

## **Response to the Home Office consultation “Reforming support for failed asylum seekers and other illegal immigrants”, August 2015**

Still Human Still Here is a coalition of nearly 80 organisations that are concerned about the destitution of refused asylum seekers in the UK. The coalition includes nine City Councils, Doctors of the World, the British Red Cross, Crisis, Homeless Link, OXFAM, Mind, National Aids Trust, the Children’s Society, Citizens Advice Bureau, a range of faith based organisations and all the leading agencies working with asylum seekers and refugees.

### **1. The proposed repeal of section 4(1) of the 1999 Act (paragraph 16).**

The repeal of Section 4(1) will prevent some individuals on temporary admission and others released from immigration detention from accessing support. If abolished it risks leaving people destitute or unlawfully detained. Those likely to be affected include people:

- who have not claimed asylum and are attempting to return to their country of origin, but are encountering difficulties obtaining the required documentation;
- who have not claimed asylum but are seeking to regularise their status and are waiting for this to be determined (e.g. people brought to the UK as children);
- released on bail by the Immigration and Asylum Tribunal (many will not be released without a Section 4 address);
- released from detention and given temporary admission rather than bail;
- released from detention by High Court bail.

In order to qualify for Section 4(1) support those given temporary admission must have “truly exceptional circumstances”, be destitute, have no other means of support and be a person who “cannot be expected to take reasonable steps to leave the UK and so avoid the consequences of being left destitute in circumstances that would otherwise lead to a breach of their human rights.” If Section 4(1) is abolished many of the people affected are likely to look first to local authorities for assistance and this will have direct financial implications for those authorities, irrespective of whether those applications for support are successful or not.

Section 4(1) is also used when the Home Office urgently needs to release a person because their detention is unlawful or because an immigration judge has agreed that they should be given bail. As the Home Office recognises, 4(1)(c) is frequently used, with many hundreds of people being released from detention to Section 4(1)(c) accommodation each year. If Section 4(1) is repealed it will prevent individuals from obtaining a bail address and may consequently result in their being unlawfully detained.

The repeal of Section 4(1) is likely to have the unintended consequence of encouraging individuals to make an asylum application so that they can make a bail application. It is also likely to force challenges to detention into the High Court and see an increase in successful claims for compensation for unlawful detention, both of which will significantly increase costs to the public purse.

**2. The proposal to close off support for failed asylum seekers who make no effort to leave the UK at the point that their asylum claim is finally rejected, subject to continued support in cases with a genuine obstacle to departure at that point or in which further submissions are lodged with the Home Office and are outstanding (paragraphs 20-21).**

The Home Office's own research concluded that there is very little evidence that those seeking asylum are deterred by the prospect of harsh treatment in a country of asylum<sup>1</sup> and previous policies that have left people to subsist on vouchers or withdrawn support completely have proved ineffective in coercing refused asylum seekers to leave the UK.

Closing off support from people who have been refused asylum will not lead to them voluntarily returning home, but it will undermine immigration controls as refused asylum seekers have little incentive to stay in touch with the authorities once support is withdrawn. For those refused asylum seekers who do try to maintain contact with the Home Office, the practical barriers created by destitution may make this impossible (e.g. having no money for travel and communication).

Conversely, continuing support to refused asylum seekers would strengthen the integrity of the immigration system because the Home Office would maintain contact with people who are appeal rights exhausted and would be better able to enforce removals against individuals who do not have protection needs in the UK and do not leave voluntarily. This is why Home Office staff themselves proposed, in response to a previous consultation, that refused asylum seekers should be left in their accommodation until they are removed from the UK.<sup>2</sup>

The Government states that it will continue to provide support in cases where there is a genuine obstacle to departure or in which a further submission has been lodged. While this is welcome, this provision is currently implemented in a very restrictive way so that individuals who are clearly unable to return home are still denied any form of support. For example, even when the Iranian Embassy to the UK was closed and there was no way an individual could obtain the documentation needed to return, the Home Office still refused Section 4 support to many destitute Iranian asylum seekers.

For example, one Iranian asylum seeker applied for assisted voluntary return and, with the help of Refugee Action, contacted the UKBA Immigration team, the Iranian Embassy in Dublin and his family in Iran. However, his Section 4 support was still stopped on the grounds that he had not demonstrated that he was taking all reasonable steps to leave the UK. A Judge subsequently allowed the appeal, commenting that the refused asylum seeker was "ready and willing to return to Iran but cannot do so without the appropriate documentation" and that he had "taken quite substantive steps ...to obtain such documentation" [AS/12/02/28016].

