

# ASAP NEWS - AUG 05

Asylum Support Appeals Project

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## Families at risk? - Section 9



Under Section 9 of the Asylum and Immigration (Treatment of Claimants) Act 2004, families, with dependent children, who have exhausted their appeal

rights will be expected to show that they are taking steps to voluntarily leave the UK. Failure to do so could result in families having their support withdrawn by NASS (National Asylum Support Service).

This new legislation came into force on 1<sup>st</sup> December 2004. At the moment this policy is only being applied to families living in certain parts of the UK. This includes areas in Manchester, Leeds, and London. The Home Office have however stated that the legislation will be extended to all failed asylum seeker families in the future.

Families have the right

appeal to the Asylum Support Adjudicator (ASA) against the decision by NASS to remove their support.

To date the ASAP has assisted several families with their appeals to the ASA. Some of these families have lost their rights to support and have been forced to approach their Local Authorities for help. Other families have had their cases sent back to NASS. A consortium of voluntary organisations are keeping a close eye on its development.

If you would like more information on this issue, please contact the ASAP on 020 8684 5873.

### *In this issue -*

**Families at risk? Section 9**

**Free training for Refugee Community Organisations from the ASAP**

**Section 4 support for Iraqi nationals - latest news**

**Case study - nationality dispute**

**Case study - unfit to travel**

**Asylum support resource information**

## Free training for Refugee Community Organisations !

Do you provide advice to asylum seekers? If so, this is the training course which can prevent your clients from becoming homeless and destitute.

The ASAP's free training will help refugee community organisations to gain an understanding of the asylum support appeals proce-

dures, including how to put together an appeal to the ASA.

The training will cover the following issues such as:

Who is an asylum seeker?

What support is available to asylum seekers?

How to challenge NASS de-

cisions

How to prepare an appeal to the Asylum Support Adjudicators

The training will be held on **27th Sep 05 from 2pm to 5pm**. Please call us on **020 8684 5873** if you are interested. Spaces will be limited so book early!

## Changes to Support Arrangement for Failed Iraqi Asylum Seekers Receiving Section 4 Support

NASS provides section 4 support, also known as 'Hard Case' payment, to failed asylum seekers who, for reasons outside of their control, are unable to leave the UK. For example this could be because the asylum seeker has physical illness which prevents them from travelling or because there is no safe return route to their country of origin.

For some months now several thousand Iraqi failed asylum seekers have been receiving Section 4 support on the basis that there was no safe route of return to Iraq.

However on the **1 August 05** the Home Office announced that a safe route of return to

Iraq had been identified. This means from now on any failed Iraqi asylum seeker making an application for section 4 support will need to demonstrate that they meet one of the criteria attached to receiving this support. For most Iraqis, this will mean demonstrating that they are taking all reasonable steps to leave the UK unless they meet other conditions. Failure to demonstrate this will result in a refusal of section 4 support.

Also from **1 September 05** any failed Iraqi asylum seekers who are already in receipt of section 4 support will need to demonstrate that they are all taking steps

to leave the UK. Between September and December 05, NASS will be writing to all failed Iraqi asylum seekers to inform them of the change in conditions for receiving support. Again failure to comply with the new condition will result in their support being withdrawn.

More information on the situation for failed Iraqi asylum seekers in the UK can be obtained from the Refugee Council website on [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

The ASAP also have a fact sheet "section 4 support for failed asylum seekers". If you would like a copy, please call us on 020 8684 5873.

## Asylum support appeal case study - nationality dispute and 'reasonable steps to leave the UK'?

X was a failed asylum seeker from Country A who had applied for section 4 support. Support was refused on the grounds he had no medical impediment that would prevent him from travelling, he had exhausted his appeal rights and had no outstanding asylum or Article 3 claim.

NASS held that he had failed to take reasonable steps to leave the UK and informed him he was ineligible for section 4 support as a result.

In this case, the Home Office, on considering his asylum application, had decided he was in fact from Country B and not from Country A and had said he should be removed to Country B where they believe he had come from.

