



# Hungry and homeless:

The impact of the withdrawal of state support on  
asylum seekers, refugee communities and the  
voluntary sector

Findings from research into the impact of Section 55  
of the Nationality, Immigration and Asylum Act 2002



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# Acknowledgements

## Acknowledgements

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The findings and views represented in this report are the sole responsibility of the Refugee Council.



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My own experience of Section 55 began with my appointment as the Refugee Council's Chief Executive last August. I arrived at the office for my first day of work to find a group of people who had clearly spent the night sleeping on the pavement outside the building. It turned out that they had fallen foul of Section 55 as they had not applied for asylum "as soon as reasonably practicable".

The Refugee Council's experience of Section 55 has been similar to that of many organisations participating in this study. Whilst we have responded by providing food parcels, clothing and blankets, we have not been able to prevent the systematic destitution that is described so powerfully by the organisations and individuals who participated in this study.

The rationale for Section 55 is difficult to understand when you see, as we do, the individuals that have been affected by it. These are not people abusing the asylum system, but rather individuals who have compelling asylum claims and who claimed asylum within days, and sometimes even hours, of arriving.

The Refugee Council carried out this study in an attempt to assess and document some of the devastating effects that Section 55 is having on individuals left without shelter and subsistence and those who are trying to help them.

As such, this report is evidence that Section 55 is not working and we hope that policy makers will give serious consideration to the findings and recommendations within it.



**Maeve Sherlock**  
**Chief Executive of the Refugee Council**

# Executive summary

## Executive summary

On 8 January 2003, Section 55 of the Nationality, Immigration and Asylum Act 2002 came into force. Since then, destitute asylum applicants have been denied access to basic state support if they are unable to prove that they applied for asylum *as soon as reasonably practicable* after entering the UK.

When this legislation was going through Parliament, the Government made it clear that Section 55 would target people who were thought to be abusing the system. It also gave assurances that it would not affect asylum seekers who applied for asylum within reasonable time of arrival.

Last year, over 9,000 individuals were refused support as a result of Section 55, many of whom applied for asylum within a few days or hours of arrival in the UK. Many turned to charitable organisations and refugee community groups for shelter, food and washing facilities.

The findings of this study illustrate the lengths to which voluntary organisations are going to assist those denied support under Section 55. They also illustrate the fragility of this work, and the impact it is having on the core activities of these organisations.

This report also provides an insight into the experience of Section 55 from the point of view of the individuals denied support. Homelessness is a glaring characteristic of this experience, as is hunger, depression, anxiety and poor physical health.

In the face of continued criticism, the Government has claimed that the refugee community and voluntary sector should be able to provide adequate support for those made destitute by this policy. This study provides an insight into some of the devastating effects Section 55 is having on the individuals affected, and shows that, despite their best efforts to help, the voluntary sector and refugee community are unable to fill the support gap left by Section 55.

### Key findings

132 organisations responded to our survey. Of those,

- 74% reported seeing clients refused support even though they applied for asylum within a few days of arrival;
- 74% reported having seen Section 55 clients forced to sleep rough;
- 74% reported that they had seen clients lacking essential items such as clothes and toiletries;
- 63% said they had seen clients with unmet special needs;
- 53% of respondents said they or members of their community had to provide emergency shelter for asylum seekers denied support under Section 55; 70% of these had accommodated individuals in their own homes or those of community members;
- 64% said that the type and level of service they provide for Section 55 clients is not sustainable in the long-term.

## Recommendations

We recommend the following:

- Section 55 should be repealed.
- Pending a change in Section 55 policy, there should be an independent review of its impact with a call for evidence from destitute asylum seekers, the refugee community and the voluntary sector.
- The Government should immediately review the impact of Section 55 on its strategies to achieve refugee integration, a reduction in homelessness and implementation of the Voluntary Sector Compact.

### **What are the issues?**

On 8th January 2003, Section 55 of the Nationality, Immigration and Asylum Act 2002 came into force. Under these measures, asylum seekers are only eligible to apply for accommodation and subsistence from the National Asylum Support Service (NASS) if they satisfy the Secretary of State that they applied for asylum *as soon as reasonably practicable* after arrival in the UK. In practice, this has meant the withdrawal of support from virtually all who did not apply immediately on arrival in the UK.

This report sets out the findings of research carried out by the Refugee Council into how the withdrawal of state support under Section 55 has impacted on refugee communities, voluntary organisations and asylum seekers themselves in its first year of operation.

### **The origins of Section 55**

In October 2001, at a time of intense public and media attention on asylum in the UK the Home Secretary, David Blunkett, announced plans to initiate yet more reform of the asylum system. The White Paper, *Secure Borders Safe Haven: Integration with Diversity*, was published and the Bill followed in April 2002 proposing further restrictive measures. However, the provision later known as Section 55 did not appear as a proposal in the White Paper.

The Bill had completed its substantive scrutiny by MPs before an article written by David Blunkett appeared in *The Times* on 7 October 2002. The article announced three major amendments to the Bill. One included the withdrawal of support from asylum seekers who could not show that they claimed asylum at the earliest opportunity.<sup>1</sup> This amendment was subsequently set out in Section 55 of the Nationality, Immigration and Asylum Bill. The Parliamentary Joint Committee on Human Rights made a number of serious criticisms and highlighted areas of potential human rights breaches in these late amendments. The Committee reminded the Home Secretary of his duties under the Human Rights Act 1998 and warned that destitution was likely to result in a breach of these duties.<sup>2</sup>

Labour MPs met with David Blunkett in private to express their concerns about Section 55. The Home Secretary reportedly gave assurances that the measures were designed only to target those who had been in the country for significant periods of time before claiming asylum.<sup>3</sup> Briefings issued to Labour MPs reiterated that the provisions would only target people potentially 'abusing' the system: illegal workers, overstayers, individuals making multiple asylum applications, or students whose visas had expired. It would not disadvantage 'genuine' applicants.<sup>4</sup> The House of Lords was also assured that these new measures would be enforced with caution so as to protect applicants with good reason to delay.<sup>5</sup>

The proposed changes were tabled on 17th October 2002 in the House of Lords, where the Government won the vote on Section 55. At this very late stage of the parliamentary process, the House of Commons was given just half an hour to scrutinise Section 55, 15 minutes of which was used by the Home Secretary to introduce the amendments. Measures that would result in hardship for many asylum seekers had virtually no parliamentary scrutiny at all. The Nationality, Immigration and Asylum Act 2002, including Section 55, was given Royal Assent on 7th November 2002.

## How Section 55 works

Under the terms of Section 55 of the Nationality, Immigration and Asylum Act 2002, asylum applicants will only be eligible for NASS support if

- they can show they applied for asylum *as soon as reasonably practicable* after arrival in the UK;
- they can show they have applied for asylum.

Asylum applicants will not have their eligibility for NASS support restricted if they

- have dependent children under 18;
- have special needs (if the needs are over and above the needs arising out of destitution, local authorities are responsible for care arrangements);
- applied for asylum in-country due to changed conditions in their country-of-origin and proved that they have applied at the earliest opportunity following that change of circumstances;
- can show that they would otherwise suffer treatment, which is contrary to Article 3 of the European Convention on Human Rights (ECHR). Article 3 provides that no one should be subject to torture or any other inhumane or degrading treatment - destitution alone does not contravene Article 3.

