

Asylum support and destitution

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Abbreviations

ASAP	Asylum Support Appeals Project
AST	Asylum Support Tribunal
ASU	Asylum Screening Unit
BIA	Border and Immigration Agency
CAB	Citizens Advice Bureau
JCHR	Joint Committee on Human Rights
NAM	New Asylum Model
NASS	National Asylum Support Service
RCO	Refugee Community Organisation
RST	Refugee Survival Trust
VARP	Voluntary Assisted Return Programme

Overview

Determining the level of support provided to asylum seekers is a difficult balancing act for any government and a contentious political issue. It has also proved a legislative challenge to effectively administer a system of asylum support. The majority of asylum seekers arrive in the UK with little financial and disrupted social support networks and, for the duration of their claim, are unable to work to provide for themselves or for members of their family. The government is required, therefore, to provide some financial assistance and accommodation support. On the one hand, critics argue that this support is insufficient and poorly administered leaving asylum seekers in poverty while others are concerned that providing this kind of support without restrictions can act as incentive for people to choose the UK, over other asylum destinations perceived to be less generous and at the expense of the UK taxpayer. A number of reports have demonstrated that there is often a lack of information or a prevalence of misinformation about the actual level and type of support available. More recently, with a growing population of failed asylum seekers remaining in the UK, attention has been drawn to the absence of support provided to asylum seekers following the negative determination of a claim. While the government might suggest that those effectively awaiting removal from the UK are no longer their responsibility, the backlog in removals has led, a number of studies have argued, to destitution becoming prevalent among individuals that have little access to long-term support and no access to the labour market. Numerous recent research projects and campaigns have attempted to draw attention to this situation.

The first section of this briefing explains the procedure and provision of support available for the duration of an asylum claim. The following section discusses a number of key issues that emerge as a consequence of specific aspects of the support system. These include how decisions are made on an individual's eligibility for support, the quality of accommodation and form of support, the impact of dispersal on the capacity of asylum seekers to support themselves, and the role informal networks and social capital can play in bolstering or replacing formal state support. The final key issue is destitution as a consequence of a combination of legislative decisions and procedural limitations that have generated large numbers of individuals with no access to support in the UK or any realistic chance of being returned to their country of origin.

Asylum support – procedure and provision

Reasons for support

Asylum seekers are not generally allowed to work while their claim for asylum is being processed, however in cases where an applicant has waited longer than twelve months for an initial decision they may request permission from the Home Office for the right to work. Permission to work is only granted if the delay in reaching an initial decision cannot be attributed to the asylum applicant.¹ Due to this restriction on the right to work, many asylum seekers are unable to support themselves during the asylum process and are therefore dependent on Home Office support. Asylum seekers who have their claim refused, yet are unable to return to their country of origin for certain reasons (for example in cases where there is no viable route to return) do not have the right to work. In such situations, applicants are eligible to receive Section 4 or 'hard case' support, discussed in more detail below.²

Applying for support

In order to be eligible for Home Office support, asylum seekers have to undergo a needs assessment to prove they are destitute. Asylum support is only provided to asylum seekers who appear to be destitute or who are likely to become destitute within a specified time; this is known as the destitution threshold. Applicants have to prove to the Home Office that they do not have enough means to support themselves for 14 days for new applicants or 56 days, if they have already been previously supported by other means, for example by friends or relatives.³

Asylum seekers may apply for support when they claim asylum, either on arrival at a 'port of entry' or 'in-country' at one of the Asylum Screening Units (ASUs) in Croydon or Liverpool. On arrival, asylum applicants are housed in 'initial accommodation', which can be in the form of induction centres or hostel-type accommodation. This accommodation is short-term providing a stop-gap before an asylum seeker is moved into dispersal accommodation where they remain while their application is being processed. Dispersal accommodation is normally situated in the same region as the applicant's NAM caseowner.⁴

Appealing a negative support decision

If an asylum seeker does not agree with a Home Office decision to refuse them support, they have a right to appeal against this decision. Asylum support appeals are heard by the Asylum Support Tribunal (AST), which operates as an independent body and hears appeals against any refusal or withdrawal of asylum support. The tribunal does not deal with asylum claims or any other immigration matter.⁵ When determining an appeal an adjudicator may make one of three decisions: they may allow the appeal, meaning the appellant is entitled to support; they may dismiss the appeal, therefore agreeing with the Home Office to refuse support; or in cases where there is not enough evidence to make a decision, the adjudicators may remit the appeal requiring the Home Office to make a new decision. If the decision by the Home Office remains negative for a second time, the asylum seeker has the right to lodge a further appeal. Asylum seekers are unable to obtain legal aid for any asylum support hearings and if an appeal is

¹ Home Office (2005) *Policy Bulletin 72 – Employment and voluntary activity*

² Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

³ Home Office (August 2006) *Policy Bulletin 4 - Determining whether persons who apply for asylum support are destitute*

⁴ <http://www.ind.homeoffice.gov.uk/applying/asylum-support/accommodation>

⁵ <http://www.asylum-support-tribunal.gov.uk>

unsuccessful asylum seekers are required to support themselves for the remainder of their asylum claim.⁶ In 2006 the AST received a total of 2,851 appeals; 40% (1,133) of which were dismissed, 24% (693) were granted support and 8% (241) of cases were remitted to the Home Office for reconsideration.⁷

