The Destitution Trap

Research into destitution among refused asylum seekers in the UK
THE DESTITUTION TRAP

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In 2005–06, more than 46,000 asylum seekers and refugees contacted Refugee Action for advice. Approximately 40 per cent of these requests for help came from destitute asylum seekers. Our caseworkers are encountering unprecedented levels of despair among this group. In fact, there exists in Britain a new and growing excluded class of people whose asylum applications have been refused, who are afraid or unable to return to their countries of origin, who have no contact with the authorities, no access to work or mainstream support services, and little prospect of their situation being resolved.

In January 2006, Refugee Action commissioned researchers to explore the causes and effects of this destitution. In theory, many of the refused asylum seekers they interviewed could have obtained ‘Section 4’ shelter and food vouchers – provided they signed up to returning to their countries of origin. In practice, many refused to sign up because they felt that their cases had not been properly judged. Many appeared, to our experienced researchers, to be so terrified of returning home that they preferred to endure unimaginable hardship in Britain. In many cases, conditions in their home country and difficulties in obtaining travel documents meant that there was little prospect of their repatriation – either forced or voluntary – in the near future.

Government policy in this area was intended to provide a short-term safety net for refused asylum seekers while their return or removal was arranged. Discomfort was built in as an incentive for co-operation. In fact, as this report describes, for many the suffering has become extreme, long-term, and ineffective in achieving the outcome desired by government. It is hard to read the quotes and the narratives in these pages without believing that there is an overwhelming moral and practical case for reform of this policy.
Refugee Action, with Amnesty International and our partner refugee agencies, will discuss the recommendations of this report with government ministers and officials.

The government’s New Asylum Model, which is based on end-to-end contact with a single caseworker does offer an opportunity to rebuild confidence in the asylum system. Establishing relationships of trust with individual asylum seekers will be key to preventing destitution and the accumulation of future backlogs, and the Home Office, legal services and the voluntary sector must work together more creatively to achieve this. This can be done, as the record of the Hotham Mission in Australia appears to show (see page 32). Of the asylum seekers that Hotham has worked with in the last five years, 84 per cent have returned voluntarily.

Dealing with the backlog or ‘legacy’ cases will also require a creative approach. Other studies have shown the prohibitive costs of tracing and removing many thousands of people. Our research suggests that many backlog cases date from a period (roughly 2001 to 2003) when the system was under considerable pressure. Common sense suggests that ways can be found of regularising such cases so that they can work and contribute their skills to British society, and this report suggests some first steps towards this.

I would like to thank The Tudor Trust for helping to fund this report, and the researchers for carrying it out. Amnesty International and the Immigration Lawyers Practitioners’ Association helped to steer the research. I know they share Refugee Action’s view that destitution is an unworkable policy that is causing enormous suffering and has completely failed to deliver on its objectives.

Sandy Buchan
Chief Executive
Refugee Action
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Introduction

This report started with a death. In August 2003, Esrafil, a 29-year-old asylum seeker, arrived at Refugee Action’s offices in Manchester. He had no money and no home because his asylum application had been refused and his support cut off. He was ill and could not find a doctor who would treat him. Although terrified of return to Iran, and convinced he had not had a fair hearing, he could not find a lawyer to take on his case. He set fire to himself in the office, and died six days later in hospital.

Before then and since, Refugee Action has done all it can to mitigate the impact of destitution on its clients, while wrestling with the challenge of how to bring about a lasting solution to their predicament. This research and report is one result of that. It seeks to throw light on how and why asylum seekers become destitute, the role that legal advice (and the lack of it) has played in this, the lives of destitute asylum seekers and the grim choices they face, and why they are unable to use the safety-net support systems that exist.

Why is this important? It is important because the extremes of poverty and homelessness faced by thousands of asylum seekers across the UK are a side-effect of an asylum system that has been declared “not fit for purpose” by the government that set it up and ran it. It is important because asylum seekers came to the UK seeking safety and fairness but tell us that they meet bureaucracy and injustice. It is important because all of this represents wasted lives, wasted potential and sometimes utter hopelessness. We believe that our recommendations, if implemented, will stop this.

We appreciate this report is long. It includes many voices which are not often heard. We hope that it is not difficult to read, although some of the material included is distressing.

The introductory section includes the table of contents and the executive summary for those who want a quick resume focusing on conclusions and recommendations.

A short context section provides a guide to the asylum system, how support is refused and current policy in relation to access to legal advice. It also summarises previous research of relevance.

The findings constitute the bulk of the report, covering our research on how and why people sought asylum, what happened when they applied and sought legal advice, the effects of destitution and why they do not get other support.

The conclusions and recommendations address the issues raised. Details of the methodology, the sources used and those who helped are included in the appendices.

Many people, not least the 125 asylum seekers we interviewed, helped with this work. Please read it and use it. We are very grateful for the assistance, the time and the insight offered by so many people. The report, its conclusions and recommendations and any errors it may contain are ours alone.

Research team, October 2006
**Research team**

**Hildegard Dumper** works as an independent consultant offering research, management support and training. Her specialist interests include asylum and refugee policy and practice, gender, and organisational capacity building, both in Europe and the UK.

**Ceri Hutton** has worked in the UK voluntary sector since 1985 in a variety of fields including HIV/AIDS, international development, refugees and asylum, and human rights. Now an independent consultant and trainer, she works with a wide range of organisations and is particularly interested in how community and voluntary organisations can be supported to achieve social change.

**Sue Lukes** has been an independent researcher, trainer and consultant since 1996, after careers in housing and refugee resettlement, and specialises in work with and about new communities. Apart from destitution, recent work has focused on new migrants and service delivery, refugee employment, refugees and the arts, people in immigration detention and family formation among European migrants.

**Richard Malfait** has managed and worked within a range of refugee support projects and services across the UK since 1992, becoming an independent consultant in 2001. Areas of particular interest and experience include refugee destitution, service development and management, quality systems, evaluation and research.

**Nick Scott-Flynn** has worked in the refugee sector, particularly within non-governmental organisations, for 23 years both in the UK and abroad. Currently working as an independent consultant, he has in recent years undertaken several pieces of work looking at destitution among asylum seekers in this country. He is keen to share with others what he has learnt from this work and to hear from them about their experiences of and perspectives on this issue.
THE DESTITUTION TRAP

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

**Recommendations**

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

**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.

**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.
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
INTRODUCTION AND SUMMARY

Proposals to avoid destitution in future 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.

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 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.

- 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.
CONTEXT
1. Asylum and destitution in the UK

This chapter provides a general introduction to the context in which asylum seekers become destitute in the UK. It provides a thumbnail sketch of the asylum process and the relevant current policy issues in the asylum field. It looks at the history of destitution within the process. We have also explained key terms that appear later in the report.

Seeking asylum in the UK

“I didn’t know anything about the UK. I just wanted to save my life.”

32-year-old man from Cameroon

Refugees have been seeking safety in the UK for centuries, sometimes encouraged and welcomed by the governments of the time and sometimes not. As a signatory to the UN Convention on Refugees, the UK is required to have in place a system that enables those who seek safety to have their case for doing so fairly assessed, and then to offer them and their families a place to live while they need it.

In the Convention, a refugee is defined as a person who has a well founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion and so cannot live in his/her own country or any other country where s/he has a right to live. People fleeing persecution may apply for refugee status once in the UK or on arrival and are ‘asylum seekers’ until a decision is made about granting them ‘refugee status’. They may also arrive in the UK on defined ‘programmes’ that allow flight from specific places, in which case they arrive with their status already defined.

Until April 2003 an asylum seeker whose claim did not meet the criteria to be granted refugee status could be granted leave to remain in the UK on exceptional or compassionate grounds outside the immigration rules, and in many cases would be allowed to settle after a defined period. In both 2001 and 2002, about 20,000 people were granted this form of exceptional leave – more in each year than were granted refugee status. Most were from countries where human rights abuses were known to be common or from places in such chaos that it would not be reasonable to expect them to return.

From April 2003, exceptional leave to remain has not been granted. Instead, two other types of leave were established: humanitarian protection (for those who face a serious risk to life or person from one or more of the following reasons: death penalty, unlawful killing, torture, inhuman, degrading treatment or punishment. and discretionary leave. Within the context of a significant decrease in overall numbers of applications, it also appears that a smaller percentage of applicants are now granted humanitarian protection or discretionary leave than were formerly granted exceptional leave to remain.

Refugee status and all three other forms of leave offered as a result of asylum applications carry with them the right to work, claim benefits and access healthcare and housing. A person with refugee status also has the right to get travel documents from the Home Office and to live here with his/her family members. Until August 2005, a refugee was automatically granted indefinite leave to remain. Since September 2005, refugee status is offered with a five year leave to remain, but retains all other rights, and those offered...
humanitarian protection are also given the right to bring immediate family members to join them.

An asylum seeker is someone whose application for refugee status or other protection has been made but has not yet received a final decision. A person remains an asylum seeker while the application or related appeals are continuing. Those who have been through the appeals and received a final rejection are expected to leave the UK, and may be removed or deported. They may, however, either challenge the decision as unreasonable (a complex legal definition that can lead to a judicial review of the decision via the High Court) or present new evidence that may enable them to reopen the case or make a fresh claim.

In 2005, 25,710 people applied for asylum in the UK, a 24 per cent reduction compared with 2004 and a huge drop in numbers from 2002, when applications reached their peak at 84,130. Only 17 per cent (less than 5,000) of those who received an initial decision in 2005 were given leave to remain, of whom less than half were given refugee status, with the others offered other types of leave to remain. Almost 40,000 appeals against refusals of leave were heard in 2005, and these resulted in a further 5,905 people being granted leave (18 per cent).

The decisions vary a great deal between nationalities: in 2005, 33 per cent per cent of Somalis were given refugee status on initial application and a further 12 per cent on appeal. Only 3 per cent of applicants from the Democratic Republic of Congo (the DRC) got refugee status on initial application, and a further 5 per cent on appeal. Similarly, 16 per cent of Afghans were given discretionary leave on initial application and 3 per cent on appeal, 13 per cent of Iranians on initial application and 12 per cent on appeal.\(^2\)

The asylum process

An asylum application can be made on arrival in the UK (at a port or an airport) or later, ‘in-country’. Currently, in-country applications can only be made at designated Asylum Screening Units in Croydon or Liverpool. Applicants then fill in a form about how they came to the UK to find out if they travelled through a ‘safe country’ such as the rest of the European Union, to which they can be returned to pursue their asylum application. A second form checks whether the application was made ‘as soon as reasonably practicable’ after arrival. The asylum seeker and other family members with him/her is then fingerprinted and issued with an Asylum Registration Card in return for any identity documents they may have brought with them, which are kept by the Home Office during the application.

Some applicants may be detained in Immigration Removal or Reception Centres. On 24 June 2006, there were 1,825 asylum applicants in detention, including 15 recorded as under 18 years old. 4,445 people left detention centres in the UK in the first quarter of 2006, 37 per cent to places in the UK, on bail or with ‘temporary admission’, the status given to those who claim asylum on entry.\(^3\)

The system for determining asylum applications and dealing with applicants is undergoing significant change at present, with all new applicants likely to be dealt with under the ‘New Asylum Model’ (see opposite) by April 2007. Under the previous system, applicants were usually given an interview and some were asked to complete a Statement of Evidence Form (SEF), setting out the basis of their application and including all reasons why they were asking to stay in the UK. The form had to be returned to the Home Office within ten working days, and further interviews would be organised if there were doubts about what was in the form or any discrepancies or issues of credibility.
While in the asylum process, and afterwards, most asylum seekers are required to report regularly to a denominated centre or police station.

**New Asylum Model**

In February 2005 the government published a five-year strategy for immigration and asylum in *Controlling our borders: Making migration work for Britain*. This strategy announced the New Asylum Model (NAM), with the emphasis on speeding up asylum decision-making and removing people whose applications had failed. In the two years between May 2005 and April 2007 the Home Office aims to have all new asylum applications dealt with under this new system.

Under the new system, each case is assigned to a ‘segment’ defined by its probable success, whether it involves children, and how easy it is to remove the applicant if the application fails. The segment determines the timetable for the case decisions, what type of accommodation (including detention) will be offered, and how the asylum seeker will be monitored. Each application is dealt with by a single trained ‘case owner’ working from a team based in a major city. The case owner makes the initial asylum decision, arranges accommodation and/or support, decides what enforcement action (detention, tagging, reporting) is appropriate and at the end of the process refers the applicant on to integration services if successful, or to voluntary return or removal services if not.

Asylum applications are certainly speeding up: the Home Office claim that 80 per cent are now dealt with within two months (compared with 22 months in 1997). They have set a target that, by 2011, 90 per cent of all asylum applications will have completed the entire process within six months: from application, through appeal to removal or grant of status. Interim targets for each year to move towards this have been set. Of those applications made in the third quarter of 2005, 74 per cent had a final decision within six months.

**Decisions and appeals**

The initial application for asylum is decided on the basis of the relevant immigration rules, policy instructions and guidance. Some cases are decided on the individual facts presented about the persecution or human rights abuses experienced. Some are decided because there is a policy for a defined group of asylum seekers, which allows the government to deal with those particularly ‘at risk’ and grant them leave to remain where it is considered unsafe for them to be returned to their home countries. Over the past ten years these policies have been developed for asylum seekers from Angola, Sierra Leone, the Democratic Republic of Congo, Zimbabwe, Rwanda, Iraq, Kosovo and Somalia. There has also been a policy for Kuwait Bidoon (the stateless Bedouin tribes of Kuwait).

These policies, however, are not generally made available: they may be kept secret or only disclosed to particular organisations or individual applicants. There is sometimes confusion or ignorance inside the Home Office about the remit and application of them, so that people who should have been given leave to remain have not. They become refused asylum seekers, at risk of destitution, but may have friends, family members or neighbours with what seem like identical cases who have been allowed to settle in the UK.

If an asylum application is refused, the applicant may appeal. Since 2005, such appeals are made to the Asylum and Immigration Tribunal. Before then, there was a two stage appeal to an adjudicator and then an asylum tribunal. An appeal against an initial decision must be made within ten days, or five days if the applicant is in detention. Where the asylum or human rights claim has been certified by the Secretary of State as ‘clearly unfounded’ the applicant can only appeal once they have left the country. These are
called non-suspensive appeals. A further appeal is possible to the Court of Appeal in a small number of cases where a point of law is involved.

In one such case,\(^6\) the Court of Appeal examined the problem of secret Home Office policies. In this, not only had the case been refused in spite of a secret policy to accept such cases, ‘but the errors were applied to the extent that the correct policy was not notified to the adjudicator, the Immigration Appeals Tribunal, counsel instructed by the Secretary of State or, until shortly before a Court of Appeal hearing, to the courts involved in the present case.’ The Court found that these actions amounted to ‘unfairness amounting to an abuse of power... Serious errors of administration have resulted in conspicuous unfairness to the claimant.’ It is, of course, impossible to say how many refused asylum applicants may have had similar cases refused. What is clear is that it often requires legal skill, persistence and commitment to find out about these secret policies and ensure they are applied to the people that should benefit from them.

Judicial reviews (of the processes by which an asylum decision was reached) are also possible, including those against decisions that claims are ‘clearly unfounded’. In the period April–June 2006, 23 per cent of all appeals were determined in the applicant’s favour. Nationalities with high rates of success at appeal include Eritrea (47 per cent), Somalia (53 per cent) and Zimbabwe (33 per cent).

Where an application has been through all available appeals, but new evidence has emerged that was not available during the process (this might include the ‘discovery’ of a secret policy covering the case) then a fresh claim for asylum can be made. Permission may sometimes be granted to make an appeal ‘out of time’.

### Removals and return

When an asylum application has failed and all appeal rights are exhausted, the assumption is that the applicant will return to his/her home country. S/he can apply to one of the Assisted Voluntary Return schemes which will facilitate travel and may offer resettlement support, or wait for forcible removal. In the second quarter of 2006, 1,635 former asylum seekers left the UK under an Assisted Voluntary Return scheme and 4,480 were forcibly removed. The largest national groups removed were Iraqis, Turks, Serbs/Montenegrins and Afghans.\(^7\)

Removals of some nationalities have been the subject of court cases, press comment and sometimes negotiation with the respective governments. Throughout 2005, for example, there was an informal agreement with the Afghan government that no more than 50 people would be removed there each month. Concern has been expressed at the possibility that the British government might contemplate the return of families including women and girls who would face an uncertain fate in many parts of Afghanistan. The Foreign and Commonwealth Office (FCO) strongly advises against all but essential travel to Kabul and all travel to 14 provinces in Afghanistan.

Similarly, the FCO advises against all travel to Baghdad and many Iraqi provinces. It has, however, been the intention of the British government to remove refused asylum seekers to Iraq whenever possible. This has been opposed by a series of legal challenges, based on the fact that many might not be safe there, and that there was no safe route by which such returns could be effected. The Kurdistan regional government asked the British government to ‘rethink’ its policy on forcible returns in September 2005, but 15 people were reportedly handcuffed and returned in a military plane to an airport in the northern, Kurdish part of Iraq in November 2005, and a
further 32 left RAF Brize Norton in September 2006, although five succeeded in stopping their removal through court injunctions.  

In July 2005 all removals to Zimbabwe were suspended as a result of a legal challenge, which was based on the alleged persecution of returning asylum seekers by the Zimbabwean government. The case progressed through the appeals system and in August 2006 a new hearing ruled that there was no general risk to those returning although some risk factors might prevent some removals.

The asylum ‘backlog’ and the ‘legacy’

By 2014, the Home Office has pledged to have in place a system which will ‘count everyone in and out’ and identify who overstays. While current cases are now mostly decided and finished within months, a considerable number of people do not or cannot leave after a final refusal, and they are added to what has until now been a largely unacknowledged cohort of people who are effectively stuck in the system. These people are not removed and often not removable, possibly able to open a fresh claim or even exercise appeal rights, but often disengaged from any sources of help that might enable them to do that. These are now described by the Home Office as ‘the legacy of older cases that have yet to be fully resolved’.

There are, it appears, 450,000 cases on the Home Office computer that do not have any endpoint recorded: they have not been given any form of leave and there is no record that they have left the country. It is likely that the number will decrease after ‘data cleansing’ but the National Audit Office reported in July 2005 that there was a backlog of 155,000 to 283,000 people who were purportedly awaiting removal. It is the intention of the Home Office to have resolved all these cases within the next five years. It is also a policy imperative since if they remain unresolved, the ‘e-borders’ proposed for 2014 will still contain large numbers of people with no leave to remain and no official presence. An exercise announced in 2003 to enable some households with children stuck in the backlog to be given indefinite leave to remain has allowed 24,030 families to settle in the UK so far.

Why do asylum seekers become destitute?

Most asylum seekers do not arrive with enough funds to support themselves. In the period April to June 2006, for example, 5,490 people applied for asylum and 4,825 applied for the support available for new asylum seekers, although 1,350 of those did not require accommodation (because they stayed with friends or family).

Support for asylum seekers

New asylum seekers cannot support themselves by working. Prior to 2002 asylum seekers were usually banned from working for the first six months while their asylum application was considered, but after that, they could apply for the restriction to be lifted. After 2002 all asylum seekers were prohibited from working, unless they were already in work at the time the change was implemented, although they can apply for the restriction to be lifted in very special circumstances. From February 2005, asylum seekers still waiting for a first decision on their application for a year or longer can get the restriction on working lifted (but there are very few of these).

Asylum seekers, especially if caught in a lengthy determination process, thus are forced to rely on government support. Until 1996, all asylum seekers with no other resources could get a reduced rate of ordinary benefits to enable them to survive while they waited for the results of their application.
Withdrawing benefits

In 1996, benefits were first withdrawn from asylum seekers, and this was done explicitly to punish certain types of behaviour. The proposals were designed only to affect those who applied for asylum after arrival (in-country) and those who appealed against a negative decision. New on-entry asylum seekers retained access to ordinary money benefits until April 2000. In policy debates ministers emphasised that they wanted to discourage applications for asylum after entry and people appealing when they had hopeless cases.

In fact, the percentages of on-entry and in-country applications did not vary significantly after February 1996. The measures left large numbers of asylum seekers with no access to support and barred from working, and so destitute. Those with children were told they could apply to ill-prepared social services departments which suddenly found themselves becoming housing and benefits agencies. No other specific arrangements were made for the vulnerable, although community care legislation would have offered them some options if they had known about them. A large majority of asylum seekers were in London and the South East, and faith communities mobilised to provide food and emergency accommodation in various imaginative ways.

Legal action on behalf of affected asylum seekers soon established that the regulations were ultra vires (not within the government’s power to make without new legislation) and that asylum seekers with no access to benefits could be defined as vulnerable and so become eligible for homelessness assistance. The government then amended legislation in progress\(^{16}\) to remove benefit rights retrospectively and to make affected asylum seekers ineligible for local authority homelessness services. A subsequent case then established that those left destitute were ‘in need of care and attention’ and so could get accommodation and support under the National Assistance Act 1948. Social services departments thus became responsible for thousands of otherwise fit and healthy people whose need was simply for a roof over their head and food in their mouths. Although the National Asylum Support Service (NASS) was set up in 2000, local authorities, mainly in London and the South East, continued to accommodate and support them until April 2006.

Asylum support and NASS

Asylum support is now provided via the Immigration and Nationality Department (IND) and, from April 2000 to July 2006 was administered by the National Asylum Support Service (NASS), a Home Office agency set up to organise the mass dispersal of asylum seekers away from areas of high housing demand in the south east of England and into other areas of the UK.

NASS was set up in a certain amount of chaos, and many of those looking for help from it found themselves in difficult situations.

Initially, support was offered via vouchers exchangeable at supermarkets rather than cash, although it is now offered in cash that can be drawn at local post offices, with amounts prescribed by law as significantly lower than equivalent benefit rates. Much of the accommodation on offer – especially that provided by private landlords on contract – was of poor quality and in disrepair. Some local authorities, instructed to form consortia to offer low demand accommodation in their areas, also provided housing on estates that were already notoriously deprived and sometimes dangerous. Asylum seekers were moved from one area to another, often at short notice, and thus sometimes lost contact with those supporting them, their lawyers and even their asylum caseworker at the Home Office (it is only recently that their databases about asylum determination and support have been put together). The uncertainty about the provision, the contracts with landlords and the rights of those accommodated led to some
asylum seekers being refused support or finding it withdrawn even when they were entitled to it.

Support and accommodation is available to asylum seekers throughout the whole of the asylum determination process, from application to the result of the final appeal. After that, households that include children continue to get support until the youngest child turns 18, or they leave the country, or the date set for their removal or deportation passes without them leaving. Asylum seekers with no children when their determination process ends lose their asylum support. Even if they are pregnant or have children later they can no longer get ordinary asylum support. Withdrawing or refusing NASS support

The Immigration and Asylum Act 1999, which set up NASS, allows support to be suspended or discontinued in certain circumstances, which are defined in the asylum support regulations. They include absence from the accommodation, and the obvious types of misconduct that might lead to an eviction from any accommodation: for example, damage to the premises or harassment of other residents or neighbours. The difference for asylum seekers, of course, is that when their support is withdrawn they may have no further legal options to ensure their survival given that they are barred from working. Support may also be withdrawn or refused if NASS believes that the asylum seeker has other resources which s/he could use to support him/herself or if s/he has provided false or incomplete information when applying for support.17

When support or accommodation is withdrawn or refused in these circumstances, asylum seekers may appeal to the Asylum Support Adjudicators, who operate as an independent tribunal. This is a quick and fairly informal procedure, but asylum seekers cannot get legal aid to be represented at the hearing. If no appeal is made to the adjudicators or the appeal is unsuccessful the asylum seeker will be left with no support or accommodation.

In 2002, new legislation was introduced that removed asylum support in other circumstances. Section 55 of the Nationality, Immigration and Asylum Act 2002 allowed NASS to refuse or withdraw support from an asylum seeker who had failed to apply for asylum ‘as soon as reasonably practicable’. Exceptions were made for those who have dependants under 18 or where a failure to provide support may lead to a breach of human rights. It became clear quite soon that this was being interpreted as another way of punishing those who applied for asylum after entry, with cases publicised of people who had applied in country hours after arrival but were refused.

In the first year of operation, 14,760 cases were referred for a decision to refuse support – almost 30 per cent of all asylum applications that year. Once those who had dependants, had applied in time, or for whom there were human rights reasons to provide support, were taken into account, 9,410 were refused.18 As the numbers increased, Refugee Council reported that ‘Section 55 was forcing many asylum seekers into destitution and placing an unsustainable burden on the voluntary sector and refugee community’. Research conducted by the University of Leeds, exploring how dispersed asylum seekers and refugees survived, found that: ‘Destitution remains a real but largely hidden problem among those who are denied access to public welfare under Section 55 rules, or because their asylum claim has failed’.20

A series of legal challenges resulted from the implementation of Section 55, with the final case reaching the House of Lords in November 2005.21 The Lords found that in all three cases before them a breach of human rights would be caused by refusing them support, concluding:

‘If there were persuasive evidence that a late applicant was obliged to sleep in the street, save
perhaps for a short and foreseeably finite period, or was seriously hungry, or unable to satisfy the most basic requirements of hygiene, the threshold would, in the ordinary way, be crossed:’

As a result, the number of people refused support via Section 55 has decreased so much that, in the last quarter, only 225 were found to be ineligible, out of 1,565 referred for a decision.\textsuperscript{22}

It is important to note two factors that contributed to the success of these cases: they relate to the support needed by those who are still in the asylum process (rather than those who lose support having been refused) and the cases took place after the European Convention on Human Rights had been incorporated into British law.

