

Section 4 Review Instruction

Table of Contents

Introduction

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

Section 4 review process

Standard review checks

Check if supported person has left the UK

If CID shows that the supported person has left the UK

If CID shows that the supported person has not left the UK

Requesting further information

If a reply is received from the supported person

If no reply received from the supported person

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

1st review six weeks after granting support

The supported person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason

1st review on date advised in the Medical Declaration

Supported persons accepted owing to late stages of pregnancy or with a new-born baby

1st review six weeks after expected date of delivery or six weeks after birth

The supported person is unable to leave the UK because in the opinion of the Secretary of State there is no viable route of return

Review after three months or when a policy statement confirming a change of policy in respect of a viable route of return has been issued

The supported person has made an application for Judicial Review of a decision a decision in relation to his asylum claim

Review after JR concluded

Provision of support is necessary to prevent a breach of a person's ECHR rights

1st review after 14 days

Check if the supported person has been granted a form of leave or refugee status

Check if the AIT has agreed to hear a late appeal or further representations have been submitted and accepted as a fresh claim

Barrier to removal has been concluded

Discontinue support

Discontinuation of support to families with children

Introduction

This Asylum Instruction (AI) deals with the process for reviewing eligibility for support under section 4(2) and 4(3) of the Immigration and Asylum Act 1999. It must be read in conjunction with the AI on [Section 4 Support](#).

For information on the process for reviewing eligibility for 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](#).

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 Caseworker” 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.

Section 4 review process

Section 4 cases are subject to a review process to ensure that only those entitled to support remain supported. In cases where the supported person is found to be no longer eligible or where a condition of support has been breached, support must be withdrawn and discontinued. Reviews must be completed promptly.

Cases are reviewed on an ongoing basis, including normally:

- After two weeks where the supported person has applied for support on the basis that they are taking all reasonable steps to leave the UK and has stated that they have registered with the Voluntary Assisted Returns and Reintegration Programme (VARRP), but this evidence has yet to appear on CID and cannot be confirmed through contacting the AVR Team.
- After six weeks where the supported person has applied for support on the basis that they are taking all reasonable steps to leave the UK and has registered with VARRP, and again after a further six weeks. Following this the case must continue to be reviewed every three weeks. Support will not usually be discontinued until after three months as a return under VARRP can take up to three months to complete and a supported person remains approved under VARRP for this period.
- Six weeks from the Expected Date of Delivery (EDD) (or birth where we have been notified) 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).

The review must be a complete reconsideration of the individual case, based on the current circumstances at the date of review. Case Owners must request further information from the supported person to enable them to provide evidence as to whether they remain eligible for section 4 support under [regulation 3 of the Immigration and Asylum \(provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005](#).

The review process is detailed below under each eligibility category. In all cases, Case Owners must confirm that the supported person continues to be destitute and record any change to the supported person's circumstances if notified.

Standard review checks

The following checks must be carried out in all cases at each review.

Check if supported person has left the UK

Case Owners must check CID to determine whether the supported person has left the UK.

If CID shows that the supported person has left the UK (or the AVR Team has confirmed that the supported person has left the UK)

Case Owners must contact the accommodation provider to confirm that the supported person's accommodation has been vacated, minute ASYS and close the case. See Ceasing Asylum Support.

If CID shows that the supported person has not left the UK

Case Owners must review eligibility under the relevant and other criteria, considering all the evidence available, including any new evidence which has been provided by the supported person.

Requesting further information

In all cases, Case Owners must request further information, in order for the supported person to provide evidence that they remain eligible for section 4 support.

Case Owners must:

- Check ASYS for the current address and confirm this with the accommodation provider.
- If the supported person is not residing at the address, carry out further investigations to establish where the supported person is residing.
- If the supported person is deemed to have absconded, consider absconder action.
- If the supported person has been moved, update ASYS and CID with the new address.
- Write to supported person to ask them to provide reasons why support should not be withdrawn. Send a copy of the letter to the applicant's representative.
- Give 14 days (plus two for postage) to reply, and arrange to review the case in 16 days.
- Ensure stamped addressed label is enclosed.
- Where reply received, or at the 16-day review, consider whether the supported person remains eligible for support.

