

ASAP NEWS - JULY 07

Asylum Support Appeals Project

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ASAP Charity Walk 14th May 2007

On 14 May 2007 ASAP raised £1,700 at the London Legal Support Trust's annual 10km charity walk in London.

A team of 10 ASAP supporters walked a central London route. Although it was cloudy and raining earlier in the day, by the time the ASAP set off the weather was sunny and we enjoyed a lovely view along the River Thames.

With the help of 1,800 other walkers, many of them lawyers from city law firms, the London Legal Support Trust raised at least £175,000!! The money will help non-profit legal agencies in London.

ASAP would like to thank everyone who sponsored our walkers and, of course, the walkers themselves.



We made it! The ASAP team at the Royal Courts of Justice at the end of the walk!

Lisa is Leaving!

ASAP says goodbye to Lisa Woodall who has worked as a Legal Advisor at the ASAP for the last two years. She is going to take up a post at the Refugee Legal Centre. We want to say a big thank you to Lisa for all the hard work she has done for ASAP.

As a result, ASAP will be reducing the scale of its service delivery for the next three months. Please see the notice below for more information.

Changes to Service Delivery August - October 2007

Advice Line: From August to October 2007, ASAP's Advice Line will be open only on Monday, Wednesday and Friday.

The Advice Line will be closed on Tuesdays and Thursdays.

Duty Scheme: Our Duty Scheme at the Asylum Support Tribunal will be reduce from three days a week to two days a week. The Duty Scheme will now operate on Mondays and Thursdays between August and October 2007.

Next ASAP training - Support Options for Failed Asylum Seekers

ASAP will be running its popular training session "Support Options for Failed Asylum Seekers" in Autumn 2007. One session will run in London and another in Leeds.

London – Monday 15th October 2007, Friends Meeting House, Euston, London.

Leeds – October 2007 (date and venue to be confirmed).

These sessions are useful for refugee community organisations and advisors working with asylum seekers and giving advice on asylum support issues. Please note that ASAP does not provide immigration training and these courses focus on issues of asylum support and not immigration.

This is the first time ASAP will be delivering a training session in the regions. We look forward to seeing organisations from Leeds and its surrounding areas in October.

If you would like to attend our training, please contact ASAP on 020 8684 5873 or Eiri@asaproject.org.uk.

National Asylum Stakeholder Forum – Are YOU on their list?

The Border and Immigration Agency (BIA) has recently announced how their new National Asylum Stakeholder Forum is going to be run.

14 voluntary organisations have been invited to become Forum members. 47 other organisations are on the Forum's email list, including ASAP. Do you know if your organisation is on this list?

According to the draft terms of reference, the Forum exists *'to facilitate a regular and ongoing dialogue between BIA and key asylum stakeholders on policy and operational asylum issues'*.

ASAP would like to ensure that relevant voluntary sector agencies continue to have opportunities to raise their concerns directly to BIA. In particular, we want to make sure that any operational problems with asylum support (such as provision of Section 4 support) and asylum support appeals are swiftly dealt with and improved by BIA.

The Forum will meet for the first time on 12th July 2007. At the meeting, they will discuss the draft terms of reference. ASAP only has limited amount of information about the Forum at the moment and will report again in the next newsletter what is happening to the Forum.

Have you ever been to the Asylum Support Tribunal User Group meetings?

The Asylum Support Tribunal (AST) hosts User Group meetings every quarter. (The AST is where ASAP runs the regular Duty Scheme in Croydon.) These meetings are useful opportunities for any agency involved in asylum support appeals to find out more about the work of the AST and exchange information.

The AST are currently inviting more voluntary sector organisations to attend these meetings. ASAP regularly attends these meetings and finds the management information shared by the AST very informative. Some Adjudicators and a representative from the Border and Immigration Agency (BIA) also attend these meetings.

If you are interested in attending the meetings, please contact Erica Moser at Erica.Moser@tribunals.gsi.gov.uk. The meetings take place in a central London location from 5pm to 6:30pm.

***Failing the Failed?* response from the Head of Section 4**

ASAP has now received a response from Hilary Tarrant, Head of Section 4, with regard to the report *Failing the Failed?* ASAP published in February 2007 on the quality of decision making within the Section 4 team.

