

FACTSHEET 17

Section 98 support

This factsheet explains the emergency support available to asylum seekers – Section 98 support.

IN THIS FACTSHEET:

>> What is Section 98 support?

>> Who is eligible for Section 98 support?

>> What is the destitution test?

>> How can you access Section 98 support?

>> What happens if I am refused Section 98 support?

>> Reasons why Section 98 support might be terminated

What is Section 98 support?

People seeking asylum in the UK, who lack the means to support themselves, are entitled to support while the Home Office is processing their asylum application. This support is called Section 95 (s95) support (See [Factsheet 1](#) for more information on s95 support). Asylum seekers must apply for this type of support on a specified application form and it can take several weeks for the Home Office to process this request. Section 98 (s98) support is a form of temporary support that is provided to asylum seekers who appear to be destitute and who are awaiting a decision on their application for s95 asylum support. According to Home Office policy a decision on a request for s98 support should be made “before the end of the working day on which the application is received”.¹

Section 98 support is supposed to be provided for a short period. It is generally offered on a full-board basis in Home Office hostels and often referred to as initial accommodation.

Who is eligible for Section 98 support?

Asylum seekers and their dependants who appear to be destitute can access s98 support. Those who apply for asylum at port (at a point of entry to the UK) may be taken to initial accommodation immediately, provided that they lack the means to support themselves in the UK. For those already in the UK, they will generally have to wait until their asylum application is recorded before they can access s98 support. There are some exceptions to this rule for those who are particularly vulnerable.¹ For more information on the definition of an ‘asylum seeker’ for support purposes see [Factsheet 1](#).

Those who access s98 support will be required to apply for s95 support. Refused asylum seekers cannot apply for s98 support while they are awaiting a decision on their Section 4 support application.

What is the destitution test?

Destitution is a prerequisite for accessing all types of asylum support in the UK. The test for destitution for s98 support is the same as that used to determine s95 applications under s95(3) of the Asylum and Immigration Act 1999:

... a person is destitute if:

- (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or
- (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs

Section 98 support is provided pending an assessment of eligibility for s95 support. While the burden of proof is on the applicant to demonstrate destitution, the evidential requirements should be less than those in the s95 application. This is reflected in the wording of the 1999 Act where it states that s98 support should be provided to those “who it appears to the Secretary of State may be destitute”, while s95 support is provided to 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”.

However, unlike the destitution test applied in s95 and s4 applications, in s98 cases there is no specified time period. To access s98 support one must appear to be destitute at the

ASAP (Asylum Support Appeals Project)
Studio 11/12, Container City Building,
48 Trinity Buoy Wharf, London, E14 0FN

Tel: 020 3716 0283
Fax: 020 3716 0272

Advice line: 020 3716 0283
(advisers only, Mon, Wed, Fri 2-4pm)

www.asaproject.org.uk

¹ See section 1.1.1 of Asylum Support: Policy Bulletins Instructions, v7.0. Home Office. <http://bit.ly/2opPlmK>

◀◀ point of application; not now or within the next 14 days, as is the case for s95 and s4 support applications. Asylum seekers may sometimes be advised that they must be street homeless to access s98 support. This is not the test according to the Act and what constitutes adequate accommodation and essential living needs will vary depending on the particular circumstances of the individual. For more information on proving destitution see [Factsheet 5](#).

How can you access Section 98 support?

If an asylum seeker informs the Home Office at their screening interview that she requires accommodation she should be provided accommodation under s98 of the 1999 Act.² If s98 support is required, it is advisable to bring evidence of destitution, particularly if the applicant has been supporting themselves in the UK for a significant period prior to claiming asylum.

An asylum seeker does not need an appointment to go to the Asylum Screening Unit in Croydon if she is homeless.³ The Home Office website states: "You don't need to make an appointment if you have nowhere to live – you can go to the screening unit from 7:30am to 4pm, Monday to Friday. Arrive early to make sure there's enough time to complete your screening."⁴

Individuals should seek immigration advice about how best to make an asylum application.

Home Office policy allows for the provision of s98 support for vulnerable destitute individuals, prior to their asylum claim being recorded, if they present to Home Office "out of normal office hours (17.30 to 09.00, and weekends and public holidays)"⁵

While it is common for asylum seekers to access s98 support at their screening interview, s98 can be accessed at any point during the asylum application, provided the destitution requirements listed above are met. There is no specified application form to apply for s98 support. When requesting s98 support an individual should provide some evidence as to why they can no longer meet their essential living needs and/or access adequate accommodation. The Home Office website suggests that applicants contact [Migrant Help](#) for assistance requesting s98 support.⁶

Those in receipt of s95 subsistence-only support can be admitted into s98 accommodation if they need accommodation due to a change of circumstances.

What happens if I am refused s98 support?

According to Home Office policy, a refusal to grant access to initial accommodation should outline the reasons for the applicant's ineligibility.⁷ However, there is no right of appeal if an application for s98 support is refused or if s98 support is terminated. The only remedy is Judicial Review and the services of a community care or public law solicitor will be required.

Reasons why Section 98 support might be terminated

If a decision is made to grant s95 support, the Home Office will arrange transport to the accommodation. The provision of s98 support ends on the day the person travels to their s95 accommodation.⁸ If an asylum seeker fails to travel to their s95 accommodation this may result in the termination of the s98 support. However, according to Home Office policy, reasons as to why the applicant failed to travel should be sought and if there is a reasonable explanation then travel to the s95 accommodation should be rearranged promptly.⁹

Section 98 support may come to an end if the Home Office refuses the asylum seeker's application for s95 support. As mentioned above, there is no right of appeal on the refusal or termination of s98 support. However, there is a right of appeal on a decision to refuse s95 support; see [Factsheet 1](#). Section 98 support may continue pending an appeal of a decision to refuse s95 support if the applicant is considered vulnerable or has dependent children.

If an asylum seeker receives a final decision on their asylum application while they are in s98 support they will be given a notice period to vacate the initial accommodation. These notice periods are equivalent to those given to asylum seekers on s95 support (21 days if appeals rights exhausted and 28 days if granted leave to remain in the UK). If there are dependent children in the household, support will not be terminated if an asylum application is refused.¹⁰

² See section 6.1 of Registering an asylum application in the UK. Home Office, 12 October 2009. <http://bit.ly/1BkfXXq>

³ See section 4 of Registering an asylum application in the UK. Home Office, 12 October 2009. <http://bit.ly/1BkfXXq>

⁴ Claim asylum in the UK. <https://www.gov.uk/claim-asylum/screening>

⁵ See section 1.1.1 of Asylum Support: Policy Bulletins Instructions, v7.0. Home Office. <http://bit.ly/2opPlmK>

⁶ Asylum support: How to claim. <https://www.gov.uk/asylum-support/how-to-claim>

⁷ As ref 5.

⁸ See section 1.1.4 of Asylum Support: Policy Bulletins Instructions, v7.0. Home Office. <http://bit.ly/2opPlmK>

⁹ See section 19.1 of Asylum Support: Policy Bulletins Instructions, v7.0. Home Office. <http://bit.ly/2opPlmK>

¹⁰ s94(5) IAA 1999.