



Home Office

Assessing destitution

Version 3.0

This document provides instruction on determining whether a person applying for support under either section 98, 95 or 4 is destitute for the purpose of asylum support.

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Application of this instruction in respect of children and those with children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to section 55. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account in all relevant activities.

Our statutory duty to children includes the need to demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's interests being made a primary, although not the only consideration
- no discrimination of any kind
- asylum applications are dealt with in a timely fashion
- identification of those that might be at risk from harm

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About this guidance

This document provides guidance to caseworkers on determining whether a person applying for support under either [Section 98](#), [95](#) or [4](#) of the Immigration and Asylum Act 1999 is destitute and therefore meets one of the qualifying criteria to receive that support.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **3.0**
- published for Home Office staff on **6 November 2019**

Changes from last version of this guidance

- the relevant content of previous published instructions has been moved to the new Home Office guidance template
- the content of previous published instructions has been updated to make the text of the guidance clearer and more concise and to remove some defunct references to the ASYS IT casework system, which is no longer used by the Home Office
- the new version reflects comments and observations of external organisations that attend the Asylum Support Group of the National Asylum Stakeholder Forum and includes further specific guidance on the right to rent policy and its impact on support policy and about making enquiries with third parties
- the new version no longer includes the destitution threshold tables that were included in previous published instructions as changes to the way support is provided, simplifying the payment of weekly allowances, mean these are no longer necessary

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For full context see Asylum support policy and process instructions pages

For guidance on dealing with applications for support asylum seekers who may be at risk of domestic abuse caseworkers must also refer to: Domestic abuse: responding to reports of domestic abuse from asylum seekers

For those who may be victims of modern slavery caseworkers must refer to Victims of Modern Slavery.

Related external links

[Asylum support instruction pages](#)

Background and legislative framework

[Section 95 of the Immigration and Asylum Act 1999](#) enables the Secretary of State to provide, or arrange for the provision of, support for asylum seekers or dependants of asylum seekers who appear to be destitute or are likely to become destitute within a prescribed period set out in the Asylum Support Regulations 2000.

In cases where the person is applying for section 95 support the prescribed period, as provided for in regulation 7 of the 2000 Regulations, is 14 calendar days from the date an application for support falls to be determined. In cases where the person is already receiving support the prescribed is 56 calendar days.

[Section 98 of the 1999 Act](#) provides that the Secretary of State may provide, or arrange for the provision of, support for asylum seekers or dependants of asylum seekers who it appears to the Secretary of State may be destitute pending the consideration of their support application under section 95 of the 1999 Act.

The test for destitution for Section 98 support is the same as that used to determine Section 95 applications.

[Section 4\(2\) of the 1999 Act](#) enables the Secretary of State to provide support to failed asylum seekers who appear to be destitute and meet other criteria set out in the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005.

The test for destitution for Section 4 support is the same as that used to determine Section 95 applications.

Destitution test

Section 95(3) of the 1999 Act provides that a person is destitute if:

- they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met) or
- have adequate accommodation or the means of obtaining it but cannot meet their other essential living needs

Provision of support

Section 95 support is usually provided in the form of furnished accommodation, with utilities such as gas, electricity and water also provided free, and a weekly cash allowance to cover other essential living needs. The level of this allowance is set out in regulation 10(2) of the 2000 Regulations.

Where, however, the person seeking section 95 support has adequate accommodation, but needs assistance to cover their other essential needs, support may be provided for in the form of the weekly cash allowance only. This form of support is commonly described as 'subsistence only' support.

Although cases are very rare, section 95 support may also be provided in the form of accommodation only, for example because the asylum seeker has sufficient funds to cover their essential living needs but insufficient funds to obtain adequate accommodation.

Section 98 support is usually provided in the form of temporary full board accommodation. Section 4 support is always provided in the form of accommodation, but if the person is not placed in full board accommodation a weekly allowance is usually provided to cover other living needs.

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Considering the support application and making further enquiries

Applications for support under [section 95](#) or [section 4](#) are made on form ASF1, usually through Migrant Help, a voluntary sector organisation funded by the Home Office to assist the person with making the application. Other organisations may also assist in completing the ASF1 form.

In the case of those seeking section 95 support, the form requires them to indicate whether they are seeking accommodation and subsistence to cover their essential living needs, or accommodation only or subsistence only.

The ASF1 form also requires the person applying for support to provide information about their personal circumstances and sections 11A, 11B, 12A, 12B and 13 require them to declare all income and assets and other forms of support available to them.

Provided it is completed accurately, the ASF1 form is designed in a way to enable a decision to be made on the application without the need to make further enquiries. However, this may be necessary in particular circumstances, for example because the information provided requires further clarification or is not consistent with other information held on the person.

In all cases, the information provided on the form should be carefully compared with other information held about the person, including information they may have supplied about their income and assets when applying from abroad for a visa to enter the United Kingdom.

Minor or inconsequential differences between the information on the form and other information held about the person may be disregarded if they have no bearing on the question of whether they are eligible to receive support.

