

Mixed households

January 2021

What is a mixed household?

1. Mixed households, are defined at section 7.2 of the [HO Asylum Support: Policy Bulletins Instruction](#)¹ ('the Policy') as households that 'contain persons who are already in receipt of Social Security or other support'. This Factsheet considers the how the Policy should be applied in practice. It addresses how benefits received by an asylum-seeker's family member in the UK will affect the Home Office's (HO's) assessment of whether the asylum-seeker is destitute, and if destitute, the level and type of asylum support that will be offered to the asylum-seeker.
2. In practice this scenario arises when an asylum-seeker and any dependant on their asylum claim arrives in the UK to join a member of their family, usually their spouse, or partner who is already present in the UK with leave to remain, where the spouse or partner is in receipt of benefits. The person claiming asylum support as part of a mixed household is referred to below as 'the Asylum-seeker' (AS), and the spouse or partner of the AS who (a) has leave to remain in the UK, and (b) is in receipt of welfare benefits is referred to as 'the UK-based Spouse' (UKBS).
3. The Policy is out of date, as it refers to Income Support/Jobseekers Allowance (IS/JSA), benefits which have largely been replaced by Universal Credit (UC), so this Factsheet suggests a way of applying the existing policy to the present day UC context..

The two ways of being destitute

4. The Immigration and Asylum Act 1999, s95(3) defines destitution for asylum support purposes. It states that a person is destitute (see [Factsheet 5](#)) 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.'*
5. Two mixed household scenarios are considered in this Factsheet, flowing from this definition, namely where the AS claims to be destitute because:
 - (1) although there is adequate accommodation, the AS is unable to meet their essential living needs; and
 - (2) the accommodation for the family unit is inadequate.

¹ Paragraph 7.2 of version 8 (although it is marked "V7.0" on its first page, apparently in error):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817696/asylum-support-policy-bulletins-v8.0.pdf

These scenarios are considered in turn.

The AS and UKBS have adequate accommodation but the AS is unable to meet essential living needs without asylum support

6. In assessing whether the AS can meet their essential living needs, the HO must take into account ‘any income or other support’ that the AS or any dependant of the AS will have, or might reasonably expect to have, in the relevant period (which, for new claims, is the next 14 days) – see regulation 6 of the [Asylum Support Regulations 2000](#), to which the regulations cited below refer.
7. Dependants of an asylum-seeker are defined in reg 2(4) to include an asylum-seeker’s spouse, civil partner, and unmarried partner (providing they had been living as an unmarried couple for at least 2 of the 3 previous years), as well as children. They can include people with leave to remain in the UK. See further [Factsheet 11: Asylum support for dependants](#) .
8. It follows that both the AS’s children, and the UKBS are ‘dependants’ of the AS for asylum support purposes. So the UKBS’s benefit must be taken into account in determining whether the AS can meet their essential living needs.

Calculating the essential living needs of the AS – basic principles

9. The Policy explains how the UKBS’s benefits are to be ‘taken into account’ in calculating the essential living needs of the AS.
10. The basic principle behind the Policy is that the amount of money required to meet the essential living needs of the AS should be calculated by applying a specified percentage to the notional amount that the AS and the UKBS would receive as a couple if they were both eligible for JSA or IS, and topping up the family’s actual income till it reaches that threshold. The specified percentage is different depending on whether the UKBS (a) pays rent, in which case the specified percentage is 95% or (b) does not pays rent (for example if the family are living with a friend or relative), in which case the specified percentage is 85%. This approach is explained below by reference to UC, instead of JSA/IS.
11. The Policy is silent about how the essential needs of children should be taken into account where the mixed household includes children. The following scenarios may typically arise where a mixed household contains children:
 - Scenario (1): the UKBS is already living with one or more children who have leave to remain, and the AS joins the household without accompanying children;
 - Scenario (2): the UKBS is not living with any children of the family, and the AS joins the household accompanied by one or more children who do not have leave to remain; and
 - Scenario (3): the UKBS is already living with one or more children who have leave to remain, and the AS joins the household with one or more children who do not have leave to remain.

