

Asylum Support Appeals Project

Annual Report 2005/06

asy'lum'sanctuaryplace of refugence afety, esp for political offenders (political of protection from arrest by another country); (Hist.) institution for shelter and support of afflicted (e.g. blind, esp. deaf, insane) or destitute persons.

Details of charity

ASAP's work addresses a major flaw in the asylum support appeal system; the lack of public funding for legal representation for asylum seekers. This is denying asylum seekers a chance to effectively challenge unlawful decisions by National Asylum Support Service (NASS) and forcing many of them into unnecessary destitution.

Besides having no access to competent legal advice, many of these asylum seekers do not speak English, have physical and mental health problems and are still traumatised by their experience of fleeing their home country. The current legal and asylum support system is failing this already vulnerable group of people. We find this denial of access to legal representation and subsequent destitution unacceptable.

There is a clear imbalance of power and resources in the court room between the asylum seekers representing themselves and NASS who have withdrawn or refused their only source of support. Redressing such imbalance is a huge task for a small organisation like ASAP; we cannot do this single-handedly.

That is why we combine free legal representation of individual asylum seekers with capacity building work giving other voluntary organisations tools and knowledge to do the same. We hope that other organisations working with asylum seekers will join in our efforts to protect these most vulnerable individuals.

ASAP Management Committee Members

Chair Sue Willman (Pierce Glynn Solicitors)
Treasurer Noeleen Adams (Law Centres Federation)
Company Secretary Stefanie Borkum (Evelyn Oldfield Unit)

Bushra Baig* (Redbridge Refugee Forum)

Lillian Brown* (adviceUK)

Nancy Fancott (Hammersmith and Fulham Community

Law Centre)

Roudabeh Shafie (Hammersmith and Fulham Refugee Forum) Hugo Tristram* (Inter Agency Partnership - Refugee Council)

Alice Webb (Asylum Aid)

(*Management Committee members who resigned during the course of the year)

ASAP Staff Members

Eiri Ohtani Co-ordinator

Gerry Hickey Legal Advice, Representation & Training Lisa Woodall Legal Advice, Representation & Training

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ASYLUM SUPPORT APPEALS PROJECT

Support ASAP become a member

ASAP welcomes both individuals and organisations to become a member and support our work. In particular, we would like to encourage more Refugee Community Organisations to join ASAP.

ASAP members receive quarterly newsletters with useful updates on asylum support issues, free asylum support appeals training courses and invitations to our Annual General Meeting (AGM).

If you would like to become a member, please go to our website at www.asaproject.org.uk where you can download our membership form. Membership is free for Refugee Community Organisations and organisations with income under £100,000.

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. Currently, around 46,000 asylum seekers are supported by NASS. In London, 10,000 receive support from NASS with 9,000 receiving cash-only support.

While there is a right of appeal to the Asylum Support Adjudicators (ASA) 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 is the only legal agency in this country specialising in asylum support appeals which concern asylum seekers' housing and benefits entitlements from NASS. 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.

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ASAP Launch Event in Croydon, June 2005.

Foreword from the Chair

"The reason why I lost my appeal before was because you were not here. Everybody needs your help. You help very much."

Quote from one of our clients at the Duty Scheme whose appeal ASAP represented

Speakers at the Launch Event June 2005, from left, Claude Moraes MEP, Sue Willman (ASAP Chair), Mulat Haregot (Hammersmith and Fulham Refugee Forum Chair), Sehba Storey (Chief Asylum Support Adjudicator). ASAP's long-term aim is to end the destitution of asylum seekers. In their first year in post, our committed staff team has tackled this from a variety of angles. Our legal advisers have successfully represented countless individual asylum seekers at the Asylum Support Adjudicators, getting them back into accommodation. Their expertise has ensured that if an appeal raises a human rights issue or broader legal issues it has been referred on for a High Court challenge. ASAP cases have already led to test cases for failed Iraqi asylum seekers and the challenge to the government's Section 9 policy of forcing families with children to leave the UK by cutting off their support. Where it just wasn't possible to win the legal arguments by an appeal, clients have been

signposted to competent immigration representatives, or enabled to access help from Social Services. With hundreds of asylum seekers still going without legal representation, ASAP has passed on its knowledge through training sessions, encouraging refugee community organisations to advise their clients about NASS appeals. The Advice Line enables organisations to call our experts for help at any time during an appeal. And experience from the Duty Scheme has led to us producing accessible information in the areas which are most commonly appealed.

