

# ASAP

ASYLUM  
SUPPORT  
APPEALS  
PROJECT

## ANNUAL REPORT 2010/2011

*ASAP is a small national charity specialising in asylum support law. We help some of the most vulnerable people in the UK by defending their legal rights to food and shelter. The people we help are often traumatised as a result of rape or torture and suffer from serious mental and physical ill-health. They are then at an increased risk of exploitation by living street homeless or 'sofa surfing'.*

**[www.asaproject.org.uk](http://www.asaproject.org.uk)**



## About ASAP

ASAP is a small national charity specialising in asylum support law. Our aim is to reduce the destitution of asylum seekers by defending their legal rights to food and shelter. We represent some of the most vulnerable people in the UK, including destitute families, pregnant women and people traumatised as a result of rape and torture. Most come from conflict zones or countries with a well-documented record of human rights abuses. Many then find themselves living a hand-to-mouth existence in the UK, often street homeless and reliant on friends and charities. Our work combines free legal representation, second tier advice, and policy and litigation to influence and change asylum support policies and procedures.

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## HISTORY

In 2000, the government removed asylum seekers' entitlement to work and mainstream benefits. Asylum seekers could apply for basic housing and welfare support and appeal decisions to stop or refuse them support, but could not access legal representation at appeal hearings as there was no legal aid for this work.

Concerned at the prospect of people with little English and no legal knowledge having to make their own case for support, ASAP was set up by a group of lawyers and NGOs to ensure there was legal assistance at hearings.

Initially run by volunteers twice a week, ASAP's duty scheme at the asylum support tribunal expanded as the organisation secured funding, recruited staff and developed a second tier and policy remit.

In 2009, the duty scheme began operating five days a week and its expertise was recognised in an independent report that concluded that ASAP representation increased asylum seekers' chances of success at the tribunal by over 30%.

In 2011, ASAP moved its office to Oxford House in Bethnal Green, East London, following the relocation of the asylum support tribunal from Croydon to Docklands.

## What we do

- *Provide free legal advice and representation to asylum seekers via a duty scheme at the asylum support tribunal in Docklands, East London, five days a week*
- *Run an advice line and training on asylum support law and asylum support appeals for refugee organisations, advice agencies and legal practitioners*
- *Engage in policy, advocacy and litigation work to influence and change policies and procedures on asylum support*



## Our team

ASAP employs five staff and has three office volunteers. About 30 barristers and solicitors from city law firms and high profile chambers work pro bono on the duty scheme. The work is overseen by a management committee that combines expertise on legal advice, asylum support and charity management. We share a commitment to ending the destitution of the most vulnerable group in the UK today.

**Top: Roseanne Sweeney (director, on leave)**

**Left: Gerry Hickey (women's legal adviser)**

**Middle: Sinead Parsons (administrator), Eiri Ohtani (director), Sophie Wickham (legal adviser/duty scheme coordinator),**

**Mike Spencer (solicitor)**

**Bottom: Giorgia and Rossen (volunteers)**



## Surviving the cuts and developing our strategy

**The government has announced drastic cuts to legal aid, which are being debated in parliament at the time of writing this report.**

Initially, the government proposed to exclude asylum support cases from the scope of civil legal aid. ASAP responded to the consultation with case studies showing that the impact on destitute asylum seekers would be devastating. The proposals were then modified so that funding for advice can still be provided where housing is an issue. But this still leaves the grey area of 'cash only' asylum support under Section 95 of the Immigration and Asylum Act 1999.

Perhaps more importantly, many legal aid providers such as advice agencies and law centres face closure because of the payment reductions and cuts in other areas of legal aid by April 2013. Both the Immigration Advisory Service and Refugee and Migrant Justice have already closed. Meanwhile, the Refugee Council and Refugee Action have been forced to absorb cuts of 60% in funding for asylum support services, including help with asylum support applications.

All these developments have made it harder for destitute asylum seekers to access advice, and have increased the demand for ASAP's services.

Our unique duty scheme – which brings together ASAP legal representatives, solicitors from commercial law firms and barristers from leading chambers – has gone from strength to strength. Started on a one-day-a-week basis in 2003, the scheme now operates every day of the week and has grown into an integral part of the asylum support

'Our duty scheme – which brings together ASAP legal representatives, solicitors from commercial law firms and barristers from leading chambers – now operates every day of the week and is an integral part of the asylum support appeals system'

appeals system: in 2010/11, the scheme advised and/or represented 566 destitute asylum seekers. We also created a new post of duty scheme coordinator to ensure that the scheme is run efficiently by working closely with referring agencies and our volunteers.

The asylum support tribunal is moving towards using a videoconferencing facility for appeals, where asylum seekers attend their hearings through video links so that they do not have to travel to the Docklands. ASAP welcomes measures to make the appeal process more accessible, especially for vulnerable appellants or those with small children who find it difficult to travel from regional towns to London. However, we are concerned that videoconferencing can have a detrimental impact on asylum seekers' ability to fully engage with the appeals, as well as our ability to represent. We understand that the tribunal will be conducting a pilot in the future and we will monitor this closely.

