Refused asylum seekers

A ‘refused’ or ‘failed’ asylum seeker is someone whose claim for asylum, or claim under Article 3 of the European Convention on Human Rights, has been refused and any subsequent appeals have been unsuccessful. Unsuccessful asylum seekers are often referred to as ‘appeals rights exhausted (ARE)’. The government expects refused asylum seekers to leave the UK.

Ending of Home Office support for refused asylum seekers

Once a person’s asylum claim has been refused the Home Office will write to the person advising them that they need to leave the UK. If that person is single with no dependent children, any support they have been receiving from the Home Office will be removed 21 days after their asylum claim has been fully refused.

Exception: Refused asylum seekers with children

If a refused asylum seekers has dependent children who were part of their household before their initial asylum claim was fully refused, for support purposes only they continue to be treated as asylum seekers and remain entitled to Section 95 support. This support will continue until their youngest child turns 18 years or until they are removed from the UK. For more information on support for refused asylum with children see our information sheet Support for asylum seekers.

Home Office support for refused asylum seekers

If a refused asylum seeker has no dependant children, or has dependant children that were born after their asylum claim was refused, they may qualify for support from the Home Office if they meet a narrow set of criteria. This support is called Section 4 support.

Who is eligible for Section 4 support?

There are five eligibility criteria to qualify for Section 4 support. To qualify for Section 4 support a refused asylum seeker will need to meet one of them.

1. Refused asylum seekers who can show that they are taking all reasonable steps to leave the UK and return to their country of origin.

To qualify under this criteria a refused asylum seeker will need to either have registered to return to their country of origin under one of the Home Office’s voluntary return programmes or, if they have not registered with one of these return programme, they will need to prove that they are doing all they can to facilitate their return to their country of origin. This could include taking steps to get passport or travel document from their local embassy.

2. Refused asylum seekers who are unable to leave the UK because they have a serious medical problems which prevent them from taking a flight to their country of origin

To qualify under this criteria the person will need to provide medical evidence, from their doctor or consultant, which shows that they are unable to undertake international travel due to a physical or mental health problem. This is not about any difficulties a person would have accessing the healthcare they need in their country of origin. Instead, medical evidence needs to show that the person would be at risk if they travelled or that they would pose a risk to others. For example, someone who has a serious heart condition may be unable to take a long haul flight. It can also cover someone who has an infectious disease (such as TB) which is not currently under control.

The Home Office has produced a Medical Declaration form which can be used by the person’s GP or consultant. The declaration asks the GP or consultant to clearly state why the person is unable to leave the UK, the exact nature of the physical impediment or medical reason which renders them unable to travel, when the person will be able to leave the UK or when the person’s condition is due to be reviewed. The Home Office team dealing with
Section 4 applications can reimburse a doctor's fee for completing a Medical Declaration form. These forms are available in Appendix B of the Home Office guidance governing Section 4 support and which can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513619/Asylum_Support_Section_4_Policy_and_Process.pdf

Pregnancy and new mothers
The Home Office accepts that refused asylum seeking women in the late stages of pregnancy (normally six weeks before their expected due) or new mothers with babies under six weeks, are unable to undertake international travel. If these circumstances, if the woman is destitute, she will qualify for Section 4 support. When applying for support she will need to provide her MATB1, or a birth certificate, or other relevant documents recording the birth.

If a refused asylum seeker is experiencing complications during her pregnancy she may qualify for Section 4 support earlier. In these cases the pregnant women will need to provide evidence from her midwife/ GP or consultant which outlines the complications she is experiencing. For more advice and information about the risks refused asylum seeking women face during pregnancy see our advice briefing: http://www.maternityaction.org.uk/wp-content/uploads/ma-asap-briefing_v4.pdf

(3) Refused asylum seekers from countries where the Home Office has stated that there is currently no safe route of return back to these countries.

At the time of writing the Home Office has not classed any country as having no viable route of return so it is not possible for anyone to qualify for Section 4 support under this criteria.

(4) Refused asylum seekers who are appealing to the High Court against a Home Office decision to refuse their claim for asylum.

To qualify under this criteria the person will need to have applied to the High Court to judicially review a decision on their asylum claim and the High Court must have granted them 'permission to proceed' with the judicial review.

(5) Refused asylum seekers who can show that their human rights would be breached if they did not receive Section 4 support.

