

Section 4 Support

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Introduction

This instruction deals with applications for support under section 4(2) and 4(3) of the Immigration and Asylum Act 1999.

In their cases, Case Owners have overall responsibility for the end-to-end management of the asylum claim, with the help of their Asylum Team colleagues. This includes all asylum support issues. Case Owners will be responsible for the consideration and management of section 4 support. They will ensure that an applicants eligibility for section 4 support is assessed, and where granted, ensure support is reviewed and monitored.

Support Staff check and process the section 4 application form and other information available, including checking ASYS and CID and updating them with all relevant information. The Support Staff also support the Case Owners in producing any letters relating to the process.

Section 4(1) of the 1999 Act gives the Secretary of State the power to provide accommodation to persons with Temporary Admission (TA), those released from immigration detention and those on immigration bail.

Failed asylum seekers who meet the eligibility criteria may be supported under section 4(2) and their dependants under section 4(3). Unless otherwise stated, this instruction relates to those supported under sections 4(2) and 4(3) only. For information on the provision of support under section 4(1)(c), which allows support to be provided to a person released on bail from detention under any provision of the Immigration Acts, refer to the [Section 4 Bail Accommodation AI](#).

Cash payments are not made under section 4. Supported persons and their dependants who receive section 4 support are generally provided with accommodation and vouchers to cover food and essential toiletries only.

Occasionally, full board accommodation may be provided to meet specific needs. In such cases, the supported person is not provided with vouchers. Food and essential toiletries will be provided by the accommodation provider. They may also supply nappies, etc and essential sanitary items for female supported persons.

Further information on the nature of support under section 4 is provided in the Section 4 Frequently Asked Questions.

Supported persons in receipt of section 4 support must continue to comply with any reporting requirements. A new reporting regime may be required after section 4 support is granted.

Travel expenses for reporting events cannot be provided under section 4. However, there is provision under section 69 of the Nationality, Immigration and Asylum Act 2002 for this cost to be met separately.

This instruction must be read in conjunction with Regulations 5 to 9 of the Asylum Support Regulations 2000 on determining whether persons are destitute.

Case Owners must familiarise themselves with the relevant legislation – particularly the Asylum Support Regulations 2000 (including subsequent amendments) and the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005, together with this AI and that on review of section 4 support.

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

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency 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 UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

Use of Terms

Within this instruction, the term:–

“**Case owner**” refers to case owners or caseworkers within the Regional Asylum Teams and the Case Resolution Directorate (CRD).

“**Senior Caseworkers**” applies to SEO Senior Caseworkers within the regional teams and CRD.

“**Applicant**” refers to failed asylum seekers who have applied for section 4 support.

“**Supported person**” refers to failed asylum seekers who are currently in receipt of section 4 support.

Is the applicant eligible for support under section 4(2)

Case Owners must consider whether the applicant is a failed asylum seeker or the dependant of a failed asylum seeker before considering whether the applicant is eligible for section 4 support.

The regulations made under section 4(5) of the 1999 Act (at regulation 3(2) of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005) state that the Secretary of State may provide support under section 4 to a failed asylum seeker who appears to be destitute (regulation 3(1)(a)) and who satisfies one or more of the following conditions:

- a. The person is taking all reasonable steps to leave the UK or place themselves in a position in which they are able to leave the UK. This could include complying with attempts to obtain a travel document to facilitate departure.
- b. The person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.
- c. The person is unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available.
- d. The person has made an application in Scotland for judicial review of a decision in relation to their asylum claim or, in England and Wales or Northern Ireland, has applied for such a judicial review and been granted permission or leave to proceed.
- e. The provision of accommodation is necessary for the purpose of avoiding a breach of a person's Convention rights, within the meaning of the Human Rights Act 1998.

A person currently in receipt of support under section 4 must continue to meet the above criteria in order to remain eligible for support. Case Owners must review periodically the circumstances of those supported under section 4 to ensure they remain eligible. Please see the AI on review of section 4 support.

Section 55

Section 55 of the Nationality, Immigration and Asylum Act 2002 prevents the Secretary of State providing support under section 4, 95 or 98 of the 1999 Act if he is not satisfied that a person applied for asylum as soon as reasonably practicable after arrival in the UK.

However, in those cases where section 55(1) prevents a person being provided with support, section 55(5) provides that the Secretary of State is not prevented from exercising his power under section 4, 95 or 98 to the extent necessary to avoid a breach of a person's Convention rights. Section 55 applies to a person who applied for asylum on or after 8 January 2003.

Therefore a person who applied for asylum on or after 8 January 2003 may only be provided with support under section 4 if the Secretary of State is satisfied either that they made their application for asylum as soon as reasonably practicable after arrival in the UK, or that not to provide support under section 4 would result in a breach of a person's Convention rights.

If a person who applied for asylum on or after 8 January 2003 makes an application for support under section 4 and a decision has not previously been made under section 55, Case Owners must first decide whether section 55 prevents the provision of this support.

If section 55 does not prevent the provision of support under section 4, Case Owners must then consider whether the person otherwise meets the eligibility criteria for section 4.

There is no right of appeal to the First-tier Tribunal, Asylum Support (Tribunal) against a refusal under section 55(1) and 55(5)(a).

For further information, see the Asylum Support Policy Bulletin on Section 55 and the AI on Eligibility and Assessment of Asylum Support. Casework queries relating to section 55 processes and decision-making should be referred to your senior caseworker.

Applicant applies for section 4(2) support

The general rule is that a person remains an asylum seeker for support purposes until their claim for asylum has been finally determined.

Section 95 support is terminated for a refused asylum applicant without a dependent child under 18 in their household once they have exhausted their asylum appeal rights. There is a 21-day grace period from the notification to the implementation of the termination of section 95 support.

To apply for section 4(2) support, an applicant must submit an application form for section 4 support which must include any evidence that demonstrates their eligibility. See *Is the applicant eligible for support under section 4(2) above.*

On receipt of an application for section 4 support, the application must be registered on ASYS by the Support Staff. Please refer to the ASYS User Manual on Registering an Application and Section 4 Applications for guidance.

After registering the application, a Critical Comment must be entered on ASYS by the Support Staff to identify the case as an Asylum Team case.

Section 4 applicants with dependants

Section 4(3) enables the Secretary of State to support dependants of failed asylum seekers. Dependants must meet the same eligibility criteria.

The definition of dependant is the same as for support under section 95 and is contained in regulation 2 of the Asylum Support Regulations 2000. 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.

Applicants with a dependent child under 18 in their household, who were eligible for asylum support under section 95 at the time their asylum appeal rights were exhausted, continue to be eligible for that support in accordance with section 94(5).

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.

For further information, see the AI on Dependants on a support application.

Is the applicant destitute?

To be eligible for support under section 4(2) or (3) an applicant must appear to the Secretary of State to be destitute or is likely to become destitute within a 14 day period. To determine whether the applicant is destitute, Case Owners must have regard to the applicant's circumstances currently and prior to making the section 4 application. The destitution test must be applied before considering the application under the criteria in regulation 3(2) of the 2005 Regulations.

The test for destitution for section 4 support is the same as that used to determine section 95 applications under [section 95\(3\) of the 1999 Act](#):

“... a person is destitute if:

- a. he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or*
- b. he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs”*

For full details on the assessment process, including what the applicant must declare, determining assets and calculating their value, determining income, calculating the appropriate level of support, the prescribed thresholds and testing destitution see Asylum Support Process Instruction: Assessment and Test of Destitution Process. For further advice on assessing destitution, Case Owners can also refer to [Regulations 5 to 9 of the Asylum Support Regulations 2000](#), and [Asylum Support Policy Bulletin 4: Determining whether persons who apply for asylum support are destitute](#) (Please note that when referring to the destitution threshold information in Policy Bulletin 4 the subsistence rates specified will need to be amended to reflect current levels).

