



Section 2

How we treat
people seeking
sanctuary

CHAPTER 3

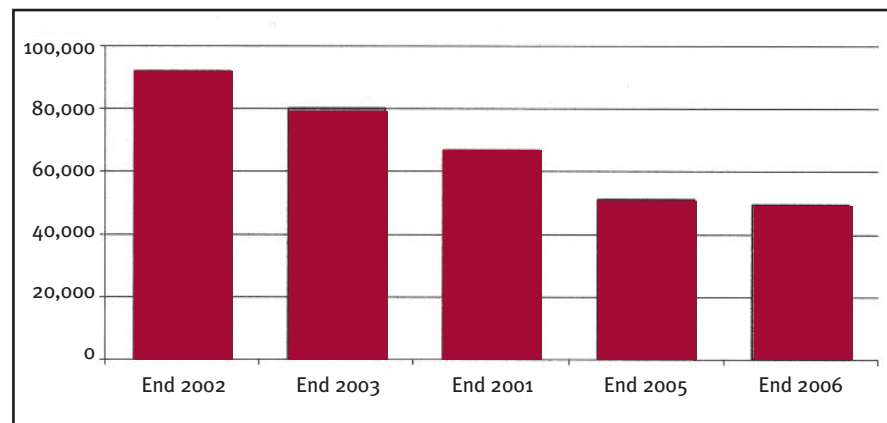
Material support for asylum seekers

Sometimes when people arrive in the UK on a Friday at Manchester Airport, by the time they get to the Asylum Screening Unit at Liverpool they find the office shut and are unable to access any support. So they begin their time in the UK with three nights of destitution.”

1. Application procedures

Asylum seekers are not generally allowed to work while their claim for asylum is being processed, however in cases where an applicant has waited longer than twelve months for an initial decision they may request permission from the Home Office for the right to work. Permission to work is only granted if the delay in reaching an initial decision cannot be attributed to the asylum applicant.¹ Due to this restriction on permission to work, many asylum seekers are unable to support themselves during the asylum process and are therefore dependent on Home Office support. Asylum seekers who have their claim refused, yet are unable to return to their country of origin for certain reasons (for example in cases where there is no viable route of return) do not have the right to work. In such situations, applicants are eligible to receive Section 4 or ‘hard case’ support.²

Graph C: Number of asylum seekers in receipt of support



1.1 Applying for support

In order to be eligible for Home Office support, asylum seekers have to undergo a needs assessment to prove they are destitute. Asylum support is only provided to asylum seekers who appear to be destitute or who are likely to become destitute within a specified time; this is known as the destitution threshold. Applicants have to demonstrate to the Home Office that they do not have enough means to support themselves for 14 days for new applicants or 56 days, if they have already been previously supported by other means, for example by friends or relatives.³

Asylum seekers may apply for support when they claim asylum, either on arrival at a ‘port of entry’ or ‘in-country’ at one of the Asylum Screening Units (ASUs) in Croydon or Liverpool. On arrival, asylum applicants are housed in ‘initial accommodation’, which can be in the form of induction centres or hostel-type accommodation. This accommodation is short-term providing a stop-gap before an asylum seeker is moved into dispersal accommodation where they remain while their application is being processed. It has been argued by refugee advocates that at the start of the asylum process, asylum seekers are not given sufficient information about the support available to them once they submit a claim.⁴

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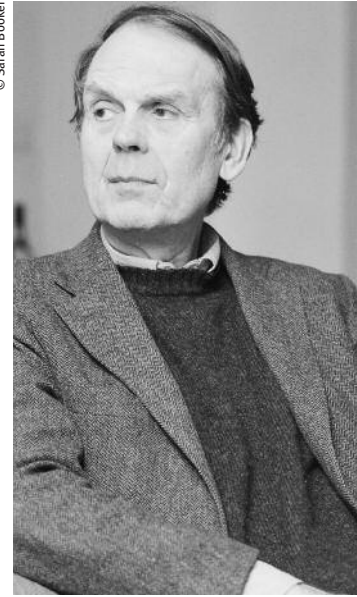
Nigel Rose, Refugee Action. Hearing: Manchester. For full testimonies visit www.humanrightstv.com

