

Protecting asylum seekers' legal rights to food and shelter

ASAPNews

MAY 2015

WELCOME



Hazel Williams
Director

What a pleasure it is to be back at ASAP working with our fantastic team. When I went on maternity leave rather suddenly in December 2013, I was concerned about what I would be coming back to. At the time we had just heard about the move of Home Office advice contracts to Migrant Help and the possible restriction in the contract for actually doing asylum support appeals. We were starting to plan for a vastly reduced number of appeals coming through the tribunal and more destitute asylum seekers being unable to access the advice they need for support.

Yet what has unfolded over the past year has been quite different. Despite the immense amount of pressure local advice services are under in terms of increased numbers at their door and reduced funding, they have still managed to step into the breach, driven by a sense of justice and passion to assist those in desperate situations. Asylum support appeal numbers have not dropped – at ASAP, our representation levels have greatly increased.

So I would just like to say a huge thank-you to those advice services that tirelessly fight for the rights of asylum seekers to access support. Now I must get on with 'scenario planning' for the new government – let's hope I will be totally wrong about that too!

Article 8 and support

Article 8 is the right to family and private life in the European Convention on Human Rights. For asylum seekers with outstanding further submissions based on Article 8, ASAP has had success in clarifying access to asylum support.

The case

We intervened in R (Mulumba) and First Tier Tribunal (asylum Support) and the Secretary of State for the Home Department, a case that was settled in February 2015.

What is the relevance of the case?

Previously the Home Office refused Section 4 support for refused asylum seekers who had outstanding further submissions based on Article 8. When the case settled, the Home Office conceded that refused asylum seekers with outstanding further submissions based on Article 8 may also be eligible for Section 4 support. This was a big concession.

Should all destitute clients with outstanding further submission based on Article 8 apply for Section 4 support?

No – it is really important to get immigration advice before applying for Section 4 support. This is because it is important that any destitution evidence does not contradict or jeopardise the Article 8 application. For example, the Article 8 application might be based on being in a stable relationship yet for Section 4 you may submit destitution evidence that suggests a partner cannot

support them – this could be contradictory.

Which type of clients might now benefit?

For example, a single father who does not live with his children or the mother but has maintained close relationship with his children. If he is destitute he may be able to access Section 4 support based on his article 8 further submissions.

What else is there to be aware of?

When clients appeal refusals of support to the asylum support tribunal, this may trigger decisions on outstanding applications, especially if the facts are weak. The Home Office has not amended the Section 4 policy to show that those with outstanding Article 8 applications must be included for consideration for Section 4 support. However, the existing wording of the policy does not rule out Article 8 applications as triggering Section 4 support. To comply with the court settlement, they must stop routinely refusing all Section 4 applications that are based on outstanding article 8 applications.

For more information see our briefing notes listed below or call our advice line (see page 4 for the number and opening times).

■ February 2015 ASAP Briefing note – Article 8 application and eligibility for Section 4 support <http://bit.ly/1GXufzm>

■ February 2015 Article 8 Mulumba consent order <http://bit.ly/1QhECzo>

JOIN US ON THE LONDON LEGAL WALK!

On 18 May the ASAP team is, as usual, talking part in the London Legal Walk to raise much-needed funds to reduce asylum seekers' destitution. What is the walk? It's a lovely jaunt round London with 8,000 other walkers to raise funds. It would be great if you'd join in. For more information see <http://bit.ly/1ABlj9Z> and email hazel@asaproject.org.uk to join us.



Extra cash for asylum support – APPLY NOW!

Under Section 96(2) of the Immigration and Asylum 1999 the Home Office is able to provide additional support in the form of cash or in-kind support (such as a bus ticket) to asylum seekers who are supported under Section 95 (cash and housing or cash (subs) only) if there is an exceptional need.

What is an exceptional need?

This is a very good question – the Home Office won't explicitly list the circumstances of an exceptional need, but will examine each case on its merit.