Since its implementation on 8th January 2003, the Section 55 process has undergone a number of changes following numerous test cases and recommendations. At the time of writing, the process can be summarised as follows.

### Level 1 screening

Anyone wanting to make an asylum application after entering the UK has to present at one of three Asylum Screening Units (ASU) in Croydon, Liverpool or Solihull. There they have to undergo a pro-forma screening interview that all asylum seekers go through known as 'Level 1' screening. This is to establish the applicant's identity. Fingerprints are also taken and an Application Registration Card (ARC) issued confirming that the Home Office recognises the applicants claim. At this stage, the applicant can state whether they wish to apply for NASS support. If Level 2 screening (see below) cannot be conducted on the same day, the applicant will be offered emergency accommodation.

### Level 2 screening

Level 2 screening is a two to three hour interview to establish whether an applicant applied for asylum *as soon as reasonably practicable*. This interview is conducted by staff in a special unit within NASS, the Restricted Access to NASS Support (RANS) Unit. The applicants are asked questions relating to their route and means of entry into the UK and asked to provide any proof they have such as airline tickets or travel documents. They are also asked why they did not apply immediately for asylum.

Each case should be decided on its own merits taking into account any physical or practical impediments to applying, the state of mind of the applicant on arrival, and any advice they might have been given by anyone else, such as an agent.

## The decision

If the interviewer believes the applicant could have applied sooner, he or she will issue a negative decision under Section 55. In most cases, a decision cannot be issued on the same day of the interview, in which case the applicant may be admitted into emergency accommodation with a Section 55 'holding letter'. If issued with a positive decision, the applicant will be allowed to stay in emergency accommodation and submit an application for NASS support. If the applicant receives a negative decision, he or she will be required to leave the emergency accommodation within seven days. Some asylum seekers, such as those accommodated in Kent, have to leave their accommodation the same day the decision is issued.

## Reconsideration

There is no option to appeal a Section 55 decision. The only way to challenge a decision is to request a 'reconsideration' or apply for a Court injunction pending a judicial review. Reconsideration requests need to be submitted in writing to the RANS Unit at NASS and must be supported with evidence to suggest either that there has been a procedural error or a breach of Article 3 of the ECHR. Applicants can be granted access to emergency accommodation pending reconsideration if there is a 'seriously arguable' breach of Article 3.

## 72-hour rule

In December 2003, the Home Secretary announced that asylum seekers who make their application within three days of arrival will be considered to have made their claim *as soon as reasonably practicable*. However, applicants will also have to provide a credible explanation of how they arrived in the UK. Therefore, for people who apply within three days, the key hurdle to accessing NASS support remains. Asylum seekers must prove when they arrived in the UK. This, in the majority of cases, continues to be extremely difficult due to lack of documentary evidence.

# Section 55: One year on

## Section 55: One year on

### Numbers affected

It is still impossible to say exactly how many individuals have been made destitute as a result of Section 55. This is because there is no way of knowing where people go after receiving a negative decision under Section 55. In addition, some negative decisions are later found to be in breach of the ECHR and overturned, but these figures are not made available.

The Home Office does report on the number of initial refusals of support under Section 55 in its quarterly asylum statistics. In 2003, NASS screened 14,755 asylum applicants under Section 55. 9,415 (64%) were denied access to NASS support.<sup>6</sup> Negative decisions increased by more than 50 per cent between the second and third quarter of 2003.<sup>7</sup>

In its report *Destitution by design*, the Greater London Authority (GLA) attempts to calculate the number of Section 55 destitute and arrives at an even larger figure: "Assuming that total UK applications continue at roughly the rate seen for 2003, it is reasonable to expect that around 14,000 UK asylum applicants could be subject annually to the effect of Section 55, and that a large majority of them will find no way out of destitution."<sup>8</sup>

The Home Office has been issuing negative decisions at a weekly average rate of nearly 200, and Home Office staff continue to push the severity of Section 55 to the limit.<sup>9</sup> Those denied support include victims of torture and rape, children whose age is disputed and the sick.

### Legal challenges

Since 8th January 2003, Section 55 has been subject to persistent and sometimes high profile litigation. The litigation has centred on testing the meaning of *as soon as reasonably practicable*. This term is undefined in the legislation, but Parliament was told Section 55 would be enacted reasonably. In practice, 'reasonably practicable' has meant at port of entry. The major area of challenge, however, has centred on the potential conflict between the destitution resulting from Section 55 and Article 3 of the European Convention of Human Rights (ECHR), the right of freedom from torture and inhuman and degrading treatment.

The courts have been extremely reluctant to declare destitution *per se* as a breach of Article 3. Whilst they have found that Article 3 of the European Convention on Human Rights would be breached if NASS failed to intervene to end a period of ongoing destitution<sup>10</sup>, they have also deemed that living life under constant glare of strip lights at Heathrow airport (where an applicant was sleeping) without access to washing facilities is adequate shelter and therefore not a breach of Article 3.<sup>11</sup> Significantly, the courts have also deemed that charitable help, even at the level of food parcels and occasional shelter would be sufficient to prevent a breach of Article 3.<sup>12</sup>

The High Court has been particularly affected by Section 55. On 15th October 2003, Mr Justice Maurice Kay, the then Head of the Administrative Court, issued a statement expressing concern that the High Court was the only appeal mechanism for challenging refusal of support under Section 55 and that applications were "clogging up the processes of the Administrative Court". In the preceding six months, injunction applications were arriving at a rate of 60 per week and the court had awarded interim

relief in 90 per cent of cases. At the time of this declaration, over 800 applications were waiting to be heard by the High Court.

Furthermore, the financial implications are massive. In its report *Destitution by Design*, the GLA reports that the average cost of a judicial review hearing is £5,000 or at least 15 times the cost of a hearing before the asylum support adjudicator.

## **Procedural concerns**

From the moment of its inception, it was clear that the implementation of Section 55 was going to cause administrative chaos. For example, from the day Section 55 screening commenced, Home Office staff were unable to comply with their unrealistic target to issue decisions within 24 hours. This left large numbers of people waiting for a decision with nowhere to go until the courts eventually intervened.

Continuing backlogs due to administrative failure and progressively complicated procedures have caused a ripple of problems that have yet to be remedied. This has included disruption to the dispersal process due to large numbers of asylum seekers awaiting Section 55 decisions in emergency accommodation and due to the fact that most of those who eventually receive a negative decision are in London. Over the last few years, the Government has been developing and rolling out an induction process for asylum seekers as part of its plans for an 'end-to-end' asylum process. However, the exclusion of large numbers of asylum seekers from the NASS system has also hampered the induction process.

Voluntary agencies trying to assist individuals in having their Section 55 decisions reconsidered have had to negotiate inconsistent Section 55 decisions and erratic application of the procedures. Such examples of inefficiency and bureaucracy are not only cost and resource intensive. They have caused great confusion and distress to individuals going through the asylum process as well as creating enormous difficulties for those in the community and voluntary sectors trying to advise clients on this irregular system.