\section*{Support for the vulnerable}

Generally, support for asylum seekers is the responsibility of the Immigration and Nationality Department (IND). However, destitute adults who have an additional ‘need for care and attention’ because of age, illness or disability can apply instead to local authority social services for an assessment of their community care needs that may then lead to the provision of accommodation and support provided under the National Assistance Act 1948. This can continue beyond the end of the asylum process, and should always do so where the asylum application has been made on entry. For other refused asylum seekers, support should continue if it is necessary to avoid a breach of human rights,\textsuperscript{23} although it may be ended if a removal date is set and the asylum seeker does not leave.

Although there is a body of case law supporting the entitlement of vulnerable asylum seekers to community care services and support, surprisingly few actually access it. Apart from the complexity of the law, local authorities may also be discouraged by the possibility that they will face spiralling costs, none of which are supported by any central government grants.

Advisers and applicants report that, although the law and guidance on it is clear, when they ask for assessments unreasonable delays may occur, and some local authority staff refuse services in spite of legal entitlement.

\section*{The last resort}

There is one last option for refused asylum seekers. They can apply for support under Section 4 IAA 1999, also known as ‘hard cases’ support. This provides accommodation, on a no-choice basis, and food or vouchers, but no cash, and is administered by IND. To qualify for such support, a refused asylum seeker must be destitute, but applications are often refused because time has passed and the person has obviously survived until now, usually on the charity of friends or others. One Asylum Support Adjudicator commented:

‘It has become apparent to the Asylum Support Adjudicators that there are many failed asylum seekers who are surviving only in this day-to-day manner. The fact that it is a long time since the appellant’s asylum support was discontinued does not render his account implausible.’\textsuperscript{24}

Where the refused asylum seeker has accommodation (for example, if they are staying with friends), the support will only be offered if s/he moves into the Section 4 accommodation provided. Unlike the other asylum support arrangements, there is no ‘subsistence only’ provision.

There are further criteria for Section 4 support and the applicant must meet at least one. S/he must show that:

- s/he is taking all reasonable steps to leave the UK or place her/himself in a position in which s/he is able to leave the UK (such as applying for a travel document or signing up to a voluntary return scheme)
• s/he is unable to leave the UK because of a physical impediment to travel or for some other medical reason (including late pregnancy and immediately after a birth)

• s/he cannot leave the UK because there is no viable route of return available. Many Iraqis signed up for Section 4 because, for some years, there was no safe route to all or parts of Iraq. Case law has now supported the Home Office’s view that some travel to Iraq is viable

• s/he has applied for judicial review of the decision on his/her asylum claim and has been granted permission to proceed with the review

• the provision of accommodation is necessary to avoid breaching a person’s human rights: this also covers people who may have made a fresh claim for asylum which includes new evidence or material or where permission has been granted to bring an appeal out of time

A refusal of Section 4 support can be appealed to the Asylum Support Adjudicators. At the end of June 2006, 6,145 people and their dependants were in receipt of Section 4 support, 1,795 of them as a result of decisions within the previous three months. The largest national groups in Section 4 accommodation were from Iraq, Iran, Sudan, Eritrea and Zimbabwe.

How do asylum seekers get legal advice?

There is no system to ensure that asylum seekers are able to get legal advice before, during or after their asylum applications. A range of voluntary organisations and private practice solicitors offer advice and representation, with funding through legal aid provided by the Legal Services Commission (LSC) for those who cannot afford to pay.

Generally, it has been left to asylum seekers themselves to find legal help, helped sometimes by a referral from a support organisation, community or friends. More recently, systems have been set up to enable people who have been detained or whose asylum decisions are being fast-tracked to get legal advice from a rota of lawyers contracted by the LSC.

From the mid-1990s, public funding for immigration and asylum advice was made available only to firms or organisations which held a ‘franchise’ to provide it, which involved some checks on the systems and quality assurance in use. Most franchised firms were given devolved powers to authorise legal aid funding on individual cases, which would cover the work undertaken and other ‘disbursements’ such as the costs of interpreting or commissioning expert reports.

The LSC voiced increasing concern that the bill for such work was continuing to increase, that much of the work they were funding was of poor quality or unnecessary and that there was a need to weed out the incompetent and possibly corrupt solicitors who were on ‘the gravy train’. Alongside this, the Commission has been moving in all areas of legal provision towards favouring larger scale providers, able to deliver economies of scale and manage effective relationships to underpin the funding. Many practitioners, advisers and refugee organisations argued against this that asylum seekers’ lives often depended on the commitment and experience of their representative, and that many lawyers practising on a small scale were acknowledged experts in their fields.

In April 2004, funding arrangements were changed:

• Devolved powers to self-authorise legal aid were removed from all but preferred firms.

• A limit was placed on the amount of work that could be carried out without prior authorisation from the LSC (five hours work for most asylum cases).
Case thresholds (funding limitations) were set to apply to individual asylum seekers, not practitioners.

No further funding was to be given to attend most Home Office interviews except in limited and defined circumstances.

Any work above the limits had to be authorised in writing.

All funded immigration lawyers, advisers and paralegals had to take an accreditation exam.

The effects of the changes, added to the difficulties already experienced by asylum seekers (because of dispersal, poor legal representation in the past, being ‘lost in the asylum backlog’ and destitution) were noted. In 2005, two reports on legal advice were published. The Mayor of London found that:

- inadequate provision of information means asylum seekers may have little understanding of the asylum process, the provision of legal advice or the progress of their own application, making it difficult for them to enforce their rights
- there is no co-ordinated system for identifying or referring to a good-quality legal representative for asylum advice
- the quality of asylum advice varies enormously and, while there are some excellent practitioners, poor-quality asylum advice, much of it publicly funded, remains a major problem
- poor-quality asylum advice can contribute to the refusal of an asylum application.

Asylum Aid and Bail for Immigration Detainees (BID) collated evidence of the effects of the cuts and changes across England. One striking example was provided by a Hull advice project:

‘At the inception of the LSP project Hull was serviced by the following: Humberside Law Centre… They are now closed… Alison McDonald solicitors… closed their immigration department after the April 2004 changes … Bridge McFarland were based in Grimsby but held a surgery one day a week in Hull. They also closed their immigration department in Hull due to the April changes. Young solicitors were the first to close due to the April changes. This has left Hull without any immigration solicitors. The nearest firm are Wilkin Chapman in Cleethorpes… They are currently full to capacity. We have had contact with clients who have not got the good and timely legal advice that is widely accepted as vital in ensuring access to justice and to protect human rights, to save the client time and stress and to save the government money and the Court Service time.’

In April 2005, the LSC introduced further changes, this time to funding for representation at appeals. The new rules mean that lawyers will only be paid ‘retrospectively’, ie, after the appeal had been decided, and only if the appeal is successful or is judged to have had significant prospects of success. This is in addition to the ‘merits test’ which must be applied to all legally aided asylum cases, that there is at least a 50 per cent chance of success.

**New Asylum Model**

Although the changes to legal aid have undeniably reduced the numbers of solicitors offering publicly funded advice to asylum seekers, the LSC is also working with the Home Office to provide contracts for legal advice in specific situations.

As well as the rotas for people on fast-track determination and in detention, a pilot to provide ‘interactive advice’ to people dealt with under the New Asylum Model is underway in Solihull. The aim is to improve initial decision-making, so reducing significantly the number of successful appeals against negative decisions. The pilot offers:
• a pre-screening information service within Asylum Screening Units run by advice providers on contracts from the LSC

• an appointment booked in the area to which the applicant is dispersed with a legally-aided lawyer, who will also be funded to develop a close relationship with the case owner, gather necessary evidence and attend the asylum interview.

If it is successful and the money for it is available, this pilot will be rolled out to all NAM areas some time in 2007. The pilot proposal has been broadly welcomed by most organisations working with refugees.

**Appeals, fresh claims and reopening cases**

The restrictions on funding make all lawyers nervous about undertaking work on appeals or beyond the five hour limit. Cases are taken on with the risk that the work done will not be paid for. Often, when an asylum seeker goes for further advice after a time spent with no money or home, it may be difficult to find out whether and how previous legal help was funded, what it covered or even who gave it.

Competent lawyers will, of course, not take on a case that is likely to fail the merits test. However, it is the reported experience of many asylum seekers that they are not told that their case has failed the merits test but simply that there is no more legal aid and further work will have to be paid for. This is the Catch 22: if the solicitor believes that the case is winnable then funding can usually be sought, although it may take a considerable amount of representation, involving hours of solicitor time, to the LSC. Asylum seekers facing destitution, however, are often left with the belief that, if they could find the money, they might be able to fight and win their case.
2. What else is known about destitution? Research and other relevant studies

Introduction

This research has focused on destitution among a specific client group, asylum seekers, most of whose asylum claims have been refused. We have sought to learn from and refer to other research about this group as well as talking to a wide range of organisations and individuals with an interest in or experience of the issue. This chapter describes how we went about this, which reports or studies were referred to and what was learnt from these other approaches.

Criteria

For the most part we have only been interested in research or studies that have looked at the issue of destitution among asylum seekers. We have defined them as those who have no access to any form of state support, no savings or similar resources and are not allowed to work or support themselves through other legal means. They may be getting support from friends, their communities, faith groups, destitution projects or by begging. They are, however, deliberately excluded from support by government policy and may also have restricted access to other services such as healthcare.

Given this, we have not generally looked at research that covers broader areas of destitution or social exclusion, although we have consulted some studies in health and mental health. With the exception of the reports from Australia we have restricted the contextual research to examples from the UK as being the most relevant. Most of the studies referred to have been conducted in the last three years as these were the most relevant, and provided information about the most recent policies and processes which have led and are leading to destitution.

Overview of research and information available

It is clear from the literature review that there is an absence of hard and detailed information both about the numbers of people involved and the effects of destitution on this group. Most has been carried out by and on behalf of the voluntary or faith sectors, with the exception of the London studies. There are no studies commissioned by central government, nor by universities, that focus directly on destitution.

We included in our search:

- research specifically commissioned on the issue
- research where the main focus has been another topic but which has included destitution
- anecdotal reports, staff briefings and material from organisations working with destitute asylum seekers
- figures provided by organisations working with destitute asylum seekers.

Our research has also been informed by:

- meetings with service providers
- meetings with local co-ordination groups or Refugee Forums
- meetings with staff of organisations working with destitute asylum seekers
- press articles
- meetings with national co-ordination bodies
- informal discussions and briefings with policy-makers.
Those conducting research include national voluntary sector organisations, organisations with a very localised remit, coalitions or groupings of organisations concerned with the issue, faith groups, refugee-specific organisations and organisations with a wider brief.

We have included in the appendices a bibliography that lists all sources consulted. A table listing the main documents and summarising their content is available on the Refugee Action website, which we hope will serve as a resource to future researchers in this field, but was simply too lengthy to include here. The following is a summary of some of the main issues raised.

**Some key lessons and findings from other studies**

It is important to note that some studies of destitution have focused on other issues, such as the impact of Section 55, although the more recent have tended to be based more on destitution at the end of the process.

Most of the existing research has arisen from the recognition that there is an awareness of a growing problem around destitution but that more needs to be known about why it is occurring and what is happening to the people affected. Some research has focused on a particular aspect of the issue, such as the access to legal advice or mental health issues.

Most studies are conducted on a localised level around one town or area. There is no research covering the UK as a whole.

**Numbers**

Nearly all of the studies have tried to ascertain how many people are destitute. There have been different approaches to calculating numbers but a common conclusion is that no one really knows, as there is no official mechanism or responsibility for recording numbers.

Some suggested methods have included the adoption of common recording systems across organisations working with destitute asylum seekers. Others have extrapolated figures from the numbers of people whose NASS support has been cut. Most have attempted to give a figure for their area (for example: 300 destitute in Newcastle, 1–2,000 in Birmingham, 500 in Coventry). While these are not insignificant numbers of people what is noteworthy is that they are a much smaller overall total than some of the other figures mentioned in this context. As noted above, estimates of asylum seekers whose claims have been refused but who have not left the country, are in the region of 100,000–200,000. However the main point to highlight is that neither the Home Office nor anyone else knows and the more modest figures suggested in the various studies and reports are at least based on some evidence and research.

From collating the estimated figures from all these studies, we can arrive at a total of less than 20,000 destitute asylum seekers surveyed in the UK. Given that this is an estimate it is hard to determine what these figures really mean and whether they are a true reflection of overall numbers of people affected. It may just be a reflection of the numbers accessing destitution projects. By definition it is hard to count or access people who are ‘illegal’ or have fallen out of any contact with official systems. However the figures in the reports are some of the best guesses that are available in the absence of any co-ordinated mechanism for recording and collating data.

**Other findings and conclusions**

Most studies have originated among practitioners providing services to destitute asylum seekers who have become increasingly alarmed at what they see happening to their clients and users.
The research is thus advocacy-based, and stems from the desire of local and other organisations to improve the situation faced by destitute asylum seekers. In contrast there has been very little academic (university-based) and no central government sponsored research into this issue.

Several remark that a new underclass of people is being created which government policy is deliberately excluding from ‘normal’ society. Underlying much of the research is a measured moral outrage that people can be treated in this way. Having said that, most of the research is clearly designed to produce objective and verifiable findings and does so.

Most of the studies have used the testimony of destitute asylum seekers as well as providing first hand information about their situation. Researchers may feel it important to find a way to allow the voice of this group to be heard, especially since they often find themselves disbelieved or ignored. They have tended to focus on the individual as opposed to the effects on wider communities or costs to service providers.

While some studies have looked at the lack of access to legal advice and some at destitution, none have sought to make any explicit links between the two to date.

Most studies have pointed out the negative effects of destitution on the physical and mental health of asylum seekers. In this context some studies have touched upon the role of local authorities and their powers to provide support to more vulnerable people, although they highlight a very inconsistent response.

Some studies have highlighted the need for training and support to staff and volunteers working with destitute asylum seekers, in particular counselling support.

The most common recommendations stemming from relevant research and studies are:

- Allow refused asylum seekers the right to work.
- Enable refused asylum seekers to have full access to appropriate mental and physical healthcare.
- Continue providing support to refused asylum seekers until such time as they are able to leave the country or their status is regularised.
- Develop better co-ordination among both the statutory and voluntary sector in the context of provision for this client group.
- Share models of good practice of working with this client group.
- Develop better collation of data about this group of people with some standardisation of definitions.
- Try to ensure that research or study in this field has a duty of care towards the subject of the research itself and that follow-up mechanisms are in place to give appropriate advice and support to those interviewed.

Useful insights from other contexts: Hotham and homelessness

Other studies offer useful reflections on the effectiveness of destitution as a tool of public policy which is used to attempt to change behaviour, ie, force ‘voluntary’ return. The Australian project (Hotham) posits a different but apparently effective method of achieving these policy goals. The research on youth homelessness in the UK offers a longer term view as to the effectiveness of benefits withdrawal as a way of changing human behaviour.
**The Hotham Mission**

The Hotham Mission in Australia has developed a casework model for working with asylum seekers that has proved particularly effective in helping them to remain engaged in the asylum process even at times of their potential removal from the country. This engagement is underscored by the principle that the casework offered is: ‘Based on a professional human services response to the unique issues that they [asylum seekers] face.’

Overall, the model seeks to provide a supportive and safe space for asylum seekers while they await a final decision. It is about building up trust between the caseworkers and the asylum seeker through a consistent supportive approach that seeks to: ‘empower the asylum seekers and facilitate the best possible immigration outcomes, whether they be settlement or return outcomes.’

This casework model has several key aspects that contribute to its success:

- Intensive casework is provided to asylum seekers from the early stages of their arrival in the country.
- Detailed assessments of the needs of the clients based on an understanding that there are often a number of inherent vulnerabilities exhibited by asylum seekers such as the effects of past trauma, trauma in flight, family separation, fear and uncertainty.
- Provision where appropriate of housing, medical assistance and counselling.
- Appropriate referrals are made to other welfare agencies, legal advisers and statutory providers while retaining casework support and co-ordinating provision by other providers.
- Ongoing or continuous casework support throughout the entire period that the asylum seeker is in the country: ‘lasting through the period during which the application and any appeals are examined until the person either receives a more permanent residence permit, or is expelled, repatriated voluntarily or resettled into a third country.’

The casework support seeks to prevent problems arising or developing and prepare the person for what may be crisis points, such as the possibility of return. The project has found that keeping the asylum seeker fully informed about their situation and helping them understand what is happening to them and why, enables them to take some control and make their own decisions. This understanding and engagement is in stark contrast to the confusion and withdrawal from the system that we witnessed in so many of those interviewed for this research.

A key outcome of the approach adopted by the Hotham Mission is a higher degree of voluntary repatriation and compliance with return schemes: ‘Actively engaging and informing clients allows for a range of practical steps to be introduced around their welfare and return concerns.’

Of the asylum seekers that the Hotham Mission has worked with in the last five years using this casework model, 84 per cent have returned voluntarily.

The Hotham Mission casework model seems to offer an alternative to destitution and forced removal by preparing, supporting and empowering asylum seekers throughout the asylum process, thus increasing the likelihood that they will comply with decisions and cope better with return or settlement.

**Homelessness lessons from the 1980s and 1990s**

There are some similarities between the current issue of destitution among asylum seekers and that of homeless young people in the UK in the 1980s and 1990s. During this period, organisations working with homeless young people had noticed an increase in the numbers of people affected. Efforts were made to learn
more about the causes of their homelessness. The voluntary sector found that the ‘push factors’ which were driving young people from their home and on to the streets, or into overcrowded bed and breakfasts, were a range of factors including abuse at home or high unemployment in particular parts of the country.

The response of the government at the time mirrors some of the current attitudes towards destitute asylum seekers. Rather than look at these ‘push factors’, they claimed that young homeless were being ‘pulled’ by the reward of benefits that they could claim if they left home. So they sought to restrict such benefits, in the hope that they could modify young people’s behaviour and ‘solve’ the problem of youth homelessness. It was suggested that young people chose to be homeless and that this choice could be heavily influenced by policy changes. In other words, the government tried to use destitution as a tool to change people’s actions.

On the whole this approach did not work, as the causes of their homelessness (the ‘push factors’) were far greater than any offer of benefits. Young people continued to leave home to escape the troubles and horrors they were trying to leave behind. It simply meant that many were driven to greater extremes in order to survive as destitute.

Organisations working with young homeless people continued to highlight what they now saw as a greater problem and suggested positive ways to address the needs that they were seeing among their clients. The government’s response to these concerns was characterised by denial in the first instance, enabled by the fact that the problem was not particularly visible. Again there are parallels to some current denials about the extent of destitution among asylum seekers today. However, when office and shop workers in Central London began tripping over young homeless people sleeping in workplace doorways, it was hard to deny that there was, in fact, a problem. Consequently, although the benefit regime was not entirely restored, more sensitive and pragmatic solutions were supported that addressed the issue in a more humane and practical way, such as funding more supported hostels.

In *Single Homelessness: An overview of research in Britain – 1990-1999* the authors highlight some common features and recommendations of the research among this group that are also applicable to current research with destitute asylum seekers.

‘[There has been] an increasing emphasis both in research and policy on holistic solutions and in inter-agency working to meet the range of homeless people’s needs [with a] developing emphasis on the prevention of homelessness.’

As with destitution among asylum seekers, there was an issue about numbers and data:

‘In recent years there has been increasing recognition of the importance of producing reliable estimates of the scale of single homelessness. However there is no readily available, comprehensive and robust source of information on the number of homeless people. This is due in part to the lack of an agreed definition of homelessness and to the ‘hidden’ and ‘mobile’ nature of many people’s homelessness.’

Perhaps the most pertinent conclusions relate to the nature of the issue and the context:

‘…some decisions come down to essentially political or moral judgements, which empirical evidence alone cannot answer.’ In other words, questioning what is an acceptable way to treat people – a common theme of research and advocacy on destitute asylum seekers.

There are other lessons that the research on single homelessness can provide for those seeking to address the needs of destitute asylum seekers, but the overriding one is that creating destitution by denying a legitimate means of support does not change people’s behaviour in a
positive way when the underlying causes for that behaviour remain.

There is a wide range of studies and research into poverty and exclusion that we have not specifically mentioned due to space. However it is worth noting that many organisations and individuals that we consulted during the research stressed the importance of looking at this issue from these broader perspectives and draw upon what has been learnt over many years in tackling those issues. Future research may benefit from highlighting these links.
FINDINGS
1. Profile of those interviewed

A total of 125 people were interviewed. Of these, 91 (72 per cent) were men and 33 (27 per cent) were women. The most recent figures issued by the Home Office\(^{38}\) show that women make up 28 per cent of main applicants for asylum. The gender distribution of interviewees can thus be said to be a reasonable reflection of the national figure. Any significant gender differences in the research findings will be highlighted throughout the report.

Length of destitution

Just under half (49 per cent) described themselves as having been destitute for up to a year. Of the rest, the majority had been destitute for one to two years, with one person having been destitute for five years.

Geographical spread of those interviewed

There was an even spread of interviews across the regions covered by Refugee Action, with the majority taking place in the Midlands (39 per cent), just under a third (29 per cent) in the North West (Liverpool and Manchester), just under a fifth (23 per cent) in the South West, and the remaining 8 per cent in the South East of England.
Nationality

The nationalities interviewed are listed below, with the top five nationalities being the Democratic Republic of Congo (DRC), Zimbabwe, Somalia, Iraq and Sudan. The absence of Sri Lankans from the list is surprising, given the number of Tamils seeking asylum in recent years. One reason may be that they are not making use of the services that were used to identify individuals to interview, possibly because some larger refugee communities are supporting members of their community who are refused asylum seekers, and so they do not access services so frequently.

The number of female asylum seekers among nationalities that apply to the UK for asylum can generally be observed to be lower for those fleeing countries where women’s rights are repressed than from countries where they are not. It could be argued that the figures above reflect this, with the exception of those from the DRC.

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Total</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRC</td>
<td>28</td>
<td>23</td>
<td>5</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>14</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Somalia</td>
<td>13</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Iraq</td>
<td>12</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Sudan</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Ethiopia</td>
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<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Eritrea</td>
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<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Iran</td>
<td>5</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Burundi</td>
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<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Cameroon</td>
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<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Uganda</td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
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<tr>
<td>Cote d’Ivoire</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Palestine</td>
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<td>Algeria</td>
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<td>China</td>
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<td>Rwanda</td>
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<td>1</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>1</td>
<td>0</td>
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</tr>
</tbody>
</table>
**Age**

The great majority of those interviewed (95 per cent) were under 50 years of age. This reflects national figures indicating that asylum seekers are generally young. Home Office figures for 2005 show that 98 per cent of applicants were under 50 years old. There was little discernible difference between the gender distribution in relation to age other than slightly more men between the ages of 21–30 (46 per cent) than women (37 per cent).

**Marital status**

The majority of those interviewed were single, which fits in with the national profile of asylum seekers, single people being more mobile.
Children

Nearly half (47 per cent) of the women interviewed had children abroad, while just under a fifth (18 per cent) of men had children abroad.

Educational level

The table below shows that more than a third (36 per cent) of those who were interviewed had been educated to higher education and university level. Just under a third (31 per cent) were educated to secondary level. The women interviewed were slightly more educated than the men with more than three quarters (78 per cent) educated to secondary school level and higher, while just under two thirds (64 per cent) of men had been educated to secondary level and higher. Less than a fifth (16 per cent) had had no education at all.

<table>
<thead>
<tr>
<th>Educational level achieved</th>
<th>Male %</th>
<th>Female %</th>
<th>ALL %</th>
</tr>
</thead>
<tbody>
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<td>None</td>
<td>18</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Primary</td>
<td>18</td>
<td>9</td>
<td>15</td>
</tr>
<tr>
<td>Secondary</td>
<td>30</td>
<td>36</td>
<td>31</td>
</tr>
<tr>
<td>Further/higher education</td>
<td>10</td>
<td>18</td>
<td>12</td>
</tr>
<tr>
<td>University</td>
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<td>24</td>
</tr>
<tr>
<td>Postgraduate</td>
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<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

Immigration status

Over a third (35 per cent) of those interviewed had exhausted all appeal rights and technically come to the end of the asylum claims process. Many were diligently presenting themselves weekly to the local immigration office in an effort not to break the law. They did not perceive themselves as being illegal and were confused about their status in the UK. Just under a quarter (24 per cent) of those questioned were not clear what their asylum status was.

Marginally more of the women interviewed (32 per cent) than men (24 per cent) were understood to be awaiting acceptance of a fresh claim. More of the men interviewed (38 per cent) than women (26 per cent) had come to the end of the process. Other than that, there were few gender differences in the status of those interviewed.

<table>
<thead>
<tr>
<th>Status</th>
<th>ALL %</th>
<th>Male %</th>
<th>Female %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appealing</td>
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<td>2</td>
<td>6</td>
</tr>
<tr>
<td>Awaiting acceptance of fresh claim</td>
<td>26</td>
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<td>32</td>
</tr>
<tr>
<td>Awaiting deportation</td>
<td>8</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Awaiting first decision</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Awaiting outcome of appeal</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Don’t know</td>
<td>24</td>
<td>23</td>
<td>26</td>
</tr>
<tr>
<td>End of process</td>
<td>35</td>
<td>38</td>
<td>26</td>
</tr>
</tbody>
</table>
Length of time in the UK and date of application for asylum

Most of those interviewed applied soon after arrival. The graph below shows a close correlation between arrival and application. The peak between 2001 and 2002 could be said to mirror the higher number of applications overall made around those years: 2002 was the year in which the highest number of asylum applications was made to the UK (103,100).