Type and level of support

Prior to July 2006, Home Office asylum support was administered by the National Asylum Support Service (NASS). NASS was established in 2000 as part of the former Immigration and Nationality Directorate within the Home Office and was responsible for organising the dispersal of asylum seekers away from London and the South-East of England to other areas of the UK. As part of the recent Home Office restructuring, NASS ceased to exist as a directorate in 2006 and at present all asylum support issues are dealt with and processed by NAM caseworkers in the Home Office's newly formed Border and Immigration Agency (BIA).⁸

Asylum seekers who qualify for Home Office support are provided with 'no-choice basis' accommodation, usually in a dispersal area, and a weekly subsistence cash payment. Some asylum seekers choose to receive subsistence support only, which enables them to avoid being subject to dispersal. Asylum applicants who qualify to receive accommodation are not able to choose the location they are dispersed to. Dispersal areas throughout the UK include the North-West, Midlands, the North-East, Wales and Scotland.⁹

Subsistence support is currently set at 70% of income support levels for adults and at full income support levels for dependant children under the age of 18. The level of asylum support for adults is intended to reflect the fact that asylum seekers do not pay utility bills. The amount of cash support provided to asylum seekers depends upon the ages and number of dependants the applicant has.¹⁰ Pregnant women and parents with children under the age of three are entitled to additional payments for the purchase of healthy foods. Babies under the age of one receive an additional £5 per week and pregnant women and children (aged 1- 3 years) can apply to receive an additional weekly supplement of £3. Asylum seekers are also eligible for a single one off payment of £300 per child to help with the costs arising from the birth of a child.¹¹

Weekly subsistence rates for asylum seekers¹²

Couple	£64.96
Single parent aged 18 or over	£41.41
Single person aged 25 or over	£41.41
Single person aged 18 - 24	£32.80
Person aged at 16 - 18 (except a member of a qualifying couple)	£35.65
Person aged under 16	£47.45

⁶ Asylum Support Appeals Project (February 2007) *"Failing the Failed" – How NASS decision making is letting down destitute rejected asylum seekers.*

⁷ <http://www.asylum-support-tribunal.gov.uk/decisions/statisticsLatest.htm#2006>

⁸ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

⁹ <http://www.ind.homeoffice.gov.uk/applying/asylum-support/accommodation>

¹⁰ <http://www.ind.homeoffice.gov.uk/applying/asylum-support/cash-support>

¹¹ Home Office (April 2007) *Maternity payment and additional support for expectant mothers during pregnancy*

¹² <http://www.ind.homeoffice.gov.uk/applying/asylum-support/cash-support>

Additional support

Healthcare - Asylum seekers and their dependants are eligible to receive free NHS treatment whilst their claim is being considered.¹³ Asylum seekers are also eligible for an HC2 certificate, which allows them to obtain free NHS prescriptions, dental treatment, travel costs to and from hospital for treatment, sight tests and an optical voucher towards the cost of glasses or contact lenses.¹⁴

Education - It is government policy that school age children of asylum seekers are given the same access to education as all other children. Local Education Authorities have a legal duty to ensure that education is available for all children of compulsory school age in their area; this duty applies irrespective of a child's immigration status or rights of residence in a particular location.¹⁵

Exclusions from asylum support

Home Office asylum support is conditional and may be withdrawn at any point if one or more of the following occurs:

- if an asylum seeker is absent from their accommodation for lengthy periods;
- if an asylum seeker is found to be sharing their accommodation with others;
- if the accommodation is severely damaged by the applicant;
- if an asylum seeker is excluded from accommodation because of bad conduct;
- if the Home Office suspect the asylum seeker to have other financial means;
- if an asylum seeker fails to attend interviews or comply with reporting arrangements;
- if an asylum seeker provides the Home Office with false or incomplete information.¹⁶

Under Section 55 of the Nationality, Immigration and Asylum Act 2002, asylum seekers have to apply for asylum as soon as 'reasonably practicable' after arriving in the UK in order to be eligible for asylum support.¹⁷ Failure to do so may lead to a refusal by the Home Office to support an asylum seeker for the duration of the asylum process and in recent years this legislation, according to research, has resulted in a significant number of asylum seekers becoming destitute.¹⁸ Applicants who have made a late claim for asylum and therefore are not eligible for support under Section 55 have no right of appeal to the Asylum Support Tribunal and can only challenge the decision to refuse them support by judicial review.¹⁹

The number of asylum seekers being certified as Section 55 cases has significantly decreased in recent years following a Court of Appeal ruling in 2004 in which it was concluded that the Home Office was in breach of Article 3 of the European Convention on Human Rights in Section 55 cases where asylum seekers had no other means of support.²⁰

Latest figures for April-June 2007 show that of the total number of applications for asylum support (3,800) 320 principal applicants were assessed as ineligible for asylum support on the

¹³ NB: asylum seekers receiving Section 4 support are not eligible for free healthcare

¹⁴ <http://www.ind.homeoffice.gov.uk/applying/asylumsupport/health>

¹⁵ <http://www.ind.homeoffice.gov.uk/applying/asylumsupport/education>

¹⁶ **Joint Council for the Welfare of Immigrants** (2006) *Immigration, nationality and refugee law handbook*

