‘One of the main functions of Section 4 is to provide support for refused asylum seekers considered as taking all reasonable steps to leave the UK. ASAP’s extensive work with Section 4 has demonstrated that UK Border Agency is failing to provide support to many refused asylum seekers that should qualify under this criteria. This failure is resulting in the unacceptable destitution of refused asylum seekers who are unable to leave the UK through no fault of their own.’

From ASAP’s report ‘Unreasonable Destitute?’
The UK Border Agency has faced many challenges from charities, legal and medical practitioners as well as human rights organisations because of its treatment of asylum seekers. In particular, there has been strong criticism of the inhumane policies which force so many asylum seekers into destitution.

Powerful criticism came from the Joint Committee on Human Rights which, after a long inquiry, declared the asylum support system to be ‘a confusing mess’ in 2007. The Immigration Minister’s belated response to the inquiry report simply defended the current system and was disappointingly unengaged with the concerns raised by the Committee. So it is encouraging that at this time of reviewing ASAP’s work with homeless, destitute and increasingly desperate clients, there seems at last to be some hope of a better system.

Those who work with asylum seekers must be anxiously glancing at the draft Immigration and Citizenship Bill, which is intended to overhaul and simplify the entire asylum/immigration/asylum support system.

The Bill is an opportunity for the government to engage with the concerns of organisations like ASAP who work on the frontline of destitution. We hope they will seize the opportunity to build a new system where the legal rights of asylum seekers are properly and systematically protected. There should be a fair and competent asylum support decision making process, as well as publicly funded legal advice and representation for assisting asylum seekers at the asylum support appeal stage.

One troubling development of the past year has been the funding climate. We are beginning to see the negative impact of the Legal Aid cuts and a tough funding situation for not-for-profit advice agencies. Refugee community organisations are particularly hard hit by funders’ changing priorities. Some of the organisations ASAP has worked with are closing down or considering reducing their services to asylum seekers, making our work more important than ever.

It is against this background that ASAP is continuing its work with destitute asylum seekers. By the end of this calendar year, our free legal representation work at the Asylum Support Tribunal, which started on a voluntary once-every-fourthnight basis as a pilot four years ago, will have grown to a four-days-a-week operation with the hope that it will become a five day service in 2009. Despite this, we still don’t have enough resources to help all the asylum seekers we would like to represent. And there is always more work for ASAP to do.

ASAP’s strength is rooted in our unique work at the Duty Scheme; this is where we directly challenge wrong decisions made by UKBA and gather evidence to challenge inadequate and unreasonable asylum support policies. The more legal representation we do at the Duty Scheme, the more expertise on asylum support law we accumulate. We then disseminate this expertise to our second-tier users via our Advice Line, training and publications.

Balancing these strands of work to tackle the ‘confusing mess’ of asylum support has never been easy. And it is only through the hard work of all the staff members and volunteers supported by the Management Committee that ASAP continues to achieve so much. We would like to thank all of them for their commitment and excellent work. We also would like to thank all the funders, supporters and interagency partners who continue to support ASAP and have helped ensure our survival.

Sue Willman
ASAP Chair

Eiri Ohtani
ASAP Co-ordinator

The ASAP team (left to right): Eiri, Gerry, Abi, Colin, Tom, Marie-Anne
ASAP Duty Scheme — expert legal advice and representation

ASAP continues to be the only organisation which provides free legal representation in person at the Asylum Support Tribunal (AST). Asylum support law is complex and its policies change frequently. This means that many asylum seekers find it difficult to understand why their support is refused or terminated and how to challenge UKBA’s decisions. Their difficulty is compounded by a short timeframe for submitting appeal forms and evidence, problems in accessing advice, language barriers, mental and physical ill-health and their destitution. Public funding is, however, still not available for asylum support appeals.

Without our Duty Scheme, many asylum seekers, whose housing and welfare support has been refused or terminated by UKBA, will have no option but to face their appeal hearings unrepresented. This can be daunting and confusing. Or worse, this can mean that they lose entitlement to their only source of available support and become destitute. (Asylum seekers are normally not allowed to work.)

