People Seeking Asylum, Refugees and People Refused Asylum

JSNA Profile

May 2024



Nottingham City Council – Produced 31/05/2024.
Public.health@nottinghamcity.gov.uk

Background - Definitions

Person Seeking Asylum

A person seeking asylum is a person who enters a country in order to claim asylum and who has the claim assessed through an asylum process.

In the UK, according to the Nationality, Immigration and Asylum Act 2002, a person should meet the following criteria to be classified as an "asylum seeker":

- The person should be over 18 years old
- The person should be in the United Kingdom
- The person should have made an asylum claim at a place designated by the Secretary of State
- The secretary of state should have recorded the claim
- The claim should not have been determined

In consultation with local partners and in line with the language used by many national organisations. Where possible Person/ People Seeking Asylum will be used instead of "Asylum Seeker"

Refugee

According to the 1951 United Nations Convention Relating to the Status of Refugees the definition of a refugee is:

"A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

In the United Kingdom, a person becomes a refugee and is issued with refugee status documentation when the government agrees that an individual who has applied for asylum meets the definition in the Refugee Convention.

Person Refused Asylum

A person whose asylum application has been unsuccessful and who has no other claim for protection awaiting a decision.

Unaccompanied Asylum-Seeking Children

An Unaccompanied Asylum-Seeking Child (UASC), is a child who is under the age of 18 years old and:

- Is applying for asylum in their own right.
- Is separated from parents or carers.
- Is not being cared for in the UK by an adult who has a responsibility to do so.

Background - Legislation

Illegal Migration Act 2023

The Illegal Migration Act (IMA) received royal assent on the 20th July 2023. This legislation introduces major changes to the UK asylum application process. It expands on concepts of inadmissibility introduced through the Nationality and Borders Act 2022. Many of the changes and duties included in the IMA are yet to come into effect, however if implemented this legislation will have significant implications for people attempting to seek asylum and for local authorities.

The IMA will place a duty on the Secretary of State to make arrangements, as soon as reasonably practical, to remove any person who is deemed to have entered the UK illegally and has not come directly from a country where their life and liberty was threatened. Any person deemed to have entered the country illegally or having passed through countries considered to be safe on their way to the UK, will have their applications considered inadmissible, meaning they will not be considered under the UK's asylum system and the Home Office will not process their claims. The duty specifies that people will be removed to either their home country if it is considered safe to do so or to a "safe third country".

Key Considerations

Unaccompanied Children – The legislation introduces a power for the Secretary of State to detain and remove unaccompanied children deemed to have entered the UK through illegal routes from the country before their 18th birthday, and the duty to remove former unaccompanied children will apply following the young person's 18th birthday. Unaccompanied Asylum-Seeking Children are taken into Local Authority Care and are protected by the provisions of the Children's Act 1989. Following an Unaccompanied Asylum-Seeking Child's 18th birthday, they generally become a Care Leaver and continue to receive Local Authority Support. The Local Government Association (2023) and a consortium of national voluntary sector organisations (2023) have released statements expressing concerns that if this aspect of the IMA is applied, Local Authorities will not be able to meet their statutory obligations to Looked after Children and Care Leavers. They also expressed concerns that young people will be at high risk of disengaging with Local Authorities and potentially leaving areas as their 18th birthday and the prospect of removal approaches.

Inadmissible Applications – Where a person's application is deemed inadmissible and it is not found to be possible to remove them to their home country or a safe third country, there is currently the potential that these individuals could remain in the UK for significant periods of time, with no ability to work and with no eligibility for support. It is currently unclear how many of these individuals would remain eligible for accommodation, but the Institute for Public Policy Research and Refugee Council have expressed concerns that large numbers could potentially remain in the community facing long term destitution.

Home Office Support - Definitions

If facing destitution people seeking asylum can request support. Asylum support can be provided by the Home Office while an asylum application is being considered and can include housing and basic living expenses. Three different forms of asylum support are provided depending on the stage of the application. People seeking asylum cannot legally seek employment unless given special permission.