¹⁷ **Home Office** (July 2007) *Policy Bulletin 75 - Section 55 Guidance*

¹⁸ **Inter-Agency Partnership** (2004) *The impact of Section 55 on the Inter-Agency Partnership and the asylum seekers it supports*

¹⁹ **Immigration Law Practitioners' Association** (January 2004) *Asylum – a guide to recent legislation, 4th edition*

²⁰ **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

grounds that the Home Office was not satisfied that the applicants' claims were made as soon as reasonably practicable.²¹

A further way in which an asylum seeker may become excluded from Home Office support is under Section 9 of the Asylum and Immigration Act 2004. Section 9 applies to asylum seeking families who have reached the end of the asylum process and exhausted all their appeal rights. Unless they are deemed to be taking 'reasonable steps' to leave the UK they can have their financial support and accommodation terminated. In cases where families are made destitute, they can face having their children taken into the care of social services. The Home Office states this legislation was introduced not to victimise asylum seeking families with children but to encourage them to take up voluntary return packages.²²

When and why does support end?

Asylum support may be terminated for a number of reasons. An asylum seeker may fail to adhere to the terms and conditions of the support outlined above or they will receive a decision on their asylum claim and will not be eligible for support because they are no longer considered to be in the asylum process. If an asylum seeker is granted leave to remain in the UK (i.e. refugee status, humanitarian protection or discretionary leave) the Home Office offers them a grace period of 28 days in which asylum support is continued whilst the applicant is expected to find the means to support and accommodate themselves. If an asylum seeker's claim is refused they are granted a 21 day period of Home Office asylum support, after which they effectively become failed asylum seekers facing pending removal.²³

In some cases a type of support known as Section 4 or 'hard case' support is provided to asylum seekers whose application has been refused, but who are destitute and have reasons that temporarily prevent them from leaving the UK. Circumstances in which an asylum seeker is eligible for Section 4 support include being unable to leave the UK due to physical impediment; in cases where there is no viable route of return; where an applicant is in the process of judicial review and in cases where the provision of support is necessary to avoid a breach of an applicant's human rights. Furthermore, an asylum seeker must demonstrate that they are taking reasonable steps to leave the UK in order to qualify for support, for example by signing up to the Voluntary Assisted Return Programme (VARP) or by contacting their embassy and requesting travel documentation.²⁴

An asylum seeker applying for Section 4 support has to accept both subsistence and accommodation, unlike in other Home Office provisions where applicants have the right to claim subsistence-only support. Accommodation provided under Section 4 consists of either shared self-catering accommodation or full board. Asylum seekers housed in self-catering accommodation are given £35 per week in vouchers to cover the cost of food and other basic essential items. The provision of Section 4 support, similarly to other Home Office asylum support, is dependent on an asylum seeker adhering to specified reporting conditions.²⁵

The latest Home Office figures indicate that in June 2007 9,365 applicants excluding dependants were receiving Section 4 support. Iraqi nationals accounted for the highest number

²¹ Home Office (2007) *Asylum Statistics: 2nd quarter 2007, UK*

²² Refugee Action and Refugee Council (2006) *Inhumane and ineffective – Section 9 in practice*

²³ Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee law handbook*

²⁴ Home Office (March 2005) *Policy Bulletin 71 – Section 4*

²⁵ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

of failed asylum seekers in receipt of Section 4 support; 3,460 or 37% of the total number supported.²⁶

Statistics

The most recent Home Office figures indicate that between April-June 2007 the number of asylum seekers applying for Home Office support was 3,800. Of this number, 3,030 (80%) of applications were from single adults and 770 (20%) were from family groups.²⁷ In this period, 66% (2,525) of applications were for accommodation and subsistence support, with 26% (985) of cases being for subsistence support only. The remaining 8% of applications were recorded as invalid or the application type was not specified at this stage. The top five nationalities applying for asylum support were from Iran, Somalia, Afghanistan, Iraq and Zimbabwe.²⁸ Home Office statistical publications do not specify the outcome of the 3,800 applications made for asylum support.

In June 2007 the total number of asylum seekers including dependants in receipt of asylum support was 48,995. Of this total, 10,865 asylum seekers were receiving subsistence only support, 37,280 were supported in dispersal accommodation and 850 were being supported in initial accommodation (including induction centres), prior to dispersal. The five local authorities with the highest number of asylum seekers in dispersal accommodation were Glasgow, Leeds, Birmingham, Manchester and Newcastle.²⁹

²⁶ Home Office (2007) *Asylum Statistics: 2nd quarter 2007, UK*

²⁷ A family group consists of a principal applicant with at least one dependant

²⁸ Home Office (2007) *Asylum Statistics: 2nd quarter 2007, UK*

²⁹ *Ibid*

Key issues

The functioning of asylum support

An asylum seeker is entitled to apply for subsistence support and accommodation from the submission to the determination of a claim and, if that claim fails, while awaiting removal. Throughout this process, research has identified a number of systemic problems with the way asylum support has been administered. Many of these criticisms have been directed at NASS. Although the directorate no longer exists, it is instructive to look at some of the problems that were identified with the way it functioned as the new system for administering support retains many of its features. Equally, the incorporation of asylum support provision into NAM has raised additional concerns.