We continue to press the UK Border Agency (UKBA) on policy issues such as its poor asylum support decision making. Following our report, 'Not Destitute Enough', in 2008, we published a new report, 'No Credibility: UKBA decision making and section 4 support', in April 2011. We found, once again, a systemic misapplication of the legal test of destitution by UKBA case owners, who appear to pay little attention to the evidence submitted with applications, resulting in unlawful refusals of support to homeless migrants.

More positively, as a result of coordinated lobbying with other NGOs, it appears that the independent chief inspector of the UKBA has been persuaded to

carry out an inspection into the asylum support system in 2012/13.

As ever, ASAP has been able to attract and retain talented staff, including Kirsten Powrie and Sophie Wickham as duty-scheme coordinator/legal adviser and Sinead Parsons as administrator. Our new solicitor, Mike Spencer, is now working five days a week with funding from Sigrid Rausing Trust. Mike is implementing some of the lessons ASAP has learned from our research and duty scheme – for example, representing in landmark tribunal appeals aimed at expanding access to Section 4 support, thanks to new funding from the Joseph Rowntree Trust.

Gerry Hickey has carried out asylum support training in the regions aimed at increasing the awareness and expertise of agencies around the UK. She also worked with intern Kara Apland on 'Barriers to Support Appeals for Asylum-Seeking Women', our briefing on the gender-based barriers to support.

ASAP continues to punch above its weight thanks to the support of new and long-term funders, and the enormous contribution of our duty scheme volunteers and interns. The management committee has shown its usual unstinting enthusiasm and commitment. Particular thanks go to Pascale Vassie, who steered ASAP through this challenging year as chair while I was on sabbatical in the US.

On a lighter note, ASAP has found a new home in Oxford House in Bethnal Green in East London, following the First-tier Tribunal's move from Croydon to Docklands. It is an ideal base, shared with similar voluntary and refugee organisations, with a shorter journey time for staff members to get to the tribunal.

Finally, congratulations to Marie-Anne Fishwick and Roseanne Sweeney, who are both on parental leave with new arrivals to their families.



Sue Willman: ASAP chair

Sue Willman

## Full-time duty scheme in its stride

**ASAP's duty scheme at the First-tier Tribunal (Asylum Support) provides free legal advice and representation to asylum seekers appealing decisions by the UK Border Agency to refuse or stop basic accommodation and welfare support.**

In its second successful year, the full-time duty scheme maintained a high level of assistance to appellants at the tribunal. As the only agency providing free legal representation in asylum support hearings, the service that ASAP provides is unique. A total of 32 legal representatives participated in the duty scheme this year, including four ASAP staff, 14 volunteer solicitors and 15 volunteer barristers. In total, 566 asylum seekers were assisted in the course of the year. Of these, 100% were provided with specialist legal advice and 70% were represented in their appeals.

We maintained our already high success rate, with 65% of those represented by ASAP successful in overturning a UKBA refusal or discontinuation of support, and another 4% of decisions remitted by the tribunal for the UKBA to reconsider. The charts show that improvements are needed in the quality of initial decision making (see page 13 for ASAP's report, 'No Credibility').

In total, 422 appeals were referred to the duty scheme by advice agencies, refugee community organisations and solicitors, as well as advance contact directly from appellants from all over

the UK. The main regional bases of appellants were Yorkshire and Humberside (23%), London (16%), West Midlands (15%) and the North East (8%).

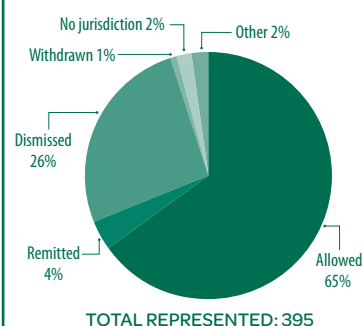
Most of the asylum seekers we assist are refused asylum seekers unable to return home for reasons outside their control. Most have fled conflict zones or countries with well-documented records of human rights abuse. As in the previous year, the top two nationalities of appellants assisted by the duty scheme were Iran (17%) and Iraq (14%). Other main countries of origin of appellants included Zimbabwe (13%), Eritrea and Democratic Republic of Congo (5%), and Palestine and Somalia (4%). Some 11% of appellants presented with physical health problems and 8% with mental health problems.

In 2010/2011, just 23% of appellants (130 people) assisted by the duty scheme were women. ASAP's women's project targets women at the tribunal for advice and representation so this figure reflects the low number of support appeals being brought by asylum-seeking women. The figures included pregnant women and those identified as victims of trafficking.

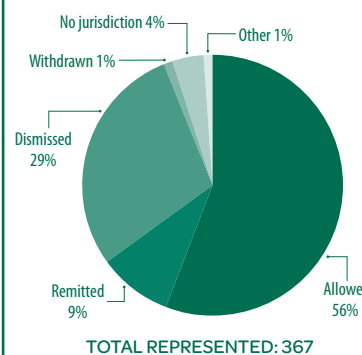
The level of representation on the duty scheme has been maintained by the recruitment of six solicitors in 2010 and nine solicitors in 2011 from two city law firms as pro bono legal advocates, as well as four pupil barristers from Doughty Street Chambers.

