

Section 4 Key Points of Reference

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Introduction

This document lists the most common questions received by the NAM+ Asylum Support Team on section 4 support. The list is divided into subject areas and provides links to the Asylum Instructions. Where possible, it also provides links to the relevant Policy Bulletins and Legislation.

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Eligibility Criteria

1. What is Section 4 Support?

All asylum seekers whose applications have been fully determined and have exhausted their appeal rights are required to leave the UK as soon as possible. It is accepted that there will be some failed asylum seekers who are destitute and are unable to leave the UK immediately due to circumstances beyond their control. In these circumstances the failed asylum seeker can request the provision of support under section 4 of the Immigration and Asylum Act 1999 (IAA 1999).

Families with dependants under the age of 18 in their household when their asylum claim is determined will continue to be eligible for section 95 support until the youngest child reaches 18, they leave the UK voluntarily or they are removed (see section 94(5) of the IAA 1999). Further, where a minor dependant is born or becomes part of the household within the prescribed grace period (21 days if the decision is served in person; 23 days including postage if served by post) following a negative outcome on the asylum application, section 95 support will continue. However, if the only minor dependant becomes part of the household outside of the prescribed grace period, the family will not be eligible for section 95 support. Support may be provided to the family under section 4 of the IAA 1999, provided the eligibility criteria are met.

Section 4 support is intended as a limited and temporary form of support for people who are expected to leave the UK.

2. Who is eligible to apply for section 4 accommodation?

The criteria that a failed asylum seeker or the dependant of a failed asylum seeker must meet to be eligible to receive support under section 4 of the IAA 1999 are set out in regulation 3 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 ("the 2005 Regulations"). The regulations set out the criteria for the grant of, and conditions for, continued support for failed asylum seekers and may be viewed on web link <http://www.opsi.gov.uk/si/si2005/20050930.htm>.

The 2005 Regulations state that the Secretary of State may provide accommodation under section 4 to a failed asylum seeker who appears to be destitute and satisfies one or more of the following criteria:

- **Regulation 3(2)(a)** the person is taking all reasonable steps to leave the UK, or to place themselves in a position in which he or she is able to leave the UK. (This includes, for example, complying with attempts to obtain a travel document to facilitate departure).
- **Regulation 3(2)(b)** the person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.
- **Regulation 3(2)(c)** the person is unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available. **N.B. Not currently applicable to any country in the world**

- **Regulation 3(2)(d)** the person has made an application in Scotland for judicial review of a decision in relation to his asylum claim, or, in England, Wales or Northern Ireland, has applied for such a judicial review and been granted permission to proceed.
- **Regulation 3(2)(e)** the provision of accommodation is necessary for the purpose of avoiding a breach of a person's Convention rights, within the meaning of the Human Rights Act 1998.

Section 4 support can also be provided to those who are released on immigration bail. In these circumstances, the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 does not apply in such cases and a separate process must be followed. Further information on this kind of Section 4 Support can be found on the UKBA website in the [Section 4 Bail Accommodation Process Instruction](#).

3. What does destitute mean?

Destitute has the same meaning as set out under section 95(3) of the IAA 1999 and the regulation 7 of the Asylum Support Regulations 2000.

To be eligible for support under section 4(2) or (3) an applicant must appear to the Secretary of State to be destitute or is likely to become destitute within a 14 day period. To determine whether the applicant is destitute, Case Owners must have regard to the applicant's circumstances currently and prior to making the section 4 application. The destitution test must be applied before considering the application under the criteria in regulation 3(2) of the 2005 Regulations.

The test for destitution for section 4 support is the same as that used to determine section 95 applications under [section 95\(3\) of the 1999 Act](#):

“a person is destitute if—

(a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or

(b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs”.

4. What happens to failed asylum seekers who are not supported under section 4?

The expectation is that they should return to their country of origin. If they can demonstrate that they have registered with Refugee Action for an Assisted Voluntary Return (AVR) or that they are taking all reasonable steps to leave the UK under their own means, they may qualify for section 4 support until they return.

