

NOTE: This version was updated on 24 July 2023.
There may be an updated version on the website at righttoremain.org.uk/toolkit

Illegal Migration Act 2023

A new law called *The Illegal Migration Act 2023* has recently come into force. The Act has brought about significant changes to the UK asylum and immigration system for people who arrive in the UK on or after 20 July 2023. We are in the process of updating the Toolkit to reflect these developments. For now, please be aware that some of the information in the Toolkit may be out-of-date for people who arrived in the UK after that date. To stay up to date with any changes to the Toolkit, please sign up to our newsletter.

Asylum Support: financial support and accommodation

If you have [claimed asylum](#), and do not have anywhere to live and/or money to support yourself, you may be able to get “asylum support”. This is provided by the Home Office and, depending on your circumstances, can include housing and/or basic living expenses.

Asylum support is provided by the Home Office while your asylum claim is being considered (this means while you are waiting for a decision), or after your claim for asylum has been refused.

Asylum support is different from mainstream [welfare benefits](#).

On this page, you will find the following information:

- What is asylum support?
 - Destitution
- Actions you can take
- Section 98 support (temporary)
- Section 95 support, including:
 - Dispersal
 - Subsistence-only support
- The Nationality and Borders Act and asylum accommodation
- Permission to work and asylum support
- The inadmissibility and asylum support
- Appealing a refusal of asylum support
- Section 4 support and fresh claims
- Other types of support

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What is asylum support?

If you have [claimed asylum](#), and do not have anywhere to live, or have somewhere to live but do not have the money to support yourself, you may be able to get “asylum support”. This is provided by the Home Office and, depending on your circumstances, can include housing and/or basic living expenses (money).

Asylum support is provided by the Home Office while your asylum claim is being *considered*. This is the period while you are having interviews with the Home Office/waiting for a decision on your asylum claim.

You may hear this kind of support called “NASS support”, named after the department of the Home Office that used to provide the support in the past.

If you have **dependants** with you (this means someone who is relying on you, like children or a spouse), they will be included when the Home Office provides you with asylum support.

Unaccompanied children (this means under the age of 18) who seek asylum are not eligible for asylum support and should instead apply for support from social services.

There are **different types of asylum support** that the Home Office provides, depending on the stage of the asylum process you are in. Asylum support is provided under section 98 (temporary), section 95 (while waiting for an asylum decision) or section 4 (after an asylum claim has been rejected) of the Immigration and Asylum Act 1999.

Keep reading this page to find out about each type of support, and which one applies to you.

Destitution

If you did not request asylum support at the port of entry (when you arrived in the UK), you should inform the Home Office if you need housing and/or financial support during your asylum screening interview. You can read more about the Asylum Screening Interview by reading our Toolkit page about it.

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To receive asylum support, you will need to prove to the Home Office that you are experiencing 'destitution'.

Under the legal test (in section 98 and 95), a person is experiencing destitution if:

- They do not have adequate accommodation or any means of obtaining it; or
- They have adequate accommodation, but cannot meet their other essential living needs.

When considering an application for temporary support under section 98, the Home Office needs to see if that is your situation now.

If you are applying for support under section 95 or section 4, the Home Office needs to see if you are destitute now or will become so in the next 14 days.

ACTION SECTION

Applying for Asylum Support

If you have been **staying with friends or family** before now, you will need to provide evidence about this accommodation and why you can no longer stay there. This can be done through a letter from the person who you have been living with. If you've been living at several different addresses, you should provide details of each one. These details will include the address, how long you stayed there, and why you couldn't stay there any longer.

If you have received **support from charities**, you may need to provide information about this, or about trying to receive this support and failing to do so. This might be in the form of a letter from the charity.

If you have a **bank account**, you may need to provide copies of bank statements for the last six months. The Home Office may run a "credit check" on you. This means they may examine current and previous bank accounts.

If you have/had the **right to work**, you may need to provide wage slips or tax documents such as a P60. If you have previously claimed mainstream benefits, you may need to provide evidence that you are no longer entitled to these. /continued...