You must use one of the letters listed below and ensure that the contact details are correct.

Review Letters	
Review of a previous grant of section 4 support	Review – Medical Review – Judicial Review Review – IOM Review – Further representations Review – Failed appeal Review – Refused Judicial Review

Review letter

templates can be found in the [Letters](#) section below.

If a reply is received from the supported person

- Check if the supported person remains destitute.
- If the supported person is no longer destitute, discontinue support. See Ceasing Asylum Support.
- If the supported person remains destitute, consider if they are still eligible for support. See the AI on Section 4 Support on how to consider and decide eligibility for section 4 support.

Review Letters	
Warning letters	Warning – breach of conditions Termination warning Termination warning – no reply from the supported person Discontinuation warning – VARRP Termination warning – Accommodation provider

If

supported person is still eligible under the same criterion, continue support.

- Set a further review date.
- If the supported person is now eligible for support under another criterion, maintain support and issue a new support letter setting out the new support grounds and conditions and a further review date. A copy of this letter should be sent to the representative.
- If the supported person is no longer eligible for support, discontinue support. See Ceasing Asylum Support.

You must use one of the letters listed below and ensure that the contact details are correct. Continuation of support letter templates can be found in the [Letters](#) section below.

Letters	
Continuation of section 4 support	Continuation of support Continuation of support – VARRP

If no reply received from the supported person

- Review the case on the basis of the evidence which is available, considering whether the supported person is still destitute and, if so, still eligible for support under the same or another criterion.
- If there is no evidence of destitution and eligibility, discontinue support. See Ceasing Asylum Support.
- If there is evidence that the supported person may have absconded, consider absconder action.

You must use one of the letters listed below and ensure that the contact details are correct. Warning letter templates can be found in the Letters section below.

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

Case Owners must ensure that the supported person is actively taking all reasonable steps to leave or enable them to leave the UK.

The supported person must have complied with the re-documentation process (where possible), and have not breached reporting conditions. Where the supported person has applied for VARRP, they must still be approved for Assisted Voluntary Return (AVR).

Two-week review

Where the supported person has applied for the support on the basis of a VARRP application but the VARRP application was not recorded on CID, a further CID check must be carried out after two weeks. If the application is still not recorded on CID and the AVR Team and the IOM cannot confirm the application, further evidence must be sought from the supported person.

1st review six weeks after granting support

Case Owners must firstly carry out the standard review checks to determine whether the supported person has left the UK.

If the supported person has not left the UK, Case Owners must check CID to see whether the VARRP application is still approved, or has been withdrawn by the supported person or delayed for any reason.

Case Owners must then request further information if required in order for the supported person to provide evidence of their eligibility for section 4 support. See Requesting further information.

If the supported person still qualifies under this criterion, Case Owners must set the next review date for six weeks later.

Where a supported person continues to be eligible for section 4 support under this criterion, ongoing review after the 2nd review must be every three weeks until the supported person has left the UK.

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

The supported person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason

When reviewing section 4 eligibility on the basis of a physical impediment to travel or some other medical reason, the supported person must be asked to provide further relevant written medical evidence in the form of the [UK Border Agency Section 4 Medical Declaration](#) (Medical Declaration) in support of his/her application. 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.

1st review on date advised in the Medical Declaration

Case Owners must firstly carry out the [standard review checks](#) to determine whether the supported person has left the UK.

If the supported person has not left the UK, Case Owners must write to the supported person requesting an up-to-date Medical Declaration, if they wish to continue to be supported on medical grounds, and asking for any other reasons why support should not be withdrawn. Send a copy of the letter to the applicant's representative. See [Requesting further information](#).

If the supported person still qualifies under this criterion, Case Owners must set the next review date for the date specified in the Medical Declaration.