New advocates attend a two day training course given by ASAP's solicitor, and shadow experienced legal advocates before being assessed to start work on the duty scheme. Ongoing support is provided by one-to-ones, e-bulletins and refresher training to ensure volunteers are up to date with important rulings and policy changes.

Outcomes of appeals that ASAP represented, 2010/2011



Outcomes of appeals that ASAP represented, 2009/2010



Chris Ninan, Greg Fullelove and Sophie Thomas with comedian Rob Brydon, who presented the awards

## Law firms win prestigious award for ASAP work

Three law firms scooped the Pro Bono Team of the Year award at The Lawyer Awards, for work on the ASAP duty scheme. Clifford Chance, Freshfields Bruckhaus Deringer and Herbert Smith were presented with the award at a ceremony in June, attended by volunteer and staff tribunal advocates. The award recognises the collaboration that has enabled us to extend the duty scheme to a five day week and almost double the number of appellants assisted.



## The ASAP volunteer experience

**Sophie Thomas, Herbert Smith LLP**

**I arrive at the tribunal at 9am, expecting to represent 'M' in his appeal at 10am. My knowledge of M's case extends only to an awareness that his appeal relates to Section 4 support – so he is a failed asylum seeker. I can only review his papers once he has authorised me to do so. So, it is not until 9.15am, when M arrives, that I can take instructions and, in the short time available, seek to gain an understanding of his case.**

M is from Sierra Leone. He came to the UK as a young teenager with his uncle, a former senior official, and has lived here ever since. He went to college, got a job, rented a room and made a claim for asylum – which was rejected.

Recently, life for M changed abruptly. UKBA officials came to his work and informed him, and his employer, that he was working illegally (in spite of M possessing UKBA papers saying he could work). He lost his job, fell into arrears with his rent, and a few weeks later his landlord asked him to leave. Since then, he has been staying with friends – each for no more than a few days at a time.

During the week before his appeal he had been staying with F, in his single room that he already shared with his brother. M had no key so he spent the daytime outside, walking the streets, until his friend returned from work at 11.30pm.

M is one of the luckier ones. He wins his appeal and is provided with a shared room and £35 a week in supermarket vouchers. After the hearing, he does seem relieved yet he is ashamed that he is no longer able to support himself or his family.

'R', whom I see at 2pm, is not so lucky. He has a girlfriend in the UK, pregnant with their second child. His asylum claim was refused two weeks ago. Even



**'It provides an opportunity to help those in need and an insight into the harsh realities that asylum seekers face in the UK'**

though the UKBA accepts he is destitute, I have to explain to him that he does not meet any of the other criteria that would make him eligible for support. His support will be discontinued in two days' time, so he will have to continue the fight to stay in the country, relying on the handouts, sofas and floors of his friends.

Despite the inherent difficulties of preparing cases that will determine the future of someone's life in so little time, and of seeing people in dire need of help denied support because they fail to meet the strict legal criteria, volunteering at the tribunal is tremendously rewarding. It also provides an opportunity to help those in need and an insight into the harsh realities that asylum seekers face in the UK.

## WHAT THEY SAID ABOUT US

*Some feedback from people we helped at the tribunal:*

*'For people like us who don't have a voice to talk loud, your help is welcome for us today, because you explain clearly to the judge. Thank you very much'*

*'Your work is very important. You helped me very well, I have peace of mind now. Thank you'*

*'For failed asylum seekers who don't know the procedure, it's helpful. The information ASAP gave is really appreciated'*

*'I think the work you have done for me today was remarkable'*

*'Your work is excellent. We won the appeal'*

*'I now feel full of hope for the future'*

## Tribunal successes

● ASAP successfully won appeals for clients with severe medical conditions which were preventing them from leaving the UK, including people with schizophrenia, suicidal tendencies, advanced cancer and Marfan syndrome.

● ASAP represented a number of destitute women in the late stages of pregnancy. For example, we secured accommodation for a woman who was 30 weeks pregnant, HIV positive and had high blood pressure.

● ASAP continued to see appellants who had been refused support because the UKBA disputed their nationality, including appellants from Eritrea and Palestine. We successfully argued that it would not be reasonable to expect appellants to return to a country in which they have no right to reside.

● ASAP won appeals for people finding it difficult to get travel documents to return home, including clients from Somalia, Palestine, Iran and Kuwait (bedoun).

● The UKBA's policy of requiring all 'legacy' cases to submit fresh representations in person in Liverpool is still causing hardship. ASAP successfully represented appellants who had been prevented from submitting their fresh representations, for example because they were waiting for an appointment or because of medical problems.

● Appellants also suffered difficulties because of the closure of the Immigration Advisory Service in July 2011. ASAP successfully argued that an appellant who had suffered delays in accessing his file from the IAS should be able to stay in his Section 4 accommodation.

