

## Executive summary

### Destitute asylum seekers in the UK

No one knows how many destitute asylum seekers there are in the UK. Previous research has largely consisted of local studies emphasising the suffering of those made destitute when they cannot use safety net support, often because they are frightened to return home. This research centred on nationwide interviews with 125 asylum seekers, half of whom had been destitute for over a year. It found that they include a wide range of people, some particularly vulnerable – such as pregnant women, parents who have children left abroad, and those with both physical and mental conditions which render them extremely vulnerable. Many have endured severe persecution, including rape, torture, multiple loss and denial of basic human rights. Their destitution does little to alleviate the on-going physical and mental scars.

### Their experience of seeking asylum

People have often arrived here through chance, not choices and most did not understand what 'seeking asylum' means or implies. Most of them had applied for asylum before 2005 and so are in the backlog or 'legacy' of asylum claims subject to review by the Home Office. They have lost legal representation through being dispersed to another location, or have not understood how important legal representation is. They may have faced poor interpretation in Home Office processes and legal interviews and a lack of knowledge or awareness among decision-makers. They find themselves in an adversarial system with too few good lawyers to represent them. They are often unable to tell their full story or persuade poor-quality lawyers to gather critical evidence, spend the time necessary to present

their case, or even to turn up to appeals. At appeal they may face misunderstanding or a culture of disbelief. A review of the research interview notes by lawyers concluded that 66 per cent of all cases seen may have some merit and should be revisited.

### Lack of support

When the asylum application fails, they lose their support but can apply for Section 4 'hard cases' support if they agree to return to their country. However most are convinced that they cannot safely do so. All, even those who would be prepared to go, find that destitution makes it impossible to plan for the future, contact services, sort out documentation or trust the system that has failed them.

### The impact of destitution on individuals

More than four fifths of those interviewed (87 per cent) felt that they had not been treated fairly during the asylum process. Many are confused and angry about what has happened to them. Many of the most vulnerable people, including families with children and people with serious health conditions have not been able to get any support through Section 4 or social services. They are left in perilous circumstances, some literally on the streets, many dependent on solidarity or in circumstances that may be dangerous.

Most of those interviewed reported that their health had worsened since arrival, even though they are generally young and had few health problems prior to arrival. At the most extreme,

it has led some individuals to self-harm and attempt suicide. Pregnant women and those with children cause particular concern. They often delay applying for support until late in pregnancy, and once they receive it are expected to live on vouchers for as little as £38 per week.

Some are working illegally or putting themselves in danger in other ways, such as working as prostitutes or committing minor offences to get a bed for the night in a cell.

Some are losing the will to survive. Asylum seekers are profoundly resourceful people who have come through a great deal. They have often lost everything, including children, family, friends, health, livelihood and status. Destitution is eroding their sense of self and their will to survive, which is often all they have left. They feel that their lives are forgotten and wasted. A majority spoke of having little or no power over their lives, and of having contributions to make to society which will go unused because nobody knows they are there or cares about what happens to them.

## The broader impact of destitution

The burden of support is falling on refugee communities, faith groups, religious institutions and voluntary organisations, who sometimes literally save people's lives, ensuring that they do not starve. This is placing extreme strains on the individuals and groups involved. Health and social services struggle to understand what they can or should provide. The presence of disillusioned and often desperate asylum seekers within established refugee communities causes confusion and anger which can be unsettling. Those who are accepted as refugees can perceive that they have benefited from a system which seems to them like a lottery and fundamentally unfair. Meanwhile society loses out on their skills: most are desperate to work and make a positive contribution.

## Destitution as a tool of public policy

The use of destitution is not having any significant influence on determining whether refused asylum seekers decide to return to their home country. The vast majority of those interviewed were clear that they preferred destitution to persecution. It certainly does not enable people to return in dignity or safety.