In response to widespread concerns about the impact of Section 55 on individuals and organisations serving them, we developed a questionnaire to assess the real impact of Section 55. The questionnaire was sent out to voluntary organisations providing services to asylum seekers throughout the UK in December 2003. Primary targets were regional and London-based refugee community organisations and Refugee Council members. We also utilised existing contact networks within the refugee sector and publicised the questionnaire on our website.

The questionnaire asked about the proportion of asylum seekers being seen by organisations who have been refused support under Section 55, the kind of problems that these clients are presenting with, the organisations' ability to address those problems and the sustainability of the current situation under Section 55. A total of 132 completed questionnaires were received and analysed.

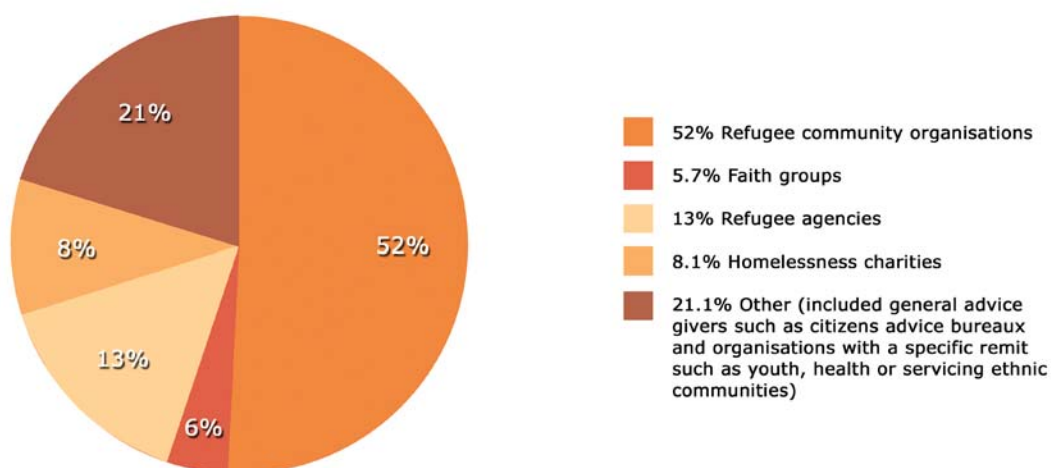
Respondents were also invited to provide contact details at the end of the questionnaire, should they wish to discuss their answers further. Telephone and face-to-face interviews were carried out with a selection of those organisations to gather further detail on the issues touched upon in the questionnaire.

We also obtained client case studies by talking to asylum seekers refused support under Section 55 about some of their experiences. These clients were identified with the help of participating organisations and the Refugee Council One Stop Service in Brixton.

## About the respondents

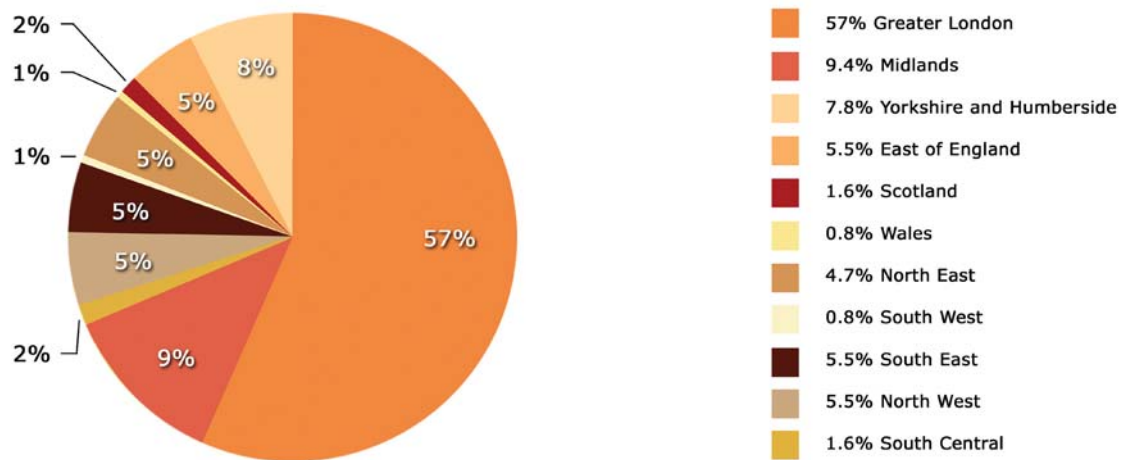
### 1. Organisation type

The respondents represented the following types of organisations:



## 2. Location

The respondents' organisations were situated in the following areas:



More than a half of the organisations participating in the research are based in Greater London reflecting the fact that the majority of refugee assisting organisations continue to be based there. Moreover, Section 55 has impacted mainly on asylum seekers applying for support in London. As a result, organisations in London are much more likely to see clients who have been affected by Section 55.

## 3. Refugee community organisations

Throughout the country, refugees and those supporting them have set up organisations providing a range of services and activities for asylum seekers and refugees living in the local community known as refugee community organisations (RCOs). Nearly half of the sample group described themselves as RCOs.

RCOs are usually small grass-roots organisations, which are run on a voluntary basis with little if any proper funding. This is also reflected in information provided on numbers.

However, at the time this research was conducted, the Home Office was deploying a mobile task force to travel around the country clearing the backlog of pending Section 55 decisions. It is expected that this will take pressure off emergency accommodation in the regions, where some 3,000 people were awaiting Section 55 decisions. In other words, numbers of negative Section 55 decisions can be expected to increase and the regions to start to see a bigger impact of Section 55 on their services over the coming months.

- 81.8% of all organisations that responded are small set-ups with less than ten members of paid staff or none.
- 19.7% are run on a completely voluntary basis with no paid staff at all.
- 9% have between ten and 50 paid staff.
- 5.3% are large organisations with more than 50 paid staff.

## Impact on asylum seekers

### 1. Reasonable time

**73.5% of organisations reported seeing clients refused support under Section 55 even though they applied for asylum within a few days of arrival.**

Organisations have seen clients who applied for asylum days - even hours sometimes - after arriving in the UK, but who were denied support none-the-less and irrespective of the genuineness of their asylum claims.

**"The hardest hit by Section 55 are recent arrivals - not those whom the legislation was originally targeting, such as overstayers. The Home Office has no leniency. It is very strict regarding the time period and offers no flexibility for those who apply for asylum with some delay".**

Dalibor Warburton, Asylum Welcome, Oxford

**"Many asylum seekers go to voluntary organisations like the Afro-Caribbean Housing Association first before going to the Home Office to claim asylum because they want advice first."**

Erskine Odongo, Afro-Caribbean Housing Association, Croydon

**"I had a client who was refused support even though he applied for asylum on the same day he arrived. I had another client who tried to apply in Dover, after he managed to get out of the lorry just outside the port. They wouldn't let him apply and told him to go to Croydon. He went straight to Croydon and was refused support because he had nothing to prove that he had tried at Dover."**

Salar Hamarash, Kurdish Cultural Centre

**"London is a big city and asylum seekers need time to orientate themselves. It's unreasonable to expect people to always apply immediately."**

Tesfay Gebremichael, Eritrean Community in Haringey

**"Just because someone doesn't apply straight away it doesn't mean they aren't a genuine refugee. People don't necessarily know what to do when they arrive in the UK."**

Citizens Advice Bureau, Greater London

## Case study: Kadir, 25 from Sudan

Kadir fled Sudan after his village was attacked and his mother, father and two brothers were murdered by bandits. He arrived on 13th December and went to a police station. He applied for asylum on the same day but was still refused support under Section 55.