In 2007/08, ASAP’s Duty Scheme assisted a total of 247 asylum seekers at the Asylum Support Tribunal. We provided legal representation for 67 appeals. A further 80 asylum seekers were given specialist legal advice about their asylum support appeals before their appeal hearings.

Legal representation significantly reduces destitution. The success rate of our Duty Scheme representation for 2007/08 was 60%. The management information from the Asylum Support Tribunal also shows that asylum seekers who received advice and/or representation were more likely to have a successful outcome (31%) than those who didn’t (10%). (This analysis is based on the statistical information from the period between July 2007 and September 2007, where ‘success’ is defined as a case being either allowed or remitted.)

Case study: A young woman with a serious medical problem

ASAP represented a young woman with serious health problems in her appeal against UKBA’s decision not to give her support. The woman had a serious and extremely rare illness and was pregnant with her second child. UKBA refused to support her stating that her illness is not serious enough and that she is fit enough to leave the UK.

The client was attending a hospital in London where she was receiving specialist care from a consultant. The hospital had provided a letter stating that they had never met a patient with a combination of these problems and stressed that she required expert care and treatment that was only available at this hospital.

At the appeal hearing, the Adjudicator allowed her appeal and granted her support on the grounds that it was unreasonable for someone with her condition to be expected to leave the UK due to the risk international travel would pose to her health.

After the appeal, based on the medical evidence, ASAP tried to ensure that the woman was provided with accommodation in London as she clearly met UKBA’s own criteria for accommodation in London. Despite the strength of the medical evidence and many phonecalls and letters, it took UKBA almost four weeks to house her and her child in London.
What do Legal Advisors do at the Duty Scheme?

Legal Advisers meet the asylum seekers for the first time on the day of their appeal hearings at the Asylum Support Tribunal, which makes the Duty Scheme very pressurised. Apart from the name of the appellant, whether the appellant has a representative, the language s/he speaks and the type of case, Legal Advisers know nothing about the case until they start interviewing them in one of the consultation rooms in the AST building.

Usually, there is only between 30 and 45 minutes to interview the asylum seeker, take evidence, review the documents they have brought (which can be between 30 to 200 pages long) and decide how to represent the case before going into the hearing room with the person making an appeal. From start to finish each case takes from 2 hours to 3.5 hours. Some cases are more complex and require a lot of follow-up work, such as referrals to solicitors or liaising with advice agencies near where the asylum seeker is staying. These cases can take days or even weeks until they are resolved.

When ASAP Advisers first meet asylum seekers on the day of their hearing, it is often necessary to begin by explaining why they are there and the reasons they have been refused support. ASAP's role is also to help them prepare for their hearing by explaining the type of questions they will be asked and to take them through the evidence they will need to provide for their hearing. This type of pre-hearing legal advice can be crucial to the success of asylum support appeals.

The Duty Scheme also provides follow-up advice. This consists of providing them with advice on how they could meet the criteria for support in the future or, where appropriate, about the other support options that are open to them such as support from social services.

Key facts about our Duty Scheme users

- Many come from countries with political instabilities and well-documented human rights abuses, such as Iraq (31%), Iran (16%), Zimbabwe (9%) and Democratic Republic of Congo (6%).
- They travel from all over the UK to attend their appeal hearings. This is because the Asylum Support Tribunal, although based in Croydon, is the only tribunal in the country dealing with asylum support appeals.
- Most have been destitute for long periods before their appeal hearing, ranging from a few weeks to over several years.
- 27% are female.
- 15% of them consider themselves to be disabled.
- 31% say they are suffering from significant mental / physical health problems, including HIV, TB and the effects of torture and rape.

“When this office (ASAP) gave me an idea about what will happen in the tribunal. This is a good office because no one understands about this court, it is hard.”

“"He (ASAP Legal Adviser) was so important. If I went myself it wouldn’t be easy like that. I don’t think I could have done it on my own. Solicitors are so important. We don’t know the law and we don’t know what to do. It is so important to have a briefing before.”