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If you've **been in the UK for a while** and haven't been receiving support in any of the ways mentioned above, you will need to explain (and prove, if possible) how you have been supporting yourself and why this cannot continue.

Section 98 support (temporary)

Section 98 support is meant to be temporary, emergency support for people seeking asylum who have applied and are waiting for section 95 support. It is often called "initial accommodation".

Section 98 support is usually in the form of full-board at a Home Office hostel/hotel. In some places in the UK, it is self-catering (this means food is not provided) and cash is given to the person seeking asylum in order to buy food.

The Home Office will assess whether it thinks you are destitute/require section 98 emergency support, including initial accommodation. If the Home Office decides that you meet the criteria (this means standards) for temporary accommodation, the Home Office should provide this immediately after the screening interview.

So, if you are asking the Home Office to provide you with accommodation, you should take all your belongings with you to the screening interview. There is **no right to appeal** a decision from the Home Office if they say that they think you do not need emergency support under section 98.

If your application for section 98 support is **refused**, even though there is no right to appeal, the Asylum Support Appeals Project says:

... a re-consideration should be requested, reminding the [Home Office] of the destitution test. Decisions can often be reversed. The [Home Office] may also have made a mistake regarding the definition of an asylum-seeker, for example refusing support for someone who has an outstanding asylum appeal or who has had their further submissions accepted as a fresh claim.

If you receive section 98 support, you will be required to apply for section 95 support.

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Your section 98 support will **stop**:

On the day you receive/travel to your **section 95** accommodation. You can read more about this below; or

If you receive a **decision** on your asylum claim from the Home Office (either a refusal or a grant of status). You can read more about asylum decisions at www.righttoremain.org.uk/toolkit/decision

To learn more about how to apply for section 98 support, read this fact sheet by the Asylum Support Appeals Project at www.asaproject.org

Section 95 support

Section 95 support will be granted after some days, weeks, or sometimes months in initial accommodation under section 98.

If you need housing support from the Home Office, under section 95 you will be taken to new accommodation, usually a flat or shared house, somewhere else in the country. This is called 'dispersal'. If you do not need housing support but instead only need a weekly allowance from the Home Office, read the section below.

In June 2023, the Home Office confirmed that **you do not need to have had an asylum screening interview before you make an application for section 95 support** (or for that application to be considered by the Home Office).

Dispersion is a government policy that was introduced to spread the cost of providing asylum support to local authorities across the UK, beyond just the local authorities in London and the South East of England. That is why most people seeking asylum who receive section 95 support are moved outside of London and the South East. Unfortunately, you do **not** have a choice about where in the UK you are housed under Home Office accommodation. You can be dispersed to anywhere in Britain.

Section 95 support includes housing and/or [£47.39 allowance per week](#) for each person in self-catered accommodation. For people in accommodation that is catered (this means food is provided), they receive [£9.58 allowance per week](#).

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You will receive instructions on how to receive your money, which will be paid through a card called an Aspen card. This can be used like a debit card, to withdraw money from **cash machines** or to pay for items in shops.

The Home Office are able to track the use of Aspen cards and in some cases have stopped people's support when they have seen that people used them in places away from their dispersal city/town of residence. You can read more about this by clicking [here](#).

Section 95 support will stop if:

If your asylum claim is refused and you become "[appeal rights exhausted](#)" section 95 support will stop after 21 days. There is no right of appeal if this happens. However, you may be eligible for section 4 support. Read the section 4 part below to find out more.

If the Home Office grants you leave to remain in the UK (refugee status), your section 95 support will end after 28 days. This is because you will be allowed to work and to claim mainstream benefits.

To learn more about what happens after you have been granted asylum, read the Migration Justice 'Refugee Transition Guide'. The guide is available in English, [Arabic](#), [Farsi](#), [Somali](#) and [Tigrinya](#).

To learn more about section 95 support, read this fact sheet by the Asylum Support Appeals Project [here](#).