In deciding whether an applicant is destitute, Case Owners must pay particular regard to:

- Whether the applicant was or is currently supported under section 98 or 95 or was supported under [Schedule 9 to the 1999 Act](#) (in other words, supported by a local authority under the Interim Scheme).
- The time elapsed between that support ending and the applicant applying for section 4 support.
- Whether the applicant applied for section 4 support during the grace period.
- The evidence available to support the section 4 application.
- Whether the applicant has, or has had, access to alternative support, accommodation or financial support. If yes, from whom and for what period?
- Whether any alternative support is ongoing.

If the applicant has been without asylum support for a prolonged period, it may be reasonable for Case Owners to consider that the applicant has had access to an alternative source of support, and may continue to do so, unless a good explanation is provided as to why this support can no longer be provided.

It is for the applicant to provide evidence to support their application. Therefore, Case Owners may request further information relating to the application for support (to satisfy themselves that the applicant is destitute and/or satisfies one or more of the criteria at regulation 3(2) of the 2005 Regulations).

Case Owners must:

- Request any further information in writing giving 14 days within which to reply.
- Copy the letter to the applicant's representative.

Case Owners must not decide the applicant's eligibility for section 4 support until further information is received or the time for reply has expired. However, Case Owners may continue to assess the application and collate all the information required to make a decision.

Decision outcome

If the applicant does not provide the requested information, Case Owners must refuse section 4 support on the ground that they do not consider the applicant to be destitute.

Case Owners must ensure that the refusal letter makes clear that the applicant had the opportunity to provide further evidence to show destitution but failed to do so.

Section 4 support is not granted solely on the basis that an applicant is destitute. If an applicant is deemed destitute, Case Owners must go on to assess the application under regulation 3(2) of the 2005 Regulations.

Applicant is destitute	Applicant is not destitute
Case Owner assesses the application under regulation 3(2) of the 2005 Regulations.	Case Owner refuses section 4 support. Applicant has right of appeal under section 103 of the 1999 Act.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications.

Is the applicant taking all reasonable steps to leave the UK or place themselves in a position in which they are able to leave the UK?

Under [regulation 3\(2\)\(a\) of the 2005 Regulations](#) an applicant must be taking all reasonable steps to leave the UK, or place themselves in a position in which they are able to leave the UK, to qualify for section 4 support.

The Home Office considers it is reasonable for applicants who are taking steps to leave the UK voluntarily, either through an Assisted Voluntary Returns programme or independently through other means, to leave the UK within 3 months. This includes obtaining relevant documentation to enable departure. Consequently an applicant will only be eligible for support under regulation 3(2)(a) once, unless there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant.

This amended policy of limiting the provision of section 4 support under regulation 3(2)(a) to one opportunity (with the exception of cases where there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant), which was implemented on 08/06/09, can be applied to applicants who are granted support after this date, and retrospectively to all supported persons currently in receipt of section 4 support who were not in receipt or have not previously been in receipt of support under regulation 3(2)(a) on the date the revised policy was implemented.

However, if a supported person was in receipt or has previously been in receipt of section 4 support under regulation 3(2)(a) on the date of the implementation of the revised policy, if he/she reapplies for support under regulation 3(2)(a) for a second time he/she should receive one further supported period under this regulation if he/she satisfies the eligibility criteria. If the supported person has applied for support under regulation 3(2)(a) on the basis of an AVR application, this will only apply if he/she is still eligible with IOM.

To determine eligibility, Case Owners must consider:

- Whether the applicant has applied for Assisted Voluntary Return (AVR).
- Whether the applicant has fully complied with the re-documentation process.
- Did the applicant supply evidence to support an application for an Emergency Travel Document (ETD)?
- Was the applicant invited to a re-documentation interview? If so, did they attend and comply fully with it?
- Is the applicant subject to a prosecution under section 35 of the Asylum and Immigration (Treatment of Applicants, etc) Act 2004?
- Whether the applicant could leave the UK sooner if they applied for AVR, rather than wait for an ETD via the Immigration Service Documentation Unit (ISDU).

Assisted Voluntary Return (AVR)

Case Owners must actively promote AVR to the applicant and explain that in certain circumstances:

- The applicant may not be eligible for section 4 support if they have not applied for AVR.
- Section 4 support may be discontinued if the supported person does not apply for AVR.

- The applicant will only be eligible for support under regulation 3(2)(a) once, unless there was a legitimate barrier to departure, or exceptional circumstances which prevented departure at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant.
- Once the supported person has applied for AVR, they must proactively co-operate with arrangements for their return. It is not sufficient simply to sign up for AVR. See the AI on [Voluntary Departures](#) for further information.

If an AVR application to the IOM is accepted, the application will be valid for 3 months and the applicant will be expected to leave the UK within this period. If the IOM is unable to organise return within the 3 month period, the supported person can remain approved in exceptional circumstances.

With the exception of cases where there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant, applicants will only be eligible for support under regulation 3(2)(a) once. If an applicant applies for section 4 support under the criterion that he/she has either secured acceptance on the AVR programme or applied for AVR, but he/she has previously been in receipt of section 4 support under regulation 3(2)(a), the applicant does not, with the exception of a legitimate barrier to departure or exceptional circumstances which prevented departure, qualify under this eligibility criterion.

If AVR was unsuccessful the Case Owner should assess whether the applicant has provided evidence that he/she was unable to leave the UK while he/she was previously in receipt of section 4 support under regulation 3(2)(a) due to a legitimate barrier to departure, or due to exceptional circumstances preventing departure, at the time his/her AVR application was extant. If so, support may be provided under regulation 3(2)(a) for a second and final time. For further information on what qualifies as an exceptional circumstance in this scenario which may prevent departure, refer to [Exceptional Circumstances Preventing Departure](#).

If there were no legitimate barriers to departure or exceptional circumstances preventing departure, but the applicant has provided evidence that there are exceptional circumstances at the time of re-application for section 4 support which may require the provision of support to avoid a breach of the applicant's ECHR rights, consideration should be given to whether the applicant qualifies for support under regulation 3(2)(e). **Case Owners may consult with the [Complex Advice Team](#), through a Senior Caseworker, before making a positive decision on support in such a case.**

If an individual is granted support under regulation 3(2)(a) he/she must maintain contact with the Case Owner and the IOM (if he has applied for AVR). Maintaining close contact will enable the IOM to provide assistance in overcoming any real difficulties the applicant may have in obtaining documentation. In these situations the AVR Team may seek assistance from the Removals Liaison Unit or the Foreign & Commonwealth Office in resolving the problem.

There may be a temporary situation in which the IOM is unable to conduct voluntary returns to a country, although the Secretary of State's opinion remains that there is a viable route of return. **Case Owners must check with Complex Advice Team, through a Senior Caseworker, before making a decision on support in such a case.**

If the AVR Team has no record of an application

The IOM must be contacted via the AVR Team to check whether an application has been lodged:

IOM London
 21 Westminster Palace Gardens
 Artillery Row
 London
 SW1P 1RR
 Tel: 0207 233 0001
 0800 783 2332
 Fax: 020 7233 3001
 E-mail: varrp@iomlondon.org
 Website: www.iomlondon.org

Applicant <u>has not</u> previously been in receipt of section 4 support under regulation 3(2)(a)	
AVR application registered with IOM	No AVR application registered
<p>Grant section 4 support.</p> <p>1st review after 6 weeks to check supported person is taking all reasonable steps to leave the UK and then 2nd review 6 weeks after 1st review.</p> <p>Extend support on timescale advised by AVR Team or IOM.</p> <p>If AVR application withdrawn by the supported person, consider whether they are taking all reasonable steps to leave the UK. If not, discontinue support with a right of appeal.</p> <p>If AVR application has been rejected by the AVR Team, verify the reason with the AVR Team before discontinuing support.</p>	<p>Grant section 4 support, if appropriate.</p> <p>If no application registered after 2 weeks, consider to what extent the supported person is taking all reasonable steps to leave the UK or place themselves in a position in which they are able to leave the UK, with a view to discontinuation of support if it is considered the supported person is not taking all reasonable steps.</p> <p>If a supported person remains eligible, continue to review as appropriate (but at no longer than 3-month intervals).</p>

Applicant <u>has</u> previously been in receipt of section 4 support under regulation 3(2)(a)
<p>With the exception of cases where there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant, the applicant is not eligible for section 4 support under regulation 3(2)(a) as he/she has already been supported under this regulation. However, if the applicant has provided evidence of a legitimate barrier to departure or a legitimate exceptional</p>

circumstance which prevented departure, support may be provided under regulation 3(2)(a) for a second and final time.