"This office today by making it easy for me to understand a lot better where I stand today and what I have to do.”

“It has helped me today by making it easy for me to understand a lot better where I stand today and what I have to do.”
Case study: A deaf man whose support was unfairly terminated

Mr A is profoundly deaf. His original claim for asylum had failed but he had submitted fresh representations several years ago which he asked the Home Office to treat as a fresh claim for asylum. He had paid a solicitor privately for assistance in submitting his fresh representations but they were not recorded as his representatives and he had no more contact with them as he was unable to pay any more legal fees.

His application for section 4 support (pending a decision on his further representations) was initially refused by NASS but was granted on appeal. While he had been receiving section 4 support, he was asked to move from one accommodation to another several times. He had to report regularly to the Home Office and informed the reporting office of his change of address on each occasion.

Out of the blue, Mr A received a letter from UKBA stating that UKBA was considering withdrawing his support and accommodation because his fresh representations had been rejected. This was the first indication that he had ever received that they had been rejected. He cannot read English, and as he is deaf, he had great difficulty in obtaining advice on what the letter meant. UKBA then wrote saying his support and accommodation would be withdrawn in 14 days — which would have left him street homeless.

ASAP represented Mr A at his appeal at the Asylum Support Tribunal against this decision to withdraw support. It came to light that UKBA had written to him rejecting his further representations made several years ago but it had sent the rejection letter to his original section 4 address and not the address UKBA had moved him to. Therefore Mr A had not received it. The first time Mr A saw the refusal letter was when it was shown to him at the AST hearing.

ASAP persuaded the Adjudicator that because of this, UKBA had not given him fair notice of the decision and this had prevented him from getting advice on challenging the refusal of the further representations. On this basis the Adjudicator set aside the decision withdrawing section 4 support and re-instated Mr A’s s4 support. This gave him time to get legal advice on his immigration status and on any other fresh representations that he should make.

ASAP would like to be able to assist more asylum seekers at the AST in the future. We are aware that, with more resources, more asylum seekers will be able to fully exercise their legal rights during these appeals. Although the number of appeals ASAP has been able to assist has increased over the last three years, it still represents a very small proportion of all the appeals received by the AST.

“Gerry (ASAP Legal Adviser) explained all to me (about asylum support appeals). I was blank before I spoke to her.”
ASAP Advice Line and Training
— building the capacity of other advice agencies

ASAP’s Advice Line, which is open three days a week, provides free legal advice on asylum support and asylum support appeal issues to advisers working in voluntary organisations throughout the UK. Our Advice Line is an effective and efficient way for ASAP to disseminate our legal expertise to front-line agencies so that they, too, can give good advice to asylum seekers.

The volume of calls made to the Advice Line doubled in 2007/08 and a total of 152 organisations used our Advice Line 501 times (last year it received 249 queries). 44% of these organisations are based outside London. We have also noted that there has been a growth in the range of organisations contacting our Advice Line.

Quotes from the training participant

“Very good grounding and introduction to support for asylum seekers.”

“Learnt huge amount in a short time.”

“Excellent charity doing very important work – the session has made me really, really angry with current policy.”

“Very helpful to the community.”

A day in a life of ASAP’s Advice Line

- National organisation called for advice on the type of evidence they would need to help their client with his appeal at the Asylum Support Tribunal
- Support group working with detainees needed advice for a refused asylum seeker who had recently been released from detention and was street homeless
- Refugee organization needed advice on support for an asylum seeking mother and her young children who had become homeless as result of domestic violence
- Local refugee support group needed advice for a refused asylum seeker with severe mental health problems whose support was terminated following the removal of support by Social Services
- Somali youth group needed advice on the support options for two former unaccompanied asylum seekers who had become destitute following the removal of support by Social Services
- Refugee community organisation in Nottingham called for advice on whether a client who had entered the UK as a visitor could access any kind of support
- Chinese support group needed advice for a client who had left his section 4 accommodation due to racial harassment
- A London refugee forum called for advice on what support there was available for a client who was a refused asylum seeker and was in the late stages of pregnancy

Quote from Advice Line user — An advice agency in Leeds

“ASAP Advice Line provides such an important port of call for many of us working here. The Advisers go out of their way to give you the best advice specific to your clients. The Advice Line provides an invaluable source of advice that time and again has helped our clients to be successful on appeal. Thank you to the whole team, keep it up!”
Training

In 2007/08, ASAP provided a total of 9 training sessions and workshops for 130 participants from 80 organisations.