The additional cash or in-kind payment can only cover essential living needs as

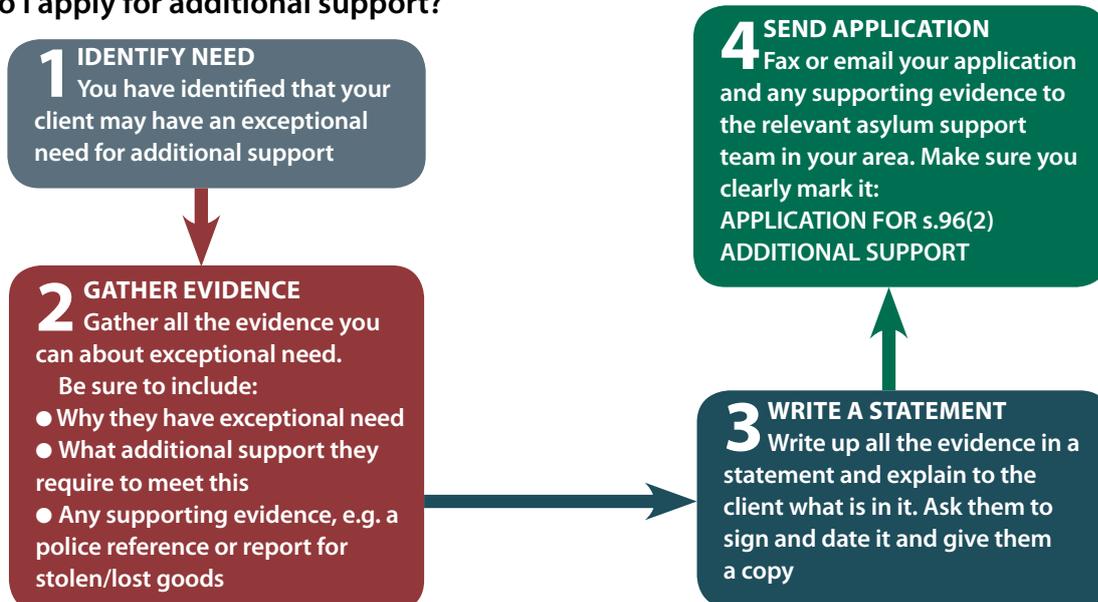
defined in the case, *R (On the Application Of) v The Secretary of State for the Home Department [2014] EWHC 1033 (Admin)* (9 April 2014), such as food/non-alcoholic drink, sufficient clothing to prevent illness, essential toiletries, non-prescription medication, household cleaning items, communication with legal advisers or for the purpose of maintaining interpersonal relationships, essential travel (including for the purpose of religious, social or cultural participation such as attending mosque, community group, etc).

So it is only where an asylum seeker has a need for these items that costs more than the Home Office expects

would be 'normal for the cohort as a whole' that it can class as an exceptional need. This list is not exhaustive but some possible examples might be:

- Loss or theft of belongings, e.g. a child loses their winter coat or there is a robbery and essential belongings are stolen
- An asylum seeker's location means they need additional travel expenses – e.g. essential services are not within three walkable miles
- An asylum seeker's physical or mental health means they need additional support such as travel to ongoing treatment with Freedom from Torture, or they are pregnant.

How do I apply for additional support?



Upcoming training from ASAP

NEW WEBINAR PROJECT ASAP has just recruited a new webinar project coordinator, Jennifer Ang, to set up an exciting new pilot project looking at how we can deliver training and support through the use of online webinars. The project will be trialling these webinars over the rest of the year so watch this space for more details of free webinars on asylum support. For more information please contact jen@asaproject.org.uk

FREE TWO DAY TRAINING IN LIVERPOOL 25–26 JUNE Our solicitor Deborah Gellner (pictured right) will be running an introduction to asylum support (day 1) and more detailed appeals training on day 2. Places are initially reserved for organisations in Liverpool, but if there are remaining places we welcome attendees from outside of Liverpool. Please email deborah@asaproject.org.uk



We can run bespoke in-house training at a small fee. Please contact hazel@asaproject.org.uk if you are interested.

Action Against Asylum Homelessness conference

On 24 February over 100 people from small community organisations, local authorities, NHS services, mainstream advice services and more came together in Leeds to share ideas and experiences about tackling asylum homelessness. The day opened with a truly inspirational speech from Annette who bravely shared her experiences of being destitute in the UK and

how she survived. The day also included four workshops focusing on campaigning locally against destitution, legal challenges to destitution, practical responses to destitution, and voluntary return and access to Section 4 support. It ended with a panel discussion on what the future holds for tackling asylum homelessness in the UK today.