5. What happens if a failed asylum seeker does not choose to leave the UK voluntarily?

While the Government considers that voluntary returns are preferable to enforced returns, should a failed asylum seeker refuse to leave the UK voluntarily, his or her removal may be enforced.

6. Why are failed asylum seekers being made destitute?

Government policy is such that it is not necessary for failed asylum seekers to become homeless and destitute. The UK Border Agency has an effective end-to-end strategy to ensure that asylum support is provided throughout the asylum process to eligible asylum seekers who would otherwise be destitute. Support continues until their asylum application has been fully determined.

Those failed asylum seekers who are eligible to receive section 4 support continue to be supported until the barrier to their leaving is resolved. Failed asylum seekers without a barrier to leaving the UK are encouraged to make a voluntary departure. Failure to leave the UK voluntarily may result in an enforced return.

Families with dependants in their household under the age of 18 when their claim is fully determined will continue to be eligible for section 95 support until the youngest child reaches 18, they leave the UK voluntarily or their removal is enforced.

7. What if a failed asylum seeker is afraid to return to their country of origin?

All asylum seekers whose applications have been fully determined and have exhausted their appeal rights have had their asylum claims carefully considered by the Home Office; many will also have had appeals heard by the First Tier Tribunal (Immigration and Asylum Chamber). In the circumstances, it has been decided that they do not require international protection. They are therefore required to leave the UK as soon as possible.

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Provision of Support

8. How are failed asylum seekers informed of the availability of Section 4 support?

All those in receipt of asylum support are informed of the availability of section 4 support when their section 95 support comes to an end. The One Stop Services (OSS), legal advisors and voluntary sector partners are also available to provide advice on, the availability of section 4 support and the conditions for receipt.

9. How does a failed asylum seeker apply for section 4 support?

The [Asylum Support Form \(ASF1\)](#) is available via the UK Border Agency website.

Guidance notes on how to complete the ASF1 application form together with a form for applying for additional services or facilities can also be found on the UK Border Agency website on the [applying for support](#) page.

If the asylum claim was made before 5th March 2007 the completed form should be returned to:

**Immigration Group
North West Local Immigration Teams
UK Border Agency
4th Floor, Reliance House
Liverpool
L2 8XU
Tel: 0845 602 1739
Fax: 0870 336 9345**

If the asylum claim was made after 5th March 2007 the completed form should be returned to the regional asylum support team dealing with the application. Regional Asylum Support Teams are listed in Annex 2 to the [Asylum Support Form \(ASF1\)](#).

10. How is section 4 support provided?

Support is provided in the form of self-catering accommodation with a weekly credit to the Azure pre-payment card to purchase food and essential toiletries. In exceptional cases, full-board accommodation may be provided, depending on availability.

11. Why is section 4 support not provided in cash?

The UK Border Agency is explicitly prevented by legislation from providing section 4 support in the form of cash. When section 4 of the 1999 Act obtained Parliamentary consent on 11 November 1999, it was Parliament's intention that section 4 be a cashless form of support.

Section 4 support was originally intended to be predominantly provided via full-board accommodation. However, section 4 support is now mostly provided in the form of self-catering accommodation with additional support provided via the Azure payment card for the purchase of food and essential toiletries.

The Government's position remains that the support provided to failed asylum seekers, who have been found to have no international protection needs and who should be taking steps to leave the UK, should be provided via a cashless system in order to prevent an incentive to remain and act as an extended drain on limited public funds.

12. Is there a right of appeal if section 4 support is not provided?

Under section 103 of the IAA 1999, as amended by section 10(3) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, there is a right of appeal to the Tribunal Service – Asylum Support against a refusal of section 4 support made after 31 March 2005.