To qualify under this criteria a refused asylum seeker will need to show that it is not reasonable for them to leave the UK and for this reason they need to receive support whilst they are in the UK. This criteria normally applies to refused asylum seekers who have made further submissions that are being considered by the Home Office and these further submissions will normally include new evidence showing why they should be allowed to remain in the UK. This could be on the grounds that they would face a risk if they returned home or that they have now built up a family and private life in the UK.

Destitution test
As well as meeting one of the five eligibility criteria, a refused asylum seeker applying for support will also need to meet the destitution test. A refused asylum seeker is considered ‘destitute’ if they do not have adequate accommodation or enough money to meet living expenses for themselves and any dependants they have.

Adequate accommodation largely means a place that a refused asylum seeker can freely access, a place where their family members can also live and a place where they or their family members are not at risk of violence.

Living expenses refers to the amount of support a refused asylum seeker needs to feed themselves and to buy essential items such as clothing and toiletries.

Section 4 support
Is Section 4 support available for family members?
A refused asylum seeker is entitled to claim support for their dependants. Dependents include a spouse, children of the asylum seeker, or their spouse, who are under 18 years, and other close family members who are under 18 years and have been living as part of the asylum seeker’s household for at least six months. Adults over 18 years who have a disability will also be regarded as dependants.

How to make an application for Section 4 support
A claim for Section 4 support is made using an ASF1 form. This is the same form that is used to make a claim for Section 95 which is the support provided to asylum seekers. These forms are lengthy and are partly used to assess whether the asylum seeker has any assets they can use to support themselves. Assets include cash, savings, investments, property (both in the UK and abroad) or vehicles such as a car. If the person has assets they can use or sell, the Home Office will expect the refused asylum seeker to support themselves with the proceeds. The refused asylum seeker can apply for Section 4 support once they have used up these assets.

How long does it take for a decision on an application for Section 4?
All such applications must be decided within 5 working days. Priority decisions must be decided within 2 working days. The Home Office policy has provided a list of the applications they consider to be a priority and these include: applications from people who are street homeless; families with minors; disabled people; elderly people; pregnant women; people who have been subjected to torture, rape or other forms of serious sexual violence and potential victims of trafficking.

Unlike Section 95 support, which is provided to asylum seekers, there is no temporary accommodation available for refused asylum seekers who apply for Section 4 support and are waiting for a decision. However, Home Office guidance states that if a heavily pregnant woman applies for section 4 support and is street homeless, or imminently street homeless (24-48hrs), caseworkers may consider placing the applicant in Initial Accommodation to enable them to access the healthcare team for an assessment of fitness to travel and/or for dispersal, as well as providing assistance on
registration with maternity services either locally or at the dispersal destination.

If the Home Office decides a refused seeker is eligible for Section 4 support they will be accommodated outside London and the South East unless there are exceptional reasons why they need to remain in this area.

What type of support is provided under Section 4?

Section 4 support is a basic package of support which includes accommodation and £3.39 per person which is provided through a payment card. These are called Azure Cards. These payment cards can be used to purchase food, clothes and toiletries from most of the major supermarkets plus some other retailers.

No cash is provided to those in receipt of Section 4 support.

Additional Section 4 support for refused asylum seekers who are pregnant or new mothers and for children

Maternity grants for refused asylum seekers

None of the additional payments outlined below are provided in cash. Instead these payments will be added to the refused asylum seeker’s Azure card.

A pregnant refused asylum seeker in receipt of Section 4 support is entitled to a maternity grant of £250. The maternity payment can only be claimed once but is available for each baby. Therefore, twins are entitled to £500. A claim can be put in eight weeks before the expected due date (EDD) or up to six weeks after the birth.

Extra payments for pregnant women

A pregnant refused asylum seeker in receipt of Section 4 is entitled to receive an extra payment of £3 a week during her pregnancy.

Extra payments for babies and children under 3yrs

A refused asylum seeker in receipt of Section 4 is also entitled to receive an extra £5 a week for babies under 12 months and £3 extra a week for children aged between 1 - 3yrs.

Extra clothing allowance for children under 16yrs

In addition, refused asylum seekers are entitled to claim a clothing allowance of £5 per week for dependent children under 16 years.