Destitution puts people outside the system so they are more difficult to inform or reach. It forces an unethical dilemma on the already vulnerable, because to get support they have to lie and say that they are ready to return home. The most vulnerable are more likely to agree to this.

Section 4 support is hard to access even when people try. It is unevenly administered and creating anxiety and confusion. It is not meeting the purpose for which it was designed.

The system is expensive in social and financial terms. NASS officials, advice organisations, health workers and others spend a lot of time making, supporting and assessing applications. The reliance on vouchers adds extra expense for the administration and also leaves asylum seekers at the mercy of either a supermarket chain or anyone who will cash the vouchers for them, usually charging at least 20 per cent.

Other costs are indirect: because Section 4 support is inadequate, many in receipt of it also rely on other help such as food parcels from faith communities or charities. To this we must add the social effects of the likely association with crime and prostitution, and the longer term consequences of alienation within communities that are already struggling with cohesion.



## Recommendations

The report makes recommendations for principles for future policy, dealing with the legacy of destitution and avoiding destitution in the future.

Key principles for future policy should be:

- No refused asylum seeker in the UK should be forced into destitution.
- The provision of support to refused asylum seekers should be separated from any requirement to return.
- Those receiving asylum support (including those with refused asylum claims) should be able to work and reduce the cost to the state.
- Care must be taken with all public policy initiatives to ensure that speed, while usually desirable, does not compromise fairness.

### Proposals to deal with the legacy of destitution

#### Recommendations to the Home Office

- As part of its review of the 'legacy' cases, the Home Office should grant a legal status, including the right to work or claim benefits and with full access to healthcare and education, to refused asylum seekers who have been in the UK for a number of years.
- To facilitate the review of legacy cases, all refused asylum seekers who have been identified should be offered support with no conditions attached other than compliance with relevant procedures, while speedy consideration is given to their future in the UK.
- Minor incidences of crime undertaken to survive destitution, such as working illegally or stealing food, should not be taken into account when determining the granting of leave to remain in the UK.
- All refused asylum seekers identified should be offered independent advice about, and support with their options, including voluntary return.
- Funding should be made available to local authority social services departments to enable them to support vulnerable refused asylum seekers.

## Recommendations to other government departments and agencies

- **The Department of Health** should publish detailed and explicit guidance about the responsibilities of social services departments towards vulnerable asylum seekers including those refused, and publicise these in relevant languages and media to refugee communities and agencies.
- **The Department of Health** should revise its regulations and issue new guidance on healthcare for refused asylum seekers in order to ensure that they have access to healthcare and treatment based on clinical need.
- **The Legal Services Commission and Department for Constitutional Affairs** should ensure that funding and other resources are available to enable any refused asylum seekers in the 'legacy' group to get good quality and appropriate legal advice and representation if they are not to be offered leave to remain.

## Recommendations to others

- **Local authority social services departments and healthcare commissioners** in all areas where there is significant refugee settlement or asylum seeker dispersal should ensure that they have appropriate systems in place to encourage and assess applications for community care and leaving care services from vulnerable refused asylum seekers. Open discussions should take place with relevant voluntary and community sector organisations about the best ways of providing such services in partnership.
- **Refugee agencies** should ensure that local organisations, including those run by refugees, have information about the rights and options of refused asylum seekers and provide accurate and timely information about changes to these as they occur.

## Proposals to avoid destitution in future

### Recommendations to the Home Office

- **The New Asylum Model** should offer all asylum applicants a quality-assured and transparent service in which:
  - » adequate time is given during the initial interview/s to establish the basis and substance of their claim
  - » timetables are set that achieve the right balance between swiftness and fairness
  - » professional, linguistically-trained interpreters are used at all times
  - » all those involved in contact with asylum seekers are adequately trained in the proper use of interpreters, international current affairs and cross-cultural awareness
  - » interviews and appeals are conducted to a standard which is made known to the applicant and rigorously monitored
  - » a complaints process is an integral part of the quality assurance model, and applicants are encouraged to use it.
- **Asylum support and accommodation** should be offered on a continuum, from arrival to leaving the country or granting of leave, with no break or distinction between the levels and types of support on offer at different stages. Where appropriate, asylum seekers at all stages should be encouraged to take up employment or voluntary work.
- **The UK government** should grant a legal status with the right to work or to claim benefits, and with full access to healthcare and education, to asylum seekers whose claims have been refused and who cannot be returned voluntarily or otherwise to their country of origin within six months for reasons beyond their control.

