

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

Jan 2026

In November 2025, the government announced its asylum policy intentions in the [Restoring Order and Control paper](#). This included the proposal to consult on bringing in the provisions contained within the Immigration Act 2016 (IA16). Ahead of this exercise, we thought it useful to remind organisations of what the IA16 changes entail since they would bring about the biggest changes to the asylum support system since its creation in 1999/2000.

Unfortunately, we currently have very little information on the government's plans beyond the consultation announcement. However, by way of reassurance, implementation can't happen overnight. We understand that bringing these changes in will require significant reorganisation of Home Office casework system as well as negotiations with local authorities and devolved nations. In order to function properly, the IA16 also requires detailed regulations: a type of legislation which will need, in this case, active parliamentary approval which will take time. Before that happens, during the passage of the IA16 in Parliament, the then government committed to consulting with stakeholders on the text of these regulations, a commitment which will hopefully be upheld. It's also worth remembering that since the IA16 came into force, save for replacing s4(1) support with sch10 support, none of these measures have been brought in.

ASAP produced the initial version of this briefing in 2017 shortly after the IA16 became law. Some of the changes described below are based on government documents produced in 2015 during the consultation process for the IA16. However, it is difficult to know whether the same intentions would apply today. This document will be updated as the detail becomes clearer.

If you need further information on the how the asylum support system currently functions, please have a look at the [factsheets and briefings](#) or [training](#) sections of ASAP's website.

1. Support for families with children

Refused asylum seeker families with a child under 18 living with them before their asylum claim came to an end will no longer be entitled to stay on s95 support, as is currently the case. Their s95 support will stop 90 days after they become appeals rights exhausted. If they face a 'genuine obstacle' to leaving the UK, they could apply for s95A support (see below) but must do so within the 90 days grace period.

In England, children and their families would no longer be entitled to support from local authorities under the Children Act s17. Instead, the IA16 creates new powers to allow local authorities to provide support to these families in certain, more limited, circumstances – this is known as para 10A support.

In Wales, Scotland and Northern Ireland local authorities might have a duty under the existing social care provisions for children.

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

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

During the passage of the IA16, the government made it clear that they thought local authorities had no obligation to support families with no immigration status. They wanted local authorities to apply case law which states that families can avoid destitution by returning to their home country. So, although condition e) appears quite generous the premise will be that families should return home to avoid destitution. If they aren't attempting to do this, they could be ineligible for support under e). Local authorities though may take a different view.

These changes appear to be the main target of the Restoring Order paper. However, from our reading of the IA16, it is not possible to bring in the provisions detailed above, without also implementing the remaining changes explained in this briefing.

2. Support for asylum seekers

Under the IA16, the legal definition of an asylum seeker would be expanded, for support purposes. So, in addition to those with an asylum or Article 3 claim¹ or appeal outstanding, the following two groups would become eligible for section 95 support:

- 1) refused asylum seekers who have made further submissions (also known as a 'fresh claim'), but these must be submissions based on new evidence which ask for protection on asylum or Article 3 grounds;
- 2) refused asylum seekers who have been granted permission to proceed with a judicial review challenge against a refusal of further submissions.

Those in the first group would only become eligible for s95 support when their further submissions have been outstanding for a certain period. The Home Office had previously indicated that this could be 2 - 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 an asylum seeker 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. The only s95 decisions that will be appealable will be decisions to deny support for reasons of destitution or breach of conditions.

3. Support for refused asylum seekers

Section 4 support, for refused asylum seekers, would be completely abolished and replaced with a new form of support called section s95A support. 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.