Before Kadir left Sudan he knew nothing about the asylum system in the UK. "All I knew were the words 'human rights' and 'UN'. I heard that people here look after tortured people like myself so thought I could just come here and be safe. But from the moment I arrived it's just been questions. I didn't know the words 'solicitor' or 'appeal' before I came." Kadir feels his lack of education and illiteracy make his situation worse. "An educated person might know what to say. All I know is what I have told the Home Office and they think I am a liar."

Kadir spent his first nights in the UK in front of the Home Office. He searched for food in bins and used the public toilets close by. He has also been housed by various churches. In one of these he shared a mattress with several others and was given occasional meals. Since the 30th December, he has been sleeping outside the Refugee Council offices and Brixton tube Station. He went for almost a week without a shower.

He says he was so worried about his case that he has little inclination to look after himself. He suffers pain all over his body and has a fever. Although he has been prescribed painkillers and antibiotics he feels his condition is getting worse.

"I feel really depressed, unhappy and hopeless. I smell filthy and cannot walk amongst other people. I feel less than human - like an animal. I hate myself. I left my country to escape imprisonment, suffering and death. Here I fear hunger and homelessness." Kadir's situation is so desperate he has contemplated death as a better alternative. "Death would be the end. I wouldn't have to answer any more questions if I was dead."

## 2. Street homelessness

### **73.5% of organisations reported seeing Section 55 clients forced to sleep rough.**

There are no official figures on how many people are actually becoming destitute under Section 55 because there is no way of knowing how these individuals are supporting themselves after being denied support. These findings reveal that many asylum seekers denied support under Section 55 are in fact ending up on the streets. This undermines the Government's efforts to reduce rough sleeping in this country.

**"Section 55 clients end up sleeping rough, in cars or contacts, or staying one night in one place the next somewhere else - in the homes of contacts."**

Dalibor Warburton, Asylum Welcome, Oxford

**"We do have a food parcel service but a food parcel is not much good to someone living in a bus shelter."**

Gordon Sparkes, Coventry Refugee Centre

**"People are sleeping out on the streets. It's getting out of hand."**

Erskine Odongo, Afro Caribbean Housing Association

## Case study: Jamal, 17, from Iraqi Kurdistan

Jamal travelled to the UK in the back of a lorry. He arrived in September 2003 and was let out in the middle of the night. He slept in a park and was woken up by police the next morning who told him he was in London. He was kept in the police station for several hours. With the help of an interpreter, the police told Jamal he had to apply for asylum at the Home Office in Croydon, gave him a map and sent him on his way.

After spending another night sleeping rough, Jamal finally found Lunar House where he lodged his asylum claim. The Home Office did not believe that he was 17. He was given a Section 55 holding letter and admitted into emergency accommodation while his Section 55 decision was pending.

On 12th December, Jamal went to the Refugee Council to get some money to travel to his Home Office interview. When he returned to his emergency accommodation he found a letter saying that he was not to receive NASS support and would be evicted from his accommodation in a matter of days.

Three days later he was homeless. Since then Jamal has been sleeping outside the Refugee Council premises. The Refugee Council was able to put him in a hotel for one night, but after that he was back on the streets. The Refugee Council has provided him with blankets and he visits every day for food. At the weekend, when the Refugee Council offices are closed he has to go hungry. When we spoke he had just had his first shower since being evicted from his accommodation.

"I'm having a terrible time. I haven't washed myself in a month. I had my first shower yesterday. I never have enough food to eat. The weather is cold and it's raining all the time. I feel scared. A few nights ago two people asked me for money and threatened to beat me.

"Even in Iraq people of my age don't sleep on the streets. It's absolutely devastating. At 17 I should not be on the streets."

When asked how he felt about his asylum application Jamal said he didn't know what was happening with it and didn't know how he would find out as he has no fixed abode.

## 3. Lone female without accommodation

### 58.3% of organisations reported having seen lone females denied support under Section 55 with nowhere to stay.

Many women, some of them alone, are denied any kind of support under Section 55. Like their male counterparts, many of these women will have suffered great personal loss and trauma, but are also more likely to have been subjected to rape and sexual assault. These particularly vulnerable women have to rely on strangers for help and are sometimes forced to sleep alone in very hostile environments. These findings suggest that lone females denied support under Section 55 frequently find themselves in this extremely dangerous position.

**"One woman had been sleeping rough for some time before she came to the Eritrean Community in Haringey. I took her to a church shelter in Islington. She had to sleep with men, drug addicts and criminals and was very frightened. I felt very bad leaving her there."**

Tesfay Gebremichael, Eritrean Community in Haringey

### **Case study: Aman, 21 from Somalia**

Aman left Somalia after her brother was killed, and she was shot and wounded. She found an agent who arranged travel documents to get her into the UK. The agent travelled with her to the UK and told her not to say anything. After taking her through immigration control the agent abandoned her, taking her documents with him.

"My agent dropped me off at a bus stop and said he would be back. I waited for three and a half hours and then started to cry. A woman came by and took me to the police station. The policeman bought me a ticket to Croydon with my money and told me to go to the Home Office.

"I took the 18.30 train to Croydon but the Home Office was closed. A security guard told me to go to the police station. The police station told me to go to Migrant Helpline. I went to the Home Office the next day. The NASS interview was long - a few hours. They kept saying, 'it's not true this, why do you say that?' I felt very bad. The woman [who interviewed me] knows nothing, but says it's not true.

"I eat food at the Refugee Council in Brixton Monday to Friday, and on Saturday and Sunday, I eat at Queens Park in Croydon. I sleep outside Migrant Helpline - since one week. Migrant Helpline gave me a blanket and sleeping bag. It closes at 11 pm, so I sleep with others outside. I'm afraid, I don't sleep much.

"I have stomach and back pains, and throat problems from sleeping outside. I have not taken a shower for one week."

## **4. Hunger**

### **73.5% of organisations said they had seen Section 55 clients who experienced hunger.**

With no income whatsoever, asylum seekers denied support under Section 55 with no family or friends to go to have to rely entirely on soup kitchens, refugee agencies and handouts for food. However, sometimes asylum seekers may be unaware of these services or they may not be available at certain times or in certain places. An overwhelming majority of organisations participating in our research reported seeing clients who had gone without food for extended periods of time.

**"People often come to us after two or three days without food."**

Praxis, London

**"We saw one Somali client who couldn't get food for four days. Another was admitted into hospital because he went without food for so long."**

Midlands Refugee Council

**"We can only offer clients water and biscuits - there are no funds for other amenities."**

African Francophone Community Association

## Case study: Abed, 19, from Iraqi Kurdistan

Abed arrived in the UK by lorry in July 2003. After being picked up by the police Abed followed their instructions and went to the Home Office in Croydon to apply for asylum. He was evicted from emergency accommodation on the 5th of September 2003 after receiving a negative Section 55 decision.