The Case Owners must record the decision on ASYS, referring to the ASYS User Manual [Section 4 Applications](#).

Is the applicant placing themselves in a position in which they are able to leave the UK?

With the exception of cases where there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant, applicants will only be eligible for support under regulation 3(2)(a) once. If an applicant applies for section 4 support under the criterion that he/she is placing himself/herself in a position in which he/she will be able to leave the UK, but he/she has previously been in receipt of section 4 support under regulation 3(2)(a), the applicant does not, with the exception of a legitimate barrier to departure or exceptional circumstances which prevented departure, qualify under this eligibility criterion.

If the applicant was unable to facilitate his/her departure from the UK while previously in receipt of support under regulation 3(2)(a), the Case Owner should assess whether the applicant has provided evidence that he/she was unable to leave the UK while he/she was previously in receipt of section 4 support under regulation 3(2)(a), due to a legitimate barrier to departure or due to an exceptional circumstance preventing departure at the time he/she was previously supported under regulation 3(2)(a). If so, support may be provided under regulation 3(2)(a) for a second and final time. For further information on what qualifies as an exceptional circumstance in this scenario which may prevent departure, refer to [Exceptional Circumstances Preventing Departure](#).

If there were no legitimate barriers to departure or exceptional circumstances preventing departure, but the applicant has provided evidence that there are exceptional circumstances at the time of re-application for section 4 support, which may require the provision of support to avoid a breach of the applicant's ECHR rights, consideration should be given to whether the applicant qualifies for support under regulation 3(2)(e). **Case Owners may consult with the [Complex Advice Team](#), through a Senior Caseworker, before making a positive decision on support in such a case.**

If the applicant is not prevented from receiving section 4 support under regulation 3(2)(a), Case Owners must consider to what extent the applicant has complied with the re-documentation process by considering:

- If an application for an Emergency Travel Document (ETD) been lodged with ISDU, or an EU Letter prepared?
- Did the applicant attend and comply fully with any re-documentation interview?
- Was the applicant required to attend their Embassy or High Commission to assist the re-documentation? If so, did they attend?
- The applicant is not currently being investigated or prosecuted for non-compliance with the re-documentation process under section 35 of the 2004 Act?

If an individual is granted support under this regulation he/she must maintain contact with the Case Owner. Maintaining close contact will enable the Case Owner to provide assistance in overcoming any real difficulties the applicant may have in obtaining documentation.

Yes	No
See ETD application lodged with ISDU, or EU Letter prepared	See No ETD application lodged with ISDU, or no EU Letter prepared

ETD application lodged with ISDU, or EU Letter prepared

Case Owners must take the issues above into consideration when determining whether the applicant has complied fully with the re-documentation process. If Case Owners determine that the applicant has fully complied, the applicant may be eligible for support under this criterion.

No ETD application lodged with ISDU, or no EU Letter prepared

If the applicant has significantly impeded attempts to facilitate their leaving the UK, such that an ETD cannot be obtained, an ETD application cannot be submitted to ISDU, or an EU Letter cannot be prepared, the applicant may be ineligible for section 4 support.

Is the ISDU process slower than that of the IOM?

If the applicant has complied fully with the re-documentation process, but the timescale for ISDU to obtain an ETD is likely to be lengthy and arrangements to leave the UK much sooner could be made with the help of the IOM, the applicant is unlikely to qualify for section 4 support unless they apply to the IOM for AVR.

Case Owners must inform the applicant that they are expected to use the quickest route to obtain an ETD and that failure to do so may affect their eligibility for section 4 support.

To determine eligibility for section 4 support under this policy, Case Owners must consult the ISDU website to ascertain the average time for obtaining an ETD from the applicant's Embassy or High Commission. Case Owners must contact the relevant country team within ISDU, through a Senior Caseworker, if the website is inconclusive.

The IOM can normally conduct returns within a three-month period, during which period the applicant's status is shown by the AVR Team on CID as "approved". (If the application for AVR is no longer shown as approved, Case Owners must check the reasons with the AVR Team). Case Owners must request an explanation from the applicant if they claim that it will take longer than this timescale to obtain travel documents and take the explanation into account in deciding whether the applicant is taking all reasonable steps to leave the UK.

ISDU can obtain an ETD sooner than, or as soon as, the IOM

Case Owners may determine that the applicant is eligible for section 4 support under this criterion and grant section 4 support.

ISDU cannot obtain an ETD sooner than, or as soon as, the IOM

If the applicant could leave the UK voluntarily sooner than waiting for ISDU to obtain an ETD, Case Owners may refuse support under section 4, subject to any breach of the applicant's ECHR rights. In these circumstances Case Owners must encourage the applicant to apply for AVR.

Decision outcome

Where Case Owners are satisfied that the applicant is taking all reasonable steps to leave the UK, section 4 support must be granted. Eligibility must be reviewed after the first six weeks and again at 12 weeks from the initial decision to ensure that the supported person is proactively pursuing their departure from the UK. It is not sufficient simply to sign up for AVR with the IOM, but then fail to pursue the application.

See the AI on [Reviewing Section 4 support](#) for further information on the review process.

Applicant <u>has not</u> previously been in receipt of section 4 support under regulation 3(2)(a)	
Applicant is taking all reasonable steps to leave the UK	Applicant is not taking all reasonable steps to leave the UK
Grant support. 1 st review after 6 weeks. 2 nd review 6 weeks after 1 st review.	Assess application against other criteria and evidence supplied by the applicant. If eligibility is not established, refuse support with a right of appeal under section 103 of the 1999 Act.

Applicant <u>has</u> previously been in receipt of section 4 support under regulation 3(2)(a)
With the exception of cases where there was a legitimate barrier to departure, or where there were exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant, the applicant is not eligible for section 4 support under regulation 3(2)(a) as he/she has already been supported under this regulation. However, if the applicant has provided evidence of a legitimate barrier to departure or a legitimate exceptional circumstance which prevented departure, support may be provided under regulation 3(2)(a) for a second and final time.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on [Section 4 Applications](#) for guidance.

Exceptional Circumstances Preventing Departure

An example of an exceptional circumstance that may prevent an applicant from travelling or from taking actions to obtain travel documents might, for example, include:

- Serious illness – The applicant is required to obtain a letter from a GP or other medical practitioner treating the applicant, clearly stating why the illness prevented the applicant from complying.
- A relevant change in circumstances, such as the death of a dependant – Relevant supporting evidence of the change in circumstances must be provided in all cases.
- If the IOM did not return the applicant to his/her country of origin while the applicant's AVR application was extant, due to waiting for logistical/financial reasons to facilitate departures to the applicant's country of origin.

Is the applicant unable to leave the UK by reason of a physical impediment to travel or for some other medical reason?

Under [regulation 3\(2\)\(b\) of the 2005 Regulations](#) an applicant is eligible for section 4 support if they are unable to leave the UK by reason of a physical impediment to travel or some other medical reason.