All this work has been done against a backdrop of increasing hostility towards asylum seekers in the media and public arena. Savage cuts in funding for immigration cases have made it harder for clients to find a competent immigration adviser. The result is increasing numbers of destitute 'failed asylum seekers', unable to return to war-torn countries like Iraq and Somalia.

The combination of the lack of public funding for representation at appeals and the complexity of asylum support law already makes it difficult for clients to find solicitors able to take on a NASS appeal. If proposed market-based changes to legal aid are introduced, then our clients will suffer. Their language, physical and mental health needs mean extra care is needed to get a good result.

As a small organisation, we are grateful to all the organisations listed in this report who have increased our capacity to make a difference, from volunteer barristers at the Duty Scheme to College of Law students. Finally, thanks to our Management Committee - ASAP has taken another step towards reducing asylum seekers' destitution, but there's still a long way to go.

Sue Willman Chair

Co-ordinator's report

Evaluation of our first year's work produced compelling evidence which confirmed that competent legal advice can significantly reduce destitution of asylum seekers

As a brand-new charity organisation, ASAP achieved a tremendous amount this year, assisting asylum seekers to exercise their legal rights to food and shelter and empowering refugee community organisations with knowledge and expertise to help asylum seekers out of destitution. However with numbers of destitute asylum seekers rising, there is still a huge unmet need for our work. ASAP is, therefore, preparing to take our next step to tackle this need.

In June 2005, ASAP recruited paid staff for the first time, thanks to funding from the Big Lottery Fund and the City Parochial Foundation. This enabled ASAP to start providing vital services to asylum seekers, Refugee Community Organisations and other advice agencies.

We benefited enormously from the help of solicitors and barristers who are asylum support law experts. They helped ASAP's two Legal Advisors, Gerry Hickey and Lisa Woodall, to quickly become experienced advocates and to win many asylum support appeals for destitute asylum seekers at our twice-weekly Duty Scheme at the Asylum Support Adjudicators (ASA). The Legal Advisors then embarked on the task of providing capacity building support to other front-line organisations working with asylum seekers, disseminating their expertise and knowledge via the Advice Line and training.

Evaluation of our first year's work produced compelling evidence which confirmed that competent legal advice can significantly reduce destitution of asylum seekers. Our statistics showed 62% of the appellants who were represented by ASAP during their oral hearings have had their cases allowed or remitted back to NASS for reconsideration, but this was only true of 20% of unrepresented appellants. We also found that a large number of our clients at the Duty



Scheme are extremely vulnerable: 56% of the appellants we have assisted had some kind of physical and/or mental health problems.

However, 99% of asylum seekers still have no legal representative for their oral hearings at the ASA. 80% of NASS supported asylum seekers are dispersed to the regions, where our capacity building work is yet to reach. ASAP is currently fundraising in order to continue and expand our successful representation and capacity building and to lift more asylum

Finally, we would like to thank everyone at the Asylum Support Adjudicators for their continuing support.

Eiri Ohtani ASAP Co-ordinator

seekers out of destitution.

Disseminating legal expertise – ASAP training session for advisors

ASAP's Duty Scheme assisted asylum seekers from 23 countries in 2005/06. Many of our clients came from Iraq (20%), Zimbabwe (17%), Iran (11%), Eritrea (10%) and Democratic Republic of Congo (9%). Our clients also came from: Afghanistan, Algeria, Angola, Ethiopia, Guinea, Ivory Coast, Jamaica, Kenya, Mauritania, Nigeria, Palestine, Sierra Leone, Somalia, Sri Lanka, Sudan, Syria, Tibet and Turkey.

