

Protecting asylum seekers' legal rights to food and shelter

ASAPNews

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HELLO



Hazel Williams
ASAP director

The past six months have been a busy time for ASAP, as we said goodbye and thanks for all their hard work to Mike Spencer, ASAP's solicitor, and Abigail Stepnitz, interim director, and welcomed four new members of staff. In fact, there are too many to fit on the front page, so please go to page 4 for their introductions – including one from me.

With the assistance of three funders – Sebba, Metropolitan Migration and Unbound – we were able to create a new post of legal researcher, taken up by Marie-Anne Fishwick, who was already at ASAP working as our duty scheme coordinator. This post will focus on developing our research and evidence base to support our policy and litigation work, and ultimately tackle the root causes of destitution.

We have been in a state of shock in the office over the proposals for legal aid cuts and the devastating affects they could have on our clients, and are working to see how we can respond against such assaults on justice. See the lead item on this page for details.

Over the next six months we will be working together to develop our five year strategy, looking at how we can further reduce destitution among asylum seekers.

Enjoy reading the newsletter.

Legal aid cuts could further devastate lives

JUST WHEN WE THOUGHT it couldn't get any worse, and we were attempting to come to terms with the legal aid cuts brought in by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the government brought out yet more plans to 'transform' (read 'make further cuts to') legal aid, which it intends to bring into force by the autumn. The consultation ended on 4 June 2013, and our response can be found on our website at www.tinyurl.com/lnamfw5

The proposals are mostly about criminal legal aid, but the government chose to include removing from the scope of legal aid most prison law cases and large numbers of migrants, by way of a residence test. Our response focused on this test, whereby only current asylum seekers and those who have lawful residence of at least one year will be eligible for legal aid. If this proposal goes through, it will have a devastating effect on our clients. There has never been legal aid for representation at the Asylum Support Tribunal (although solicitors can use a limited form of legal aid for advising and assisting in applying for support) and ASAP as an organisation does not use legal aid.

However, the majority of our clients are Section 4 applicants and so if, in the future, they lose their appeals, we would be unable to refer on to solicitors for potential challenges of tribunal decisions and other litigation to enforce their rights.

For example, the successful challenge in 2012 to the Home Office's policy of delaying granting Section 4 support to those making fresh claims would never have happened,

had the residence test been in force. And yet this High Court judgment will have helped hundreds of migrants, and will continue to do so. And it should also be noted that as refused asylum seekers will automatically fail the residence test, there will be no legal aid for making fresh claims.

The residence test is obviously discriminatory. There is also a strong likelihood it is unlawful and will be challenged in the courts if, or when, it comes into force. Preventing destitute migrants access to what limited rights they do have, simply by virtue of who they are, regardless of the legal merits of their cases, is something that must be challenged as vigorously as possible. About 13,000 organisations have responded to the consultation paper, and the campaigning will continue. We urge everyone who has not already done so to sign the e-petition www.epetitions.direct.gov.uk/petitions/48628

■ We are considering how best ASAP can contribute to preventing this residence test becoming embedded in our legal aid system. Unless we manage to oust the proposals before they become law, there is likely to be more suffering in the autumn. There will also be uncertainty and chaos as the lawfulness of the test cannot be tested in the courts until it is in force. In the meantime we look forward to receiving as many referrals to represent at the tribunal as possible; at the very least those who have cases to bring need to start them before the door is closed.

DESTITUTION AWARENESS DAY WENT TO MANCHESTER

In February 2013, ASAP jointly hosted a Destitution Awareness Day in Manchester with ASHA, a Manchester-based charity which helps asylum seekers whose status renders them destitute. The event was attended by 60 people and included asylum seekers and was the first time ASAP has held a Destitution Awareness Day outside London. We now plan to run similar events in other parts of the country: watch this space.

GET TRAINED WITH ASAP

We are pleased to announce our training program for 2013/2014. Our **free ASAP training courses** cover the support entitlements for asylum seekers and refused asylum seekers and will take place in:
Peterborough – July 2013
Cardiff – September 2013
Liverpool – November 2014
London – February 2014.

We are looking to provide a further training session although we have not decided on the location yet. If you feel your area could benefit from an ASAP visit, please get in touch with **Marie-Anne Fishwick** by emailing her at:

marie-anne@asaproject.org.uk

Our courses are aimed at **advice agencies and community organisations** that work directly with asylum seekers assisting people to make applications for support. Each session provides a basic introduction to the law in this area, covering **Section 95 and Section 4 support** as well as preparing appeals and is therefore best suited to advisers who are relatively new to asylum support work. Places are limited to two people per organisation.

Please check our website for dates as they are confirmed and how to book a space.