To determine if an applicant is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason, Case Owners must consider:

- [UK Border Agency Section 4 Medical Declaration](#) (Medical Declaration) containing evidence why the supported person (or his/her dependant) is unable to leave the UK by reason of physical impediment to travel or for some other medical reason.
- A MATB1 document, if available, or other recent medical documentation confirming pregnancy from a pregnant woman's medical professional confirming that the applicant is pregnant and stating the expected date of delivery (EDD).
- The birth certificate of a new-born baby. If possible, the applicant must supply the long birth certificate, as it contains details of the child's father. Case Owners must assess the ability of the child's father to support the child prior to the applicant leaving the UK. Alternatively a medical document / certified letter from a medical professional confirming the birth of the new-born baby can be submitted, though the full birth certificate must later be submitted shortly after a grant of support.

If the applicant has a physical impediment to travel or some other medical reason

The applicant is required to submit a completed Medical Declaration. The Medical Declaration must be completed by the applicant's General Practitioner (GP) or NHS Consultant, and clearly state why the applicant is unable to leave the UK by reason of physical impediment to travel or for some other medical reason, the exact nature of the physical impediment or medical reason, and either when the applicant will be able to leave the UK or when the applicant's condition is due to be reviewed. If a Medical Declaration is submitted, there will be no need for Case Owners to refer the case to the Asylum Support Medical Adviser (ASMA) regarding the effect of the applicant's condition on his/her ability to undertake international travel.

It is for the applicant to provide the relevant written medical evidence in the form of the Medical Declaration to support his/her application. The Medical Declaration must be submitted as evidence with the applicant's application for support. If a Medical Declaration is not submitted, Case Owners should request the submission of a Medical Declaration, giving the applicant 14 days to respond. Case Owners must not determine eligibility until the time given has expired.

Where the applicant fails to provide the Medical Declaration, Case Owners may consider the applicant ineligible for section 4 support under this criterion, but continue to assess the claim under the remaining criteria.

In exceptional circumstances where Case Owners have serious concerns about the reasons given in the Medical Declaration for an applicant being unable to leave the UK, the Case Owner may telephone the GP / NHS Consultant who completed the Medical Declaration for clarification. If there are concerns about the authenticity of the GP / NHS Consultant who completed the Medical Declaration, Case Owners may contact the British Medical Association to check that the GP / NHS Consultant is registered with them.

Note that the test is whether the applicant is able to leave the UK, not the availability or standard of medical treatment in the country of origin.

Female applicants in the late stages of pregnancy

If a female applicant applies for section 4 support on the ground that she is in the late stages of pregnancy, and therefore unable currently to leave the UK, the applicant must provide a MATB1 form, if available, or other recent medical documentation confirming pregnancy and stating the expected date of delivery (EDD).

A MATB1 is issued by a doctor or midwife up to 20 weeks prior to the EDD, and indicates when the baby is expected to be born. Unless there are complications with the pregnancy supported by medical evidence that the applicant's health and/or that of the unborn child may be at risk, support must not normally be granted until around 6 weeks before the EDD.

Where the applicant recently entered the UK she may not have a MATB1. In these circumstances the applicant must provide Case Owners with written evidence, from a medical practitioner or midwife, confirming pregnancy and stating her EDD.

If the applicant provides the required evidence, the applicant is eligible for section 4 support. Case Owners must grant section 4 support with a review date 6 weeks after the EDD or birth of the child if known.

Applicants with a new-born child

If the applicant has a new-born child under 6 weeks' old, and is therefore currently unable to leave the UK, she should provide Case Owners with a copy of the child's long birth certificate (or short birth certificate if the long birth certificate cannot be obtained). Alternatively a medical document / certified letter from a medical professional confirming the birth of the new-born baby can be submitted, though the full birth certificate must later be submitted shortly after a grant of support.

There is a cost for the long birth certificate, which the applicant may not be able to meet. It is intended to make provision for this through regulations under section 4(10) of the 1999 Act. In the interim, Case Owners can accept the short birth certificate which currently is issued without charge.

Where the applicant recently entered the UK, she may not have a birth certificate for the child. In these circumstances the applicant must provide Case Owners with written evidence, from a medical practitioner or midwife, stating the child's approximate birth date.

If the applicant provides the required evidence, the applicant is eligible for section 4 support under regulation 3(2)(b). Case Owners must grant section 4 support with a review date 6 weeks after the child's date of birth.

Case Owners must consider whether the applicant can obtain support from the father of the child or children and explain that support under section 4 may be denied or discontinued if it comes to light that the applicant was or is in receipt of support from the father.

If the applicant does not have any physical impediment to travel or some other medical reason

The applicant is not eligible for section 4 support under this criterion. Case Owners must continue to assess the application under the remaining criteria.

Decision outcome

If the applicant does not provide the requested information, and there is no evidence that they satisfy any of the other eligibility criteria, Case Owners must refuse section 4 support.

Where Case Owners are satisfied that the applicant is unable to leave the UK, section 4 support is granted with a review period based on the advice of the medical practitioner and reviewed accordingly until the date they are deemed able to undertake international travel.

See the AI on Reviewing Section 4 support for further information on the review process.

Applicant is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason	Applicant is not prevented from leaving the UK by reason of a physical impediment to travel or for some other medical reason
Grant support. For pregnant women/new mothers review 6 weeks after birth. Any other, continue to review as appropriate (but at no longer than 3-month intervals) OR On medical advice.	Assess application against other criteria and evidence supplied by the applicant. If not eligible, refuse support with a right of appeal under section 103 of the 1999 Act.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Is the applicant unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available?

Under regulation 3(2)(c) of the 2005 Regulations an applicant may be unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return.

To be eligible for section 4 support under this criterion:

- There must be a statement of policy that the Secretary of State is of the opinion that there is no viable route of return available to the applicant's country of origin.

If any such statement has been issued, it will be available on the Asylum intranet site.

Decision outcome

If there is a statement of policy that in the Secretary of State's opinion there is currently no viable route of return available

Case Owners must grant section 4 support under regulation 3(2)(c) with a review period of 3 months or until the policy changes, whichever is earlier.

Iraq

Between January and July 2005 the Secretary of State's opinion was that there was no viable route of return to Iraq. The policy changed from August 2005 when alternative viable routes of return to Iraq were recognised as being established. Further information is provided in the Section 4 Frequently Asked Questions.

If there is no statement of policy that in the Secretary of State's opinion there is currently no viable route of return available

The applicant is not eligible for section 4 support under this criterion. Case Owners must continue to assess the application under the remaining criteria.

There is a statement of policy that in the SofS's opinion there is currently no viable route of return	There is no statement of policy
<p>Grant support.</p> <p>Review period of 3 months or when policy is changed, if earlier.</p>	<p>Assess application against other criteria and evidence supplied by the applicant.</p> <p>If not eligible, refuse support with a right of appeal under section 103 of the 1999 Act.</p>

See the AI on Reviewing Section 4 support for further information on the review process.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Has the applicant made an application for Judicial Review of a decision in relation to their asylum claim?

Under regulation 3(2)(d) of the 2005 Regulations an applicant who has applied for judicial review (JR) of a decision in relation to their asylum claim may be eligible for section 4 support.

Where the applicant has applied for section 4 support under this section, Case Owners must check CID to ascertain whether the applicant has applied to a Scottish Court for JR, been granted permission to proceed with a JR in England and Wales, or been granted leave in Northern Ireland.

In all cases the JR must relate to a decision in relation to the applicant's asylum claim. Section 4 support will not be given for JRs against asylum support refusals (although the court may order that interim support be given in these circumstances).

In England and Wales and Northern Ireland, support cannot be granted unless permission to proceed or leave has been granted. In Scotland there is no formal 'permission to proceed' procedure for JR applications. Therefore, where the proceedings take place in Scotland, Case Owners need only be satisfied that the application for JR has been made.