● ASAP won an appeal before the principal judge that sets out guidance on eligibility for support for refused asylum seekers with outstanding applications to the European Court (see page 7).

- ASAP successfully challenged the tribunal on procedural issues, including:
- Persuading the principal judge to issue new guidance to judges on withdrawals by the UKBA on the day of the hearing
  - Successfully applying to the tribunal to set aside a decision on the grounds of procedural irregularity, where the UKBA had failed to disclose crucial documents prior to the appeal hearing
  - Successfully challenging the tribunal's procedure for striking out appeals for lack of jurisdiction.

# ASAP's tribunal work in focus

## – Iraqis and the European Court of Human Rights



**Should destitute refused asylum seekers be accommodated while they are waiting to have their case heard before the European Court of Human Rights? The tribunal grappled with this question over the past year as the deterioration of the security situation in Iraq led many Iraqis to apply to the European Court.**

ASAP volunteers successfully represented a number of appeals by Iraqis on this issue. ASAP's solicitor also represented the appellants in two landmark appeals before the principal judge, the first of which (in May) was dismissed and the second (in August) was allowed.

In her first decision, the principal judge decided that appellants with outstanding applications to the European Court would need to prove that their application 'had merit'. She set out a test for appellants to satisfy, which included showing they had exhausted all legal avenues in the UK before applying to the European Court. She decided to refuse support

because the appellant had not first sought to challenge the refusal of his asylum case by judicial review in the High Court.

Following objections from ASAP, the principal judge agreed to reconsider the issue in another case from an Iraqi on very similar facts. In this second appeal, ASAP made detailed written submissions and representations over the course of three hearings. The principal judge allowed the appeal, deciding that support was necessary on human rights

grounds. In future, appellants would only have to show that their European Court case has 'some merit'. This is a 'limited' test that has the same meaning as not 'manifestly unfounded' or 'hopeless or abusive'. Also, appellants do not have to show they have exhausted a domestic legal avenue first if it would have been 'bound to fail'.

The principal judge's decision is not binding on the other judges at the tribunal, so the issue may eventually be settled through litigation in the higher courts.

### Chronology

**September 2010:** The European Court of Human Rights writes to the UK government stating that, because of the deterioration of the security situation

in Iraq, it considers it appropriate to grant an order preventing removal (called a Rule 39 order) to any Iraqi from Baghdad or central Iraq.

**November 2010:** ASAP wins an appeal at the asylum support tribunal for an Iraqi refused asylum seeker, granting Section 4 support, on the basis of the European Court's letter.

**November 2010:** The European Court retracts its earlier letter and states that it will decide each Rule 39 application on a 'case by case' basis.

**November 2010-May 2011:** ASAP wins four appeals granting support for Iraqis with outstanding applications to the European Court of Human Rights. ASAP argues that it would not be reasonable to expect such appellants to leave the UK until they get a decision from the European Court.

**18 May 2011:** First appeal before the principal judge. The appellant is represented by ASAP's solicitor. The principal judge dismisses the appeal and sets out general guidance for judges on Section 4 support for appellants with outstanding applications to the European Court.

**July 2011:** The principal judge agrees to rehear the issue in a case with very similar facts, this time requesting full written submissions from both ASAP and the UKBA. ASAP's solicitor submits full written submissions and a bundle of case law and evidence.

**18 August 2011:** The principal judge allows the second appeal. She sets out further clarification and guidance for judges, which relaxes the test in her first decision.



## Strengthening the UK asylum support advice infrastructure

**One of ASAP's key activities is providing specialist training sessions on asylum support law and asylum support appeals for refugee organisations and advice agencies.**

The aim of ASAP training is to raise awareness of the support options available for asylum seekers and refused asylum seekers and to increase the take up of support. We also train advisers on how to appeal when support is refused or discontinued. This is important as many UK Border Agency initial decisions are of poor quality and are based on narrow interpretations of the regulations governing support (see page 13).

ASAP training meets a real need: asylum support law is complex and constantly changing and advice agencies need the knowledge and expertise to provide asylum seekers with high quality advice. Those attending our training come from a wide range of organisations in the advice and refugee sectors, as well as specialist services in the health, criminal justice and women's fields. There are currently two types of training courses: a basic introduction to asylum support and a more specialised in-depth course for experienced advisers.

### Record of our work

In 2010/2011, ASAP continued to strengthen the asylum support advice infrastructure in the UK by providing 10 training sessions to over 130 people. Participants came from more than 100 organisations from all over the UK. We trained advice workers at key frontline agencies such as Refugee Action and Refugee Council, the users of Women Asylum Seekers Together (WAST) in Manchester, London-based refugee advice agencies that are members of AdviceUK, and solicitors from City law firms who are trained specifically to provide legal representation before the judge at the asylum support tribunal.

Our training monitoring shows that almost everyone who attended our sessions increased their knowledge of asylum support law as a result of our input. Feedback also shows that participants particularly appreciated ASAP's specialist knowledge and expertise in this area of law, which is not available from anywhere else.

**Comments on feedback forms reflect a high level of satisfaction**

'I have been impressed by the quality of the training and knowledge of the presenter. I would definitely recommend this training to everyone who works in the field'

'You know your stuff!'