Subsistence-only Section 95 support

If you have a friend, family member, or community you can stay with long term, you can ask the Home Office to just provide you with money for basic living expenses. This is known as "**subsistence-only**" or "**subs-only**" asylum support. If you apply for this kind of support, you will not be dispersed as you will be accommodated by your friend, family or community member instead.

When considering an application for asylum support, the Home Office can refuse the application if you did not claim asylum "as soon as reasonably practical" after entering the UK. This period is usually considered to be three days. This is known

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as a **Section 55 decision**, named after the law that gives the Home Office the power to do this. The Home Office should not make a Section 55 decision if you would be made street homeless without asylum support. If you have applied for subs only support, the Home Office can argue that your human rights will not be breached by a Section 55 decision as you will not be made homeless (because you must have alternative accommodation, otherwise you would be applying for accommodation as well).

You can also apply for *accommodation only* from the Home Office, if friends and family can provide you with food or you have a low income, though this situation is quite unusual.

The Nationality and Borders Act and asylum accommodation

In 2022, a new law called the Nationality and Borders Act (NABA) came into force. It introduces grim and far-reaching changes to the UK asylum system and is likely to have a devastating impact on the lives of people fleeing persecution (this means danger specific to them in the country they are from) and seeking safety in the UK. To learn more about NABA, you can read our Legal Update which summarises the changes it makes.

[Section 13](#) of NABA relates to accommodation for people seeking asylum. In reality, this section does not really change things for people who are applying for or already have asylum accommodation from the Home Office. The reason why this is not a change is because the existing law already gives the Home Office the choice of how they accommodate people seeking asylum. Section 13 of NABA puts into law something that the Home Office could already do.

We have yet to see what the Home Office will do in terms of changing the centres for accommodation, and who this will apply to. We will update this page if any developments happen.

Permission to work and asylum support

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Most people who have claimed asylum in the UK are initially not allowed to work. This can be really difficult because it feels like you cannot move on with your life, and you cannot earn your own money whilst waiting for a decision from the Home Office.

However, the immigration rules allow for people seeking asylum to request permission to work if you have been waiting for **more than 12 months** on your asylum claim “through no fault of your own” (for example, a Home Office delay in giving you a decision). This may be 12 months after initially claiming **asylum**, or 12 months after submitting **further submissions** to be considered as a fresh claim. You can read more about fresh claims below.

Almost everybody granted permission to work under this policy is only allowed to work in a job on the **shortage occupation list**. This is a list published by the Home Office that shows jobs that have a shortage (this means not enough) people working in them in the UK.

If you receive permission to work, this will not affect your asylum support.

However, if you start working and have an income (this means to earn money), you will have a legal duty to notify the Home Office of this. The Home Office will then review your situation to see whether or not you are still considered ‘destitute’. The outcome of this will depend on your specific situation.

EXAMPLES OF HOW INCOME MAY AFFECT ASYLUM SUPPORT

For example, if your income is less than your weekly asylum support subsistence (less than £47.39 per week), the amount of subsistence will likely be reduced but not stopped.

If your income is more than your weekly asylum support subsistence (more than £47.39 per week), then the Home Office will likely stop giving you the weekly subsistence because you would no longer meet the destitution requirement, as explained in the test above.

In this situation, if you receive both weekly subsistence and asylum accommodation, and it is clear that although your income is more than the weekly subsistence but not enough to pay for private accommodation, the Home Office may stop your weekly subsistence and ask you to pay some contribution for your asylum accommodation instead of expecting you to move out.

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The Inadmissibility Rules and asylum support

In January 2021, the UK government introduced new rules through which they can decide that an asylum claim is “inadmissible” if they established a connection to a ‘safe third country’ on their way to the UK. This means that the UK will try not to consider that person’s asylum claim in the UK. These rules replace the Dublin Regulations, which no longer operate in the UK after Brexit.

