



ASAP

ASYLUM
SUPPORT
APPEALS
PROJECT

ANNUAL REPORT 2011/2012

THE ASYLUM SUPPORT APPEALS PROJECT (ASAP) IS A SMALL NATIONAL CHARITY WORKING TO REDUCE DESTITUTION OF ASYLUM SEEKERS BY DEFENDING THEIR LEGAL RIGHT TO FOOD AND SHELTER.

The vast majority of asylum seekers who are looking for support are extremely vulnerable, have deteriorating mental and physical health problems and have been destitute for months and sometimes years. They survive on church and charity handouts, some are street homeless, while others 'sofa surf', spending occasional nights on night buses or train stations.

www.asaproject.org

ABOUT ASAP

ASAP is a small national charity which aims to reduce destitution amongst asylum seekers by protecting their legal rights to food and shelter.

We currently provide:

- (1) **Free legal representation** and advice to the asylum seekers appealing against UKBA's decision to refuse or withdraw their support. Every year we assist about 600 asylum seekers at the First-Tier Tribunal (Asylum Support).
- (2) **Asylum support advice** and training to frontline organisations, advice agencies and legal practitioners working with asylum seekers.
- (3) **Policy, lobbying and litigation** to improve policies and procedures on asylum support.

HISTORY

In 2000 the government removed asylum seekers' entitlement to mainstream benefits. Asylum seekers could apply for basic housing and welfare support and appeal decisions to stop or refuse them support, but they 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 in 2003 to ensure they had legal assistance at hearings.

Since ASAP began the duty scheme more than 2500 asylum seekers have been provided with advice or representation, and the scheme has enjoyed success rates of over 50% annually. Being represented by ASAP increases appellants' chances of success by 30%.

CONTENTS

ABOUT ASAP	2
OUR TEAM	3
CHAIR'S REPORT	4
TRIBUNALS	6
ASAP ADVICE LINE	8
TRAINING	9
NO CREDIBILITY REPORT	10
DESTITUTION	11
RAISING AWARENESS	12
FEBRUARY 2012 DAD	13
FINANCIAL INFORMATION	14
ACKNOWLEDGMENTS	15



OUR TEAM



ASAP employs five staff and has two office volunteers. About 30 barristers and solicitors from city law firms and high-profile chambers provide pro bono services.

The work is overseen by a management committee that combines expertise on legal advice, asylum support and charity management. Together we share a commitment to ending the destitution of one of the most vulnerable groups of people in the UK today.

LIST OF STAFF:

- Interim Director: *Abigail Stepnitz (June 2012–present)*
- Interim Director: *Eiri Ohtani (January 2012–June 2012)*
- Women's Legal Adviser: *Gerry Hickey*
- Solicitor: *Michael Spencer*
- Duty-Scheme Coordinators: *Marie-Anne Fishwick, Sophie Wickham and Rossen Roussanov*
- 2011–2012 volunteers: *Rossen Roussanov and Maya Pritchard*

Special thanks to Tom Southerden, consultant legal researcher who supported ASAP's work on pregnancy and asylum support.

CHAIR'S REPORT

ASAP NEEDED NOW MORE THAN EVER

As this report shows, ASAP is now much more than a duty scheme. Our creative staff group have carefully analysed weaknesses in UKBA decision making through reports such as *No Credibility: UKBA Decision Making and Section 4 Support and Barriers to Support for Asylum Seeking Women*. Thanks to the Diana Fund we are currently conducting innovative research to investigate the impact on pregnant migrant women and their unborn children of the current UKBA policy of refusing to provide Section 4 support until a late stage in pregnancy. Armed with such research, ASAP works at a policy level to hold the authorities to account in forums such as the National Asylum Stakeholder Forum and the First-Tier Tribunal (Asylum Support) User group.

But ensuring that asylum seekers facing immediate loss of food and shelter are represented in the tribunal and their dignity is protected remains at the heart of our work. An exciting new initiative by the Sebba Trust, Philanthropy Unbound, will enable us to expand and secure representation at the tribunal over the next three years, aiming to increase numbers represented and also increase the impact through strategic policy and litigation interventions.



*'ASAP is fitter
than ever to
defend destitute
asylum seekers
faced with the
inhumanity of
the asylum
support system.'*

.....