13. How many people are supported on section 4 and what are the main nationalities?

Statistics for numbers supported under section 4, which are produced on a quarterly basis, may be viewed on the RDS website at:

<http://rds.homeoffice.gov.uk/rds/asylum.html>

Published figures show numbers of applicants supported, excluding dependants. The statistics also show the breakdown of principal nationalities supported. Provision of support is dependent on meeting eligibility criteria, irrespective of nationality.

14. How is the level of section 4 decided?

Section 4 support for failed asylum seekers is set at a flat rate to reflect the temporary nature of support. With effect from 12 April 2010, the rate was uplifted to £35.39 per person per week. The rate was increased by 1.1% in line with the Consumer Price Index (CPI) of September 2009. The weekly rate covers food and essential toiletries.

15. How long are failed asylum seekers entitled to receive support under section 4?

Failed asylum seekers in receipt of section 4 support will continue to be supported until the barrier to leaving the UK, which qualifies them for section 4 support, is removed or resolved and providing there is no material change in their circumstances which would affect their eligibility. All cases are regularly reviewed to determine if they remain eligible for section 4 support.

In cases where the applicant is found to be no longer eligible, support will be withdrawn. Support may also be withdrawn if the applicant has breached the conditions of their support.

16. What are the review periods?

Cases are reviewed on an ongoing basis. Review periods are set as appropriate, but at no longer than 3 month intervals. Please see the Asylum Instruction for [review of section 4 eligibility](#) for further information

17. What is being done to address the issue of failed asylum seekers who have been supported under section 4 for long periods?

Section 4 cases are subject to a review process to ensure that only those entitled to support remain supported. In cases where the supported person is found to be no longer eligible or where a condition of support has been breached, support must be withdrawn and discontinued.

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Azure pre – payment card

18. What is the Azure pre-payment card?

The Azure pre-payment card replaced Section 4 vouchers in February 2010 and can be used by applicants supported under section 4 to buy food and essential toiletries. In some cases full board accommodation will be allocated. In these circumstances, all meals will be provided.

Vouchers are now only issued in certain circumstances, e.g. if the Azure card is lost or stolen or a new or replacement card is in the process of being issued

19. Where is the Azure pre-payment card accepted?

The Azure payment card can be used at supermarkets and a variety of other outlets. A list of [supermarkets and other retail outlets](#) where the Azure pre -payment card can be used to purchase goods may be viewed on the Section 4 website

We ensure with accommodation providers that the distance to shops that accept the Azure pre-payment card is not more than three miles from the relevant individual's accommodation. If the distance is further, or if a failed asylum seeker in receipt of section 4 support is unable to walk a distance of up to three miles by reason of a physical impediment or for some other medical reason, the accommodation provider may make alternative transport arrangements, deliveries, or arrange for the service user to be moved closer to the local supermarket. In some instances, applicants in receipt of section 4 support elect of their own volition to travel to specific outlets, which may be further than three miles.

20. Which items maybe purchased with the Azure pre-payment card?

The Azure pre-payment card provided for those accommodated under section 4 can only be used to buy the following items:

- Food and drink items (to meet dietary/religious requirements), but not alcohol
- Baby milk and food
- Toiletries, including:
 - feminine hygiene items
 - nappies
 - toiletries for a nursing mother
 - non-prescription drugs such as headache tablets
 - washing powder

The accommodation provider will be able to assist with the provision of the following if required:

- needle and thread to mend clothes
- pen and paper

21. How can a shop selling specialist goods (Halal meat) apply to be part of the Azure pre-payment card scheme?

Section 4 accommodation providers have negotiated for certain shops to accept the Azure pre-payment card to ensure dietary needs are met (e.g. the purchase of halal meat). A [form for nomination](#) to join the scheme to sell such items using the card is available on the UK Border Agency website.

The accommodation provider may also give specific information on where the Azure pre-payment card can be used to buy such goods in local outlets.

22. How are problems arising from the use of the Azure pre-payment card resolved?

If practical difficulties arise with provision of support through the Azure pre-payment card, the UK Border Agency works with the providers concerned to ensure solutions are found. Any individual problems should be referred in the first instance to the provider, who is best placed to resolve any problems, the Regional Case Owner (for cases managed by Regional Case Owners) or the CAAU Caseworker.