If the Home Office finds that it needs to consider whether or not your claim should be deemed ‘inadmissible’, you will receive a [Notice of Intent](#) letter. Importantly, this is not the same as receiving a [decision of inadmissibility](#). It is simply a notification to let you know that TCU is considering whether or not your claim is inadmissible. At this stage, no formal decision on inadmissibility has been made yet. To see an example of a Notice of Intent letter, have a read of page 30 of the Home Office guidance on inadmissibility [here](#).

While your claim is being considered under these rules, your asylum claim will not move forward in the UK.

Importantly, if you receive a Notice of Intent and your asylum claim is paused, you will still receive section 95 or section 98 support. It will not be stopped.

However, if you receive a decision of inadmissibility, section 95 or section 98 support will be stopped. You would still be able to apply for support under section 4 if you meet the requirements (which are listed below in the section 4 part of this page).

To learn more about how the Inadmissibility Rules might affect your asylum support, you can read the guidance for Home Office caseworkers (specifically pages 9-10 of the guidance) [here](#).

Appealing a refusal of support

If your application for Section 95 asylum support is refused by the Home Office, you have the right to appeal this decision at the Asylum Support section of the First-tier

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Tribunal.

You can read about appealing an asylum support refusal in the resources provided by the Asylum Support Appeals Project [here](#).

Legal aid is only available for appealing this decision if you applied for both accommodation and financial support – legal aid is not available for appealing a negative decision on a “subs-only” asylum support application. You can learn more about Legal Aid by reading our Toolkit page.

Fresh claims and section 4 support

This is a form of support for some people whose asylum claims have been **refused** and are considered to be “appeal rights exhausted”. You can learn more about being appeal rights exhausted in our Toolkit.

Section 4 support is made up of **accommodation** and a **financial payment** through an Aspen card. Like dispersal under section 95, you will not have a choice about where the accommodation is located.

To receive this type of support, you need to be able to show that you are destitute (see the test outlined above by clicking [here](#)) and that one or more of the following situations applies to you:

- that you are taking all reasonable steps to leave the UK or facilitate your departure from the UK but there are barriers or delays out of your control that prevent you leaving.
- that you are unable to leave the UK because you are physically or medically unable to travel. This includes women who are pregnant and are in about the last six weeks of their pregnancy, or in the first six weeks after giving birth.
- that the Home Office accepts that there is “no viable route of return” to your country of origin. This is a very unusual situation, but could apply for example, if you have received a decision of inadmissibility.
- that you have been granted permission to proceed with an application for a [judicial review](#) of the decision on your asylum claim
- that the provision of section 4 support is necessary to avoid breaching your human rights.

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It is this last category that is likely to apply if you have submitted **further submissions** to the Home Office and are asking them to consider them as a **fresh claim**. To learn more about fresh claims, read our Toolkit page.

Section 4 support is only for while you wait for the Home Office to decide if they view your further submissions as a fresh claim. If the Home Office accepts that your further submissions pass the “fresh claims test” but have not made a decision on your actual fresh claim, you may be eligible for the Section 95 support described above.

If you receive Section 4 support as a result of one of the other listed categories, the Home Office will ‘review’ your support every few months, and you may be required to provide evidence that you remain eligible for this support. It is important to keep **documents** about your situation to submit to the Home Office when requested.

To learn more about Section 4 support, take a look at the Asylum Support Appeals Project’s useful fact sheets by clicking [here](#).

Other support

You may be entitled to accommodation and financial support from the social services department of your local government authority if you have a serious illness, physical disability, learning disability, mental health problems or frailty because of old age, or if someone in your family has any of these. This is called **Section 17 support**, because it comes from section 17 of the Children Act 1989.

The local authority should conduct what is called a Community Care Assessment to decide what support you need.

You can read more about Section 17 support by looking at the resources on the [Project 17](#) website [here](#).

Hackney Migrant Centre also published a guide to Section 17 support. You can access it [here](#).

Unaccompanied asylum-seeking children will also be the responsibility of the local authority (through social services). You can find out more about this on the Migrant Children’s Project website [here](#).

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