We could not have achieved everything we have in the past year, and since 1999, without the passion and hard work of our management committee, staff, duty scheme volunteers and supporters, including funders who have taken a risk in funding a controversial area of work. There is only space to mention a few. Founder management committee member and secretary Stefanie Borkum resigned after a large contribution to the survival and ethos of ASAP. Pascale Vassie, who had been very capable in a number of officer roles on the committee, also resigned due to work commitments. I would particularly like to thank Eiri Ohtani, our highly efficient founding director, who stepped in at short notice when our former director was on adoptive leave, and helped ensure a seamless service, backed up by Sinead Parsons, our administrator. Office interns Maya Pritchard and especially Rossen Roussanov have been crucial to our operations.

As this challenging Olympic year draws to an end, I believe that ASAP, under the dynamic leadership of Abigail Stepnitz, is fitter than ever to defend destitute asylum seekers faced with the inhumanity of the asylum support system.

SUE WILLMAN

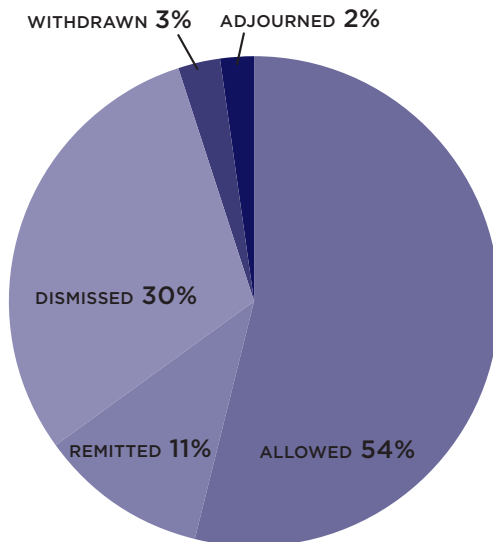
TRIBUNALS

ASAP'S WORK AT THE TRIBUNAL

ASAP's volunteer-run duty scheme, providing representation to asylum seekers with appeals at the Asylum Support Tribunal, continues to run five days per week and in the coming year we will expand its capacity further.

In 2011/12, ASAP's Duty Scheme represented 427 asylum seekers at the AST, accounting for 54% of all appeals. The overwhelming majority of appeal outcomes, 66%, resulted in the appellant leaving the tribunal with a right to support.

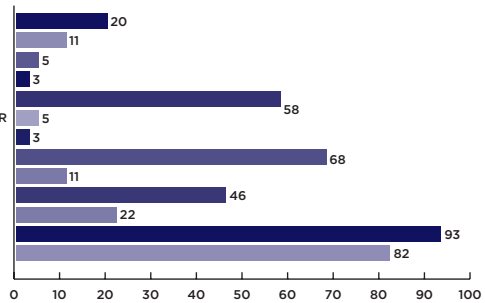
HEARING OUTCOMES



NATURE OF THE CLAIMS

The majority of cases represented at the Asylum Support Tribunal (AST) concerned Section 4 support; a restricted form of support (accommodation and financial support of £35 a week only) for some categories of refused asylum seekers. Although Section 4 support was initially designed to be short-term temporary support, many asylum seekers need to rely on it for many months while they are not able to leave the UK.

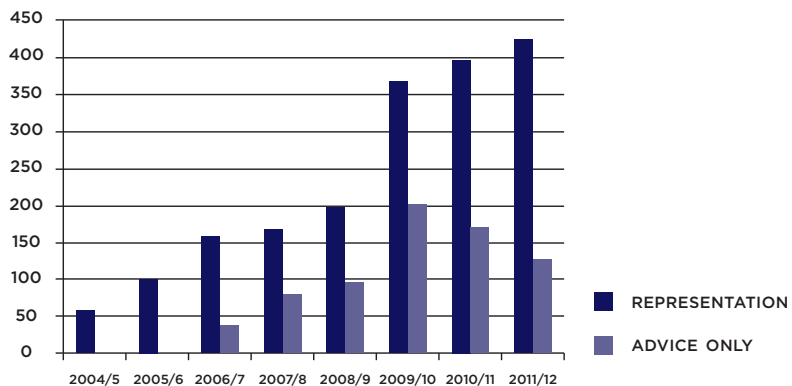
S95 DESTITUTION
 S95 DEFINITION OF ASYLUM SEEKER
 S95 BREACH OF CONDITIONS
 S95 OTHER OR COMBINATION
 S4 DESTITUTION
 S4 DEFINITION OF FAILED ASYLUM SEEKER
 S4 DEFINITION OF DEPENDENT
 S4 TAKING STEPS TO RETURN
 S4 BREACH OF CONDITIONS
 S4 UNABLE TO TRAVEL
 S4 FRESH CLAIM REFUSED
 S4 FURTHER REPRESENTATIONS
 S4 OTHER OR COMBINATION



ASAP's legal advisers spent an average of two to three hours on each case at the tribunal. Further casework and monitoring work are carried out in our office.