Free legal representation - ASAP Duty Scheme

It is one of ASAP's fundamental beliefs that everyone has the right to access good legal advice



Between August 2005 and March 2006, ASAP assisted and/or represented 106 asylum seekers during their oral hearings at the Asylum Support Adjudicators.

ASAP had a success rate of 62% while only 20% of unrepresented asylum seekers had positive outcomes after their oral hearings.

56% of the asylum seekers ASAP assisted in 2005/06 had some kind of physical and/or mental health problems.

Working at the Duty Scheme gives ASAP an insight into the lives of asylum seekers and how they are affected by destitution. The large majority of people who use ASAP's free legal representation service have been destitute for some time and many have additional support needs which have only been worsened by their circumstances. Many of our users have mental and physical health problems, are HIV+ or are victims of rape and torture and those who do not access our service usually go into their hearings alone. Some of them are simply too weak to face these court procedures after weeks and months of destitution; we have had to set up an emergency fund for these people to give them something to eat and drink before their hearings.

ASAP Duty Scheme as well as providing legal advice, gives these people an opportunity to tell us their stories which in turn gives us greater insight into the effects of destitution on this already marginalised group. Many people find the hearings a stressful experience and struggle to understand the process. Those who do not win their hearings often feel angry, frustrated and hopeless knowing that their destitution is to continue. A big part of ASAP's job at the court is to explain the court process to the users, listen to their concerns without judgement and offer advice and support. It is especially difficult when a person loses their appeal and in those cases, ASAP provides follow up advice so the user can plan their next steps. ASAP's work at the Duty Scheme can also be very rewarding however and winning an appeal often leaves asylum seekers feeling empowered.

An average day at the Duty Scheme will see the legal advisors or volunteers arrive at the court, meet any people who would like representation and conduct interviews prior to representing those using the service. Often we will have only

half an hour to take instructions from a person and decide how to argue their case. However, each case can take three or more hours to complete. This can make for a very busy and stressful time!

ASAP's Duty Scheme operates at the ASA in Croydon twice a week. The aim of the scheme is to offer advice and representation to asylum seekers and failed asylum seekers who would otherwise go unrepresented. There is no public funding available to asylum seekers for NASS appeal hearings so most solicitors find themselves unable to assist asylum seekers with their appeals. The Duty Scheme was therefore set up ensure that asylum seekers could have access to advice and representation on the day of the hearing. It is one of ASAP's fundamental beliefs that everyone has the right to access to good legal advice.

Run by ASAP legal advisors, the duty scheme has in the last year welcomed volunteers from various barristers' chambers, solicitor's firms and colleges who have greatly increased the number of people ASAP can assist under the Duty Scheme. ASAP is very grateful to its volunteers and looks forward to recruiting more volunteers in its second and third year.

What ASAP hopes to achieve through the Duty Scheme is firstly to provide good legal advice and representation to those who need it most but are most likely to be denied it. In addition the duty scheme provides ASAP with an insight into the workings of NASS, the ASA and how many asylum seekers and failed asylum seekers have complex support needs yet find themselves without support. This information is invaluable as it gives us the evidence we need to challenge the systems we believe are unfair, marginalise asylum seekers and deny them basic human rights.



Sarah was a failed asylum seeker who had made a fresh claim. She applied for Section 4 support because she was destitute and the fresh claim had been received by the Home Office but not yet processed.

When ASAP met Sarah at the duty scheme she had been sleeping rough for 9 months. She suffered from a serious medical condition which meant she occasionally lost consciousness without warning. She suffered from post-traumatic stress disorder having been raped and tortured in her county of origin which caused many side effects including sleepwalking. She often wandered the streets at night when she was asleep and had been robbed and assaulted. In her desperation to find money and food she had turned to prostitution and was living in a squat with a man she worked for.

NASS had refused to support Sarah. They did not accept she was destitute, saying that she had access to private means of support. They also stated her fresh claim had a limited chance of success.