How to apply for the maternity grants, payments during pregnancy and extra payments for babies and children

To claim all of the above extra payments, including the maternity grants, the person will need to complete the following application form: Provision of services or facilities for section 4 service users. These forms, along with instructions on where to send the forms, can be found here: https://www.gov.uk/asylum-support/how-to-claim

You will need to tick the box that is relevant to the extra payment you are seeking. For some payments, such as maternity grants and extra payments during pregnancy, you will need to include proof of pregnancy or the birth of a child. This would include an original birth certificate, the original MAT B1 certificate (this is provided by the GP and midwife and states the expected date of the baby’s birth) or some other original, formal evidence of the birth.

Late claims for maternity grants for refused asylum seekers

If a refused asylum seeker has been unable to claim a maternity grant on time, due to illness or some other difficulty, they should still request a maternity grant and include a statement outlining the reasons why they were unable to apply within the specified timeframe.

Review of Section 4 Support

Once a person has been awarded Section 4 support the Home Office will carry out regular reviews of the support to ensure that the person continues to meet the criteria under which support was awarded. How often they do this will depend on the criteria under which Section 4 was provided. This can range from every six weeks to every three months. When reviewing support the Home Office will normally write to the person asking them to provide information which confirms that they remain entitled to support. It is very important that the person responds to these letters and provides the evidence requested by the Home Office.

What happens if Section 4 support is refused?

After assessing an application for Section 4 support, the Home Office may decide that a refused asylum seeker is not eligible for support. There are various reasons why this can happen. For example, the Home Office may consider that the refused asylum seeker is not destitute or that they do not meet one of the eligibility criteria. In most cases a refused asylum seeker will have the right to appeal against the decision not to grant them Section 4 support.

If the Home Office refuses an application for Section 4 support they will write to the refused asylum seeker outlining the reasons why they have come to this decision. This letter should also enclose a Notice of Appeal form which is the form used to lodge these appeals. An appeal needs to be lodged five working days from the date the letter was posted. These appeals are dealt with by an in dependent tribunal known as the First Tier Tribunal Asylum Support.

Withdrawal of Section 4 Support

As outlined earlier in this briefing, Section 4 support is regularly reviewed by the Home Office to check that the person continues to meet the criteria under which support was provided. If a person in receipt of Section 4 support fails to respond to requests for further information from the Home Office or if the Home Office does not consider that the information shows that they are still entitled to Section 4 support, support will be withdrawn. If
support is withdrawn the person will have a right to appeal the decision (see above)

**What happens if support is refused after an appeal?**

If a refused asylum seeker loses their appeal at the First Tier Tribunal Asylum Support this means that the tribunal agrees with the Home Office’s decision that they do not meet the criteria for Section 4 support. There is no further appeal a refused asylum seeker can make to the Tribunal.

A refused asylum seeker may be able to reapply for Section 4 if, at a later date, they meet one of the eligibility criteria outlined earlier in this information sheet and can show that they are destitute. They should seek advice and assistance before making any new application.

**Other support available for refused asylum seekers.**

**Refused asylum seekers with children**

Refused asylum seekers with children, who do not meet the eligibility for Section 4 support, may qualify for support from the Local Authority. This is called section 17 support. To be eligible for this support the local authority will have to consider whether the refused asylum seeker has ‘a child in need’, whether the family are destitute and whether it is reasonable for them to leave the UK. It may not be reasonable for a refused asylum seeker with children to leave the UK if they have made a fresh claim for asylum or have another application for leave to remain being considered by the Home Office. For more information on support from the Local Authority see our information sheet: [Support for migrant families who cannot access benefits or other income](#).

**Destitution Projects in the UK**

There are several projects in the UK supporting refused asylum seekers who are destitute or having difficulties supporting themselves and their families. Some of these projects offer food vouchers, food parcels or other services including free clothing, equipment for babies and hot meals. For a list of some of these services see [destination projects](#) under Useful Contacts at the end of this information sheet.

**Access to NHS maternity care and other healthcare**

**Do refused asylum seekers have to pay for NHS maternity care?**

A refused asylum seeker who is in receipt of Section 4 support and refused asylum seeking families receiving Section 95 support are entitled to free NHS healthcare, including maternity care. They will remain entitled to free NHS care for as long as they are in receipt of Section 4 or Section 95 support. If they have their support removed because they no longer meet the criteria for support they can continue to receive free treatment for any treatment that started before their support was withdrawn. Any new treatment would be chargeable.