This year, ASAP was able to extend our training service to the areas outside London. So far, ASAP has travelled to Hull, Bradford, Birmingham and Liverpool. We will soon be visiting Wales and Manchester. We continue to focus on running training sessions on section 4 issues as many more agencies are now working with destitute refused asylum seekers.

Quote from Advice Line user – London organisation with a large drop-in facility

“As a frontline service delivering support to destitute asylum seekers, the ASAP Advice Line has proved to be an invaluable resource. ASAP provides effective and detailed guidance on the different stages of claiming support and for preparing appeals. We frequently use the Advice Line to check what evidence is required for more complex cases. This has enabled us to improve the quality of service delivered to clients and increase their chances of obtaining support.”

ASAP’s new work

Women’s Project

Women’s Project, funded by Comic Relief, started in April 2008. The project works with destitute female asylum seekers who are victims of sexual violence. Many women we assist at the Asylum Support Tribunal have experienced rape and sexual violence or have suffered other forms of gender based violence. As a consequence of their experiences, many had developed serious mental and physical health problems. Destitution also exposes these women to further risks of violence and exploitation.

The aim of the project is to increase the number of women we represent at the Asylum Support Tribunal and ensure they get emergency support. We will also want to raise awareness amongst other organisations of the support options available for women in this situation and to ensure they have access to appropriate advice and information.

In partnership with Rights of Women, ASAP has now developed a training session aimed at women’s organisations which covers both an understanding of UK asylum and immigration law as it applies to women asylum seekers, and the financial support they are entitled to throughout the asylum process.

London Project — Duty Scheme for Londoners

In July 2008 ASAP obtained funding from the London Councils for the London Project. London has the highest number of asylum seekers in the UK and produces the largest number of asylum support appeals (420 in 2006). Therefore, one of the main aims of this new project is to increase access to advice and legal representation and advice for London based asylum seekers regarding their asylum support appeals.

Building on ASAP’s existing networks, a key strategy for the London Project will be to work more closely with London based advice agencies and refugee community organisations in the capital. The project hopes to raise awareness of ASAP’s Advice Line and Duty Scheme so that asylum seekers from all over London are referred to the Duty Scheme for advice and representation.
ASAP’s policy work — for better asylum support policy

ASAP uses the evidence collected from our Duty Scheme and Advice Line to influence asylum support policies which affect asylum seekers. Below are some of the examples of our work.

‘Unreasonably destitute?’ — ASAP Report

This year, ASAP published a report, ‘Unreasonably Destitute?’, based on the appeal cases ASAP represented at the Asylum Support Tribunal. One of the criteria for getting support is that refused asylum seekers take all reasonable steps to leave the UK. However, the report highlights that UKBA often fails to provide support to those who meet this criteria but are unable to leave the UK through no fault of their own. Based on the findings, ASAP recommends that:

- UKBA develops clear, realistic and practical guidelines on what constitutes ‘taking all reasonable steps to leave the UK’
- UKBA suspends the policy of regularly reviewing an individual’s Section 4 support where there is evidence that the person has done all in their power to leave the UK
- UKBA recognises that there are certain countries to which refused asylum seekers cannot return at the moment
- UKBA offers a temporary form of leave to individuals where there is clear evidence that they are unable to leave the UK
- UKBA provides support to individuals who appear to be stateless and who have demonstrated that there is no country that is willing accept them as their national
- UKBA recognises that many embassies are often unwilling to provide evidence that an individual has approached them and applied for a travel document, or evidence that they refused to recognise someone as their national

- UKBA recognises that where the International Organisation for Migration is unable to assist someone to voluntarily return due to problems with travel documents, this person is unlikely to be able to return by other means so should be considered as having taken all reasonable steps to leave the UK