All complaints, relating to the participating supermarkets are dealt with immediately by our business partners Sodexo. A Sodexo helpline telephone number is printed on the Azure card to ensure that any complaints regarding supermarket activity, such as failing to acknowledge the card or any discriminatory incidents are resolved immediately and effectively.

23. Is clothing provided under section 4?

Section 4 support does not include the provision of clothing. However, it is recognised that some failed asylum seekers supported under section 4 may require further services or facilities that are above and beyond those which can be provided in the form of ordinary section 4 support. [The Immigration and Asylum \(Provision of Services or Facilities\) Regulations 2007](#) set out the circumstances under which the Secretary of State may provide or arrange for the provision of specified services or facilities to those who are provided with accommodation under section 4.

Regulation 8 recognises that children under the age of 16 may require new clothes on a regular basis. As a result, a supported person may apply for additional support to the value of £5 per week for each child. This additional support can be used at a number of stores and cannot be used for any other purpose. Regulation 8 applies until the child's 16th birthday.

In addition to this, Regulations 6 and 7 make provision for additional support to be credited to pregnant women and new mother's section 4 Azure card redeemable for goods and services relevant to the ante-natal period and the early years of a child's life.

Accommodation Contracts

24. What plans are there to replace the current contracts?

The latest information on the Commercial and Operational Managers Procuring Asylum Support (COMPASS) programme can be found on the UKBA external website at:

<http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/workingwithasylum/compassprogramme/>

The current suite of asylum support and refugee integration contracts are due to expire in 2011. In July 2009, UKBA announced the launch of the COMPASS programme, which was established to replace these contracts.

25. What consultation arrangements are in place for procurement of section 4 accommodation in different regions?

Section 4 accommodation providers are required to consult and liaise with local authorities and other regional corporate partners, both in respect of procurement of section 4 accommodation and ongoing use.

Under Target Contracts, accommodation providers are specifically required to consider community cohesion and the increased risk of disharmony when choosing where to place asylum seekers and failed asylum seekers.

26. Do local authorities provide section 4 accommodation?

Section 43 of the Immigration, Asylum and Nationality Act 2006 amended section 99 of the IAA 1999 and enables local authorities to enter into arrangements with the UK Border Agency for the provision of accommodation to failed asylum seekers under section 4, alongside private providers. Details of the provision may be viewed via the following link: http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060013_en.pdf.

27. Are section 4 recipients located in the same area they lived in at the time of their asylum application?

Our policy is to offer all asylum support accommodation on a 'no choice' basis, although individual special circumstances are taken into account.

Under the provisions of section 97 of the Immigration and Asylum Act 1999 the UK Border Agency must have regard to the desirability, in general, of providing accommodation in areas in which there is a ready supply of accommodation. This means that, as a general rule we will allocate accommodation in areas outside of London and the South East on account of the shortage of affordable housing in that region. In accommodating failed asylum seekers supported under section 4, we will seek where possible to accommodate individuals in regions (other than London and the South East) where they were previously in receipt of asylum support, where applicable.

In some cases it is necessary, due to constraints on the availability of suitable accommodation or for other reasons, to move applicants to another town or city. In

exceptional cases failed asylum seekers supported under section 4 may be moved closer to family members. Local authorities are provided with information on numbers and areas where those supported under section 95 and section 4 are housed.

For more information on the dispersal policy please Asylum Support Policy Bulletin 31 [Dispersal guidelines](#)

28. Is section 4 accommodation inspected?

Housing inspections for section 4 properties were established with regional offices, in line with the arrangements for inspecting section 95 properties. Any concerns about specific properties should be reported to the regional office, who will arrange for an inspection at the earliest opportunity. A list of Regional offices and their contact details can be found at Annex 2 of the [Asylum Support Form \(ASF1\)](#).

