

ASAPNews

FEBRUARY 2012

Asylum seekers left destitute because of screening delays

ASYLUM SEEKERS ARE BEING LEFT destitute for periods of up to a month because of UKBA delays in registering their claims, ASAP has learnt.

The delays are caused by new UKBA procedures introduced earlier this year for registering an asylum claim at the Asylum Screening Unit (ASU) in Croydon. Under the new procedures, individuals wishing to register a claim for asylum have to make an appointment to do so. If they turn up at the ASU without an appointment they are very likely to be turned away and told they need to book an appointment by phone.

According to advice agencies, it is not uncommon for those booking an appointment by phone to be offered one three or four weeks later. Destitute asylum seekers cannot access accommodation and support until the claim has been 'recorded' by the UKBA. The Law Society has described the treatment of asylum seekers by the ASU as "degrading".

Previously it was possible for individuals to walk into Croydon's ASU and register their claim for asylum on the same day. Those who appeared to be destitute were provided with interim/ accommodation while the UKBA processed their claims for support.



Safeguards not rigorous enough

The UKBA has said there are procedures to prioritise individuals whom they identify as having no accommodation or the means of obtaining temporary accommodation. It will attempt to offer these individuals same day appointments or, if this is not possible, they will be placed in interim accommodation until an appointment is made. The UKBA also states that it prioritises people who appear to be "clearly vulnerable", including heavily pregnant women, those with disabilities or those in need of special consideration.

ASAP is concerned that these procedures may not be rigorous enough to determine the support and accommodation needs of those claiming asylum. According to other advice agencies, individuals making contact with the ASU in Croydon by phone, or in person, are being asked some brief

questions, in English, about their need for accommodation in the UK.

To obtain a more accurate assessment of someone's support needs we feel that additional questions also need to be asked. These should include questions about the nature and type of accommodation individuals may have access to, how long they can remain in this accommodation and whether it is sufficient to meet their needs or the needs of any dependants they have.

We are also concerned that individuals with little or no English may not understand the purposes of the questions being put to them and the implications their answers may have on their ability to access support. Although we welcome attempts to prioritise "clearly vulnerable" applicants, we are concerned that this may not be enough to identify individuals with less obvious vulnerabilities and as a consequence this group may be left destitute while they await their appointment at the ASU.

ASAP would like to hear from organisations if their clients are experiencing problems accessing support due to the changes at the Asylum Screening Unit. Our advice line is open on Monday, Wednesday and Friday and the number is 020 7729 3042.

ASAP's Destitution Awareness Day

1.30–5.30pm and AGM 6–8pm, Monday 27 February 2012

Where: Oxford House, Derbyshire Street, Bethnal Green, E2 6HG

This year our Destitution Awareness Day will focus on destitute refused asylum seekers with support needs. The day will include speakers from Freedom from Torture and Women for Refugee Women. Workshops will look at the barriers in the support system for those with support needs and solutions for tackling these barriers.

This will be followed by our AGM, which is a chance to celebrate ASAP's work, as well as say a big thank you to our volunteers. Food, music and drinks will be provided – so please join us!

To RSVP for either or both of these free events, please contact Sinead@asaproject.org.uk



Q&A

**Brian Mitchell, Notre
Dane Refugee Centre**

What's your job title?

Senior adviser

What does Notre Dane do?

The centre aims to be a sanctuary in a hostile world to anyone who is a refugee, regardless of their status. We have a committed team including three advice workers, a counsellor and ESOL teachers. We deal with a lot of homelessness and other issues for those with no recourse to public funds. We try our best to help with problems such as finding a solicitor to reopen an asylum case, applying for asylum support, finding a night shelter and obtaining a relief grant through one of our partner charities. We also have about 30 volunteers who offer emotional and practical support to people who often find doors closed to them elsewhere.

How are you coping in these difficult times?

One of our adviser's salary is due to end so funding will be needed to continue. We have also had to reduce our food parcel distribution to once a fortnight and now make sure we are only giving transport fares to those who really need them. But we have recently built partnerships to introduce great services to the centre with no extra cost, such as Next Step for employment, Medecins du Monde for health and Asylum Aid for immigration review sessions.

What's most satisfying about your work?

Doing a job that has meaning to it.

How would you spend £10,000 in 24 hours?

I would organise two fabulous day trips for our service users. When we've done this before, the delight it brings to those dogged down, year after year with destitution, indecision and hardship makes it really worth it.

Brian is a member of ASAP's London Destitution Advice Network, a group of agencies that tackles destitution among asylum seekers.