"Yesterday I slept at the mosque, and the day before in a church. I slept eleven days rough - believe me, I couldn't sleep for five minutes. I was scared so I walked around in Croydon and to Crystal Palace.

"I look for food in rubbish bins. I find chips, for example. I eat once a day at Queens Park. I also get food at the church and they give extra food for lunch. I don't eat proper meals, I always feel like I'm starving.

"I have been wearing the same jeans for two weeks. My clothes are dirty. I don't have money for transport to go to One Stop Service in Brixton to wash my clothes. Sometimes I visit a friend at a hotel and take a shower there.

"I suffer from breathing problems. I've had it for about 25 days. I have a stomach infection. It's from sleeping rough. I wasn't ill before. I take medication, but some tablets are meant to be taken three times a day after eating, but I don't eat three times a day. I am not registered with a GP because you need an address, even for medication. It's difficult to get because I need an HC2 Certificate. They gave me medication this time, but next time they said no until I had the HC2.

"I don't have money to travel to important appointments. If I need to see solicitors, I go to Migrant Helpline for bus tickets. They have given me tickets twice.

"I feel bad about the UK asylum system and my current situation. I have a lot of questions. What have I done wrong? Why does the Home Office treat me like this? We came here to be safe, not to be in a place worse than home."

## 5. Unable to keep in touch with legal representative

**62.9% of organisations said they had seen Section 55 clients who had been unable to keep in touch with their lawyer.**

With no cash of their own, many asylum seekers denied support under Section 55 struggle to find the money to make telephone calls or travel to appointments to see their legal representatives who may be applying for an injunction on their behalf as well as assisting them with their asylum application. Many organisations reported having to give asylum applicants money for telephone calls and appointments.

**"We get money for food and trips to see solicitors from donations from individuals and out of our own pockets."**

Jean Bosko, French Speaking African General Council

## 6. Unable to travel to important interviews

**64.4% reported that they had seen Section 55 clients who were unable to travel to important interviews due to lack of funds.**

The majority of organisations reported that lack of funds for travel costs affected their clients' ability to keep important appointments, such as Home Office interviews. This could seriously jeopardise an asylum application as failure to attend the asylum interview can result in a refusal on grounds of non-compliance.

**"We have seen clients who have missed important appointments because of lack of funds. This is a problem but we do our best to get clients to their appointments."**

Praxis, London

## 7. Living in unhygienic conditions

**56.8% of organisations reported that they had seen Section 55 clients forced to live in unhygienic conditions.**

Because asylum seekers denied support under Section 55 have to rely on taking shelter wherever they can find it, many end up sleeping in inappropriate or unhygienic conditions. Many sleep in church halls and homeless shelters. However, such places often lack adequate bedding, insulation or ventilation. One respondent spoke of a client who had slept in a bin. Living in poor conditions such as damp, condensation and inadequate heating can cause respiratory problems, headaches and fever.

**"So far we have managed to get people to put asylum seekers up, giving them a room to stay in. But the conditions are not ideal. We put someone in a three bedroom house with 8 or 9 other people staying, sometimes sleeping on the floor. It has damp and the carpets are in appalling condition. It is better than sleeping on the road but it's not ideal."**

Ari Ariyaratnam, Coventry Tamil Welfare Association

**"I know clients who sleep in bins, on families' floors, in parked cars, phone boxes..."**

Jean Bosko, French Speaking African General Council

## **Case study: Chantal, 26, from the Democratic Republic of Congo**

Chantal travelled to the UK by plane with the help of an agent. "I think I arrived in Heathrow. The immigration officer didn't speak to me; he only asked questions to the agent.

"I didn't know about applying for asylum before coming to the UK. When I arrived, the agent left me at the airport. I found someone who was from my country. He took me to his home, and his sister told me about applying for asylum in Croydon at the Home Office. I didn't know I had to apply at the port of entry.

"The interview was difficult. It was very hard because they didn't believe me. They said that I was not telling the truth. It's as if I don't have any value - I'm nothing. I felt hurt and unhappy.

Chantal was denied NASS support under Section 55. "I was sleeping with the friend who helped me at the airport. I stayed at his house for 2-3 months... Yesterday I stayed in a place that was very dirty. There was cigarette smoke in the room, and it smelled. It gave me a headache. They didn't give us food.

"I have sinus and back problems. Both worsened after coming to the UK. My back problem got worse because the place I stayed at didn't have much heat."

Chantal is still waiting for a decision on her asylum application. She is uncertain about where she will go while she continues to wait.

## **8. Living in overcrowded conditions**

### **70.5% of organisations reported having seen Section 55 clients living in overcrowded conditions.**

Asylum seekers without support often turn to the local refugee community for help. However, many in these communities live in poor housing and poverty themselves. Asylum seekers who rely on the community for such help are often accommodated in overcrowded conditions, either with large families or other destitute asylum seekers. Living in overcrowded conditions can lead to high rates of infection.

**"They usually live with friends or relatives. in crowded conditions - five to a room or in someone's garage".**

Ashmat Rassa, Afghan Human Rights Organisation

**"The African community feels compelled to give accommodation to Section 55 clients even though they live in overcrowded homes anyway. There is a strain on African communities and also on voluntary organisations."**

Jean Bosko, French Speaking African General Council

**"Staff members sometimes offer housing for a night to clients, which is difficult because they live in overcrowded housing as it is."**

Tesfay Gebremichael, Eritrean Community in Haringey

## 9. Lacking essential items

**74.2% of organisations reported that they had seen Section 55 clients who were lacking essential items such as clothes and toiletries.**

It's easy to forget that people need clean underwear, a toothbrush, tampons or glasses when obtaining food and shelter is their first priority. However, these are all daily necessities that many of us could not do without.

Our findings suggest that a large number of people made destitute under Section 55 are going without these essential items.

**"We are aware that women particularly have needs that aren't met by a food parcel so we provide additional cash for this."**

Gordon Sparkes, Coventry Refugee Centre

## 10. Unmet special needs

**62.9% of respondents said they had seen Section 55 clients with special needs that were not being met.**

For asylum seekers subject to Section 55, Level 1 and 2 screening are the only opportunities to identify any special needs, such as disability or post-traumatic stress disorder. Very often such conditions are not obvious to the untrained eye. Our findings suggest that this screening is failing to pick up on the special needs of people who are later refused support.

**"A poor man, visibly war-wounded with a gammy leg was sent out into the icy streets. The man refused to leave until the police came. We were able to get him an injunction after two weeks. During this period I had to go to Kurdish shops and restaurants asking people if they would take him into their homes."**

Gordon Sparkes, Coventry Refugee Centre

**"The kind of client that is most likely to delay in making their application is likely to be someone who is disturbed or traumatised. Here our big concern is that there is a group of very vulnerable people somewhere out there. If someone is really traumatised they will go under cover and disappear. Those people who go to the Refugee Council at least have the inclination to do that much. But there will be many others who, due to trauma, do not. Section 55 prevents early intervention in these cases."**

Alex Sklan, Director of Clinical Services, Medical Foundation

## 11. Difficulty seeing a doctor

### **62.1% of organisations said they had seen Section 55 clients having difficulty seeing a doctor.**

In order to register with a GP or a dental practice for treatment, one must provide an address so the practice can claim back money for their services from the local Primary Care Trust. Often having no fixed abode, destitute asylum seekers can incur great difficulties when trying to access primary care services. If a surgery uses its discretion and overlooks this formality, any prescriptions they issue will then need to be paid for on delivery. Asylum seekers may apply for an HC2 certificate, exempting them from prescription charges on the basis of having no income. But in order to apply for this certificate, again, an address is required. This makes accessing treatment for infection or illness a long and drawn out process for those denied support under Section 55, if treatment is accessible at all.