29. What are the minimum standards for section 4 accommodation?

In line with section 95 accommodation, these are set out in contracts with accommodation providers. The minimum standards for section 4 accommodation are published on the UK Border Agency website and are known as the [Statement of Requirements](#).

30. What should section 4 recipients do if accommodation does not meet acceptable standards?

Properties where accommodation does not meet acceptable standards should be reported in the first instance to the accommodation provider, who is best placed to resolve any problems. If the matter is still not resolved then the applicant or their representative should contact the regional office, who will investigate and ensure appropriate action is taken.

31. Are section 4 recipients expected to share accommodation?

The majority of those housed under section 4 are allocated shared accommodation. Where there are exceptional reasons why sharing is not considered appropriate, written representations should be made by the applicant, or their representative, citing the reasons for the provision of alternative accommodation.

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Additional Services Regulations 2007

32. What changes did the Immigration and Asylum (Provision of Services or Facilities) Regulations 2007 make to the provision of section 4 support?

The UK Border Agency recognises that people supported under section 4 may require further services or facilities that are above and beyond those which can be provided in the form of ordinary section 4 support. The aim of the [Additional Services Regulations 2007](#) was to set out in legislation the power to provide additional support to supported persons who are already receiving section 4 support and require additional services or facilities that cannot be met by their current support. All the different types of additional services and facilities, and the relevant amounts, for which supported persons may apply, are set out in the legislation. Amongst other things, these Regulations make specific provision for additional support to pregnant women, new mothers and children under 16.

More information on who is eligible for additional services and facilities under the Regulations can be found in the Asylum Instruction [Additional Services or Facilities Under Section 4 of the Immigration and Asylum Act 1999](#)

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Healthcare

33. Are asylum seekers and failed asylum seekers eligible to receive free NHS hospital treatment?

Persons with an outstanding application for asylum in the UK are entitled to use NHS services without charge. However, this does not apply to failed asylum seekers.

In a judgment issued on 30 March 2009, the Court of Appeal found that failed asylum seekers can not be considered to pass the ordinary residence test, nor can they be considered exempt from charges by virtue of spending one year in the UK. **This is now law.** The Court of Appeal also found that NHS Trusts have the discretion to withhold treatment pending payment and also the discretion to provide treatment where there is no prospect of paying for it. NHS Trusts should take account of the Department of Health guidance when applying this discretion.

Further information on eligibility for free National Health Service (NHS) health care for people in selected immigration categories is set out in the table of entitlement to NHS treatment, which can be accessed via the following link:

<http://www.dh.gov.uk/en/Healthcare/International/AsylumseekersAndrefugees/index.htm>.

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Failed Asylum seekers with care needs

34. What support is available to failed asylum seekers with care needs?

A failed adult asylum seeker with care needs may be eligible for support from the local authority.

Under section 21 of the National Assistance Act 1948 (in Scotland, section 12 of the Social Work (Scotland) Act 1968), local authorities have a duty to accommodate persons subject to immigration control who have a need for care and attention due to age, illness or disability which has not arisen solely because of destitution. "Accommodate" has a wide meaning and includes food and essential toiletries in addition to shelter but does not include cash.

35. Can support for failed asylum seekers with care needs be withheld or withdrawn?

Schedule 3 of the Nationality, Immigration and Asylum Act 2002 (NIAA 2002) provides that certain classes of persons are not eligible for support under Section 21 of the National Assistance Act 1948 or section 12 of the Social Work (Scotland) Act 1968, unless support is necessary to avoid a breach of a person's Convention rights. The classes of ineligible persons include: failed asylum seekers who are not co-operating with removal directions and persons unlawfully in the country who are not asylum seekers.

Failed asylum seekers who originally claimed in-country are likely to fall into the latter class. If the original asylum application was made in-country, it is likely eligibility would be limited to support required to prevent a breach of a person's rights under the European Convention.

