nationality profile of

failed asylum seekers supported under section 95 or section 4. However, no nationality is unable to obtain a travel document if they comply with the relevant procedures.

### ***Religion***

No information is recorded. It is not anticipated that there will be a differential impact on this protected characteristic.

### ***Sex/Gender***

Home Office management information on the gender of main applicants of the failed asylum seeker families ) supported under section 95 and the main applicants supported under section 4 of the 1999 Act as at 30 March 2015 indicates that:

- 52 per cent of all the main applicants supported under section 95 or section 4 were male and 48 per cent were female.
- Around 50 per cent of failed asylum seeker families supported under section 95 were single parent (one adult) households. In 97 per cent of these households the main applicant was female.
- In 29 per cent of failed asylum seeker families supported under section 95 the main applicant was male. Of these, less than 5 per cent were single parent households.
- In 71 per cent of failed asylum seeker families supported under section 95 the main applicant was female. Of these, 68 per cent were single parent households.
- 67 per cent of failed asylum seekers supported under section 4(2), excluding dependants, were male, the majority of whom (around 93 per cent) were single and without children. Of those that had children, over 85 per cent had another adult in the household.
- 33 per cent of failed asylum seekers supported under section 4(2) were female. Of these, around 42 per cent were single and without children. Of those that had children (around 56 per cent), less than 15 per cent had another adult in the household.
- 89 per cent of persons supported under section 4(1)(c), excluding dependants, were male and 11 per cent were female. Nearly all the men (over 99 per cent) were single with no children, as were around 84 per cent of the women.

Information about the gender of dependants in receipt of support is not recorded.

### ***Sexual orientation***

No information is recorded. It is not anticipated that there will be a differential impact on this protected characteristic.

### **Gender reassignment**

No information is recorded. It is not anticipated that there will be a differential impact on this protected characteristic.

### **Pregnancy and maternity**

Pregnancy is generally an obstacle to departure from the UK in its later stages, because airlines do not carry women due to give birth within 6 weeks. Under the Immigration Bill, women in the later stages of pregnancy when their asylum claim and any appeal is finally determined will generally be eligible for support under the new section 95A of the 1999 Act.

Home Office management information (**Annex A**) indicates that, as at 30 March 2015, 355 failed asylum seekers (with their families a total of 979 people) had been granted support because they or their partner were in the later stages of pregnancy and therefore unable to travel. The women concerned had generally become pregnant some time after their asylum claim had been refused and they had exhausted their appeal rights.

48 per cent of the failed asylum seekers supported on this basis were Chinese. Another 24 per cent were Zimbabwean, Eritrean or Ethiopian.

<b>SCS sign off</b>	<i>R. Jones</i>	<b>Name/Title</b>	Rob Jones Head, Asylum & Family Policy Unit
<b>I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that <u>due regard</u> has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.</b>			
<b>Directorate</b>	Immigration & Border Policy	<b>Lead contact</b>	Simon Bentley
<b>Date</b>	30 October 2015	<b>Review Date</b>	Ongoing

**Retain the completed PES for your records and send a copy to [SDAT@homeoffice.gsi.gov.uk](mailto:SDAT@homeoffice.gsi.gov.uk) and your relevant business area Equality and Diversity Lead.**

**Section 4 support**

The table sets out Home Office management information on the numbers in receipt of support under section 4 of the Immigration and Asylum Act 1999 as at 30 March 2015 and the reason they were granted support.

<b>Reason</b>	<b>Cases</b>	<b>People</b>
Taking steps to leave the UK (Voluntary Assisted Reintegration and Returns Programme)	65	75
Taking steps to leave the UK – other	34	40
Medical	133	185
Pregnancy	355	979
No viable route of return	3	4
Judicial Review*	180	211
High Court review	2	6
Further submissions*	2043	2525
Late appeals	23	30
Human rights – other	173	230
Court order	32	52
Special cases – other	21	27
Other	2	2
<b>Section 4(2) sub-total</b>	<b>3066</b>	<b>4366</b>
<b>Section 4(1)(c) – bail</b>	<b>544</b>	<b>570</b>
<b>Total on section 4 support</b>	<b>3610</b>	<b>4936</b>

\* Those granted support under section 4(2) on the basis of outstanding further submissions or an ongoing Judicial Review (around 72 per cent of cases and around 62 per cent of people as at 30 March 2015) will, in terms of new cases, be eligible under the Immigration Bill for support under section 95 of the 1999 Act.

## Annex B

### New Appeal Rights Exhausted families, June–August 2013-15 by nationality

Repeating nationalities are listed in order based on the August 2015 figures.

