

Commissioners' Interim Findings – What happens when we refuse people sanctuary?

A hallmark of any successful asylum system is that it should deal – fairly, effectively, and at minimum cost to public funds – with those whose asylum claims have been refused. That objective is breached whenever a refused asylum seeker is put at risk of persecution, having been coerced by unfair means or pressure into making a voluntary departure. It is also breached when an enforced removal is accompanied by insensitive or inhumane treatment.

The Commissioners are deeply concerned that breaches are occurring in both of these circumstances. Some voluntary returns are procured through the threat of destitution and some enforced returns are effected through the use of procedures that are inhumane and degrading. The result is a shameful blemish on the United Kingdom's proud history of fair treatment for those who come here in search of sanctuary.

Key findings:

- That the current arrangements for returning people who have been refused sanctuary are not effective and sap credibility and public confidence from the entire asylum system
- That the conduct of some enforced returns is tainted with inhumanity and causes unnecessary distress to the individuals and communities concerned
- That the policy of using destitution as a lever to encourage voluntary return of refused asylum seekers risks forcing some extremely vulnerable people – who might have qualified for sanctuary had their cases been well handled – to face persecution in their country of origin

The Commissioners affirm:

The Border and Immigration Agency's preference for voluntary return over enforced return of refused asylum seekers
The Government's responsibility for removing people who are found not to need sanctuary

The Commissioners express concern:

At failures in the system for dealing with those who are refused sanctuary

- ◆ That the current returns system is ineffective and needs to be improved to enhance the credibility of the whole asylum system
- ◆ That the policy of making refused asylum seekers destitute is punishing refused asylum seekers, some of whom would be entitled to sanctuary but who received poor asylum decisions
- ◆ That the ill health of people undergoing enforced return is frequently not taken into consideration
- ◆ That the pastoral visits prior to so-called 'dawn raids' are not effective in addressing pastoral concerns
- ◆ That escorts for those being returned are not selected, trained or paid to safeguard the returnee; they are unaccountable and accusations of assault are not appropriately addressed
- ◆ That those who choose voluntary return are not always fully aware of the current situation in the country to which they are to return

At avoidable inhumanity in the treatment of refused asylum seekers

- ◆ That returns targets such as the “tipping point” can lead to inhumane return decisions and actions
- ◆ That unnecessary violence and carelessness has been used in the conduct of enforced returns, with vulnerable mothers and children targeted, loss of belongings and a lack of accountability on the part of those charged with enforcing the return
- ◆ That improper force is used by escorts in the removal of some refused asylum seekers
- ◆ That many refused asylum seekers cannot return home for periods of time because of problems of documentation, yet still face harsh treatment in the UK
- ◆ That there are high levels of destitution among asylum seekers despite the existence of an asylum support system
- ◆ That destitution is being used as an instrument of policy to force refused asylum seekers to leave the UK and dissuade others from entering
- ◆ That destitute refused asylum seekers include very vulnerable people including heavily pregnant women, torture survivors, the mentally and physically ill, and older people
- ◆ That many refused asylum seekers cannot access health services

At the social and economic consequences of destitution

- ◆ That destitution has far-reaching social consequences, including vulnerability to sexual exploitation, cessation of education and additional individual trauma
- ◆ That through destitution the Government is stigmatising refused asylum seekers and increasing negative public perceptions of already vulnerable people
- ◆ That the prohibition on work for those who cannot be returned is a waste of potential and revenue
- ◆ That refused asylum seekers are vulnerable to illegal working, exploitation, and criminal activity and becoming victims of crime

At the lack of trust in the system at the end of the process among asylum seekers, refugee charities and the public

- ◆ That until fair and just decision-making becomes the norm throughout the asylum process, there will be little support for tough treatment of refused asylum-seekers
- ◆ That too few refused asylum seekers take voluntary return
- ◆ That there is often inadequate time for a refused asylum seeker to contact their lawyer before being subjected to an enforced return and that BIA staff play a ‘cat and mouse’ game by arranging removals at times when it is difficult for lawyers, social workers or other potential helpers to be contacted
- ◆ That there is no monitoring of what happens to those returned once they have left the UK

At policies and practices that appear not to have been clearly thought through

- ◆ That families with children are detained prior to return of refused asylum seekers
- ◆ That refused asylum seekers are detained with foreign national prisoners awaiting return
- ◆ That children with stable backgrounds and who have lived as part of local communities for many years are being returned suddenly and without consideration for the emotional and psychological impact
- ◆ That Section 4 hard case support is only available to a small proportion of refused asylum seekers, there is sometimes a delay before support starts, and the quality of some accommodation is extremely poor
- ◆ That vouchers provided for hard case support are ineffective, costly and stigmatising
- ◆ That hard case support provided for short-term use is being used to support people for long periods
- ◆ That there is inadequate legal representation for those at the end of the process who may still have protection needs
- ◆ That charter flights are used to return refused asylum seekers to countries or areas of countries that may be unsafe such as Iraq, the Democratic Republic of Congo and Afghanistan