We can also provide **tailored in-house training**, including expert level training. However we do charge for this service. If you are interested in this, please email **Marie-Anne Fishwick** at **marie-anne@asaproject.org.uk**

Workshops on asylum support for Refugee Women's Group

ASAP's women's advisor is running workshops for refugee women's groups on asylum support. These are informal workshops and provide women with an opportunity to learn more about entitlement to asylum support. If your organisation has a women's group and would like ASAP to run a workshop email **Gerry Hickey** at **gerry@asaproject.org.uk**

Update: 'all reasonable steps' and Section 4

A legal update on a decision and a letter concerning Section 4 applications for two groups of people.

PALESTINIANS

Earlier this year the principal tribunal judge made a judgement that gives guidance on the steps Palestinians should take to return home. The judgement is particularly useful as it explains the voluntary returns system and describes the particular difficulties faced by Palestinians from Gaza.

The appellant had left Gaza as a young boy and had lost touch with his family. He was in particular difficulties because he didn't have any documentation to prove his nationality. However, he had recently instigated a tracing enquiry with the British Red Cross. He had previously made two applications for voluntary return. The principal judge's decision concludes that:

- Palestinians can't simply rely on the difficulties they face returning, in order to obtain support. They need to take some active steps to qualify for Section 4 support (see para 60)
- If an individual has a passport or some other identity document they should apply to the Palestinian delegation in London for any renewals necessary and then obtain a visa to enter Egypt (see para 61)
- Those without documentation need to take steps to apply for a new set. The judge deemed it reasonable for them to contact the Palestinian Population Registry in Gaza and get help from friends or relatives in Gaza. The judge acknowledged the process may be difficult and long, but not impossible (see para 61)
- The judge did not comment on whether or not a person should also apply for voluntary return through Refugee Action's Choices

project. But she did state that the Home Office should be more proactive in helping people re-document themselves (see para 62 and 63). *The decision can be found on our website at www.tinyurl.com/octkgtu*

IRANIANS

Iranians who do not have a valid passport have particular problems in returning home following the closure of the Iranian embassy in November 2011.

Since that date, no authority in the UK has been issuing travel documents. As this process necessitates attendance in person at an

embassy or consulate, Iranians have found themselves effectively stuck here as they are unable to travel outside the UK.

However, the Home Office has written a letter giving guidance on what Iranians should do to qualify for Section 4 support. The letter confirms that the Omani embassy in London, which is representing Iranian interests in the UK, is not able to provide consular services for Iranians.

However, the Home Office is aware that ten individuals have managed to obtain new travel documents issued by the Iranian embassy in Dublin and two others have obtained documents from Iran.

To qualify for support, individuals need to show evidence of genuine enquiries to both the Dublin embassy and the Ministry of Foreign Affairs in Tehran. This includes supplying full personal details to the Iranian authorities, including information about their place of birth, parentage and last known address. The letter gives contact details for these two bodies.

The letter is at www.tinyurl.com/nbrryqd

'The Home Office has written a letter giving guidance on how Iranians can qualify for Section 4 support; people need to show evidence of genuine enquiries'

Azure card changes: alcohol and tobacco

Since 28 May 2013, it is no longer possible to purchase alcohol and tobacco with an Azure card, adding to the list of items which cannot be purchased, which includes gift cards, petrol and diesel. Items that can still be purchased are food, drink and toiletries (including nappies,) clothing and credit for mobile phones. For more information see ASAP factsheet number 18 on Azure cards at www.tinyurl.com/qej9sp7

Check out ASAP's resources

FACTSHEETS: ASAP has now produced 18 factsheets covering many aspects of asylum support. They include setting out the eligibility criteria for both Section 95 and Section 4 support, a guide to appealing to the Asylum Support Tribunal and others areas such as the definition of a dependent for support purposes and proving destitution.

As part of ASAP's women's project, we have also produced a series of factsheets aimed at women and families with children. These include a guide to the extra support provisions available to pregnant women and children, Section 4 support for pregnant refused asylum-

seeking women and a guide to Home Office policy when approached by asylum-seeking women who are experiencing domestic violence.

REPORTS: Recent reports from ASAP include:

- UKBA decision making audit: One year on still 'no credibility'
- No Credibility: UKBA decision making and section 4 support
- ASAP Destitution Awareness Day report
- Barriers to support appeals for asylum-seeking women.

AND MORE: Also on our website are our responses to consultations, such as on legal aid reform, our annual reports, template letters, leaflets and previous newsletters.

ASYLUM SUPPORT INSPECTION

The Independent Chief Inspector of Borders and Immigration is doing an inspection into asylum support. His team will be consulting with stakeholders over the coming months. If you are interested in taking part, contact chiefinspectorukba@icinspector.gsi.gov.uk

ASAP raises over £2,000 on Legal Walk



We joined 7,500 walkers on the evening of the 20 May to raise a combined £575,000 by walking 10km round London's sights as part of the London Legal Walk. A special thanks go to those who walked, sporting ASAP's fetching green t-shirts, and to those who sponsored them; so far, ASAP has raised over £2,000. These funds will contribute to the vital work ASAP does to ensure that asylum seekers can access the support they are entitled to. If you still want to sponsor us, please visit www.tinyurl.com/ovqe5j9

WHY I USE ASAP



By Dritan Dema, senior client advisor, Asylum & Support Integration Service (ARIS), at Refugee Council Birmingham

I've been referring clients to ASAP for representation at their asylum support appeal hearings since the organisation was founded in 2003. I find ASAP's representation extremely useful and feel it adds value to the service we provide at Refugee Council. When you've spent a lot of time helping a client apply for support, and to prepare an appeal and gather evidence, it can still go wrong at the hearing if a client doesn't have a representative. They can't articulate the complex legal arguments that will win the case.