12. In Scenario (1), the UKBS should be claiming Child Benefit (CB) and a child supplement to their UC award, and the position of the children will not be relevant to the AS's claim for asylum support.
13. However in Scenarios (2) and (3), support will be needed for the children arriving in the household with the AS. In these scenarios, it is important to note that the UKBS is entitled to claim:
 - (1) CB, for any children under 16 (or under 20 if they stay in approved education or training) for whom the UKBS is responsible²; and
 - (2) the child supplement of UC, for any children that 'normally live' with the UKBS regardless of the immigration status of the children (ie whether or not they have leave to remain in the UK).
14. So the UKBS should consider (1) applying for CB in respect of the newly arrived children, and (2) notifying the DWP of a change in circumstances on the arrival of the newly arrived children to include them in the UKBS's UC award. However, two features of UC may affect whether a child supplement should be claimed as part of the UKBS's UC award for any newly arrived children arriving with the AS. These are:
 - The limit on the number of children ([in general, a maximum of 2](#)) for whom a child supplement can be claimed as part of a UC award; and
 - [The benefit cap](#), which limits the total amount of benefit that the UKBS can claim.
15. This means that, particularly in larger families, it may be necessary for one or more children arriving in the household with the AS to claim asylum support rather than be included on the UKBS's UC claim. In that event, a calculation of the children's essential living needs will be necessary in addition to the essential living needs of the AS.
16. Where asylum support is being claimed for a child, the essential living needs for each child is calculated by aggregating the asylum support allowance for each child (currently £39.63 pw with weekly supplements of £5 pw for every child under 1 year, and £3 pw for every child aged between 1 and 3 years).
17. Once the sum representing the essential living needs of the AS and any children for whom asylum support is needed has been calculated, all the income and assets reasonably available to the AS over the relevant period (14 days for new claims) including the UKBS's benefits, and any income the UKBS may receive from work, are aggregated. However any benefits received by the UKBS that are designed to meet specific children- or disability-related needs (eg CB, Personal Independence Payments) should be ignored in this part of the calculation, as those

² Where for some reason, the family cannot live together, the UKBS [may](#) be entitled to claim CB even for children that reside separately with the AS.

sums should not be treated as being available to meet the AS's essential living needs. If there is a shortfall between the notional amount required to meet the AS's essential living needs, and the aggregated available resources, then the AS should receive asylum support equal to the amount of the shortfall.

18. Note that CPAG provides a telephone service offering advice about welfare benefits and tax credits to people who are advising the public: <https://cpag.org.uk/welfare-rights/advice-service>.

A step-by-step guide to calculating essential living needs in a mixed household

19. The following steps are suggested to calculate the notional amount required to meet the AS's essential living needs:

Step (1)

Work out the notional entitlement to standard allowance of UC that the couple would have for 14 days [if the AS and the UKBS and all the family's children were eligible for benefits as a couple](#). This amount is referred to below as 'A'. The AS is of course not entitled to social security benefits, so this amount is necessarily notional. It is a fixed amount. At the time of writing, the monthly UC couple rate is £488.59 (if both members of the couple are under 25), or £594.04 (if either of the couple is 25 or over). The UKBS may have income from work in addition to UC, which will be taken into account in the calculation of the UKBS's actual UC award. However, any income from work should be ignored in calculating the notional joint entitlement to UC of the AS and the UKBS.

Note: Other benefits that the UKBS may receive such as payments in relation to disability or CB should not be included in **A** or **B**, because such payments are intended to meet the UKBS's specific needs or the needs of their children, and so should not be included in the resources potentially available to the AS. Similarly, where the UKBS receives UC for one or two children, the child supplement should not be included in **A** or **B**, as the purpose of the child supplement is to meet the needs of the children who will not be claiming asylum support, and the AS cannot reasonably be expected to use that money for his or her essential living needs.

Step (2)

Calculate the applicable percentage of **A**, namely:

- 95% where the UKBS has their own accommodation with liability for rent and utility bills; or
- 85% where the UKBS does not have liability for rent (eg if the UKBS is living with a friend or relative).

Step (3)

Calculate the UKBS's current individual benefits entitlement for the next 14 days. This amount is referred to below as '**B**'. See the note to Step (1) explaining why other payments in relation to, eg, children or disability should not be included in **A** or **B**.

Step (4)

List all the other income and assets that could reasonably be realised in the next 14 days by the AS and the UKBS. These may include any income the UKBS receives from work. It should also include any CB being claimed by the UKBS in respect of any child for whom asylum support is claimed by the AS. The aggregate amount is referred to below as '**C**'.

Step (5)

Calculate the asylum support amount necessary to meet the essential living needs for 14 days of any children for whom asylum support is being claimed. This is calculated at £39.63 per child per week, with weekly supplements of £5 for each child of under 1 year under 1 year, and £3 per week for every child aged between 1 and 3 years. The aggregate amount is referred to below as '**D**'.

Step (6)

Calculate whether the AS is to be treated as destitute, and if so, how much asylum support they should receive, as follows:

- Calculate **A**, **B**, **C** and **D** where:
 - A** = the applicable UC couple rate for 14 days (see step (1) above)
 - B** = the UKBS' actual benefits entitlement for 14 days with certain disregards (step (3))
 - C** = all other income and assets that could reasonably be realised in the next 14 days by the AS and the UKBS, excluding CB for children for whom asylum support is not needed (step (4))
 - D** = the asylum support allowance for 14 days for any children for whom asylum support is being applied for (step (5)).
- Calculate 85% or 95% of **A** (see step (2))
- subtract **B**
- subtract **C**
- add **D**.