#### **Case study: Maiiatu, 17 from Sierra Leone**

Maiiatu fled Sierra Leone after witnessing the death of her father. Their home was raided by the military. He was beaten - his legs and arms broken - and he was taken off to prison, where he later died from his injuries. Maiiatu was also imprisoned where she suffered beatings and torture. Eventually she managed to flee and met a man who said he would take her to safety. Safety was to be the UK.

She arrived in the UK with the man who took her through immigration control. They spent the first night in a hotel. The next day he took her to an organisation in Whitechapel, which sign-posted her to Croydon to make an asylum application. The Home Office did not believe her to be 17.

After her interview Maiiatu was placed in emergency accommodation in London pending a Section 55 decision. She had been there until the day before we met, when she received notification of the end of her accommodation. When this report was being written, her eviction date had passed. She planned to return to the emergency accommodation that night in the hope that no-one would notice her. If she was spotted and asked to leave she would have nowhere to go.

A victim of torture, Maiiatu suffers from recurrent nightmares and has difficulty sleeping. She explained: "I cannot see a doctor because I have to spend every day here, trying to get accommodation."

## 12. Health problems

### **65.9% of organisations reported seeing clients suffering from health problems as a result of being made destitute under Section 55.**

Living in poor housing or sleeping on the streets can greatly affect a person's health. Some of the asylum seekers we spoke to complained of symptoms commonly experienced by rough sleepers. Physical problems associated with sleeping rough include respiratory problems, skin complaints, muscle and joint problems and stomach and digestive disorders. Living in overcrowded conditions can lead to high rates of infection and poor conditions such as damp, condensation and inadequate heating can also cause respiratory problems, headaches and fever.

**"We've had cases where people's health has gone downhill after a Section 55 refusal. But the Home Office says it needs evidence of visible illness."**

Gordon Sparkes, Coventry Refugee Centre

### **Case study: Jean-Paul, 50, from Burundi**

Jean-Paul was being pursued by the Tutsi militia when he fled to Tanzania. There he was told about an agency that could take people to safe countries. Since he was not safe in Tanzania either, Jean-Paul decided to pay an agent \$5,000 to take him to safety. The agent took him to the UK and through immigration control. He was left at the Home Office in Croydon and instructed by another agent to just say 'asylum' if asked anything.

Jean-Paul says that the interview was difficult because he had to answer many questions, and was hungry and tired after his journey. He is also diabetic. He says he told the Home Office that he had no tablets. He was given emergency accommodation in Croydon pending a Section 55 decision. It wasn't until two months later that he managed to see a GP who gave him the medication he needed for his diabetes.

After receiving a negative Section 55 decision he was evicted from his emergency accommodation and spent the next seven days sleeping rough. Since then he has moved around to different parts of London, taking up offers of accommodation where he can get them.

"I sleep in different places. If the wife or child comes back, they kick me out. I eat very little food. I have lost 10 kilograms. Sometimes I don't have money to eat, so I don't take my tablets. I have gone without a shower for four days. I need food, winter clothes and toiletries."

## **13. Mental health problems**

**68.9% of organisations reported seeing clients suffering from mental health conditions as a result of being denied support under Section 55.**

Various studies have shown that the homeless are the most adversely affected by mental health problems.<sup>13</sup> Asylum seekers are already particularly vulnerable to mental health problems due to the trauma and upheaval they may be suffering. Many of those made destitute by Section 55 are forced to live in conditions that make it very difficult, if not impossible to gain access to psychiatric and social services. These findings confirm that there are many asylum seekers out there whose mental health is being adversely affected by their situation under Section 55.

**"She [the client] had difficulty finding the church and went to the Eritrean Community in Haringey for help. She had been suffering from stomach pains and vomiting. The GP diagnosed her as suffering from mental illness."**

Tesfay Gebremichael, Eritrean Community in Haringey

**"The main problem that we are seeing is increased mental health problems, for example, anxiety and depression."**

Refugee Agency, South East

**"The impact of Section 55 has left many of our clients destitute. They are depressed completely."**

Refugee community organisation in the East of England

### **Case study: Fatime, 28 from Kosovo**

Fatime was smuggled into the UK in a lorry. Her friend picked her up and advised her to go and get help at the Home Office. The next day she went to make her application in Croydon. She says she knew nothing about having to apply at port.

"The interview was difficult. First, it took a long time and second they didn't respect me. The interpreter said I was lying. They tried to confuse me, to make me nervous. I felt worse - very stressed, depressed, afraid. I was so tired. I was about to collapse. They even said I looked very tired. I gave proof and they told me I was lying. They asked me 'Why are you lying?' How do they know?"

"I change sleeping places many times. I stayed at my friend's for five weeks. Her mother came so there is not enough space. There I slept in the living room - on the sofa. She had only one bedroom. Yesterday I slept at HAB (Homeless Action in Barnet). Refugee Council gave me a sleeping bag, food, clothes, and toiletries. Last time I showered was three or four days ago at my friend's house. I don't know where I'm going to sleep tonight. I'm afraid to be alone, but I have to be alone.

"I have depression, migraine, stomach and eating problems and I don't sleep at all. If I'm not relaxed, I can't sleep. If I travel by bus, I vomit and collapse. As well by tube, but the travel is shorter so it's better. In London, I collapsed in the hospital and they took me to emergency. I'm taking eight different medications now for my vomiting, migraine, and depression.

"I wanted to find someone here to help me get better. I didn't get any help from the UK government. They treated me very bad in Kosovo, but it's just like Kosovo, not better here. They didn't even try to help me."

## **Impact on organisations**

### **1. Volume of Section 55 clients**

The following percentages show the proportion of clients which participating organisations knew had been refused support under Section 55.

- 43.9% of organisations said that asylum seekers denied support under Section 55 constituted 0-10% of their client group.
- 23.5% of organisations said that asylum seekers denied support under Section 55 constituted 10-25% of their client group.
- 9% of organisations said that asylum seekers denied support under Section 55 constituted 50% of their client group.
- 10.6% of organisations said that asylum seekers denied support under Section 55 constituted more than 50% of their client group.

- 35.7% of organisations in London estimated that 50% or more of their clients have been denied support under Section 55. 25.7% said Section 55 clients constituted 10-25% of their clients and 38.5% said 0-10% of their clients were Section 55 cases.

Numbers in the regions are much lower. 67.4% of organisations in the regions said that Section 55 clients made up only 0-10% of their client group. Only three regional organisations said that people denied support under Section 55 constituted 50% or more of the clients they were seeing.