**Year of arrival and year of application for asylum**

![Graph showing number of interviewees compared to year of arrival and application. The peak is between 2001 and 2002.](image)
2. Why and how did people seek asylum?

We asked all people during the course of the interviews to give us a brief personal history, and their reasons for applying for asylum. This chapter gives an overview of the range of reasons why people had left their home countries, why they had come to the UK, how they had got here, and the human cost of such a journey.

Who did people fear?

“\textit{My area was attacked and so the whole family fled and then separated. I hoped that once I was safe I could save my family.}”

37-year-old man from Sudan

In order to be accepted as a refugee, people need to show that they have ‘a well-founded fear of persecution’. There is more detail on this in the context section.

Over 90 per cent of the people we interviewed were prepared to describe in detail instances of persecution which had led them to leave their home countries. The reasons for this persecution were many and various, but broadly the nature of their persecution could be categorised into three broad areas:

- Those experiencing persecution by the state.
- Those experiencing persecution by ‘non-state agents’, for example by rebel groups, other clans or society at large.
- Those caught up in civil war in their country.

Inevitably, for many the lines between these categories were blurred. Those caught up in a civil war, for example, may have experienced the turmoil of war but perceived this as persecution by the state, as they were imprisoned and tortured because they were seen as part of the anti-government forces. Some, fleeing from violence and persecution, found it difficult to work out why they, their family and their people had been attacked, and described persecution both by state and anti-state factions.

Some of these accounts demonstrate the extreme difficulty of trying to describe persecution clearly in the face of a breakdown of law and civil order. For those caught up in conflict, it can be a highly confusing as well as terrifying experience which is, in a very literal sense, inexplicable:

“The previous government of Somalia at least protected us, but when Alim Hade became President lots of ethnic fighting started... I can't remember... I don’t know who changed but somebody changed but anyway it got very unsafe for us and a large number of my tribe had been killed and we were treated as people who were not allowed to live... I was raped, and tortured, and my father and brother were killed and my sister kidnapped and I still don’t know where she is.”

28-year-old woman from Somalia

Sometimes they had sought to find refuge in neighbouring countries, only to find that these, too, were unsafe. Some found that their persecuted status simply increased once they got to another country:

“The Sudanese government had great power over Eritreans living there. They could do what they liked to them and not fear reprisal.”

48-year-old woman from Eritrea
There were several accounts of people fleeing refugee camps where they had experienced persecution from others living in the camp.

“We left Somalia and moved from place to place... we went to a camp in Kenya. We were there for three or four years, but the camp wasn’t safe. Soldiers would break in and rape women and attack the men. I have injuries from being beaten by a soldier with the butt of a gun.”

23-year-old man from Somalia

**Persecution by the state**

Well over half of those interviewed gave accounts which indicated persecution by the state and its agents. Many had been actively involved in overtly political activities, as musicians, trade unionists, teachers, human rights activists, academics and anti-government organisers. Because of this they had been singled out for persecution:

“I was involved in politics as part of my research. One day they searched my taxi and found me with a political card. I was kept in prison. Ever since then I had problems with the government. They came to the house to harass me. After this I got more involved in protests against the government. The second time they arrested me they threatened me and raped me. They came to my home and made a mess. They hit my family members like they were dogs. When they detained me the last time, they had recognised me on a protest march. They took me to jail where I was raped by two policemen. I was handcuffed and they beat my feet.”

37-year-old woman from Cameroon

“I worked for a trade union – I was supporting the lowest paid people in the company and I was politically active... I was arrested due to my activity against the government.”

48-year-old man from the DRC

Some described how they had been caught up in rapidly changing political regimes. Once the regime changed, they found themselves ‘on the other side’, suspected by those new to power and subject to persecution born of paranoia or revenge:

“My father was high up in Saddam’s forces. Terrorists started harassing me to go back but I joined the new Iraqi government with my father. Terrorists started saying they would kill him unless he left the new Iraqi army. When he refused they killed him... Now I could be killed by Kurds for the past and Arabs (the terrorists) for not joining them.”

23-year-old man from Iraq

“Most of my family were pro-Taliban. We ran a well known business in Kabul... when the Taliban collapsed I had to leave because my life was in danger.”

31-year-old man from Afghanistan

Many found themselves persecuted because of their association with politically active members of their family:

“The police came to kill my brother and sister. The government of Kabila hated my father and accused him of fermenting rebellion. They didn’t believe he was dead, even though he was, and they were going to come and kill us as a way to get to him.”

24-year-old man from the DRC
"I used to put up Movement for Democratic Change posters and organise meetings. They came to arrest me and wanted to push me into military service as a way of punishing me for this."

24-year-old man from Zimbabwe

Some were unwittingly caught up in activities which were interpreted as anti-state without even knowing what they were doing:

"I was accused of distributing anti-government propaganda because I had been asked to photocopy papers that were criticising Iranian government policy. I couldn’t read and so didn’t know what I was copying."

18-year-old man from Iran

"They [the military] considered me guilty because I was associated with my boyfriend, the soldier… He was basically a member of a rebel group. He got me to do things for him which I didn’t understand. In my country you don’t question a man, you just do as they say."

42-year-old woman from the DRC

Others found themselves persecuted by the state because of their clan or tribe. In some instances the government actively pursued persecution of some groups, and legitimised persecution by others:

"The problems started when the government supported Arab clans to control other clans."

28-year-old man from Sudan

If they had escaped persecution at home to a neighbouring country, they could find that things were even worse there:

"You have no future in Ethiopia as a Somali refugee, you are not allowed education and it is not safe. If you go out, you get beaten."

29-year-old man from Somalia

One man had been persecuted because he had refused to persecute others:

"I was put in prison in the DRC because I disobeyed orders given to me by my superior. I disobeyed him because what he wanted me to do was inhuman and against human rights."

37-year-old man from the DRC

Civil war

For those caught up in war, persecution could be by the state or those opposing it, or both. Often the view from the ground can be simply of indiscriminate and unpredictable violence:

"I worked with my father on a farm. He had cows and I had to help him so I didn’t go to school. Then soldiers came, and they killed my father, mother and sister… I ran away, and then they told me that they had demolished the village."

27-year-old man from Sudan

The outbreak of war can transform seemingly low level discrimination into widespread violence and killing, as we in Europe know to our cost. Once civil war had broken out in some of the countries, people described how they were fair game for any form of violence going:

"There is a civil war. We are from a minority clan. I was abused, I can’t describe what happened. My father was killed in front of me. My sister was raped. I fled to the Kenyan border. There the police were raping the girls. I went back to Somalia, but there we are considered non-Somalis and seen as Arabs. They attacked me and they destroyed my manhood."

31-year-old man from Somalia
Several described stories where they were either unwilling or unwitting participants in conflicts being acted out around them. One woman who ran a business supplying pharmaceutical drugs found her business attacked, staff beaten, husband kidnapped and herself raped. Only later did she discover that boxes from her company had been found with the rebels. She had no idea how they had got there, and suspected that another pharmacy had used their boxes to supply their own drugs and protect themselves. Because of this she was suspected of collaborating with the rebel forces:

“I escaped to Kenya. I had to flee without seeing my children... they were at school... they were coming back to rape me again and I was terrified... The Ugandan authorities thought that we were supplying rebels. When I was there, I heard my husband had disappeared.”

39-year-old woman from Uganda

Some had been coerced into working for the armies, and they fled from this:

“My home town was occupied by the militia. I was forced to work for them as a mechanic, fixing cars day and night for no money. Sometimes they gave me food. If you didn’t do as they said they would kill you.”

31-year-old man from Somalia

Women are also likely to be persecuted for breaking social mores. One woman described how she was systematically threatened because she developed a lesbian relationship following the death of her violent and alcoholic husband:

“After he died, I was devastated largely because two of my daughters had also died. I carried on teaching. Then I met someone else, but she was a woman. I realised I had feelings for her. But my family didn’t like it, and gradually we were more and more threatened... then I was sacked from school as they told me that I was morally misleading the children. My sons were very angry about me and they threatened to hurt me and hurt her. But then it happened – we were picked up by some youths and taken and beaten and she was raped... I fled... I don’t know if she is alive.”

67-year-old woman from Zimbabwe

Non-state actors of persecution

There were many examples of persecution for reasons other than actual or perceived state opposition. People from minority groups described persecution by other, more established, groups:

“My wife was from the Hema tribe. My relatives did not like them because she was from a different tribe from us. They killed my parents, and my life was under threat.”

31-year-old man from the DRC

“Family honour and family factions were also described as a threat:

“My father had a second wife. It was a threat for me to return to Somalia as my mother feared that I would be targeted by the second wife and her family who were afraid that I would take over the property.”

22-year-old man from Somalia
“My family found out that my girlfriend had joined Islami Jihadi. My girlfriend’s family threatened to kill me because they did not like me having a relationship with her.”

23-year-old man from Iraq

What had happened to them?

Some people felt able to describe what had happened to them at the hands of their persecutors in some detail. Others were only able to give brief accounts, quickly moving over incidents where punishment and violence were implied but not stated.

“I had a political problem. I was arrested and in prison a few times.”

30-year-old man from Cameroon

“I worked for a human rights organisation, and the organisation and I had many problems…. I was arrested and tortured a lot.”

27-year-old woman from the DRC

A small number were unable to tell us anything about their experience of persecution as they did not wish to talk about it at all.

Torture

About 10 per cent of those we spoke with described torture or extreme physical punishment. In a few cases, people described systematic and prolonged bouts of torture in prison, endured over months and in a few cases years. In others, torture took the form of physical punishment received outside prison, for example, severe beatings by the police. Though they did not necessarily think of this as torture, many still visibly bore the scars in the form of broken bones, internal injuries and reduced mobility. Doctors’ certificates or treatments in the UK testified in many cases to conditions caused by physical violence prior to arrival.

“I was tortured by the government… they put me in prison because they thought I knew something about the rebels. They held me there for three months. They didn’t care what they did. It was not human – it was animal. I saw death in prison.”

27-year-old man from Sudan

“When I was in prison, I was tortured along with everyone else. It was common for people to be killed.”

46-year-old man from the DRC

“I was bundled into a BMW car and driven away…. Then they took me out of the car and beat me and left me for dead in the jungle. I was in a coma. I don’t know how long it was before I woke up. I crawled to the main road but I looked so terrible nobody would stop.”

39-year-old man from Zimbabwe

“If you are from a different clan you simply get killed. They fasten your legs on to two different cars – you get killed in a bad way.”

28-year-old man from Sudan

“They put me in tiny cells and tied me up and I got no food and drink. I was stabbed during one interrogation in the back. They burnt me with cigarettes. I think they treated me like this because I didn’t speak Swahili and they did not believe me.”

31-year-old woman from the DRC

Rape

Rape has recently been recognised as a crime against humanity, and is used by the state during times of civil conflict, as a deliberate strategy to dehumanise and gain control over a group of people. This is currently being demonstrated in Sudan in Darfur. About a third of the women interviewed (34 per cent) told us they had been raped, some in and some out of prison. In addition, two men stated having been raped. One of these found the telling so difficult that the interview had to be stopped for a while.
“In jail I was stripped and raped. The conditions were terrible. I was raped several times, both at the back and at the front. I got diseases from this.”

47-year-old woman from the DRC

“One day I was at home with my daughter and soldiers came and told me that my husband had disappeared from prison and said they were looking for him but I didn’t know where he was… they broke into the house and started to beat me, and took my daughter from my arms. They tore all my clothes off and separated me from my daughter. They raped me – there were lots of them – they raped me – I was just wanting to hear my daughter cry out but since that day I have not heard my daughter cry again - I haven’t seen my daughter since that night.”

31-year-old woman from the DRC

Several women described instances of multiple rape, where they had witnessed family members raped (as well as beaten) and then been raped themselves:

“When people raped my mother, I was also raped.”

27-year-old woman from Somalia

There was also evidence of forced rape being used as a form of torture:

“There was also unrest in Angola when the leader of the opposition was killed. The national army started recruiting people by force into the army. Once on a business trip I was asleep in a guest house and a group of people were arrested that night. I was one of them... I heard screams after a while coming from one of the rooms and realised they were raping a woman. I was ill – physically ill – but they made me get up and... They made me rape her – she was pregnant and had a stomach like a balloon but the soldiers forced me to do the rape and started to hit me with the guns. I still hear her cries.”

41-year-old man from the DRC

In one particularly terrible example, the result of rape had been death:

“Government soldiers came to my house before we could leave. They raped my sisters, broke my brother’s arm and hit me with a rifle. They even raped my daughter – she was only three and she died.”

30-year-old man from the DRC

One woman told the interviewer that this was the first time she had told anyone about being raped:

“I couldn’t tell immigration because I was told I would be taken to hospital and examined and they would put something inside you.”

27-year-old woman from Somalia

Imprisonment

About 20 per cent of those interviewed indicated that they had been imprisoned at one time or another. Some had been put into prison on numerous occasions, whereas others had gone there for protracted periods of time (up to four years), often accompanied by systematic programmes of torture.

The conditions described in prisons were often horrific. One man, describing how people were killed in prison, described the problem they faced with the decomposing corpses:

“Quite often they would leave the bodies, but if they left them too long they would start stinking. Then they would get prisoners to take them outside to bury them...”

46-year-old man from the DRC
Several people managed to escape from prison, citing bribery and family ties as the most common means of securing a passage out. One person described how they had to pretend to be dead in order to be bundled out in a body bag, and thence to the airport:

“They took me to a worse prison. But here at last they took me before the Commander who has worked with my father. He told me that I had to tell them where my husband was but I didn’t know. He said that I would die here unless I got out, as everybody did. He said he would help me, but had to pretend that he was killing me in order for it to look real. So I was beaten by people and they put me in a sack and beat me. And he fired a shot and told people I was killed, and they carried me in a sack out of the prison and I was taken somewhere - I think it was a church.”

31-year-old woman from the DRC

One man described vividly the fear of the prison regime:

“They put me in jail. Then the soldiers got my boss on the same day and beat him badly – he died the same night. Then they tortured me to make me tell about my boss and his communications. I knew nothing, but they kept me in jail. Every week they used to kill people after midnight. If you were called during the day it was good, but if you were called after midnight you were dead.”

43-year-old man from the DRC

Loss of family

As well as violence to the person, persecution led for most to a loss of family members. People got separated from their families during war, or when their houses were attacked and they fled, or when they were imprisoned and then had to flee. People lost parents, wives and husbands as well as children, either because they got separated or because it was just impossible to bring them with them when they fled to safety.

“If circumstances forced me to leave Zimbabwe. I would not have come here – I am almost 60! Why would I want to? My child was killed by the government. I was getting threats all the while... my wife in Zimbabwe has a broken spine and is partially blind so she could not come with me.”

50-year-old man from Zimbabwe

The choice in such cases was clearly agonising, and made no easier by the virtual impossibility of finding news once they had arrived in the UK. Many were trying to find out information about their families. If successful, the news could be devastating:

“If after I came here Zanu-PF men went to see my 14-year-old daughter in Zimbabwe – they wanted money because they thought that I was sending it to her from England – I wasn’t but they didn’t believe her. They attacked her and beat her to death.”

53-year-old woman from Zimbabwe

Loss of property and livelihood

People also lost their positions, employment, property and livelihood. Several told of having had their houses burnt down and their livestock killed:

“Our house was burnt down, and my hairdressing salon was burnt down, and we had to flee.”

30-year-old woman from Côte d’Ivoire

“My family owned five villas and two cars. I came from a very comfortable family. Now I have lost everything.”

30-year-old man from the DRC
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“I was married. I had a family. I was a business woman. That’s all changed.”
39-year-old woman from Uganda

How did people travel to the UK?

“I came to the UK in a flower lorry.”
56-year-old man from Belarus

Nearly 60 per cent of the people interviewed indicated that they had paid an agent directly, or indirectly through family members, to bring them to safety. In some instances this involved paying very large sums of money ($9,000 in one case, £5,000 in another) in order for the agent to arrange to get them safely out of the country and to a place where they could seek asylum. Those able to pay for flight were normally accompanied, while those paying less money normally travelled by boat on their own or in groups with other asylum seekers.

For those who did not or could not use an agent, their flight had often been assisted by family or friends, business associates or in some cases the Church. In some instances this involved dissembling, and pretending to be somebody else. One woman had to pretend to be a nun, while another man pretended to be a sailor in order to gain access to a ship out. For some, their contacts in opposition movements in their country had clearly helped them to understand the potential pitfalls of getting out of the country.

One man – who had already helped two activist brothers out of the country – described how getting through the airport was impossible if you had a pre-booked ticket. This would show up your name, and the authorities would be alerted. The only way to board a plane was thus to go on standby, and have friends at the airport who would rush you through without your name or face registering with any official checkpoints. This he did.

Agents mostly accompanied them to just past the point of entry. Some left them at the airport door, or at a phone box with a number to phone. This was a difficult feat when they didn’t speak the language:

“At Gatwick, the agent wanted to keep my passport so didn’t let me apply at the airport.”
25-year-old woman from the DRC
“When we arrived at the airport, he took all my documents and left me at the bus station. Someone took me to a church, and the church sent me back to the airport to claim.”

23-year-old man from Burundi

Why did people come to the UK specifically?

The vast majority of those interviewed did not choose to come to the UK specifically. They found themselves in this country because of a variety of factors. Some had come to England because it was the only country with a direct flight from their nearest airport. Mainly however they had found themselves here because that was where the agent they paid to help them leave their country had brought them. Several people indicated the extreme vulnerability they felt once they had entrusted their lives to such agents:

“…when I was scared I gave all my money to an agent… a trafficker, I think you call it. So I just followed. Once I was out of Angola, I felt quite vulnerable, and I was still scared, so I just followed.”

41-year-old man from the DRC

For many of the people who arrived here with agents, they did not realise where they were until several days after their arrival:

“I had no idea I was coming to the UK. I speak French. If I had a choice, I would have chosen France or Belgium.”

31-year-old man from the DRC

“[The UK was]… where the man could get me to. When I arrived, I didn’t know where I was. All I knew was that I wanted to leave the Sudan. I had no knowledge even when the police arrested me.”

27-year-old man from Sudan

“A Catholic person came with me… I didn’t even know I was in the UK. It was during the Home Office interview that they told me I was in the UK.”

30-year-old man from the DRC

Of those interviewed, only 15 identified positive reasons for choosing to come to the UK. For some of these it was because they had family already living here:

“My daughter had married an English man, and I came as a visitor.”

67-year-old woman from Zimbabwe

“I had two brothers here, also activists from Zimbabwe, who had claimed asylum successfully.”

27-year-old woman from Zimbabwe

For others it was a practical decision based on language and a sense of alignment with British culture and way of life. Others had gleaned partial information about the UK (and Europe) from news reports and friends, and based their decision on the fact that the UK seemed the fairest country to go to, with the best human rights record.

Choice of UK as destination

- 105 (87.5%) positive choice to come to UK
- 15 (12.5%) Came to UK because others arranged it
“In Afghanistan we believed that the UK is the best country in Europe. Everyone said that in other countries they lock you away in camps for years.”

37-year-old man from Afghanistan

“I knew a bit of English and I thought that in England foreigners and ethnicity isn’t a problem.”

53-year-old Azeri man

A recurring theme of many people was that, had they known what they know now, they would have thought again and tried to go somewhere else. Several expressed regret about the way things had turned out:

“I chose the UK because the man I gave money to said it was the best place to come in Europe – if I’d known then what problems I’d have I would never have come.”

27-year-old woman from Somalia

Having fled, how did people now describe themselves?

As well as telling their often highly traumatic stories we asked people to tell us how they would describe themselves. We wanted to find out how, after all that had happened to them, they would sum up who they were to somebody who did not know them.

Some found this obviously difficult. After months and years of communicating (or trying to communicate) about their experience, they were unable to think of anything to say about the person who they were outside this experience. They summed up who they were by quoting their nationality, or their previous employment, and leaving it at that.

Others described themselves as the product of their persecution and experience of seeking asylum. They took the opportunity to tell us what the process had made them feel, which was often as if their very personalities had been uprooted or even erased:

“I feel I am sort of lost.”

27-year-old woman from the DRC

“I don’t feel like I am acting like a woman any more. I don’t feel like a mother any more. I feel isolated and alone. I feel I have lost myself.”

42-year-old woman from the DRC

“I don’t know. I can’t describe myself. I am a troubled person, with lots of problems.”

28-year-old woman from Somalia

Others chose to present an image of themselves in happier times, and highlighted what they had been:

“I used to dig water wells and make pumping fixings in Sierra Leone. I worked for Oxfam and in the poor communities. We were a poor family ourselves.”

48-year-old man from Sierra Leone

“I am a furniture maker and a footballer.”

24-year-old man from Zimbabwe

“I’m highly educated. I held a senior management position in Addis.”

38-year-old man from Ethiopia

Others took the opportunity to give us an insight into their interests, their character, or their principles:

“I play chess online and enjoy it.”

26-year-old Zimbabwean man
“I’m just a normal person, a humble person who does no harm to anybody. I like peace and quiet, and would like to see people happy. I hate violence, as I have experienced a lot of it in my life.”

67-year-old woman from Zimbabwe

And some people, in spite of the loss, fear, rejection and hardship endured, still described themselves in terms of the future, and in terms of what still could be:

“I want to be a criminologist one day. I am keen to learn.”

37-year-old man from the DRC

“I’m optimistic and very, very strong in enduring and I seem to make friends easily. I am strong minded and will not be diminished.”

36-year-old woman from Zimbabwe
3. What happened when they applied for asylum?

The process of applying for asylum is explained in the context section of this report. It is important to note that most of the people we interviewed had claimed asylum before the changes recently introduced by the Home Office, particularly those intending to improve the quality and speed of decision-making through the New Asylum Model. It is also important to note that unless some of the concerns and failings identified below are addressed, the new system will continue to replicate ineffective and inefficient practice.

This chapter will identify some of the weaknesses in asylum application systems experienced by the people we interviewed and the obstacles they faced to explaining their cases. It will do this by drawing on their experiences and their accounts. It can be argued that people who are disappointed by the result of their case (and most of those we interviewed had been refused) are clearly going to be critical of the system. However, there is enough evidence here, to show that the combination of procedural failures and the lack of transparency in Home Office policies on ‘at risk’ nationalities, as mentioned earlier in this report, give cause for serious concern.

What did they know about asylum before making a claim?

The vast majority (86 per cent) of those interviewed knew nothing about what to expect from the asylum process. Only a fraction (14 per cent) said they understood what claiming asylum meant:

“I had no idea what claiming asylum was. I had to ask what was going on.”
Woman from Palestine

“I was told they will help me. They will not harm me.”
31-year-old man from Somalia

“I didn’t know anything until I came to the UK and a taxi driver explained what I had to do.”
33-year-old man from Sudan

“I thought that by fleeing to a country you would just stay there. I never thought I would go through a whole process.”
23-year-old man from Sudan

This issue is dealt with in more detail in the following chapter, but it is important to note that nearly two thirds (62 per cent) did not get any help or advice before making their claim. For the third (36 per cent) that did there was no guarantee that the advice came with any quality assurance. One was advised by a taxi driver on how to apply for asylum and then helped to fill in forms by a friend. Some were told by those who arranged their travel to apply when they arrived: “make a noise and surrender to the police,” said one agent. Some found help or advice by chance: a woman at the airport who offered accommodation and then told them to go to the Home Office at Croydon. Others from the same community also helped:

“I was told to look for members of my clan in Birmingham. I took the bus to Birmingham and asked a Somali woman for help. She took me to a cafe where Somalis hang around. They told me I had a cousin living in Bristol. They sent someone with me to Liverpool to make my claim and then took me to Bristol.”
29-year-old man from Somalia
**Initial interview and Statement of Evidence Form**

The importance of the Statement of Evidence Form (SEF) and the initial interview cannot be overstated. Anything omitted from this may be considered as inadmissible at a later stage or held as evidence that the asylum seeker is fabricating his or her claim. Most people living in Britain do not understand the asylum system and find it confusing. It is obviously even more so for those who have just arrived and who do not speak English as their first language.

The research revealed that many of the interviewees were not sure what stage of the process they were in and what was expected of them. Some of them were given a screening interview before they were given a more detailed interview to assess their claim, while others went straight into their main interview. During the initial screening interview the immigration officer took down basic details, took photos and fingerprinted them, before making an appointment for a more detailed interview. Applicants were often confused and unsure what had happened at the first interview or why questions were asked:

“I can’t really remember. It all just happened. I wasn’t sure I could trust anyone. I was so confused. The agent had given me instructions for what to do when you come here. You just follow their instructions. You are so confused, you don’t know who to trust.”

33-year-old man from Somalia

“I was afraid. I didn’t know anything about this part of the world. I thought it would be like the African police. If you talk, you are jailed.”

31-year-old man from Somalia

“I was still in shock. I didn’t know anything about the country, the language. They weren’t interested in why I had left Iran. They only wanted to know how I got to the UK.”