'Effective, clear and enjoyable'

'Very informative... I am the only one in my work who deals with this group and I need all the help I can get'

**These training sessions also give ASAP a chance to network with other organisations, showing how we can assist destitute asylum seekers better, such as by calling our advice line to obtain more case-specific advice or referring clients with appeals to our duty scheme. We hope to be able to continue to train and support frontline advisers who do the hard task of preventing destitution of asylum seekers throughout the UK, day in, day out.**

## Partnership working for change

**ASAP is an active participant in the following stakeholder mechanisms and joint advocacy/campaign groups. We use these platforms to influence and shape a better asylum support system with our interagency partners for the benefit of asylum seekers.**

- Tribunal User Group at First-tier Tribunal (Asylum Support)
- National Asylum Stakeholder Forum and other stakeholder groups of the UK Border Agency
- Refugee and Asylum Forum at the Office of Independent Chief Inspector of the UK Border Agency
- Housing and Immigration Group
- Migrants' Law Project meetings
- Still Human Still Here
- Charter on the Rights of Women Seeking Asylum at Asylum Aid
- BMER Advice Network
- In London, ASAP runs the London Destitution Advice Network (LDAN). LDAN meets quarterly and brings together voluntary sector advisers working with destitute asylum seekers to share knowledge and expertise.



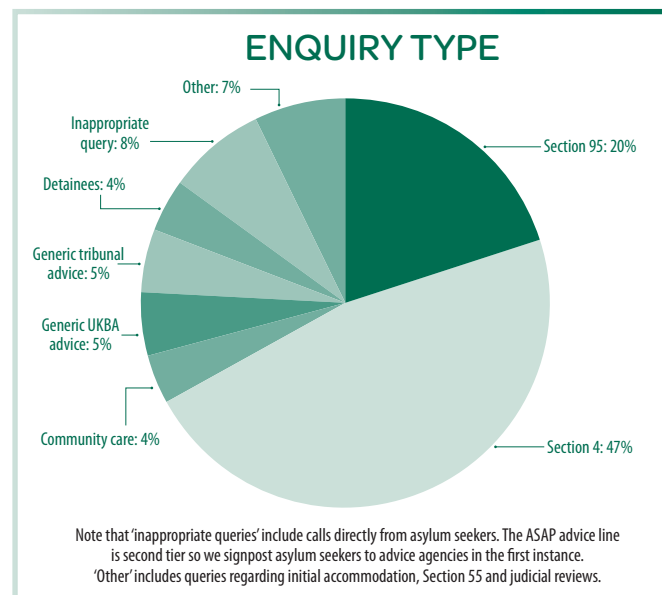
## Disseminating legal expertise to the frontline

**ASAP's second tier advice line provides free legal advice to advice workers on asylum support and support appeals issues three days a week. This is a highly specialist area and the advice line is an effective way to disseminate legal expertise to frontline agencies to enable them to give high-quality advice directly to asylum seekers. Calls to the advice line often involve complex queries from organisations working with destitute asylum seekers with a wide range of support needs.**

### Advice line facts

In 2010/11 the advice line took 559 calls from 158 organisations. Most calls were from workers in refugee or advice agencies. We also received calls from law centres, law firms and community organisations, with 35% of calls from the London area.

- 47% of enquiries were about Section 4 for refused asylum seekers and a further 20% were about Section 95 support. Furthermore, 9% of calls were seeking advice on multiple enquiries.
- Calls were about asylum seekers from 54 countries, most commonly from those with well recognised records of human rights violations: Iran (8%), Democratic Republic of Congo (7%), Zimbabwe (7%), Iraq (5%), Eritrea (4%) and Nigeria (4%).
- More than a third of enquiries were about asylum seekers with complex and sometimes multiple vulnerabilities.
- 37% of calls were about women, 15% of whom had pregnancy related issues.
- 27% of calls were about asylum seekers with dependants, with women being significantly more likely to have dependants to take care of than men: 48% of women had dependants and 11% of men.



**VULNERABILITIES**

Vulnerability	Number of calls
Physical health problem	88
Mental health problem	69
Pregnant	31
HIV	5
Sexual or domestic violence	8

## Day in the life of the advice line

**Our advice line takes calls on a wide range of complex asylum support issues. This is a sample of calls from one afternoon.**

**1** An advice worker called to ask if their client was eligible to reapply for asylum support after it was discontinued when she abandoned her previous address. The client had serious mental and physical health problems. She had left the accommodation and taken her child straight to social services before collapsing and being admitted to hospital. She had been sleeping rough since her discharge from hospital.

**2** An agency was looking for advice on the legal position of a client with two young children who was having her support terminated by the local authority because the social worker told the family they could apply for asylum support instead.

**3** An adviser called to ask what evidence would be required to request that her client not be dispersed. Following his release from detention, the client had begun counselling for his mental health and had a support network in the local area. He self-harmed and had recently been hospitalised for swallowing three razor blades. The UKBA case owner had indicated that the client would almost certainly be dispersed because of the no-choice basis of asylum support.