If this calculation produces a number that is greater than zero, then the AS is to be treated as destitute, and the result of the calculation represents the amount of asylum support that the AS should receive every 14 days.

20. Some case studies are given in the table below.

	Step (1)	Step (2)	Step (3)	Step (4)	Step (5)	Step (6)	Outcome
	A (the applicable UC couple rate for 14 days) (£)	% to be applied to A	B (UKBS actual benefits entitlement for 14 days) (£)	C (other income or assets reasonably available to the couple in next 14 days) (£)	D (if any children claiming asylum support, asylum support allowances for 14 days) (£)	Applicable % of A less B less C plus D (£)	
<p>Case 1</p> <p>AS is aged 28, UKBS aged 23, UKBS in receipt of £409.89 UC pcm as a single person. The couple have no children, and no other income. They live in the UKBS's rented flat.</p>	14 days at 594.04 pcm = (594.04 multiplied by 12 to get the yearly amount, then divided by 365 to get the daily rate, then multiplied by 14 = 273.42)	95%	14 days at 409.89 pcm = 188.66	0	N/A	(95% of 274.17) less 189.18 = 71.09	AS is entitled to £71.09 asylum support per 14 days = £35.54 per week
<p>Case 2</p> <p>AS and UKBS both aged 23.</p> <p>UKBS is claiming UC for himself and 2 children.</p> <p>AS is accompanied by one child aged 2.</p> <p>The couple live with family and pay no rent although they contribute to bills.</p> <p>The UKBS is self-employed and earns £75 per week (which is over the threshold of £292 pcm and so reduces his UC award to £321.93 pcm).</p>	14 days at 488.59 pcm = (488.59 x 12) divided by 365, then multiplied by 14 = 224.88	85%	<p>UKBS's UC is reduced because earnings are £325 pcm (more than applicable monthly threshold of £292)</p> <p>UKBS's UC per month is reduced by 20.79 to 321.93 pcm.</p> <p>14 days at 321.93 per month = 148.18</p>	<p>14 days of the UKBS's work (= 150)</p> <p>Plus</p> <p>14 days of CB for the 2 year old child, at £13.95 per week (= 27.90)</p> <p>= 177.90</p>	39.63 + 3 per week = 42.63 per week = 85.26 for 14 days	(85% of 224.88) less 148.18 less 177.90 plus 85.26 = -49.67 (a negative amount)	AS and the child applicant are not entitled to subsistence-only asylum support

The UKBS claims CB for all three children							
Asylum support is needed for AS and the 2 year old child							
Case 3 As for case 2, <u>except that</u> (1) the couple are both aged 26, and live in the UKBS's rented apartment, and (2) the UKBS is not claiming CB for the child for whom asylum support is required.	14 days at 594.04 pcm = 273.42	95%	UKBS's award of 409.89 UC pcm is reduced by 20.79 because of earnings = 389.10 pcm 14 days at 389.10 pcm = 179.09	150	39.63 + 3 per week = 42.63 per week = 85.26 for 14 days	(95% of 273.42) less 179.09 less 150 plus 85.26 = 15.92	AS and the child are entitled to £15.92 asylum support per 14 days = £7.96 per week
Case 4 As for case 3 except that the UKBS no longer works	14 days at 594.04 pcm = 273.42	95%	14 days at 409.89 per month = 188.66	0	39.63 + 3 per week = 42.63 per week = 85.26 for 14 days	(95% of 273.42) less 188.66 plus 85.26 = 156.35	AS and the child are entitled to £156.35 asylum support per 14 days = £78.17 per week

21. The Policy refers to three particular scenarios, which advisers should be aware of:

- (1) Where the result of the above calculation is less than zero, the HO should nevertheless provide asylum support if the AS can show that: (a) their presence in the UKBS household has caused household expenses to rise, and (b) subtracting the rise in household expenses caused by the AS's arrival from C in the above steps, would make a difference to entitlement. Similarly, a legal debt owed by the UKBS may also be taken into account.
- (2) Where the UKBS does not have liability for rent, but does contribute to utility bills, 85% of the couple's notional UC entitlement may not be enough to enable the family to make the necessary contributions to utility bills. In those circumstances, the family may be offered dispersal accommodation.
- (3) Where the AS is estranged from the UKBS, the UKBS's benefits should not be taken into account, and dispersal accommodation should be offered to the AS.