26-year-old man from Iran

“They gave me an interview, took my fingerprints, photograph, gave me a form to fill in and told me to get a lawyer.”

23-year-old man from Somalia

“They weren’t interested in my reasons for claiming asylum. They just wanted to know how I got here.”

Man from Somalia

Many found the questioning very stressful, reminding them of their experiences of torture and interrogation:

“I was fingerprinted and my photograph was taken. It felt like an interrogation.”

34-year-old man from the DRC

“Questions, questions, questions.”

Woman from Palestine

Some interviewees spoke of being intimidated and confused and so found it difficult to explain why they had arrived. A bad interview at this stage, especially when combined with poor legal representation later can make it difficult for an individual to regain their credibility within the asylum process:

“One of the officers at my interview was very emotional and got angry. He would say, ‘No, I’m not asking you that question,’ when I wanted to elucidate on various points and kept saying, ’just one word answers’. He would get angry for no apparent reason. He was the one completing my SEF.”

Woman from Zimbabwe

“It lasted about an hour. They asked all the questions. I could not be proactive and tell them what I wanted them to hear. I found it hard to be assertive in the interview… I could not say what I wanted to as I had just to answer the questions.”

Man from the DRC
This kind of interview is unlikely to create an atmosphere in which an asylum seeker will feel they can trust the immigration officer enough to divulge painful and often intimate details of their experiences.

**Interpreting**

Just under half (45 per cent) of those that took part in the research were interviewed by the researchers through an interpreter. Consequently, the researchers were able to experience the difficulties associated with communicating complex information through an interpreter. Where the individual's English was poor, and there was no interpreter, it was particularly difficult to obtain complex information.

It should be noted that of those interviewed, a third (33 per cent) came from Francophone African countries. For most of these, even French is unlikely to be their first language. A third (33 per cent) came from Arabic speaking countries and of the remaining third only those from Zimbabwe, Uganda and Ghana (14 per cent of the total) are likely to be able to speak English fluently, although not necessarily as a mother tongue.

In most cases, an interpreter seems to have been used for Home Office interviews. However there were numerous complaints about the quality of the interpreting many had experienced. When asked to comment about the interpreting at their screening or first interview, half (50 per cent) were not happy with the way their story had been interpreted and only 39 per cent were satisfied with the interpreting they had been given. The following quotes illustrate some of the difficulties claimants were faced with in trying to communicate, in the initial stages of the process, the complex circumstances associated with their flight:

“**The whole problem happened with the interpreter. I was in need of an Oromo interpreter but was given an Amharic interpreter. I didn’t speak Amharic as well as I do now. In my statement there were so many things I wanted to explain but I didn’t know the word in Amharic. For example I got my dates mixed up because I couldn’t do dates in Amharic.”**

20-year-old woman from Ethiopia

“**The interpreter was provided by the Home Office – a French interpreter. French is not my main language. We couldn’t understand each other. I couldn’t believe it!”**

36-year-old man from Burundi

“**The interview was in French and the interpreter did not speak French as her first language. She spoke very fast and it was hard to understand the questions.”**

27-year-old man from the DRC

“**There was an interpreter there who worked for the Home Office. The lady spoke Cantonese but I speak Mandarin and I couldn’t completely understand them.”**

27-year-old woman from China

When asked whether they had understood what had been written on their SEF, the following difficulties were described:

“**The interpreter was from Iraq (not my country). The information on the form was wrong. Later in court the judges said things from the form that I had not said – this was because the interpreting was bad.”**

26-year-old man from Sudan

“**The interpreter twisted the information. He gave the wrong information of the camp, gave the wrong year I went to the camp. He didn’t read through the form and translate. I signed without having the form translated.”**

23-year-old man from Somalia
“It was very bad. It was a Kurdish interpreter and their Arabic was very different to mine.”

31-year-old man from Lebanon

“If you don’t know the interpreter then you don’t feel safe enough to share things with them. I was frightened that they would send me back and my fear and unfamiliarity with the interpreter meant that I didn’t say everything that I could have.”

36-year-old man from Iran

The research raised a number of issues to do with interpreting that have serious implications for the fair processing of asylum claims. The importance of using trained interpreters speaking the same language, using the same idiom cannot be underestimated. For example, in Somali the word for ‘lorry’ and ‘car’ are the same. To differentiate between the two, the term ‘big car’ is sometimes used to describe ‘lorry’. If the interpreting is not consistent, then one interpreter may have used the word ‘lorry’ during one interview and another interpreter ‘car’ in another. This change in detail can then be used as evidence that an asylum claim is not credible.

Our research threw up examples of this. One interviewee is a member of the Asharaf clan in Somalia, a minority clan, persecuted for being similar to the Arabs (white-skinned). When asked in court whether he was white or black skinned, he replied that in Somalia he would be considered white-skinned, but in the UK he would be considered black-skinned. The interpreter translated this as him being black-skinned.

“My mother, in order to survive, would collect firewood from the bush and sell to neighbours for one shilling in order to get her daily bread. The interpreter described her as a businesswoman. This gave the wrong impression – she was fighting for her life.”

31-year-old man from Somalia

Another source of misinterpretation is related to the different grammatical rules a language may have. For example some languages lack overt tense markers, so that, in the context of the past, the present tense may be used, based on the assumption that everyone knows that it is the past that is being talked about: “I do not know him,” meaning, “I did not know him.” A trained interpreter should have enough knowledge of the languages to know how to interpret these linguistic differences into English, explaining any ambiguities.

An area of concern raised during the course of the research was the competence of those giving language reports. For example, one language report stated that the Somali claimant came from an area along the Ethiopian border. This is inadequate as a report as the border with Ethiopia is an area stretching some thousand miles, with many different dialects.42

Practical problems

The frequency with which asylum seekers are moved around makes it very difficult for them to keep on top of their asylum claim, often with disastrous results:

“I wasn’t notified about (my appeal) until I got a letter from NASS saying I had not attended it. But I never got the letter because they had moved me three times! I got a letter from NASS saying they had withdrawn support because I did not turn up for my appeal. My solicitor helped me complain and my case was reinstated. In the end I had the appeal in Manchester. The solicitor went and presented to the Home Office. I took new evidence but it was not referred to or considered. The Home Office had already lost my main evidence presented at the screening interview.”

56-year-old man from Belarus
People may also be affected by the conditions in which they live or the people they live with:

“The letter from my solicitor was sent to the house but a friend took it accidentally and I did not get it for three months. When I found it I went to the solicitor and he said it was very late and he had stopped the file and demanded money to open it up, but I had not money. Then I did not know anything for a long time until my accommodation stopped in 2002/3.”

Some interviewees made great efforts to get advice, only to be defeated by the speed of the process:

“I went to an advice project and they put me in touch with an Immigration Aid Unit. I only had 10 days to appeal but they were only open one day a week and it’s a first come first serve ‘drop in’ service. I got up at 5am but when I got there, there were a lot of people waiting. They helped me make an appeal but there was very limited time and I couldn’t explain things properly. It was very busy and they turned many people away. I only had two days left so they read it and sent it off straight away.”

27-year-old man from the DRC

Appeals

Of those interviewees that lodged an appeal, the majority attended their appeal hearings. However, Home Office Presenting Officers did not always take them so seriously.

“I went with the solicitor to Newport. The adjudicator asked me my name and verified the SEF. There was no Home Office representative. We went back while the car engine was still hot.”

22-year-old man from Somalia

“I went to court – the adjudicator said he had not read the papers. The Home Office representative did not come, so the adjudicator said he would just look at what was said to the Home Office. Then he asked me questions. I was there 15 minutes.”

30-year-old man from the DRC

Appeal is the level that is supposed to provide a safety net to the whole process and ensure that any wrong decisions made earlier are righted. It is imperative therefore that the judge is fully conversant with all aspects of the case. However, in many cases this appears to have been doubtful. One reason for this is the legal representation given to asylum claimants (see below). Another factor is, once again, problems with interpretation:

“The judge asked a question and the interpreter tried to explain but was not correct. When I tried to explain and clarify things, the judge would not let me speak. It happened three times.”

Man from Somalia

“The interpreter was Egyptian. I didn’t understand him and he didn’t understand me. When we went, they asked a funny question about doors and windows. I was upset. The interpreter said they didn’t understand. The interpreter didn’t have knowledge of my country and the housing system. He was from Egypt and it affected the outcome of my case.”

29-year-old man from Iraq

“They were Palestinian-speaking a form of Arabic that was totally different from what I speak.”

36-year-old man from Algeria
Quality of decision-making at appeal stage

The research also raised concerns about the quality of decisions made during the appeals process. A report by Asylum Aid raised this as an issue in 1999. It is not possible within the scope of this research to explore this further to any great depth. However the details available on one case illustrate this graphically. The case was that of a Somali man whose family was attacked by the local militia. The adjudicator refused the case, concluding it was implausible ‘that militias or bandits would knock to gain entry at the front door of the family home and then enter and shoot and kill the appellant’s father…’ or that ‘after shooting and killing the appellant’s father and brother the militia would leave his mother and sister in possession of their home’. This is contrary to existing case law, see for example, what the tribunal wrote in Suleyman.

‘It is clear to us that a repressive regime… may well act in ways which defy logical analysis. A person who is genuinely a victim of such a regime may well find that the partial account he is able to give of its activities as they have affected him is not something which will stand up to a strictly logical analysis. The regime may seem to govern by confusion; it may engage in other activities, of which the appellant knows nothing; it may simply behave in a way which a person sitting in safety in the United Kingdom might regard as almost beyond belief.’

While the legal reviews of the cases considered by the researchers were qualified in scope – as detailed elsewhere in the report – it remains of note that our legal consultants concluded that 66 per cent of the cases reviewed had some merit and should be revisited.

Culture of disbelief

Our interviews illustrate the continued culture of disbelief that is operating at all stages of the immigration determination process. One of the ways this is manifested is in interpretations of actions that display the ignorance of the immigration officer about relevant customs and culture, leading to decisions on credibility that are unfair. For example, in Darfur, dinars, the currency in use, are often referred to as pounds (Darfur was once occupied by the British and dinar is a relatively new word). One person was refused as not having a credible claim, on the basis of having described the 7000 dinars he paid to leave Darfur, as 7000 pounds.

Other examples are:

“The judge asked the same questions. He didn’t give me a chance to talk about my family. The judge didn’t believe I was not able to communicate with my family, especially my child. He said, ‘I don’t believe you can’t communicate with your lovely baby’. The issue of family communication arose over getting medical evidence. No one told me I could use a doctor here to get that evidence.’

24-year-old man from Ethiopia

“The refusal letter mentioned that I had avoided eye contact. This was because the adjudicator was a woman and it is forbidden in Islam to make eye contact with a woman.”

39-year-old man from Sudan

“The Home Office representative was very anti-immigrant. He started questioning my profession – accused me of not being a photographer. I come from a small Kurdish town with very basic equipment. He produced a book on photography equipment and asked me technical questions about photography.”
“In Kurdistan, the darkroom consists of a dark room with buckets of water and stone age equipment. He didn’t ask me why I was here, just held my job against me. Why should I lie? Anyway it was not relevant.”

26-year-old Kurdish man

In view of the level of ignorance being demonstrated by some immigration staff, the bitterness expressed by the following asylum seeker is understandable:

“It was like I was talking to someone stupid. I could see they were young and immature. You could tell he wasn’t very educated. I was very disappointed when I got my refusal letter but not surprised. I realise I had been talking to a stupid person. He could never know what I experienced. It would never happen to his family - cutting your finger off in front of your mother, forcing you to have sex with your sister.”

30-year-old man from the DRC
This chapter looks at the degree to which people were supported by legal representatives during their asylum process and the nature and quality of the legal support they obtained.

The views and findings arrived at in this chapter are based on the information given by individuals themselves. In 21 cases, there was some supporting documentary information which provided a fuller picture of the legal conduct of their case.

In addition, both interview entries and documentary evidence were reviewed by two immigration solicitors who sought to assess the case conduct, and to identify cases which it was felt should be investigated further and which, in some cases, might warrant fresh claims. Given the limitations of the information available, it was not possible for them to make definitive statements about the legal advice received. The legal reviewers also sought to point out instances of reported bad or inadequate practice.

**Why and how did people seek legal advice?**

“I didn’t have money and didn’t think I needed a lawyer.”

52-year-old man from Pakistan

People mainly sought legal advice because they were advised to do so. The people who advised them were many and various, and included the agents who had brought them, friends, refugee agencies, other asylum seekers and people from refugee communities, workers in NASS accommodation, the police, immigration officials and, in several cases, chance strangers.

“I in the hostel, someone gave me the name of a solicitor in London.”

29-year-old man from Iraq

“When we arrived, we stayed with a friend of my father, a very old man. After one or two weeks, he tried to take us to Croydon. We went many times but got lost…. This old man found us a solicitor.”

27-year-old woman from Somalia

“After I had applied for asylum, I was sent back and I went to a place in Manchester where I was collecting my support. And they said ‘You need a solicitor’. And there was a solicitor next door, so I just went in there.”

41-year-old man from the DRC

Unsurprisingly, people often described their initial hours and days in the UK as a time of great confusion and fear. As a result, many followed the suggestions of both official and unofficial advisers without question, even if their reasons for offering the advice were potentially dubious:
“I had no lawyer, but a Somali man who was working with the solicitor was there when I was making my claim for support. And he said to me ‘This man will be your solicitor’. So I went with that. The solicitor’s office was a long way away.”

28-year-old woman from Somalia

Given this, it was largely a question of chance as to which lawyers people went to. It was also subject, of course, to where people ended up geographically – either through dispersal or through their contacts with family, friends or communities. It was also dependent on local capacity, and some reported difficulty, even at very early stages of the asylum process, in finding any lawyers to help them with the initial stages of their application:

“I was left at the door of Refugee Action. They gave me a list of lawyers and they started phoning and trying to find one. They phoned many, but many were full.”

39-year-old woman from Uganda

The difficulty of finding a lawyer even at these early stages is consistent with recent evidence that many immigration practitioners are closing down in the face of legal aid changes. It would seem that this is affecting availability of legal representation even for the initial stages of making an asylum application.

At what stage of the asylum process did they get legal support?

Very few people had found a legal adviser by their first screening interview, though this is not surprising given that many were port asylum claimants, or claimed immediately thereafter. The notable exception to this was those who were immediately detained on arrival. Somewhat ironically their detention, unfair as it may have felt or been in itself, did at least ensure some legal input early on:

“I got advice from the Home Office lawyer they found me in the detention centre they took me to. He was a white man.”

27-year-old man from Sudan

Those who came into contact with refugee agencies and those put into emergency accommodation were most likely to be encouraged to find a lawyer early on:

“I went to a solicitor after two days. I got the name from Refugee Arrivals Project at Heathrow. We completed the SEF together.”

35-year-old woman from the DRC

By the time people reached their main asylum interview nearly 60 per cent of those interviewed reported that they had managed to find some form of legal support. The input that they reported from their lawyers was, however, variable:

“I got help from my solicitor, but all they said was that I should not have a shave. They didn’t give me any legal advice.”

53-year-old man from Azerbaijan

“I told my lawyer I was frightened. He explained the procedure and not to be frightened, he would defend me.”

27-year-old woman from the DRC

Most had found a lawyer by the time of their first appeal, though again they reported very variable involvement at this stage. Very few had a second appeal, and if they had they had had to change lawyer, normally because they were told that their case had reached the end of the road, and that there was no further funding available to progress it further.
The need to change lawyers and its impact

“I think I have had four solicitors.”
28-year-old woman from Somalia

Only 20 per cent of people reported having had only one lawyer. Most had had at least two, and some had had up to five that they could remember. Some people were confused about whether, or how, their case had been transferred and indeed whether their last lawyer was still engaged with their case.

The impact of dispersal was clear in several of the cases. Here people had been moved on leaving their solicitor, their notes and their documentation behind. In such circumstances, maintaining contact from afar could be very challenging, particularly when as some reported, their lawyers were so busy that it could take up to 20 phone calls before they got a response back from them. Phoning from mobile phones was frustrating and ultimately unaffordable in such cases and some simply lost touch with their first lawyer. Some made strenuous efforts to stay in touch:

“I get £38 per week. The coach ticket from Bristol to London costs £21. If you want to make an appointment, they don’t answer the phone. Twice I travelled to London paying out of the £38 I get a week.”
31-year-old man from Somalia

“It’s very hard to communicate with my solicitor – they were in London, I was in Manchester. Phone calls and travel is expensive.”
27-year-old man from the DRC

“I had to change because we moved and the distance did not help. The other lawyer would not pass on the files, and we had to start again.”
31-year-old woman from Zimbabwe

“I’ve tried to find solicitors, including one in Plymouth, but they won’t take on my case. It seems like I have done something bad early on.”
46-year-old man from the DRC

“She [the lawyer] was in London and then I was in Leicester, she said it was not up to her to do the appeal, it was up to the barrister. Then I had to find another lawyer in Leicester because I had ten days to appeal.”
32-year-old man from the DRC

Only in a few instances did the transition from one lawyer to another happen smoothly. The effect of transferring a case could be potentially disastrous, with appeal dates and key documents getting lost in the process. Though there is a requirement on the asylum seeker to inform the lawyer of any change of address, in the confusion of dispersal this may not always be easy to do, and its importance may not be recognised by the individual who has been, once again, uprooted. Once destitute it becomes virtually impossible:

“I didn’t know where my lawyer was and they didn’t know where I was and this affected my case – I heard about my appeal too late, for example.”
28-year-old woman from Somalia

Others, however, found that despite efforts on their part their solicitor effectively disappeared and they had to start again:

Even if lawyers were told of dispersal, however, several people reported that they had lost touch with their representatives once they had moved away. This is a worrying finding which suggests that the combination of two policies is acting against the interests of asylum seekers and justice: namely dispersal and the restricted provision of legal advice. The changes made in
2004 to the provision of legal aid mean that case thresholds (i.e., the amount of time available for publicly-funded legal advice and representation) apply to the individual asylum seekers and not practitioners. Given that the time limit on an individual case is five hours for all but the preferred practitioners with devolved powers (see context chapter), this is quickly used up. Starting afresh with another lawyer in a new location becomes extremely difficult, therefore, as the funding for the case may have been entirely used up before they even begin to take down details or a statement. From the asylum seeker’s point of view, they are asked to tell their story perhaps several times over. Some of those interviewed seemed weary of so doing.

In addition to dispersal, there were many people who reported that their case was not pursued once the initial application had been completed and refused.

“[After my refusal letter]…I went to the Citizens Advice Bureau in Bristol to get help in obtaining another solicitor. They accepted me but they had to write to legal aid. The appeal was refused as it was too late.”

“I could not appeal as solicitor would not help and I could not write a letter.”

In addition, many lawyers were unable to take the case forward once the first appeal had been refused.

“Mr. X [the barrister] insisted that he would personally represent me for the next appeal and pay if necessary. However two weeks later when the decision came by letter he was uncontactable.”

22-year-old man from Somalia

“I was told that I had to go private if I wanted to take this further and that I couldn’t appeal to the tribunal.”

33-year-old man from Somalia

Once their publicly-funded legal advice was exhausted, asylum seekers were often forced to trawl many solicitors in order to find anybody to pursue their claim. This was often fruitless. Many expressed a sense of frustration and disbelief that their legal support had ended so quickly, without feeling that they had had a chance to tell their story. Worryingly, many of them felt that the initial legal advice had not done justice to their case and that key evidence had been omitted or misrepresented. This led to some of them pursuing additional legal advice even though they were asked to pay for it.

The legal support and advice received by individuals

A few individuals felt that their legal advisers had worked hard on their cases, even though the cases had been refused. They felt that their lawyer had done the best possible, and that they had treated them well:

“I was happy with the Refugee Legal Centre’s work but my claim was refused in the end.”

37-year-old man from Angola

“My first solicitor was OK – they explained what was going on.”

28-year-old man from Eritrea

“For my main asylum interview, the solicitor came up from London to Liverpool.”

26-year-old man from Somalia

Inevitably, people’s judgement of their legal advice is subjective and tempered by the final outcome. Lawyers may thus be doing their best within the constraints imposed by funding, but not have communicated this sufficiently to the client who can feel as a result that they do not care or are not adequately representing their interests. Interestingly, some more positive comments were in relation to lawyers who had asked for
money, and seemed to have made reassuring promises even though ultimately they had failed to achieve a positive outcome. In one instance a man from the DRC had received extremely poor representation from his second lawyer at onward appeal stage, who had misrepresented him as coming from Congo Brazzaville rather than the Democratic Republic of Congo. His appeal had to be withdrawn as a result. Even given that his experience of the whole asylum process had been so negative, he felt that she had at least listened to him, in spite of her disastrous handling of his case:

“I found a lawyer nearby who was recommended to me by friends and the community raised money to pay her from the church. She spoke French so we could speak together. I was happy with the legal advice I got because she listened to me. But then she got my case wrong, and she was stopped from representing people… She was a very nice lady.”

41-year-old man from the DRC

Although he recognised that her legal support had been a liability, he felt he had also been failed by his first lawyer (who handled his case up to first appeal). This lawyer had given him only 20 minutes at first interview, with a poor interpreter who he scarcely understood. He felt they had constantly been too busy to deal with his case adequately. His judgement was reinforced by the adjudicator, who felt moved to observe in their determination that, “I should at the outset state that I do not believe the Appellant has been well served by his solicitors.” Moving from one negative experience to another, the only thing he felt able to be positive about in the entire process was the friendly approach and apparently listening ear of his second lawyer, even though he recognised that she had spoilt his chance of appeal.

This was a particular if telling case. The majority of those interviewed, even if they felt positively about their lawyer at the beginning of the process, found themselves unhappy with some aspect of the legal conduct of their case. Only 16 individuals expressed the view that their legal representative had ‘worked hard enough on their case’. Even fewer (11 individuals) said that they felt that their lawyer had presented their case ‘fully and properly’.

The asylum seekers interviewed reported a number of areas where they could have just cause for concern, as detailed below.

**Lack of time**

Time is clearly the pre-eminent factor in ensuring that a case and supporting evidence is marshalled and well-presented. Some people commented that our interviews provided them with more time to tell their story than they had been given in the course of presenting their application for asylum.

Many if not most of the cases are highly complex, and require substantial time and thought in order to get the facts clear and to establish the credibility or otherwise of the case. In addition, there are particular needs and vulnerabilities of this client group which need to be taken into account. In addition to interpreting needs, which inevitably increases the amount of time needed to hear and understand a full story, there are also other factors such as trauma, mental health issues and gender which can make such cases particularly time-consuming.

The Immigration Law Practitioners Association (ILPA) best practice guide *Making an Asylum Application* stresses the importance of taking comprehensive instructions, in which the client is an active participant, and which are rigorously checked against other records in order to pick up on any discrepancies or anomalies early on. In addition, it stresses the importance of doing this in a conducive environment in order to minimise anxiety and help people be as open and frank as possible.
Given this, it is concerning that many people reported that the longest time they had spent with their solicitor was under an hour. The same 41-year-old man from the DRC quoted above observed of his interview with his first lawyer:

“When I went to see my first lawyer before my asylum interview, I started to tell my whole story. They told me that this wasn’t what I needed to do, and that I only had 20 minutes. My solicitor was constantly busy – he kept looking at his watch – I felt I had to shut up and I didn’t have time to tell my story. The interpreter was bad as well – she was an Italian woman who spoke only a bit of French and I scarcely understood her. Just before the 20 minutes finished he said he had enough to go on.”

41-year-old man from the DRC

Others reported even shorter interviews of 10–15 minutes. In such a time it is scarcely possible to take down a person’s basic details, let alone tell a full story of considerable complexity, particularly if this is being mediated through an inadequate interpreter. Though an initial meeting of such length to complete formalities may be acceptable, it is only so if there is at least one other subsequent appointment which enables the taking of a full statement. Many reported that this fuller interview had simply never happened.

Given this, it is not surprising that people also reported a wide range of ‘short cuts’ including not being read their statement, being asked to pursue their own evidence and having to fill out forms and prepare for appeals themselves.

“There was no interpretation. They just asked me to sign these forms.”

30-year-old man from Iraq

“My solicitor didn’t read back any of the written statements to me. I’m sure it was not correct. When my SEF was read back to me at asylum interview I said ‘I didn’t say that!’. We had to correct everything!”

31-year-old man from Lebanon

Some people also reported that a sense of being rushed had meant that they felt pressurised or even bullied into not telling their full story, or insisting that mistakes be corrected.

“I wrote the SEF statements in French but later in the interview I wanted to change parts of them. The solicitor said it would take too much time and wouldn’t let me change them. So the SEF was sent off with many mistakes in it.”

35-year-old woman from the DRC

Funding issues

Generally at the time relevant to the cases reviewed, there was pressure on legal aid funding and lawyers might well have experienced problems in securing funding for extended work or disbursements. For example, there appears to be a reluctance to requisition expert reports which may well be based on difficulties experienced in securing sanction of these by the Legal Services Commission (LSC). However even within these constraints there was evidence of poor performance by lawyers.

Many people reported the extreme difficulty of finding anybody to take on their case. The difficulty of finding representation appears to evidence the general poor supply of lawyers remaining in the publicly-funded immigration legal sector.

There were a few cases where people reported that the solicitor had not offered legal aid funding when it ought to have been available. A few appear to have paid for advice even at the initial stages of their case:

“I didn’t realise it should have been free and paid him.”