Section 98

Section 98 is temporary, emergency support for people seeking asylum. However, in reality people can remain on this support for many months. Section 98 is provided to people who have applied for and are awaiting a decision regarding eligibility for Section 95 support. Support provided through this process is often called “initial accommodation” and usually consists of full board accommodation in a hostel or hotel provided by the Home Office.

Section 95

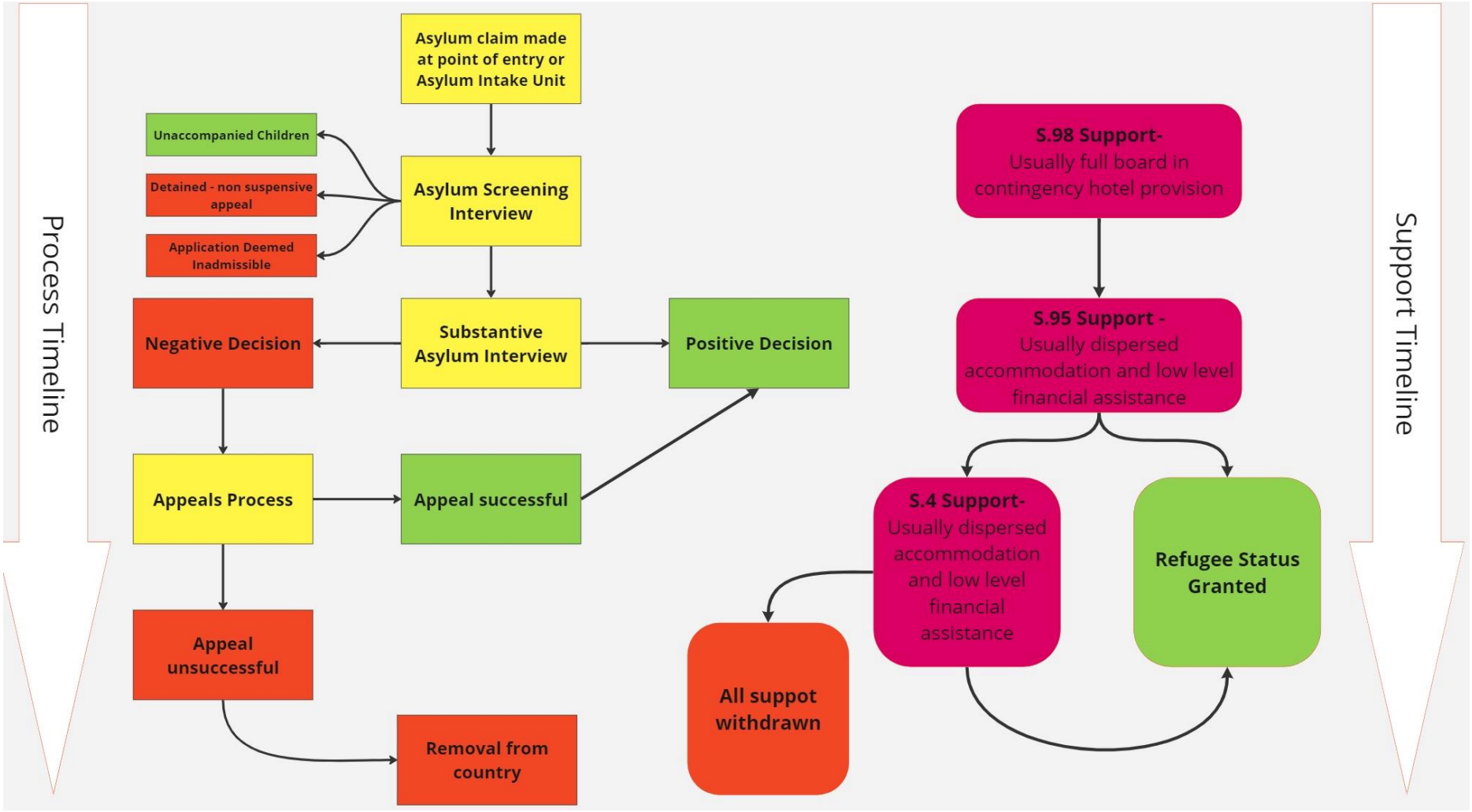
Where a positive decision is made regarding Section 95 support, a person will be moved to different accommodation in another part of the country through a process commonly known as dispersal. Through Section 95 financial support is provided on a special card known as an ASPEN card which can be used to make purchases in shops or to withdraw cash.