Refugee advocates and other mainstream support agencies have argued that at the start of the asylum process, asylum seekers are not given sufficient information about the support available to them once they submit a claim.³⁰ As the previous section outlines, the asylum seeker is required to apply for support and will then be assessed on his or her need for support. Under NASS, some asylum seekers were unaware that support was available to them or were unclear how to apply for it. Furthermore, appealing against a decision not to grant support can be a difficult procedure. Asylum seekers are not always aware of their right to appeal against this decision and often have difficulty accessing legal advice or representation for the appeal as no legal aid is available.³¹ It has also been suggested that insufficient information has been provided about supplementary support such as the £50 supplementary grant previously available to asylum seekers that have been awaiting their claim for six months and a £300 maternity payment available to pregnant women.³²

A further barrier to receiving support is that relevant asylum offices have often been inaccessible. Evidence given to the Joint Committee on Human Rights (JCHR) in 2007 claimed that the sparse geographical spread of ASUs means that it has been difficult for individuals to reach them to make a claim within three days, therefore excluding them from receiving asylum support under Section 55. Refugee Action suggested that this can deter people from entering the asylum system, generating more irregular migrants and/or exacerbating the problem of destitution.³³

Once inside the support system asylum seekers have often experienced procedural errors or administrative delays in the receipt of their support. In order to qualify for support, an asylum seeker has to demonstrate that he or she will be destitute within 14 days. Yet voluntary sector agencies have identified numerous cases of asylum support vouchers being delayed for considerably longer than this period or asylum seekers being unable to collect their cash support at designated post offices.³⁴ Furthermore, it has been argued that NASS was often slow to respond to changes in individual circumstances that warranted a change in the level of support, for example a change in marital status. There are also instances in which an individual has been left without support when transferring from one form of support to another or following a change of individual circumstances. These procedural delays are exacerbated by poor

³⁰ Refugee Action (2006) *The Destitution Trap*; Citizens Advice Bureau (2002) *Process Error*

³¹ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*

³² Citizens Advice Bureau (2002) *Process Error*

³³ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*

³⁴ Citizens Advice Bureau (2002) *Process Error*

communication. In a report published in 2002, the Citizens Advice Bureau identified numerous instances of communication difficulties between asylum seekers and NASS.³⁵

As discussed in the previous section, once an asylum seeker receives asylum support the continuation of this support is conditional on a number of criteria. Many of these criteria are similar to those that are conditions of a successful asylum claim, such as criminal or violent behaviour, yet others are merely procedural. For some asylum seekers, the nature of the system or the support they receive can make it difficult to satisfy these conditions. The most notable example of this is difficulty attending meetings and reporting to asylum offices in relation to their claim. As mentioned in the previous section, it can be difficult for asylum seekers to meet the travel costs sometimes associated with these meetings; non-attendance can result in the removal of support. Under more recent guidelines however, asylum seekers are able to make a claim for reimbursement of travel costs relating to their asylum claim, though some agencies claim that this procedure is also often subject to the sort of delays discussed above. Equally, an asylum seeker can suffer the removal of support if he or she fails to respond to a request for information relating to either their asylum support within five days or relating to their asylum claim within ten days. This could often be difficult to achieve for asylum seekers who were regularly moved by NASS and whose records are not updated by the Home Office. In effect the support system finds it difficult to keep up with the transience of the asylum seeker experience as dictated by the wider asylum system.³⁶

This is one example of a lack of co-ordination between NASS and other aspects of the asylum system. Additionally, it has been argued that a lack of clarity over responsibility for certain aspects of the support system has also allowed some asylum seekers to 'fall through the cracks' in the system.³⁷ A report by Islington Borough Council has suggested that gaps in the provision of nationally organised asylum support have put additional pressure on Local Authorities' general asylum budgets and their budgets for mainstream services.³⁸

The government would argue that under the New Asylum Model, a number of these problems should be eliminated. Under the new model, each asylum seeker receives a designated caseworker from the submission of the claim to the time of an initial decision. Consequently, the caseworker should be in a position to provide the asylum seeker with the relevant information about the support that is available, how to apply for it and how to appeal against a negative decision. With a single agency responsible for more aspects of the whole asylum system and a single member of staff responsible for each asylum applicant, the system should also be less susceptible to breakdowns in communication. Additionally, there has been an increase in the number of operational NAM offices in comparison with the ASUs. However, some refugee agencies are concerned about the rate at which NAM will be expected to incorporate the work of NASS and also about the level of training NAM caseworkers will receive specifically on the provision of asylum support.³⁹ It is too early to make an assessment on the success of NAM in alleviating some of the systemic problems with the provision of asylum support.

³⁵ *Ibid.*, Chapter 4

³⁶ Refugee Survival Trust and Oxfam (2005) *What's going on?*

³⁷ *Ibid.*

³⁸ Islington Borough Council (2006) *Destitute People from Abroad with No Recourse to Public Funds*

³⁹ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*

Level and suitability of support

In terms of subsistence, a single adult asylum seeker is entitled to up to 70 per cent of the value of mainstream welfare support. Critics would suggest that it is demeaning to provide only a fraction of the support available to permanent residents in the UK to asylum seekers and is potentially stigmatising to be administered in a parallel system. The introduction of this level of asylum specific support is a response to the government's assertion that access to the UK welfare system is a significant pull factor for economic migrants entering the asylum system. However, given some of the systemic problems outlined above, it has been argued that it has been less efficient operating a parallel system, increasing social costs to the asylum seekers and economic costs to the taxpayer, though no thorough cost-benefit analysis has been conducted.