Local authorities should not rely on Section 4

A LOCAL AUTHORITY ACTED UNLAWFULLY when it stopped support for a failed asylum seeker with children by telling her to apply for Section 4 support from the Home Office instead, the High Court has ruled.

The mother, a victim of domestic violence, had been refused asylum but had an outstanding application for leave. The local authority assessed her children, one of whom has sickle cell disease, as being 'in need' and accommodated the family under Section 17 of the Children Act 1989.

Following a review, the mother was informed that her support would be stopped unless she applied to the UKBA for Section 4 support.

The court ruled that the local authority could not avoid exercising its powers under Section 17 on the basis that she may be eligible for Section 4. Section 4 is a 'residual' form of support and was unlikely to be sufficient to meet the children's needs.

The case is R (VC) v Newcastle City Council [2011] EWHC 2673 (Admin), October 24, 2011.

Welcome back, Eiri

We are very pleased to have Eiri Ohtani back as our part-time interim director. Eiri was one of the first to be employed by ASAP in 2005 and worked as the director until the end of 2009. She said: "It's a great privilege to work with Mike, Gerry, Sophie and Sinead, as well as our growing team of committed volunteers who provide legal representation for asylum seekers at the asylum support tribunal. As a team, we will ensure that ASAP continues to punch above its weight." She currently also works as coordinator of the Detention Forum, based at Asylum Aid. Please contact her at eiri@asaproject.org.uk, or call on Monday, Wednesday and Friday.

Returns suspended to Palestine, Somalia, Iran

Refugee Action, which runs the UK's assisted voluntary return programme (Choices), has confirmed it is currently unable to help anyone return to Palestine (West bank or Gaza strip) or Somalia (south or central). This is because of difficulties in facilitating returns on the ground. The agency is also unable to help Iranians who do not have a travel document, due to the recent closure of the Iranian Embassy in London.

Help is still available for Palestinians who have refugee status in another country (eg. Lebanon, Syria or Egypt) and Somalis from Somaliland or Puntland, but applicants need to provide proof of their right to reside in those countries. Refugee Action can also help Iranians who have a current valid travel document. Other Palestinians, Somalis or Iranians who contact Refugee Action about voluntary return are being sent a standard letter explaining that it is unable to help them.

ASAP is finding that it is more difficult for applicants from these countries to get travel documents. In many cases support is stopped because the UKBA disputes that they are taking all reasonable steps to leave the UK.

For advice, please contact ASAP's advice line.

Has your appeal been wrongly struck out?

The asylum support tribunal has the power to strike out a party's case in limited circumstances under rule 8 of the Tribunal Procedure 2008. But ASAP has recently represented a number of appeals that were mistakenly struck out or proposed to be struck out where the tribunal does not have jurisdiction in relation to the proceedings.

A common issue is whether an appellant meets the definition of an asylum seeker/refused asylum seeker for support purposes. The High Court considered this issue in *R (SSHD) v ASA (Malaj)* [2006] and ruled that the question of whether an individual is an asylum seeker or not is a substantive issue and the tribunal has the jurisdiction to hear these appeals. If the tribunal raises the issue of strike out in your client's case, on the above grounds or any other, contact the ASAP advice line as soon as possible.

Factsheet on domestic violence

Our new factsheet on domestic violence is one of a series of factsheets produced by ASAP's women's project. It provides advice on alternative housing options for asylum-seeking and refused asylum-seeking women who are experiencing violence, or are at risk of violence, in their accommodation.

The advice is aimed both at women who are living in UKBA accommodation as well as

women who are not housed by the UKBA but who may qualify for support on the grounds that their current accommodation is inadequate due to the violence they are experiencing.

The factsheet reflects the UKBA's own policy guidance on dealing with requests for accommodation from individuals experiencing domestic violence. We are aware that very few women make requests for alternative accommodation from the UKBA on these grounds and this may be partly attributable to a lack of awareness about the options that are available to women. We will be circulating the factsheet widely, which we hope will help raise awareness among those supporting women experiencing domestic violence.

Download it at [ASAP's website](#).

**NEED ADVICE
ON ASYLUM
SUPPORT LAW?**

Contact ASAP's Advice Line

020 7729 3042

ASAP's second tier Advice Line provides expert advice on asylum support law and appeals three days a week.

Join the ASAP management committee

The work of the Asylum Support Appeals Project is overseen by a management committee which combines expertise on legal advice, asylum support, and charity management. Together we share a commitment to ending the destitution of the most vulnerable group of people in the UK today.

ASAP is currently recruiting new members. We are looking for people with professional skills such as human resources and fundraising, as well as knowledge of frontline services for destitute asylum seekers, particularly in dispersal regions.