(The report can be downloaded from our website at www.asaproject.org.uk)

Tracking delays in support provision after successful AST appeals

ASAP has been alerted by calls to the Advice Line that asylum seekers often experience an unacceptable length of delay in getting their support after successful asylum support appeals. After the Tribunal has decided that UKBA had made a wrong decision to refuse or terminate support, those asylum seekers often wait days and weeks before they are actually housed. ASAP has raised this issue on numerous occasions at various stakeholder meetings, including those with UKBA officials. Unfortunately, the issue still remains unresolved and ASAP is continuing to track these delays for further policy and legal work. Watch this space.

Interagency work

Raising awareness of the problems experienced by asylum seekers during the appeals process is an important part of ASAP’s work. ASAP does this through linking into various networks and stakeholders groups, such as Asylum Support Tribunal Users Group, Case Resolution Directorate (CRD) Sub-Group, National Asylum Stakeholder Forum, Asylum Rights Campaign, Housing and Immigration Group, BMER Advice Network, London Destitution Advice Network and Women’s National Commission. In addition we continue to work with refugee community organisations such as the Zimbabwean and Iraqi groups by conducting information sessions on an outreach basis.
‘Right of reply’ — asylum support appeals from the asylum seekers’ point of view

The UK Government continues to insist that asylum support appeals are simple and straightforward and refuses to provide public funding for these appeals — but are they really so? ASAP is currently collecting detailed accounts of asylum seekers’ experience of asylum support appeals, with a view to publishing a dossier in 2009. We are trying to find out exactly how asylum seekers are getting advice about their appeals and how easy or difficult they find the appeals system. Below are some of the comments taken from our interview records.

‘I did not understand the letter. I just understood the word tribunal and I was afraid.’ (Female, in her 30s, with a baby and a toddler)

‘I didn’t read them all. I just read the first page about when I have the appointment (appeal hearing) because I was feeling very sad. The language was hard to understand.’ (Male, in his 20s)

‘I read it 4 – 5 times and was shocked to understand the termination (of my support). My English is not so good for reading though. …..’ (Speaking about trying to get help with Notice of Appeal form) I went to XXX (advice agency) but the first day I was told they finish early on that day, so they told me to drop in on Wednesday. At the drop-in session, I waited in a long queue for over an hour.’ (Male, in his 30s, with a severe health problem)

‘(Speaking about the legal language used in the system) When the Adjudicator spoke I didn’t understand what she was saying: “I am allowing the appeal” – I thought she was allowing me to speak at the appeal.’ (Female, in her 30s, HIV+ with a baby)

‘There was not enough time for me to get help with the form (notice of appeal). I did the best I could with the help of my friend. I was surprised at how little time there was to appeal. Three days is very short. …..’ (Speaking about the language used by the system) The terms “respondent” and “appellant”: many people would not understand them. The legal terms can be confusing. Also 3 days is too short a time to appeal. People need time to find advice and get ideas on how to appeal.’ (Male, in his 30s)

‘(Asked if there was enough time to complete notice of appeal) I don’t think so. It isn’t enough time for anyone because you have to collect evidence. The problem also is that you need help with forms and organisations are busy. It is so difficult if you cannot speak English or their (legal) language so a solicitor helps a lot. If it is a court case type hearing like today, you need a solicitor to represent you.’ (Female, in her 40s, HIV+)
Financial information and Treasurer’s report

The financial statements shown are a summarised version of the financial statements for year ended 31st March 2008 which was approved by the ASAP Management Committee on 17th July 2008. Our auditor, Mary-Louise Wedderburn, issued an unqualified audit opinion on 2nd August 2008. Notes can be found within the full copy of the financial statements which can be obtained by contacting ASAP at 18 Barclay Road, Croydon CR0 1JN.

As of 31 March 2008, ASAP’s net assets were £47,216, of which £21,361 were restricted funds and £25,855 were unrestricted funds. Restricted funds represented grants paid in advance, to be utilised in the next financial year. Financial information and Treasurer’s report

I would like to thank our funders and donors for their invaluable assistance during the year.

