

## Overview of the changes to asylum support in the Immigration Act 2016

### March 2026

In November 2025, the government laid out its asylum policy intentions in the [Restoring Order and Control paper](#). As part of a drive to remove more families, the paper proposed to consult on bringing in the provisions contained within the Immigration Act 2016 (IA16). This [consultation](#) was launched on 5<sup>th</sup> March 2026 and **runs till 28<sup>th</sup> May 2026**. Unfortunately, it seems that the government intends to bring in the entirety of the IA16 provisions, not just the sections related to supporting families.

In its entirety, the IA16 seeks to reduce access to support for everyone at the end of the asylum system: families with children will no longer automatically stay on support (see 3. below) but s4 support is also replaced with a more restrictive form of support (see 2. below). In England, the support provisions for young people who came as unaccompanied children and are at the end of the asylum process will also change.

The IA16 has been passed by Parliament, but the provisions relating to support are not yet in force. Before this happens, the government would need to create regulations without which the new system wouldn't function. The consultation document gives us an indication of what these might say. We will continue to update this briefing as more information comes to light.

For further information on the how the asylum support system currently functions currently, see our [factsheet, briefings](#) or [training](#).

### **1. Support for people with ongoing asylum claims**

The provision of s95 support will remain as it currently is for people with ongoing asylum claims. But under the IA16, the definition of an 'asylum seeker' would be expanded to include:

- 1) People with refused asylum claims **who have made further submissions** (also known as a fresh claim), but only if these submissions are based on new evidence which ask for protection on asylum or humanitarian grounds;
- 2) People with refused asylum claims who have been **granted permission to proceed with a judicial review** challenge against a refusal of further submissions.

The first group would only become eligible for s95 support when their further submissions have been outstanding for some time. The consultation document doesn't clarify what that might be, but during the passage of the IA16 in parliament the then government had indicated that this could be 2 to 5 days. The intention is that a decision on the further submission would be made before the s95 decision so that both could be dealt with simultaneously.

Currently, there is no right of appeal against a decision to end s95 support when a person's asylum claim becomes appeal rights exhausted. Under the IA16, there would also be no right of appeal when s95 support is stopped because further submissions or a judicial review challenge has come to an end.

## 2. Support for people with refused asylum claims

s4 support, provided to people whose asylum claim is refused, where their asylum appeal rights are at an end, would be replaced with a new form of support called s95A support. During the passage of the IA16, the then government presented this as ‘the new s4 support’. However, this is misleading since a large proportion of people who currently qualify for s4 support would not qualify for s95A support.

- **s95A support would be available to people who are destitute and face a ‘genuine obstacle’ to leaving the UK.** The consultation document indicates that this is likely to be in similar circumstances to the current s4 criteria. However, some of the detail (particularly around providing support in ‘exceptional circumstances’) is lacking. So, in practice we expect tighter criteria than under s4. For example we don’t think that people with Article 8 applications<sup>1</sup> or other immigration applications would qualify for s95A support. Support would also be conditional on people continuing to take reasonable steps to leave the UK or put themselves in a position to leave the UK, even though they are facing obstacles to return.
- The most radical and restrictive element of s95A support however is that **it would only be possible to apply for it within a grace period** after becoming appeals rights exhausted. The consultation document confirms that for single people this would be **21 days**, for those with dependant children it would be **90 days**. In practice, this would mean that most people who face a ‘genuine obstacle’ to leaving the UK will be left destitute, since this obstacle is unlikely to occur within the grace period. As an example, we examined 105 applications for support made in 2015 on medical or voluntary return grounds and only found 6 that were made within the grace period.
- Unlike with s4, there would be **no right of appeal** against the refusal and discontinuation of s95A support.

## 3. Support for families with children

Families living with a child under 18 when their asylum claim was fully refused **will no longer be entitled to stay on s95 support** as is currently the case. After 90 days, their support would cease, unless they meet the two new qualification routes for s95 (further submissions and judicial review with permission) or they qualify for s95A support (within the grace period).

English local authorities will be prevented from providing support under s17 Children’s Act 1989 to these families. Instead, after the grace period ends, families might be able to get a new form of support from the local authorities called para 10A support<sup>2</sup>. Local authorities’ underlying duties to safeguard children will remain.

To qualify for para 10A support a destitute family would need to satisfy one of five conditions:

- a), b) or c) – they have an outstanding immigration application or appeal;
- d) – they are appeals rights exhausted and have NOT failed to co-operate with Home Office attempts to remove them from the UK;

<sup>1</sup> Article 8 European Convention on Human Rights (ECHR), the right to private and family life

<sup>2</sup> Provided under sch3, para10A Nationality, Immigration and Asylum Act 2002

- e) – the provision of support is necessary to safeguard and promote the welfare of a child in their family.

The consultation document reveals that the Home Office intends to control how local authorities provide para 10A support.

- Local authorities will be obliged to follow Home Office guidance and directions;
- Only Article 8 applications would meet conditions a) to c) and the Home Office would decide if that application had merit;
- For other families, it appears that support would only be provided when the Home Office thinks that the family is facing the same genuine obstacle for departure as for s95A.

