



**UK Visas
& Immigration**

Operational Instructions to Staff:

Negative Cessations in light of Covid

March 2021: V0.1

1. This document has been prepared to give guidance to caseworkers on making “negative cessation” decisions once the current pause on making them is lifted.
2. A “negative cessation” in this context is either:
 - A decision to cease providing section 95 support because the individual has been refused asylum and exhausted their appeal rights and has no children and has not successfully applied for section 4 support.
 - A decision to cease providing section 4 support because the conditions attached to it are not met – in basic terms this will usually mean that although the individual may meet the destitution criteria there are no legal or practical obstacles that prevents their departure from the UK and they are not taking reasonable steps to leave the UK.

Context and scope

3. The Government is clear that failed asylum seekers may usually only continue to be supported under section 4(2) of the Immigration and Asylum Act 1999 if they would otherwise be destitute and they meet one or more of the conditions set out in regulation 3(2) of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005. The published policy ([Asylum Support: Section 4\(2\) policy](#)) gives detailed guidance on the criteria an individual must meet to satisfy these conditions.
4. This document sets out the current approach to be taken by caseworkers when reviewing continued eligibility to receive support provided under section 4(2) or section 95 of the 1999 Act (in circumstances where the individual ceases to be eligible to receive it because they have been refused asylum and exhausted their appeal rights).

5. The arrangements set out below currently apply only to those accommodated in England. Separate guidance will in due course be issued to cover cases accommodated in other parts of the UK.

General Principles

6. The following categories of case should not have their section 95 or section 4(2) support discontinued until further notice.
 - Those who are symptomatic with Covid-19 and who are awaiting a test result (restart cessation upon receipt of a negative test result).
 - Those who have had a positive test (regardless of them showing symptoms or being asymptomatic) and they are within their 10 days of self-isolation or who remain symptomatic after 10 days (restart cessation once isolation period is complete but only if they are asymptomatic or have had a negative test result).
7. No other category of case should have their section 95 or section 4(2) support discontinued until step 2 in the Government's roadmap is reached (unless the reason for the cessation is that it is considered that they no longer satisfy the destitution criteria). The [roadmap](#) sets out how the Covid restrictions imposed from 6 January 2021 will start to be lifted and is intended to offer a route back to a more normal life. The development of the roadmap follows the success of the vaccination programme, the significant decline in hospital admissions and other measures to suppress the virus.
8. The following category of case should not have their section 95 or section 4(2) support discontinued until step 3 in the Government's roadmap is reached (unless the reason for the cessation is that it is considered that they no longer satisfy the destitution criteria).
 - Those who have children.
 - Pregnant women.

- Those aged 65 or over.
- Any case where there is evidence that an individual may require a local authority community care assessment ([Asylum seekers with care needs](#)).
- Those who have been classed as clinically extremely vulnerable to Covid -19 and have not been vaccinated.

Other arrangements

9. Until step 3 in the roadmap is reached, managers must also ensure that:

- No more than 175 discontinuation decisions are served in cases accommodated in England per week (inclusive of section 4(2) and section 95).
- There is a cap on the maximum number of decisions that can be made per week on individuals living in a particular local authority, based on the population of the local authority. The formula used to apply this mechanism is based on the existing principle that the maximum number of supported asylum claimants in a local authority should not exceed 1:200 of the general population. This gives the “cluster limit”. The maximum amount of discontinuation per week must exceed no more than 1% of the cluster limit.
- Local authorities are provided with weekly data of the number of eviction decisions made each week in their areas.

10. In the event that there is a return to the system of local Covid restrictions in place between 2 December 2020 and 6 January 2021 .(the “Tier 1-3 system”), negative cessation decisions may still take place. However, decisions must not be made if an individual is accommodated in an area subject to Tier 2 and 3 restrictions and falls into one of the categories listed in paragraph 8. Additionally, the number of Tier 3 cases that can be made are subject to the same restrictions set out in paragraph 9.

Reviewing individual cases

11. Before any decision to discontinue section 4(2) support is made caseworkers must ensure an individual has been informed in writing:
- a) of the reasons why, on the available evidence, it is considered that they may no longer meet any of the conditions set out in regulation 3(2): and
 - b) that they are able to bring themselves within the scope of regulation 3(2) if:
 - they accept the offer of assistance to return to their country of origin through the Home Office voluntary return scheme (VRS); or
 - they show that they are taking reasonable steps to leave the UK or put themselves in a position to leave the UK; or
 - they show that they can satisfy one of the other criteria set out in regulation 3(2).
12. The letter should advise an individual they have 10 working days to reply and of the availability of Migrant Help services to provide advice and assistance on the content of the letter.
13. Each case should be considered on its own individual facts and the information available, but Covid factors unrelated to the impact on the particular individual are of themselves unlikely to affect the assessment of whether an individual meets regulation 3(2) (b), (c), (d) and (e) of the 2005 Regulations. Guidance on assessing whether an individual meets these criteria in the 2005 regulations are set out in detail in the published policy on section 4(2) support.
14. The published policy provides that, where an individual meets the conditions set out in regulation 3(2)(a), in most cases because they have agreed to depart the UK through VRS, support should be provided for 3 months in the first instance, but may be extended in all cases provided they are co-operating with any practical steps necessary to facilitate their departure. The practical steps are likely to be:
- To show that they are taking reasonable steps to obtain any necessary travel documents (e.g. by applying for the document at the relevant national embassy and attending any necessary interviews).

- To keep in contact with the VRS team and confirm that they will actually leave on the flight arranged for them.

15. Caseworkers should continue to consider cases according to these principles but bear in mind that Covid factors may in some cases mean that the practical obstacles may take longer to resolve than is usually the case. For example, attempts to obtain national passports may be hampered by restrictions in visa services in national embassies and the reduction in the number of international flights may mean that departure takes longer than normal to arrange. Provided an individual is taking such steps as are reasonable in the circumstances, they will continue to satisfy regulation 3(2)(a).

16. The notice period provided to those issued with a decision that their section 4(2) support is to be discontinued is increased to 21 days (from 14 days), which gives the individuals more time to re-consider if they are prepared to take reasonable steps to leave the UK and so continue to be eligible to receive support.

Review Arrangements

17. The arrangements described in paragraph 6-10 above will be reviewed in the event of any significant developments in the public health assessment at regional or national level, and at regular meetings of the HOLGCEX Task & Finish Group. The timing and phasing of cessation decisions may be reconsidered in light of any relevant factors, in particular:

- Significant changes to the Government's overall Covid recovery strategy.
- The views of Public Health England.
- Evidence by local authorities of significant rough sleeping from those leaving asylum accommodation and other unforeseen impacts on local services which cannot be effectively mitigated.