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Factsheet 14

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This factsheet looks at the support that is available to people on temporary admission under Section 4(1) (a) or (b) of the Immigration and Asylum Act 1999.

Our telephone advice line

If you still have questions or need further information and advice *after* reading this factsheet, please contact our advice line on 020 3716 0283, which is open Mondays, Wednesdays and Fridays from 2pm to 4pm.

What is Section 4 (1) (a) and (b) support?

Section 4(1)(a) and (b) of the Immigration and Asylum Act 1999 gives the Home Office the power to provide accommodation and support to people on temporary admission. This factsheet looks at (a) and (b) together. This is because the Home Office makes no distinction between these two clauses and treats them in exactly the same way.

To qualify a person will need to show they are on temporary admission, are destitute and that it is not possible or reasonable to expect them to return to their country of origin. There is no power to provide support to dependents, so they will need to make their own applications for support. The support comprises accommodation on a no-choice basis and voucher support.

How can a person show they are on Temporary Admission?

People on temporary admission are in touch with the Home Office. They will have been given a form called IS96 detailing the conditions of their temporary admission which will usually include having to report regularly to an immigration officer. If person has an IS96 and/or are reporting to the Home Office they are likely to be on temporary admission.

Can asylum-seekers apply?

Support under s4(1)(a) and (b) is different to ordinary s4 support (which is given under s4(2) of the same Act) because there is no statutory requirement for the supported person to be an asylum-seeker or refused asylum-seeker. But the Home Office policy is to refuse support under s4(1) to people who are current or

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refused asylum-seekers. The Home Office argues that, if someone is a refused asylum-seeker, they should apply for support under s4(2). For more information on s4(2) support, see ASAP Factsheet 2.

Home Office policy

Section 4(1)(a) and (b) has no accompanying statutory regulations setting out eligibility. However, the Home Office has issued a specific policy on s4(1)(a) and (b). This policy should be considered before making an application for support. It can be found at paragraph 1.1 of the Asylum Support, Section 4 policy and process. It sets out the following:

- Section 4(1) (a) & (b) is not to be used for failed asylum-seekers
- Unless they are unaccompanied asylum seeking children whose claims were finally determined before they reached 18
- Other migrants need to have truly exceptional circumstances, be destitute, have no other support available, and the provision of support is necessary to avoid a human rights breach
- Not to be used where there are children in the family as there are other forms of support (Children Act s17)
- Not to be used where someone should be submitting an asylum or Article 3 claim
- Not to be used solely on the basis of an outstanding Article 8 or long residence application. However this last point should be disregarded as the Home Office have now accepted that Article 8 claimants may qualify for support.

Note that this is policy, not statutory guidance. This means that applicants for s4(1)(a) and (b) may be able to argue that they fall within the scope of the legislation even if they appear to be excluded by the Home Office policy. However, if an application for s4(1)(a) & (b) is refused by the Home Office, the First-Tier Tribunal (Asylum Support) will refer to the Home Office guidance when determining an appeal against the refusal. Tribunal Judges will only depart from this guidance and allow an appeal if there is something exceptional about the facts of the case.

Who could benefit?

Section 4(1)(a) and (b) support is available to people on temporary admission who can show that it is not possible or reasonable to expect them to return to their country of origin. Under the Human Rights Act, the Home Office and the First-Tier Tribunal (Asylum Support) have a duty to act in accordance with people's human rights, which would include providing support under s4(1)(a) and (b) where necessary.

People in the following categories may be eligible for support under s4(1) (a) and (b) (destitution is always an essential requirement):-

- Non-asylum-seeker who is attempting to return home
- Non-asylum-seeker brought to the UK as a child
- Non-asylum-seeker with severe medical problems who is unable to travel back to their country of origin
- Non-asylum-seeker awaiting status documents
- Asylum-seeker who absconded before their substantive asylum interview and has now re-emerged and re-registered their asylum claim
- Non-asylum-seeker who has submitted an Article 8 application.

This is not an exhaustive list and there may be other circumstances where someone would be eligible under this section.

How can people apply?

There is no separate application form for support under s4(1)(a) and (b). You can apply using the Asylum Support Application form (ASF1). Include a letter explaining that you are applying under s4(1)(a) and (b) and why you are doing so. If support is refused, there is a right of appeal to the First-Tier Tribunal (Asylum Support) (see Factsheet 3 for more information on how to appeal).