

BACK PAYMENTS OF ASYLUM SUPPORT

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Introduction

This instruction provides guidance on how to establish whether an asylum seeker is entitled to a back payment of asylum support. It also sets out guidance for how to action back payments of support.

Situations Where an Asylum Seeker May Claim a Back-Payment of Asylum Support

Applications for backdated support usually fall into one of two categories:

- where the supported person was not responsible for the non-payment of support, or where the applicant was responsible but had a valid reason for being unable to collect support;
- where the supported person's actions or inactions may have contributed to the non-payment of support.

Case Owners must action all applications for back payments of asylum support within five working days.

Case Owners should bear in mind that the overriding principle when dealing with back payments is one of fairness, both in terms of operating the system and in terms of how the system is seen to operate.

For further information can be found in the [Asylum Support Policy Bulletin 80: Back payment of Asylum Support](#).

Evidence Required before a Back-Payment can be Issued

Back payments to asylum seekers should only be issued when the Case Owner is satisfied that the missing payments are the fault of the UK Border Agency, or where the applicant has a valid reason for failing to collect support. In the event of doubt, the Case Owner should forward the case to a Senior Caseworker.

In all cases, CID records should be checked to ensure that the applicant has an outstanding asylum claim. The Case Owner should include details of this check in any minutes that are written about the case. If the applicant does not have an outstanding asylum claim, the case should be discontinued. For further information about status discontinuations, see the Asylum Instruction Ceasing Asylum Support.

Case Owners should refer to the Back-Payments at a Glance (Flow Chart) for an overview of the back payments process.

UK Border Agency is at fault

If it is clear that the fault is with the UK Border Agency, the Case Owner must calculate the value of the payment and ensure that this reaches the applicant via his Application Registration Card (ARC). Case Owners will need to reassess the applicants support and the payment as a payment element as shown in Processing Back Payments. Exceptions to this would be where the person now has status in this country, or has left the country. Case Owners should refer to Calculating the Required Amount of Back-dated Support and the [Asylum Support Policy Bulletin 80: Back payment of Asylum Support](#) for guidance on updating ASYS and the letter that should be produced.

The applicant is at fault

The Case Owner should decide whether an applicant has a genuine reason for requesting a back payment of asylum support. Examples of genuine reasons why an applicant may not have collected his support include, but are not limited to, the following:

- reporting event/asylum interview
- illness
- hospitalisation
- travel difficulties
- difficulties with Application Registration Card (ARC)

If the Case Owner decides that an applicant has a valid reason for failing to collect his support, he should follow the procedure outlined in the section [UK Border Agency is at fault](#).

If it is clear that the applicant is at fault, the request for a back payment of support should normally be refused. For further information on establishing who is at fault in such circumstances, see the [Asylum Support Policy Bulletin 80: Back payment of Asylum Support](#).

Exceptional cases for a back payment of support may be entertained. Case Owners should refer to the [Asylum Support Policy Bulletin 80: Back payment of Asylum Support](#).

Appeal cases

A requirement to make back payments may arise from an appeal or Judicial Review. If an Asylum Support Adjudicator or Judge substitutes his decision for the Home Secretary's, he may also require back payments to be made.

Calculating the Required Amount of Back-dated Support

When it is decided that a back payment of support should be made, the missing payment should be calculated. Case Owners should assess the level of support to which the applicant was originally entitled from the beginning of the relevant period to the current date. This amount includes any change of circumstances that should have been taken into account, such as the birth of a baby. The Case Owner should then assess what the applicant's entitlement should have been before calculating the amount that has been paid, if anything, and what the applicant should have received.

Back Payments should be made using ASYS. For guidance on how to process back payments and further guidance on when a back payment should be made, Case Owners should refer to Processing Back Payments.