I refer clients to ASAP because I can empathise with their position, trying to defend themselves alone at the tribunal. It's frightening to be in court especially since many of our clients have been interrogated or tortured by the authorities in their own country and then questioned again by the Home Office when they're making their asylum claim. They're not over that – it's not easy to recover from such oppression and fear in the short time they've been here.

Ideally I'd like to be able to represent my clients at the tribunal because I don't want them to be left alone to face the Home Office representing officers, who may not be unkind people but most were born in a free country and don't understand the experience of being an asylum seeker; they don't understand that if an asylum claim isn't successful this could be for a number of reasons, and it doesn't mean the claimant isn't genuine.

ASAP does very valuable work for one of the most deprived groups of people in our society. Its representation makes a huge difference to individuals' lives. The difference between winning and losing an appeal is the difference between being homeless or not, between being able to eat or not, not to mention the psychological hardship. But over and above the impact on the individual is the impact on society on a broader scale. Because asylum seekers aren't allowed to work, and if they aren't provided with support, they are vulnerable to abuse and exploitation. This might be in accepting illegal jobs from unscrupulous employers where they are subjected to appalling conditions or do other things they don't want to do to survive. Just look at the impact of destitution on healthcare, social cohesion and crime.

About ASAP

ASAP is a small national charity specialising in asylum support law. Our aim is to prevent the destitution of asylum seekers by defending their legal entitlement to food and shelter.

We do this by running a full-time duty scheme at the First Tier Tribunal (Asylum Support) in East London, which provides free legal advice and representation to destitute asylum seekers who have been refused housing and subsistence support or had support withdrawn.

We also run an advice line and training on asylum support law for advice workers and legal practitioners, and engage in policy, advocacy and litigation to influence and change policy and practice.

Set up in 2003, ASAP staff and pro bono legal advocates now assist about 500 asylum seekers at the Tribunal every year, significantly increasing their chances of securing support.

An independent report by the Citizens Advice Bureau in 2009 concluded that ASAP representation increased asylum seekers' chances of a successful appeal outcome by 32%.*

* Supporting justice: the case for publicly-funded legal representation before the Asylum support Tribunal (CAB, 2009)

New faces at ASAP



Hazel Williams
Director

I am delighted to be part of ASAP and working with such a dedicated and experienced team, and for a cause I am so passionate about. Over the next year I will be developing ASAP's strategic plan, and working closely with the team to see how we can respond and adapt to the proposed legal aid cuts.

About myself: I am from the 'toon' or Newcastle as you may know it, and I have been living in London for the past two years (and slowly getting used to it). In my spare time I enjoy cycling and travelling round the countryside in my campervan.



Dianah Rouse
Finance and operations officer

I come from Uganda, but joined my husband in the UK 12 years ago. I have enjoyed learning about and integrating into a new culture and enjoy living in multicultural Britain, albeit I am still struggling to cope with the winter weather.

I am bringing to ASAP 12 years of experience in human resources, finance and administration, working in the international development sector, both in Sub-Saharan Africa and the UK. In addition, I have one year's experience of working in the refugee sector in the UK.

It's a great feeling for me to be working for ASAP and to further my involvement with refugee and immigrant organisations.



Anna Dixie
Duty scheme coordinator

I have worked in the UK refugee sector since 2006 in advice, volunteer coordination, policy and research roles. In my work as a welfare and legal adviser at the Refugee Council and the Migrants Resource Centre I developed a specialism in asylum support law. I have a masters in refugee studies from City University in 2010 and went on to take a lead research role in a qualitative study 'When maternity doesn't matter', which examined the health impact of dispersal on pregnant asylum seekers.

At ASAP I coordinate the duty scheme and the London Destitution Advisory Network, represent asylum seekers at their asylum support appeal hearings, and support ASAP's strategic litigation and research work.



Deborah Gellner
Solicitor

I worked for many years as a social welfare solicitor at Deighton Pierce Glynn, and then, more recently, taught law at Sussex University. My main interest has always been the legal rights of migrants, and therefore I feel very fortunate to be working at ASAP. I am very committed to maintaining and, where possible, improving the specialised services we provide. Given the proposed legal aid cuts, the year ahead will be a particularly challenging one.

When not working I enjoy looking after my son, walking and cycling.

For more information see our people section: www.asaproject.org/about-asap/people

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