1 Home Office (2005) *Policy Bulletin 72 – Employment and voluntary activity*
 2 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*
 3 Home Office (August 2006) *Policy Bulletin 4 – Determining whether persons who apply for asylum support are destitute*
 4 Refugee Action (2006) *The Destitution Trap*

1.2 Appealing a negative support decision

If an asylum seeker does not agree with a Home Office decision to refuse them support, they have a right to appeal against this decision. However, appealing against a decision not to grant support can be a difficult procedure. Asylum seekers are not always aware of their right to appeal against this decision and often have difficulty accessing legal advice or representation for the appeal as no legal aid is available.⁵ Asylum support appeals are heard by the Asylum Support Tribunal (AST), which operates as an independent body and hears appeals against any refusal or withdrawal of asylum support.⁶ When determining an appeal an adjudicator may make one of three decisions: they may allow the appeal; they may dismiss the appeal; or they may remit the appeal requiring the Home Office to make a new decision. If the decision by the Home Office remains negative for a second time, the asylum seeker has the right to lodge a further appeal. Asylum seekers are unable to obtain legal aid for asylum support hearings and if an appeal is unsuccessful asylum seekers are required to support themselves for the remainder of their asylum claim.⁷ In 2007, of the cases dealt with by the AST, 62% were refused (dismissed, invalid, no jurisdiction), 22% were allowed (unconditional, conditional or remitted), and 16% were withdrawn.⁸

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Commissioner John Montagu,
Earl of Sandwich

2. Level and suitability of support

2.1 Basic support

Prior to July 2006, Home Office asylum support was administered by the National Asylum Support Service (NASS). As part of a Home Office restructuring, NASS ceased to exist as a directorate in 2006 and at present all asylum support issues are dealt with and processed by NAM caseworkers in the Home Office's Border and Immigration Agency (BIA).⁹

Asylum seekers who qualify for Home Office support are provided with 'no-choice basis' accommodation, usually in a dispersal area, and a weekly subsistence cash payment. Some asylum seekers choose to receive subsistence support only, which enables them to avoid being subject to dispersal. Asylum applicants who qualify to receive accommodation are not able to choose the location they are dispersed to.

While the initial aim of the dispersal programme was to move asylum seekers to areas where there were appropriate levels of social housing, in some areas the Home Office was unable to secure a sufficient supply of this type of accommodation. Consequently, other sources of housing were used, including contracting private landlords to provide suitable accommodation.¹⁰ In 2002,

"Sometimes when the family is eating dinner I leave and walk in the streets and come back pretending to have eaten. I can cope without food, but not without a home."

Submission: Anonymous via Asylum Link Merseyside

5 **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers*

6 <http://www.asylum-support-tribunal.gov.uk>

7 **Asylum Support Appeals Project** (February 2007) *"Failing the Failed" – How NASS decision making is letting down destitute rejected asylum seekers.*

8 <http://www.asylum-support-tribunal.gov.uk/decisions/statisticsLatest.htm#2007>

9 **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

10 **Citizens Advice Bureau** (2002) *Process Error*

the Home Office acknowledged that there were inconsistencies in the quality of the accommodation according to different types of housing provider and contractual arrangements.¹¹

Furthermore, much of the designated social housing, in which asylum seekers have been housed for long periods of time, has been found to be sub-standard. The nature of the dispersal strategy often meant that asylum seekers were housed in ‘hard to let’ properties or tower blocks awaiting demolition. Consequently, improvements to the properties or investment in renovation or development were unlikely to take place.¹² The Joint Committee on Human Rights concluded that there is evidence to suggest that some of the accommodation provided to asylum seekers violates Article 8 of the European Convention on Human Rights on the right to respect for home, family and private life. In addition to the standard of housing, suitability has also been an issue, with families often placed in long-term shared accommodation or those with disabilities provided with accommodation that is not suitably accessible.¹³