The above case illustrates how difficult it can be for refused asylum seekers to get support from the Home Office, even when it is extremely clear that they cannot return to their country of origin. It also underlines how individuals often have to rely on an appeal to the Asylum Support Tribunal to enable them to access support and avoid destitution.

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<sup>1</sup> V. Robinson *et. al.*, *Understanding the decision making of asylum seekers*, Home Office, 2002 and Zetter *et. al.*, *An assessment of the impact of asylum policies in Europe 1990-2000*, Home Office Research Study 259, June 2003.

<sup>2</sup> UKBA, *Simplifying Immigration Law: Responses to the initial consultation paper*, December 2007.

This example is not exceptional. The poor quality of Home Office support decisions is reflected in the fact, that between 1 September 2014 and 28 February 2015, the Asylum Support Tribunal allowed 44% of the appeal cases it decided and remitted a further 12% back to the Home Office to retake the decision. This means that in over 50% of cases in which the Tribunal made a decision the case was either allowed or remitted. If cases in which the Home Office withdrew prior to the hearing are included, then a total of 61% of appeal cases received in this period were either allowed, remitted or acknowledged by the Home Office to be flawed before the hearing.<sup>3</sup>

These figures demonstrate that the right of appeal is an essential mechanism for correcting mistakes made by Home Office and ensuring that those asylum seekers who are wrongly refused support are not left destitute in the UK.

For the reasons outlined above, we believe it is wrong to close off support to refused asylum seekers and that it is essential that all asylum seekers retain a right of appeal against any refusal to provide support.

### **3. The proposed changes for failed asylum seekers with children (paragraphs 29-33).**

Removing support from asylum seeking families who are appeal rights exhausted will not be an effective means of encouraging people to leave the UK because, no matter how difficult living conditions are made for asylum seekers here, it is unlikely to overcome their real or perceived fears about what would happen to them if they return to their country of origin.<sup>4</sup> Where parents, rightly or wrongly, think that their children's lives will be at risk if they return home, they will usually consider that becoming destitute in the UK is the better option available to them. However, if families are left destitute this establishes barriers that prevent their concerns about returning home from being addressed.

This is evidenced in the data from a pilot that the Government ran between December 2004 and December 2005 in which families who were appeal rights exhausted had their accommodation and financial support removed if they failed to take "reasonable steps" to leave the UK (implementing Section 9 of the Asylum and Immigration Act 2004). The Section 9 pilot involved a cohort of 116 families who were living in Leeds, London and Manchester and it found that in nearly a third of cases families choose to disappear in order to avoid the risk of being returned to their country of origin.

At the time, the Chair of the Asylum and Refugee Task Group of the Association of Directors of Social Services, Peter Gilroy, stated: "I am greatly concerned that Section 9 has apparently encouraged so many families to disappear ... It is ironic that at the same time the government is working hard to implement Every Child Matters, national policy appears to be encouraging families to disappear."<sup>5</sup>

Even where families do not disappear, the vast majority are still likely to remain in the UK, albeit in destitution. Refugee Council and Refugee Action had contact with 35 of the 116

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<sup>3</sup> Asylum Support Tribunal statistics, 1 September 2014 to 28 February 2015.

<sup>4</sup> In 2014, on average more than 70% of applicants from Afghanistan, Libya, Iraq and Egypt were refused any form of protection in the UK. These are all countries in conflict and/or with widespread and serious human rights violations so it is easy to understand why asylum seekers would fear for their safety if returned there.

<sup>5</sup> Refugee Council and Refugee Action, *Inhumane and Ineffective - Section 9 in Practice*, 2006, page 6.

families through outreach teams and found that all of these families believed it was unsafe for them to return to their home country.<sup>6</sup>

Despite this, the Government has stated that it is reasonable to assume that there will be behavioural change leading to greater numbers of refused asylum choosing to leave the UK. This assumption is not consistent with either the evidence above or the findings of the Home Office's own evaluation of the Section 9 pilot, which compared the behaviour of the cohort of 116 families in the pilot against a control group of similar cases who did not have their support cut off. By June 2007, the Home Office evaluation found that of the 116 cases in the Section 9 cohort, there was only one case in which a family was successfully removed, as compared to nine successful removals in the control group. Even when voluntary returns are taken into account, the total number of returns in the control group was nearly twice as high as in the pilot. The Home Office evaluation concluded that under Section 9 "there was no significant increase in the number of voluntary returns or removals of unsuccessful asylum seeking families."<sup>7</sup>

