



Applying for Section 4 NASS (hard case) support

Section 4 of the Immigration and Asylum Act 1999 allows NASS to provide full-board accommodation outside London for destitute asylum seekers who have exhausted all their appeal rights but are unable to return home.

Section 4 support is also known as 'hard case support'. NASS has published its policy bulletin 71 on Section 4 support available at:
<http://www.ind.homeoffice.gov.uk/default.asp?PageId=4885>

Who is eligible?

Individuals may be provided with a Section 4 support grant if

- their claim for asylum has been determined and they are no longer an asylum seeker within the meaning of Part VI of the 1999 Act; and
- they have been supported by the National Asylum Support Service (NASS) or by a local authority under Schedule 9 of the Act (interim arrangements); and
- they are destitute and have no other avenues of support available to them.

What are the criteria?

NASS has very strict criteria and support is only awarded in the following exceptional circumstances:

- Individuals must be unable to leave the UK due to a physical impediment to travel (such as illness or late pregnancy).
- Or they are unable to leave because there is no safe route available for the return.
- Or they are complying with an attempt to obtain a travel document to facilitate return. (This includes those who agreed to return under the Voluntary Assisted Returns Reintegration Programme administered by the International Organization)

for Migration (IOM) but who cannot leave immediately because they need a travel document.)

- Or there are exceptional or compassionate circumstances.
- Or they applied for judicial review against asylum refusal and have been granted permission to proceed. (In Scotland, only proof of application for judicial review is required.)

What evidence is needed?

NASS should consider each application on a case by case basis but the evidence should consist of the following:

1. The person is unable to leave the UK due to a physical impediment to travel (such as illness or late pregnancy):

Evidence should take the form of a letter from her/his doctor stating why the person is unfit to travel (for example, proof of pregnancy) and if possible, date by which they are expected to be able to travel.

2. The person is complying to try and apply for travel document.

NASS will seek confirmation from the Immigration Service and expected date of issue. If the person has applied to IOM, then IOM will pass on details to the Immigration Service. The applicant therefore does not need to include a copy of the IOM application form.

3. Return route may be unsafe.

NASS should seek confirmation from the Immigration Service if there is no safe route of return, and be aware of which countries may be affected.

4. Individual is applying for judicial review.

A copy of court order or confirmation from the applicant's legal representative that permission has been granted is required. In Scotland, only proof of application for judicial review is needed.

How do people apply for Section 4 support?

Advisers and legal representatives can help asylum seekers meeting above criteria complete the new Section 5 request form, which is available at: www.ind.homeoffice.gov.uk (go to 'NASS', and then 'Getting support'). The completed form needs to be faxed back to NASS on 020 8633 0455.

Some applicants may not have a current address for correspondence because they will no longer be in NASS accommodation. Advisers may have to receive correspondence on behalf of Section 5 applicants.

On the application form, the applicant must sign a declaration indicating that she understands and accepts the conditions under which the support is offered. She or the adviser must also indicate if the applicant is destitute and the application is urgent.

If Section 4 support is granted, NASS will allocate basic full-board accommodation. The accommodation is usually close to the dispersal area but it could be anywhere in the country.

Applicants with a negative Section 55 decision

A person who would otherwise fall under the Section 4 criteria but who has a negative Section 55 decision cannot be provided with Section 4 support unless denial of such support would breach her human rights as set out in Article 3 of the European Convention on Human Rights.

Advisers may need to ask NASS to reconsider a negative Section 55 decision so that Section 4 can be processed. NASS will look into reconsidering their Section 55 decision if they are satisfied that the applicant meets Section 4 criteria, for example, if the applicant is unfit to travel.

Challenging a NASS refusal of Section 4 support

If the applicant's situation has changed since she applied for the Section 4 support, or if there is new evidence to support her claim, she can reapply for Section 4 support. NASS may ask applicants in this situation about how they survived since they last applied for support, in order to satisfy themselves that they are destitute. While there is no right to appeal against the refusal of a Section 4 support, it may be possible to challenge the refusal through judicial review. Individuals will need to seek the advice of a legal representative.

Community care needs

If the individual has physical or learning difficulties, hearing or visual impairments, mental health issues or chronic ill health, then she may be eligible for help from Social Services under Section 47 (1) of the National Health Service and Community Care Act 1990. You will need to request a community care needs assessment from the local social services department on her behalf.

Charitable help

In some cases, local community organisations such as refugee community organisations or faith groups may be able to provide basic assistance like a hot meal, food parcels or clothing for those who have no means of support. Advisers may want to find out what charities or faith groups provide such services in their area and have the contact information available for destitute individuals at the end of the process. They may also benefit from finding out what their local authority has done in response to asylum seekers becoming homeless.

The issue of what happens to asylum seekers at the end of the process is a cause of great concern to refugee organisations. We urge advisers to do the following:

1. This area is already being challenged legally on the basis that this form of destitution should not be tolerated in any civilised society. Find out which legal representatives in your area have expertise in the area of asylum support to see if they can take on the case.

Call your local One Stop Service or local law centre to see if they know of any solicitors offering to take on appropriate cases in challenging destitution.

2. Join the Refugee Council in raising the issue with Ministers, MPs, councillors, civil servants, and local government organisations. We encourage you to campaign on these issues. It is vital that we raise awareness that this problem highlights a failure in the asylum system leaving growing numbers of individuals destitute.

If you have any case studies or relevant information that may be useful in our campaigns, please contact Bharti Patel, Head of Policy, on bharti.patel@refugeecouncil.org.uk or 020 7820 3139.

For general information enquiries, email the Refugee Council Information Desk at: info@refugeecouncil.org.uk, or telephone our Information Line on 020 7820 2085 (open Mondays, Wednesdays, Fridays, 10am to 1pm).