Section 4

Section 4 support provides support for people who have had their asylum claims refused and have also had their subsequent appeals refused. Section 4 support consists of dispersed accommodation and a weekly allowance in the same way as Section 95 support. Section 4 support is only provided to people refused asylum who are destitute and where the person is meeting one of the following requirements:

- The person is taking all reasonable steps to leave the UK.
- The person is unable to leave the UK due to physical impediment.
- The person no safe route of return to their country of origin.
- The person has been granted leave to appeal in an application for judicial review in relation to their asylum claim.
- The person requires support to avoid a breach of their human rights, for example they have made further submissions to the Home Office for a fresh asylum claim.

General Asylum Process Overview – Excludes Streamlined Asylum Processing



Nottingham City Council

Background – Healthcare Eligibility

Everyone living in the UK is entitled to register and consult with a GP, free of charge. Proof of address, identification, and immigration status are not required for GP registration. Support with prescription charges, dental, and optical care exists for people on low incomes, and this can include refugees, and people seeking asylum. People Refused Asylum and not accessing S.4 are generally not eligible, unless receiving some type of specialist support from the Home Office or a Local Authority. Individuals can apply to the NHS low-income scheme for help with medical costs, including prescription charges, dental treatment, and sight tests. People seeking asylum and supported through S.95 should receive their first HC2 certificate automatically, but generally to access this support individuals must fill in a HC1 form and will receive a HC2 certificate if deemed eligible.

Services free to all:

- GP Registration and Consultation
- Accident and emergency services
- Services provided for the diagnosis and treatment of some communicable diseases,
- Services provided for diagnosing and treating sexually transmitted infections.
- Family planning services (does not include termination of pregnancy or infertility treatment).
- Services for treating a physical or mental condition caused by torture, female genital mutilation, domestic violence, or sexual violence.
- Palliative care services provided by a registered palliative care charity or a community interest company.
- Services that are provided as part of the NHS 111 telephone advice line.

Eligible for free secondary care services

- Refugees and people seeking asylum, and their dependants.
- People refused asylum living in England, who receive Section 4 support.
- Children looked after by the local authority.
- Immigration detainees.
- People who have been subject to modern slavery and human trafficking.

Not eligible for free secondary care services

People refused asylum and not currently receiving support through S.4 are not entitled to free secondary care and are subject to charging regulations.

For this group, where secondary care is urgent or immediately necessary the care must be given, regardless of ability to pay.

Background – Welfare Support Eligibility

People seeking asylum, refugees and people refused asylum have varying access to welfare support depending on the stage of the application. General guidelines around welfare support eligibility are as follows.

Housing

People with active asylum applications are provided with accommodation. This could be in a flat, house, hostel or bed and breakfast. There is no choice regarding where a person will be placed and currently people are dispersed across the country.

People granted asylum who have Refugee status are able to live and work anywhere In the United Kingdom.

People refused asylum and without an active asylum application will not receive any assistance with housing. They are at risk of detention and removal from the country.

Financial support

People seeking asylum generally receive £49.18 per week for each person in a household. This is loaded onto a debit card commonly referred to as an ASPEN card each week. If meals are included in the accommodation £8.86 for each person in the household is provided instead.

People granted asylum who have Refugee status are generally able to work and claim financial support in the same way as a UK citizen. People refused asylum without an active asylum claim are generally not eligible for financial assistance.

Extra money for mothers and young children

If pregnant a person seeking asylum can receive an extra £5.25 per week. If a family has a baby under 1 year old, they can receive an extra £9.50 and if a family has a child between 1-3 years old, they can receive an extra £5.25.

A family can apply for a one-off maternity grant of £300 if a baby is due in 11 weeks or less, or if a baby is under 6 months old.

People granted asylum who have Refugee status are generally able to work and claim child support in the same way as a UK citizen. People refused asylum without an active asylum claim are generally not eligible for this financial assistance.