2.2 Level and suitability of support

Subsistence support is currently set at 70% of income support levels for adults and at full income support levels for dependant children under the age of 18. The amount of cash support provided to asylum seekers depends upon the ages and number of dependants the applicant has.¹⁴ Pregnant women and parents with children under the age of three are entitled to additional payments for the purchase of healthy foods. Babies under the age of one receive an additional £5 per week and pregnant women and children (aged 1- 3 years) can apply to receive an additional weekly supplement of £3. Asylum seekers are also eligible for a single one off payment of £300 per child to help with the costs arising from the birth of a child.¹⁵ However, it has been suggested that insufficient information has been provided about supplementary support.¹⁶ There are also instances in which an individual has been left without support when transferring from one form of support to another or following a change of individual circumstances. These procedural delays are exacerbated by poor communication. In a report published in 2002, the Citizens Advice Bureau identified numerous instances of communication difficulties between asylum seekers and NASS.¹⁷

Critics suggest that it is demeaning to provide only a fraction of the support available to permanent residents in the UK to asylum seekers and is potentially stigmatising to be

Table A – Weekly subsistence rates for asylum seekers¹⁸

Couple	£64.96
Single parent aged 18 or over	£41.41
Single person aged 25 or over	£41.41
Single person aged 18 – 24	£32.80
Person aged at 16 – 18 (except a member of a qualifying couple)	£35.65
Person aged under 16	£47.45

11 Home Office (2002) *Report Of The Operational Reviews Of The Voucher And Dispersal Schemes Of The National Asylum Support Service*

12 HACT (2003) *Between NASS and a Hard Place*

13 Citizens Advice Bureau (2002) *Process Error*

14 <http://www.bia.homeoffice.gov.uk/asylum/support/cashsupport>

15 Home Office (April 2007) *Maternity payment and additional support for expectant mothers during pregnancy*

16 Citizens Advice Bureau (2002) *Process Error*

17 Citizens Advice Bureau (2002) *Process Error*, Chapter 4

18 <http://www.bia.homeoffice.gov.uk/asylum/support/cashsupport>

administered in a parallel system. The introduction of this level of support is a response to the government's assertion that access to the UK welfare system is a significant pull factor for economic migrants entering the asylum system. However, Oxfam, in its submission to the Commission, states that:

“Oxfam continues to be against benefits for asylum seekers that are lower than for UK citizens and believes that they should be allowed to work while undergoing the asylum process”

Submission: Oxfam

Generally, however, the Joint Committee on Human Rights concluded that the subsistence support available to asylum seekers is largely seen as an adequate amount to cover the costs of asylum seekers' basic needs on what is considered, under NAM, as short-term. There are some concerns, however, over asylum seekers being unable to afford items related to specific health or childcare needs or the imposition of additional costs from the asylum system itself, such as travelling to BIA offices.

2.3 Ending support

If an asylum seeker is granted leave to remain in the UK (i.e. refugee status, humanitarian protection or discretionary leave) the Home Office offers them a grace period of 28 days in which asylum support is continued whilst the applicant is expected to find the means to support and accommodate themselves. If an asylum seeker's claim is refused they are granted a 21 day period of Home Office asylum support, after which they effectively become refused asylum seekers pending removal.¹⁹

2.4 Support statistics

Home Office figures indicate that between July and September 2007 the number of asylum seekers applying for Home Office support was 4,145. Of this number, 3,300 (80%) of applications were from single adults and 850 (20%) were from family groups.²⁰ In this period, 68% (2,835) of applications were for accommodation and subsistence support, with 21% (850) of cases being for subsistence support only. The remaining 11% of applications were recorded as invalid or the application type was not specified at this stage. The top six nationalities applying for asylum support were from Iran, Iraq, Eritrea, Somalia, Zimbabwe and Afghanistan.²¹ Home Office statistical publications do not specify the outcome of the 4,145 applications made for asylum support.