36. When should a Community Care Assessment be carried out?

Local authorities have a duty to conduct a Community Care Assessment (CCA), upon application, under section 47 of the National Health Service and Community Care Act 1990 where it appears to them that any person for whom they may provide or arrange for the provision of community care services may be in need of any such service or where the person is physically disabled or has mental health needs. It is essential that local authorities conduct an assessment within a reasonable timeframe usually within 28 days of application. If the local authority determines that there is a care need, the local authority has a duty to provide that person with accommodation (which includes related financial support) under section 21 of the National Assistance Act 1948 or section 12 of the Social Work (Scotland) Act 1968.

37. Can local authorities provide community care services pending a CCA?

A local authority may provide community care services, including residential accommodation, pending a CCA where, in its opinion, the condition of the person is such that he or she requires such services under the 1948 Act as a matter of urgency.

38. What support is available for persons previously detained under section 3 of the Mental Health Act 1983?

Section 117 of the Mental Health Act 1983 places duties on Primary Healthcare Trusts, Health Authorities and local authorities to support persons previously detained under section 3 of that Act. Support entitlement under section 117 is not affected by Schedule 3 of the NIAA 2002 but the NHS (Charges to Overseas Visitors) Regulations 1989 may be relevant.

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Voluntary return

39. What assistance is provided for voluntary returns?

Under the Voluntary Assisted Returns and Reintegration Programme (VARRP), Refugee Action provide return and reintegration assistance for voluntary returnees. The reintegration assistance will be paid per returnee and to each family member. Further information on reintegration assistance is available on the Refugee Action website: www.refugee-action.org.uk

On 1 April 2010, the Assisted Voluntary Return for Families and Children (AVRFC) programme which provides families with assistance to return to their country of origin was introduced. Unlike the main two AVR programmes, reintegration assistance under the AVRFC is available to families whether they have previously touched the asylum system or not. Further information can be found at: www.refugee-action.org.uk

40. What happens to failed asylum seekers who fail to take reasonable steps to leave the UK?

All cases are reviewed regularly to ensure that applicants remain eligible for support. An applicant who has registered for an AVR as a condition of support will have a case review after six weeks and then again if an applicant has been supported for three months. If an applicant is not considered to be participating in the AVR programme – for example by failing to report for a flight or by failing to leave the UK within a reasonable period – the asylum caseworker may discontinue support after full consideration of the facts.

41. What happens if an applicant claims to be taking all reasonable steps to leave the UK but does not register with Refugee Action for a voluntary return?

The UK Border Agency considers it is reasonable for applicants who are taking steps to leave the UK voluntarily, either through an Assisted Voluntary Returns programme or independently through other means, to leave the UK within 3 months. This includes obtaining relevant documentation to enable departure.

If an AVR application to Refugee Action is accepted, the application will be valid for 3 months and the applicant will be expected to leave the UK within this period. If Refugee Action is unable to organise return within the 3 month period, the supported person can remain approved in exceptional circumstances.

Consequently an applicant will only be eligible for section 4 support under regulation 3(2)(a) of the 2005 Regulations once, unless there was a legitimate barrier to departure, or exceptional circumstances which prevented departure, at the time the applicant's first period in receipt of support under regulation 3(2)(a) was extant.

This amended policy of limiting the provision of section 4 support under regulation 3(2)(a) to one opportunity (with the exception of circumstances mentioned above) was implemented on 8 June 2009 and can be applied to applicants who were granted support after this date, and retrospectively to all supported persons currently in receipt of section 4 support who were not in receipt or have not previously been in receipt of support under regulation 3(2)(a) on the date the revised policy was implemented.

Applications to the European Court of Human Rights (ECtHR)

42. What effect does an application to the European Court of Human Rights (ECtHR) have on eligibility for Section 4 support?

When a failed asylum seeker has exhausted all domestic avenues of appeal they may apply to the ECtHR to prevent their removal through something called a Rule 39 indication. To remove a failed asylum seeker whilst a Rule 39 indication is in place would be a breach that person's human rights. In these situations, applicants who are destitute would satisfy regulation 3(2)(e) while the Rule 39 indication remained in place.