A large number of asylum seekers who received legal representation from ASAP came from countries with well documented and publicised human rights abuses, political instabilities and serious security issues.

ASAP is particularly pleased to report that in 2011/12 it represented the highest number of appellants assisted since the charity began, as shown in the chart below.



NO. OF APPELLANTS PER ANNUM

ASAP ADVICE LINE

ASAP'S WORK ON THE SECOND-TIER ADVICE LINE

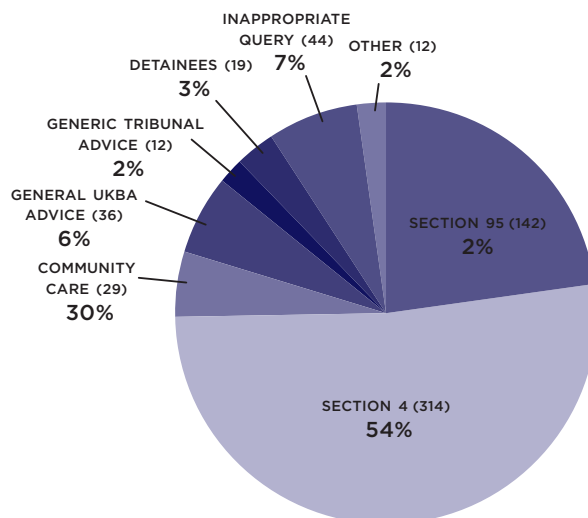
ASAP's advice line, which is open three days a week, gives free legal advice on asylum support and asylum support appeal issues to advisers working in voluntary organisations throughout the UK, so that asylum seekers can receive competent advice about asylum support matters in the local organisation they have access to. In 2011/12 the advice line took 572 calls from 175 different organisations.

266 (46.5%) of these calls were from the London area.

37% of these calls were about women,
21% of whom had pregnancy related issues.
19% of the callers had dependents.

The following chart shows the breakdown related to the nature of the enquiry.

ENQUIRY TYPE



TRAINING

ASAP'S WORK ON TRAINING AND INFORMATION SHARING



ASAP provided a total of 10 training sessions and workshops for 160 participants from 52 organisations. Some of these sessions were open training sessions for voluntary sector organisations which we organised. Others were in-house training sessions which were specifically aimed at advisers and legal practitioners. Five sessions took place outside London, with a focus on women's groups. One session was delivered in partnership with Rights of Women. We also organised a Destitution Awareness event in central London, focused on the links between asylum support and destitution.

COMMENTS FROM TRAINING ATTENDEES INCLUDE:

*'Wonderful! Will help me in
my job significantly.'*

*'Trainer was excellent and
really knew her stuff!'*

*'Should I need advice ASAP
seem very approachable
with very solid experience.'*

All training participants reported on their evaluation forms that their knowledge and confidence in dealing with asylum support issues had increased as a result of attending ASAP training sessions. Impact assessments after six months showed that they have used the skills and expertise gained from the training sessions to advise asylum seekers, increasing the asylum and advice sector's overall capacity to provide asylum support advice.

NO CREDIBILITY REPORT

FOLLOW UP TO NO CREDIBILITY REPORT

ASAP have been conducting an audit of UKBA decision making on destitution, a year on from the publication of *No Credibility: UKBA Decision Making and Section 4 Support*. We have analysed decisions to refuse or discontinue support taken in two particular months, at six-month intervals, to revisit the report's recommendations and assess whether there has been any improvement.

Key issues from the 2011 report that we are revisiting are: the application of the correct legal test for destitution; the quality of the letters refusing support, including treatment of evidence; and the application of UKBA's duty to safeguard and promote the welfare of children.

This is in the context of the Chief Inspector of Borders and Immigration announcing in his 2012–2013 work plan that he will inspect how the UKBA handles asylum support. John Vine stated that *'[t]his issue raises important points about the treatment of individuals and the management of public money in an area where the impact of delays or incorrect decision making can have significant impact on particularly vulnerable people'*

ASAP reviewed the case files of 20 clients, who were all the appellants represented in the months of July 2011 and January 2012 who had been refused Section 95 or Section 4 support on the grounds of destitution. The appellants were from all over the United Kingdom. Sixteen of the cases were refusals of entitlement to Section 4 and three were Section 95 appeals.