Case Owners must:

- Check CID for record of a JR application.
- If no application is listed, Case Owners must contact the Judicial Review Unit (JRU) to check whether a JR application has been lodged and (outside Scotland) to ascertain its status and the timescale for conclusion.
- Liaise with the applicant's representative if no application is recorded on CID and JRU has no record of an application.

In England and Wales and Northern Ireland, Case Owners must seek advice from JRU regarding the approximate timescale for the High Court to decide whether to grant permission to proceed or leave, in order to diary a date to check with JRU whether it has been granted.

If the applicant or representative provides appropriate proof of postage, Case Owners must contact JRU to advise them that an application has been lodged and provide proof of postage if requested.

If the applicant or the representative cannot prove that an application for JR has been submitted, Case Owners may assume that no application was or has been submitted and may therefore refuse section 4 support under regulation 3(2)(d). Case Owners must continue to assess the application under the remaining criteria.

An application for JR submitted in England and Wales or Northern Ireland

Where permission/leave is granted, Case Owners must grant section 4 support with an initial review period of four weeks.

If the High Court decision is received within this period, Case Owners must review section 4 support according to the High Court decision and whether there is an appeal.

If the High Court decision is not received within this period, Case Owners must extend the review period by a further four weeks, or until a High Court decision is received, whichever is earlier.

Case Owners may accept confirmation that permission to proceed/leave has been granted from JRU, or must obtain a copy of the court order from the applicant or their legal representative.

An application for JR is submitted in Scotland

Case Owners must grant section 4 support with a review date of four weeks, or until the date of the JR hearing (if known), whichever is earlier. The supported person's section 4 support must be reviewed on this date and may be extended if necessary, with a further review date set as appropriate.

JR outcome

Where the JR results in the applicant being granted leave to remain, support must be discontinued 28 days after leave to remain has been granted.

Where the case is remitted to the UK Border Agency or the AIT to be reconsidered, the applicant may be eligible for section 95 support, and Case Owners must supply the applicant with a Asylum Support Application Form (NASS1) for this purpose.

See the AI on Reviewing Section 4 support for further information on the review process.

Decision outcome

JR application made in England and Wales or Northern Ireland			
Permission to proceed/leave granted	Awaiting permission to proceed/leave decision	Permission to proceed/leave refused	Judicial review concluded
Grant support. 1 st review after 4 weeks or the hearing date (whichever is earlier).	Refuse support until permission to proceed/leave has been granted unless there is a court order ordering the support of the applicant. The letter must reflect that the applicant will be supported pursuant to a court order (and not under section 4 because they are destitute and satisfy one or more of the conditions in regulations 3(2)).	Assess application against other criteria and evidence supplied by the applicant. If not eligible, refuse support – with a right of appeal under s103 of the 1999 Act.	If the applicant is successful and granted status, support must be discontinued after 28 days. If the case is referred to the UK Border Agency or AIT to be reconsidered, the applicant may be eligible for section 95 support. Case Owners must provide the applicant with a Asylum Support Application Form

			(NASS1) inviting them to apply, if required. If the applicant is unsuccessful, their eligibility for section 4 support must be reviewed.
Application made in Scotland			
Judicial review application recorded	No record of application	Judicial review concluded	
Grant support 1 st review after 4 weeks or the hearing date (whichever is earlier).	Refuse support after considering other criteria, with a right of appeal under section 103 of the 1999 Act.	<p>If the supported person is successful and granted status, support must be discontinued after 28 days after leave is granted.</p> <p>If the case is referred to the UK Border Agency or the AIT to be reconsidered, the applicant may be eligible for section 95 support. Case Owners must provide the supported person with a Asylum Support Application Form (NASS1) inviting them to apply, if required.</p> <p>If the supported person is unsuccessful, their eligibility for section 4 support must be reviewed.</p>	

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Is support necessary for the purpose of avoiding a breach of a person's ECHR rights?

Under [regulation 3\(2\)\(e\) of the 2005 Regulations](#), if the applicant is not eligible for support under the other criteria under regulations 3(2), Case Owners must consider whether support under section 4 is necessary in order to avoid a breach of a person's ECHR rights. Case Owners must consider applications for support under regulation 3(2)(e) on a case-by-case basis.

It is for the applicant to provide evidence that a refusal to provide support would be a breach of a person's ECHR rights. If the applicant is not eligible for support under the other criteria under regulations 3(2), and the application contains information which indicates that support under section 4 may be necessary in order to avoid a breach of the applicant's ECHR rights, but there is insufficient evidence to make a decision on eligibility under regulation 3(2)(e), Case Owners may request further information in writing relating to the application, allowing 14 days for the applicant to provide a response. If the applicant does not provide the requested information, and there is no evidence that they satisfy any of the other eligibility criteria, Case Owners must refuse section 4 support.

An important consideration is whether the applicant can be expected to leave the UK to avoid a breach. It would not be reasonable to expect a person to leave the UK in the following circumstances (this list is not exhaustive):

- The applicant has submitted a late appeal against the Secretary of State's decision to refuse asylum and the AIT is considering whether to allow the appeal to proceed out of time.
- The applicant has submitted to the Secretary of State further submissions which are outstanding. Support under section 4 may be provided in such cases, if there is or will be a delay in serving a decision on these further submissions, unless it is clear that the further submissions are manifestly unfounded, or merely repeat the previous grounds or do not disclose any claim for asylum at all.

These are examples only. Other circumstances may also give rise to a breach and Case Owners must consider each case on its own facts. See the AI on [Considering Human Rights Claim](#) for further information.

Where it would not be reasonable to expect the applicant to leave the UK and Case Owners consider that refusing support would breach a person's ECHR rights, Case Owners must grant section 4 support. The review period will be determined by the reason why the applicant cannot leave the UK (i.e. the basis on which support was granted) and the date by when the barrier is likely to be resolved, or a three-month period, whichever is earlier.

See the AI on [Reviewing Section 4 support](#) for further information on the review process.

Further Submissions

With effect from 14th October 2009, applicants whose case is being managed by the Case Resolution Directorate (CRD) will be required to make any further submissions by appointment and in person at the Liverpool Further Submissions Unit. With effect from 14th October 2009, those whose case is being managed by a regional asylum team will be required to make any further submissions in person at a specified reporting centre in their region. This does not apply

to further submissions submitted before 14th October 2009. For further information on the valid submission of further submissions, refer to the [Further Submissions AI](#).

If an applicant submits an application for section 4 on the solely on the basis that he/she has further submissions outstanding, the Case Owner must assess the further submissions before the application for section 4 is considered. If for some reason there must be a justifiable delay in serving a decision on the further submissions which can be justified to a senior manager of Grade 7 level or above, Case Owners must consider whether not granting section 4 support would breach the applicant's ECHR rights ([see R \(on the application of AW\) v London Borough of Croydon and other \[2005\] EWHC 2950 \(Admin\) paragraph 69](#)).

No delay in the consideration of further submissions

If there is not a delay in serving a decision on the further submissions, Case Owners must act as follows:

- If the further submissions result in a grant of leave to remain, Case Owners must refuse section 4 support as the applicant will not be a failed asylum seeker.
- If the further submissions are accepted as constituting a fresh asylum or Article 3 application, and the applicant is given a right of appeal against that decision, Case Owners must refuse section 4 support and advise the applicant that he/she may be eligible for asylum support provided under [section 95 of the 1999 Act](#), and provide him/her with a [Asylum Support Application Form](#) (NASS1) for that purpose. For further information on the provision of support under section 95, refer to [Policy Bulletin 73: Provision of Initial Accommodation](#) and the [Eligibility and the Assessment of Asylum Support AI](#).
- If the further submissions are rejected, or accepted as a fresh asylum or Article 3 application but certified under [section 96 of the 2002 Act](#), Case Owners should refuse section 4 support unless the applicant is eligible for support on another basis. If the application for support is refused, the refusal letter should notify the applicant that if he/she believes that he/she is eligible for section 4 support on another basis he/she has the opportunity to re-apply for section 4 support. The applicant should either be directed towards the full policy criteria which set out the circumstances under which section 4 support is normally provided, or the full policy criteria should be enclosed.
- For further information on certification under section 96, refer to the [One-Stop Procedure](#) Immigration Directorate Instruction.