Conference participants listen to Annette speak



Adam Slawson, Ben Hoare Bell Solicitor and ASAP duty scheme advocate, and Deborah Gellner, ASAP solicitor, run a workshop on legal challenges to destitution

INTERVIEW: TONY OPENSHAW, CONFERENCE ATTENDEE MANAGER OF ASHA (ASYLUM SUPPORT HOUSING ADVICE)



Tony Openshaw with ASAP's Marie-Anne Fishwick and Anna Dixie

What does ASHA do?

ASHA is a small charity based in Manchester that supports failed asylum seekers. We make applications for Section 4 support in the main, and we also help people with asylum support appeals.

Has the conference been useful?

Yes – as well as getting an update on changes in the law I have learnt specifically about the New Care Act coming in to replace the National Assistance Act, and I was able to speak to my colleagues back in the office about this. It's also been interesting to meet other people who are committed to working to support destitute asylum seekers.

What are the biggest challenges you're facing in your work at the moment?

The biggest challenge is the number of people we are seeing. Refugee Action – a large organisation in Manchester with about 50 staff – has

now reduced its services because of the advice contract that's gone to Migrant Help. This has meant ASHA, which is a very small charity, is now seeing about 90 people a week when we were seeing 50 before this change. This is a huge challenge.

We need to keep up to date and meet the Home Office deadlines that have been set for further information on an application, and three days to submit an appeal. Meeting these deadlines is a challenge at the moment because of the amount of work we're trying to deal with.

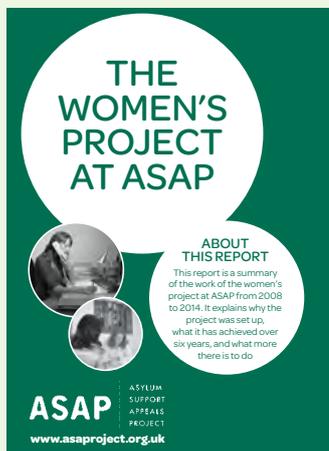


FABIAN HAMILTON: LABOUR MP FOR LEEDS NORTH EAST

"I am pleased to see the huge number of people from all over the country from all sorts of charities and organisations for whom destitution is an overriding concern. This lifts my spirits a little, because sometimes you can sound like a lonely voice in Parliament as this is not a popular subject."

ASAP: New publications

WOMEN'S PROJECT EVALUATION REPORT



This report is a summary of the work of the women's project at ASAP from 2008 to 2014. It explains why the project was set up, what it has achieved over six years, and what more there is to do. See: <http://bit.ly/1c4ZNWf>

ANNUAL REPORT 2013/14



The annual report includes stats on our duty scheme activities and an interview with a volunteer representative, Rebecca Sambrook, an associate at Freshfields Bruckhaus Deringer. There is also a 'day in the life' of our advice line, showing the breadth of issues we deal with, and a case study from the women's project. Download at <http://bit.ly/1GLWITf>

Latest ASAP stats

AT THE TRIBUNAL

In 2014/15 at the asylum support tribunal:

- We provided advice and representation to **674** destitute asylum seekers
- We are able to represent, on average, **83%** of the asylum seekers who are appealing at the tribunal and who are allowed to represent
- Of these, **64.5%** of the appellants we supported had a successful outcome.



Outcomes of appeals we represented

	2014/15	2013/14
Allowed	48%	52%
Remitted*	13%	16%
Dismissed	33%	27%
Other	6%	4%

* Note on remittals: 81% of remittals for the year were discontinuation cases. If you add these to the allowed appeals our success rate is 64.5%.

Regional breakdown of clients we supported 2014/15

AREA	TOTAL
North West	131
London	114
West Midlands	97
Yorks and Humber	87
East Midlands	67
North East	57
Wales	33
South West	30
Scotland	25
South East	24
Eastern Region	15
Northern Ireland	1

CALLS TO OUR ADVICE LINE

In 2014/15 we received 582 calls to our advice line. Our top callers were:

- 1 British Red Cross – London, Portsmouth and Leeds (top callers from Red Cross)
- 2 Refugee and Migrant Forum East London (RAMFEL)
- 3 Praxis
- 4 Refugee Action London
- 5 (equal) Northern Welcome (was Northern Refugee Centre); Coventry Refugee Centre



Congratulations Annette and Tim

ASAP offers congratulations to Annette Naor and Tim Hilton for their wedding last year in which they nominated ASAP for donations instead of a wedding list. Thanks so much for your support and wishing you a very happy marriage.

CONTACT ASAP

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