In September 2007 the total number of asylum seekers including dependants in receipt of asylum support was 48,470. Of this total, 10,160 asylum seekers were receiving subsistence only support, 37,060 were supported in dispersal accommodation and 1,250 were being supported in initial accommodation (including induction centres), prior to dispersal. The five local authorities with the highest number of asylum seekers in dispersal accommodation were Glasgow, Birmingham, Leeds, Manchester and Newcastle.²²



19 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee law handbook*
 20 A family group consists of a principal applicant with at least one dependant
 21 Home Office (2007) *Asylum Statistics: 3rd quarter 2007, UK*
 22 Home Office (2007) *Asylum Statistics: 3rd quarter 2007, UK*

3. Issues with delivering support

Within the support system asylum seekers have often experienced procedural errors or administrative delays in the receipt of their support and voluntary sector agencies have identified numerous cases of asylum seekers being unable to collect their cash support at designated post offices.²³

It has been argued that a lack of clarity over responsibility for certain aspects of the support system has allowed some asylum seekers to ‘fall through the cracks’ in the system.²⁴ A report by Islington Borough Council has suggested that gaps in the provision of nationally organised asylum support have put additional pressure on Local Authorities’ general asylum budgets and their budgets for mainstream services.²⁵ Peter Olnier, of the No Recourse to Public Funds Network, a group representing local authorities who support destitute asylum seekers with additional welfare needs, told the Commission:

“The question that the Border and Immigration Agency must ask itself is why are so many people choosing to live in destitution rather than return to their home country? ... We believe that the Home Office should either reimburse local authorities for the costs they incur in supporting refused asylum seekers, or provide support centrally for asylum seekers until they leave the country, rather than until the point that their claim is turned down.”

Hearing: Manchester. For full testimonies visit www.humanrightstv.com

The Home Office argue that under the New Asylum Model, a number of these problems should be eliminated. Under the new model, each asylum seeker receives a designated caseworker from the submission of the claim to the time of an initial decision. Consequently, the caseworker should be in a position to provide the asylum seeker with the relevant information about the support that is available, how to apply for it and how to appeal against a negative decision. With a single agency responsible for more aspects of the whole asylum system and a single member of staff responsible for each asylum applicant, the system should also be less susceptible to breakdowns in communication. Additionally, there has been an increase in the number of operational NAM offices in comparison with the Asylum Screening Units. However, some refugee agencies are concerned about the rate at which NAM will be expected to incorporate the work of NASS and also about the level of training NAM caseworkers will receive specifically on the provision of asylum support.²⁶ It is too early to make an assessment on the success of NAM in alleviating some of the systemic problems with the provision of asylum support.

23 Citizens Advice Bureau (2002) *Process Error*

24 Refugee Survival Trust and Oxfam (2005) *What’s going on?*

25 Islington Borough Council (2006) *Destitute People from Abroad with No Recourse to Public Funds*

26 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*

4. Exclusions from support

Other than failing the initial needs assessment, there are several reasons why asylum seekers may be excluded from receiving asylum support:

- They may fail to meet one of the criteria under which support is conditional
- They may be excluded under Section 55 of the Nationality, Immigration and Asylum Act 2002
- They may be excluded under Section 9 of the Asylum and Immigration Act 2004

4.1 Failing to meet the criteria

Home Office asylum support is conditional and may be withdrawn at any point if one or more of the following occurs:

- ◆ if an asylum seeker is absent from their accommodation for lengthy periods;
- ◆ if an asylum seeker is found to be sharing their accommodation with others;
- ◆ if the accommodation is severely damaged by the applicant;
- ◆ if an asylum seeker is excluded from accommodation because of bad conduct;
- ◆ if the Home Office suspect the asylum seeker to have other financial means;
- ◆ if an asylum seeker fails to attend interviews or comply with reporting arrangements;
- ◆ if an asylum seeker provides the Home Office with false or incomplete information.²⁷