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

Supported persons accepted owing to late stages of pregnancy or with a new-born baby

When reviewing eligibility for section 4 support granted on the basis that the supported person was unable to travel owing to being in the late stages of pregnancy or because of a new-born baby, the supported person must provide further evidence that she continues to be eligible for support under this or another criterion.

1st review six weeks after expected date of delivery or six weeks after birth

Case Owners must firstly carry out the standard review checks to determine whether the supported person has left the UK.

If the supported person has not left the UK, as the baby should now be old enough to travel, Case Owners must write to the supported person and their representative explaining that they are no longer eligible for support under this criterion. The letter must request any reason why support should not be withdrawn and promote VARRP. See Requesting further information

If the supported person still qualifies under this criterion, Case Owners must set a new review date (the new date should be no more than two weeks later).

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

The supported person is unable to leave the UK because in the opinion of the of the Secretary of State there is no viable route of return

In reviewing a case granted support under this criterion, Case Owners must check on the Asylum intranet site to see whether the policy statement has been withdrawn and whether, in the opinion of the Secretary of State, a viable route of return has become available. If this is the case, section 4 support must be discontinued unless the supported person qualifies under another criterion.

Review after three months or when a policy statement confirming a change of policy in respect of a viable route of return has been issued

Case Owners must firstly carry out the standard review checks to determine whether the supported person has left the UK.

If the supported person has not left the UK, Case Owners must check for any policy update on the Asylum intranet site:

- If there continues to be a policy statement that there is currently no viable route of return, confirm whether the supported person is still destitute (see Requesting further information). If so, support must be continued and a new review date set for three months later.
- If the policy statement in respect of no viable route of return has been withdrawn, Case Owners must write to the supported person and their representative to explain that, in the opinion of the Secretary of State, there is now a viable route of return and the supported person is no longer eligible for support under this criterion. The letter must also request any reason why support should not be withdrawn and promote VARRP. See Requesting further information.

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

The supported person has made an application for Judicial Review of a decision a decision in relation to his asylum claim

Where section support has been granted on the basis that in England and Wales or Northern Ireland permission to proceed/leave has been granted, or in Scotland the supported person has applied for judicial review (JR), Case Owners must review the case after four weeks by checking CID and with JRU to see if there has been an outcome.

If there has been no outcome and the supported person is still destitute, support should be extended for a further four weeks and a review date set. Case Owners must continue to review the case every four weeks until the JR is concluded. Case Owners must review continued eligibility for section 4 support as soon as the JR outcome is known.

Review after JR concluded

Case Owners must firstly carry out the standard review checks to determine whether the supported person has left the UK.

If the supported person has not left the UK, Case Owners must review the case in the light of the JR outcome.

If the supported person has been granted refugee status

If the supported person has been granted refugee status, discontinue support after 28 days. See Implementing Substantive Decisions and Ceasing Asylum Support for further information on how to implement the asylum decision and how to discontinue support.

If the case has been remitted to UK Border Agency or the AIT

If case has been remitted for reconsideration, the supported person may be eligible for section 95 support. The Case Owner must:

- Check ASYS for the supported person's current address and confirm this with the accommodation provider.
- Write to the supported person and their representative stating they may be eligible for section 95 support and enclosing a NASS 1 form.
- Discontinue support. See Ceasing Asylum Support.

JR has been withdrawn or refused

If the JR application has been withdrawn or refused, the supported person may no longer be eligible for section 4 support.

Case Owners must write to the supported person and their representative explaining that they are no longer eligible for section 4 support under this criterion; requesting any reason why support should not be withdrawn; and promoting VARRP. See Requesting further information.

Where appropriate, Case Owners must check with TSols to confirm whether any court order requiring the Secretary of State to provide interim support has been withdrawn.

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

Provision of support is necessary to prevent a breach of a person's ECHR rights

In cases where section 4 support has been provided under this criterion, the review period is dependent on the reason for granting support.