'This issue raises important points about the treatment of individuals and the management of public money in an area where the impact of delays or incorrect decision making can have significant impact on particularly vulnerable people.'

John Vine

DESTITUTION

KEY FINDINGS ON THE QUALITY OF DECISION MAKING ON DESTITUTION

KEY RECOMMENDATIONS:

- The UKBA should improve training for caseworkers so they understand and apply the legal test for destitution, assess applications for support in a way which is balanced and credible, and write clear, non-judgmental decision letters.
- Standard form decision letters and guidance to case owners should be improved to reflect the problems highlighted in this report.
- The ASF1 application form should be simplified and made more accessible and easy to understand.
- All decision letters should set out how the welfare of dependent children has been safeguarded and promoted in the decision making process.

A full audit will be published in late 2012.

- Of the files surveyed 80% were overturned on appeal. This represents a slight improvement on the rate in the *No Credibility* report (82%) but is far larger than the overall allowed appeal rate (44% between September 2011 and February 2012).
- The decision letters demonstrated that UKBA case workers are still failing to apply the correct legal test for destitution. One letter explained the destitution test correctly (a very slight improvement on zero in the last report); 10% attempted an explanation of the destitution test which was not correct; 85% did not attempt to explain the test. Most letters simply concluded that the applicant was not destitute.
- Only 20% of decision letters acknowledged the applicant's circumstances and all the evidence they had supplied. In the remaining 80% of cases, the UKBA ignored all or some of the evidence supplied, stating that there was a lack of evidence to support destitution, or focused on unconnected factors to assess and refuse the application. In 45% of cases the decision letter did not take into account the evidence provided at all.
- There were still long delays in processing applications. 70% of applicants had to wait for more than two weeks for a decision, an increase of 14% in the previous report. 15% had to wait over nine weeks. The longest delay was four months.

RAISING AWARENESS

RAISING AWARENESS OF DESTITUTION

Destitution Awareness Day (DAD) was launched in 2005 to highlight that many asylum seekers were being left destitute due to their inability to access legal advice, and to promote awareness of their entitlement to asylum support, and legal representation, for their asylum support appeals.

At that time the Asylum Support Tribunal was located in Croydon, along with ASAP's old office.

Our capacity was limited then and we were normally able to be at the tribunal for only a few days a week, so we marked Destitution Awareness Day by representing all the appellants who came to the tribunal that week.

Now that we run our full-time duty scheme and represent clients every day, we wanted a new way to mark the week. For the past four years

ASAP has been holding a formal event, Destitution Awareness Day. We have used the event to bring many organisations together and to exchange information on the different initiatives that exist to support destitute asylum seekers, and we held our most recent event in February 2012.

The events have always included presentations from specialist organisations to share their knowledge and answer questions participants may have about their work. Destitution Awareness Day has proven to be a successful way for ASAP to stay in touch with our peer agencies and make new and valuable contacts.

'Destitution Awareness Day has proven to be a successful way for ASAP to stay in touch with our peer agencies and make new and valuable contacts.'

FEBRUARY 2012 DAD

HIGHLIGHT ON MENTAL HEALTH AS A HUMAN RIGHT

Perico Rodriguez – caseworker, counsellor and one of the founding members of Freedom from Torture (formerly the Medical Foundation)

Perico's presentation focused on the difficulties destitution poses for asylum seekers with physical and mental health problems. Many of those assisted by Freedom from Torture will have developed health problems as a result of the persecution they experienced before coming to the UK.

'Asylum seekers often suffer severe mental health problems and many do not have the money to meet their basic needs and stay alive'

Perico Rodriguez

Along with social, political and economic rights, health is also a human right. It is impossible to separate these rights and therefore there is a need to understand the mental health issues that affect refugees and those who have been victims of torture. There is a complex relationship between these rights, but to understand it better requires more money from the British government, which is unfortunately reluctant to provide the resources needed.

Perico went on to say that the system here penalises refused asylum seekers escaping persecution. They often suffer severe mental health problems and many do not have the money to meet their basic needs and stay alive. The denial of a secure source of income destroys dignity, and this uncertainty makes it difficult for someone to heal. In addition, the lack of recognition (asylum) has a profound affect and is very distressing.

FINANCIAL INFORMATION

At 31 March 2011 ASAP's net assets were £121,537, of which £13,382 were restricted funds and £108,155 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 10 December 2012. 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.