**4** An immigration solicitor called for advice on the grounds of appeal for a client who had his support discontinued because the UKBA did not consider he was taking all reasonable steps to return to Kuwait. He was a bedoun (stateless) and had already approached the Kuwaiti embassy and applied for assisted voluntary return. He had been advised that there was no possibility of him being able to obtain the necessary travel document to leave the UK.

## Litigation

**Litigation – legal action to challenge unlawful policy and practice – is an important part of ASAP’s work to ensure that asylum seekers receive the support they are legally entitled to.**

This year, ASAP wrote a number of detailed letters to the UKBA and the asylum support tribunal, including pre-action letters threatening legal proceedings, referred clients on to solicitors’ firms and provided evidence in support of judicial review challenges.

For example, ASAP wrote to the principal judge of the tribunal setting out objections to the tribunal’s treatment of withdrawals by the UKBA, which was leading to hardship for destitute appellants. As a result, the principal judge set out renewed guidance on withdrawals that has been adopted by judges and the UKBA.

ASAP provided three witness statements in support of litigation challenging delays by the UKBA in processing Section 4 applications and the tribunal’s interpretation of the Section 4 regulations. ASAP also threatened the UKBA with legal action on behalf of appellants whom the UKBA were refusing to accommodate even though they had won their appeals.

**>> Over the coming year, ASAP intends to continue to support and coordinate litigation in order to challenge unlawful UKBA policy and tribunal decisions. Our aim is to hold the UKBA and the tribunal to account, while wherever possible broadening access to support. We will also focus on litigation that supports vulnerable groups, such as people with medical conditions, pregnant women and children.**



# Helping women escape destitution and exploitation

## Female asylum seekers are often faced with additional difficulties related to their gender.

A significant number have suffered gender based violence either in their country of origin or in the UK, including rape and domestic violence. Many suffer physical and mental health problems as a result, such as post-traumatic stress disorder or depression. Others may be pregnant or struggling to bring up children on their own.

Last year, ASAP's women's project continued to ensure women who have been victims of violence and exploitation get legal advice and representation to make successful applications for housing and welfare support. We also worked closely with our colleagues via the Women's Asylum Charter to make the UK asylum system more gender sensitive.

At our request last year, the asylum support tribunal began including the gender of appellants as part of its daily listings. This has led to an increase in the number of women we have been able to advise and represent at the tribunal and we have developed a better litigation strategy for these women.

Many of the women we assist who have been refused support have young dependent children in their household, a fact which the UKBA often fails to take into account when making decisions. This practice occurs despite UKBA obligations to safeguard and promote the welfare of children under Section 55 of the Borders, Citizenship and Immigration Act 2009. However, we successfully overturned a decision by

'In 2010/11, ASAP's women's project continued to ensure women who have been victims of violence and exploitation get legal advice and representation'

the UKBA to discontinue Section 4 support to a young mother with a six month old baby who was having her support terminated on the grounds she no longer met the criteria. We argued that this decision failed to follow the UKBA's own policy outlining its duties under

Section 55, which should ensure the other options for support are fully explored before support is terminated. This led to the UKBA

committing not to remove support to this group for the foreseeable future.

ASAP's women's project also provides training on support options to organisations advising asylum-seeking women. ASAP training is run in conjunction with refugee community organisations, so providing a platform

for organisations to raise

awareness of the issues affecting women in their communities. Recent training

with the Zimbabwe Association involved showcasing a film on gender-based violence during the contested 2008 elections.

We are also developing a dedicated section of our website, which to date includes online resources such as factsheets on the additional support available to pregnant women and children, and advice for those dealing with asylum-seeking women requiring alternative accommodation due to domestic violence.



## Barriers to support for asylum-seeking women

For some time, ASAP has been concerned about the very low numbers of women attending the asylum support tribunal. A snapshot survey of the daily listing over a three month period in 2010 revealed that only 13% of those scheduled to attend the tribunal during this period were women. Many of the women we assist at the tribunal are very vulnerable, suffer from ill-health, have small children or are distressed. We were concerned that these factors, along with others, may be deterring more women from appealing, so we decided to investigate further.

Between October 2010 and January 2011 we interviewed 22 women attending the tribunal. In addition we also interviewed six organisations providing advice to women who have been refused support or where existing support is being terminated. We asked them a series of questions about their experiences of the appeals process, from accessing advice prior to the appeal, the journey to the tribunal and their experiences of the hearing. We also asked about health problems and childcare responsibilities and whether these impacted on the ability of women to appeal.

The findings of our study, 'Barriers to Support Appeals for Asylum-Seeking Women', published in August 2011, indicated that factors such as poor health, childcare responsibilities, fear of the process and travelling long distances to the tribunal were effectively acting as barriers to the asylum support appeal system for women.

The report has recommendations for improving access to asylum support appeals for women. It is being circulated widely among voluntary sector organisations as well as statutory bodies including the UKBA and the asylum support tribunal.