The report highlighted that many asylum seekers are receiving decision letters refusing or terminating Section 4 support which contain errors and get the law wrong. (You can read a full report on our website at www.asaproject.org.uk).

ASAP made five recommendations, including that NASS (now BIA) adopt a clear, consistent approach to decision making.

In her reply, Hilary Tarrant said '*A range of actions is in hand to improve the quality of decision making. We have recently prepared common instructions on section 4 decision making for staff in both the regional asylum teams and the central section 4 team. This should deliver a more consistent approach*'.

ASAP welcomes this approach and hopes that this change will prevent unnecessary and unfair destitution of asylum seekers who are entitled to Section 4 support but are deprived of it through poor decision making.

However, ASAP was disappointed to learn that BIA has no intention of translating refusal letters into the language of the recipient (the asylum seeker). ASAP believes that this makes it very difficult for asylum seekers to understand what is happening to their support and take appropriate actions to challenge these decisions.

For more information, please visit our website at www.asaproject.org.uk where our comments will appear shortly.

BIA Policy and Section 4—New Guidance

BIA have recently published new guidelines for caseworkers making decisions on Section 4 applications. This guidance replaces Policy Bulletin 71 and are published at:

<http://www.ind.homeoffice.gov.uk/6353/12358/Section4supportinstruction.pdf>

The guidelines are useful as they explain BIA's policy on who qualifies for Section 4 support. If they don't follow their own policy when they refuse a person support this could form a ground of appeal. It is also be useful to quote their policy in Section 4 applications. Remember their policy is not the law and if they get the law wrong when they refuse an application, that person can appeal regardless of whether BIA followed their own policy or not.

Unable to Leave the UK for Medical Reasons—Cases at the AST

A recent case at the AST, represented by ASAP, has highlighted the importance of good medical evidence in Section 4 appeals where the person is arguing they cannot leave the UK because they are unable to travel for a medical reason. An inability to travel for medical reasons is one way of qualifying for Section 4 support. Recent case-law has made it very difficult for people to qualify for Section 4 support in this way so it is vital to get very specific medical evidence to succeed. This is Rami's story:

Rami suffered from Post Traumatic Stress Disorder as a result of incidents in his country of origin. He had been homeless for some time when he first applied for Section 4 support in January 2007. The Section 4 team said he was able to travel and should leave the UK. At this appeal (represented by ASAP), he produced evidence from his GP stating that if he were to be returned home, as a PTSD sufferer he may suffer panic attacks on the plane and be a risk to himself and others. Rami lost his appeal because the GP had not been clear about exactly how a journey home would affect Rami. The GP had not been asked to be specific about how Rami's condition manifested itself and what would happen if Rami got on a plane home. Crucially the GP had not stated Rami could not fly.

In July 2007, Rami was back at the AST having been refused Section 4 support again and once again ASAP represented him. This time he had asked his GP to be more specific and his GP had stated, in express terms, that Rami was unable to fly because of his medical condition and that if he was in a plane returning home it was highly likely he would suffer flashbacks and panic attacks putting himself and other passengers at risk. This time Rami won his appeal.

Rami's story shows how important it is to have the right evidence in an appeal. If you have a client who wants to apply for support on medical grounds (and it has to be on the basis that they are currently too ill to fly not that they should stay in the UK for medical treatment) it is vital that their GP, consultant etc provides clear evidence stating:

- Details of the client's condition
- An express statement that the person is currently unable to fly and an explanation as to why the doctor has reached the opinion their patient cannot fly
- The likely effects of the person undertaking a flight home to either themselves or another passenger
- How long the person is likely to be unable to fly

Guidance on applying for Section 4 support on medical grounds can be found on the ASAP website: www.asaproject.org.uk.

What can advice agencies do to reduce destitution of failed asylum seekers? Join London Destitution Advice Network (LDAN)

On 24 January 2007, 13 London based advice agencies met to discuss how to respond to the destitution of failed asylum seekers using the existing and wide ranging resources and expertise already in the advice sector. This network was named the London Destitution Advice Network (LDAN) and continues to meet on a monthly basis following the success of its first meeting back in January. LDAN seeks to increase the take up of Section 4 support and community care support from the social services by setting up a good referral mechanism in Greater London and sharing good practice and up-to-date asylum support information. If your organisation would like to join, please contact Eiri@asaproject.org.uk for more information. We are particularly keen to hear from advice agencies in west London and South West and South East of London to ensure a good geographical spread of the participants.

