

Refugee Action written submission to the United Nations Special Rapporteur on extreme poverty and human rights

September 2018

Introduction

Refugee Action is a national charity which enables asylum seekers and refugees in the UK to rebuild their lives. We are the leading provider of integration services for resettled refugees in the UK; we provide advice and support to thousands of asylum seekers and refugees each year through our services; and we campaign with a range of partners to achieve change.

This submission focuses on the question of support provision for people claiming asylum in the UK, and provides a summary of Refugee Action's research in this area (more detail is available in the reports in Annex). Through our services, we come into daily contact with asylum seekers who are destitute or at risk of becoming destitute. Many are living on the street or haven't eaten properly for weeks. This is despite a duty on the part of the Home Office to ensure that people who require support while waiting for a decision on their asylum claim do not fall into destitution and homelessness. The vast majority of asylum seekers in the UK are not allowed to work, so must rely entirely on support they receive from the government. However, this support is often difficult to obtain in practice and this restrictive approach to providing asylum seekers with support, combined with constraints on the right to work for asylum seekers, has previously been labelled a "deliberate policy of destitution".¹

The barriers to accessing asylum support currently mean that many vulnerable people are being wrongly denied assistance or are waiting unreasonable lengths of time to receive the support they are entitled to. We are concerned that the Home Office's failure to make timely decisions on asylum support applications means that people seeking asylum are pushed further into poverty and destitution, with both immediate and long-term impacts on their physical and mental health and that of their families.

Asylum support entitlements in the UK

Section 95 of the 1999 Immigration and Asylum Act enables the provision of support to asylum seekers or dependants of asylum seekers who appear to the Secretary of State

to be destitute or are likely to become destitute within 14 days. An asylum seeker is defined as a person who has made a claim for asylum which has been recorded by the Secretary of State but which has not yet been determined. Applicants apply by completing a 35 page ASF1 form; they can request financial support, support with accommodation, or both; accommodation is provided on a 'no choice' basis, and usually involves 'dispersal' – generally outside of the south east of the UK – with only a few exceptions.

In order for an applicant to qualify for asylum support the Home Office applies a test to all applicants, who must show that they are currently destitute (in the case of Section 98 support) or will be destitute within 14 days (in the case of applications for section 95 support). According to the 1999 Immigration Act: "The Secretary of State may provide or arrange for the provision of support for asylum seekers or dependants of asylum seekers who appear to be destitute or are likely to become destitute within a 14-calendar day period.

Applicants are deemed to appear destitute if:

- they and their dependants do not have adequate accommodation or any means of obtaining it (irrespective of whether other essential living needs are met); or
- they and their dependants have adequate accommodation or the means of obtaining it, but cannot meet essential living needs."

A person is therefore deemed destitute if they do not have enough money to eat and buy other essentials, irrespective of whether they have a place to live.

The low rates of support are in themselves concerning to those working with people seeking asylum; the amount of financial support given to asylum seekers is currently £37.75 per person per week. Whilst support rates were previously set at 70% of mainstream benefits, over the years this link has broken. Asylum support rates are currently set at just over 50% of income support for people aged over 25. Changes were made in August 2015 that introduced a single weekly rate for all asylum seekers. Support had previously varied according to the age of applicants and the composition of their household. The August 2015 change represented a substantial reduction in support for families with children.

The reality of asylum support provision – Refugee Action's research

In a report released in July 2017 (see 'Slipping through the cracks: How Britain's asylum support system fails the most vulnerable', attached in Annex), Refugee Action examined the extent of asylum support delays experienced by the asylum seekers we work with. We also explored the impact that such delays are having on people who have already been forced to flee conflict, violence and persecution.

We presented research carried out between January 2016 and March 2017 based on an analysis of over 300 case files from operations in Manchester and London. The refusals, delays, and incorrect decisions that we documented resulted in a situation whereby people were kept in uncertain and sometimes unsafe situations for long periods of time as a result of their support being either delayed or denied. In the most desperate cases, this put people at risk of exploitation or street homelessness.

As a result of ongoing problems that Refugee Action's caseworkers face in securing asylum support for the vulnerable people we work with, we again decided to review the situation among our clients in 2018 and, in July, published figures based on 162 support applications that Refugee Action assisted with from May 2017 to May 2018 across our projects in Birmingham, London and Manchester (see 'Slipping through the cracks: One year on', in Annex). Our updated research shows that destitute people in the asylum system continue to struggle to obtain the support they so desperately need. The average length of time people waited for a decision on their Section 95 support applications was 46 days – more than three times the length that they should be waiting as per the 14-day destitution test. Five of the people we assisted waited over 100 days before their application for support was approved – one of them was granted refugee status after waiting 170 days without a decision. She never received support.

Refugee Action has consistently urged the UK government to commit to making decisions on Section 95 support applications within the 'destitution test' timeline of 14 days. We have also encouraged the Government to put in place a transparent approach to decision-making on asylum support. So far, we have seen little progress on our recommendations. Without improvement in decision-making on asylum support, however, people will continue to be inappropriately denied the assistance they need, or wait for long periods of time without adequate support. The result is that some of the most vulnerable people living in the UK – people who have no other choice except to live off the little support provided to them by the state – will continue to be forced into poverty and destitution as a result of the failure of the Home Office to put its own policies effectively into practice.

ⁱ Joint Committee on Human Rights (2007) *The Treatment of Asylum Seekers: Tenth Report of Session 2006-07*, Volume 1 – Report and formal minutes, p. 110, available at: <https://publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf>