

Discontinuation periods for asylum support

28th September 2023

As a general principle, the Home Office should give people notice that their support is going to stop so they can plan what they will do next¹. On 1st August 2023, the Home Office announced a change in procedure for the discontinuation of asylum support for people who have received a decision on their asylum claim. Previously, individuals would be given either 28 or 21 days' notice that their support was going to end. Under the new policy, in practice most people will probably only ever get 7 days' notice.

This briefing note explains the law around cessation of support and outlines the different notice periods depending on the circumstances. References to a person should be read as including any dependants included in their grant of support.

1. Section 95 (s95) support, following an asylum decision

1.1 The law

The legal powers to provide and stop s95 support are governed by the following statutory provisions:

Immigration and Asylum Act 1999 (IAA99)

s95(1)

The Secretary of State may provide, or arrange for the provision of, support for

- (a) asylum-seekers, or*
- (b) dependants of asylum-seekers,*

who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed.

s94(1)

"asylum-seeker" means a person who is not under 18 and has made a claim for asylum which has been recorded by the Secretary of State but which has not been determined;"

s94(3)

For the purposes of this Part, a claim for asylum is determined at the end of such period beginning—

- (a) on the day on which the Secretary of State notifies the claimant of his decision on the claim, or*
- (b) if the claimant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of, as may be prescribed.*

¹ See for example [Ceasing asylum support: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/ceasing-asylum-support-caseworker-guidance), p13 September 2023

s94(4)

An appeal is disposed of when it is no longer pending for the purposes of the Immigration Act or the Special Immigration Appeals Commission Act 1997

Asylum Support Regulations 2000 (AS Regs 2000)

Reg 2(2)

The period prescribed under s94(3) of the Act (day on which a claim for asylum is determined) for the purposes of Part VI of the Act is 28 days where paragraph (2A) applies, and 21 days in any other case.

Reg 2(2A)

This paragraph applies where:

- (a) the Secretary of State notifies the claimant that his decision is to accept the asylum claim;*
- (b) the Secretary of State notifies the claimant that his decision is to reject the asylum claim but at the same time notifies him that he is giving him limited leave to enter or remain in the United Kingdom; or*
- (c) an appeal by the claimant against the Secretary of State's decision has been disposed of by being allowed.*

Reg 22

(1) If—

- (a) as a result of asylum support, a person has a tenancy or licence to occupy accommodation,*
- (b) one or more of the conditions mentioned in paragraph (2) is satisfied, and*
- (c) he is given notice to quit in accordance with paragraph (3) or (4),*

his tenancy or licence is to be treated as ending with the period specified in that notice, regardless of when it could otherwise be brought to an end.

(2) The conditions are that—

- (a) the asylum support is suspended or discontinued as a result of any provision of regulation 20;*
- (b) the relevant claim for asylum has been determined;*
- (c) the supported person has ceased to be destitute; or*
- (d) he has moved to other accommodation.*

(3) A notice to quit is in accordance with this paragraph if it is in writing and—

- (a) in a case where sub-paragraph (a), (c) or (d) of paragraph (2) applies, specifies as the notice period a period of not less than seven days; or*
- (b) in a case where the Secretary of State has notified his decision on the relevant claim for asylum to the claimant, specifies as the notice period a period at least as long as whichever is the greater of—
 - (i) seven days; or**

(ii) the period beginning with the date of service of the notice to quit and ending with the date of determination of the relevant claim for asylum (found in accordance with section 94(3) of the Act).

(4) A notice to quit is in accordance with this paragraph if—

- (a) it is in writing;*
- (b) it specifies as the notice period a period of less than seven days; and*
- (c) the circumstances of the case are such that that notice period is justified.*

There are also two currently published Home Office policies relevant to s95 discontinuations in this context:

- [Ceasing asylum support: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/ceasing-asylum-support-caseworker-guidance), version 2.0 published 7 July 2023
- [Asylum policy bulletins: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/asylum-policy-bulletins-caseworker-guidance), version 10.0

1.2 Summary of the legal position

A person remains entitled to s95 support whilst they are a destitute asylum-seeker (s95(1) IAA99). They will cease being an asylum-seeker when their asylum claim is “determined” (s94(1) IAA99). A claim is only determined at the end of the period specified in the AS Regs 2000 (s94(3) IAA99). The periods are: (i) 28 days where a person has been granted leave; and (ii) 21 days in other cases (regs 2(2) and 2(2A) AS Regs 2000).