When X had gone to Country B's High Commission they refused to issue him with travel documents as they believed him to be from Country A.

X successfully argued that

he had taken reasonable steps to leave the UK by trying to obtain travel documents as instructed and he won his appeal.

*If you would like to discuss this case in more detail, please contact the legal advisors at the ASAP.*

## Asylum support appeal case study - unfit to travel?

L was an African national who applied for section 4 support on the grounds that she was a *'person who is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason'*. This is one of five conditions a failed asylum seeker will need to meet in order to qualify for section 4 support.

L was suffering from a serious infection which was resistant to antibiotics. She had been hospitalised for two weeks the previous month but was now receiving treatment as an outpatient. This treatment was scheduled to last for 12 months.

Her doctor provided her with a letter outlining the treatment she was receiving and asking that she be allowed to remain here until her treatment was complete. He also stated that any attempts to remove her back to her country would be detrimental to her health as she is unlikely to be able to obtain the medicine she needs.

L lost her appeal at the Asylum Support Adjudicators on the grounds that, although she was suffering from complicated medical condition, this was not serious enough to prevent her from travelling to her country of origin. The only medi-

cal evidence that would be accepted in these circumstances would be where the doctor clearly states that the person is unfit to travel and gives some indication of when they may be able to do so.

*Please note that a woman in the late stages of pregnancy is accepted as being unable to travel as is a woman who has a newborn child under six weeks old . If you would like to discuss this case in more details, please contact the legal advisors at the ASAP.*

### Resources - Asylum Support Adjudicators website

If you want to find out more about the Asylum Support Adjudicators (ASA), why not visit their website at [www.asylum-support-adjudicators.org.uk](http://www.asylum-support-adjudicators.org.uk).

You can find general information about the work of the ASA and also about the appeal process.

You can also download useful documents for your clients such as notice of appeal form, ASA leaflet and rea-

sons statements - these are the records of the decisions which have been made by the ASA in the past.

The ASA also have a free phone on 0800 389 7913 which is available to **appellants only**.

**ASAP Advice Line**  
**020 8684 5972**  
(open to advice agencies only)

**ASAP**

ASYLUM  
SUPPORT  
APPEALS  
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WE ARE ON THE WEB:

[WWW.ASAPROJECT.ORG.UK](http://WWW.ASAPROJECT.ORG.UK)

If you are advising asylum seekers about their asylum support appeals and need help, you can always call our Advice Line. Our Advice Line is open:

**Mon 2pm to 4pm**

**Tue 10am to 12:30pm, 2pm to 4pm**

**Wed 10am to 12:30pm**

**Thu 2pm to 4pm**

**Fri CLOSED**

Our legal advisors are available to answer your queries and help you help your clients. Occasionally we might be able to represent your clients at the hearing in Croydon.

**Please note that we do not provide immigration advice.**

***Members needed!** ASAP aims to involve as many refugee community organisations as possible in our service delivery and consultation. Please help us shape the future of our organisation by becoming a member! Membership fee is FREE for refugee community organisations, so if you are interested please contact us on 020 8684 5873. As a member, you will receive our free newsletter, invited to our training sessions and AGMs. We are waiting to hear from you.*

ASAP believes that all asylum seekers have a right to competent, free legal advice and representation on asylum support issues. We run an Advice Line, a duty scheme at the Asylum Support Adjudicator and training courses for refugee community organisations. Please contact us if you need more information:

**Eiri Ohtani - Co-ordinator**

[Eiri@asaproject.org.uk](mailto:Eiri@asaproject.org.uk), 020 8684 5873

**Gerry Hickey - Legal Advice, Representation and Training**

[Gerry@asaproject.org.uk](mailto:Gerry@asaproject.org.uk), 020 8684 5874

**Lisa Woodall - Legal Advice, Representation and Training**

[Lisa@asaproject.org.uk](mailto:Lisa@asaproject.org.uk), 020 8684 5875

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