Section 4 applications submitted before the date of a pre-booked further submission appointment

In these cases, if an applicant submits an application for support under regulation 3(2)(e) on the basis of outstanding further submissions:

- while an appointment to submit the further submissions has been arranged,
- but before the date of the appointment,

if the applicant does not qualify for section 4 support on other grounds, a final decision on the section 4 application should be delayed until a decision is made on the further submissions.

If there is a delay in serving a decision on the further submissions, Case Owners should refer to [Delay in the consideration of further submissions](#).

In the event the applicant has applied for section 4 support on other grounds in addition to his/her section 4 application on the basis of outstanding further submissions, the Case Owner should not delay evaluating eligibility on the other grounds:

- If the applicant is assessed as being eligible for section 4 support on other grounds, an offer of section 4 support should immediately be made, advising the applicant the criteria under which he/she will be supported. The letter should also set out why the applicant has not been granted section 4 support on the basis of outstanding further submissions.
- If the applicant is assessed as being in-eligible for section 4 support on other grounds, a final decision on the section 4 application should be delayed until a decision is made on the further submissions.

No further submissions outstanding nor appointment booked to submit further submissions

If an applicant has applied for section 4 support on the basis of outstanding further submissions, but he/she:

- does not have further submissions outstanding, and
- in the event the applicant is required to submit further submissions at a pre-arranged appointment, he/she does not have an appointment to submit the further submissions arranged,

the section 4 application must be refused unless the applicant is eligible for support on another basis. The refusal letter should notify the applicant that if he/she believes that he/she is eligible for section 4 support on another basis he/she has the opportunity to re-apply for section 4 support. The applicant should either be directed towards the full policy criteria which set out the circumstances under which section 4 support is normally provided, or the full policy criteria should be enclosed.

Delay in the consideration of further submissions

If for some exceptional reason there will be a delay in serving a decision on the further submissions, the Case Owner should consider whether the applicant is eligible for support under regulation 3(2)(e). It should be assessed whether the applicant's ECHR rights would be breached if it were not for the provision of support. Support will not be granted if it is clear that the further submissions are manifestly unfounded, or merely repeat the previous grounds or do not disclose any claim for asylum at all.

If the applicant is granted support on the basis of outstanding further submissions, subject to remaining destitute and continuing to satisfy the conditions of support, as set out under [regulation 6\(2\) of the 2005 Regulations](#), his/her support is expected to continue until the UK Border Agency makes a decision on the further submissions. But Case Owners should expect to be able to justify the continued failure to get the further submissions resolved to senior managers of Grade 7 level or above.

Decision outcome

Convention right would be breached	Convention right would not be breached
Grant support. Review period dependent on the reason (but no longer than 3-month interval).	Assess application against other criteria and evidence supplied by the applicant. If not eligible, refuse support with a right of appeal under section 103 of the 1999 Act .

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Refusing support

If an application for section 4 support is unsuccessful, or if section 4 is initially granted but later discontinued, the applicant has a right of appeal under [section 103 of the 1999 Act](#) to the First-tier Tribunal, Asylum Support.

If the appeal is dismissed, the applicant will not be able to remain in accommodation provided by the UK Border Agency and will be required to support themselves until they leave or are removed from the UK, unless they subsequently become entitled to section 4 support because of a material change in circumstances.

Refusal Letters	
Grounds for refusal	Letters
Destitution	Refusal Letter – Destitution
Failing to take all reasonable steps to leave the UK or place themselves in a position in which they are able to leave the UK	Refusal Letter – No Application for AVR
Unable to leave the UK by reason of a physical impediment to travel or for some other medical reason	Refusal Letter – Physical Impediment to Travel
No viable route of return	Refusal Letter – No viable route of return
Judicial review of a decision in relation to asylum claim	Refusal Letter – JR Permission to Proceed/Leave Refused Refusal Letter – No Application Recorded (Scotland)
Convention rights	Refusal Letter – Further Representations
	Refusal Letter – Human Rights

There is only one refusal letter, which is stored on ASYS. The Support Staff must select the correct optional text, relating to the refusal decision, for Case Owners to review and agree. The Support Staff must prompt the Case Owner to review the reporting or other contact management requirements.

The section 4 refusal letter:

- Explains that the applicant will not receive accommodation or any other form of support.
- Explains that the applicant has three working days to exercise their right of appeal to the First-tier Tribunal, Asylum Support under section 103 of the 1999 Act, and includes a copy of the section 4 appeal form.
- Promotes AVR.
- Explains the continued reporting or other contact management requirements.
- Explains that the applicant must continue to make the necessary arrangements to leave the UK or place themselves in a position in which they are able to leave the UK.

The Support Staff must:

- Arrange for the refusal letter to be served on the applicant and their representative as soon as possible - by fax or 1st class post or in person.
- Include a Tribunals Service – Asylum Support Notice of Appeal Form and envelope.
- Prepare for a possible appeal, if required – See Asylum Support Appeals for further information.
- Update ASYS and CID.

The Support Staff must always minute ASYS and CID.

Example ASYS minute:

Application from applicant dated *dd/mm/yy*, requesting support under section 4. Applicant is requesting support because *(select criteria stated)*. Application refused *(insert reasons for refusal)*. Letter served on the applicant on *dd/mm/yy*. *Case Owner's name, location and telephone number*.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Granting support

The Secretary of State may make support to failed asylum seekers and their dependants subject to one or more of the conditions set out in regulation 6(2) of the 2005 Regulations, provided that they are set out in a notice to the person in writing.

One such condition is that the applicant must reside at an authorised address and not be absent without permission for more than seven consecutive days and nights or for no more than a total of 14 days and nights in any six-month period.

- If the application for section 4 support is successful, the supported person may be required to move to new accommodation, which may not necessarily be in the area where they currently live.
- If the supported person is provided with full board accommodation, all meals and essential toiletries will be provided for them by the accommodation provider and the supported person will not receive vouchers.
- If the supported person is provided with self-catering accommodation, they will receive vouchers for the purchase of food and essential toiletries which may be exchanged at designated shops close to that accommodation.

The section 4 grant letter:

- Explains the decision and when support will be reviewed.
- Explains that accommodation will be provided.
- Explains how support will be provided – by full board accommodation or accommodation and vouchers.
- Sets out the conditions on which support is granted.
- Explains the supported person's ongoing duty to comply with the asylum process.
- Explains the implications of breaching these conditions.
- Explains the continued reporting or other contact management requirements.
- Promotes AVR, where appropriate.

The Support Staff must:

- Arrange for the grant decision to be served on the applicant and their representative as soon as possible - by fax or 1st class post or in person.
- Liaise with the Section 4 Accommodation Team to arrange accommodation.
- Diarise the dates for the review of support (by setting up a new 'task' in tab 9 on ASYS).
- Update ASYS with details of the section 4 support.
- Update CID.

Section 4 grant letters will be created on ASYS when the necessary changes to the system have been made. In the meantime, the Support Staff must select the appropriate letter below, for Case Owners to review and agree.