Between April 2000 and April 2002, subsistence support was made available entirely or partially by vouchers redeemable in specific stores and for specific products. The aim of the voucher scheme was to design a support package that would target only those actually in need of support to avoid destitution; again, the government's concerns about economic migrants in the asylum system are reflected in this policy. Refugee advocacy groups have identified numerous difficulties and limitations with the use of vouchers and many conclude that they are inefficient, unsuitable and can stigmatise asylum seekers within the local community.⁴⁰ Despite this, vouchers continue to be used to provide part of Section 4 support, which is discussed in the final section on destitution.

Generally, however, the JCHR concluded that the subsistence support available to asylum seekers is largely seen as an adequate amount to cover the costs of asylum seekers' basic needs on what is considered under NAM as short-term. There are some concerns, however, over asylum seekers being unable to afford items related to specific health or childcare needs or the imposition of additional costs from the asylum system itself, such as travelling to asylum offices.

Under NASS arrangements a number of types of accommodation were provided and continue to be provided under the new arrangements.⁴¹ While the initial aim of the dispersal programme was to move asylum seekers to areas where there were appropriate levels of social housing, in some areas NASS was unable to secure a sufficient supply of this type of accommodation. Consequently, other sources of housing were used, including contracting private landlords to provide suitable accommodation.⁴² In 2002, the Home Office acknowledged that there were inconsistencies in the quality of the accommodation according to different types of housing provider and contractual arrangements.⁴³

Furthermore, much of the designated social housing, in which asylum seekers have been housed for long periods of time, has been found to be sub-standard. The nature of the dispersal strategy often meant that asylum seekers were housed in 'hard to let' properties or tower blocks awaiting demolition. Consequently, improvements to the properties or investment in renovation or development were unlikely to take place.⁴⁴ The JCHR concluded that there is

⁴⁰ Oxfam (2000) *Token Gestures*; Citizens Advice Bureau (2002) *Process Error*; Citizens Advice Bureau (2006) *Shaming Destitution*

⁴¹ Islington Borough Council (2006) *Destitute People from Abroad with No Recourse to Public Funds*

⁴² Citizens Advice Bureau (2002) *Process Error*

⁴³ Home Office (2002) *Report Of The Operational Reviews Of The Voucher And Dispersal Schemes Of The National Asylum Support Service*

⁴⁴ HACT (2003) *Between NASS and a Hard Place*

evidence to suggest that some of the accommodation provided to asylum seekers violates Article 8 of the ECHR on the right to respect for home, family and private life. In addition to the standard of housing, suitability has also been an issue, with families often placed in long-term shared accommodation or those with disabilities provided with accommodation that is not suitably accessible.⁴⁵

There is also evidence that where asylum seekers have been housed in accommodation of a better standard than described above, local residents understand this to be a consequence of preferential treatment.⁴⁶ Although asylum housing through NASS is procured and allocated on a separate basis to social housing, there is a perception that moving asylum seekers into housing in some local areas precludes local people from benefiting from that particular resource.

Dispersal, integration and community development

The dispersal of asylum seekers was designed to provide asylum support in a more coherent manner by moving asylum seekers away from areas to which they had traditionally settled and made demands on local services, notably London and the South East. One of the unintended consequences of this policy was the generation of local level community tensions around perceived and real resource competition. As many dispersal areas already suffered from a relatively high level of deprivation and acute competition for resources, the addition of a new group of individuals often alongside other new migrant communities in places intensified competition and created new tensions between dispersed asylum seekers and sections of the existing community. Research commissioned by ICAR identified some of these problems and suggested that many local communities and local services were not given sufficient information about dispersal policies and were subsequently unprepared for the arrival of asylum seekers.⁴⁷

In addition to these tensions, dispersal also largely removed asylum seekers from areas in which informal community networks may more readily and with fewer transaction costs have been able to provide forms of supplementary support or improved access to services. In London and other major cities, Refugee Community Organisations (RCOs) are knowledgeable about mainstream support and service provision networks and asylum seekers have often been able to exploit these links among co-nationals.⁴⁸ It is possible that dispersal has made this more difficult in areas without significant immigrant populations. If this were the case, asylum seekers could become dependent upon formal asylum support making the quality and suitability of this support a more crucial matter. In these instances, procedural errors or poor quality accommodation could have a greater impact. However, no research has been conducted on the link between dispersal and state dependence.

Destitution among asylum seekers

Refugee organisations and researchers have argued that recent legislation, combined with procedural errors has increased the vulnerability of asylum seekers to destitution in the UK. The remainder of this briefing draws on that research to examine definitions of destitution, review the evidence of destitution among (failed) asylum seekers in the UK and briefly explain some of the causes and effects of this phenomenon.