This shows that the withdrawal of support will not achieve the Government's stated intention of "ensuring the departure from the UK of refused asylum seekers with no lawful basis to remain in the UK". On the contrary, it will have a detrimental effect on this goal as it will increase the number of families which abscond. This was also documented in the Home Office evaluation which compared the pilot's cohort with a control group in relation to cases which should have been reporting to the Immigration Service or been in contact with asylum support officials. It found that the rate of absconding was 39% for those in the Section 9 pilot - nearly double the rate of those in the control group (21%), who remained supported.<sup>8</sup>

Unsurprisingly, the Home Office evaluation of the pilot recommended that section 9 should not "be used on a blanket basis" in the future and that "it should be for case owners to take a view, based on an established relationship with the family and an intimate knowledge of the asylum claim which has not been successful, of which approach to encouraging departure is most likely to be effective."<sup>9</sup> However, the Government now intends to ignore this recommendation and proposes a policy which will undermine immigration controls and have a damaging impact on the welfare of children.

Irrespective of whether families should or should not go home, the children of asylum seeking families are children first and foremost, and UK asylum policy should make the protection of their welfare its priority. However, it is impossible to implement the proposals in the consultation paper without running the risk of leaving families destitute and street homeless, vulnerable to abuse and exploitation, and causing long term harm to the children affected.

The Government has stated that its intention is to "retain important safeguards for children", yet it proposes a policy which is designed to prevent statutory services assisting children who become destitute and/or street homeless when their parent's application has been refused and the Home Office believes there is no obstacle to prevent them returning home. This approach is completely incompatible with promoting the best interests of the child and the principles of

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<sup>6</sup> Refugee Council and Refugee Action, *Inhumane and Ineffective - Section 9 in Practice*, 2006, page 7.

<sup>7</sup> Home Office, *Family Asylum Policy – The Section 9 Implementation Project*, pages 3 and 7.

<sup>8</sup> Home Office, *Family Asylum Policy – The Section 9 Implementation Project*, page 7.

<sup>9</sup> Home Office, *Family Asylum Policy – The Section 9 Implementation Project*, page 3

child protection as reflected in the UN Convention on the Rights of the Child, the Children's Act 1989, and other national guidance, including *Every Child Matters*.

This conflict of responsibilities was highlighted by Ian Johnson, the Director of the British Association of Social Workers, following the implementation of the Section 9 pilot. He noted that the legislation “*places social workers and their employers in an insidious position from our point of view... If this is a civilised country we live in, then there is no place for that kind of treatment of families.*”<sup>10</sup>

The consequences of withdrawing all statutory support from vulnerable families should not be underestimated. A 2011 Serious Case Review involving Child Z, noted that the circumstances of the child's mother - a refused asylum seeker facing removal, with a life threatening illness, and caring for a young child with few support networks - “would challenge any individual's coping strategies.” It stressed the “need for high levels of support for someone with such vulnerabilities was clear”. The review identifies the loss in continuity in medical care due to her frequent moves to different part of the country as a major factor leading to the woman's death and her child needing to be looked after.

A separate 2012 Serious Case Review looked at the case of a vulnerable and socially isolated asylum seeker who developed a rare brain infection and could not look after her child, EG. The baby boy starved to death and the mother died two days later. The family became destitute during the transition from asylum to mainstream support, leaving the family “dependent upon ad hoc payments by local agencies which must have added to Mrs G's anxiety and consequently to her difficulty in managing her children and their collective health needs.” The review expressed “concern about the adverse consequences on vulnerable children and the resulting additional pressure on local professional agencies” when support was cut off.

Both these cases highlight the consequences of leaving vulnerable families without any support (although in the latter case the family was actually entitled to benefits, but could not access them). The proposals in the consultation document envisage no safety net or support for refused asylum seeking families, thereby greatly increasing the risk of children coming to harm.

