

A decade of disbelieving destitution

Research findings on Home Office refusals of accommodation and support based on not believing an asylum seeker is destitute

This short summary gives an overview of research carried out by the Asylum Support Appeals Project (ASAP) looking at the quality of Home Office decision making on whether they believe a person is destitute for the purposes of accessing accommodation and support.

A person is destitute if they do not have access to ‘adequate accommodation’ or have no way of meeting their ‘essential living needs’ now or within the next 14 days. This needs to be evidenced through the provision of letters/statements about their most recent accommodation and why they cannot stay there, details of any charitable support they receive and evidence they have no income.

ASAP has been providing free legal representation and advice to destitute asylum seekers at the Asylum Support Tribunal since 2003. This Tribunal in East London hears appeals by destitute asylum seekers who have had their Home Office accommodation and support refused or discontinued.

1. Research carried out

- Destitution: Unchecked, Unbalanced, Home Office Decision Making on Asylum Support (September 2015)
- ‘UKBA Decision Making Audit – One Year On, Still No Credibility’ (May 2013)
- ‘No Credibility: UKBA decision making and Section 4 support’ (April 2011)
- Not Destitute Enough: a report documenting UKBA’s failure to apply the correct legal definitions of destitution in asylum support destitutions’ (December 2008).
- Failing the Failed: (February 2007)
- Proving Destitution: (2007)
- Destitution Awareness Report: (2006)

See our website www.asaproject.org.uk

2. Top findings over the past 10 years

High overturn rate on appeal - Home Office decisions on destitution are overturned on appeal at a rate of between 60 % (2015) and 82% (2008).

Failure to consider the facts and the law - The Home Office have persistently failed to properly consider evidence submitted which proves a person is destitute, and do not always understand or apply the correct legal test for determining whether a person is destitute.

Asylum Seekers experience lengthy delays before receiving a decision on their application for accommodation and support, in 2008 over half applicants researched waited over 2 weeks, and in 2015 half waited over 5 days. Many of these applicants could be street homeless.

In cases concerning children the Home Office continuously fail to explain how they have met their statutory obligations to consider the best interest of the child when making decisions.

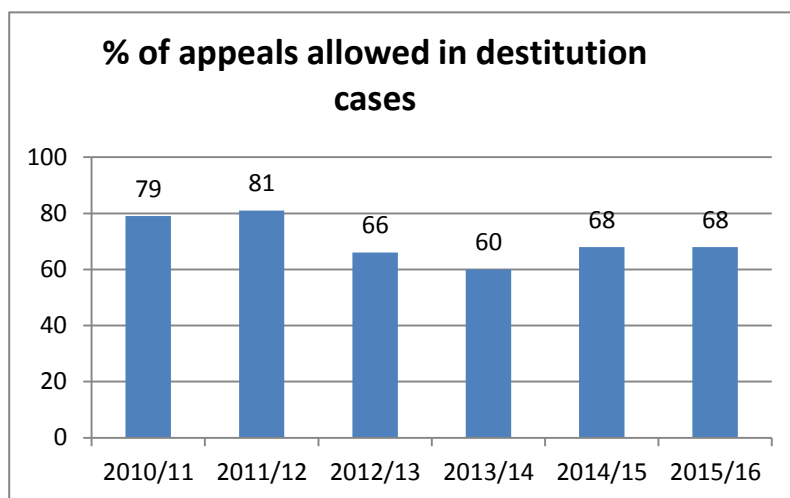
The right of appeal is an essential safeguard to ensure that destitute asylum seekers are able to access the support and accommodation they are entitled to.

3. What has changed over the years?

Decision making has improved - There has been an improvement in the Home Office reviewing the evidence submitted, in the 2015 report we found they fully considered 50% of the cases evidence, yet in earlier research we found they only assessed the evidence submitted in 20% of the cases. Although there has been an improvement, it should be expected that all the evidence is considered by the Home Office. The tone of decision letters from the Home Office has improved over the years, in recent research we found that fewer letters featured hostile and personal attacks.

Still a very high overturn rate at appeal

The percentage of refusals of Home Office accommodation and support based on the fact that the Home Office do not believe the person to be destitute have remained high.



4. Recommendations for the Home Office

- Home Office caseworkers should properly deal with all the evidence submitted as part of an application for accommodation and support.
- Small changes to the Application for Asylum Support (ASF1) form and guidance could improve the quality of the initial application leading to less destitution appeals.
- Home Office decision letters should all clearly set out the Home Office's reasoning and refer to the legal test and evidence submitted. ASAP would be happy to work with the Home Office to ensure that letters are consistent in style by suggesting amendments to existing pro-forma letters.
- The Home Office should keep to its target of deciding applications for asylum support within 5 days.
- All decisions concerning children should include a detailed assessment of how the caseworkers have met their duty under s55 Borders and Immigration Act 2009 and considered the best interest of the child.