⁴⁵ Citizens Advice Bureau (2002) *Process Error*

⁴⁶ D'Onfrio, L. and Munk, K.(2004) *Understanding the Stranger – Final Report*

⁴⁷ *Ibid.*

⁴⁸ Griffiths, D. et al (2005) *Refugee Community Organisations and Dispersal*

Definitions and evidence

A number of definitions of destitution appear in the literature. The Immigration and Asylum Act 1999, as detailed above defines a person as destitute if they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met); or they have adequate accommodation or the means of obtaining it, but cannot meet other essential living needs.⁴⁹ Some organisations define destitution as the inability to access statutory support mechanisms; others define it by an individuals' reliance on friends, family and charitable groups for basic subsistence and/or accommodation. It has also been defined by its symptoms or effects, such as homelessness.

Accepting a wide definition of destitution, a number of recent studies have highlighted evidence of destitution among failed asylum seekers and, to a lesser extent, asylum seekers still awaiting the outcome of their claim. Numerous local or regional studies have been conducted, including research in Leicester,⁵⁰ Birmingham,⁵¹ Scotland,⁵² Leeds⁵³ and Coventry.⁵⁴ These reports can provide an indication of the number of people destitute regionally, but there is by definition no way of monitoring the extent of the problem nationally. The inability of the government to provide figures on the number of failed asylum seekers remaining in the UK makes it difficult to estimate the proportion that may be destitute from a national sample.⁵⁵

However, each of the studies noted above has featured data to show that a number of individuals can be described as destitute, from 168 actually identified in Leicester to estimates of up to 2,000 destitute asylum seekers and refugees in Birmingham, both in 2005. In addition to this, there is evidence that of the asylum seekers identified as destitute a considerable proportion remain destitute for over six months and a minority are with dependants.⁵⁶ Many of the reports contain information about asylum seekers sleeping rough, relying on other asylum seekers for financial support and engaging in irregular and often exploitative employment in an attempt to meet their basic needs. Finally, while the remainder of this section applies primarily to failed asylum seekers, there is also evidence of asylum seekers ostensibly within the asylum support system who also find themselves destitute as a consequence of transition from one form of support to another.

Causes of destitution

Recent research and monitoring of destitution among asylum seekers and refugees in Scotland by Oxfam has argued that destitution is experienced at every stage of the asylum process and also by those recently granted refugee status.⁵⁷ At the end of an asylum claim, whether the asylum claim is positive or negative, destitution can still be experienced. As previously explained, if an individual's claim fails, asylum support is withdrawn after 21 days after which time 'Hard Case' support can be provided to individuals under Section 4 if they meet one of five

⁴⁹ Home Office *Policy Bulletin no. 71* contains further information on the definition of destitution (paras 5.2 and 5.3) <http://www.ind.homeoffice.gov.uk/6353/12358/pb71.pdf>

⁵⁰ Refugee Action and Leicester Refugee and Asylum Seekers' Voluntary Sector Forum (2005) *A report of destitution in the asylum system in Leicester*

⁵¹ Malfait, R. and Scott-Flynn, N. (2005) *Destitution of asylum-seekers and refugees in Birmingham*

⁵² Refugee Survival Trust and Oxfam (2005) *What's going on?*

⁵³ Lewis, H. (2007) *Destitution in Leeds*

⁵⁴ Coventry Refugee Centre (2004) *Destitution and asylum seekers: a human rights issue*

⁵⁵ While acknowledging these difficulties, Refugee Action suggest that there may be 20,000 destitute asylum seekers in the UK Refugee Action (2007) *The Destitution Trap*

⁵⁶ Lewis, H. (2007) *Destitution in Leeds*

⁵⁷ Refugee Survival Trust and Oxfam (2005) *What's going on?*

criteria.⁵⁸ Many of these individuals are caught in the legislative gap where they cannot be given any leave to remain but also cannot be returned to their country or origin. Those granted refugee status have asylum support withdrawn after 28 days and those struggling to find alternative accommodation and employment in that space of time are vulnerable to destitution. The issues of employment and housing for refugees and asylum seekers are dealt with by other bodies of literature and practical initiatives.⁵⁹ There are also various periods of transition in the asylum process in which applicants can fall through gaps in the support system. Some of the most frequent causes of destitution include:

Legislation limiting support

Asylum seekers whose claims have failed are entitled to subsistence and accommodation support under Section 4 while awaiting removal from the UK. There are, however, a number of problems identified with the functioning of this legislation and the suitability of the support. Firstly, upon receiving notification that the application has failed, asylum seekers are not automatically provided with Section 4 support nor are they informed in the same document that they have the right to apply for it. Consequently, many asylum seekers are vulnerable to destitution while awaiting a decision on their application for support under Section 4, while others remain destitute and unaware of the existence of this support. The latter experience can be exacerbated by the fact that Home Office support case workers are able to make the assumption that if an individual has been without support for a prolonged period (for example between receiving support during an initial asylum application and applying for Section 4 support) then the individual in question may have access to alternative support.⁶⁰

To receive support under Section 4, as detailed above, a failed asylum seeker has to satisfy one the following five criteria to receive the support:

- i) be taking all reasonable steps to leave the UK
- ii) be unable to travel due to illness or physical impediment
- iii) have no viable route of return to country or origin
- iv) have made a claim for judicial review of their asylum claim
- v) the provision of support is necessary to avoid a breach of the individual's rights under the Human Rights Act 1998