### Recommendations to other government departments and agencies

- **The Legal Services Commission and Department for Constitutional Affairs** should ensure that funding and other resources become available to ensure that:
  - » all potential asylum seekers are offered pre-claim advice about the application process and the options available to them
  - » those claiming asylum have access to legal advice at all stages of the process of their claim
  - » all publicly-funded legal advisers conduct a detailed interview with asylum applicants at the start of their claim in which they have the time to explain the basis of their claim and any other concerns they may have about return, and a full statement is taken and read back to the applicant
  - » the feasibility of setting up an accreditation scheme for interpreters in asylum cases and ensuring that only accredited interpreters are used, is researched. Meanwhile, only professionally-trained interpreters are used for all legally-aided asylum interviews with legal representatives, and that funding is made available for this and funding ceases for any other type of interpreting
  - » all asylum applicants attending an appeal are offered a case conference prior to the day of the hearing with all legal representatives appearing. The timing of the conference should allow sufficient remaining time for any resulting preparatory work
  - » legal representatives are funded to maintain contact with applicants even when they are moved around the asylum support system

- » legal aid funding is made available for, and contingent upon, the proper and pro-active pursuit of evidence for asylum cases including, for example (but not limited to), the costs and expenses incurred in the establishing of clan/ethnic background and securing of medical evidence
- » an accreditation scheme for specialist legal representatives for unaccompanied minors seeking asylum is developed.
- **The Department of Health** should issue guidance to all health and social care providers in order to ensure that:
  - » irrespective of their status, vulnerable asylum seekers (including unaccompanied minors) are identified and offered appropriate and coordinated care and support to continue throughout their stay in the UK
  - » the potential role in such provision for voluntary and community sector organisations is considered.
- **The Law Society** should revise its current accreditation scheme and panel for immigration solicitors to include the need for:
  - » all legal advisers to ensure that asylum applicants have a detailed interview at the start of their claim in which they have the time to explain the basis of their claim and any other concerns they may have about return, and a full statement is taken and read back to the applicant
  - » using only professionally-trained (and, when appropriate, accredited) interpreters for all asylum interviews
  - » all asylum applicants attending an appeal to be offered a prior case conference (as detailed above) with all legal representatives appearing
  - » legal representatives to maintain contact with applicants even when they are moved around the asylum support system and refer cases to other practitioners only with the applicant's consent
  - » the proper and pro-active pursuit of evidence for asylum cases including, for example (but not limited to) the establishing of clan/ethnic background and securing of medical evidence.

## Recommendations to others

- **Local authority social services departments and health service commissioners** (in all areas where there is significant refugee settlement or asylum seeker dispersal) should ensure that they have appropriate systems in place to encourage and assess applications for community care and leaving care services from vulnerable asylum seekers.
- **Local authority social services departments and healthcare commissioners** should open discussions with local voluntary and community sector organisations to explore the ways in which such services could be provided in partnership.
- **The Law Society** should develop an accreditation scheme for specialist legal representatives for unaccompanied minors seeking asylum.

In summary, the current system is unfair, inefficient and ineffective. Only by reading this report, and in particular the words of the asylum seekers themselves, will you appreciate the full extent of this. As independent researchers, we were appalled at some of the wasteful, brutal and terrifying experiences the asylum seekers described. That some of these happened after they arrived in the UK is to our collective shame.