

Briefing: Section 4 Support

The purpose of this briefing is to provide information for advisers on the current system and application of Section 4 support (previously called Hard Cases support). Support under Section 4(1) of the Immigration and Asylum Act 2002, provides full-board accommodation outside London for asylum seekers who have exhausted all their appeal rights and may be awaiting judicial review or are simply unable to return home. Section 4 support does not apply to families with children under 18, as their NASS support should continue until they are actually removed from the United Kingdom.



Who is eligible?

A person may be provided with Section 4 support if:

- his /her claim for asylum has been determined (within the meaning of Part VI of the Act) and thus has no more appeal rights
- he/she has exhausted any outstanding application under Article 3 of the Human Rights Act
- he/she has been supported by the National Asylum Support Service (NASS) or by a local authority
- he/she is destitute
- he/she has no other avenues of support.
- he/she has received a positive Section 55 decision

What are the criteria?

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

- s/he must be unable to leave the UK due to a physical impediment to travel (such as illness or late pregnancy). The applicant must provide a doctor's letter clearly stating this OR
- s/he is unable to return to their home country because a safe route has not yet been identified. Confirmation from the Immigration Service is required to substantiate this OR
- the circumstances of his/her case are exceptional, and s/he is taking all reasonable steps to leave the UK whilst complying with efforts to be removed OR
- if it is clear s/he has made an application for judicial review – evidence, such as a letter from an immigration solicitor, will have to be provided.

When to apply for Section 4 Support?

After losing his/her asylum case and having exhausted any appeal rights, individuals will receive a support termination letter from NASS. At this stage legal advisers or the Scottish Refugee Council can be contacted for advice and assistance.

How do people apply for Section 4 Support?

A One Stop Service advisor or legal representative can help an individual in these circumstances apply. Application forms for Section 4 support should be sent to: Hard Cases Section, NASS, 2nd Floor, Voyager House, 30 Wellesley Road, Croydon, CR0 2AD.

- The applicant should include: name, Home Office reference number, Nationality, NASS reference number (if applicable), and details of judicial review (if applicable).

Note: some applicants may not have a current address for correspondence because they will no longer be in NASS accommodation. Correspondence may be sent to them via their advisor.

- Various pieces of evidence will be required depending on the applicants reasons for applying for Section 4 support.
- Each applicant is considered on a case-by-case basis.
- If the application for support is accepted, a letter in English will be sent to the applicant.
- There is no alternative cash provision.
- There is at present no Section 4 accommodation in Scotland.
- Full-board accommodation (not NASS accommodation) will be offered on a no-choice basis. The nearest Section 4 accommodation is in Liverpool and Nottingham.

What about those who are not eligible or are denied Section 4 support?

Special needs

If the individual has physical or learning impairments, hearing or visual impairments, mental health issues or chronic ill health, then s/he may be eligible for help from social work under Section 47 (1) of the National Health Service and Community Care Act 1990. A community care assessment from the local social work department should be requested on his/her behalf.

Challenging the decision to refuse Section 4 support'

While there is no right to appeal against the refusal of Section 4 support, if more evidence becomes available a client is entitled to apply for Section 4 support again. Alternatively it may be possible to challenge the refusal through judicial review. Applications for judicial review in Scotland do not have a formal permission to proceed stage. Therefore, in Scotland section 4 accommodation should be provided in all qualifying cases where an application for judicial review has been made. The individual will need to seek the advice of a legal representative.

Difficulties with the application process

- Decision time for processing Section 4 support can take up to four months.
- Delays to the process are occurring due to the lack of Section 4 accommodation.
- Someone with a negative Section 55 decision cannot be provided with Section 4 support unless denial of support would breach their human rights under Article 3.

Scottish Refugee Council concerns

- The lengthy timescales involved in receiving a decision on Section 4 applications is unacceptable. Delays in processing hard case applications are already leading to destitution and homelessness.
- It is vital that hard case accommodation is provided in Scotland. Individuals who have applied for judicial review in Scotland, and go on to full board Section 4 accommodation in England will have no financial means of returning to Scotland to attend judicial review or to consult advisers, prejudicing any possible outcome. Those refused hard case support are left with no legal mean of supporting themselves and are forced to rely on charity. Full board accommodation without cash is unsuitable for long term support.
- Individuals accepted on Section 4 support are required to sign a statement that they understand and accept the conditions and will return to their home country if this is made possible. The Scottish Refugee Council are concerned that this is being made a condition of support.