ASAP represented Sarah and argued that she was destitute. There were police reports stating she had been involved in prostitution and sleeping rough. Her doctor had also been very concerned about her health and safety. ASAP also said that NASS could not comment on whether her fresh claim had any prospect of success. This contradicts their own policy as Policy Bulletin 71 states that support can only be refused on the basis of a fresh claim if the fresh claim has no content whatsoever or if it contains information that has already been considered by the Home Office. Sarah won her appeal. (*not her real name).

Case study – Mohammed

Mohammed was an asylum seeker receiving Section 95 support as he had not received a decision about his asylum claim. NASS stopped his support and he had to leave the accommodation because NASS said that he had breached his support conditions and abandoned the property.

The accommodation provider had written to him and told him they were coming to inspect the property. Mohammed couldn't read English and couldn't get the letter translated so was out when the accommodation officer came to visit him. No one had told Mohammed that these visits were a condition of his support and the letter did not state this either. The accommodation officer entered his room and told NASS that Mohammed had left the accommodation because there were very few belongings there.

At his appeal, Mohammed told ASAP that he didn't have any belongings except those which were in his bag which he always carried with him as he was afraid they would be stolen from the accommodation. He had not known about the accommodation inspection as he could not read the letter and he had never been informed of the conditions of the support. ASAP represented him and argued that he had not abandoned the accommodation and that he should have been told the conditions of his support. His appeal was allowed.

(*not his real name).

Quotes from NASS Section 4 refusal letters

ASAP have been concerned that NASS are not making decisions correctly and these are going unchecked because so few asylum seekers get advice once they have received a letter from NASS which has refused them support. During the Duty Scheme ASAP often finds that NASS have made mistakes which have meant that the person should have been giving support. Not only does this mean that an unnecessary appeal takes place but also that the person has spent even more time destitute. The following are some examples of quotes found in Section 4 refusal letters which show NASS are making wrong decisions, using irrelevant information to refuse support and are simply prone to making decisions based on personal opinions. All the quotes are reproduced as they appeared in the letters, including grammatical mistakes.

"You have decided through your own volition to convert fully to the Christian faith some 15 months after your asylum claim was determined to be unfounded. Therefore these developments cast doubts as to your true intentions."

"It is reasonably clear by your current application for support under Section 4 that you are intentionally trying to delay your removal from the United Kingdom"

"You are currently still detained at Colnbrook Detention Centre and therefore it has been concluded that you are not entitled to support under Section 4 of the Immigration and Asylum Act 1999. We consider that you access support through private means"

"We are not prepared to provide support purely on the basis that your latest representations may or may not be accepted under paragraph 353 of the Immigration Rules"

"Your mothers particular situation can change at any time if she undertakes paid employment rather than continue to access welfare benefits"

"You state that you have had no income for over a year however it is reasonably clear you were destitute for all that time, you could and should have applied for support under Section 4 sooner"

Empowering advisors – second-tier advice and training

'We are very pleased that ASAP exists, as there is no one else who can advise specifically on this matter' Quote from one of our Advice Line users

Advice Line

ASAP's Advice Line is open to organisations working with asylum seekers who need advice on support issues. Although we specialise in providing advice on asylum support appeals (NASS appeals) we also provide advice and information on most aspects of the NASS system.

The queries we receive vary in nature, ranging from questions about who qualifies for NASS support, through to more complex matters such as advising on the type of evidence an asylum seeker will need to provide at their appeal. The advice line is open four days a week and we received 200 queries from 80 organisations in 2005/06.

Mock tribunal hearing exercise during NASS appeal training session.

The following is a brief summary of some of the enquiries received by ASAP on one of our telephone advice sessions in 2005/06.

A refugee community organisation in Yorkshire rang for advice on the type of support available to asylum seeking children who had entered the UK unaccompanied but who were now being cared for by a relative who was a British citizen.