36-year-old man from Algeria
“They just wanted my money. I wanted to ask him a question and he told me he couldn’t answer till I paid him.”

Woman from Palestine

Once their first appeal was refused, most asylum seekers said they had found it extremely difficult to find a lawyer to pursue an onward appeal or review. New powers which mean that funding is awarded retrospectively in such cases, with the stated intention of limiting ‘unworthy and unmeritorious appeals’, mean that lawyers have to assess the risk of making an onward appeal as, if it is not deemed to ‘have merit’, they may not get paid. It would seem from the interviews that in most cases this is resulting in individuals being unable to apply for review, even if there is evidence to suggest that they were not given a full and fair hearing.

Several also reported that, following a refusal at first appeal, solicitors had said that they would only take on the case (make a fresh claim) if they were paid:

“[The solicitor] wanted me to pay him. He opened the case afresh but cannot proceed unless I pay him. Now I have to pay for my rights, I live like a bird, I don’t know where I will sleep or eat.”

49-year-old woman from Rwanda

“When I contacted my last solicitor they asked me for £1,000 to lodge an appeal.”

37-year-old man from Sudan

“They say nothing else can be done and they would need money to help.”

56-year-old man from Georgia

In such cases, if the solicitor believes that the case merits a fresh claim then s/he should make legal aid funding available. If they do not believe it merits a fresh claim, they should be telling the client before asking for payment. It seems difficult to suppose that often destitute clients would insist on paying for legal work they were firmly advised was likely to fail.

As people become more and more desperate they are increasingly vulnerable to any chance held out to them, even if this involves paying for advice they have already heard:

“One solicitor charged £1,500 to do a fresh claim. I paid £50 to a solicitor in London to open my files. After I paid, they said they couldn’t do anything and that I would have to leave the country.”

37-year-old woman from Cameroon

Though paying £50 for a solicitor may seem harsh, we have to note that the new representative would have needed to carry out work on giving, effectively, a second opinion in such a case. They at least advised that they felt there was no merit in the case and seem not to have taken any further funding. The request for £1,500 to ‘do a fresh claim’ is therefore even more concerning.

Another respondent paid £80 to have his case taken forward for work which even he was aware should have been done for free. The solicitor was always busy, and did not advise the client of the final outcome for nine months. In such cases, it is hard to avoid the conclusion that there are still some solicitors practising unethically as well as incompetently.

An administrative rather than legal approach to the cases

While significant steps in ensuring quality have been taken by the Legal Services Commission, there is still worrying evidence that some lawyers are engaging with cases in an administrative rather than proactive legal manner.

In a handful of cases clients reported that their lawyer had been ‘struck off’. More generally the interviews and accompanying documentation
reveal a variety of ways in which lawyers are adopting a reactive approach, to the ultimate detriment of their clients. While this does not point to negligence as such, it frequently fails to add any legal value to the case.

Many people felt that the onus for communication was on them, and had experienced great difficulty in obtaining updates from their solicitors in spite of repeated attempts:

“...I would have gone more but he is never there and keeps you waiting, waiting, waiting...”
32-year-old man from Somalia

“The solicitor didn’t explain what was going on, why the Home Office had refused me. He just sent it off. He just asked me to go to the office to sign the form. He had too many clients and no time...”
26-year-old man from Iran

There are many examples of lawyers not reading statements back to clients, as mentioned earlier in this section (see Lack of time section above). In other instances, lawyers have asked people to write their own statements which appear to have been put to the Home Office without being further addressed by the lawyers:

“...The new solicitor got me to do a statement. The old one confused me but got me to sign it...”
32-year-old man from Zimbabwe

“...he didn’t give any advice. It was difficult to complete. English is not my first language. My solicitor didn’t give me enough guidance on what to say or not say...”
50-year-old man from Zimbabwe

“My first solicitor said they would complete the SEF but they didn’t and didn’t attach any material. I only found out on the day it was sent in – I did it myself on the bus...”
56-year-old man from Belarus

This is bad practice, and clearly not in the interests of the client who will not know what to highlight, what objections to anticipate and how best to present the salient facts of their case. ILPA’s Best Practice Guide is clear that the taking of the statement is a critical early step in the asylum process. Indeed, many clients themselves identified that a failure to record an accurate statement, either before or during their asylum interview, had been a key reason why their case had failed.

“The solicitor was the first person to take my statement. They never let me read what they wrote about what I said. Later in the process when I got a new solicitor I was able to see my original file and saw that it was full of mistakes...”
38-year-old man from Zimbabwe

Several people indicated inadequate representation around appeals. Several people said that their lawyers had not turned up for appeals, even though they had said they would. This left many feeling stranded, and having to represent themselves often, through a mist, of poor interpretation. One 27-year-old man from Darfur whose medical condition (a result of torture) resulted in hospitalisation,
said that he attended his appeal hearing on his own, representing his own case via an official interpreter:

“I had to speak for myself and I ended up having an argument with them. They told me that the capital of Sudan is safe enough for me to go back to, even if I don’t go to Darfur. But it isn’t. And what would I do there? I was angry – the interpreter agreed with them – we had an argument.”

27-year-old man from Sudan

Another person felt she had no preparation at all from her solicitor:

“I was very ill during this period – I had lost my baby earlier in the year and I was very upset and without a home. I didn’t attend the tribunal. I don’t know what happened. I just know that I was very worried because my lawyer didn’t talk to me and he didn’t know anything else about my case.”

30-year-old woman from Côte d’Ivoire

In fact, the supporting documentation in this case shows that the solicitor had not prepared for the Immigration and Asylum Tribunal (IAT) hearing having attended, ‘expecting the case to be remitted’. The tribunal notes in their determination that, ‘We asked if he had spoken to his client about her position…. With considerable frankness, he indicated that he had not done so.’

Others indicated that they had met the person representing them on the day of the appeal, and that this person had no apparent knowledge of their case until just before it was heard. This suggests late briefing and is again contrary to best practice recommended by ILPA. In many cases the representative seemed to have little knowledge of the case. People felt understandably nervous and dispirited when they found their appeal in the hands of counsel who appeared not to know anything about them.

As the 2003 ILPA Best Practice Guide to Asylum and Human Rights Appeals makes clear: ‘A pre-hearing conference is an essential part of the appeal preparation. This should not take place on the day of the hearing itself… it is unacceptable to brief an advocate to conduct the hearing without arranging such a conference.’

“The problem was with the solicitor. It was not fair. We spent two or three months discussing it with one person then a new one turns up at the end and you don’t know where to start.”

31-year-old woman from Zimbabwe

‘We didn’t know each other. She told me she was from the solicitor but I didn’t trust her because I thought she might be from the Home Office. It would have been better to have met her before. We just saw each other in the court room.”

31-year-old man from Somalia

“I saw a barrister for about 15–30 minutes before court. We discussed the reasons for refusal and I explained about the bad translation… There was no time for preparation or discussion – just 15 minutes to half hour before the court time.”

26-year-old man from Sudan

In addition, people reported a lack of vigour in ironing out discrepancies in their case before they were presented to the authorities. It is easy to see how these would not have been picked up if, as reported, some lawyers were submitting statements without checking them. In addition, many people reported that their solicitors did not provide an interpreter for their client consultations, or for drawing up statements, giving the client little chance to intervene to correct inaccuracies.

“I didn’t know I had the right to ask for an interpreter, and whenever I saw the lawyer on my own I hadn’t got an interpreter. I had to rely on my brother to do a bit of interpreting for me when he could make it to see them with me.”

30-year-old woman from Côte d’Ivoire
Once again, this is unacceptable practice. Again, the ILPA Best Practice Guide makes the obvious but critical point that: ‘If you do not speak your client’s language you will be unable to assess what is being discussed’. It also stresses that it is not acceptable except in extremis to use a family member or friend as interpreter as this ‘may be inhibiting’. Finally, it also stresses that, ‘If it becomes apparent during the course of your interview that your client does not understand your interpreter, or vice versa, then you should abandon the interview immediately.’ Several people reported that their expressed concerns about the interpreter had been ignored by their lawyer.

Sometimes the clients were well aware that the documentary evidence being submitted was at least in part inaccurate due to poor interpretation or a failure to reflect their story accurately. Inevitably in such cases such discrepancies could cast doubt on the credibility of the claim.

“[At appeal]… he took other things into account such as saying I had been sent by relatives to claim asylum. He [the solicitor] never asked me about that and I never had a chance to refute it. And he said that I said I came here to get money, but I never told them that.”

Man from Zimbabwe

In some instances the reports obtained appear to have been inadequate. One Somali male, who had lost hearing in one ear from beatings by soldiers, had not been served well by his medical report which (according to the adjudicator) had not given a ‘discriminating view on the possible causes and age of the scars’. This could and should have been pursued by his lawyers prior to the appeal hearing.

This same respondent had not been helped in finding evidence to support his claim that he was from a particular sub-clan in his country. Again, as a result his case was undermined and the adjudicator did not accept his evidence, as the adjudicator’s determination reveals. The individual comments:

Failure to pursue evidence

Several people reported that their lawyers had not pursued evidence which, with hindsight, they realised may have helped their case. As noted above, this may point, in part, to a reluctance to requisition expert reports which, in turn, may well be based on an experience of difficulty securing sanction of these by the LSC. However, failure to obtain expert reports meant that cases were considered without essential corroborative evidence:

“I was getting letters from my solicitor so thought he was good. But after I was refused I realised they were not good. They should have recommended I see a doctor and get medical reports.”

30-year-old man from the DRC

“The legal advice may not have been satisfactory because I found things out for myself, for example the medical problems.”

27-year-old woman from the DRC

“The solicitor never contacted the Medical Foundation for a full report.”

31-year-old man from the DRC

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“The interpreter spoke with a different regional dialect. Sometimes I didn’t understand… He questioned whether I came from Somalia.”

33-year-old man from Somalia

“I couldn’t do this within that time. No one told me I could use a doctor here to get that evidence.”

24-year-old woman from Ethiopia

Attitude of lawyers

There were reports which indicated that the approach and attitude of some lawyers was unhelpful. Though the position of legal adviser is clearly not that of counsellor, there is a need to demonstrate a certain amount of tact and sensitivity when handling cases such as these. This is particularly important as such an attitude may be a block to people opening up and disclosing vital evidence.

Some people felt that their lawyers had been discouraging and inattentive from the start:

“There was no interpreter. Before I had finished telling my story, the solicitor said to me, ‘This will not be a serious case’. She didn’t listen to me. I left there really discouraged. She didn’t listen to me, and I let her write what she wanted to write in the end, as she wasn’t interested in hearing my real story.”

42-year-old woman from the DRC

Without such evidence, both the identity of the person and their claims of persecution can be questioned. They can find themselves arguing with the authorities who may have very limited knowledge of their country. One person expressed the frustration of such a situation:

“They need to properly check people’s identities by getting a real Somali person involved… We can tell from the way they look and speak if they are a real Somali.”

Report from focus group held with Somali refugees

There were many examples where people felt that their story was not accurately reflected by the lawyer because the lawyer did not pay enough attention, or because they did not provide adequate interpretation. Some people said that their lawyers had written what they wanted, or refused to put evidence in which seemed vital to the case. The general issue here was that some people felt effectively sidelined in their case and quickly out of control over what was being said:

“Most of the solicitors referred to my file rather than my situation.”

22-year-old man from Somalia

Lastly, there were numerous examples of individuals being asked to pursue their own evidence and ‘come up with something else’ to back up their claim. Though the client clearly has an active role to play, this is primarily the lawyer’s job. One woman was asked to get medical evidence from Ethiopia within seven days:

35-year-old woman from the DRC

Any doubt about his provenance could have been allayed by obtaining an expert witness report which could well confirm, one way or another, the membership or otherwise of a claimed clan, ethnicity or nationality. It could well be a simple question of proof. A focus group held with Somali refugees touched on this issue:

“They asked me about the languages I spoke. They didn’t believe I was Tutsi and they wanted proof. But how can I prove it when I am in England? I am not there! How can I prove it? The only proof is my husband’s word. They wanted to know why I didn’t speak a Tutsi language. The solicitor didn’t help me. He forgot my papers. I was alone and no friends to help.”

35-year-old woman from the DRC

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“They need to properly check people’s identities by getting a real Somali person involved… We can tell from the way they look and speak if they are a real Somali.”

Report from focus group held with Somali refugees
This led to many feeling that what had been written down was incomplete or wrong:

“The solicitor filled out the form but he sent it with no statement. He didn’t write what I told him into the form.”

36-year-old man from Burundi

“The solicitor refused to put in a statement about the political activities of the family. The solicitor only focussed on my political activities. The statement was poor and left out many things that had happened in prison.”

24-year-old woman from Ethiopia

“I didn’t feel I had given the solicitor the full information. He didn’t encourage me. I told him I was abused, but he didn’t mention that.”

31-year-old man from Somalia

This is against the spirit of ILPA’s Best Practice Guide when it notes that: ‘It is important that your client is encouraged to become an active participant in the presentation of the claim’. The same guide goes on to note that certain issues, for example health issues, may not be disclosed immediately for a variety of reasons and that throughout the process of preparing and presenting a claim lawyers need to be sensitive to this.

There were several reported examples of lawyers making tactless comments. One lawyer exited an appeal hearing with a client only to remark that he agreed with the Home Office. Another asked why his client wanted to live in a cold country. His client found his remarks and approach highly offputting:

“I thought my solicitor was a liability, a wolf in sheep’s clothing.”

32-year-old man from Zimbabwe

Others felt that their lawyer was disinterested, bored or angry with them. Some reported intrusive clock-watching behaviour which meant that they simply stopped telling their story and let the solicitor write what they wanted. Others felt actively bullied:

“I just felt that the lawyer was angry with me in the initial interview – they kept saying ‘Just answer the question!’”

27-year-old woman from Zimbabwe

“My lawyer kept telling me I had to speak Somali but I speak Bajuni. He ignored me because I could not speak Somali.”

32-year-old man from Somalia

There were very worrying reports of women feeling inhibited in the course of their asylum application on account of their gender. One respondent felt that her representative was obstructive as an Arab male, due to the nature of her claim:

“It didn’t fit in with their idea of Islamic womanhood.”

Woman from Palestine

Crucially, the lack of an empathetic attitude might well lead to vital information being withheld. One woman, who was raped along with her mother and sister, had not told anybody about this fact including her solicitor. This is a clear case where time and extreme sensitivity is needed in order to adduce evidence.

“I couldn’t tell immigration because I was told I would be taken to hospital and examined and they would put something inside you. I haven’t even told my little sister about this. It would upset her and be too much for her.”

27-year-old woman from Somalia
Poor quality of representation

There were some instances where it seems clear that the representation was simply of insufficient quality to do justice to the case. There was supporting documentation for 21 of the cases reviewed which helped identify particular examples of this.

In some instances it was clear that the individual had been dealt with by individuals who were subsequently struck off, such as the lawyer who misrepresented her client as coming from Congo Brazzaville instead of the the DRC. Another person reported that:

“The first solicitors went bankrupt and lost my papers. They [the new solicitors] are trying to get them.”

37-year-old man from Sudan

The interviews testify to a number of cases of lost files and documents:

“My solicitor was incompetent... he kept saying he could not find my file. I explained my case to him and wrote a statement but the file was lost. I gave him documents about what had happened... And they were lost with the file.”

32-year-old man from Zimbabwe

In some cases clients were not briefed as to what to expect at the appeal hearing, or indeed how to get there. In one the client was advised not to attend the appeal hearing at all:

“I received a letter and confirmation from the court. The solicitor told me I didn’t have to attend. Only the solicitor. But that day the solicitor didn’t attend.”

26-year-old man from Iran

Others reported that important documents were not forwarded as they should have been, and clients were not given key information, written or otherwise, at key stages of their case.

“I didn’t know I could appeal. I don’t know anything about the law. I wish I could appeal. I don’t understand any of the system. I never had any written information. I’m worried about being arrested and deported.”

27-year-old woman from China

“The barrister... got my file in the evening before the tribunal. He didn’t know my name, hadn’t read my case and missed so many papers. I saw my life slipping away through administrative error.”

22-year-old man from Somalia

Key deadlines were missed, with apparently serious results:

“The solicitor phoned me and said you have an interview today in London (I was in Manchester). I couldn’t get there and so I never had an interview. I was refused but I never received a refusal letter.”

26-year-old woman from Ethiopia

“My legal adviser didn’t work hard enough. They didn’t want to fight. They were too slow and missed deadlines for Judicial Review.”

36-year-old woman from Uganda

“The solicitor was supposed to help us appeal, but they missed the deadline and we were refused. In 2005 we were supposed to go to court but the solicitor didn’t do anything. After that we got a letter from the Home Office refusing us. Our solicitor missed the deadlines twice. Now no one wants to take our case on because they won’t get any money. We chose a bad solicitor – but they were recommended by friends.”

56-year-old man from Georgia
Some of the documentation supplied by those interviewed helped to highlight instances where the quality of the representation was called into question. One tribunal notes in their determination that:

‘We asked if he had spoken to his client about her position in the hope that he could give us some indication as to on what basis she proposed to contend that she had a family or private life in the UK. With considerable frankness, he indicated that he had not done so.’

*Tribunal determination on the case of 30-year-old woman from Cote d’Ivoire*

Another passage from an adjudicator’s determination sums up difficulties on another case:

‘I should at the outset state that I do not believe the Appellant has been well-served by his solicitors. As indicated earlier in this determination, the statement produced by the Home Office and later relied on as the Appellant’s witness statement, deals with problems he encountered in Angola, not his home country. Even after this was pointed out in the reasons for refusal letter, no additional representations were submitted by his representatives regarding the problems he claimed to have experienced in the DRC.’

*Adjudicator’s determination on the case of 41-year-old man from the DRC*
5. The effects of destitution

Preceding chapters have looked at how and why destitution occurs, but this looks at the effects on individuals, their communities and the areas they live in. We also look at the effects on specific groups such as women and young people.

The most powerful illustrations of the effects of destitution were provided by the asylum seekers themselves. We have also included here, however, the views expressed by some of those working directly with them, including the projects which helped us set up the interviews. This chapter, however, seeks primarily to tell readers what it feels like to be a destitute asylum seeker, and to give a voice to the thousands who find themselves silenced by the policies and processes described above:

“Thank you for listening to me. I have been here for four years but I feel as if this is the first time that anyone has given me an opportunity to tell my story.”

37-year-old man from Afghanistan

How long are people destitute?

On average those people interviewed had spent twenty-one months being destitute, although the largest groups had spent under a year. On one level this shows a remarkable resilience enabling people to survive for so long in these conditions. However, to do so people have had to be resourceful and to adopt a variety of methods to survive, some of which have had damaging consequences as described below. Furthermore, few saw any end to the current situation.

Where are people sleeping?

“I would like to find a place to sleep. If I had a place to sleep that would be very good.”

23-year-old man from Cote d’Ivoire

Sometimes those sceptical about the scale of the issue remark that they don’t see many people sleeping on the streets. However, as with non-refugee homelessness (see contexts chapter), the problem is sometimes hidden as people turn
to a variety of improvised and temporary sleeping arrangements.

Many have used a variety of arrangements while destitute. For example they may spend some weeks sleeping rough, then get some respite staying with a volunteer of a destitution project, then going on to stay with friends:

“I was staying with a friend until 2 weeks ago but he got fed up with me. Now I am sleeping here in the centre of town and sleeping rough a few times.”

32-year-old man from the DRC

Many depend on friends from their own communities and other asylum seekers and refugees (who may be on NASS support or benefits) to provide a floor, sofa or mattress:

“I live in different houses, never anywhere for more than a week. I get food from the Red Cross and the Catholic Church, and that is all.”

21-year-woman from Eritrea

Often, they move from place to place, staying with different friends and contacts for a few days at a time:

“I move from place to place – staying with friends. Sometimes I have to sleep outside in the train station and bus station. I have slept in the park a couple of times.”

26-year-old man from Sudan

Several reported that they delay going to their friends’ houses to sleep until late at night and then leave early in the morning to avoid landlord and NASS inspections (NASS supported asylum seekers are not allowed to have friends stay overnight):

“I lost NASS support in July 2002. Almost 4 years ago. I had tears at first and I did not know anyone from Ethiopia or anywhere. I moved from house to house – when they went out of the house I had to go out onto the street at 7 in the morning to not get caught by the owners who would kick me out. Then I met a lady asylum seeker who said I could go to her house but not until the evening. One night I went back there but she wouldn’t let me in! I spent the whole night on the doorstep. I had to sleep on the street twice.”

33-year-old woman from Ethiopia

If their friends have their own asylum applications refused then they also lose access to this accommodation and NASS support so the pool of potential sleeping places shrinks.

“I had to leave my NASS accommodation on the [date in 2006]. I have been made homeless. I now live with anybody who can take me, on any sofas, in any space. There are other Eritreans in NASS who are not entitled to have friends to visit but they will do what they can.”

48-year-old woman from Eritrea

Several interviewees described feeling that sometimes they have outstayed their welcome – not being able to buy food or help financially puts a big strain on hospitality and friendships when the hosts have little to survive on themselves. Similarly, sharing limited size accommodation with families can place a strain on those relationships:

“I am sleeping at a friend’s house but he is getting married and so I have to find somewhere else to stay. To be in prison or not – there isn’t much difference (still trapped).”

36-year-old man from Burundi

“I stay with friends. This is no life. I travel everywhere and stay with friends; sometimes I sleep in cars – quite often. Other times at friends’ houses. I have no plan at the moment. I prefer to sleep outside. But if I was to go back to Kurdistan there would be more problems than here.”

23-year-old man from Iraq
Approximately 10 per cent of those interviewed are sleeping in rooms in a house offered by volunteers, or owned by or accessed through faith and community-run projects:

“When I first lost NASS support I slept on the street for two nights. Then I came to [name of place] and friends helped me out for one month (I slept on their floors). Then I was helped by [name of agency]. I live in their house. There is no money now but I got £20 a week for ten weeks but this finished. I share the house with six people. There are two in each bedroom. In winter we cannot use the heating due to money. We have £10 a week for gas heating, food and other expenses. There is no carpet in some rooms. It is so cold. We put the heating on for one hour in the night. We eat charity food all week. I go to the [name of another project] for a free lunch.”

36-year-old man from the DRC

Destitute asylum seekers may be left with no alternative but to sleep on the street, in bus stations, train stations and parks. The majority (60 per cent) of respondents described having done this on at least one occasion, with many, especially young men, being forced into this situation frequently over long periods.

“My support stopped in February this year [2006]. I was desperately ill – physically ill. I spent five nights on the street, then a man in Rochdale was kind to me and told me about the Red Cross, and he explained how to get here. Now I stay in a house with five other Sudanese men. I sleep in the kitchen. I don’t have a bed. I am helped by the Red Cross.”

27-year-old man from Sudan

Several people were sleeping in sheds or garages sometimes attached to houses and flats belonging to friends or others. One person described sleeping for a long period in a tent at the bottom of a friend’s garden. Many reported on the day of their interview that they did not yet know where they would be sleeping that night. The insecurity of sleeping arrangements coupled with the inability to get quality sleep and rest (and food) is contributing to permanently high stress and anxiety levels coupled with a fear of harassment and deteriorating health:

“I am becoming a wanderer. Today I will sleep at a friend’s house. Some other people give me a floor – it is one night at a time. Today is here, tomorrow somewhere else. There is no dignity. People are laughing at me. Eating is a big problem. I get a small parcel of food from the Refugee Forum.”

30-year-old man from the DRC

Several people interviewed reported being physically attacked and verbally abused while sleeping rough:

“I have had nowhere to live for three years since NASS support was pulled away. I used to sleep at a friend’s house sometimes but then he was made homeless too. I have slept at the rail station and the bus station. Sometimes behind some shops. In the winter I stayed at a night shelter sometimes. Last winter I slept outside all the time. It was freezing, freezing. Now I’m sleeping in a park – sometimes there’s a few of us. I was attacked last month at night – they split my head and I have 10 stitches. I’ve been beaten seven times in three years now.”

48-year-old man from Sierra Leone

Sexual harassment and assault is taking place among those people having to resort to these temporary sleeping arrangements. Many fear approaching the police to report such incidents and seek to avoid contact for fear of being picked up, put in detention and deported.
How are people feeding and clothing themselves?

“I’m always hungry.”
48-year-old man from Sierra Leone

“My son has noticed that I am having to beg. I cannot afford to buy him clothes. This is terrible for me.”
31-year-old woman from the DRC

Most people we interviewed are entirely dependent upon finding sources of donated food and clothing to survive. These are provided by local and national organisations such as The British Red Cross, Refugee Action, local Refugee Forums, faith groups, and refugee community organisations. They also provide access to donated essential items such as soap, shampoo, sanitary items, toothpaste and shaving equipment. Many of the organisations have insecure or limited funding and some lack the knowledge, skills and capacity to fundraise for this type of activity.

Many destitute asylum seekers routinely share food and any money received with friends in the same situation as a way of pooling resources and supporting each other. Several respondents talked about how stressful it is not having any control over the food that they eat and having to eat things that would not normally be part of their diet.