## 2. Emergency provisions

### **63% of respondents said they had to give asylum seekers refused support under Section 55 emergency provisions or money for food or essential items.**

Asylum seekers denied support under Section 55 often arrive at RCOs or other charitable organisations hungry and penniless, and with very few possessions. The majority of organisations that completed our questionnaire said they had to provide emergency provisions, and money to ensure these people could eat and stay reasonably warm and clean. Some provide blankets and food parcels and others give small amounts of money. Many respondents said they had given money out of their own pocket. Many of these people are themselves on a low income or working voluntarily. However, no matter how much these people give, it can never be enough to meet the gap left by Section 55.

**"I've given people money from my own pocket, but I won't be able to continue."**

Salar Hamarash, Kurdish Cultural Centre

**"Our volunteers provide food and their own cash, as does the one paid worker... [Section 55] is encouraging asylum seekers to live on the streets and beg for food."**

Refugee agency in the North East

## 3. Emergency shelter

### **53% of respondents said they or members of their community had to provide emergency shelter for asylum seekers denied support under Section 55. 70% of these accommodated people in their own homes.**

Destitute asylum seekers with no friends or family to stay with have to take shelter where they can find it. For a lucky few, organisations can find limited temporary accommodation. Some are put up in hostels or bed and breakfasts for the odd night or two. Others find shelter in churches or mosques. 70% of respondents who had found accommodation for clients said they had put people up in private homes. But none of these are viable long-term solutions.

Many of these respondents expressed concern that the demand for accommodation is putting too much pressure on their community and cannot continue to be met. Many of those respondents who said they had not provided accommodation explained that this was because they do not have the capacity to do so. For those that do find a bed for the night, there will always be others who can't, as demonstrated by the large numbers of people sleeping outside the Refugee Council offices in Brixton.

"Sometimes we have to refer Section 55 clients to the Night Shelter in Oxford, which feels inappropriate because many of them (other night shelter residents) suffer from alcohol or drug addiction. I wouldn't want to spend the night there. Now they (asylum seekers) are being turned away from shelters because many of them use benefits money to run their projects. And as non-British citizens, asylum seekers are not entitled to benefits."

Dalibor Warburton, Asylum Welcome, Oxford

"We have a church community here - largely Christian people who will put someone up for a night or two. Although I and people I work with have asylum seekers in our homes, we would only ask other people in the most desperate of circumstances. If we routinely put everybody into a house, the safe houses would dry up. One can kill a resource by using it too often. People find it a very intense and intrusive experience having a person who perhaps can't speak their language and may be traumatised by their past experiences living in their home. Someone who we thought would only be in one of our beds for a couple of nights stretched over two weeks. That host didn't volunteer again."

Gordon Sparkes, Coventry Refugee Centre

"We ask members of the community to provide accommodation in their house as well as food and clothing. But some members of the community are very wary and do not want to take people in."

Ari Ariyaratnam, Coventry Tamil Welfare Association

"We have no facilities to help homeless people and have to turn them away. It's very embarrassing because helping the homeless is very important in Kurdish culture - we are expected to take people in. But there are too many. We have to stop."

Salar Hamarash, Kurdish Cultural Centre, London

"We can't refer Section 55 clients to hostels. Some go to stay with members of the community. They go from one house to another. This puts a lot of pressure on the community."

Praxis, London

## 4. Funding

**85% said they did not have funding to cover the cost of the services they are providing to asylum seekers denied support under Section 55.**

More than half of the organisations participating in this questionnaire are RCOs. They are very often run on a voluntary basis with little if any proper funding. Many respondents, but in particular refugee community groups are using their own money, petty cash or funding allocated to other projects to fund these services and expressed apprehension about what was going to happen when it runs out.

"We have petty cash for giving out to people but we wouldn't be able to continue giving hand-outs to the long-term destitute."

Kirsteen McKletchie, Bromley Refugee Network

"We juggle funds designated for other things and use our own money. But without funding, it's not sustainable. It's inhumane. There's lots of pressure. Someone has to pay for this."

Erskine Odongo, Afro Caribbean Housing Association

"Section 55 is placing an extra burden on voluntary organisations. I don't think that voluntary organisations can continue to provide support to Section 55 clients because they have a shortage of resources. Basic entitlements of people should be the responsibility of the Government. Voluntary organisations do not have the resources to do that."

Tesfay Gebremichael, Eritrean Community in Haringey

"We have a small emergency fund for asylum seekers and refugees but it does not stretch to cover the increasing number of asylum seekers refused support under Section 55."

Welfare charity in Croydon

"This is a very severe strain on our resources and we are overspending our budget."

Refugee community organisation in Greater London

"We get money from here and there - asking friends, asking churches - that sort of thing."

Midlands Refugee Council

## 5. Client increase

**59.8% of organisations said they had seen an increase in the number of asylum seekers requesting their services since the implementation of Section 55 in January 2002.**

A further 9% said they had seen a decrease in client numbers and 26.2% said they had seen no change.

"No change in numbers but more destitute asylum seekers."

Faith group in the Midlands

"The demands of asylum seekers are increasing since Section 55 has been adopted. We need more support in training and funding to meet the costings of the project."

Refugee community group in Greater London

"Numbers of destitute people are increasing and there is a limited pool of hosts offering emergency accommodation."

Faith group in the Midlands

## 6. Impact on service provision overall

**57.6% said dealing with the impact of Section 55 had affected their organisation's ability to provide services to other asylum seekers and refugees.**

Many of these organisations have had to compromise their regular services in order to support clients denied support under Section 55. This means that they can't do other things such as helping refugees to access health services or find employment and settle into the community.

"We work with under 16 year-olds, but the case we had was with an 18 year old boy. Everyone we turned to for support (except for items such as clothes and food) was unable to support the client. In the end, the lawyers were able to push for NASS to reverse the decision and they did. We spent a lot of time on this and the young person was deeply affected by the ordeal."

Children's charity in Greater London

"There is no regular funding and [Section 55] detracts from our usual work."

Refugee agency in the North East

"This situation is proving problematic for us as we are primarily an HIV agency but our workload and the well being of our service users is affected by a poor governmental system."

Refugee community group, North West

We are spending a lot of time trying to find accommodation and money for Section 55 clients. We can spend a whole day on one case and come up with nothing. Other clients are suffering as a result."

Praxis, London

## 7. Long-term impact on service provision

**63.6% said that the type and level of service they provide for Section 55 clients is not sustainable in the long-term (16.5% (22) of respondents failed to answer this question. Of those that did, 76.4% said it was unsustainable). The main reason offered by respondents for claiming that these services are unsustainable was lack of funds.**

"Providing services to Section 55 clients is not sustainable in the long term. I don't think the voluntary sector should be responsible for this because it's not viable - we are not here to replace the Government."

Susan McDonald, Refugee Project Croydon

"The voluntary organisations are very resilient and may be able to provide some food and clothing, but they cannot provide accommodation. Placing the burden of responsibility on them is not sustainable."

Dalibor Warburton, Asylum Welcome, Oxford

"We have a large number of clients in emergency accommodation awaiting decisions under Section 55. Once these receive decisions there is a strong chance we will have a large influx of clients who are homeless and need support. We cannot cope with the large numbers very possibly coming in the near future."