Many of these criteria are similar to those that are conditions of a successful asylum claim, such as absence of criminal or violent behaviour, yet others are merely procedural. For some asylum seekers, the nature of the system or the support they receive can make it difficult to satisfy these conditions. The most notable example of this is difficulty attending meetings and reporting to asylum offices in relation to their claim. It can be difficult for asylum seekers to meet the travel costs sometimes associated with these meetings; non-attendance can result in the removal of support. Under more recent guidelines however, asylum seekers are able to make a claim for reimbursement of travel costs relating to their asylum claim, though some agencies claim that this procedure is also often subject to the sort of delays discussed above. Equally, an asylum seeker can suffer the removal of support if he or she fails to respond to a request for information relating to either their asylum support within five days or relating to their asylum claim within ten days. This could often be difficult to achieve for asylum seekers who were regularly moved and whose records are not updated by the Home Office. In effect the support system finds it difficult to keep up with the transience of the asylum seeker experience as dictated by the wider asylum system.²⁸

4.2 Section 55

Under Section 55 of the Nationality, Immigration and Asylum Act 2002, asylum seekers have to apply for asylum as soon as 'reasonably practicable' after arriving in the UK in order to be eligible for asylum support.²⁹ Failure to do so may lead to a refusal by the Home Office to support an asylum seeker for the duration of the asylum process and in recent years this legislation,



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Commissioner Silvia Casale

“When we were made subject to Section 9 we were eight people with nothing to live on. For two years we lived on £30 a week donated by local supporters...I lost 11 kilos in that period. I didn’t feel like a human being.”

Flores.
Hearing: Manchester.
For full testimonies visit
www.humanrightstv.com

according to research, has resulted in a significant number of asylum seekers becoming destitute.³⁰ Evidence given to the Joint Committee on Human Rights (JCHR) in 2007 claimed that the sparse geographical spread of Asylum Screening Units means that it has been difficult for individuals to reach them to make a claim within three days, therefore excluding them from receiving asylum support under Section 55. Refugee Action suggested that this can deter people from entering the asylum system, generating more irregular migrants and exacerbating the problem of destitution.³¹ Applicants who have made a late claim for asylum and therefore are not eligible for support under Section 55 have no right of appeal to the Asylum Support Tribunal and can only challenge the decision to refuse them support by judicial review.³²

The number of asylum seekers being certified as Section 55 cases has significantly decreased in recent years following a Court of Appeal ruling in 2004 in which it was concluded that the Home Office was in breach of Article 3 of the European Convention on Human Rights in Section 55 cases where asylum seekers had no other means of support.³³

Latest figures for July-September 2007 show that of the total number of applications for asylum support (4,145) 210 principal applicants were assessed as ineligible for asylum support on the grounds that the Home Office was not satisfied that the applicants’ claims were made as soon as reasonably practicable.³⁴

4.3 Section 9

A further way in which an asylum seeker may be excluded from Home Office support is under Section 9 of the Asylum and Immigration Act 2004. Section 9 applies to asylum-seeking families who have reached the end of the asylum process and exhausted all their appeal rights. If they are deemed not to be taking ‘reasonable steps’ to leave the UK they can have their financial support and accommodation terminated. In cases where families are made destitute, they can face having their children taken into the care of social services. The Home Office maintains that this legislation was introduced not to victimise asylum seeking families with children but to encourage them to take up voluntary return packages. The Eagles Wing, a support group from Bury, in its submission to the Commission, described the experience of families on Section 9 (Refugee Action and Refugee Council 2006, Inhumane and ineffective – Section 9 in practice):

“Families on Section 9 have suffered terribly and still do, having to beg for charity in the form of food parcels, and being unable to support their school children in normal school activities. Homelessness is a disgraceful but conscious part of this social policy. Members feel ashamed to be dirty, untidy or smelly, to need to beg for a shower, and to be unable to reciprocate people’s kindness”

Submission: Eagles Wing Support Group, Bury

30 Inter-Agency Partnership (2004) *The impact of Section 55 on the Inter-Agency Partnership and the asylum seekers it supports*
 31 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers*
 32 Immigration Law Practitioners’ Association (January 2004) *Asylum – a guide to recent legislation, 4th edition*
 33 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*
 34 Home Office (2007) *Asylum Statistics: 3rd Quarter 2007, UK*