If a person lives with a child(ren) (who is(are) dependant on them) when they are refused leave, their support will continue (s94(5) IAA99, but see also ASAP’s September 2022 briefing on [support for families](#)).

1.3 Grant of leave

When a person has been granted leave, the 28 days’ notice period begins on the day on which the Home Office “notifies the claimant of his decision on the claim” (s94(3) IAA99). Reg 2(2A) explains that the 28 days apply to cases where the Home Office has accepted the asylum claim², has rejected the asylum claim but granted limited leave to remain or where the person has won an appeal.

When a person is granted leave they will receive a decision letter from the Home Office telling them that a positive asylum (or other positive) decision has been made. Notice must be given in writing and if sent by post, will be deemed served 2 days after it was posted (ss94(8) and (9) IAA99). Later, they will receive a Biometric Residency Permit (BRP) which can be used to show that the person has leave.

In most cases, biometric information is taken from applicants in the early days of their asylum claim so the BRP is issued automatically. We understand that this process currently takes at

² An asylum claim in this context is a claim under the Refugee Convention or Article 3 of the European Human Rights Convention (s94(1) IAA99)
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least 2 weeks. The BRP should also include a National Insurance Number (NINO). If the BRP is not automatically issued, the person will need to attend a biometrics appointment at the Home Office, further delaying receipt of the BRP.

Once the BRP has been issued, the Home Office will then issue a discontinuation letter which is sent by post. The accommodation provider is also instructed to issue a notice to quit (NTQ), usually served by hand. Both should stipulate a date by which they must leave the accommodation and support will end. The discontinuation letter also explains the reason that the support has been stopped and contains other information. This process has not changed, however we are aware that people do not always receive the discontinuation letter. Copies of these can be requested via Migrant Help (CopySupportDecisions@migranthelpuk.org).

Prior to 1st August 2023, the Home Office treated the service of the BRP as notice of a decision on the claim, so the 28 days would start from then³. If there were delays in issuing the BRP, support would usually be extended until this had happened. More recently, as there has been increased chaos in the asylum system, that timetable slipped further. The government has previously recognised that, in practice, a person will need a BRP and NINO in order to easily access benefits, apply for a job, open a bank account and find housing⁴.

Under the new system, the Home Office is treating the (earlier) service of the asylum decision letter as notice of a decision on the claim. However, they will not issue the discontinuation letter or NTQ until they have sent the BRP. The notice period will be whatever remains of the 28 days. But if more than 21 days have passed since the service of the asylum decision letter, the person will only ever get 7 days' notice. Accommodation and financial support will cease on the same day.

The 7 days' notice comes from reg 22 AS Regs 2000. This is the minimum notice period which normally applies for ceasing a person's accommodation under s95 support.

1.4 Refusal of the asylum claim, and no other leave granted.

When a person's asylum claim is refused and the Home Office is not going to grant them another type of leave, they get 21 days' notice which starts to run from the day on which the Home Office notifies the claimant of that decision (s94(3) IAA99), or, if the person has lodged an asylum appeal, the day they become appeals rights exhausted (ie the appeal (or onward an appeal) has been dismissed and they have run out of time to lodge further appeals (s94(3) and (4) IAA99⁵)).

³ See page 24 of [Welcome: a guide for new refugees - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/784421/Welcome_a_guide_for_new_refugees_-_GOV.UK.pdf), as published on 12 August 2019

⁴ See for example statements by Chris Philp, then Under-Secretary of State for the Home Department, in a Westminster Hall debate on the move on period, 4th March 2020 <https://hansard.parliament.uk/Commons/2020-03-04#undefined>

⁵ See also s104 Nationality, Immigration and Asylum Act 2002
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1.5 Challenging a discontinuation of support

A person can request a re-instatement or extension of support by contacting Migrant Help and using the usual escalation routes.

If the Home Office agrees that the person has not received their asylum decision notice, support will be re-instated until that document is served. Absent of this notice, it is accepted that the person remains an asylum-seeker for support purposes. If the person has not received their BRP, support will be extended in 7-day increments until the BRP is issued⁶.

It may also be possible and advisable to appeal a decision to discontinue support.

Home Office asylum decision letters and support discontinuation letters stipulate that there is no right of appeal in these situations. This is not necessarily true. s103 IAA99 governs the right of appeal. s103(2) provides that a person can appeal a s95 discontinuation if the Home Office stop support “before [it] would otherwise come to an end”.