These cases also highlight the complex health needs that many asylum seekers have. The British Medical Association has noted that asylum seekers often have specific health problems which are related to the effects of war and torture (between 5-30% of asylum seekers are estimated to have been tortured)<sup>11</sup> and a higher incidence of illnesses like tuberculosis, hepatitis and parasitic infections.<sup>12</sup> The Royal College of Obstetricians and Gynaecologists has stressed that pregnant asylum seeking women are seven times more likely to develop complications during childbirth and three times more likely to die than the general population.<sup>13</sup> The Royal College of Psychiatrists also highlighted that “The psychological

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<sup>10</sup> Barnardos, *The End of the Road*, 2005, page 6.

<sup>11</sup> A. Burnett and M. Peel, *The health of survivors of torture and organised violence*, BMJ, 322, 2001.

<sup>12</sup> Sharpe A, *Asylum seekers: meeting their health care needs*, BMA, 2002 [www.bma.org.uk](http://www.bma.org.uk)

<sup>13</sup> Centre for Maternal and Child Enquiries (CMACE), 2011, *Perinatal Mortality 2009: United Kingdom*, London: CMACE

health of refugees and asylum seekers currently worsens on contact with the UK asylum system.”<sup>14</sup>

When asylum seekers have their claims refused and support cut off this directly impacts on their mental and physical health, both causing illness and complicating existing health problems. The deterioration in destitute asylum seekers’ health will be quicker and more pronounced than in the general population both because of their particular vulnerability, as highlighted above, and because they will already have been living well below the poverty line for a significant period of time while waiting for their asylum claims to be decided.

This is reflected in several studies of destitute asylum seekers. For example, the Asylum Support Appeals Project’s detailed analysis of 55 cases of refused asylum seekers in 2011 found that 45% had mental or physical health problems,<sup>15</sup> as did its follow-up research in 2012.<sup>16</sup> In March 2012, a survey in Scotland of 115 destitute asylum seekers (148 including dependents) found that more than two thirds were refused asylum seekers. The survey identified that 23% of the group had mental health issues and that the average score for the asylum seeking interviewees in relation to mental health was lower than the comparative scores in a study with women survivors of domestic abuse.<sup>17</sup>

The findings from the Section 9 pilot are consistent with this evidence. The Refugee Council and Refugee Action outreach teams found that many of the 35 families they worked with had physical and mental health problems which were made worse by Section 9:

- 80% of parents had mental health problems ranging from depression to self-harming and some had been diagnosed with post-traumatic stress disorder.
- 36% of parents had significant health conditions which included heart disease, sickle cell anaemia and asthma.<sup>18</sup>

It should be stressed that the impact of cutting off support on asylum seekers’ health is likely to be faster and more severe today than when the above studies were carried out because of the substantial cuts to asylum support that have taken place since these research projects were undertaken. These cuts have particularly affected families with children. The Home Office has cut support to an asylum seeking couple with two children by more than £30 a week this year – a reduction of nearly 20% in 2015 alone.

It should also be noted that many destitute asylum seekers will consider other survival strategies in order to provide for their families. This may lead to them becoming involved in illegal and exploitative work, abusive transactional relationships and prostitution. It is ironic that following the passage of the Modern Slavery Act 2015, the Government is proposing a policy which is likely to create the conditions in which asylum seeking families will be more vulnerable to forced labour and trafficking.

For all these reasons, Still Human Still Here is strongly opposed to the proposal to withdraw support from refused asylum seeking families with children.

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<sup>14</sup> The Royal College of Psychiatrists (RCP), *Improving services for refugees and asylum seekers: position statement*, Summer 2007.

<sup>15</sup> ASAP, *No credibility: UKBA decision making and Section 4 Support*, April 2011.

<sup>16</sup> ASAP, *One Year On, Still No Credibility*, December 2012.

<sup>17</sup> Morag Gillespie, *Trapped: Destitution and Asylum in Scotland*, September 2012, page 41.

<sup>18</sup> Refugee Council and Refugee Action, *Inhumane and Ineffective - Section 9 in Practice*, 2006, page 5.

#### **4. The length of the proposed grace period in family cases (paragraph 31).**

The consultation document proposes that entitlement to support should be cut off for asylum seekers with dependent children at least 28 days after their claim is finally refused. We believe that 28 days is not a sufficient period of time for an asylum seeking family to understand and review the options available to them and make a decision on what their next steps should be.

It should be stressed that 28 days is the time allocated for the Home Office to transfer asylum seekers from asylum support to mainstream benefits once they become refugees and this regularly proves to be insufficient time to make the relatively simple administrative arrangements required. The consequence of this is that many refugees are left destitute because their asylum support is cut off before they can access mainstream entitlements, causing severe hardship for the individuals affected.