The Joint Committee on Human Rights Report: The Treatment of Asylum Seekers

On the 30th of March the Joint Committee on Human Rights (JCHR) produced a report on the treatment of asylum seekers in the UK. JCHR is a government body made up of MPs and members of the House of Lords to consider matters relating to human rights issues in the UK.

To help them understand the situation for asylum seekers, including those whose claims had been rejected but who were still in the UK, JCHR took evidence from over ninety agencies working with asylum seekers. ASAP was one agency which provided evidence to JCHR. Amongst other issues, we argued that Legal Aid should be made available for representation during asylum support appeals. At present there is no public funding available for representation when someone is appealing against the decision to either refuse them support or to take their support away. As a result, the vast majority of asylum seekers have to represent themselves. This can be a daunting experience for many, particularly for those who are newly arrived and have little understanding of how the system works.

The Report's Findings

The report was very critical of the asylum system saying that it was too complicated, badly run and in some cases was denying support to people who were desperate and destitute. It criticised the way in which healthcare is being denied to those whose claims for asylum had failed, and stated that healthcare policy should be decided on the 'basis on common humanity'.

It also agreed with the evidence submitted by ASAP and argued that the lack of representation for asylum support appeals ‘ may lead to a breach of the asylum seekers right to a fair hearing’ particularly for those who spoke no English or had physical or mental health problems (over 50% of people we represent have physical or mental health problems).

The report concluded by saying that by refusing asylum seekers the right to work and cutting off support to those whose claims have failed which causes mass destitution, the Government was in number of cases breaching these individuals’ human rights.

The report made over fifty recommendations to the Government as to how it could approve the asylum system.

The Government’s Response

On the 25th of June the Government formerly responded to the report by the JCHR. It rejected most of the recommendations put forward pointing out that a range of improvements have been put in place to deal with issues such as delays and other operational problems in the system. These included the development of the New Asylum Model which aims to ensure a more efficient and faster system for the handling both asylum claims and support entitlement. In response to issues such the removal of support to those at the end of the process, the Government argues that this policy is necessary to endorse the message that ‘asylum seekers who have exhausted his or her appeals rights should take steps to leave the UK once the barrier to leaving the UK has been resolved’.

In response to our recommendation that Legal Aid be made available for asylum support appeals the Government stated that it did not believe that it was necessary to extend funding for representation at these appeals. It feels that tribunals such as the Asylum Support Tribunal are less formal in nature and are ‘intended to avoid being complex and legalistic’. As such, with the use of interpreters where requested, appellants should be able to represent themselves with little or no difficulties.

In conclusion the Government states that many of the policies they operate, such as the use of detention, the denial of right to work for asylum seekers, the provision of vouchers for those receiving Section 4 and the limits on accessing health care for those whose claims had failed, all form part of a ‘ wider package of measures aimed at tackling abuse of the asylum system and removing incentives to the non –genuine claims for asylum’.

A download a copy of the JCHR’s report on asylum seekers and the Government’s response go to: <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf>

For a briefing on the new asylum model go to Refugee Council Website:
www.refugeecouncil.org.uk

Free ASAP factsheets

- No 1: introduction to NASS support
- No 2: Introduction to Asylum
- No 3: Making an Appeal to the ASA
- No 4: After a Negative Decision at the ASA
- No 5: Section 4 Support for Failed Asylum Seekers
- No 6: Section 4 Support and Community Activities
- No 7: Section 9 Withdrawal of Support for Failed Asylum Seeker Families
- No 8: Breach of Conditions of Asylum support
- No 9: Introduction to Community Care
- No 10: The European Convention on Human Rights and The Human Rights Act 1998
- No 11: Introduction to Judicial Review

If you would like a copy, you can ring us on 020 8684 5874 or download them from our website which is www.asaproject.org.uk

ASAP Advice Line
0845 603 3884
advice@asaproject.org.uk

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

Monday, Wednesday and Friday
From 10am-4pm

The Advice Line is closed on:
Tuesdays and Thursdays

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**

ASAP aims to reduce destitution of asylum seekers in the UK by protecting their legal rights to food and shelter. We believe 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.

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ASAP is supported by:

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