“My NASS support finished about four or five months ago. I sleep outside and on friends’ floors. Sometimes I sleep in a church and sometimes in the park. My friends feed me. I haven’t had a shave for two weeks – I can’t afford razors.”
23-year-old man from Iraq

“My NASS support ended in July 2004. I left [name of town] and lived with friends in [another town] at first. Then I had to leave and came back to [town]. I’ve been moving from place to place since and am doing my best to survive. I have worked in charity shops as a volunteer - sometimes they give me donations and groceries.”
43-year-old man from the DRC

“I have been staying with friends. I move from place to place. I live off donated food and well wishers. I do voluntary work. It is a bad picture.”
50-year-old man from Zimbabwe

“I am normally sleeping outside in front of a church in [this town]. Every week I get food from here. I also sleep on the floors of friends sometimes.”
40-year-old man from the DRC

“At the moment it [asylum case and NASS support] is all finished. I have no food and every night I can’t sleep. I am affected very badly. I only have two sets of clothes and stay in my friend’s house. I got £20 a week from a local support agency but the money ran out. I go a long way to get food. I have helped in a soup kitchen just to get food. My friend got status – he helps at the moment and gives me floor space. I have been eating biscuits but have not had any food for two days now. I have fought to get success but I can’t concentrate because I am hungry. There is no food at home. The teacher does not know the situation. The student next to me was eating food and I had to watch and not accept when it was offered. I have pride.”
26-year-old man from Somalia

“All my support ended in August 2005. Now I am staying in [town], and I sleep on the floor of whoever will have me, and get handouts from [local] project. I am often hungry, and I
have to move about. My skin itches – I itch all over – my mind itches. I can’t use my medicines, and I don’t sleep any more, not really.”

42-year-old woman from the DRC

“We sleep on the street and go to the Refugee Forum once a week for food. The problem is that when we get food, we can’t cook it so don’t get hot meals. A Somali guy tried to help me but he also had problems. I get clothes from Refugee Forum.”

21-year-old man from Uganda

“I used to get food out of the bins outside kebab shops and takeaways.”

34-year-old man from the DRC

Work

The majority of destitute asylum seekers interviewed wanted to support themselves and not depend on the state, upon donations, begging or illegal practices. Most of those who talked about their desire to work and support themselves emphasised the need to do so for reasons of dignity, pride, independence and self esteem rather than just money:

“I am a teacher, I am not too old to do this anywhere, I can help other people.”

49-year-old woman from Rwanda

“At least give me security. I hope to get an opportunity to work as an electrician or do training so at least I can live with some dignity. I need permission to work.”

30-year-old man from the DRC

“I want to be like a normal person, to work, to be free. I used to love playing football that is what I want to do.”

24-year-old man from Zimbabwe

“I want a peaceful life. I want to change my life. Allow me to work. This life I am living is miserable. I never thought I would live this way.”

26-year-old man from Eritrea

Similarly, many felt that the deterioration they were experiencing in their physical and mental health would be reversed if they had somewhere to sleep, adequate food and a stable means of supporting themselves (work or statutory support):

“Let them let us work. I would love to go back, but it’s just not safe at the moment.”

33-year-old woman from Zimbabwe

“I worked as an assistant chef in a good restaurant. I would like to become a chef.”

30-year-old man from Iran

“I am a young man, I could be useful to society. I am wasting my energy. It is embarrassing in my culture for a young man not to be working.”

26-year-old man from Iran

Many feel under pressure to work illegally in order to survive but were reluctant to do so. Many of those interviewed are or have been engaged in voluntary work:

“I want to get a work permit so that I can support myself and not rely on charity.”

Woman from Palestine
“What do you want us to do? Become criminals? You don’t know what work people have done in the past and what they might do in the future. The Home Office keep the people in this situation. Make a decision and send me somewhere that I am needed. If there is peace in Burundi I would go. But they are still killing people behind the scenes. This life is bad. Very bad. I cannot go back to Burundi. Take me somewhere else – an island somewhere. I’ll be a fisherman or carpenter.”

36-year-old man from Burundi

“I need some peace. I need a chance to get away from what I ran from. I want to study – nursing for example. I am working as a volunteer with disabled people.”

27-year-old man from the DRC

“If you don’t provide accommodation or money it’s like telling us to become a thief or a burglar. In Africa people eat from the same dish - but not here. I saw an asylum seeker arrested for stealing a loaf of bread. He was my friend. It is not good to put people out with no support.”

43-year-old man from the DRC

“The government don’t regard us as people but I’ve done nothing wrong… I thought, ‘I must not do anything wrong’. I have worked as a volunteer here. But how do they think I am surviving? If they see a person working they say ‘there’s a thief, there’s a law breaker!’ They don’t think about what has forced him to do this… What makes me saddened is that wild animals are given a zoo to live in and be looked after because they make a profit. I am a human being and have never harmed anyone. Why can’t they provide somewhere for me to live? Where can we go? I have worked for a year as a volunteer in the church and cathedral. What else can people do but break the law? Where should people go?”

50-year-old man from Zimbabwe

“I haven’t hurt anyone. I’ve been a good man and take responsibility for myself. If you make someone eat out of a bin it’s not right. The Home Office and Immigration officers must hate Kurdish people. I came into this country for safety but no one is helping me. I have nothing in this country. No family, no benefits, no right to work. I am a human being. I want to work. If I can’t work how can I go out or do anything? If I work illegally they will take me to court. I can’t do robbery or murder for money. What can I do? Provide me with support or the right to work. If you have a dog in your house and you don’t feed it or walk it, what does it do?”

23-year-old man from Iraq

“I don’t want to ask for money or housing benefit. I want to work and support myself, make a life, a wife and a family. I would give something to this country as a musician or something else.”

36-year-old man from Algeria

“Just give us permission to work. I can do my own job. I believe they want people (asylum seekers) to come here so they get cheap workers!”

31-year-old man from Lebanon

“I am a parent but I have nothing to give them (my children). I’m their dad but I can’t give them anything. I get depressed – I am thinking so much. I feel bad. If you are not working you feel bad. The Home Office should look at decisions on asylum seekers. If they’re going to remove someone at least give them time to prepare for return. Cutting everything is no good – they need to be able to survive. Give them the right to work until they are returning.”

37-year-old man from Angola
"England has done a lot for me. It has made me understand my rights. It’s given me an education and I am grateful for that. But I want to be able to work and look after and support my daughter… For the last four years I’ve done nothing and I’m not proud of that."

20-year-old man from Guinea

**Illegal working**

"It’s not good for people to be unable to work for this length of time. I don’t want to steal, I just want to work and support myself and my family until it is safe to go home."

29-year-old man from the DRC

A minority of interviewees (less than 25 per cent) mentioned that they had worked illegally at one time or another. Some claimed that they had not known that they were not allowed to work. Some only became aware of this when they tried to change jobs:

"I worked (illegally) for two years as a chef. I am trained in this. One day I had a row with the boss and he sacked me. It was then I found I couldn’t get another job. I didn’t know that I wasn’t meant to be working. I paid all my tax and National Insurance and then got a tax rebate after being sacked and lived on that for a year."

24-year-old man from the DRC

Most stressed that they tried to avoid doing anything illegal, as they feared that this would jeopardise their position and make them more vulnerable to arrest and deportation. However some were desperate:

"Maybe I have to work illegally just to survive. I need some good food and warmth. Maybe I have to accept that I will go to prison for working. I cannot rob anyone."

36-year-old man from the DRC

Those respondents who had been working illegally talked of abuse by employers. Examples were given of non-payment of wages, arbitrary dismissal and poor health and safety conditions. Examples given of illegal work included labouring, decorating, food processing, leafleting, manufacturing and catering. Many of these pose considerable health and safety risks to those employed.

**Crime**

We did not expect many interviewees to tell us about criminal activity, but a small minority did tell us about petty crimes. Living on the streets and frequenting shelters as many did, meant they often were aware of more serious criminal activity (such as drug dealing) going on around them which they found disturbing and were keen to avoid:

"They drive you to be a criminal. Hunger drives you to be a criminal."

24-year-old man from the DRC

"I was so desperate that I did something that I’m ashamed of. I was so hungry that I went into a police station and asked them if I could spend a night in a cell. They said no as I had not done anything wrong. They were very polite to me. I was so desperate that on the way out I deliberately smashed a police car headlight so that they would have to arrest me. I spent a week in jail. The judge at the trial was very sympathetic. I know it was wrong to do this but I was so desperate. The food was actually quite good."

Man from Zimbabwe

**Sex workers**

A small number of respondents (less than 5 per cent) described making money by selling sex. Proportionately more men admitted doing this than women among those we interviewed. They talked about working as a prostitute with a
mixture of acceptance, shame and anger. What was common was a sense of disempowerment and of being abused by having no choice:

“I’ve been living as a prostitute for the last year. I charge £5 a time for someone to fuck me and some clients argue about even paying me that because they know how desperate I am.”

24-year-old man from the DRC

How are people spending their days?

“I’m walking and moving, walking and moving all day. Sometimes I find a place to put my head down.”

27-year-old man from the DRC

Almost all of those interviewed described having full and active lives prior to the conflicts or persecution that forced them to leave their homes and countries of origin. Many were well educated and had trained or qualified in trades and professions. Some farmed, ran their own small businesses or worked as civil servants. Some were students or fully caring for their families and many described being politically active in their communities. Almost everyone we interviewed had a desire and determination to make a contribution wherever they are eventually allowed to settle. Like most people they want to achieve ambitions and dreams and at the very least to work and support themselves and their families.

The frustration, distress and shame that people felt at not being able to achieve these things or live a normal life was palpable. The loss of a role or daily routine, and the inability to contribute to and access mainstream activities or wider social networks, was a consistent theme expressed by interviewees.

Projects that offer food and clothing may also offer warmth, welcome and something to do. Often only open for a few hours once or twice a week, these projects are vital for survival and because they enable people to receive charity in a relatively discreet and dignified manner (for most it is more acceptable than begging).

Some asylum seekers volunteer in projects, churches, mosques or day centres. It helps satisfy a need to make a contribution, maintains their sense of worth, and allows them to give something in return (for donated food and clothing). It also helps gives shape to a week, provides something to do and somewhere (warm and friendly) to go in otherwise empty days and unwelcoming environments.

“I come to the church and help with the cleaning. I’m a Muslim but God is God.”

Man from Somalia

Some described visiting libraries as places to meet friends, read, study and keep up with international news. Many interviewees had engaged in language, computer and other free courses prior to losing their NASS support and asylum cases. A few were managing to maintain participation but most have had to withdraw since losing support and status. Some had done other courses: The British Red Cross had trained several in first aid.

Many hours and days are spent visiting friends (and friends of friends) who still have accommodation and support or meeting up with others in parks, city and town centres. Among men and women, young and old, there was a strong sense conveyed of wasted time and wasted lives. There was also remarkable determination, resilience and hope for the future among many. They continued their studies, refused to abandon personal dreams and aspirations however few options seemed available. But many people move from place to place and town to town drifting without any aim apart from surviving.
“Sometimes we walk from one end of town to the other and back just to kill time. When college was open I went for English classes but now it’s closed. I go out and look for my friends.”

23-year-old man from Cote d’Ivoire

“Sometimes we walk from one end of town to the other and back just to kill time. When college was open I went for English classes but now it’s closed. I go out and look for my friends.”

23-year-old man from Cote d’Ivoire

“I was sharing a flat with two others. Eight weeks before I reached 18, I was kicked out. I was supported by social services. They didn’t give me any legal advice - just paid me money for a while. I stay with friends, moving daily so as not to overstay my welcome.”

18-year-old man from Iran

“I haven’t had contact with my family since I left Kenya. I don’t know whether they are dead or alive. Here I am all alone. I feel lost here to be honest. I have tried to go to college but I can’t focus. I’ve come here and there’s nothing, nothing at all. I’m not getting a proper education. I’ve lost it completely. Sometimes you feel you’d rather die in the war.”

23-year-old man from Somalia

Young asylum seekers, like other young people in care, face an increased risk of homelessness. Unlike other young people in care, they have no other options once support is cut off, but they have the same needs and aspirations:

“I would like to have my own place, to study and be a teacher.”

18-year-old man from Iran

Gender differences

“I am living in a free house… with five other people. I am getting support from the church – £5 a week – but how long can a person live like that? I don’t have anything to offer people who let me stay. After a week they don’t like you anymore if you stay and have no money. If you have money they like you.”

33-year-old woman from Ethiopia

An analysis of the replies of those interviewed indicate that women seem to be finding it easier to access support from friends and
charities to provide accommodation than their male counterparts. Only 6 per cent of those interviewed described themselves as sleeping rough as compared to nearly a fifth (19 per cent) of men. Nearly a fifth (18 per cent) of the women interviewed were being assisted by a charity compared to 8 per cent of men. Just under three quarters (70 per cent) of women were being supported by friends, while friends were supporting more than three quarters (77 per cent) of the men interviewed. Those who were relying on their spouses made up 6 per cent of both men and women:

“I am staying with friends, my sister and partner. If you are pregnant you get tired. When you stay with people sometimes it is hard to go to sleep when you need to. Sometimes they stay up all night talking.”

27-year-old woman from Somalia

For both men and women, the dangers of sleeping rough are a constant threat. Women are obviously more vulnerable, often attracting unwanted attention, harassment and sexual abuse:

“When I lost my NASS support I went to [a city] to try to get more support. I stayed at different places – men offered me accommodation but they wanted sex from me. After ten months I left and went to [another city]. I stayed with people and visited the Red Cross... Now I have no food. I stayed in a church one night then went to the police and stayed two nights in a cell – they were helping me be safe. In [another city] last week some people tried to rape me – I was assaulted by a white English man. He abused me. I called 999. I have to call 999 again tonight to get help.”

27-year-old woman from Somalia

“‘I cannot imagine how grown up people can throw a woman outside like that. There are so many risks and dangers.’

24-year-old woman from Ethiopia

A fifth (26 per cent) of the men and nearly three quarters (73 per cent) of the women interviewed were parents. Half (48 per cent) of the women’s children were abroad and a fifth (18 per cent) of the men had children abroad. This is likely to cause the women further stress. Is it safe here? – a previous report by Refugee Action in 2002, suggested that around a third of refugee women had to leave children behind.

“I don’t have a life here. My daughter doesn’t have a life there.”

24-year-old woman from Ethiopia

“I have left my child behind and I don’t know where he is. I feel despairing. I don’t know where to turn.”

30-year-old woman from Cote d’Ivoire

“I’m depressed. I feel very tired and felt suicidal once. But if I die? What about my children? It’s better for my children to know that I am alive and for them to know that we are suffering and struggling together. I just give them love. I can’t afford to help them in other ways.”

53-year-old woman from Zimbabwe

“Often I don’t sleep and don’t eat. I feel headaches all the time. When I feel headaches, I remember what happened to me in Somalia and I remember what happened in the UK and I talk to myself like a crazy person. Often I feel like I am mad. My head pounds and I get flashbacks to that time, and wonder where my child is.”

28-year-old woman from Somalia

Mental health

We asked respondents about their health. Of those who answered (106), 83 per cent described themselves as having had serious health problems since arriving in the UK. Of these, 30 had physical health problems, 36 mental health
problems and 19 had both. Of the 45 per cent of all respondents who described themselves as having had mental health problems since being in the UK, five mentioned that they had mental health problems prior to arriving in UK.

People described a variety of symptoms:

- feeling confused
- unable to sleep
- feeling paranoid
- being frightened
- pains in the head
- pains in the stomach
- being unable to concentrate
- panic attacks
- flashbacks to horrible experiences
- unable to breathe
- feeling suicidal

Many were receiving medication and help from GPs for these symptoms. Often these were the same GPs that they had originally registered with on their dispersal. A very small number (less than 5 per cent) were receiving counselling or psychotherapy. This may reflect the difficulties of offering longer term treatments to those living an itinerant lifestyle:

“I am seeing a counsellor but he cannot treat me. He talks. I don’t understand the approach. I am not coping.”

26-year-old man from Zimbabwe

“I get depressed. I have a specialist visitor who chats with me – sometimes I have thought about suicide. I think I must give up sometimes – I feel less than human and have had enough of life.”

28-year-old man from Sudan

We feel able to conclude that the experience of being destitute is having a harmful affect on the mental health of this group of people, with almost half now affected.

“I was taken to casualty with mental health problems. I wanted to harm myself. I didn’t think I could make it.”

27-year-old man from the DRC

“I have been seeing my GP for depression. My memory has been affected. I repeat things sometimes. My friends tell me I repeat things.”

50-year-old man from Zimbabwe

“I have depression. I’ve been given tablets in detention and kept taking them afterwards.”

39-year-old man from Zimbabwe

“My mental health has deteriorated. The medication that I am on makes me hungry.”

37-year-old man from the DRC

“I have been in hospital. I get headaches all the time and have mental health problems. I get depression and talk to myself sometimes.”

40-year-old man from the DRC

Physical health

A third of respondents said that they had serious health problems before coming to the UK and the same proportion had serious health problems after arrival. Some people had chronic conditions such as diabetes for which they were still receiving medication. Common sense suggests that being destitute and all that it entails, such as sleeping rough and not having access to regular food, will have a negative effect on a person’s health and this was borne out by what several respondents told us:

“Almost every week I have flu – it’s too cold.”

36-year-old man from the DRC
“Every time you see a letter you think it may be the Home Office. Now I am getting used to being depressed. Before I used to get sick. Now it’s normal.”

33-year-old woman from Zimbabwe

Respondents described a variety of physical health problems, ranging from the chronic to the acute, including: high blood pressure, broken limbs as a result of accidents or attacks, asthma and HIV. As with mental health there were a variety of experiences of accessing treatment:

“The doctor said I couldn’t receive treatment because it was very expensive to treat someone for HIV. He said that he was not permitted by law to treat people who are refused asylum seekers. So I was sent to (name withheld) who helped me get treatment.”

67-year-old woman from Zimbabwe

How people feel about their situation

We asked a direct question about how people felt now. Many interviewed expressed growing anger and disillusionment with how the asylum system and UK is treating them:

“I thought I would get humanitarian support here. Now I understand there are no human rights here for asylum seekers.”

26-year-old man from Iran

“The system is really bad. Solicitors disappear at a certain point and then you have to pay. NASS kick you out and you have to live like an animal. People will start killing themselves if they have no hope of a life. At least enable us to work so we can live like human beings.”

30-year-old man from the DRC

“There is no future for me. I am crying day after day. I would like to study and go to work – to help myself and support myself. We are human beings also. We wish for things like everyone else - but we can’t get them.”

28-year-old man from Burundi

Interviewees often expressed a sense of rising desperation and hopelessness. Many reported that they have contemplated suicide:

“You must understand – I am not allowed to work, I have no accommodation, I have no lawyer, I have nothing to eat. It’s better to die.”

20-year-old woman from Ethiopia

“This is no better than what I had in the Sudan. I would rather have died there.”

48-year-old woman from Eritrea

“If it wasn’t for my mother, I would have committed suicide. It’s the only thing left to do.”

26-year-old man from Iran

Access to healthcare

Approximately 40 per cent of respondents said that they had trouble accessing a GP. Five talked of accessing all of their healthcare, including for depression, through the accident and emergency department of the local hospital. There is obviously inconsistent practice in relation to access to healthcare for this group.

“I worry about the future and my situation. What if I lose medical help? My nerves are getting worse and I forget things more. I live in a place and I don’t know how long before I will have to leave.”

56-year-old man from Georgia
"I know I am not the same person and I ask myself if I ever will be again."

32-year-old man from the DRC

"Sometimes I sit and lose control of myself. Other times memories come back. I think about how life is getting worse and worse."

39-year-old man from the DRC

"I am losing sleep always. I scratch my face badly with nerves and stress. I am always worried that the police will pick me up and deport me."

33-year-old woman from Ethiopia

Many describe high levels of tiredness, loss of self-esteem and sense of worth, feeling let down:

"The life I live, I find myself depressed, abandoned, alone, a nothing."

27-year-old woman from the DRC

"Could you live like this?"

33-year-old woman from Ethiopia

"Destitution – it sounds like (meaning) people have been put in the bin and are scavenging. It makes me sound like an animal. Perhaps that is what I am now. All I am."

67-year-old woman from Zimbabwe

Interviewees give a sense of or describe themselves as “hanging on” as long as possible, realising that their health is deteriorating, they are getting older, life, aspirations and opportunity are passing them by:

"I am on anti-depressants. I’m completely worn out. Completely hopeless. I am very fearful – if they don’t let me stay then my life will be ended because I will die for sure. I also fear for my health because of where I live. Sometimes I don’t have a proper bed. And I am frightened. Sometimes I think I am going to die. I can hear my heart beating so hard. I fear I may be at the end already when this happens."

42-year-old woman from the DRC

"I can say thank God I am alive but the situation is very bad. I can’t work, I can’t do anything. I have nothing. It is hitting my heart. Imagine keeping me in this situation for three years!"

36-year-old man from Burundi

"From the time I arrived I was depressed – thinking too much, nothing to do, nowhere to go. I don’t know what I will do with my future. Everything stopped, school, home, support."

28-year-old man from Burundi

Many interviews conveyed feelings of shame and loss, of not contributing to their families and UK society, of disrupted education and careers, loss of dreams and hopes, not starting families or being able to support their existing family:

"Sometimes I feel life is useless. It’s very dangerous for me. I have lost everything valuable to me and have been refused here. I have no money and no support. I don’t know where my family is – what is the sense of life. It is empty."

30-year-old man from the DRC

"I’ve lost everything – my life, family, documents. This government doesn’t believe people."

26-year-old man from Sudan
“I don’t sleep. I have panic attacks and hate living. I regret every day that I came to the UK. I would go back to Somalia. I don’t know my fate – where my life is leading.”

22-year-old man from Somalia

“Sometimes I feel like committing suicide. I feel like I am in jail. If you cannot support your parents and participate in activities it is like being in jail.”

31-year-old man from Somalia

“I get very down and feel very bad at times. I end up accusing myself and think it would be better to be dead. I end up feeling suicidal. I am always worrying about everything. After school I had nothing to do. I’m not the same as I used to be. I taught for 13 years, and here I have done nothing. I feel desperate. I feel like I ran away from a life which was too dangerous, into captivity.”

39-year-old man from Zimbabwe

“When I was asked to leave my accommodation this was very bad for me. The only thing I have is a T-shirt. I don’t even have enough clothes to wear. When they asked me to leave the accommodation it was terrible. I cried all the time. It was the final straw for me.”

27-year-old man from Sudan

“I don’t sleep. Whenever I hear somebody knocking, I think that is my end. Whenever I hear somebody shouting then I think that is the end for me.” (Starts weeping)

39-year-old woman from Uganda

The dignity that some respondents displayed provided a stark contrast to the way in which they are being treated. Some offered sharp political analysis or humour. Some made an overt appeal to ethics:

“I sought asylum to be safe. I thought that I would be protected but am very disappointed. They [the UK government] should treat human beings with respect. There are no human rights.”

22-year-old man from Iran

“They should properly consider people’s asylum claims. I am at an age that I can’t have adventures any more. This is not an adventure. Don’t think that people are coming to Europe for money. Some asylum seekers have a real problem [in their country]. With my status and job I’ve travelled the world and went to many places. I don’t want to be in Europe, why would I leave my good life and job to come here?”

36-year-old man from the DRC

“I am a decent person, a quiet person. I have nothing, no family, no life. How can I live like this?”

26-year-old man from Eritrea

“I don’t blame anyone for this and I pray.”

20-year-old man from Guinea

The effects on communities

“The government should recognise the help that refugee communities give to destitute people and give some money to help us.”

Focus group participant

Two focus groups of refugees also informed the research: one of 25 Somalis in Liverpool and a mixed group of eight women (mostly from Iraq) in Leicester. Both discussed the role that communities play in supporting the destitute. The Liverpool group were supporting 14 destitute asylum seekers between them, including one 80-year-old woman. The Leicester group included one mother supporting her 18-year-old destitute daughter, one woman bringing up a baby on Section 4 support, and another who accommodated and fed a young man on an informal rota within the community.
Informal crisis and survival support provided by individual households and from within refugee and immigrant communities is often invisible, and receives no acknowledgement or funding support from statutory or non-statutory sources. Families and individuals who provide food, beds or floor space for destitute asylum seekers do so out of a sense of duty and compassion, but doing so often leads to overcrowding and puts considerable strain on money resources. Individuals and households can often only afford to accommodate a destitute asylum seeker for a few days at a time before they are passed on to another household or place of refuge within the community.

Several speakers in Liverpool expressed anger and frustration that the government knowingly makes people homeless and dependent upon the charity and goodwill of households and communities that are often in areas of deprivation, high unemployment and low income. Participants called for the policies that create destitution to be changed. They also called for the role of their communities in supporting destitute individuals to be acknowledged and for them to be financially resourced or compensated. There was common concern that the increasing numbers of destitute people was likely to harden already hostile public attitudes towards asylum seekers and members of their (and other) minority communities. Concern was expressed that people (especially young men) who are made destitute can be forced into crime and illegal working and that this is bad for community profile and relations.

The groups echoed and expanded some of the points made by interviewees:

“I sometimes stay with friends, sleep on sofas. Before, Somalis used to help each other. Now it is based on tribal loyalties. They are divided (among themselves).”

31-year-old man from Somalia

“I am living in a very bad situation. After NASS support stopped, my cousin asked me to leave. I have no status, no money, and no home. Every day I have to go to friends begging for money. Sometimes I sleep in the mosque or spend the whole night in the street. I cover myself with my coat. People who arrived recently have status and I am begging from them and asking for money.”