For information about joining the management committee, please contact Eiri@asaproject.org.uk

INTERN STAMP OF APPROVAL



Rossen Roussanov, duty scheme intern

Having come from the somewhat closed and often unreal world of academia I have found volunteering at ASAP to be a welcome breath of fresh air of reality. Of course, the reality for the destitute asylum seekers we assist is anything but refreshing.

The small size of ASAP and its staff create an inclusiveness, an invitation to listen and ask questions, so as an intern you are always learning and there is a real insight to be gained into the practical logic of the asylum support process. The opportunity to shadow at the tribunal, to attend training courses and the surprisingly varied tasks provide a real chance to gain knowledge, develop experience and be more than just an office intern. It brings an appreciation for the importance of the day to day tasks of processing case files and monitoring statistics, because it frees up our legal advisers to concentrate on the hard work of winning appeals.

Everyone at ASAP has been more than welcoming and even as an intern make you feel part of the team; in fact at ASAP it is the intern who has tea made for them. It is a genuinely interesting and enriching experience for which I can only say thank you to all at ASAP.

ASAP's internship programme

The internship programme has made a significant impact to the efficient running of the duty scheme. Interns perform a variety of administrative, monitoring and research tasks and are valued members of the ASAP team. We have been fortunate to have attracted and retained talented and dedicated interns since the programme was launched in July 2011 and we would like to thank all the ASAP interns for their hard work. Giorgia Dainese, who recently completed her six month internship and is now pursuing a career in the migration sector; and our current interns Rossen Roussanov and Kara Apland, are thanked for their reliable and enthusiastic contribution. ASAP welcomes new duty scheme intern Maya Pritchard to the office team.

**ASAP
BRIEFING**

A little used power: what is Section 4(1)(a) support?

ASAP has seen success with a previously under-used Home Office power

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The Home Secretary has a little known and little used power to accommodate and support any person who is in the UK on 'temporary admission'. This is called Section 4(1)(a) support

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In several recent cases, the tribunal has considered whether this power should be used to avoid a breach of human rights

UNDER SECTION 4(1)(a) of the Immigration and Asylum Act 1999 the Home Office has a power to provide accommodation and support to anyone on temporary admission. Most people who are subject to immigration control and are not detained are on temporary admission, which usually includes regular reporting requirements. They will have been given a form called IS96.

Support under Section 4(1)(a) is different to ordinary Section 4 support (which is given under Section 4(2) of the same Act) because there is no need for the person to be an asylum seeker or refused asylum seeker. Also, unlike ordinary Section 4 support, the Home Office has not published any official regulations setting out the criteria for when someone might be eligible for support.

Who could benefit?

Section 4(1)(a) support is available to anyone who is on temporary admission regardless of whether they have claimed asylum. In some cases, even though they have never claimed asylum, it may not be possible or reasonable to expect the person to return to their country of origin.

For example, they may have established a private or family life here or are waiting for a decision from the Home Office on whether they should be given leave to remain. As they are not allowed to work, this may leave them destitute with no other means of support.

Under the Human Rights Act, the UK Border Agency (UKBA) and the asylum support tribunal have a duty to act in accordance with people's human rights, which would include providing support under Section 4(1)(a) where necessary.

How has the tribunal treated these cases?

In early 2011 the principal judge considered an appeal against a refusal of Section 4(1)(a). She decided to 'remit' the appeal back to the UKBA to make another decision, because it had not published any criteria for granting support and had said it would do so 'shortly'.

The UKBA still hasn't published a policy, although has confirmed that in general it would grant support to someone who has no other means of support and if it would be a breach of their human rights to refuse.

Recently, ASAP represented three appeals for destitute people on temporary admission claiming support under Section 4(1)(a):

- A 21 year old man who arrived in the UK aged 15 claiming he was a British citizen. He had been waiting for seven years for the Home Office to decide his case (AS/11/09/27448, 30 September 2011)
- An appellant with severe mental health problems who had been certified by his doctor as unable to travel and had made a claim for leave to remain outside the immigration rules (AS/11/11/76787, 22 November 2011)
- A 43 year old homeless man who was waiting for a travel document so that he can return to India (AS/11/12/27777, 12 January 2012).

All three appeals were allowed on the basis that support was needed to avoid a breach of human rights.

How can people apply?

There is no application form for support under Section 4(1)(a), so you can apply using the new Asylum Support Application form (ASF1). Include a letter explaining that you are applying under Section 4(1)(a) and why. If support is refused, there is a right of appeal to the tribunal.

**CONTACT
ASAP**

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