	UNRESTRICTED FUNDS (£)	RESTRICTED FUNDS (£)	2012 TOTAL FUNDS (£)	2011 TOTAL FUNDS (£)
INCOMING RESOURCES				
INCOMING RESOURCES FROM GENERATED FUNDS				
VOLUNTARY INCOME	58,092	177,488	235,580	224,655
SPONSORSHIP INCOME	-	-	-	8,620
INVESTMENT INCOME	33	-	33	-
OTHER INCOMING RESOURCES	-	-	-	637
TOTAL INCOMING RESOURCES	58,125	177,488	235,613	233,912
RESOURCES EXPENDED				
CHARITABLE ACTIVITY COSTS	(56,403)	(170,843)	(227,246)	(190,540)
GOVERNANCE COSTS	(1,760)	(3,557)	(5,317)	(2,896)
TOTAL RESOURCES EXPENDED	(58,163)	(174,400)	(232,563)	(193,436)
TOTAL FUNDS AT START OF YEAR	108,193	10,294	118,487	78,011
TOTAL FUNDS AT END OF YEAR	108,155	13,382	121,537	118,487

ACKNOWLEDGEMENTS

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FUNDERS

29th May 1961 Charitable Trust
AB Charitable Trust
AW.60 Charitable Trust
Bromley Trust
Clifford Chance
Comic Relief
Eleanor Rathbone Charitable Trust
Freshfields Bruckhaus Deringer
Garden Court Chambers
Herbert Smith
Irene Bruegel Estate
Joseph Rowntree Charitable Trust
J Paul Getty Jnr Charitable Trust
Law Society Charity
Leigh Trust
Lloyds TSB Foundation
London Councils
London Legal Support Trust
Metropolitan Migration Foundation
Matrix Chambers
Sebba Trust
Sigrid Rausing Trust
Trust for London
Tudor Trust
Unbound Philanthropy

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
Maternity Action
Migrants' Law Project
Notre Dame Refugee Centre
Office of Independent Chief Inspector of the UK Border Agency
Oxford House
PAFRAS
Pannone solicitors
Deighton Pierce Glynn solicitors
Refugee Action
Refugee Council
Sarah Hopkins at Herbert Smith
Rights of Women
Sarah Cox
Southwark Law Centre
Still Human Still Here
Tom Dunn at Clifford Chance
UNHCR
WAST Manchester
Women for Refugee Women
Zimbabwe Association

ASAP

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A VERY SPECIAL THANKS TO OUR DUTY SCHEME VOLUNTEERS

SOLICITORS

Anne Musker (*Clifford Chance*)
Georges Chalfoun (*Freshfields Bruckhaus Deringer*)
Anais D'Arville (*Freshfields Bruckhaus Deringer*)
Greg Fullelove (*Osborne Clarke*)
Nicolai Goeke (*Freshfields Bruckhaus Deringer*)
Maziar Jamnejad (*Freshfields Bruckhaus Deringer*)
Oliver Marsden (*Freshfields Bruckhaus Deringer*)
Christian Nitsch (*Freshfields Bruckhaus Deringer*)
Nick Stern (*Freshfields Bruckhaus Deringer*)
Kevin Whibley (*Freshfields Bruckhaus Deringer*)
Paul Yates (*Freshfields Bruckhaus Deringer*)
Anish Bhasin (*Herbert Smith*)
Harry Edwards (*Herbert Smith*)
Nicolas Gray (*Lloyd's Banking Group*)
Lucy Hallam Eames (*Herbert Smith*)
Lucy Hopkins (*Herbert Smith*)
Russell Hopkins (*Herbert Smith*)
Mark Rogers (*Herbert Smith*)
Sophie Thomas (*Herbert Smith*)
Claire Whittle (*Herbert Smith*)
Darren Meale (*SNR Denton*)

BARRISTERS

Gwawr Thomas (*1 Mitre Court Buildings*)
Steve Broach (*Doughty Street Chambers*)
Alex Gask (*Doughty Street Chambers*)
Nicolaus Grubeck (*Doughty Street Chambers*)
Michelle Knorr (*Doughty Street Chambers*)
Alasdair Mackenzie (*Doughty Street Chambers*)
Alison Pickup (*Doughty Street Chambers*)
Bryony Poynor (*Garden Court Chambers*)
Kezia Tobin (*Renaissance Chambers*)
Siobhan Lloyd (*1 Mitre Court Buildings*)
John Eames (*Garden Court Chambers*)
Rachit Buch (*One Crown Office Row*)