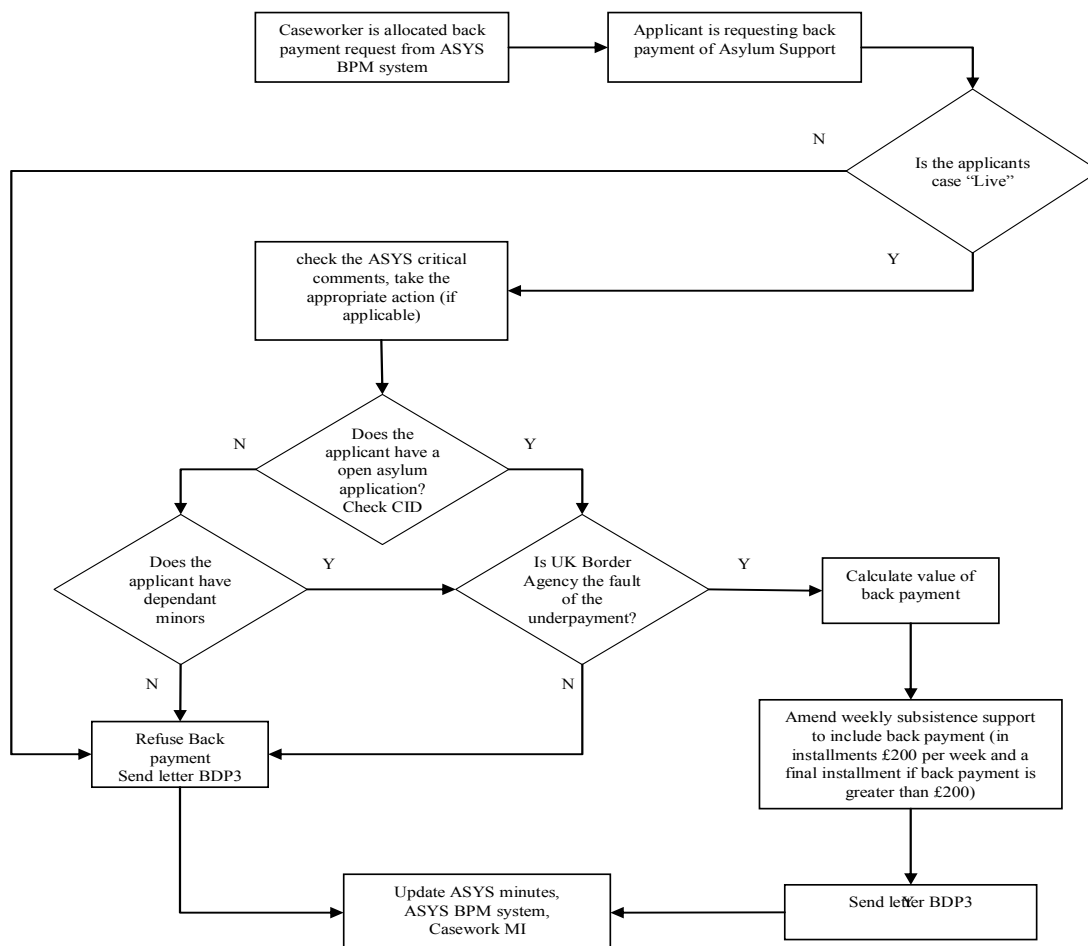
Case Owners must ensure that all back payments are made in weekly instalments by way of the Application Registration Card (ARC). To protect the applicant from undue risk arising from carrying large sums, the amount paid should not as a rule exceed £200 in a single week, but exceptions can be made where he can prove that he has a pressing need for a large sum, such as to avoid a utility being cut off for non payment.

Case Owners can issue a back payment on an Emergency Support Token (EST) only with the authorisation of a Senior Caseworker. The Case Owner must also consult a Senior Caseworker if they consider it necessary to issue a weekly back payment of over £200. For further information of the method of payment, see the [Asylum Support Policy Bulletin 80: Back payment of Asylum Support](#).

Overpayments

Case Owners should be alert to cases where an applicant has been provided with a larger amount of support than he is entitled to. In this situation, the Case Owner should ensure that the applicant is provided with a reduced amount of support. For further information on overpayments, see the [Asylum Support Policy Bulletins 80: Back Payment of Asylum Support](#) and [67: Overpayments](#).

Back-Payments at a Glance (Flow Chart)



Glossary

Term	Meaning
BDP1	Back payment acceptance
BDP3	Back payment refusal

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	MM	15/02/07	Incorporating support processes and implementing website format
2.0	MM	29/03/07	IND name change amendments
3.0	MSM	30/10/08	Re-Branding