Noeleen Adams, Treasurer

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ASAP supporters at the London Legal Support Trust 10km charity walk raised the total of £3,000 this year! A big thank-you to everyone who sponsored us.
Thank You

ASAP would like to thank all the funders and donors whose financial assistance has made it possible for us to carry out our work.

Much of ASAP’s work was supported by / in collaboration with a number of other organisations and individuals who work in the asylum and advice field. We would also like to thank the following for their help and generosity during 2007/08.

- 29th May 1961 Charitable Trust
- A B Charitable Trust
- Allen Lane Foundation
- AW.60 Trust
- Big Lottery Fund
- Bromley Trust
- City Parochial Foundation
- Comic Relief
- Doughty Street Chambers
- Eleanor Rathbone Charitable Trust
- Garden Court Chambers
- Hilden Charitable Trust
- J Paul Getty Jr Charitable Trust
- Jill Franklin Charitable Trust
- Law Society Charity
- Leigh Trust
- Lloyds TSB Foundation for England and Wales
- London Councils
- London Legal Support Trust
- Matrix Chambers
- Racial Justice Fund
- Rowan Charitable Trust
- WF Southall Trust
- Many individual donors
- Law Centres Federation
- LawWorks
- Pierce Glynn Solicitors
- Southwark Law Centre
- Volunteer barristers and solicitors at the Duty Scheme
  (Adrian Berry, Caroline Cross, Sarah Hemingway, Gemma Hobcraft, Alison Pickup, Kevin Gannon, Alasdair MacKenzie, Wendy Pettifer, Joanna Wood)

ASAP also would like to thank our auditor, Mary-Louse Wedderburn, for her work.

Still Human Still Here campaign calls for the Government to:

- End the threat and use of destitution as a tool of Government policy against refused asylum seekers
- Continue financial support and accommodation to refused asylum seekers as provided during the asylum process and grant permission to work until such a time as they have left the UK or have been granted leave to remain
- Continue to provide full access to health care and education throughout the same period

ASAP encourages other organisations to also support this very important campaign. Visit www.stillhuman.org.uk for more information.
History of ASAP

In 1999, the UK government decided to revolutionise asylum seekers’ housing and support by establishing the National Asylum Support Service (NASS). Under this new scheme, asylum seekers who require accommodation now face compulsory dispersal to the regions outside London and receive financial support which is set at 70% of Income Support level. (UK Border Agency took over NASS function in April 2008.)

While there is a right of appeal to the Asylum Support Tribunal (formally Asylum Support Adjudicators) where support has been refused or withdrawn by NASS, no public funding is available for legal representation for asylum seekers at these hearings. As a result many appellants attend their hearings unrepresented and unadvised, leaving them unable to defend themselves adequately against possible destitution and homelessness.

In 2000, concerned law practitioners, advice agencies and voluntary organisations started lobbying the Legal Services Commission for proper funding. When this was unsuccessful, they constituted themselves as a registered charity in 2004, became trustees of the charity and started seeking funding to set up Asylum Support Appeals Project to fill this gap. Among them, these trustees have expertise in asylum support law and advice, knowledge of working with asylum seekers and refugee community organisations, setting up new projects, and above all, a shared commitment to safeguarding the rights of the most vulnerable group of individuals in the UK today — asylum seekers.

After five years of dedicated hard work by the trustees, ASAP formally launched itself as an independent voluntary organisation in June 2005 with the help of generous funding from the Big Lottery Fund, the City Parochial Foundation and others.

ASAP specialises in asylum support appeals and asylum support law which concern asylum seekers’ housing and benefits entitlements from UKBA. ASAP combines free legal representation, second-tier advice, capacity-building training and policy work in order to defend asylum seekers’ legal rights to food and shelter.

ASAP works to reduce destitution of asylum seekers in the UK by defending their legal rights to food and shelter. We combine free legal representation, second-tier advice and training on asylum support law and policy work to ensure that asylum seekers are able to access housing and welfare support they are legally entitled to.