

Briefing Note: Extra section 4 payments for people taking all reasonable steps to leave the UK

As many in the sector are aware, certain people receiving s4 support are entitled to receive extra payments. In ASAP's experience, most applications are made on behalf of pregnant women and parents with dependent children (see ASAP Factsheet 11: <http://bit.ly/1ri1kP6>). What appears to be less well known is the availability of extra payments for people who are taking all reasonable steps to leave the UK. Out of 51 relevant cases recently reviewed by ASAP, not one contained an application for extra payments. This note briefly explains when extra payments might be required by people taking steps to leave the UK and how the legal framework operates. It also highlights the relevant Home Office guidance.

When might extra payments be required? Refused asylum-seekers who are taking steps to leave the UK often need to obtain a new travel document. In order to achieve this, some also need to prove their identity. Either of these steps will probably involve the person visiting their country's embassy in the UK, and may also require them to contact family, friends or foreign governments abroad. Of course, completing these steps come at a financial cost which may be prohibitive.

What is the legal framework? The power to provide extra s4 payments is set out in the Immigration & Asylum (Provision of Services or Facilities) Regulations 2007: <http://bit.ly/1rMlpfG>. These regulations strictly limit the purposes for which the extra payments may be provided.

How does this apply to people taking steps to leave? The 2007 regulations do not contain a specific provision which deals with payments for obtaining travel documents, communicating with or travelling to embassies, or contacting foreign governments or family members abroad. However regulation 9 provides for a payment to be made where a supported person has an "exceptional need" for: (a) facilities for travel; (b) facilities to make telephone calls; (c) stationery and postage; or (d) essential living needs. Extra payments for the steps described above can potentially be made under this provision.

Is this recognised in Home Office guidance? Yes, at least in respect of attending documentation interviews (see p23 of 'Section 4: additional services or facilities under the 2007 regulations: <http://bit.ly/1yQo0UW>, and p42 of 'Section 4 support: <http://bit.ly/1v7BICD>). Assuming an applicant can demonstrate an exceptional need (see below), in theory an application for other communications should also be entertained.

How is an application made? To claim extra payments, applicants need to complete the form 'Application for provision of services or facilities for section 4 service users': <http://bit.ly/1w0ytB2>.

When can an application be made? It's worth noting the distinction between when an application can be submitted, and when extra payments will actually be received. According to Home Office guidance, a person can *apply* for extra payments irrespective of whether they are on s4 support (see p26 of 'Section 4: additional services or facilities under the 2007 regulations'). However, that person will not *receive* any extra payments until a standard s4 application has also been approved (i.e. being on s4 support is a pre-requisite to receiving extra s4 payments).

How to demonstrate an 'exceptional need'? Naturally, each application will have different circumstances. However, Home Office guidance states that where a person applies for a payment to cover travel costs for a documentation interview, the caseworker must be satisfied that the cost cannot be obtained through other means. Therefore potential supporting evidence could be confirmation that the applicant can't receive assistance from Refugee Action's Choices service (or another charity). For communications abroad, the exceptional need might relate to the particular nationality procedures imposed by foreign authorities, or the location of relevant documents which are required in order to progress the documentation process.

Does the First-tier Tribunal (Asylum Support) expect people to apply for these payments? Again, each case will depend on the circumstances. For example, if contacting family members or foreign governments abroad would not produce any practical benefit for leaving the UK, the Tribunal might not consider it necessary for the applicant to have taken that step. However, it's worth noting the comments of the Deputy Principal Judge in AS/14/06/31610:

"The appellant has not visited the Palestinian General Delegation in London and gave as reason for not doing so that he was supported by the Home Office some way from London and would thus be unable to afford the travel. I do not accept this explanation since an application could be made to the Home Office for transport costs to visit an Embassy."

For advice in relation to specific applications, please call ASAP's advice line (020 3716 0283) between 2-4pm every Monday, Wednesday and Friday.

Before an application is made, ASAP recommends that the Home Office guidance is read in full.