An organisation in the South East rang for advice about an asylum seeker who had been evicted from his NASS accommodation for assaulting another resident. The asylum seeker was being treated for post traumatic disorder and this appeared to cause his violent behaviour. His appeal hearing was listed in a few days and the advisor needed ASAP's advice on what would happen at the hearing.

A teacher in London called for advice on behalf of two students who were asylum seekers and who had recently been told that they would be dispersed to Glasgow. She wanted to know if they could appeal against this decision as they had been settled in London for six months and dispersal would disrupt their education.

A children's organisation called for advice on behalf of an asylum seeking family. The oldest child had just turned 18 and NASS had stopped her support. They also needed advice about whether this young woman was entitled to support in her own right and whether she would be able attend a further education college.

A small refugee support organisation in West Midlands contacted our advice line. They were being approached by an increasing number of failed asylum seekers who were destitute and desperately in need of advice on how to get food and accommodation. They were aware that some failed asylum seekers could get section 4 support but did not understand the exact criteria and wanted clarification.

In addition to providing advice on the spot, an organisation contacting our Advice Line is given further resources where appropriate such as one of our fact sheets which can be downloaded from our website. These cover many aspects of asylum support provision, including the appeals process.

Those who contact us for advice on issues which are outside our remit, such as queries on immigration and asylum law, will be referred on to an appropriate source of advice.

Training

There are very few, if any, organisations providing training to advice workers and legal practitioners on asylum support appeals. This is partly due to the fact that there is no public funding available for individuals appealing against NASS decisions to either refuse or withdraw NASS support. Consequently, 99% of those appealing to the ASA are unrepresented during their oral hearings. ASAP's training courses have been designed to address this gap and to increase the number of competent advisors working in this area of law.

In 2005/06, ASAP trained 91 participants from 41 organisations.

ASAP provides training on all aspects of asylum support including asylum support appeals. Since our launch in June 05, we have run a number of training courses for a wide range of organisations working in the sector. This has included refugee community organisations, refugee agencies, voluntary sector advisors and other legal practitioners. Some of our training sessions are delivered in house often bringing together two or more organisations operating in the same area.

In addition to our formal training courses, we also provide information on asylum support appeals in more informal settings such seminars and team meetings.

Our training courses span from a basic introduction to NASS right through to more specialised trainings on how to conduct an appeal at the Asylum Support Adjudicators (ASA). We also run training on different aspects of NASS support such as Section 4 support for failed asylum seekers. Due to the growing numbers of failed asylum seekers in the UK we have seen an increasing demand for training on support options for this group.

Training is normally delivered to small groups in venues across London. Each training course will be carefully pitched at a level that is suitable to the participants. To ensure we get the balance right, those attending the course are asked to complete a training assessment questionnaire.

ASAP's training sessions are a mixture of learning about legislation, exercises, quizzes and questions and answers sessions. Participants have the opportunities to work in pairs and groups and to consolidate their learning as they go along.

Working with Refugee Community Organisations (RCOs)

ASAP works closely with refugee community organisations (RCOs) to ensure they have the necessary advice and information to support community members approaching them for advice on NASS related problems. We have targeted those groups most adversely affected by changes to Home Office policy or whose members are experiencing particular difficulties accessing NASS support. For various reasons many asylum seekers who have exhausted the asylum procedures in the UK are unable to return to their country of origin.

For example, in our first year we worked closely with Iraqi and Zimbabwean organisations as both communities have been affected by recent changes in Home Office policy concerning their countries.

In the case of Iraq, between December 2004 and September 2005 failed Iraqi asylum seekers could apply for section 4 support as the Home Office had accepted that there was no safe route of return to Iraq. Approximately 5,000 Iraqis received support during this period. The policy was lifted in September 2005 when new routes of return to Iraq were opened up. This meant that those receiving support were to have it withdrawn unless they could demonstrate that they met one of the other qualifying criteria for Section 4 support.

ASAP worked closely with Iraqi community organisations in the UK to help them provide information on the new policy and to help them identify those individuals who would continue to qualify for Section 4.