Refused asylum seekers do not have to pay the immigration health surcharge.

**What happens if a refused asylum seeker is charge for NHS treatment and is unable to pay?**

Refused asylum seekers who are not entitled to support or who are starting a new course of treatment will be charged for NHS care. It may be possible to negotiate a repayment plan or the NHS can write off the debt if the patient is destitute and unable to pay.

All patients are entitled to be treated with dignity and without discrimination. A patient can make a complaint to the hospital if they are treated unfairly or refused treatment, or if debts are pursued aggressively.

In some circumstances, the NHS can tell the Home Office about unpaid debts and leave can be refused but the NHS must not inform the Home Office if you are challenging the charges because of a dispute, or you have an agreed payment plan that you are sticking to or the debt has been cancelled or repaid.

The following services are exempt from charges for everyone that needs them, regardless of immigration or residence status:

- Accident and emergency (A&E) services up until the point that the person is accepted as an inpatient.
- A&E services provided at an outpatient appointment are chargeable.
- Family planning services (not including pregnancy termination).
- Diagnosis and treatment of certain contagious diseases e.g. TB or HIV.
- Diagnosis and treatment of sexually transmitted infections.
- Treatment for any conditions, including chronic conditions, needed as a result of torture, female genital mutilation, domestic violence or sexual violence is also exempt from charging. This includes all ongoing treatment and psychological help that is needed as a direct result of the violence. FGM or torture and Government guidance says that treatment includes mental health services and maternity services needed as a consequence of sexual violence.

All maternity care is treated as immediately necessary treatment and should not be delayed or refused because of charging issues, even if the woman may be chargeable. Maternity care includes antenatal care, birth and postnatal care and includes HIV treatment during pregnancy. For more information see [Entitlement to free NHS maternity care for women from abroad](#) (England).
Where to go for more help

Maternity Action
www.maternityaction.org.uk
Migrant Women’s Rights Service: Second tier advice on financial support and housing options for migrant women and access to NHS maternity care. – 020 7251 6189
Monday and Thursday 2-4pm. Email enquiries: migrantwomensrights@maternityaction.org.uk
This is a second tier advice service for midwives and advisers only. We are unable to take calls from individual women.

Maternity Care Access Advice Service: for advice on NHS charges and access to NHS maternity care – 0808 800 0041. Thursday 10 – 12 midday. Email enquiries: maternitycareaccess@maternityaction.org.uk

Maternity Rights Advice Line: for advice on maternity benefits and rights at work – 0808 802 0029. Weds. 10 – 2pm, Thurs 3 – 7pm, Friday 10 – 2pm.

Asylum Support

Asylum Support Appeals Project (ASAP)
www.asaproject.org.uk
Advice for advisers on all aspects of asylum support including appeals against a decision to refuse support.
Provides free representation at the First Tier Tribunal Asylum Support to asylum seekers and refused asylum seekers who are appealing against a decision to refuse or withdraw asylum support.
Advice line for advisers on Mondays, Wednesdays and Fridays 2-4pm- 020 3716 0283.
General enquiries - 0203 716 0284
ASAP provides a list of local organisations who provide advice on asylum support issues and which is available here: http://www.asaproject.org/resources/organisations-who-can-help

Asylum Help

https://asylumhelpuk.org/
Provides assistance to asylum seekers to complete applications for asylum support. Advice available in several languages.
Telephone: 0808 800 0231
Monday to Friday, 8am to 5.30pm

Destitution projects

Trussell Trust
https://www.trusselltrust.org/
Provides details on where to find a food banks in the UK

Red Cross
Provides details of Red Cross branches across the UK who provide support to destitute asylum seekers, including clothing and food parcels.

Refugee Council
http://www.refugeecouncil.org.uk/services?region=43&service=32&audience=&q=
Provides a service directory that can be search by region for service providing destitution support.

Other sources of advice

Citizen’s Advice Bureau
www.adviceguide.org.uk
General help and advice. You can find your nearest CAB in the phone book.