Grant Letters	
Grounds for grant	Letters
The applicant is taking steps to leave the UK	Grant Letter – VARRP Grant Letter – Taking steps to leave
The applicant is unable to leave the UK	Grant letter – No Viable Route of Return Grant letter – Pregnancy Grant letter – Medical
Judicial Review, or grant of interim support by Court order	Grant Letter – Judicial Review Grant Letter – Court Order
Human rights grounds	Grant Letter – Human Rights (other) Grant Letter – Human Rights (fresh claim) Grant Letter – Human Rights (late appeal)

You must ensure that the contact details are correct in all letters.

Grant letters can be found under Letters below.

The Support Staff must always minute ASYS and CID:

Example ASYS minute:

Application from applicant dated *dd/mm/yy*, requesting support under section 4. Applicant is requesting support because (*select criteria stated*). Application approved (*insert reasons for grant*). Letter served on the applicant on *dd/mm/yy*. Application form passed to the travel team to arrange travel/accommodation (*where appropriate*). *Case Owner's name, location and telephone number*.

Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications for guidance.

Accommodating applicants

The applicant has 14 days from the service of the grant letter to take up the support. The Support Staff must ensure that the diary is updated to reflect this deadline. There is some flexibility to this deadline, but it will be up to the Case Owner's or the Accommodation Team's discretion as to when to agree a delayed acceptance or when to require a second application for support to be submitted.

Dispersal arrangements

An applicant granted section 4 support may be required to move to new accommodation in another area. Accommodation will not be provided in London/South East unless there are compelling, compassionate circumstances (see the Asylum Support Policy Bulletin on

Dispersal). Where applicants live outside London/South East, Case Owners must, where possible, arrange for section 4 accommodation within the same region.

If the applicant has submitted medical evidence that may impact on the section 4 dispersal location or the nature of the property allocated, advice on the dispersal of the applicant can be obtained from the Asylum Support Medical Adviser (ASMA). The ASMA will advise on the general availability of medical treatment in particular regions, the applicant's fitness to travel to section 4 accommodation, and the nature of any accommodation to be provided.

ASYS must be updated when the supported person moves into new accommodation. The Support Staff must refer to the ASYS User Manual on Section 4 Applications for guidance.

Section 4 appeals

A person whose application for support under section 4 is rejected, or whose support under section 4 is discontinued for a reason other than their departure from the UK, has a right of appeal to the First-tier Tribunal, Asylum Support (Tribunal) if the decision to refuse or discontinue support was taken on or after 31 March 2005.

See the Asylum Support Policy Bulletin on [Asylum Support Appeals](#) for further information on the asylum support appeal process.

Where a decision is taken to discontinue support under section 4 and the supported person appeals to the Tribunal, as long as the Tribunal accept the appeal within the discontinuation period (the 14 day period after which the supported person must leave the section 4 property) support should continue until the appeal has been heard. A fax should be sent to the accommodation provider informing them that an appeal is pending and that support will continue until the outcome of the appeal is known.

If support has already been discontinued and as a result the supported person has moved out of section 4 accommodation, support will not be reinstated on the basis that the Tribunal have accepted a late appeal.

Appeal outcomes

If the outcome of an appeal to the Tribunal is for support to be granted or restarted, Case Owners must ensure that support is granted or restarted as soon as possible following receipt of the Tribunal determination (whether received at the hearing or by fax).

Review of support

Section 4 support is subject to a review process to ensure that only those supported persons who remain eligible are supported.

Section 4 cases must be reviewed by Case Owners on a regular basis, including normally:

- After two weeks, where the supported person has yet to register for AVR and is supported on the basis that they are taking all reasonable steps to leave the UK.
- Six weeks after the supported person has registered for AVR, and again after a further six weeks. (Support would not normally be discontinued until three months have elapsed, as normally a person remains approved for AVR for three months and supported persons can normally leave the UK within this time if they co-operate fully with the IOM).
- Six weeks from the EDD (or birth where we have been notified of the date) in the case of pregnant mothers.
- As advised in the Medical Declaration, where the supported person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.

In all other cases review periods must be set as appropriate (but normally at no longer than three-month intervals).

If Case Owners become aware of a change in the supported person's circumstances that may make them ineligible for section 4 support, Case Owners must make necessary enquiries and take action appropriate to the change in circumstances.

See the AI on Reviewing Section 4 support for further information on the review process.

Repeat applications

If a person who has previously applied for section 4 support makes a subsequent application, Case Owners must be satisfied that the person meets the eligibility criteria set out in Is the applicant eligible for support under section 4(2) above.

If an application for support under section 4 is a repeat application, it will be considered on its individual merits. But, if there has been no material change in the person's circumstances since support was last refused or discontinued, it is likely that Case Owners will come to the same conclusion on the same set of facts as they did at that time.

Breach of support conditions

The provision of section 4 support is subject to conditions imposed under regulation 6(2) of the 2005 Regulations, providing the conditions have been set out to the person in a notice in writing (the grant letter).

Support may be discontinued if Case Owners consider that any of these conditions have been breached without reasonable explanation.

Regulation 6(2) specifies that conditions may relate to compliance with:

- Specified standards of behaviour.
- Reporting requirements.
- A requirement to reside at an authorised address, and not be absent without permission for more than seven consecutive days and nights or more than a total of 14 days and nights in a six-month period.
- Specified steps to facilitate departure from the UK.

The standard conditions for section 4 support are set out in the section 4 application form. They apply to the supported person and any dependant. They must:

- Comply with standards of behaviour specified by the accommodation provider, for example in an occupancy agreement, and they must not commit acts of antisocial or violent behaviour.
- Comply with any reporting requirement.
- Reside at the accommodation provided and must not be absent without permission from the accommodation for more than seven consecutive days and nights or for more than a total of 14 days and nights in a six-month period.
- Comply with specified steps to facilitate their departure from the UK. They are required to comply with attempts to return them to their country of origin, and to take all reasonable steps to obtain travel documents to facilitate their departure. (If they are eligible for section 4 support because of a judicial review, or because they have submitted further representations or made an out-of-time appeal to the AIT, continued support will not be subject to this condition).

Case Owners may become aware of a breach of conditions on information received from, among others, an accommodation provider, the police or UK Border Agency Intelligence.

Case Owners must give the supported person the opportunity to explain the alleged breach of conditions before discontinuing support. Case Owners must write to the supported person detailing the alleged breach, and the consequences of breaching section 4 support conditions, and inviting the supported person to provide an explanation. A copy of this letter should be sent to the supported person's representative.

In deciding whether the supported person has breached a condition of support without reasonable explanation, Case Owners must consider all the available information. In the circumstances set out below, Case Owners may decide that a condition of support has been breached.

Complying with specified standards of behaviour – regulation 6(2)(a)

The accommodation provider or police must provide written evidence that the supported person has committed an act of antisocial or violent behaviour. Alternatively, the accommodation provider must provide written evidence that the supported person has committed a breach of the specified standards of behaviour, for example those set out in an occupancy agreement.

Reporting requirements – regulation 6(2)(b)

Case Owners must consider a closer contact management regime, e.g. increasing reporting events or pastoral visits. Where the supported person consistently fails to report as directed, Case Owners may consider discontinuing section 4 support.

Failure to reside at the authorised address or unauthorised absence – regulation 6(2)(c)

The supported person must reside at the authorised address to continue to receive section 4 support. Additionally they must not be absent without Case Owner or Case Owner permission for more than seven consecutive days and nights, or for more than a total of 14 days and nights in a six-month period. Case Owners must maintain close contact with the accommodation provider to ensure that the supported person is not in breach of this condition.

Case Owners may request excerpts from the accommodation provider's occupancy register, but must also consider increased pastoral visits, where Case Owners suspect that the supported person may be in breach of this condition.

Where Case Owners decide to discontinue section 4 support for breach of this condition, the testimony of other residents and/or the accommodation provider may be used to support the decision.

Before discontinuing support under this condition, Case Owners must give the supported person the opportunity to explain their absence. Case Owners must write to the supported person, setting out:

- That there is evidence to suggest that they are in breach of this condition, and any specific absences, with dates (where available).
- That the supported person must explain why they were absent.
- That section 4 support may be discontinued if the supported person does not continue to reside at the authorised address, or fails to provide a reasonable explanation for their absence.
- That the supported person will no longer be allowed to stay in the accommodation, if support is discontinued.
- The supported person's right of appeal, should support be discontinued.
- A reminder of their duty to comply with any conditions placed on their continued stay in the UK.

If the supported person does not reply or provide a reasonable explanation

If the supported person does not reply or provide a reasonable explanation, Case Owners may infer that the supported person has no reasonable explanation.

The Support Staff must prepare a letter discontinuing support to be served on the supported person at the next reporting event or by post at the last known address. The Support Staff must fax a copy of the letter and any interview record to the supported person's representative.

If the supported person provides an explanation

Case Owners must decide whether, in view of the supported person's explanation, it would be unreasonable to discontinue support. For example:

- **The supported person alleges that they have been subject to harassment, or other unacceptable behaviour**
While Case Owners may require the supported person to provide evidence of this, it would be unreasonable to discontinue support in the meantime. Case Owners may also consider finding alternative accommodation for the supported person, which may improve their circumstances.
- **The supported person has been staying with friends or family**
Case Owners must check whether there is a specific reason for the supported person staying with them – the supported person's ill-health, for example – or whether the friends or family can support the supported person. If the absence was temporary and intended to be temporary, it would be unreasonable for Case Owners to discontinue support. However, where friends or family have the capacity to support the supported person, they may not be destitute and Case Owners may discontinue section 4 support.

Where the supported person has been absent from their designated address, other than whilst in hospital, it may be reasonable for Case Owners to assume that someone else has been supporting them. If Case Owners reasonably believe that this alternative support may continue, it would be reasonable to discontinue section 4 support.

This list is not exhaustive and Case Owners must decide whether a supported person is in breach of this condition on a case-by-case basis.

Complying with specified steps to facilitate departure – regulation 6(2)(d)

Unless the supported person's eligibility arises from a judicial review, further representations or an out-of-time appeal, it is a condition of support that the supported person comply with specified steps to facilitate their departure from the UK. This includes complying with attempts to return them to their country of origin and all reasonable steps to obtain travel documents.

Case Owners must notify the supported person in writing of the steps they are required to take. Where a supported person does not fully comply with these, Case Owners may decide that they no longer meet the conditions of support.

For example:

- The supported person did not attend a documentation interview at their Embassy or High Commission.
- The supported person has not submitted the required documents for ISDU to submit an ETD application.

- The supported person is subject to an ongoing investigation or prosecution under section 35 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for not complying with the documentation process.

This list is not exhaustive and Case Owners must decide whether a supported person is in breach of this condition on a case-by-case basis. If Case Owners decide that the supported person is not complying with the steps specified, they must discontinue section 4 support.

The supported person is found to be in breach of conditions

Where Case Owners are satisfied that the supported person has breached a condition of their section 4 support without reasonable explanation, the Support Staff must prepare a letter to the supported person for Case Owners to review and approve. This must set out:

- That the supported person is in breach of their section 4 support conditions.
- The breach for which the support is to be discontinued, and any specific evidence of it.
- That their section 4 support will be discontinued and that they will no longer be entitled to reside in their current accommodation.
- The supported person's right of appeal and how to appeal.
- The supported person's duty to comply with any conditions placed on their continued stay in the UK.

Discontinuation of support to families with children

When considering whether to discontinue the provision of support under section 4 of the Immigration & Asylum Act 1999 to families with minors, the course of action taken must be consistent with the UK Border Agency's obligations under section 55 of the Borders, Citizenship and Immigration Act 2009, to ensure that the decision has regard to the need to safeguard and promote the welfare of children who are in the UK.

If a decision is being made as to whether it is appropriate to discontinue support to a family with children as a result of a breach of the conditions of support as set out under [regulation 6 of the Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005](#), if the family are assessed as being destitute if it were not for the provision of the aforesaid support, the UK Border Agency must take in to account the impact of any decision on the family before proceeding.

Any decision as to whether it is appropriate to discontinue support must be proportionate to the situation. If the breach was minor, such as failing to report, it may not be appropriate to discontinue the provision of support. If however, the breach was extremely serious, such as extreme violence or vandalism, it may be appropriate to discontinue support. When making decisions as to whether it would be appropriate to discontinue support, Case Owners should consult their Senior Caseworker before proceeding.

If the discontinuation of support is appropriate, the Case Owners should take appropriate steps to safeguard and promote the welfare of the children. Before any action is taken to begin the process to discontinue support, the Case Owner should liaise with the local authority, notifying them that the UK Border Agency plans to discontinue support from the family, and request that the local authority provides alternative support. If the local authority makes an offer of support, the provision of support under section 4 should be discontinued as soon as the family transfers in to local authority care.

If the UK Border Agency considers that the supported family are eligible for support provided by the local authority, but the local authority refuses to provide support, the provision of asylum support must be maintained until the local authority provides support.

If a decision is taken that it would be appropriate to discontinue the provision of support to a family with children, the discontinuation letter should explain why the decision is consistent with the UK Border Agency’s obligations under section 55 of the Borders, Citizenship and Immigration Act 2009.

Summary and decision outcome

In summary, Case Owners must:

- Send a breach of conditions letter requesting an explanation to be submitted formally in writing.
- Consider whether to discontinue support once an explanation has been received or the supported person has not responded to the request.
- Send a decision letter (continuing support with warning if appropriate or discontinuing).
- If discontinuing support, include a Tribunals Service – Asylum Support Notice of Appeal Form and envelope.
- Copy the letter to the supported person’s representative.
- Liaise with the accommodation provider (via the Section 4 Accommodation Team).
- Where appropriate, liaise with the police to obtain a crime number and check whether the supported person has had any previous complaints made against them.

Supported person responds		Supported person does not respond
Explanation accepted	Explanation rejected	
Section 4 support continues. Review period as appropriate (but no longer than 3-month interval).	Discontinue section 4 support with a right of appeal under section 103 of the 1999 Act.	Case Owner may decide there has been a breach and discontinue support, with a right of appeal under section 103 of the 1999 Act.

The Support Staff must record the decision on ASYS, referring to the ASYS User Manual on Section 4 Applications and Section 4 Discontinuation Tool for guidance.

Accommodation providers

On discontinuing section 4 support, Case Owners must inform the accommodation provider of that decision. Case Owners must confirm this in writing to the accommodation provider instructing that an eviction notice be served on the supported person, ordinarily giving them no less than seven days to vacate the accommodation. This notice must be in accordance with any occupancy agreement.

Case Owners must consider with Case Owners whether to review the supported person’s contact management regime.

For further information, see Refusing support.

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	MO	19/04/07	Published
2.0	SK	17/05/07	Correction of 'Grant letter - Human Rights (fresh claim).
3.0	SK	21/06/07	Process amendment.
4.0	SM	26/03/08	Process amendment.
5.0	SK	21/05/08	Reps to be copied in to letters sent to SU.
6.0	SM	29/10/08	Re-branding
7.0	SM	24/03/08	Amendment to destitution guidance
8.0	SM	04/06/09	Limiting AVR to one opportunity
9.0	SM	11/06/09	Bail section removed due to the introduction of a S4 Bail AI on 15/06/09
10.0	SM	07/07/09	Amendment to 3(2)(a) policy
11.0	SM	09/07/09	Medical Declaration Introduced
12.0	SM	11/09/09	Instruction added to enclose TSAS envelopes with refusals
13.0	SM	02/10/09	Children's Duty paragraphs added
14.0	SM	09/10/09	Regulation 3(2)(e) section amended to reflect new further submissions process.
15.0	SM	19/11/09	Clarification of further submissions procedure