24-year-old man from Zimbabwe

“Either do not allow any refugees to enter the UK, or if they arrive here, treat them better – give them accommodation, allow them to eat, treat them as a human being. Leaving people on the streets without money and accommodation will affect others, including the local people and create other problems.”

31-year-old man from Somalia
6. Why can’t they get other support?

This chapter deals mainly with how refused asylum seekers are able to get support under Section 4 and why so few do. The avowed purposes of Section 4 are:

- to ensure that those who are prepared to return home having been refused asylum are not destitute while they arrange their travel
- to encourage others to consider voluntary return (by making most offers of Section 4 support conditional on signing an agreement to return voluntarily)
- to provide support to those unable to travel or be removed
- to provide a safety net for those who take judicial review action against the Home Office or make a fresh claim for asylum based on new evidence.

When asylum seekers find their case for asylum refused, they do not stop needing to eat, sleep or find shelter. At some point after the final refusal, however, they will find that, unless they have children dependent on them at the date of refusal, they will lose the support and accommodation offered by the National Asylum Support Service. Others may have lost or been refused their accommodation and support earlier in the process. Young people may have been turned away by social services as a result of disputed age:

“I appealed to the social services. The new ones did believe I was 17 and gave me £30 but no accommodation. They say they want to do an examination of me to determine my age.”

17-year-old girl from Ethiopia

One particularly shocking case involved a young man, now 21:

“I came here three years ago when I was 17. They disputed my age but they put me in NASS accommodation for a couple of months. The landlord then told me that my case had failed and I was evicted. I spent the next two years living on the streets. Sometimes I slept in parks, sometimes in abandoned cars. My friend worked at a carwash and he let me sleep in the cars there sometimes. I moved around between different cities. It was difficult to survive and I got involved in some bad things. One night I got picked up by the police and ended up in detention at an airport. They were going to deport me. I ended up crying to this security guy when they told me I would be getting sent back to my country the next day. I begged him to make a phone call and double check for me about my case. He did and found that I hadn’t been refused in fact I had been given refugee status. NASS had made a mistake.”

He now lives in a hostel for people with mental health problems, but has received a cash payment for arrears of asylum support from NASS.

Even once young people are accepted by social services they may become destitute later: one young Iranian man described being kicked out of accommodation when he turned 18 with no advice or knowledge of rights to appeal. Others may have lost NASS support because they were accused of breaking the rules:

“They refused, said I was not destitute and had been working when claiming NASS support.”

28-year-old man from the DRC
Another was evicted from his hostel for staying away too long with friends.

When NASS support is lost or refused, it is usually possible to appeal against the decision, but only 13 (10 per cent) of those we interviewed did. Many did not know that they could appeal:

“If the hotel says go, you must go, there is no appeal. They will call the police if you don’t want to move.”

Man from Zimbabwe

“I did not know I could appeal, I left when I was told to leave.”

21-year-old woman from Eritrea

Others did not understand how to, or were confused by the process. Some did appeal with no success:

“I appealed several times. I wrote letters to NASS, then decided to go to Refugee Action.”

42-year-old woman from the DRC

At least one (a 32-year-old man from Somalia) was told that his lawyer required payment to undertake such an appeal.

If the reinstatement of NASS support is refused (and five people said this had happened to them), there is still the option of applying for Section 4 ‘hard cases’ support if you have come to the end of the asylum process. This is a package of basic accommodation and food vouchers (see context section for details of how asylum seekers can qualify for this). If support is withdrawn earlier in the process there is no safety net. Those who qualify because of illness, disability or age may instead be supported by social services community care provision run by local authorities, and this can be arranged at any time in the asylum process.

Who gets support?

About 15 per cent of those we interviewed were receiving Section 4 support. None were getting community care accommodation or support. There seem to be few identifiable differences between those who get support and those who do not. Men and women appear to be receiving it in equal proportions.

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<th>Gender of those receiving Section 4 support</th>
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<td>Total %</td>
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<td>15</td>
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<td>15</td>
</tr>
<tr>
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<td>100</td>
<td>33</td>
<td>100</td>
<td>124</td>
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None of the people who had children living with them were receiving Section 4 support. The large number of people who reported having health problems did not appear to be accessing Section 4 in any greater or lesser proportions than those who did not.

When we look at nationality, however, some differences do emerge.

### Nationality of those receiving Section 4 support

<table>
<thead>
<tr>
<th>Nationality</th>
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<th>No %</th>
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<th>Yes %</th>
<th>Total</th>
</tr>
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<tr>
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<td>1</td>
<td>20</td>
<td>5</td>
</tr>
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<td>100</td>
<td>0</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
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<td>12</td>
<td>86</td>
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</table>

The table above shows what percentage of which nationalities have signed up to Section 4 support, looking only at those where at least five interviewees were from that national group. The higher presence of Somalis receiving Section 4 support among our interviewees may be explained by the way in which interviewees were selected in one location. No Eritreans, Ethiopians or Iraqis were receiving Section 4 support. Among the two largest national groups, those from the Democratic Republic of Congo and from Zimbabwe, a smaller percentage than those overall, were receiving Section 4 support (11 per cent and 14 per cent respectively). The Iranian and Sudanese nationals were getting Section 4 support in higher percentages: 20 per cent in each case (compared with 15 per cent for all nationalities).

### Do people know about the support they can get?

It was clear from the interviews that many refused asylum seekers are not aware of the existence of other forms of support once they lose the accommodation and support they have had from NASS or social services. Even some of the more vulnerable interviewees did not know about it:

“I explained my health problems and did a fresh application. My lawyer’s report was not strong enough. I have to wait for the NASS and Home Office decisions. I don’t know if people like me get support.”

28-year-old man from Burundi
“No. I wasn’t aware of it. I was being supported by [name of place] Social Services until 18. I was never given any advice before being kicked out of accommodation.”

18-year-old man from Iran

There were no arrangements to tell most people about their options at this point and interviewees were sometimes confused:

“I didn’t know about it. I wasn’t offered it – I was given vouchers for food.”

41-year-old man from the DRC

“People don’t tell you anything so you don’t know.”

31-year-old woman from Zimbabwe

“I don’t know what this is. You sign up for so many things – you don’t know what you are signing.”

28-year-old man from Eritrea

“I haven’t been invited to!”

53-year-old Azeri man

At least one interviewee who knew nothing about it agreed to find out more about it as a result of our contact. Others, however, were clear that they could not sign up to return:

“I haven’t heard of Section 4 support but whatever it is I can’t go back to Sudan. I would be killed.”

26-year-old man from Sudan

Support refused

Several interviewees had been refused Section 4 support.

“I applied for Section 4, and I was given a house but three weeks later I was told this had been cancelled. So I found myself on the street. That is to say, I was evicted from the support after three weeks. The High Court had written to Refugee Action saying I couldn’t access Section 4 support. At least I think this is what happened. I didn’t really understand what was going on – I just signed the papers that Refugee Action gave me.”

42-year-old woman from the DRC

Reasons for refusal are sometimes difficult to ascertain:

One of our researchers noted about a 28-year-old woman from Somalia:

‘[From documentation, looks like Section 4 has been applied for and failed]. She doesn’t know about Section 4, or what it is. She doesn’t get it, that’s for sure.’

And again, relating to a 48-year-old woman from Eritrea:

‘She has been refused Section 4 twice. Her applications have been confounded, in spite of being pursued. She would like to get Section 4.’

Even when contact has been made with an agency able to advise, interviewees sometimes remain confused:

“I haven’t heard about it. But I think Refugee Action is saying that if the file is open then they will manage to get accommodation for me? I don’t understand.”

20-year-old woman from Ethiopia

The interpreter for a 20-year-old man from Guinea explains:

“he has not signed up for Section 4 because he is confused about what it would involve. He thinks he might be able to get it if he made a fresh claim.”

..........................
Some interviewees told us that NASS said they could not prove they were destitute. It is not clear what applicants are expected to do in this situation, other than work illegally and prove NASS right.

Some had been refused even though they were prepared to sign up for voluntary return, however unwillingly:

“I applied to Section 4 but was turned down – I don’t know why. I am applying again. It is dangerous, but this life is hell. I would rather die in my own country. It was better there – at least I had a house.”

27-year-old woman from Somalia

Others applied for, and sometimes got Section 4 support even though they were not prepared to go home:

“I signed up to Section 4 but they refused it. I appealed, they didn’t believe I was destitute, they wanted evidence. They finally gave me Section 4 accommodation plus food vouchers. Even though I’ve signed up for it I’ve said I do not want to return and can’t return to my country.”

38-year-old man from Zimbabwe

And others were refused because they would not sign to return:

“I knew about Section 4, and I applied for it, but they refused to give it to me. Even my doctor has applied. Having said that, I couldn’t sign a voluntary return paper – I would be killed as soon as I arrived. I have links with people who still know [the home country], and there are ‘Wanted’ posters still out for me which they get copies of for me…”

46-year-old man from the DRC

One was refused even though he apparently cannot return:

“Yes, I may as well let militia kill me than kill myself. They [the UK government] refused to send me back to Somalia.”

At least once, refusal was apparently based on a documentation error. During our interview with a 48-year-old Eritrean woman, the interpreter spotted that the names and birth dates on different documents were not consistent (although the differences were explicable), and this seems to have provoked the refusal.

Administration of Section 4

Even when people know about Section 4 support, and may be entitled to it, they may encounter significant obstacles or delays in getting it. This is a frequent complaint from local agencies.

“Then I asked to sign off so that I could get a solicitor. When I signed off, they stopped my accommodation and support. When I found a solicitor, they said bring a letter from the solicitor and they would resume support.”

33-year-old man from Somalia

“Yes, I went to Refugee Action and they asked me to bring my maternity certificate. I will do this. I have no idea of Section 4.”

31-year-old woman from Zimbabwe

“When I had the baby, who is two and a half now… I asked for support but there was no proof of fresh claim, I needed somewhere to live as well.”

27-year-old woman from Zimbabwe

“I made a fresh claim in April 2004. I still haven’t heard anything. I’ve changed address four times.”

22-year-old man from Somalia
“I am ready to sign to go to die, better that, but still no answer.”
49-year-old woman from Rwanda

“I had an appointment to go for interview. I had a miscarriage so couldn’t go. I have an appointment next week in London.”
25-year-old woman from the DRC

Many applications for Section 4 are linked to fresh claims for asylum, and getting legal advice and making such claims can add to the bureaucracy involved:

“Vouchers are really bad, you cannot get what you want, you need food and cannot get it.”
From Leicester focus group

No support is offered to many refused asylum seekers who stay with friends or relations: community support is vital for many of them:

This emerged particularly in the focus group with women in Leicester. One woman told of her own experience:

“I was pregnant and the baby was due in three weeks when my application was refused and I was evicted with my husband. We stayed with a friend but had nowhere to go after I went into hospital to have the baby.”

Another talked of a young friend of her husband who stays with them sometimes:

“He stays one day in one place, another in another. The only support he has is his friends and he lives like that. We look after him and feed him for one day at a time.”

“My sister is 18 and has no money, no passport and no Home Office papers. My mother supports her, but she needs college and they say she has to pay £200 for the course, we don’t have it so she cannot study, she has been without status for three years.”

The refusal to support people within the community is particularly difficult for those who have formed relationships since arrival:

“I never had NASS. Two weeks ago I went to NASS and explained the situation and applied for Section 4 and was offered accommodation, but my boyfriend said he would offer that and I was refused vouchers as they go with the accommodation.”
31-year-old woman from Zimbabwe

Section 4 accommodation and support

Some interviewees criticised the standard of accommodation offered under Section 4, and pointed out that they were sometimes required to share rooms. Some had moved several times. One had moved four times in seven months:

“The house was problematic, others used drugs and had friends sleeping there.”
30-year-old man from Iraq

Some refused to apply for Section 4 because they did not believe that they could manage on vouchers:

“Section 4 is vouchers, what will you do? It is not money – you need things.”
30-year-old man from the DRC

“I feel like a balloon between the ground and the sky, I float around and cannot get settled. I cannot buy things for my baby I am always stressed and cannot sleep, I cannot go back to [place]… They don’t think about the effects of stress on us.”
From Leicester focus group
Finally, the system is inefficient. Even when people try to get support, they may find that the system is so poorly administered they cannot. Organisations working with asylum seekers spend hours trying to sort out applications and then a few more hours negotiating for a £5 food parcel or a sleeping bag to use in a park.

**Section 4 and fear of return**

Among those who knew about Section 4, the biggest single reason why they could not or did not receive it was that they were unwilling to sign up to return home. When asked directly what would happen if they did return, almost half of the interviewees (48 per cent) said that they believed they would be killed or “disappear”. A further 11 believed they would be jailed and 20 more said that it would be dangerous for them in some way. Most were fairly specific about the risks they faced:

“Maybe in a couple of years we can. But now I would fear for my life. My children are not even staying where I can talk to them. The older one gets asked about where I am, so my brother has moved her to a rural area so they won’t know where she is.”

31-year-old woman from Zimbabwe

“I can’t go back because of the war, because I am from a minority clan and because my mother and father are dead.”

27-year-old woman from Somalia

“They will kill me. My uncle will kill me for bringing shame on our family and my lover’s family will kill me for bringing shame on their family. My lover was a communist and I came from a strong Muslim family. He came to my house one night to ask for my hand in marriage and my uncle killed him. So I am hated by both my family and his.”

20-year-old woman from Iraq

“I have lost my husband, my child and my life. I have a child here now. I don’t know how my dead husband’s family would react to him. And they would pursue me and kill me.”

31-year-old woman from the DRC

“I was going to sign up for it, until I was told that it would mean signing up to go back. There’s no way I could do that.”

39-year-old man from Zimbabwe

“I’ve got nothing there, not even my family. I’ve suffered a lot. Even here is better than what I went through.”

23-year-old man from Burundi
In spite of that, some interviewees who believed they would be killed had signed for voluntary return because they could no longer stand destitution:

“I am going to take voluntary return. I signed because I have no choice – it will be dangerous for me to go back but what can I do here? If I die there it’s better. If there was no problem in [place name] I would not be here. I will need to hide when I go back. If I’m arrested I will be gone. Killed. So I won’t be able to work or study there either [like in the UK]."

22-year-old man from Iran

“They could send me back. Maybe they will. I’m tired of fighting. If I go through, I will die quickly rather than a bit slower (in the UK).”

67-year-old woman from Zimbabwe

“I can’t go back. I would have problems. Also I have no contact with family there anymore. I have been here for 24 years! My brother told me, “You are dead to me and I am dead to you”. When my father died my brothers excluded me from his will – they took my share of the land and property.”

52-year-old man from Pakistan

““I can’t return. Where would I live? The government has taken all my family’s houses. There is no one left in my country.”

30-year-old man from the DRC

“There are many problems in the community there. I don’t have friends or family there so why go back? I prefer to stay and live on the streets than go back.”

23-year-old man from Côte d’Ivoire

Other barriers to return

Apart from the real physical risks that many interviewees told us about, some also faced other barriers to their return. Some had no documentation or citizenship:

“They wouldn’t allow me back.”

Woman from Palestine

“My father was [one nationality] and my mother was from [another country in conflict with the first]. We don’t belong anywhere.”

24-year-old man from the DRC

Other people face more personal barriers to return. Some have no family or home to go to:

“Yes – I was just given accommodation yesterday. I’m worried about being sent back to Somalia. My parents are not in Somalia, they are in Ethiopia.”

29-year-old man from Somalia

Some believe they would face personal humiliation or shame:

“There would be no possibility of me returning to [country] so Section 4 support is not possible. It [return] would be really big trouble for me. If forced to go home I would have to go somewhere else.”

27-year-old woman from China

“It is a bad life there. The people who abused (raped) me are still in the village. I fear everyone knows about what the soldiers did to me.”

31-year-old man from the DRC

Others that their situation might cause resentment:

“Also, when you have moved away and come back you are resented and hated – your neighbour thinks you are advantaged and they attack you and hate you. They seek you out to attack you. It is too dangerous, I cannot go there.”

41-year-old man from the DRC
“He said if they gave him money to return it would almost cause more trouble as he would be singled out because he had money.”

32-year-old man from the DRC

Others were concerned about their health if they had to leave:

“How will I get medication, lots of people cannot even get it for malaria. How will I survive, food, somewhere to stay? The problems I had before, if they get me they may put me in jail for life, make me disappear. I get scared thinking too much.”

28-year-old man from Burundi

“I signed-up because of being destitute and I am unable to travel because of my wife’s poor health.”

48-year-old man from Afghanistan

“I don’t know. I’ll just go there and see what happens. I’ll die, probably. But because of my medical condition, perhaps my lawyer will fight for me to say how I can stay. Maybe I will still be saved.”

67-year-old woman from Zimbabwe

Where people do agree to sign up for Section 4 support, an influencing factor can be that they are aware that return is unlikely. This might explain the group of Somalis we interviewed who were in receipt of Section 4 support. Given the collapse of government in Somalia, there is effectively no authority available to issue documents, and often no safe route into the country. As a result, it is almost impossible to organise the return of Somalis. Many refused Somali asylum seekers know this, and therefore feel reasonably confident about signing up for Section 4 support. Having said this, the focus group held with Somalis also shows that there is a large number of people supported by the community who do not receive support because they either do not know about it or do not trust the system.

Until recently, Zimbabweans were in a similar position, as a result of an Asylum Immigration Tribunal (AIT) case saying it was unsafe for Zimbabweans to return. This has now been overturned on appeal, and it is likely, as a result, that fewer Zimbabweans will access Section 4.

Social services and community care

Many interviewees reported health problems, some of them significant, and some would clearly qualify for community care and support and accommodation under the National Assistance Act 1948 if destitute. None, however, were receiving this, although at least one was trying to get it (because she was heavily pregnant). There was almost no knowledge of social services provision, even among those who had a lot of contact with health services, from which they might reasonably expect a referral.

One pregnant woman with complex mental health problems, for example, was staying in a spare room offered by a professional working with her while a local agency negotiated for her to spend the last two months of her pregnancy in Section 4 accommodation. Already clearly suffering from mental health problems when interviewed, she has since been sectioned, and will now have a right to aftercare and accommodation from social services. Like many other cases with support and care needs, she had found it impossible to get help before, even though the law on this is established and there is a good body of case law emphasising the duties of social services in such cases.

Many vulnerable asylum seekers simply do not know that they could go to social services for help. Those advising and supporting them may also be unclear about the options and ways into them. The difficulties are compounded by the fact that social services receive no extra funding for accommodating and supporting the destitute (unlike the grants available, for example, for looking after unaccompanied asylum seekers).
The potential drain on budgets appears to act as a disincentive to accepting the destitute, however vulnerable.

**Impact of Section 4**

**Failing to encourage return**

Very few of those we interviewed said they were likely to seek voluntary return because they were destitute. In fact the opposite seems to be the case in that destitution has often pushed them out of the system to such an extent that return is made harder, not least because vulnerability is increased.

The fear of return meant that few of those interviewed had signed up to Section 4. Where they did, they did so for reasons which were sometimes nothing to do with receiving support, and which do not engender confidence in the system:

“I have just signed-up for Section 4. I did not want to as I fear returning to my country. However I am desperate to see my child again and desperate to survive here somehow.”

37-year-old man from Afghanistan

Even if people do sign up, Section 4 certainly does not enable people to return in dignity or safety after having made an informed choice.

**Pushing asylum seekers out of the system**

Section 4 is resulting in many people becoming destitute. This in turn means that it is even harder for them to engage with advisers about their return or make an informed choice about returning. It also makes them harder to locate should the Home Office want to contact them.

Asylum seekers are often confused and sometimes angry about what has happened to them. Many have spent months or years in a system which they consider has not given them a fair hearing, decent representation or adequate advice. They then find themselves begging and at risk in a country with substantial resources, where they are not allowed to work, and which they often realise is short of labour. Unsurprisingly, many have found it impossible to understand why or how the system is run the way it is, and so are deeply anxious about entrusting themselves to it again.

Some were even fearful of what ‘the authorities’ may now do:

“When I came here they said, ‘tell everything in confidence,’ so I said so many things to the UK government. The day I go back... the President is still there.”

30-year-old man from the DRC

**Making people focus on survival**

As outlined, Section 4 only applies following a refused asylum claim. This means that at a time when refused asylum seekers need to make hard decisions or take decisive action, they find themselves not only adjusting to their asylum decision but also facing eviction and destitution. This forces them to focus on their immediate problems of survival rather than think about their future.

Even if they stay in touch with agencies, these often reflect the confusion and difficulty caused by the lack of continuity and consistency:

“I can’t do anything. At the end of the month I will appeal. I am pregnant so eligible at seven months.”

27-year-old woman from Somalia

“I was told that I could not access Section 4 support. Refugee Action also told me I couldn’t get it, I think. Well, they tried and I got it for...”
about three weeks but then it was cancelled and I was thrown out of the house and that was that [in August 2005]. But even if I could, I wouldn’t take it if it meant having to go back – I cannot.”

42-year-old woman from the DRC

“People told me it was only for pregnant women.”

31-year-old woman from the DRC

The financial costs

Destitution and the implementation of Section 4 are not cheap. Reintegrating people back into a system that has abandoned them is expensive: NASS officials, advice organisations, health workers and others spend a lot of time making, supporting and assessing applications. There are many agencies involved in getting and keeping people in Section 4 accommodation, supporting them while there and dealing with the problems it may create. 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 or support from friends. This is placing a significant financial strain on these informal networks of support.

The social costs

There are many other costs, some unquantifiable, associated with the processes of destitution and inadequate support. These include the likely association with crime and prostitution, given that people may be driven to extreme and personally dangerous measures just in order to survive.

In addition, there are the longer term social consequences within communities that are already struggling with cohesion. The anxiety and confusion caused by the current system and rumours of forced returns can lead to a sense of fear and anger even among established refugee communities:

“Who will answer for the lives of the people returned? [A plane full of forced returns to Erbil had gone two days before]. We have a house here, children in school, children born here. I have indefinite leave but I worry they will return us. I want to get a UK passport so they cannot.”

Leicester focus group

These communities are often the first to bear witness to the destitution caused by Section 4, and are often providing support as a way of shoring up what they perceive to be the fundamental inadequacies and injustices of the system.

The health costs

The prevalence of people with physical and mental health problems or illnesses among those we interviewed raises an obvious question of cause and effect. The anxiety caused by Section 4 and loss of support is great, and may also be creating or aggravating ill health. Certainly many spoke of serious depression as a new factor in their lives.

Of particular concern was the fact that most pregnant women believe that they cannot apply for Section 4 until they are seven months pregnant (presumably because then they cannot travel). All the medical evidence is that foetal development is affected by malnutrition, anxiety and other stresses throughout pregnancy. Even once they get Section 4 support, they get no extra provision for their needs, and are expected to live
on vouchers, reported to us as, for example, £38 per week for a couple with a baby. This is clearly not adequate to support a pregnant woman or a child.

It is likely that the dietary restrictions imposed by vouchers and the anxiety caused by the perceived irrationality and hostility of the system have an effect on health, and most of those interviewed said their health had deteriorated since arrival in the UK.

**Impacting on the most vulnerable**

Section 4 comes into force at a time when all asylum seekers are vulnerable because they have had their claim for asylum refused. This means that they face the decision of whether or not to apply for Section 4 in an exhausted emotional, mental, and often physical state.

In one interview, the researcher had explained that Section 4 support was a possibility for people prepared to return to their country of origin, and had asked if the interviewee (a 48-year-old man from Sierra Leone) would like further information and an appointment to discuss his options. The interviewer noted in their record of the interview:

‘Referred to link worker with Refugee Action and appointment made for next day... He seems exhausted physically and emotionally. Return is being pursued in desperation. Mental health issues? Is he able to use/access legal advice?’

A particular concern is that some of those who are ill are likely thus to find themselves corralled into signing up for Section 4 because they simply cannot survive otherwise:

‘Has signed up to Section 4. After fresh claim, applied for this – advised her to go on it so has got it. There was a strong health argument as a result of her HIV diagnosis. At first refused, then Section 4 granted in February 2006. Has accommodation, but no finance. She (67-year-old woman from Zimbabwe) reports every month.’

Extract from interview record

Some of those we saw, however, clearly had mental health problems before they entered the asylum system. These people have simply proved unable to manage the application, advice, appeal and support process and have ‘fallen through the net’. Section 4, with its perceived insistence on signing for return and difficult bureaucracy to negotiate, is profoundly confusing for such people and does little to help their mental wellbeing.

Many vulnerable people, including pregnant women, families with children, and people with long term or even potentially fatal health conditions, have not been able to get any support from Section 4 or social services. They are often left in perilous circumstances, literally on the streets, dependent on solidarity or in circumstances that may be dangerous.

**The ethical dimension**

Telling people that they can only get the basic necessities by promising to go home sets them up to either lie or fail. If their choice is further complicated by health problems then this compounds the ethical problem. Asylum seekers in such a situation either face losing their dignity, health and identity or losing their life.

“They could send me. Maybe they will. I’m tired of fighting. If I go, though, I will die quickly rather than a bit slower.”

67-year-old woman from Zimbabwe
CONCLUSIONS & RECOMMENDATIONS
Conclusions

The research led to a number of key conclusions about the current position of refused asylum seekers in our society, the system they have experienced, and the causes and effects of destitution on them and others in their position. The evidence for these conclusions is to be found in the previous section (Findings).

What did the research tell us about destitute asylum seekers?