### PREGNANCY CAMPAIGN

ASAP continues to lobby the UKBA to provide Section 4 support earlier to refused pregnant asylum-seeking women. Currently, this group can only access support when they are six weeks from their expected due date. In conjunction with Maternity Action we have been raising awareness among midwives about the poor maternal outcomes for asylum-seeking women. This has resulted in individual midwives providing evidence that has enabled some women to obtain support earlier in their pregnancies. We are building on this work and are hoping the momentum will lead to the UKBA lowering the current time limits in which support can be accessed by this group.

#### CASE STUDY – PREGNANCY

**ASAP represented a woman who was 27 weeks pregnant and had been refused support by the UKBA on the basis that there was no physical impediment preventing her from leaving the UK.**

In addition to her late stage of pregnancy this woman suffered from post-traumatic stress disorder, auditory and visual hallucinations, nightmares and acute anxiety. The frequency of her hallucinations had increased during her pregnancy and she was being closely monitored by the hospital. Her midwife had provided a letter stating that she had a complex and therefore high risk pregnancy due to her mental health state and would not recommend that she undertake international travel at this stage of her pregnancy. Due to her health problems she was unable to attend her asylum support hearing but her husband gave evidence on her behalf.

It is UKBA policy that pregnant women who do not qualify for Section 4 support on any other grounds will normally only be entitled to support when they are six weeks from the expected due date. This is because airlines do not normally permit travel after the 36th week of pregnancy so it is accepted that there would be physical impediment to travel. At the hearing, the UKBA argued that her severe mental health difficulties did not prevent her from flying as she could be provided with a medical escort to support her during the flight. In addition, it argued that the problems she was experiencing were entirely due to her mental health so there was no physical impediment to travel.

ASAP successfully argued that impediments to travel are not restricted to physical health problems and that someone with severe mental health problems may also be unable to travel. The judge awarded her support, finding that she was unable to travel due to the combination of her advanced state of pregnancy and the severity of her mental health problems.



## 'No Credibility' – the report



### **ASAP's report 'No Credibility: UKBA decision making and section 4 support' advocates for a better asylum support system.**

Our latest report, 'No Credibility', revealed that more than 80% of London-based asylum seekers, whose asylum support refusals were initially on the grounds that they were not destitute, went on to win their appeals at the tribunal. The report was based on the cases that ASAP directly advised and/or represented at the tribunal. Our analysis of these cases showed that unnecessary appeals and destitution could have been avoided had the UKBA applied the correct legal test of destitution and considered the submitted evidence properly.

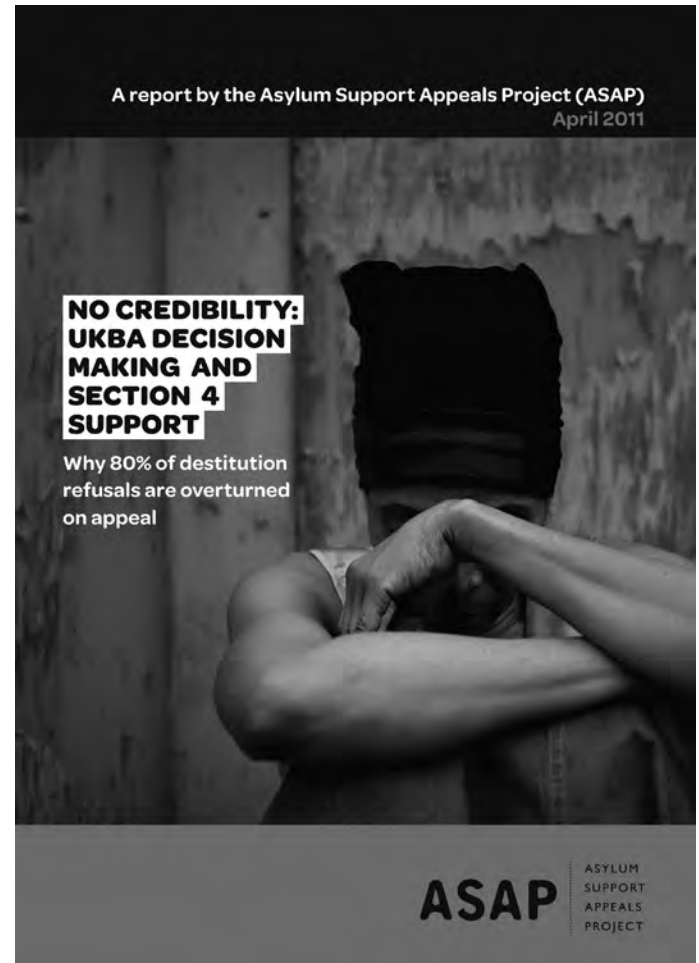
This is the second time that ASAP has warned the UKBA that its asylum support decision making must improve: our report in 2008, 'Not Destitute Enough', came to the same conclusion. Despite the fact that the head of the Case Resolution Directorate at the time conceded there was a serious training need for her case owners, very little seems to have changed.