Other discrepancies or differences will normally need to be put to the person, so that they can explain why the information they have provided on the form is not the same as other information they have provided, or which is otherwise held about them.

If the explanation provided is not credible the application for support will usually fall to be refused on the basis that the person has not satisfied the Secretary of State that they are destitute or likely to be destitute within 14 days.

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Enquiries with third parties

When considering an application for support, requests for information relevant to the destitution test should not usually be made directly to family members, friends, former landlords, or others who may previously have provided accommodation or other assistance. Instead the person seeking support should be asked to contact the person(s) and ask them to provide the information.

Similarly, information about a person's earnings through employment, or past employment, should not normally be requested directly from the employer. The person seeking support should instead be asked to provide the information by supplying letters from the employer and/or pay slips.

Where the person seeking support has been in receipt of support or assistance from other public bodies, such as local authorities and the Department of Work and Pensions, information provided on the ASF1 form may be shared with the organisations being approached for information, with the caveat that the information remains confidential and it should not be shared further without first obtaining prior consent from the Home Office.

In some circumstances, enquiries may need to be made about any assets that the person may hold overseas or about income they are receiving that is from an overseas source. These cases most commonly arise when the person declared that they had assets and income available to them on a visa application before entering the UK. Enquiries about the availability of these assets and income may be made where appropriate, for example to establish whether funds held in a bank account can be transferred to the UK; however, on no account should it be disclosed that the person has sought asylum in the UK and consideration must also be given to whether the enquiries may put the individual at risk.

The declaration in the ASF1 signed by applicants sets out that the Home Office will use the personal information provided to consider the application and may also share it with other public and private sector organisations in the UK and overseas.

The Privacy Notice for the Border, Immigration and Citizenship system sets out applicants' rights under the Data Protection Act 2018, explains how they can access their personal information and how to complain if they have concerns about how it is being used.

See also:

- [Borders, immigration and citizenship: privacy information notice](#)
- Disclosure to third parties of information relating to asylum applications

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Deciding if the person is destitute: general principles

To determine whether a person is destitute, or likely to be destitute within 14 days, it is necessary to decide if they are either:

- able to meet their essential living needs (for those who have adequate accommodation and are only seeking subsistence only support)
- able to secure adequate accommodation and also able to meet their essential living needs (for those seeking accommodation and subsistence support or accommodation only)

Where a person has no family or friends to turn to for support, is not eligible for any other form of support provided from public funds and has no income or assets, it will usually be clear that they are destitute or likely to be within 14 days.

If they have been present in the United Kingdom for a prolonged period before seeking support it will usually be a reasonable assumption that they have had access to alternative forms of accommodation or other forms of assistance during the period. An explanation of why this accommodation and assistance is no longer available will therefore usually be required.

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Adequacy of accommodation

Regulation 8 of the 2000 Regulation lists the full factors that must be taken into consideration in deciding whether any accommodation the person may be occupying at the time they apply for support is adequate. These include whether the accommodation is affordable and whether it is reasonable to expect the person to continue to occupy it.

Where the person is living with friends or relatives at the time they apply for accommodation under section 95 or section 4 they will normally be required to explain why this accommodation is no longer available.

Accommodation is not adequate if the person's continued occupation of it puts them at risk of domestic violence.

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Income and assets to be taken into account

Regulation 6 of the 2000 Regulations outlines the income and assets which must be taken into account in determining whether a person is destitute. Income may derive from a source in the UK or abroad and assets may similarly be held in the UK or abroad. Any income that may reasonably be expected to be available to main applicant and any dependants, or any other support that might reasonably be expected to be available to them, must be taken into account.

The assets which must be taken into account are:

- cash
- savings
- investments
- land
- cars or other vehicles
- goods held for the purpose of a trade or other business

All other assets must be disregarded.

Typical types of income and assets

Typical types of income and assets that are covered in regulation 6 include:

- cash: foreign currency should be converted to its pounds sterling equivalent in order to determine its value - account should also be taken of any commissioning charges incurred in converting the currency into pound sterling
- bank accounts: if it is established that a person seeking support has savings or funds held in a current, deposit, or some other account, evidence in the form of account books or statements is usually required to show the balance - it will usually be necessary to look at bank statements for the previous 6 months
- capital held in trust: the capital is generally held by trustees - the person seeking support should generally be expected to show documentation about the value of the trust and whether payments are being made, or can be made, from the trust
- stocks and shares: these must be assessed according to the most current published information about their value, converted where necessary to pound sterling, and taking into account any costs of disposing of them
- notional capital: this is an asset that a person can access but does not actually have current possession of - an example might be an unclaimed Premium Bond win - capital may also be held by a third party on their behalf, for example by a solicitor following a successful legal claim

Disregarding income or assets

All income, assets and support referred to in regulation 6 of the 2000 Regulations must be taken into account, but some may be disregarded after consideration in certain circumstances. The most common examples are:

Example 1

Where any relevant asset held cannot reasonably be accessed, liquidated or realised within 14 days of the decision on their support application, or 56 days from the date where their eligibility to support is being assessed if they are already in receipt of support. If it is established that the assets may be accessed, liquidated or realised at a later date the person may be provided with support but put on notice that they will be expected to take steps to access the asset and that their support may be discontinued if they fail to do so.