Civil Legal Advice
If you are eligible for legal aid you can get free legal advice on 0345 345 4 345 (offers translation service). To check your eligibility see www.gov.uk/civil-legal-advice
To search for specialist legal advisers or solicitors in your area see find-legal-advice.justice.gov.uk

Equalities and Human Rights Commission (EHRC)
For information and advice about discrimination and human rights www.equalityhumanrights.com

 Equality Advisory Support Service.
Help and advice on discrimination and human rights www.equalityadvisoryservice.com
Helpline: 0808 800 0082
Textphone: 0808 800 0084
Mon.- Fri. 9am – 7pm/Sat. 10am – 2pm

No Recourse to Public Funds Network
Information on local authority support for people subject to immigration control. Contact: Islington, 222 Upper Street, London N1 1XR.
Tel: 020 7527 7121
www.nrpfnetwork.org.uk

Project London
Free healthcare for vulnerable and excluded people.
http://doctorsoftheworld.org.uk/pages/london-clinic
Clinical advice line: 020 7515 7534. This line is open from 10am to 12 midday, Monday to Friday

Salvation Army
If you think you are a victim of trafficking or modern slavery and would like advice and support you can call the Salvation Army 24 hour confidential Referral Helpline:
0300 303 8151
Open 24 hours, seven days a week
Refused asylum seekers: financial support and housing

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Freedom from Torture
Care and treatment for victims of torture
London Centre Tel: 020 7697 7777
West Midlands Centre Tel: 0121 314 6825
North East Centre Tel: 0191 261 5825
North West Centre Tel: 0161 236 5744
Scottish Centre Tel: 0141 420 3161

Immigration advice
You can search for accredited immigration advisers in your area at:
https://www.gov.uk/find-an-immigration-adviser

Rights of Women
www.rightsofwomen.org.uk
Free legal advice on sexual violence, immigration and asylum issues.
Helpline 020 7490 7689.

This fact sheet was produced by Maternity Action in April 2017. It is always important to get up-to-date advice.

Other Maternity Action information sheets

Maternity rights and benefits
EU, EEA and Swiss nationals (including A8 and A2) – maternity rights and benefits
No recourse to public funds – maternity rights and benefits
Undocumented migrants – maternity rights and benefits
Indefinite leave to remain, right of abode and UK citizenship – maternity rights and benefits
Victims of trafficking or modern slavery – maternity rights and benefits

Asylum seekers – maternity rights and benefits
Refugees – maternity rights and benefits
Refused asylum seekers – maternity rights and benefits

Financial support and housing
Asylum seekers – financial support and housing
Refused asylum seekers – financial support and housing (not yet available)
No recourse to public funds – financial support and housing

Charging for NHS maternity care
NHS care for women from abroad (England)
NHS care for women from abroad (Scotland, Wales and Northern Ireland)
Asylum-seekers and Article 3 claimants - entitlement to NHS maternity care
Refused asylum-seekers and Article 3 claimants - entitlement to NHS maternity care
Refugees, Humanitarian Protection, Article 3 or temporary protection - entitlement to NHS maternity care
Victims of trafficking or modern slavery - entitlement to NHS maternity care
EEA and Swiss Citizens and their family members - entitlement to NHS maternity care
Non-EEA national family members of EEA and Swiss citizens - entitlement to NHS maternity care

Information-sharing between the Home Office and the NHS
Dealing with debts owed to the NHS for maternity care

Polish language guides to maternity and parental rights
Ciaza i uprawnień macierzynskie dla pracownic z Polski
Pregnancy and maternity rights at work for Polish workers (in English)
Karmienie piersia w miejscach publicznych
Breastfeeding in public places (in English)
Uprawnienia w pracy dla ojców i partnerów polskich pracowników
Rights at work for Polish fathers and partners’ (in English)

Spanish language guides to maternity rights and benefits
Derechos por embarazo y maternidad de las mujeres trabajadoras de habla hispana
Pregnancy and maternity rights for Spanish speaking workers’ (in English)
Información para mujeres de habla hispana sobre ayudas económicas para progenitores y bebés
Money for parents and babies for Spanish speakers (in English)

Portuguese language guides to maternity rights and benefits
Gravidez e direitos de maternidade para trabalhadoras que falam portugues
Pregnancy and maternity rights for Portuguese speaking workers’ (in English)
Auxílio financiero para pais e bebés que falam português

Money for parents and babies for Portuguese speakers (in English)