During the Section 9 pilot, Refugee Council and Refugee Action outreach teams found that on average the 35 families they had contact with required a minimum of three advice sessions after receiving the letters from the Home Office stating that their support would be withdrawn. The outreach teams also found that 50% of families needed legal advice.<sup>19</sup>

Consequently we believe the grace period should be comparable to that provided to asylum seekers who are engaged in a the voluntary returns programme (three months) in recognition of the complex and difficult decisions refused asylum seekers will have to make. A period of 90 days will ensure that asylum seekers have time to make an informed decision and also that they do not become destitute because they could not identify and document barriers to their removal or obtain the evidence required to make a further submission.

We further recommend that the grace period should start from the day on which the asylum seeker receives notification that their appeal had been refused rather than the day on which the appeal was determined.

The Government states that it does not propose to create a right of appeal against a refusal to extend support when an asylum seeker is taking reasonable steps to leave the UK, but is unable to do so due to a practical obstacle beyond their control. We consider that the right of appeal is a vital mechanism that prevents asylum seekers from being incorrectly refused support and left destitute and must not be removed.

This is particularly important given the scale of incorrect support decisions made by the Home Office. Between 1 September 2014 and 28 February 2015, the Asylum Support Tribunal allowed 252 cases and remitted a further 71 cases back to the Home Office to retake the decision. This means that in 52% of cases in which a decision was made, the Tribunal either allowed the claim for support or remitted it back to the Home Office to take again. If cases in which the Home Office withdrew the case prior to the hearing because the original decision was flawed are taken into account, then a total of 61% of appeal cases received in this period were either allowed or remitted or withdrawn by the Home Office.<sup>20</sup>

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<sup>19</sup> Refugee Council and Refugee Action, *Inhumane and Ineffective - Section 9 in Practice*, 2006, page 4.

<sup>20</sup> Asylum Support Tribunal statistics, 1 September 2014 to 28 February 2015.

Errors in Home Office decision making were also seen in the Section 9 pilot, in which 30% of families in the pilot had outstanding asylum claims or other legal representations unresolved and therefore should not have been included in the pilot in the first place.<sup>21</sup>

### **5. The proposed transitional arrangements (paragraphs 36-37).**

We consider that it would be impracticable and costly to apply the proposed procedures to refused asylum seekers already in receipt of support. We also think that it would result in local authorities being overwhelmed with applications for support from this group. We therefore recommend that, if the proposals are to be implemented, they should only be applied to those individuals who receive final refusals after the new legislation comes into force.

### **6. The assessment of the impact of the proposals on local authorities (paragraphs 38-45).**

During the Section 9 pilot, Barnardos carried out research focussing on the impact Section 9 would have on local authorities. A total of 33 authorities took part in the research, of which 18 were directly involved in the pilot.

All of the local authorities interviewed were clear that Section 9 ran counter to their established welfare duties and practices under the Children Act 1989.<sup>22</sup> Local authority staff also expressed concerns over:

- The resource implications of Section 9, and whether or how the Home Office would reimburse costs arising from assessments and support of families. Some felt the policy was a deliberate attempt to shift resourcing to local authority budgets.
- Undertaking assessments of whether a failure to support might lead to a breach of fundamental rights under the Human Right Act 1998 or the Children Act 1989.
- The risk that they were leaving themselves open to judicial review.

The Home Office's own review of Section 9 acknowledged that local authorities "had difficulty in reconciling what they considered to be conflicting principles of child welfare and section 9" and that the "pilot placed significant demands upon local authority resources."<sup>23</sup> All of these concerns continue to be relevant to the Government's new proposal to withdraw support from refused asylum seeking families.

While the Home Office states that it has sought to frame the proposals to avoid new burdens on local authorities, it acknowledges that responsibilities to support children in need under the Children Act 1989 will be engaged in cases where a family has an outstanding application for leave to remain on the grounds of their right to private and family life (Article 8 of the ECHR). The Home Office accepts that the cost of supporting these asylum seekers will shift to local authorities and estimates in its impact assessment that this will cost local authorities some £32 million over a 10 year period.

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<sup>21</sup> Refugee Council and Refugee Action, *Inhumane and Ineffective - Section 9 in Practice*, 2006, page 4.

<sup>22</sup> Barnardos, *The End of the Road*, 2005, page 27.