Example 2

Where the person is receiving income from another source, but which is clearly provided for reasons unrelated to covering the costs of their accommodation or meeting their essential living needs. As an example, local authorities occasionally provide small cash sums to help asylum seekers or their children meet needs related to coping with disability or a care need. Additionally, asylum seekers occasionally receive funds from charities or other organisations to fund travel to attend classes or to buy course materials.

Example 3

Where the person is receiving separate support from the Salvation Army or its sub-contractors on behalf of the Home Office because they are a potential or confirmed victim of modern slavery. The weekly cash allowance provided to victims takes into account, where appropriate, that the person's essential living needs are being met under sections 95, 98 or 4 of the 1999 Act and is provided for other purposes.

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Calculation of the destitution threshold

The destitution threshold is the minimum the person needs to enable them to obtain adequate accommodation and meet their other essential needs. Once the funds needed to cover the 2 components are calculated, then any income, assets and other support available to the applicant must be set against this.

Where the person's assets and income, excluding those that are to be disregarded or temporarily disregarded, are above the threshold support should be refused.

If some income and assets are available, but not enough to reach the threshold, support may be provided at a reduced level.

As a basic example, where a person receives £20 per week from another source that does not fall to be disregarded they may receive a weekly allowance, but with a reduction of £20 from the amount provided for in Regulation 10(2).

Minimum needed to cover the cost of meeting essential living needs

As a general rule, the cost to a person of meeting their essential living needs should be assessed with reference to regulation 10(2) of the 2000 Regulations, as this sets out the amount of weekly cash that the average asylum seeker needs to cover most of their essential living needs.

For those who have adequate accommodation and are therefore seeking subsistence only support, the assessment of whether they are destitute, or likely to be destitute within 14 days, is usually twice the sum of the weekly cash allowance set out in regulation 10(2) of the 2000 Regulations.

Minimum needed to cover the cost of obtaining adequate accommodation

For those who are also applying for accommodation, the assessment of whether the destitution threshold is reached needs to also take account, not only of the funds that the average asylum seeker needs to cover most of their essential living needs, but also of the costs of obtaining adequate accommodation. For those seeking accommodation only, only the cost of obtaining adequate accommodation need to be calculated.

As a general rule, the cost of obtaining adequate accommodation, which will vary by region, should be established by obtaining an average price for bed and breakfast in the local area.

Bed and breakfast establishments offer simple and easily accessible accommodation and are relatively affordable compared to hotels. The majority of bed and breakfast establishments will have their own websites, containing price lists for varying types of room to suit singles, couples or families.

Having established the cost of obtaining adequate accommodation in the local area, caseworkers should consider whether, excluding any income or assets which falls to be disregarded, the person has sufficient funds to obtain that accommodation and meet their other essential living needs for 14 calendar days.

Right to rent

Asylum seekers and failed asylum seekers are unlikely to have the automatic right to rent as they will only have leave to remain in the UK in limited circumstances. However, permission to rent is normally granted to asylum seekers if their asylum claim, or appeal against refusal of the claim, is still outstanding. Failed asylum seekers who can satisfy one of the conditions set out in the regulation 3(2) of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 will also normally be granted permission to rent.

Where a person appears to have adequate funds to obtain their own accommodation, CID should be updated to reflect this, so that any check by a landlord can be managed quickly. The landlord will be able to contact the [Home Office landlord's checking service](#), in order to establish that they may rent to the person concerned.

This means that those who have the financial means to rent a property are not prevented from doing so and are therefore unlikely to qualify for section 95 support.

The destitution threshold for families

The calculation of the destitution threshold is different for asylum seekers who have dependants, but the same principles apply. The necessary assessment needs to take account of the costs of securing accommodation adequate for the whole family and of meeting their other essential living needs. Once the destitution threshold for the family has been calculated, any income, assets or other support available to the family as a whole must be set against that sum.

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Income and assets previously held: claim that they have been depleted

Where it is established that the person has at one time held income or assets, whether in the United Kingdom or abroad, and it is unlikely that these will have been depleted through normal expenditure on living costs in the interim period before the application for support, they will need to explain why the assets or income are no longer available.

If the explanation is not credible, caseworkers may reasonably infer that the income or assets are still available and refuse support on that basis.

Even if the explanation is credible, the application for support should be refused if the assets or income can be recovered.

Income and assets declared on a visa application

The source of any income does not need to be in the United Kingdom and nor do any assets need to be held in the United Kingdom.

The Central Reference System should always be examined to determine whether a person seeking support has previously applied for a visa to enter the United Kingdom and if so whether information was provided about any income or assets held or other information relevant to whether they are destitute.

Where the person claims that information about income and assets declared on the visa application is inaccurate or fabricated the caseworker will need to decide if that claim is credible, taking account of all the available evidence and applying the normal balance of probabilities test.

If the claim is not considered credible, the income and assets declared to the visa officer should be taken into account in assessing whether the destitution threshold is reached in the normal way.

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