43. Other than having a Rule 39 indication outstanding how else would an applicant demonstrate eligibility for section 4 support after an application is made to the European Court of Human Rights?

As a general rule, in order for applicants who have an outstanding ECtHR application to demonstrate entitlement to Section 4 support under Regulation 3(2)(e), the onus is upon them to demonstrate that they have:

- (i) exhausted all domestic remedies;
- (ii) lodged an application to the ECtHR that is individuated, fully reasoned, supported by all relevant documentation and has substance as opposed to being merely fanciful or speculative;
- (iii) raised the possibility of an imminent risk of serious and irreparable damage in the event of a return to their country of origin, which may or may not include a request for interim measures under Rule 39.

An applicant who fails to meet the above requirements is unlikely to succeed in their application for Section 4 accommodation.

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Travel to Reporting

44. Does section 4 support cover travel expenses to reporting events?

Travel to reporting events does not come within the scope of section 4 support. Failed asylum seekers supported under section 4 who live within 3 miles of their reporting centre do not meet the eligibility criteria for assistance under section 69 of the NIAA 2002 and will be expected to walk to reporting centres. Where there are extenuating circumstances, e.g. late stages of pregnancy, a request can be made to the UKBA official to vary the conditions, e.g. to reduce reporting frequency or to report to a local police station. It can be arranged for failed asylum seekers supported under section 4 to be moved closer to the reporting centre.

45. Is assistance with the cost of travel to reporting events available?

The Home Office has the power to pay travel expenses to reporting events under section 69 of the NIAA 2002. UKBA policy does not include organising travel to a first reporting event. Consequently, it is very important that an asylum seeker, or failed asylum seeker, updates UKBA with any change of address – particularly if this involves relocation to a different region – to ensure that there is continuity in reporting and provision of return travel tickets.

46. Are failed asylum seekers eligible to receive assistance to cover travel expenses under section 69?

Failed asylum seekers who are not supported under section 4 are not eligible to receive assistance to cover travel expenses whether they live within 3 miles of the reporting centre or not. However, failed asylum seekers who are supported under section 4 **and** who live more than 3 miles away from their reporting centre can now receive travel expenses under section 69.

47. How can travel expenses be claimed?

An application for assistance with the cost of travel must be made in person at the reporting centre. Travel expenses support is provided in the form of pre-paid travel tickets, which are issued by reporting centres during reporting events.

48. What if the eligibility criteria for section 69 assistance are not met?

The asylum caseworker or the Reporting Centre staff that receives the request for assistance with travel expenses should help the applicant complete the Request for Travelling Expenses form.

Where a person does not satisfy the basic criteria for help with travelling expenses an application for assistance may be made, based on exceptional need. Such applications should be made on the [additional needs application form](#) available on the UK Border Agency website.

49. Is assistance available if the applicant reports to a police station?

Following the roll out of travelling expenses assistance to those reporting to reporting centres, the payment of travelling expenses to those reporting at other locations, such as police stations is also available where the eligibility criteria for assistance under section 69 of the NIAA 2002 is met.

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Permission to Work

50. Are Failed Asylum Seekers permitted to work?

On 28 July 2010, the Supreme Court ruled that Article 11 of the EU Reception Conditions Directive should apply in some circumstances to failed asylum seekers who have exhausted their appeal rights. Specifically, this means that failed asylum seekers who have made further submissions asserting they have a fresh claim for asylum which have been outstanding for 12 months or more will now be entitled to apply for permission to work.

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Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	JL	20/10/2010	First version of instruction
2.0	JL	22/11/2010	Change of title from Section 4 guidance to Section 4 key points of reference.
3.0	JL	20/4/2011	Change of CAAU address to send section 4 applications to and change of AVR contract from IOM to Refugee Action.
4.0	JL	12/7/2011	A July monthly update adding chapter on applications made to the European Court of Human Rights and deleting the chapter on Zimbabwean failed asylum seekers

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