Case Owners must therefore monitor the case and review eligibility according to whether:

- The barrier to removal has been concluded.
- The supported person's late or out-of-time appeal has been refused or been heard and dismissed.
- The supported person's further representations have been refused or a fresh asylum claim has been recorded, or a form of leave has been granted.

Case Owners may start the review process 14 days after granting support.

1st review after 14 days

Case Owners must firstly carry out the standard review checks to determine whether the supported person has left the UK.

If the supported person has not left the UK, Case Owners must review eligibility under this and other criteria, according to the evidence available, including any new evidence which the supported person has provided. The process for reviewing support is below.

Check if the supported person has been granted a form of leave or refugee status

If supported person has been granted a form of leave or refugee status, discontinue support after 28 days.

- See *Implementing Substantive Decisions and Ceasing Asylum Support* for further information on how to implement an asylum decision and how to discontinue support.

Check if the AIT has agreed to hear a late appeal or further representations have been submitted and accepted as a fresh claim

If the AIT has agreed to hear a late or out-of-time appeal but the appeal has not yet been heard, or if the supported person has made further representations and these have been accepted as a fresh asylum claim but no decision on this has yet been made, they may now be entitled to section 95 support.

The Case Owner must:

- Check ASYS for the supported person's address and confirm this with the accommodation provider
- Write to supported person and their representative stating they may be eligible for section 95 support and enclose a NASS 1 form.
- Discontinue support. See *Ceasing Asylum Support*.

Barrier to removal has been concluded

Where the barrier to removal has been concluded or documentation barriers to leaving the UK have been overcome, or the supported person's late or out-of-time appeal has been refused or been heard and dismissed, or the supported person's further representations have been refused, the supported person may no longer be eligible for section 4 support.

Case Owners must write to the supported person and their representative explaining that they are no longer eligible for support under this criterion; requesting any reason why support should not be withdrawn; and promoting VARRP. See Requesting further information.

If a destitute family with children is assessed as being no longer eligible for section 4 support, Case Owners should refer to [Discontinuation of support to families with children](#) before discontinuing support.

Discontinue support

Where support is discontinued, the supported person has a right of appeal under section 103 of the 1999 Act to the Asylum Support Tribunal (AST). See the AI on Section 4 Support and the Asylum Support Policy Bulletin on Asylum Support Appeals for further information on section 4 appeal rights.

Supported persons who have their support discontinued are required to leave their accommodation within 14 days unless the supported person has been granted status, where support must be continued on a discretionary basis for 28 days.

To discontinue support, Case Owners must:

- Draw up a refusal letter with reasons.
- Recheck that the address on ASYS has been confirmed by accommodation provider.
- Give 14 or 28 (if the supported person has been granted leave) days' notice (giving an actual date).
- Include the AST appeal form and envelope.
- Ensure that the letter is posted on the same day as it is dated.
- If the supported person is represented, **fax and post** the refusal letter to the representative.
- Serve a letter on the accommodation provider to notify them that support will end on the due date.
- Ensure that the letter to the provider is **faxed and posted by recorded delivery**.
- Scan confirmation of fax onto ASYS.
- Update ASYS.

You must use one of the letters below and ensure that the contact details are correct. Termination letter templates can be found in the Letters section below.

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 due to no longer satisfying the eligibility criteria for support under section 4 of the Immigration & Asylum Act 1999 (1999 Act), who have not been granted any form of leave, and are not eligible for support under section 95 of the 1999 Act, or 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.

If support is being discontinued as a result of a breach of the conditions of support as set out under [regulation 6 of the 2005 Regulations](#), 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.

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	MO	19/04/07	Published
2.0	SM	26/03/08	Process amendment
3.0	SK	21/05/08	Reps to be copied in to letters sent to SU.
4.0	SM	03/11/08	Re-branding
5.0	SM	04/06/09	ECHR – Doc barriers overcome
6.0	SM	11/06/09	Bail information removed due to introduction of the S4 Bail AI on 15/06/09
7.0	SM	09/07/09	Introduction of the Medical Declaration
8.0	SM	02/10/09	Children’s Duty paragraphs added