

## ***A fair hearing for destitute asylum seekers? ASAP's Destitution Awareness Week 4 – 8 December 2006***

**Introduction** - ASAP's Destitution Awareness Week took place between 4 and 8 December 2006, to raise awareness of the difficulties destitute asylum seekers face when appealing against NASS decisions.

Every day during the week, ASAP provided free legal advice and representation to every destitute asylum seeker who had an appeal hearing at the Asylum Support Adjudicators in Croydon. Eight volunteer barristers and solicitors generously donated their time to support this initiative. Normally, ASAP can do this only twice a week.

**Results** - Of the total of 13 appeal hearings which took place during the week, ASAP represented 10 people and advised 2 people. 1 person declined our service. 50% of the cases we represented were successful and as a result five destitute asylum seekers finally got their NASS support.

It is important to remember that these five people should have been given their housing and benefit support when they initially applied for support. However, they were left destitute because NASS wrongly refused to support them. They successfully exercised their legal rights to challenge incorrect NASS decisions in the court with the help of ASAP.

An error in a NASS decision can mean a vulnerable person having to sleep on the street with no food. ASAP believes it is unreasonable to expect asylum seekers to represent themselves in court.

**Asylum support appeals from the asylum seekers' point of view** - During the week, ASAP also interviewed some of the destitute asylum seekers who came to the court. You can read their stories below:

**Helen's story** : Helen is a "failed" asylum seeker from Africa. She is in her mid 50s. Her Section 4 application was refused and she was appealing against the decision. During the appeal hearing, the Adjudicator found that Helen might in fact qualify for Section 95 support (standard NASS support. Section 4 support is a restricted form of support for some "failed" asylum seekers) because of her outstanding asylum claim. One of ASAP's Legal Advisors assisted her on the day of her hearing.

*"I have been destitute since July 2005. I have had help from the Red Cross, churches, friends and day centres. Without support, I can't rest properly.*

*"I am restricted all the time. I have problems eating properly – I can't really eat what I need such as fruit and vegetables. I have to eat anything I am given. I have health problems, swollen feet, a bad throat and a cough I cannot get rid of, because I can't rest properly."*

We asked her how she found out about Section 4 support and what happened when she applied for support.

*“My solicitor wrote to the Refugee Council and found out about Section 4. Refugee Council helped me to apply. Because I had help, it was not too difficult to apply.*

*I cried when I received the response from NASS (refusal letter). I needed a place to stay and I was lost. I thought, now what do I do?”*

Helen did not know about asylum support appeals until she received a refusal letter from NASS. She said;

*“(Only 3 days to complete the appeal form) is too fast. I needed more time to get evidence together, needed to get support. They need to give people more time.”*

Helen also said that she did not have enough time to respond to the directions from the court. She summarised her experience of the NASS appeal system and the current government policy on asylum support as follows.

*“When they make decisions, they do not always have all the information. They should keep supporting people. What is the alternative for me? They should offer other types of support especially in the wintertime. I have slept outside in the pouring rain – I had nowhere else to go.”*

Helen’s appeal hearing took 2.5 hours. The ASAP Advisor and staff members at the British Red Cross spent the next few days talking to NASS trying to get Helen into emergency accommodation that she is legally entitled to.

Helen appeared very exhausted on the day and was very weak because she had not eaten properly for a long time. She fell asleep a couple of times in the court building and also while speaking to the Advisor.

**Said’s story:** Said is from Middle East. On the day, his appeal against NASS decision to terminate his Section 4 support was dismissed.

*“My section 4 support was withdrawn 5 months ago. My friends have been helping me. I move from friend to friend, they have single rooms. I sleep on the floors. They have little money but they help with the food. Before I got Section 4 support, I was sleeping in the Underground, car parks, sometimes with friends. I know many people in similar situation.*

*I found out about Section 4 from the Red Cross in Leicester. They sent me to XXXX (one of the agencies) to apply for it.*

*When I got a refusal letter from NASS, I was shocked and surprised. I felt desperate, I could do nothing. I don’t want to feel illegal.*

*I went back to XXXX but they were too busy and refused to see me on the first day. So I went*

*back the next day as suggested. I got there at 9am. I had to wait outside and queue until 2pm. It was cold and I was still not seen. It was an impossible situation.*

*I received directions from the ASA but I did nothing. I could do nothing. I didn't feel I had enough time to get documents to send to the court. I cannot read nor write. I didn't know what to do. XXXX was too busy with queues of people.*

*I thought that the appeal hearing was fair. But the decision is very bad for me. I was very worried and nervous before the hearing. I did understand everything during the hearing, but I did not like being asked questions by the NASS Presenting Officer."*

We asked Said what he thought of ASAP's help.

*"Of course it was helpful. I don't think I could have done it on my own. I needed help and advice on law and rules. I'd have been very nervous. I could not have said everything by myself."*

Said summarised his experience of NASS appeals as follows.

*"Time for filling appeal form is too quick. It's very difficult to get advice any time, but especially in such a short time. I did not know I needed to bring in the medical evidence (I am undergoing assessment for a serious eye condition.)"*

Said is now destitute again.

**Conclusion** - ASAP believes that people like Helen and Said need competent legal advice and representation during NASS appeal hearings. We hope to be able to assist more people and reduce destitution of asylum seekers. We also hope to encourage more advisors to assist asylum seekers with their NASS appeals.

**Acknowledgement** - ASAP would like to thank the Asylum Support Adjudicators for providing extra assistance for our Destitution Awareness Week. We would also like to thank all the barristers and solicitors who generously volunteered their time and legal expertise to help destitute asylum seekers at the court during the week.

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