ASAP has used the findings of the report for our policy and advocacy work via various stakeholding mechanisms to seek to improve the quality of the

UKBA's asylum support decision making. Our advocacy goal is to ensure that key recommendations from the report are accepted and implemented by the UKBA: a clearer and more user-friendly destitution test which takes into account asylum seekers' vulnerabilities and living circumstances, and better training for caseworkers who make initial decisions.

ASAP's strengths are our ability to combine casework, research and advocacy, and collaborative working with a large number of peer organisations. To disseminate our findings and key messages, ASAP launched the report at our annual Destitution Awareness Day in December 2010 at Amnesty's Human Rights Action Centre in London. Marie-Anne Fishwick, ASAP legal adviser who authored the report, outlined the key findings to about 80 delegates from a wide range of NGOs, as well as legal practitioners. Representatives from the Zimbabwe Association and Still Human Still Here also spoke about the impact of current asylum support policy on asylum-seeking communities.

We will continue to work with our partner organisations to achieve a better, more humane, asylum support system.



## Financial information

**At 31 March 2011, ASAP's net assets were £118,487, of which £10,294 were restricted funds and £108,193 unrestricted funds.**

The financial statements shown are a summarised version of the financial statements for the year ended 31 March 2011, which were approved by ASAP's management committee on 26 September 2011. The full statutory financial statements, trustees' report and independent auditor's report can be obtained by contacting ASAP at Oxford House, Derbyshire Street, London E2 6HG.

### STATEMENT OF ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2011

	Unrestricted funds	Restricted funds	Total funds 2011	Total funds 2010
<b>Incoming resources from generated funds</b>				
Voluntary income	£55,356	£177,919	£233,275	£217,320
Investment income	–	–	–	£702
Other incoming resources	£637	–	£637	–
<b>Total incoming resources</b>	<b>£55,993</b>	<b>£177,919</b>	<b>£233,912</b>	<b>£218,022</b>
<b>Resources expended</b>				
Charitable activities	£17,256	£171,818	£189,074	£195,069
Governance costs	£194	£4,168	£4,362	£3,180
<b>Total resources expended</b>	<b>£17,450</b>	<b>£175,986</b>	<b>£193,436</b>	<b>£198,249</b>
Net (outgoing)/incoming resources and net income for the year	£38,543	£1,933	£40,476	£19,773
<b>Net movement in funds</b>	<b>£38,543</b>	<b>£1,933</b>	<b>£40,476</b>	<b>£19,773</b>
Total funds at 1 April 2010	£69,650	£8,361	£78,011	£58,238
<b>Total funds at 31 March 2011</b>	<b>£108,193</b>	<b>£10,294</b>	<b>£118,487</b>	<b>£78,011</b>

# Acknowledgements

Thank you to our funders, members and the many others who have supported ASAP during 2010/2011



2011 LEGAL SPONSORED WALK Pictured outside the Law Society, ASAP completed the London Legal Sponsored Walk in May 2011. The 14-strong team included walkers from Southwark Law Centre and Pierce Glynn solicitors and raised over £3,000. Thank you to everyone who walked, donated or came to cheer us on.

## Funders

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## Others

Adrian Berry  
 AdviceUK  
 ASAP members  
 Asylum Aid  
 BMER Advice Network  
 Birmingham Law Centre  
 Ben Hoare Bell solicitors  
 Bob Nightingale  
 British Red Cross refugee services  
 First-tier Tribunal (Asylum Support)  
 Greater Manchester Immigration Aid Unit  
 Hannah Tye at Freshfields Bruckhaus Deringer  
 Housing and Immigration Group (HIG)  
 Immigration Law Practitioners' Association  
 London Destitution Advice Network (LDAN) members  
 Mary-Lou Wedderburn  
 Maternity Action  
 Migrants' Law Project

Notre Dame Refugee Centre  
 Office of Independent Chief Inspector of the UK Border Agency  
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 Pannone solicitors  
 Pierce Glynn solicitors  
 Refugee Action  
 Refugee Council  
 Richard Brophy at Herbert Smith  
 Rights of Women  
 Sarah Cox  
 Sinjini Saha at Simpson, Thacher & Bartlett  
 Southwark Law Centre  
 Still Human Still Here  
 Tom Dunn at Clifford Chance  
 UNHCR  
 WAST Manchester  
 Women for Refugee Women  
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# ASAP

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[www.asaproject.org.uk](http://www.asaproject.org.uk)

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Kat Lorenz (since December 2010)

Elaheh Mahsoori (resigned December 2010)

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Eiri Ohtani (since January 2012)

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**Legal adviser:** Marie-Anne Fishwick (maternity leave)

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Sophie Wickham (from October 2011)

**Administrator:** Sinead Parsons (since April 2011)

Oliver Griffiths (August 2010–March 2011)

Sophie Lemberger (temporary)

**Office volunteers:** Kara Apland, Giorgia Dainese,

Jackie Feldman, Jane Okoror, Rossen Roussanov,

Adiam Weldensae

**Charity number:** 1105625

**Company number:** 04763838

ASAP is funded by



## Duty scheme volunteers

### Solicitors

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Judith Seddon (Clifford Chance)

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