

Tribunal Ruling Clarifies Fresh Claims Support Entitlement

ASAP Newsflash

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Decision Rules Out s95 for Failed Asylum Seekers

The asylum support tribunal has made a new ruling confirming that failed asylum seekers who have submitted fresh representations are eligible for section 4 support but not section 95 support. The decision overturns an earlier tribunal ruling, made following the introduction of the new fresh claims procedure, that asylum seekers who have submitted fresh representations are entitled to and should apply for section 95 support. This caught everyone by surprise and caused confusion among refugee support organizations and advice agencies unsure how to respond. The UKBA subsequently refused applications for section 95 support in these circumstances. The new ruling ends the confusion though it means failed asylum seekers are not entitled to section 95 support. **Advice workers should advise clients with fresh representations to apply for section 4 support.**

What About Clients Granted s95 Support?

Following the first ruling, some failed asylum seekers were granted section 95 support by the tribunal while others were refused. If the UKBA now wants to withdraw section 95 support from these few individuals, this should be challenged. If the UKBA was unhappy about an earlier tribunal decision granting the individual section 95 support, it should have applied for judicial review. If it has not done so, the tribunal's decision stands and the UKBA can only withdraw section 95 support if there is a change in the individual's circumstances. **Let ASAP know if you come across any of these cases.**

Campaign Continues Against Fresh Claims Policy

The tribunal's decision does not affect the dispute over the UKBA's continuing refusal to provide section 4 support until at least 20 working days (and usually longer) after an applicant has managed to get through to the Liverpool UKBA office and booked an appointment to lodge the fresh representations. A judicial review claim has been lodged challenging this but the hearing is not due before October. **Let ASAP know if you have clients in this situation who want to apply for judicial review but you cannot find solicitors and we will try to help.**