We are aware, particularly in cases where a person has been refused asylum, that the Home Office makes mistakes. People may still have ongoing asylum appeals, people may also not have received notice of a decision on their asylum claims. These may all be grounds for appeal. If there are grounds for appealing, it is important that this right is exercised at the same time as making a re-instatement request, so as to protect individuals in case the informal re-instatement process explained above does not work or is too slow to work. Please call our advice line for further information on particular cases and/or look at our website which contains more information⁷.

The Home Office decision letter must be attached to the notice of appeal in order for the appeal to be valid. However, conscious of the long-standing issues with service of letters, the Asylum Support Tribunal (AST) has adopted a practice of accepting NTQs in lieu, if the Grounds of Appeal confirm that no decision letter has been received. See ASAP’s [guide to appealing](#) for more information on how to lodge an appeal.

2. s95 support, other kinds of discontinuations

s95 support may stop for a variety of reasons, other than because a person’s asylum claim has been determined. The person may (this is not a definitive list):

- no longer be destitute;
- be appeals rights exhausted and have children who are now all over 18⁸;
- have breached the conditions of their support (this would include cases where the person has abandoned their asylum support accommodation);
- failed to travel when requested to by the Home Office; or

⁶ Note that this may not be the same as having received a BRP. If the BRP has been issued, but the individual has not received it, we don’t think that this will automatically mean the Home Office will re-instate support.

⁷ [Resource Library - Resource library - ASAP \(asaproject.org\)](#)

⁸ See p13 of [Ceasing asylum support: caseworker guidance - GOV.UK \(www.gov.uk\)](#)

- withdrawn their asylum claim or had their claim treated as withdrawn.

The varying notice periods given by the Home Office in these circumstances are not governed by legislation, save for the minimum requirement that they be given 7 days' notice in reg 22 AS Regs 2000. Published Home Office policies do however specify different notice periods in some of these circumstances. These have been summarised in the table below.

Right of appeal: whether or not there is a right of appeal against this kind of discontinuation of support will depend on the facts. As a general rule, there will be a right of appeal if the person thinks the Home Office has made a mistake and they are still either destitute or an asylum-seeker. There is a right of appeal in breach of conditions cases. All the examples above could, depending on the facts, generate a right of appeal. If you are unsure, please call our advice line. In practice, it is likely that the Home Office will maintain support until the appeal is heard.

People granted temporary leave as victims of trafficking and slavery: On 7th July 2023, the Home Office updated their [Ceasing asylum support: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/ceasing-asylum-support-caseworker-guidance) to include a policy of discontinuing support for those who still have outstanding asylum claims, but have temporary leave to remain as victims of trafficking and slavery. It is important to note that, in these cases, support is being stopped because the Home Office considers such a person to no longer be destitute. However, their asylum claim remains outstanding and it could be that in some cases they remain destitute and therefore entitled to support. Such decisions may warrant an appeal to the AST. Please call our advice line to discuss specific cases.

3. Section 98 (s98) support

A destitute asylum-seeker who, it appears, may be destitute can obtain temporary support under s98 IAA99. This provides them with support pending a decision on their s95 application⁹. There are no statutory provisions governing the cessation of s98 support so this is a matter of policy. The table below outlines the different provisions in written policy.

The general position is that there is no notice period for stopping s98 support. People can be given as little as 1 day's notice. However, in practice, the Home Office will usually give a bit more notice, particularly where the person is vulnerable. Where there are children in the household, the Home Office should liaise with social services before stopping support¹⁰. In practice it is likely that the Home Office will maintain support until the appeal is heard.

Right of appeal: there is no right of appeal against the termination of s98 support. The only remedy is Judicial Review.

⁹ See ASAP's [Factsheet 17](#) for more information.

¹⁰ This has been our experience in practice. See para 37 of [this AST decision](#) where the Home Office gave this assurance in respect of the appellant's situation. (AS/17/09/37288)

4. Section 4 (s4) support

The situation in s4 cases is much simpler than with s95 or s98. As with s98, there are no relevant statutory provisions relating to the discontinuation of s4 support, so this area is governed by policy. The relevant policy document is [Section 4\(2\) policy and process.docx \(publishing.service.gov.uk\)](#). Reference to the relevant sections of the policy are in the table below.