People who have children after the end of the grace period will need to rely on para 10A support, if they don't qualify for s95 under the new expanded definition (further subs and JR with permission).

In Wales, Scotland and Northern Ireland local authorities' existing duty to children will continue under their current social care provisions. But the IA16 gives the UK government the power to impose these changes on the devolved nations.

#### 4. Transitional cases

Under the IA16, the current support rules are maintained for people already on support with two significant tweaks:

- Any decision to discontinue support would not carry a right of appeal;
- The continued provision of support for people at the end of the asylum process will be linked to them taking reasonable steps to leave the UK.

However, the consultation document reveals that the government is considering **disapplying these transitional provisions**. Instead, everyone currently on support would be subject to the new system. This would require primary legislation so would take some time to implement.

#### 5. Additional points

s95 and s95A support would be subject to the same destitution test, be conditional on the same set of rules and provided for in the same way. This means that everyone should be able to apply for subsistence only support and emergency accommodation.

There were no changes planned to the support provisions for adults with care needs. Those that qualify will continue to be entitled to local authority support.

Unaccompanied children with ongoing asylum claims would continue to be supported by local authorities. In England only, support would stop at 18, although at that point they might be entitled to continued support from the local authority under para 10B. In Scotland, Wales and Northern Ireland support for care leavers would stay the same for the moment. However, the Act gives the Government the power to extend the changes to Wales, Scotland and Northern Ireland.

## 6. Summary of changes

The table below gives an overview of the changes to asylum support brought in by the IA16, as understood by ASAP in March 2026. Where there is an area of uncertainty because a particular detail needs to be confirmed in regulations and then in accompanying Home Office policies, this has been indicated as TBC in this document.

Old Law	New Law
<b>Support for people with ongoing asylum claims</b>	
Section 95 – support for people with ongoing asylum claims	Eligibility criteria for s95 support expanded to include two new categories: 1) those with outstanding protection-based <sup>3</sup> further submissions 2) those with permission to proceed with a judicial review (JR) against the refusal of protection-based further submissions  Grace period <sup>4</sup> following refusal of asylum claim extended to 90 days for families with children (TBC in regulations).
Section 95 – support for families including children born before their appeal rights were exhausted <sup>5</sup>	<b>Repealed</b> – In England, creation of a limited local authority administered support (para 10A support) available if family not eligible for s95 or s95A support. In Wales, Scotland and Northern Ireland local authorities might have a duty under the existing social care provisions for children.
Section 98 – accommodation for people waiting for a decision on s95 application	Will also be available to the two new categories described above.
Right of Appeal	No change
<b>Support for people whose claim is refused and appeal rights exhausted</b>	
Section 4	<b>Repealed</b> – replaced by s95A, which is much more limited
Section 4(2) – people taking all reasonable steps to leave the UK	Replaced with support under s95A, if qualify during grace period. If not, consider sch10 (single people) and para 10A (families)
Section 4(2) – people with a medical impediment to travel	Replaced with support under s95A, if qualify during grace period. If not, consider sch10 (single people) and para 10A (families)
Section 4(2) – people with permission to proceed with a JR against a refusal of protection-based further submissions	Will get support under s95. Support may stop immediately if the JR has failed (TBC in regulations).
Section 4(2) – people who have started the JR process but not yet got permission	Possibly under exceptional circumstances ‘genuine obstacle’ condition if JR started during grace period (TBC

<sup>3</sup> A protection-based claim is where an applicant applies to be recognised under the Refugee Convention or applies for Humanitarian Protection, see s82(2) of NIAA 2002

<sup>4</sup> The ‘grace period’ is currently defined in regulation 3 of the Asylum Support (Amendment) Regulations 2002

<sup>5</sup> s94(5) IAA 1999

	in policy). If not, consider sch10 (single people) and para 10A (families)
Section 4(2) – people with protection-based further submissions outstanding	Will get support under s95 but will only become eligible some time (maybe 2 or 5 days) after the further submissions were made (TBC in regulations). Support may stop immediately after further submissions are rejected (TBC in regulations).
Section 4(2) – people with further submissions outstanding that are not protection-based, such claims under Article 8 ECHR	Families with children should get support under para 10A for Article 8 applications. Other groups and other types of application, possibly under exceptional circumstances ‘genuine obstacle’ condition if applications made during grace period (TBC in policy). If not, consider sch10 (single people) and para 10A (families)
Section 4(2) – other breach of human rights	Possibly under exceptional circumstances ‘genuine obstacle’ condition if these occur during the grace period (TBC in policy). If not, consider sch10 (single people) and para 10A (families)
Right of appeal	Gone – only way of challenging s95A decisions is JR
Emergency accommodation pending a s4 decision is not available under s4	Provided under s98A
<b>Support for people on immigration bail</b>	
Section 4(1)(a) (b) and (c) – support for people on temporary admission and bail	Already repealed and replaced with sch10 support <sup>6</sup> .

<sup>6</sup> Sch10, para 9, Immigration Act 2016 see also [Accommodation under Schedule 10 to the Immigration Act 2016 \(accessible\) - GOV.UK](#)  
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