Financial information and Treasurer's report

The financial statements shown are a summarised version of the financial statements for year ended 31st March 2006. Full copies of the statements have been submitted to the Companies House and to the Charity Commission. Notes can be found within the full copy of the financial statements which can be obtained by contacting ASAP at Cornerstone House, 14 Willis Road, Croydon CR0 2XX.

As of 31st March 2006, ASAP's net assets were £34,603, of which £31,668 were restricted funds and £2,935 were unrestricted funds. Restricted funds represented grants paid in advance, to be utilised in the next financial year.

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

Noeleen Adams Treasurer

Statement of financial activities (including income and expenditure account)									
For the year ended 31 March 2006									
	Notes	Unrestricted funds £	Restricted funds £	Total funds 2006 £	Total funds 2005 £				
Incoming resources from generated funds									
Voluntary income	2	2,935	128,089	131,024	14,000				
Interest received		-	101	101	-				
Total incoming resources		2,935	128,190	131,125	14,000				
Resources expended									
Charitable activities	3	-	104,745	104,745	4,764				
Governance costs	3	-	1,013	1,013	-				
Total resources expended		-	105,758	105,758	4,764				
Net incoming resources		2,935	22,432	25,367	9,236				
Net movement in funds		2,935	22,432	25,367	9,236				
Total funds at 1 April 2005		-	9,236	9,236	-				

2.935

31.668

34.603

9,236

All of the above results are derived from continuing activities. All gains and losses recognised in the year are included above. The surplus for the year for Companies Act purposes is the same as the net movement in funds for the year.

Total funds at 31 March 2006

Balance sheet as at 31 March 2006								
	Notes	2006		2005				
		£	£	£	£			
Fixed assets								
Tangible assets	5	-	3,701	-	-			
Current assets								
Cash at bank and in hand		52,562	-	9,236	-			
Creditors: amounts falling due within one year	6	21,660	-	-	-			
Net current assets		-	30,902	-	9,236			
Total assets less current liabilities		-	34,603	-	9,236			
The funds of the charity								
Restricted income funds	7	-	31,668	-	9,236			
Unrestricted income funds	7	-	2,935	-	-			
		-	34,603	-	9,236			

For the year ended 31 March 2006 the company was entitled to exemption from audit under subsection (1) of section 249A of the Companies Act 1985.

Funders and supporters

Thank you

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

AW.60 Trust
Big Lottery Fund
City Parochial Fund
Garden Court Chambers
Helen Tetlow Memorial Fund
London Legal Support Trust
Many individual donors

Supported by



We would also like to thank the following for their help and generosity during 2005/06.

advicenow

adviceUK

Association of London Government (ALG)

ASAP Members

Asylum Aid

Asylum Support Adjudicators

Citizens Advice

College of Law

The staff of Cornerstone House and Croydon Voluntary

Action

Evelyn Oldfield Unit

Doughty Street Chambers

Hammersmith and Fulham Refugee Forum

Hammersmith and Fulham Community Law Centre

Housing and Immigration Group (HIG)

Immigration Law Practitioners' Association (ILPA)

Law Centres Federation

Medical Foundation for the Care of Victims of Torture

Pierce Glynn Solicitors

Redbridge Refugee Forum

Refugee Council

Southwark Day Centre for Asylum Seekers

Southwark Refugee Communities Forum

Volunteer barristers and solicitors at the Duty Scheme

(John Beckley, Adrian Berry, Simon Cox, Seema Farazi,

Judith Farbey, Kevin Gannon, Ranjiv Khubber, Jan Luba QC,

Alasdair Mackenzie, Anisa Niaz, John Nicholson, Wendy

Pettifer, Desmond Rutledge, Adam Straw, Mark Symes,

Rajeev Thacker)

Also a big thank-you to the supporters who walked for ASAP at the London Legal Sponsored Walk (Ester, Gail, Jerome, Kathy, Kirstie, Lucy, Naomi, Martine, Matthias and Wanda) and everyone who sponsored us.



Charity Walk 2006 with ASAP supporters



ASYLUM PROJECT

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