¹ Article 3 of the European Convention on Human Rights (prohibition of torture, inhumane or degrading treatment)
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- **s95A support would be available to refused asylum seekers who are destitute and have a ‘genuine obstacle’ to leaving the UK.** What is meant by a genuine obstacle would need to be defined but in 2017 this was expected to be limited to people with medical conditions that prevent them from travelling and people who are taking all reasonable steps to leave the UK.
- Unlike with s4, there would be **no right of appeal** against the refusal of an application for s95A support.
- The most radical and restrictive element of s95A support is that **it would only be possible to apply for it within a ‘grace period’** after becoming appeals rights exhausted. These grace periods will be confirmed in regulations. But when the IA16 implementation was previously discussed, the then government stated that, for single people this would be 21 days, for those with children it would be 90 days. In practice, this would mean that most people who have a genuine obstacle to leaving the UK will be made destitute, since this obstacle is unlikely to occur and be evidenced within the grace period. As an example, we examined 105 applications for support made in 2015 for ‘genuine obstacle’ reasons (i.e. medical or voluntary return) and only found 6 that made within the grace period.

4. Transitional cases

If the provisions on asylum support come into force there will be a transition period. Those already on support will keep their support under the old law. However, we understand that any decision to discontinue support would not carry a right of appeal. The transitional provisions also suggest that for refused asylum seekers with children whether supported under s4 or s95, the continued provision of support will be linked to them taking reasonable steps to leave the UK.

5. Additional points

The two new forms of support (s95 and s95A support) would be subject to the same set of rules and provided for in the same way. The idea is that the few people who qualify for support under s95A will remain in their s95 accommodation so would see no change in their circumstances. This also means that:

- Everyone should be able to apply for subsistence only support
- Everyone will be able to apply for 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.

Asylum seeking children who are unaccompanied 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 January 2026. The required regulations have not been published; some of the changes described

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below are based on government documents produced during the consultation process in 2015. Where there is an area of uncertainty (because a particular detail needs to be confirmed in regulations) this has been indicated as 'TBC in regulations' in this document. The paragraphs highlighted in blue indicate where a form of support is to be withdrawn and not amended or replaced.

Old Law	New Law
Support for asylum seekers	
Section 95 – support for asylum seekers	<p>Eligibility criteria for s95 support expanded to include two new categories of refused asylum seeker: 1) those with outstanding 'protection-based'² further submissions 2) those with permission to proceed with a judicial review (JR) against the refusal of 'protection-based' further submissions</p> <p>'Grace period'³ following refusal of asylum claim extended to 90 days for families with children (TBC in regulations).</p>
Section 95 – support for refused asylum seeker families with children born before their appeal rights were exhausted ⁴	Gone – In England, this is replaced by a new local authority administered support ('para 10A 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 asylum seekers waiting for a decision on s95 application	Will also be available to the two new categories of refused asylum seeker described above.
Right of Appeal	No change
Support for refused asylum seekers	
Section 4	Repealed – 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, which is much more limited
Section 4(2) – people with a medical impediment to travel	Replaced with support under s95A, which is much more limited
Section 4(2) – people with permission to proceed with a JR against a refusal of 'protection-based' further submissions	Will get support under s95. There is uncertainty as to whether the Home Office will allow a grace period before ending support when the JR has failed (TBC in regulations).
Section 4(2) – people who have started the JR process but not yet got permission	Gone - no support, unless they have children and qualify under para 10A (TBC in regulations)
Section 4(2) – people with 'protection-based' further submissions outstanding	Will get support under s95 but will only become eligible 2 or 5 days after the further submissions were made (TBC in regulations). There is uncertainty as to whether the

² 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

³ The 'grace period' is currently defined in regulation 3 of the Asylum Support (Amendment) Regulations 2002

⁴ s94(5) IAA 1999

	Home Office will allow a grace period before ending support when further submissions are rejected.
Section 4(2) – people with further submissions outstanding that are not ‘protection-based’, such claims under Article 8 ECHR	Gone – possibly sch10 or para 10A (TBC in regulations) if they have children
Section 4(2) – other breach of human rights (for example some people with severe medical problems)	Gone – possibly sch10 or para 10A (TBC in regulations) if they have children
Right of appeal	Gone – only way of challenging s95A decisions is JR
Section 98 support: not available under current law for people waiting for a decision on section 4 application	Section 98A support - accommodation whilst waiting for a decision on s95A application
Support for people on immigration bail or temporary admission	
Section 4(1)(a) (b) and (c) – support for people on temporary admission and bail	Already repealed and replaced with sch10 support ⁵

⁵ Immigration Act 2016 Sch 10