In the case of a grant of leave, support should continue for 28 days after the notification of the decision. In practice we would anticipate exactly the same processes (and challenges) as those now encountered in s95 cases. In all other situations, the notice period is 14 days.

The s4 discontinuation process builds in a review period. Reviews are supposed to take place at least every 3 months. The Home Office does not always write to the supported person as part of that review process. But if they do, they will be given a short period of time to reply. If support is discontinued they will get a discontinuation letter 14 days from this date (plus 2 days for postage). The accommodation provider is also instructed to serve an NTQ giving the person no less than 7 days to vacate the premises.

Right of appeal: there is always a right of appeal in s4 discontinuation cases (s103(2A) IAA99). Home Office policy is to extend the provision of support pending an appeal, as long as the appeal was submitted before the end of the 14 days' notice period. There may not be grounds for appealing though. Please call our advice line to discuss individual cases.

5. Summary of discontinuation periods

Type of support	Discontinuation period	Authority
s95 – grant of leave	28 days from date of asylum decision or positive appeal (30 days if decision is served by post). In practice support is discontinued once the BRP is issued. A person is served with whatever notice is left, but always with a minimum of 7 days.	<ul style="list-style-type: none"> • s94(3) and (9) IAA99, • Reg 2(2) AS Regs 2000 • Reg 22 AS Regs 2000 • Ceasing s95 support, p.13
s95 – decision to refuse the asylum claim (no other leave granted). This includes inadmissibility decisions.	21 days from date of negative decision or ARE (23 days if decision is served by post)	<ul style="list-style-type: none"> • s94(3), (4) and (9) IAA99 • Reg 2(2) and (2A) AS Regs 2000, • Ceasing s95 support, p.6 • Asylum support policy bulletin, Q21
s95 - grant of trafficking/modern slavery leave	28 days from notification of leave (as with grant of leave above)	Ceasing s95 Support, p10

s95 - children all turn 18	21 days	Asylum support policy bulletins, Q29
s95 - withdrawn asylum claim	Financial support stops immediately and the person has 7 days to leave the accommodation.	Ceasing s95 Support, p7
s95 – person has actually left the UK	No need for notice, support is stopped and accommodation provider is notified.	Ceasing s95 support, p8
s95 – HO think the person has left the UK without telling them	Home Office should write to the person explaining they think they have left the UK. If there is no reply in 5 days, support should be immediately terminated. NB: Person should probably have 7 days' NTQ as well but policy is silent on this point	Ceasing s95 support, p9 Reg 22(2), AS regs 2000
s95 – no longer destitute, breach of conditions and another other s95 discontinuation	Min 7 days' notice period for accommodation. Policy is silent as to discontinuation period so assume 7 days.	Reg 22, AS Regs 2000
s95 – failure to travel	Imminently awaiting the publication of a new policy.	
s98 – asylum claim is determined before the s95 application is considered	28/21 days as above	Asylum Support: Policy Bulletins Instructions, para 1.1.2
s98 – negative asylum outcome and children turn 18	7 or 14 days depending on the circumstances	Asylum Support: policy bulletins instructions, para 1.1.2
s98 – decision to refuse s95 support	Policy says as soon as reasonable - usually the next day, exceptionally max 7 days. Practice is to wait for social services to carry out an assessment when there are children in the household.	Asylum Support: Policy Bulletins Instructions, para 1.1.2 This is to comply with the duty under s55 Borders Citizenship and Immigration Act 2009 (see also AS/17/09/37288)
s98 - and any other kind of s98 discontinuation	Policy says as soon as reasonable - usually the next day, exceptionally max 7 days.	Asylum Support: Policy Bulletins Instructions, para 1.1.2
s4 – grant of leave	Nothing in statute but policy says 28 days. We assume that the system will be the same as with s95 grant of leave cases.	Asylum Support, section 4 policy and process, p14

s4 – other cases (refusal of further subs, breach, not destitute, not eligible...etc)	14 days (Home Office letter) and no less than 7 days NTQ (accommodation provider).	Asylum Support, section 4 policy and process, p16
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6. Useful resources

- Asylum support policy: www.gov.uk/government/collections/asylum-support-asylum-instructions
- ASAP factsheets: <http://www.asaproject.org/resources>
- ASAP training: <http://www.asaproject.org/training>

The ASAP advice line is open Mondays, Wednesdays and Fridays between 2-4pm 020 3716 0283