Yellow shading indicates top 5 nationalities each month

Green shading indicates single case nationalities in no particular order

2013					2014						2015						
Nationality	June 2013	Nationality	July 2013	Nationality	Aug 2013	Nationality	June 2014	Nationality	July 2014	Nationality	Aug 2014	Nationality	June 2015	Nationality	July 2015	Nationality	Aug 2015
total	43	total	91	total	65	total	44	total	35	total	26	total	87	total	83	total	92
Pakistan	10	Pakistan	33	Pakistan	13	Pakistan	10	Pakistan	6	Pakistan	7	Pakistan	26	Pakistan	22	Pakistan	17
Nigeria	6	Nigeria	8	Nigeria	6	Nigeria	3	Nigeria	4	Nigeria	3	Nigeria	9	Nigeria	4	Nigeria	14
China	8	China	9	China	16	China	3	China	9	China	5	China	19	China	12	China	12
Iran (Islamic Republic of)	3	Iran (Islamic Republic of)	4	Iran (Islamic Republic of)	4	Iran (Islamic Republic of)	2	Iran (Islamic Republic of)	1	Iran (Islamic Republic of)	2	Iran (Islamic Republic of)	2	Iran (Islamic Republic of)	5	Iran (Islamic Republic of)	6
Bangladesh	1	Bangladesh		Bangladesh	2	Bangladesh	1			Bangladesh	2	Bangladesh	4	Bangladesh	3	Bangladesh	6
		Albania	2	Albania	4	Albania	1	Albania	3	Albania	2	Albania	3	Albania	3	Albania	5
Gambia	1	Gambia	4	Gambia	1					Gambia	1	Gambia	3	Gambia	2	Gambia	4
Sri Lanka	3	Sri Lanka	5	Sri Lanka	7	Sri Lanka	4	Sri Lanka	2			Sri Lanka	6	Sri Lanka	5	Sri Lanka	3
		Libya	2	Libya	1	Libya	1			Libya	1	Libya	1	Libya	2	Libya	2
Afghanistan	1	Afghanistan	5			Afghanistan	4					Afghanistan	2	Afghanistan	2	Afghanistan	2
		India	2	India	2	India	1	India	1			India	1	India	2	India	2
Iraq	1	Iraq	3			Iraq	1	Iraq	4				Iraq	5	Iraq	1	
Zimbabwe	2	Zimbabwe	1	Zimbabwe	2	Zimbabwe	1	Zimbabwe	1	Zimbabwe	1			Zimbabwe	1	Zimbabwe	1
		Algeria	1			Algeria	1			Algeria	1				Algeria	1	
						Somalia	1							Somalia	1	Somalia	1
		Kenya	1											Kenya	1	Kenya	1
														Azerbaijan	1	Azerbaijan	1
Malawi	2			Malawi	3									Malawi	2	Malawi	1
								Georgia	2							Georgia	1
						Vietnam	1									Vietnam	1

2013					2014					2015							
Nationality	June 2013	Nationality	July 2013	Nationality	Aug 2013	Nationality	June 2014	Nationality	July 2014	Nationality	Aug 2014	Nationality	June 2015	Nationality	July 2015	Nationality	Aug 2015
						Trinidad & Tobago	1									Trinidad & Tobago	1
						Egypt	1					Egypt	1	Egypt	1		
				Lebanon	1	Lebanon	1			Lebanon	1	Lebanon	1				
				Jordan		Jordan	1							Jordan	1		
Democratic People's Republic of Korea	2					Democratic People's Republic of Korea	1							Democratic People's Republic of Korea	1		
Democratic Republic of the Congo	1	Democratic Republic of the Congo	1													Democratic Republic of the Congo	1
Russian Federation	1															Russian Federation	1
Eritrea	1	Eritrea	1														
		Ethiopia	1													Ethiopia	1
		Ghana	1									Ghana	1				
		Kazakhstan	1											Kazakhstan	1		
		Kuwait	1			Kuwait	1										
		Nepal	1									Nepal	1				
		Sierra Leone	1													Sierra Leone	1
		United Rep of Tanzania	1	United Rep of Tanzania	1			United Rep of Tanzania	1								
		Saudi Arabia	1	Cote D'Ivoire	1	Liberia	1	Yemen	1			Turkey	2	Congo	1	Bahrain	1
		Namibia	1	Uganda	1	Guyana	1					Central African Republic	1	Zambia	1	Honduras	1
						Jamaica	1					Angola	1	Belize	1	Bolivia	1
												Israel	1	Mongolia	1	Rwanda	1
												Palestinian Authority	1	Malaysia	1	Burkina Faso	1
												Morocco	1	Armenia	1		
<b>total</b>	<b>43</b>	<b>total</b>	<b>91</b>	<b>total</b>	<b>65</b>	<b>Totals</b>	<b>44</b>		<b>35</b>		<b>26</b>		<b>87</b>		<b>83</b>		<b>92</b>