Inadequate accommodation

22. Sometimes the arrival of the AS and any children will mean that the UKBS's accommodation is not adequate (eg, because the property has become overcrowded if the AS joined the household with one or more children needing an extra bedroom). In those circumstances, the HO will require evidence that the family have been unable to secure alternative suitable accommodation themselves in the private rented market or in social housing, before consideration will be given to providing asylum support by way of accommodation.
23. The Policy states that the cost of private rented accommodation can be met by 'Housing Benefit (within local reference rent limits)'. However, even if the UKBS found accommodation in their sole name³, the amount of housing costs that could be claimed under UC would be subject to the [benefit cap](#), which may make it difficult for the family to relocate within a high rent metropolitan area. Permission for the AS to rent would need to be sought by the prospective landlord, even if the AS's name was not on the tenancy agreement - see further the [Shelter website](#).
24. A local housing authority has a duty to secure accommodation for those it is satisfied are homeless, are eligible for housing assistance, and have a priority need for accommodation.
25. Asylum-seekers are ineligible for housing assistance. Any application to the local housing authority must therefore be made by the UKBS. Housing Act 1996, s189(1) sets out the classes of people who have a priority need. They include:
- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;*
 - (b) a person with whom dependent children reside or might reasonably be expected to reside;*
 - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside'.*
26. If the UKBS is accepted as being homeless and in priority need, then the local authority's duty to accommodate extends to accommodating the whole family (including the AS, and any children without leave to remain who joined the household with the AS).
27. However there are limits on the extent to which the circumstances of the AS and any children without leave to remain in the UK can be taken into account by the local housing authority in assessing whether the UKBS is (a) homeless, and (b) in priority need, depending on the immigration status of the UKBS. These are explained in paragraphs 28-30 below.
28. It should be noted that the Policy does not accurately reflect the law on this point. It states:

³ The housing costs paid under UC would be reduced if the UK-based Spouse entered into a joint tenancy with the AS.

‘Non-asylum seeker (A) in receipt of social security benefits and asylum seeker (B) is spouse (or partner if they are living together as man and wife).

If (A) has a priority need in his own right (e.g. he has dependant children) and the local authority consider he is homeless, the authority would have a duty to secure accommodation for him and his whole household (i.e.(A) and (B)). However in assessing whether he is homeless, the authority cannot take account of (B) (e.g. in assessing if the household are living in overcrowded conditions), unless they arrived before 3 April 2000)’ (emphasis added).

29. The section of the Policy highlighted above is incorrect. In fact it is only if the UKBS is subject to immigration control that the local authority is prevented⁴ from taking account of the circumstances of the AS and any children without leave to remain in determining whether the UKBS is (a) homeless; and (b) in priority need. A ‘person subject to immigration control’ means a person who under the Immigration Act 1971 requires leave to enter or remain in the United Kingdom (whether or not such leave has been given)⁵. It includes anyone who is not a British citizen, an EU citizen with a right to reside, or a Commonwealth national with a right of abode in the UK, even if they have indefinite leave to remain in the UK.
30. This means that if, for example, a UKBS with ILR applies to the local authority as homeless because the AS is pregnant, the local authority cannot take into account the AS’s pregnancy in assessing whether the UKBS is homeless or has priority need. Once the AS gives birth, then if the UKBS is the father, the child will be a British citizen, and the existence of the child can be relied upon to show that the UKBS is homeless with priority need. The position would be different if the UKBS was a British citizen. In that event, he would not be subject to immigration control, and could rely on the AS’s pregnancy to show homelessness and priority need.
31. If no affordable accommodation can be found (which should be evidenced) either in the private rented sector, or on application to the local housing authority, the HO can be asked to accept that the family’s existing accommodation is inadequate. The factors that the HO will take into account in assessing the adequacy of accommodation are set out in the [Asylum Support Regulations 2000, regulation 8](#). They include:
- whether it would be reasonable for the UKBS to continue to occupy the accommodation. This may be an issue, eg, if the arrival of children with the AS means that the existing accommodation is overcrowded.
 - whether the accommodation is affordable. This may be an issue, eg, if the benefit cap applies, and the number of children to be supported by the UKBS has increased with the arrival of the AS.
 - whether the accommodation is available for occupation by the AS and his or her dependants. This may be an issue, eg, if the occupation of the premises by the AS and

⁴ Housing Act, s185(2) and (4)

⁵ Asylum and Immigration Act 1996, s13(2)

any children arriving with the AS, means the UKBS is in breach of their tenancy agreement.

32. If it can be shown that the accommodation is not adequate, and that adequate accommodation cannot be found in either the private rented sector or in social housing despite reasonable efforts, the HO should provide accommodation for the AS, the UKBS and any dependants. Such accommodation can be provided by the HO both (a) as initial accommodation pending a claim on an asylum support claim, and (b) after the asylum support claim has been positively decided.

January 2021