



Home Office

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Cabinet Secretary for Social Justice, Communities and Pensioners' Rights  
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*Dear Alex,*

01 FEB 2018

## IMMIGRATION BILL

Thank you for your letters of 8 and 16 December about the changes made by the Immigration Bill to support for failed asylum seekers and other migrants without immigration status and about unaccompanied asylum seeking children (UASC).

I am writing to let you know that on 21 January we tabled some further amendments to Schedules 8 and 9 to the Immigration Bill to make some technical improvements to the measures on Home Office asylum support across the UK and on local authority support in England in light of our continuing discussions with local authority colleagues and other partners. In particular, the amendments will enable local authorities in England to provide under the new scheme for any other social care support required by an adult migrant care leaver whose accommodation and subsistence needs are being met by the Home Office because they are a failed asylum seeker facing a genuine obstacle to their departure from the UK; and will retain Children Act care leaver support in England for those, e.g. who have been looked after by the local authority as a victim of trafficking, with an outstanding first application or appeal to regularise their immigration status until that matter is resolved, as well as for those with an outstanding asylum claim or appeal.

We have published a paper which sets out the background to the new arrangements in Schedules 8 and 9 and how they are expected to work in practice to provide a better system of central and local government support for, and engagement with, migrants without immigration status while they establish a lawful basis to remain here or prior to their departure from the UK. It explains how appropriate safeguards will be maintained for children, families and care leavers and attaches charts summarising the current and new arrangements. It can be found at:  
<https://www.gov.uk/government/publications/immigration-bill-part-5-support-for-certain-categories-of-migrant>

Under Schedule 8 those whose asylum claim and any appeal has failed, and who have a child in their household at that point, will no longer be treated as though they were still asylum seekers and will therefore cease to be eligible for support under

section 95 of the 1999 Act. That support will be discontinued after a 'grace period' to be prescribed in regulations. This will provide time for the person and their dependants to make arrangements to leave the UK, or to demonstrate to the Home Office that there is a genuine obstacle to their departure, in which case support under the new section 95A of the 1999 Act will be available if they would otherwise be destitute.

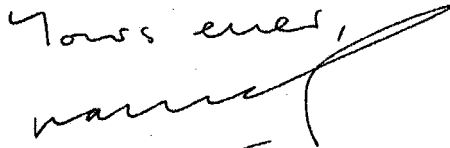
As you know, the consultation proposed a grace period of at least 28 days before section 95 support is discontinued in these family cases. Many respondents across the UK took the view that a 28-day grace period would be too short and suggested that a period of 90 days would be more appropriate and commensurate with the practical work to be done to engage with appeal rights exhausted families, including presenting them with clear information about their situation and its implications and persuading and enabling them to leave the UK where there is no genuine obstacle to them doing so. We have reflected carefully on these representations and have discussed the issue further with local authority colleagues and other partners. In light of that further consideration, the paper confirms that the grace period before section 95 support is discontinued in family cases will be 90 days.

The paper acknowledges the importance of using the changes to support arrangements made by the Immigration Bill as a platform for engagement, in tandem with local authorities, with appeals rights exhausted families and other migrants with no lawful basis on which to remain here to encourage, enable and, if necessary, enforce more returns. That will be an important strand of the work required to develop the regulations, guidance and operational procedures needed to implement the new system of support.

Schedule 9 contains powers for equivalent changes to local authority or equivalent support for migrants without immigration status, under the UK-wide framework contained in Schedule 3 to the 2002 Act, to be made in other parts of the UK by way of regulations subject to the affirmative procedure. Subject to the Bill's Parliamentary passage at Westminster, I look forward to close joint working between our officials on all of this and the other work required to implement and operate the new system. We found that such an approach worked well in respect of the sham marriage and civil partnership referral and investigation scheme under the 2014 Act and would welcome a similar approach here.

I am grateful to you for your support for widening the dispersal of UASC to help ensure that they receive the support they need. I share your view that the arrangements should if possible remain voluntary. I have asked my officials to work with your officials and with COSLA on how best to approach local authorities in Scotland about this.

I am copying this letter to the Secretary of State for Scotland.

*Yours ever,*  


**Rt Hon James Brokenshire**