These criteria reflect the fact that people on Section 4 are theoretically awaiting removal from the UK. Many asylum seekers do not apply for Section 4 support because they are under the impression that they will be automatically returned. Yet, as the second and third criteria demonstrate, this is not necessarily the case. Furthermore, the fifth criterion is included to allow the provision of support to individuals that have submitted a fresh claim for asylum that contains new information. There is evidence to suggest that this final condition is not sufficiently advertised nor effectively administered. Firstly, the NAM Case Owner's workbook does not make it clear that failed asylum seekers submitting a fresh claim are entitled to support under Section 4.⁶¹ Secondly, there is evidence that in some cases ASTs have suggested that individuals do not satisfy this condition on the basis that the claim may be rejected rather than

⁵⁸ For an explanation of the five criteria see Section 3.1 of *Home Office Policy Bulletin no. 71*
<http://www.ind.homeoffice.gov.uk/6353/12358/pb71.pdf>

⁵⁹ See for example: Bloch, A. (2004) *Making It Work: Refugee employment in the UK* and National Audit Office (July 2005) *National Asylum Support Service: The provision of accommodation for asylum seekers*
http://www.nao.org.uk/publications/nao_reports/05-06/0506130.pdf

⁶⁰ Home Office (August 2006) *Asylum Support Policy Bulletin 4*

⁶¹ Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*

on the absence of new information within the claim. In this respect, the Asylum Support Appeals Project (ASAP) suggests that the role and jurisdiction of asylum support staff has been confused with that of the asylum determination staff.⁶²

In addition to the lack of clarity of the legislation, refugee advocacy groups also question the suitability of Section 4 support. Firstly, since April 2005 subsistence support available under Section 4 has been provided exclusively in vouchers. As noted above, a number of concerns have been raised about the suitability of this arrangement, including:

- paying in vouchers can stigmatise individuals and leave them vulnerable to harassment from shop assistants and customers;
- those paying in vouchers cannot receive change, which can mean losing a portion of Section 4 support or purchasing items that are not really required;
- vouchers are often only accepted for certain types of products considered as essential, preventing individuals from purchasing other goods or services such as basic medication, shoes and clothes, transport and coin-operated phones;
- an informal market for these vouchers has emerged with buyers paying those in receipt of the vouchers only a fraction of their face value.⁶³

There are also concerns over the allocation of accommodation provided under Section 4. As this support is intended to be emergency support pending an individual's removal from the UK, the housing stock allocated to Section 4 has proven to be insufficient. CAB and ASAP cite evidence of delays in the allocation of accommodation, leaving individuals homeless following eviction from the accommodation provided for the duration of their asylum claim.⁶⁴ There is also considerable evidence that accommodation standards are inadequate, with properties suffering from lack of heating and hot water or being unclean and damp.⁶⁵

Other examples of legislation that limits or removes support include Section 55 and Section 9 as alluded to in the first section of the briefing. While there was considerable evidence that these two aspects of legislation were responsible for rendering asylum seekers or failed asylum seekers destitute,⁶⁶ subsequent campaigns and legal challenges have limited their effect. Currently, though Section 55 and Section 9 remain part of asylum support policy it has become increasingly difficult for the government to apply the specific legislation.

Restrictions on legal aid

These restrictions, implemented in April 2005, have forced many lawyers to withdraw from offering advice on asylum claims as they do not believe they can operate effectively within the new restriction of only being able to claim for five hours work. As a result many asylum seekers have been unable to continue with their claim or mount a successful appeal against a decision that could be overturned, leading to a withdrawal of support and/or accommodation.⁶⁷ In

⁶² Asylum Support Appeals Project (2007) *Failing the Failed?*, Citizens Advice Bureau (2006) *Shaming Destitution*

⁶³ Taken from Asylum Support Appeals Project (2007) *Failing the Failed?*, Citizens Advice Bureau (2006) *Shaming Destitution*, Oxfam (2000) *Token Gestures*

⁶⁴ Asylum Support Appeals Project (2007) *Failing the Failed?*, Citizens Advice Bureau (2006) *Shaming Destitution*

⁶⁵ Lewis, H. (2007) *Destitution in Leeds*

⁶⁶ Inter-Agency Partnership (2004), *The impact of Section 55 on the Inter-Agency Partnership and the asylum seekers it supports*; Malfait, R. and Scott-Flynn, N. (May 2005) *Destitution of asylum seekers and refugees in Birmingham*

⁶⁷ Mayor of London (2005) *Into the Labyrinth: Legal advice for asylum seekers in London*

addition, there is evidence to suggest that asylum seekers and failed asylum seekers are unable to access relevant legal advice or representation when appealing against decisions regarding their eligibility for Section 4 support.⁶⁸

Procedural delay, administrative error and poor decision making

As discussed previously, applications for Section 4 also suffer from delay and errors. In all the locations where research has taken place on destitution these are seen as the primary cause. This was most starkly the case in the study of applications to the Refugee Survival Trust (RST) in Glasgow, where it accounted for 52% of examples of destitution. Problems included delays in support following dispersal, support being incorrectly terminated, faulty application registration cards and vouchers not arriving at the correct address.⁶⁹ However, more recent research by the Asylum Support Appeals Project (ASAP) found that around 80% per cent of decisions relating to the provision of Section 4 support contained misapplication of the law or policy.⁷⁰