**They include a wide range of people, including the most vulnerable.** They can be women and men of all ages, though the harsh conditions of flight can favour the survival and arrival of the younger and fitter. They include pregnant women, the young, families and those with both physical and mental conditions which render them extremely vulnerable.

**They have often endured severe persecution.** The experiences of persecution which led to them seeking asylum are often complex and frequently highly traumatic, involving rape, torture, multiple loss and denial of basic human rights. Their destitute condition in the UK does little to alleviate the ongoing physical and mental scars of such experiences.

**They find it difficult to explain their reasons for seeking asylum.** Asylum seekers can find the recounting of their experiences an extremely traumatic, confusing and frightening process – even when this is in a voluntary context with researchers that they know are not from legal or government authorities. In addition, their stories may be highly complex and almost literally inexplicable.

**They are often here through chance, not choice.** Very few asylum seekers had actively sought residence in the UK. Most had ended up in the UK as a result of chance, many at the hands of ‘agents’ (traffickers) who they had often paid to help them flee persecution. Those asylum seekers who had chosen to come to the UK had often done so because of a faith in the human rights record of this country.

**Most do not understand what ‘seeking asylum’ means or implies.** The vast majority of asylum seekers have had no prior knowledge of the process or practice of claiming asylum, or indeed understand what the concept of ‘asylum’ is in a legal context. They are thus mostly unprepared to either understand or navigate the complexities of the asylum application system without significant support in doing so.

What is causing them to become destitute?

**The asylum system**

**Losing legal representation through dispersal.** Dispersal arrangements are contributing significantly to the difficulty of finding and keeping a lawyer. Asylum seekers report that their dispersal frequently leads to losing touch with their legal representative, and often also loss of documentation. Given the restricted provision of legal advice, in such circumstances asylum seekers may be trying to find a lawyer at a critical point in their case when their initial funding has been used up.
The importance of adequate legal representation early on is not understood or adequately communicated. When asylum seekers arrive in the UK, they are often still in a state of shock, and have little or no knowledge of what to expect. They are also largely unaware of the vital importance of making sure that their initial asylum claim is full and well argued, and that inaccuracies and errors in their initial application may seriously jeopardise their case in the future. This, combined with the fact that there are numerous barriers to receiving adequate legal representation at this stage (such as lack of availability of practitioners) means that asylum seekers risk having their case taken forward in a form which will result in later refusal.

Poor provision of interpretation throughout the asylum process. Many asylum seekers reported significant problems with interpretation, ranging from being provided with an interpreter who did not speak their language, to poor interpretation (which resulted in their case getting misrepresented), to prejudiced interpretation (for example, from people from the same country who disagreed with their perspective), to no interpretation at all. This occurred at all levels of the asylum process, and was hugely influential in determining both the outcome of the case, the degree to which asylum seekers were allowed to tell their story fully and accurately, the level of their understanding of the process and their potential to access the limited support available.

Lack of knowledge or awareness among decision-makers. It would appear from the interviews and some of the reasons for refusal given, that there can be considerable ignorance about the countries of origin of asylum seekers. People reported being disbelieved even when there was available objective evidence that they should be. It is not acceptable to make decisions without such information being sought, understood and correctly applied.

The legal system

Burden of proof can be a difficult one to bear. The current adversarial system is predicated on the basis that the onus is on the asylum seeker to ‘make clear the grounds on which he or she seeks to enter or remain in the UK’ (Home Office 1998). This can be extremely difficult for asylum seekers who mostly arrive severely traumatised and in a state of shock, without documentation, distrustful of authority and often without the facility to express themselves in English.

Not enough immigration lawyers to deal with current demand. Many people reported the extreme difficulty of finding a lawyer to take on their case, even at initial application stage. This was particularly true once people had been dispersed outside London, and is consistent with other research which shows a worrying reduction in immigration practitioners.

Inadequate time spent preparing cases. Restricted funding, among other factors, appears to impact significantly on the amount of time asylum seekers are being allocated by their lawyers. In particular, lack of time spent early on in taking full and adequate statements, and pursuing potential discrepancies in accounts, means that cases are being put forward which are inadequately and incompletely presented thus jeopardising a successful outcome. Many reported that the maximum time they had had with their lawyer was less than one hour, with several only ever having seen them for 10–15 minutes.

The system does not allow people to tell their full story. Some people are failing to disclose evidence which may be critical to the outcome of their case. This is due to a real or perceived lack of time, or cultural and gender insensitivity, or simple lack of interpretation. Most worryingly, it was found that women who have been raped are not telling even their lawyer because of a fear of what will happen to them if they do.
Critical evidence is not being gathered. Again for a variety of reasons, including difficulties of securing sanction from the Legal Services Commission for the requisition of such reports, cases are being taken forward without critical evidence. This includes quality medical reports, country evidence and evidence corroborating a person’s identity. This will clearly affect the ability of those assessing the case to do so fully.

Asylum seekers having to do their own casework and representation. Asylum seekers are being asked to undertake tasks which should more properly be undertaken by lawyers. These include: writing their own statements, identifying and pursing potential evidence pertinent to their claims and attending and representing themselves at their appeals. All of these tasks will be rendered even more difficult if, as is the case with many, they do not speak English.

Difficulty of making onward appeals. Once their first appeal is refused, most asylum seekers are finding it difficult if not impossible to find lawyers to pursue an onward appeal or review. New powers which mean that funding is awarded retrospectively in such cases mean that lawyers have to assess the risk of such appeals as, if not deemed to have merit, they may not get paid. Asylum seekers are thus finding it very difficult – if not impossible – to apply for review, even if there is considerable evidence that they were not given a full and fair hearing first time round.

There is still poor quality legal support. There is still evidence, in spite of much commitment to policies which have sought to drive towards quality, that lawyers are jeopardising cases by failing to meet deadlines, losing documentation, not ensuring adequate interpretation (or any interpretation), failing to check statements and failing to prepare asylum seekers for appeal hearings.

The support system

Accessing support is difficult. Even when people try to get support, they may find that the system is so poorly administered they cannot. Organisations working with asylum seekers spend hours trying to sort out applications and then a few more hours negotiating for a £5 food parcel or a sleeping bag to use in a park.

Loss of asylum support makes it more difficult to plan for the future, here or elsewhere. When asylum seekers lose their support, they are then forced into destitution which may be followed or interspersed with periods in Section 4 provision. This focuses their minds on their immediate problems of survival and affords them no chance to think about the future, including any potential for voluntary return.

What effect is the current system having on asylum seekers?

They feel unfairly treated. 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.

They are unable to get any support. Many vulnerable people, including pregnant women, families with children and people with long term or even potentially fatal health conditions have not been able to get any support from Section 4 or social services. They are left in perilous circumstances, literally on the streets, dependent on solidarity or in circumstances that may be dangerous.

They feel reluctant to trust any future element of ‘the system’. After years and months in which they believe they have not had a fair hearing, decent representation or advice, and have found themselves begging and at risk (in a country that is not only clearly able to support
CONCLUSIONS & RECOMMENDATIONS

them but also short of labour), destitute asylum seekers are not inclined to accept assurances or trust anyone. In such cases they are unlikely to seek to maintain contact with either services or authorities. This includes seeking timely advice.

They are not being encouraged to return. Asylum seekers still fear persecution more than destitution. In spite of their often dreadful living conditions, most destitute asylum seekers are still so fearful of the conditions they fled that they prefer to stay on the streets than return home.

Their physical and mental health is being damaged. Destitution is clearly damaging both the mental and physical health of those affected. Most of those interviewed reported that their health had worsened since arrival, in spite of the theoretical availability of health services for most. At the most extreme it has led some individuals to self-harm and suicide.

They are being driven to have to pay for legal advice. Restricted legal advice is meaning that asylum seekers are sometimes finding it necessary to pay for legal representation. They cannot afford this, and funding is thus being raised either through their community, their church, well wishers or other means, including illegal working.

Barring asylum seekers from working is leading to illegal working. Destitution is forcing some asylum seekers to get money through illegal and potentially damaging means such as prostitution. Here they are at far greater risk of exploitation (for example, by retention of wages or poor health and safety conditions) as well as physical and mental harm.

Destitution is forcing people to take extreme action to survive. Trying to survive with no support, and without the right to seek any employment is forcing people to extremes of behaviour. These include begging, shoplifting and prostitution. In some instances, people are committing minor offences just in order to gain shelter for a night in a police cell.

The most vulnerable are most at risk. Young asylum seekers, women, and those with mental health and physical health problems are, inevitably, particularly at risk. They are more likely to experience difficulties both in accessing the legal and support systems as well as experience the effects of destitution more keenly. In particular destitute women, sometimes with children, are at considerable risk of exploitation and assault by men.

They are losing their 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 selves 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.

What effect is destitution having on society?

The burden of support is being transferred elsewhere. Refugee communities, faith groups, religious institutions and voluntary organisations are trying to mitigate the effects of destitution by providing any support they can. In some instances they are literally saving people’s lives, and ensuring that people do not starve. This is placing extreme strains on the individuals and groups involved.

The current situation is unclear for those providing services. Those providing services and support struggle to understand what they are legally entitled to provide for destitute asylum seekers, particularly around health and social services support.
THE DESTITUTION TRAP

Communities are being disrupted. The presence of disillusioned and often desperate asylum seekers within established refugee communities can result in a sense of 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. Society is losing out on the skills they could bring. Virtually all the asylum seekers who were interviewed were desperate to work. In many cases they had skills and talents which would be an asset to the country. Destitution is a waste of human potential and means we lose out on the positive contribution they could bring.

Does destitution have a place in public policy?

Trying to force return by making asylum seekers destitute is not working. 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 is putting people outside the system so that they are more difficult to either inform or reach. Without a home or support, people are forced outside the system in a way that makes it even harder for them to engage with advisers or make an informed choice about returning. It also makes them harder to locate should the Home Office want to contact them.

Destitution forces an unethical dilemma on the already vulnerable. The vast majority of those interviewed were convinced that they could not go home. A system which tells them that they can only get the basic necessities by promising to go home sets them up to either lie or become destitute. This is ethically unacceptable.

The most vulnerable are the most likely to agree to return, even fearing persecution. A particular concern is that some of those who are either mentally or physically ill are most likely to find themselves corralled into signing up for Section 4 because they simply cannot survive otherwise.

Destitution is causing ill health. Lack of food, somewhere to sleep and the extreme anxiety caused by the perceived irrationality and hostility of the system have an effect on health, and most of those interviewed had health problems, even though they are generally young and had few health problems prior to arrival. This can have a knock-on effect as emergency and other health services are required to deal with the effect of this.

Section 4 and its implications is causing extreme anxiety. Section 4, with its perceived insistence on signing for return and difficult bureaucracy to negotiate, is creating untold anxiety and confusion, and may also be creating or aggravating ill health. Certainly many spoke of anxiety and depression as new factors in their lives.

Destitution has a social cost. There are many other costs associated with the processes of destitution and inadequate support, including the likely association with crime and prostitution, and the longer term consequences of alienation within communities that are already struggling with cohesion.

Destitution and the implementation of Section 4 are not cheap. Reintegrating people back into a system that has abandoned them is expensive: 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 also rely on other help: food parcels from faith communities or charities, meals with friends, etc.

**Destitution is particularly affecting pregnant women.** We are particularly concerned that most pregnant women believe that they cannot apply for Section 4 until they are seven months pregnant (presumably because then they cannot travel). All the medical evidence is that foetal development is affected by malnutrition, anxiety and other stresses throughout pregnancy. Even once they get Section 4 support, they get no extra provision for their needs, and are expected to live on vouchers, reported to us as, for example, £38 per week.
When considering recommendations that arose from this research, it became clear that we needed to look at what could be done in two different spheres: to address the current and pressing problems of those we interviewed and the thousands like them, and to propose changes that can ensure that others do not face the same problem in the future. We have therefore ordered our recommendations in two sections which reflect these two fundamental needs.

We have chosen here to make proposals aimed at abolishing destitution as a factor in social policy rather than dealing with the current consequences of it. We have therefore derived some core principles for all those involved in policy-making at whatever level which should underpin initiatives now and into the future. We list these first

### Overarching principles for future policy

- 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

### 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
CONCLUSIONS & RECOMMENDATIONS

- 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.

**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 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.

- **The Law Society** should develop an accreditation scheme for specialist legal representatives for unaccompanied minors seeking asylum.
APPENDICES
Methodological approach

The research was carried out over a ten month period between December 2005 and September 2006. A team of five researchers undertook the work: Hildegard Dumper, Ceri Hutton, Sue Lukes, Richard Malfait and Nick Scott-Flynn. They were overseen by a steering group specifically established for this purpose which included representatives from Refugee Action, Garden Court Chambers, Amnesty International and the Immigration Law Practitioners’ Association.

Information was gathered from the following sources:

- A literature review of extant research and material on the issue of destitution among asylum seekers in the UK. This review was mostly limited to work from this country.

- Meetings with service providers, destitution projects and refugee networks in areas where the research was to be carried out.

- Interviews with 125 individual destitute asylum seekers, including 17 who were receiving Section 4 Support.

- Two focus groups with members of refugee communities (32 individuals in all).

Interviews were concentrated on towns and areas where Refugee Action is operational: Bolton, Bristol, Derby, Nottingham, Leicester, Liverpool, Manchester, Plymouth, Portsmouth and Southampton. A parallel study of destitute asylum seekers in London was carried out by Amnesty International UK.

The research was carried out in three phases: preparation and pilot, fieldwork, analysis.

Phase one: preparation and pilot

Preparation included a literature review of research and other material on destitution among asylum seekers in the UK. It included other research, press reports, internal papers from relevant agencies and policy documents, all mainly from the UK.

We also met local agencies in each of the towns identified for the study, chosen because Refugee Action had offices there which had reported significant numbers of destitute people. These are listed above.

We prepared a lengthy questionnaire, and we sought advice on the legal content from a legal adviser on the Steering Group. The questions were designed to allow asylum seekers to tell their stories in depth over some time in a structured way (using interpreters from a Refugee Action pool where needed) and were piloted with 15 interviews before general use between January and March 2006. All interviews were conducted by members of the research team.

It was agreed at the outset that a representative sampling of destitute asylum seekers was impossible because so little is known about this group nationally and so it was impossible to design a sampling frame. Instead we ensured that we had a purposive sample including a reasonable number of women and a spread of nationalities.
Phase two: fieldwork

Following the pilot, the main body of interviews were carried out between April and June 2006. This involved further meetings with destitution projects, refugee networks and other service providers in the areas. A total of 125 interviews resulted (including the pilots) which included 17 people who were receiving Section 4 support.

Interviews were arranged by Refugee Action, partner agencies or projects in the targeted locations working with destitute asylum seekers. The range of organisations involved can be seen in the acknowledgements section. They took place in a range of venues identified by them as suitable, in that they were known and trusted by destitute asylum seekers, provided a confidential and safe space for the interview and offered other facilities such as photocopying for the documents some interviewees brought.

We did not target particular nationalities or types of destitute asylum seeker to interview, with the exception of seeking a small percentage (10 –15 per cent) who were claiming Section 4 support. Having said that, we sought to ensure a balance of nationalities as well as gender within our sample. Interviewees were invited by the projects to participate in the research, and projects given a clear briefing by the team answering questions about the research. They also had leaflets to hand to potential interviewees.

All interviewees were given an information leaflet that explained the purpose of the research. This was coupled with a consent form that interviewees were asked to sign if they wanted to take part, to get their permission to refer their case on via Refugee Action if they raised issues of concern for which further help or support might be offered. We also asked for consent to contact again for possible press work around the publication of the report. These leaflets and forms were available in different languages and were carefully explained before any interview commenced. Sample forms are attached in these appendices. Participants were told clearly that the interview and any subsequent contact was entirely voluntary, that they need not answer all of the questions, and that they could withdraw from the process at any point. Many understandably refused to be contacted further for press work. Women participants were, whenever possible, interviewed by a female researcher. In the event very few failed to complete an interview, and some interviews lasted upwards of two hours.

It was felt to be extremely important that the research ensured quality of interpretation. Where this was needed, interpreters approved by Refugee Action were used, with a few exceptions.

At the end of the interview, and with no prior notice, interviewees were offered a nominal cash payment of £15 in an envelope for their time and travel expenses. This was much appreciated by the vast majority. Some interviewees were reluctant to accept the money. Some were embarrassed and did not want to accept charity as they saw it; they just wanted an opportunity to tell their story.

The interviews were often very long, and often extremely draining and upsetting for those who had chosen to tell their stories. They were also distressing for the researchers who benefited from the support made available in line with that provided to frontline casework staff at Refugee Action.

In August and September, two focus groups were set up to discuss emerging findings and community attitudes with refugees. One involved 24 Somali men and women in Liverpool, the other a mixed group of eight women in Leicester, the majority Iraqi Kurds. These explored the issues of destitution, Section 4, return, community support, the wider effects on community and what people in the communities wanted to be done.
Phase three: analysis

Normal analysis of the information collected was supplemented by statistical and legal analysis.

Statistical analysis

Questionnaire answers were input into a database to enable some statistical analysis and enquiry. A database was set up into which the answers in the questionnaires were inputted for ease of analysis. Chi squared tests were performed on a selection of variables.

Legal review and analysis

It was felt that as the research involved asking people in-depth questions about their asylum claims and legal representation, there was an ethical obligation for the research to include a legal assessment of each case, and intervene where necessary. The completed interviews and any documentation were also passed to the legal review team, David Burgess and Fiona Ripley, two highly experienced immigration practitioners. They were asked to look at the material available and make general and specific comments on each case.

The results of their analysis are drawn on within the findings. In relation to the limitations of the assessments made, the legal reviewers noted:

‘These assessments have generally been made on the basis of limited information, namely that provided by the respondents, failed asylum seekers. In a modest proportion of cases there has been relevant documentation but at best incomplete.

‘Credibility is a key issue in asylum law and practice and will have arisen in most if not all of the cases considered. Chief tests of credibility are internal consistency; plausibility in light of country background evidence; and sufficient detail to suggest actual witness. We have not been able to assess these elements on the slim detail available. Similarly it has been challenging to seek to assess the legal work conducted for the respondents. In general, clients whose legal cases fail are not well disposed towards their legal representatives.

‘However within these constraints we have sought to assess cases. When we have assessed cases as having had some promise, they are cases where we are left with significant unease. They are cases where a (good or fair) core asylum case is expressed by the respondent. Frequently they are also cases when there is concern with legal representation arising out of particular detail given by the respondent, or in a few cases by concerns arising out of the documentation.’

Follow-up

Where the legal reviews indicated that the case would merit further examination (a majority), arrangements are now in place to enable them to get good legal advice and possibly representation. Follow-up on other matters, such as applications for Section 4 support, getting community care assessments and help with finding emergency accommodation was referred by prior arrangement to Refugee Action caseworkers in the local teams. Other projects also took informal referrals where appropriate.

Limitations of the research and lessons learnt

A range of problems with the questionnaire design occurred. This led to the database design being very complex.

Initial discussions defined the legal content, but the team felt that it would have been helpful to have had the legal review team on hand to analyse the pilots and ensure that the interviews generated the maximum useful information for the case assessments. The questionnaire was very long, which made the database unwieldy at
times, and would have benefited from a greater number of quantitative questions.

Identifying interviewees was done mainly through Refugee Action offices and destitution or community projects. It is possible that the research does not fully reflect the experiences of those who are not in contact with any formalised source of support.

The time constraints on the research meant that it was not possible to work as closely with refugee community organisations as had been originally envisaged, and not all the focus groups we had hoped to organise took place.
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**Government**


Acknowledgements

Above all we want to thank the individual asylum seekers who shared their stories with us. We hope that we have done justice to your testimony, and that this research will contribute to ending destitution for you and others who come after you.

In addition, there are many people who the researchers would like to thank for their help in making this research and report possible. Without the advice, support and practical help offered, we would simply not have been able to do the research or produce this report.

We have listed here individuals, but would like to extend a general thanks to all staff and volunteers from the following organisations who helped us with setting up the interviews, and the research in general.

We list individuals here in alphabetical order, according to surname.

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Refugee Action Leicester

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Refugee Action Liverpool

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British Red Cross Society (Leicester)

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Rupert Blomfield
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Andi Briggs
Asylum-Link, Liverpool

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Richard Dunstan
Citizens Advice

Linda East
Nottingham and Nottinghamshire Refugee Forum

Mohamed Elsharif
Sudanese Community Association of Bristol

Katie Gilkes
Refugee Action Plymouth

Keith Grayson
Refugee Action Nottingham

Sysay Habonimana
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Nicola Hayes
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Renae Mann
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Michala Meades  Revive (Manchester)
Adam Mohammed  Liverpool Somali Youth Association
Kevin Ncube  Toc H
Malcolm Ngouala  BRASS (Bolton)
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Santok Odedra  Refugee Action Leicester
Martin Owen  SOAS
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Nigel Rose  Refugee Action Manchester
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Steering group and legal advisers

In addition to the support provided by numerous staff at Refugee Action Head Office, the research was steered and advised by the following:

David Burgess  Immigration solicitor
Kathryn Cronin  Immigration Law Practitioners Association
Fiona Ripley  Immigration solicitor
Jan Shaw  Amnesty International

We would also like to thank Tudor Trust for their generous funding of this research.
Thank-you for your interest in being interviewed as part of this research project. Before deciding whether or not to take part it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully. Talk to others about the study if you wish.

Who is organising and funding the research?

The research has been organised by Refugee Action, which is a Non-governmental Organisation independent of the government. The research is also supported by the Immigration Law Practitioners Association (ILPA) and Amnesty International. Funding has been provided by the Tudor Trust. The research is being undertaken by a team of experienced researchers who have a long record of work in this sector: Sue Lukes, Hildegard Dumper, Ceri Hutton, Richard Malfait and Nick Scott-Flynn.

The purpose of the study:

- To explore to what extent people are destitute because of a lack of access to appropriate legal advice.
- To look at how destitution affects people’s access to legal advice.
- To record some of the effects on people of being destitute (e.g. health problems etc.).
- To document why individual asylum seekers feel unable to sign-up for the state support that is offered.

The results of the research will be used to:

- Help campaign and advocate for the use of destitution to stop being used as a deliberate policy of government.
- Highlight the difficulties that asylum seekers are facing in this position.

Why would we like to interview you?

Speaking directly with people affected by the asylum process, by legal advice provision and destitution in the UK is central to the approach of our study. If you agree to be interviewed, your experience and views will feed into the final report and future campaigning.

Do I have to take part?

Participation is entirely voluntary. You can withdraw at any point during the interview process.
**What will it involve?**

The interview will take approximately 90 minutes and we will ask you a set of questions about your experiences and views on asylum seeker destitution. You can refuse to answer any question that you do not feel comfortable answering.

**What are the benefits of taking part?**

Your knowledge and experiences will feed into the research report and any follow up actions. We are trying to influence government policy development and ultimately improve the services being offered to refugees and asylum seekers.

**Will my identity and what I say be kept confidential?**

Your identity will be kept confidential but what you tell us will be recorded and may be used in our report. You may prefer not to use your full or real name during the interview – this is OK.

**How can I find out more about the research?**

(details removed)

If you wish to make a complaint:

Should you have any complaints relating to this research please contact (details removed)
CONSENT FORM TO BE USED AT THE INTERVIEW

I give my consent to be interviewed for the research project on destitution and agree that the information I provide can be shared with other members of the research team and used in any associated publications as long as it does not include any details that may identify me personally. If, as a result of the information I provide during the interview, the interviewer or others in the team believe that I would benefit from referral for other help or advice, I am willing for my contact details to be passed to a Refugee Action caseworker who can contact me to offer such help.

Name …………………………………………………………………………
(Pseudonyms can be used)

Signed………………………………………………………………………

Date…………………………………………………………………………

Contact details:

Would you be willing to be contacted by Refugee Action to help in publicising the conclusions of the report and the situation of destitute asylum seekers in the U.K.?

Yes    No
Endnotes

24. In ASA/05/10/10266.
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25 Home Office (2006a) op cit


27 Bail for Immigration Detainees (BID) and Asylum Aid (2005) *Justice Denied: Asylum and immigration legal aid - a system in crisis*, BID and Asylum Aid, London

28 As explained in previous chapter


31 Ibid

32 Ibid

33 Ibid


36 Ibid

37 Ibid


40 Occasional paper by K Cronin (2006) submitted to the research steering group


42 Phone interview with Martin Owen (2006), Lecturer in Somali and Amharic, School of Oriental and African Studies, University of London

43 Asylum Aid (1999) op cit

44 16242; 11 February 1998


46 For example, Bail for Immigration Detainees (BID) and Asylum Aid (2005), op cit

47 71 people


49 60 people
Refugee Action is an independent, national charity working to enable refugees to build new lives in the UK. We provide practical emergency support for newly arrived asylum seekers and long-term commitment to their settlement, and we assist approximately 40,000 asylum seekers every year. As one of the country’s leading agencies in the field, Refugee Action has 25 years’ experience in pioneering innovative work in partnership with refugees.

In January 2006 Refugee Action commissioned national research to explore the causes and effects of destitution among rejected asylum seekers in the UK. The research was carried out by a team of independent consultants with extensive experience in the field of asylum and human rights, and is based on in-depth interviews with destitute asylum seekers in nine English regions. The findings are disturbing, and raise urgent questions about whether current government policy is sustainable.

This report is essential reading for anyone with an interest in the future of the asylum system.