<sup>23</sup> Home Office, *Family Asylum Policy – The Section 9 Implementation Project*, page 3.

This of course does not include the costs that local authorities will incur in dealing with requests from destitute asylum seeking families for support and in conducting statutory assessments to ensure there is no breach of its duties under the Children Act 1989 or the Human Right Act 1998.

It is also likely that the burden on local authorities will be greater than that predicted by the Home Office in its impact assessment. During the Section 9 pilot, six of the 26 cases that had their support terminated subsequently had support reinstated following a change in the ECHR circumstances of the families (23% of terminated cases or 5% of the total cohort). A further four families were also supported by a local authority following a human rights assessment (15% of terminated cases, 3% of the total cohort).<sup>24</sup>

There are also very significant indirect financial and social costs to local authorities which result from leaving asylum seekers without any form of support. A 2012 report on health and homelessness found that “being homeless *for even a short period of time* increases the risk of long term health problems.”<sup>25</sup> Those who move between the streets and hostels seek help at a much later stage in an illness than the general population, usually through A&E departments. They consequently attend A&E six times as often and stay in hospital three times longer than the general population. Once discharged they rarely go back to an environment which facilitates effective recuperation and often end up back in A&E, putting additional stress on an already overburdened NHS system.

In this way, homelessness contributes to secondary healthcare costs which are around £1,575 per person per year higher than for the general population.<sup>26</sup> If the proposals in the consultation paper only result in an additional 2,500 asylum seekers becoming destitute each year, this would still result in nearly £4 million in additional secondary healthcare costs each year.<sup>27</sup> These costs will be focussed on the hospitals and trusts in the local authorities to which asylum seekers are dispersed and not spread evenly over the whole NHS.

The Home Office impact assessment notes that “wider costs (including to third sector organisations) are not included.” However, if these proposals are implemented a significant amount of the voluntary sector’s resources are likely to be absorbed in trying to assist asylum seeking families and children who have no other form of support. This in turn is likely to impact on these organisations’ ability to assist and work with other vulnerable members of the resident community. In this way, leaving refused asylum seeking families without a statutory support safety net will have a negative impact on all deprived local communities and will threaten community cohesion, all of which impacts on the local authorities.

## **7. Whether and, if so, how we might make it clearer for local authorities that they do not need to support migrants, including families, who can and should return to their own country (paragraph 42).**

We believe the Government has both a social and legal responsibility to support vulnerable families with children who would otherwise be destitute in the UK and that if it seeks to

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<sup>24</sup> Home Office, *Family Asylum Policy – The Section 9 Implementation Project*, page 6.

<sup>25</sup> Deloitte Centre for Health Solutions, *Healthcare for the Homeless*, 2012, page 2.

<sup>26</sup> Deloitte Centre for Health Solutions, *Healthcare for the Homeless*, 2012, pages 5-6.

<sup>27</sup> This is a very conservative estimate as no adjustment has been made to take account of the increase in healthcare costs since 2012, when the study was carried out.

abandon that duty by withdrawing Section 95 support from these families we believe it will then transfer that responsibility, and the associated costs, to local authorities to discharge.

## **8. Any suggestions on how the Home Office, local authorities and other partners can work together to ensure the departure from the UK of those migrants with no lawful basis to remain here and minimise burdens on the public purse (paragraph 47).**

If the Government wishes to minimise the cost to the tax payer and ensure refused asylum seekers with no lawful basis to remain here do leave the UK then it needs to properly invest in all stages of the asylum system to ensure that decisions are taken in a reasonable timeframe, are fair and reliable, and are properly implemented.

There is significant scope for improving the quality of initial decisions. In the first half of 2014, the Home Office audit team found that out of a sample of 276 cases, 42% were not satisfactory, meaning that they included one or more serious errors, such as failing to fully adhere to legislation or policy.<sup>28</sup> Consequently, 28 per cent of those who appealed a refusal of their asylum application were successful in 2014. Each decision to refuse which is subsequently overturned on appeal has a total average cost of around £6,500 per applicant.<sup>29</sup> Addressing high overturn rates on appeal and consistent weak decision making will save money and increase confidence in the asylum system.<sup>30</sup>

There are currently 21,651 cases pending resolution and delays in concluding these cases dramatically increases costs to the taxpayer. However, the current government is following a familiar pattern in which limited resources are moved from one area of the asylum system to another in order to deliver a new priority target. This approach is short term and often has a negative impact on productivity (e.g. moving responsibility for asylum work to UKBA and then back into the Home Office).