Gaps and inflexibility in support structures

It has been argued by refugee advocacy groups that the support provided to asylum seekers at various stages of their claim is not organised in a joined-up manner. There are examples of destitution amongst asylum seekers whose claims had failed and were in the process of applying for and awaiting a decision on Section 4 support, as NASS had no obligation to provide accommodation in the period between one form of support ending and another commencing.⁷¹ The support system that is currently in place for asylum seekers is often incapable of adapting to a change in people's circumstances such as a new address or marital status. As the lives of asylum seekers become increasingly complex as a result of dispersal or the relocation of asylum facilities,⁷² the system has found it difficult to cope.⁷³

Other causes of destitution

Poor communication about available benefits is also highlighted as a cause of destitution among asylum seekers and refugees. This is particularly relevant to what have been deemed by one piece of research as 'sudden policy changes' that cause upheaval for the system and the individuals supported by it.⁷⁴ EU accession has also been a cause of destitution for people previously considered asylum seekers but who are now considered European Nationals and so not eligible for NASS support.

Effects of destitution

Research has shown that destitution is characterised by a number of recurring symptoms, including: lack of shelter and sleeping rough;⁷⁵ inability to feed and clothe oneself; and a reliance on informal support structures. Such symptoms are often experienced in combination

⁶⁸ Asylum Support Appeals Project (2007) *Failing the Failed?*

⁶⁹ Refugee Survival Trust and Oxfam (April 2005) *What's Going On?*

⁷⁰ Asylum Support Appeals Project (2007) *Failing the Failed?*

⁷¹ Refugee Action and Leicester Refugee and Asylum Seekers' Voluntary Forum (June 2005) *A report of destitution in the asylum system in Leicester*

⁷² A particular example is the closure of the facility to apply for asylum in Glasgow. Asylum seekers arriving in Scotland have regularly sought support from the RST for travel costs to Liverpool, where they can claim asylum. See Refugee Survival Trust and Oxfam (April 2005) *What's Going On?*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Refugee Action and Leicester Refugee and Asylum Seekers' Voluntary Forum (June 2005) *A report of destitution in the asylum system in Leicester*

and can create a number of negative effects on an individual's well-being as identified by recent research. A selection of these is listed below:

Physical and mental health problems

Applications for support by destitute asylum seekers are often to cover food costs and other basic needs. Lack of support in these areas can obviously affect the physical health of an individual and is exacerbated by the removal of health provision for some categories of people.⁷⁶ Similarly, a number of recent research findings include negative effects on mental health. Destitute asylum seekers and refugees can suffer from extreme anxiety and/or depression. They can also suffer from disempowerment as a result of being forced into dependency on NASS and then having that support removed.⁷⁷

Social problems and exploitation

As many destitute asylum seekers become dependent on 'good will' support from family and friends, this can create strains on relationships, particularly if the resources of the family and/or friends are also very limited. Some research suggests that even where this support is available it is often in poor conditions and overcrowded housing.⁷⁸ Without entitlement to welfare support or access to the regular labour market, destitute asylum seekers can become involved in irregular employment often in exploitative, dangerous and hidden conditions. Research in Birmingham uncovered instances of prostitution and criminality amongst destitute asylum seekers and refugees.⁷⁹ Yet, by its very nature, this sort of activity is out of sight and difficult to quantify; it is probable that empirical evidence is likely to underestimate the extent of the problem.

There is some confusion, however, around the use of the arguments relating to social networks. Organisations conducting research on destitution argue that being in receipt of support from family and friends is an indicator of destitution, for the reasons outlined above. The social capital literature, on the other hand, suggests that such support is a sign of a well integrated individual who is less likely to fall through the gaps. There is no thorough research on whether asylum seekers' use of social networks and co-national agencies takes place on the margins and out of necessity rather than as an integrated member of a wider network.

The spiralling nature of destitution

Many of the above effects, it is argued, can also become causes of further destitution leading to prolonged or repeated phases of destitution for some asylum seekers and refugees.⁸⁰ Physical health problems can affect individuals' ability to address the problems of destitution, while mental health problems can affect an individual's confidence in the system and desire to appeal against a negative decision. This potential spiralling effect is something that has been identified as a phenomenon affecting those living in poverty more generally, and projects or research looking to address this may also be relevant for destitution among asylum seekers and refugees.⁸¹ Additionally, it appears that the most extreme destitution is experienced when a number of the symptoms exist at the same time to produce a combination of the effects described above.

⁷⁶ For detail on these entitlements see *Ibid.*

⁷⁷ Refugee Survival Trust and Oxfam (April 2005) *What's Going On?*

⁷⁸ Malfait, R. and Scott-Flynn, N. (May 2005) *Destitution of asylum seekers and refugees in Birmingham*

⁷⁹ *Ibid.*

⁸⁰ Refugee Survival Trust and Oxfam (April 2005) *What's Going On?*

⁸¹ For evidence of this see ['Persistent poverty and lifetime inequality: the evidence'](#), workshop held by HM Treasury, November 1998

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