The Government needs to ensure that there are no backlogs at any stage in the decision making process. The only secure way to do this and improve the cost effectiveness of the whole asylum system, is through the recruitment of additional staff and better management to ensure that all staff take timely and good quality decisions.

This approach is entirely cost effective. The total cost of employing one caseworker is approximately £37,872 a year.<sup>31</sup> The total cost of supporting an asylum seeker on S95 support is approximately £7,641 a year,<sup>32</sup> but each case worker concludes approximately 52 cases each year.<sup>33</sup> If each additional case worker reduces the period that 52 asylum seekers are in receipt of Section 95 support by just six months, this would represents a net saving of

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<sup>28</sup> Information provided at NASF AOM meeting, 18 November 2014. Only 61% of decisions were satisfactory in 2013/14 according to the Home Office's Asylum Transparency Data (published in November 2014).

<sup>29</sup> Cost estimated by National Audit Office in 2009 and not adjusted to take account of inflation in the intervening six years. See National Audit Office, *Management of Asylum Applications by UKBA*, 2009, p36.

<sup>30</sup> If 10% less initial decisions to refuse asylum are overturned on appeal, then this would save the Home Office at least £1.13 million each year. In 2014, 1,744 appeals were allowed, 28% of the total.

<sup>31</sup> Non-London starting salary (£22,770), NI contribution (£3,142), pension contribution (£2,732) and overhead costs (£9,000 – recruitment, training, management, start-up costs and office running costs).

<sup>32</sup> A single adult will receive £36.95 a week and the average weekly accommodation cost on S95 was £96 in 2009 (Hansard, 23 Feb 2009), allowing for inflation this is likely to be at least £110 today.

<sup>33</sup> Each case worker concluded 4.3 cases per month on average in 2013/14. Information from the Home Office's Asylum Transparency Data (published in November 2014). See: <https://www.gov.uk/government/publications/asylum-transparency-data-november-2014>

£298,684 over two years, after the cost of employing the caseworker is removed.<sup>34</sup> If 25 additional staff were recruited this would deliver net savings at the end of the second year of some £7,467,100.

This does not take into account the political or practical benefits of having an asylum system which has no substantive backlog of cases. It will allow those recognised as refugees to integrate and contribute to British society more quickly. It is also the only really effective way of discouraging unmeritorious claims as those without a substantive protection claim know they will be quickly returned to their country of origin.

If timely decisions are not made it undermines the credibility of the system and makes removals both more difficult and more unreasonable, particularly when asylum seekers have spent years in the UK waiting for their cases to be resolved and their children have been born and grown up in the UK.

However, if the quality of initial decision making does improve and asylum seekers feel they have been given a proper opportunity to make their case, they will be more likely to fully engage in the returns process (although as outlined above this will be extremely difficult if their support has been cut off). It will also be easier for the voluntary sector and other partners to work more closely with the Home Office on options relating to those who are appeal rights exhausted if there is confidence that all those in need of protection have been recognised as such.

**9. Any information or evidence that will help us to assess the potential impacts of the changes proposed in this consultation document and to revise the consultation stage Impact Assessment (paragraph 48).**

See the responses provided above.

**10. Any information or evidence that will help us to assess the potential impacts of the changes proposed in this consultation document on persons who have any of the protected characteristics as defined in the Equality Act 2010 (paragraph 49).**

The evidence cited above clearly indicates that individuals from protected characteristic groups, including race, age, pregnancy and maternity will be disproportionately impacted by the proposals in the consultation document. These proposals are likely to result in asylum seeking families and their children being left destitute, with a consequent impact on their health and wellbeing (see the response to Q3 above). In this context, the proposals in the consultation paper also run counter to the duties in the Health and Social Care Act 2012 which require the Government to *reduce* health inequalities.

In addition to its responsibilities under the Equalities Act 2010, the Home Office also has a statutory duty to have regard to the need to safeguard and promote the welfare of children. Section 55 of the Borders, Citizenship and Immigration Act 2009 expressly states that this duty must be taken into account when developing policy.

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<sup>34</sup> This calculation assumes a reduced conclusion rate of 46 in the first year to take account of the fact that new caseworkers will have a five week training period and will be less productive when they start the job.

Despite this and the fact that the proposals directly impact on children, the consultation document provides no evidence of the consideration of the interests, needs and rights of children in their own right.

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