Kirsteen Mc Kletchie, Bromley Refugee Network

"We have our response to Section 55 and that is sustainable. However, the need is much greater than our ability to meet it as we only provide for the most desperate of cases."

Gordon Sparkes, Coventry Refugee Centre

"We're finding it harder and harder to get anything for these people."

Praxis, London

### **Some views from our respondents**

Respondents had the opportunity on the questionnaire and during interviews to add any general comments about Section 55. These were as follows:

"We would support the Government in trying to stop abuse of the system. But this way does not work."

Salar Hamarash, Kurdish Cultural Centre

"Section 55 is not a fair system. There needs to be a more humane way to deal with asylum seekers. It was not properly thought through by the Government... Section 55 needs to be repealed because it's inhumane ... The UK government is not saving money because of the number of appeals and solicitor fees."

Erskine Odongo, Afro Caribbean Housing Association

"Section 55 assumes that someone is guilty before any decision is made. Those who have been refused NASS support are then deemed to be genuine refugees... The Government talks about dissuading people who would take advantage of the system from seeking asylum in the UK. But those who are likely to take advantage of the system would not make the administrative mistakes that genuine asylum seekers are currently making..."

"The Home Office wants to maltreat asylum seekers so that others won't come, but this is counterproductive, because in the process, real asylum seekers will be given refuge but they are damaged because they have been affected by Section 55 and thus, will not be healthy or productive in society. British society at large will suffer in the end."

"Many asylum seekers have already been attacked in their country, they arrive in the UK and they are attacked once again. Section 55 is inhumane and needs to be repealed."

Tesfay Gebremichael, Eritrean Community in Haringey

**"Denying [asylum seekers] support is like denying old people support. It's not what a sophisticated country does. It's inhumane, totally inhumane."**

Susan McDonald, Refugee Project Croydon

**"It is heart rending to see the plight of those caught by Section 55. Desperate is the term that best describes them - without hope. We are seeing people who are cold, hungry thirsty and confused. They have been travelling for days. They do not know who to turn to."**

Refugee community group in the South East

**"Section 55 will basically make many asylum seekers destitute. They may resort to crime; stealing in order to meet their basic needs or go underground and become illegal immigrants."**

Refugee community group in Greater London

**"Ordinary asylum seekers (those who have been tortured and persecuted in their country of origin) are suffering as a result."**

Ashmat Rassa, Afghan Human Rights Organisation

**"Asylum seekers should be given shelter, food and security until their cases have been decided. They should not be punished because they don't know the system."**

Erskine Odongo, Afro-Caribbean Housing Association, Croydon

**"It is unbelievable that a civilised society as Britain can treat human beings like this. No support and no work permit?"**

Refugee community group in the Midlands

**"We feel we are dealing with only the tip of the iceberg. We hear from other asylum seekers of large groups of people being ejected from accommodation including women not speaking English."**

Faith group in Greater London

**"Homelessness is common and this seriously affects their ability to make a thorough asylum claim."**

Refugee Agency, South East of England

**"I consider Section 55 a barbaric infringement of human rights. It puts volunteers in an impossible situation. I personally have spent money I can't afford rather than see people on the street."**

Refugee community group in East of England

**"A lot of people are suffering [under Section 55] and the burden to deal with it is put on the community and organisations with no extra funding."**

Praxis, London

Since the enactment of Section 55 of the Nationality, Immigration and Asylum Act 2002, many asylum seekers left without food and shelter by this provision have turned to their community and voluntary agencies for help. This study has shown that rather than being able to bridge the support gap left by Section 55, organisations have struggled to make some level of provision available but have been unable to prevent systematic destitution.

### **Section 55 results in destitution that should not be tolerated in a civilised society**

Although many parallels can be drawn between Section 55 and the withdrawal of support from in-country asylum seekers in 1996, unlike then, the courts have not been able to prevent destitution. This is because the measure is contained in primary legislation and recourse to support from local authorities under the National Assistance Act 1948 that was in place in 1996 has been blocked.

Significantly, however, the courts in 1996 did also highlight the gravity of what was being proposed. In a case determined by Mr Justice Simon Brown in 1996, it was declared that the earlier regulations brought in under the 1996 Act "contemplate a life so destitute that... no civilised society can tolerate it."<sup>14</sup>

Testimonies from the organisations and individuals participating in this study reveal not just street homelessness but also hidden homelessness. In the case of street homelessness there are accounts of nights spent in bins, telephone boxes and bus shelters. The pavement outside the Refugee Council has also become shelter for the Section 55 destitute.

Hidden homelessness, where individuals are taken into the homes of friends and members of communities, in some cases complete strangers, is a significant aspect of this destitution. The testimonies reveal the stress and insecurity associated with having to negotiate shelter on a daily basis, not knowing where the next night is to be spent.

Ministers still dispute the extent of the impact of Section 55. In particular, they refer to the absence of large numbers on streets and with the lack of evidence of widespread destitution.<sup>15</sup> However, the homelessness charity Shelter points out that this perception of homelessness conceals the range and scale of the problem.<sup>16</sup> Broadly speaking, homelessness legislation defines a person as homeless if there is nowhere they can reasonably be expected to stay.

If Section 55 continues, organisations assisting those affected will be unable to cope and street homelessness can only become more visible. At a time when the Government appears to be on track for meeting its targets to reduce street homelessness, Section 55 threatens to reverse this progress.

For most asylum seekers, who are unable to work or seek help from other statutory sources, asylum support is the only safety net from destitution. To leave those who are merely exercising rights under international law without that support seems morally untenable. Worse still, many of these people are victims of torture or rape, the age disputed or sick.

## **The nature and implementation of Section 55 undermines the Voluntary Sector Compact**

The organisations surveyed for this study demonstrate the extent to which the community and voluntary sector will go to help those in need within their communities. Many of those representing respondent organisations admitted to having taken destitute asylum seekers into their own homes. This study also shows that the Section 55 policy has completely overwhelmed these organisations, leaving them unable to prevent the systematic destitution it has caused.

At the time Section 55 was introduced, the Refugee Council organised two events to inform members and RCOs about the planned changes. The message that came back was very clear. Organisations would not be able to meet these demands.

In 1998, the Government published a 'compact' setting out relations between itself and the voluntary sector.<sup>17</sup> The Compact is described as a compact based on "shared values and mutual respect" and founded on the recognition that voluntary organisations make a huge and invaluable contribution to society. One of the terms of the Compact is that whenever Government legislates or regulates, the Compact will help to ensure that the impact on voluntary organisations is taken into account. The document's commitment to 'meaningful consultation' is designed to improve policy development, and enhance the design and delivery of services and programmes.

By the Government's own rationale, the community and voluntary sector are important stakeholders. Yet the Government's failure to consult with the voluntary sector before enforcing Section 55 is a clear breach of the Compact, and undermines any intention it might have had to strengthen links with the voluntary sector. Furthermore, to expect them to crisis manage the impact of Section 55 in this way endangers their own survival and goes against the Government's efforts to empower the sector through initiatives such as the Compact. We believe that the sector should have been consulted on the introduction of Section 55 policy.

## **Section 55 is a counter-productive policy based on erroneous assumptions**

Section 55 is the latest attempt to use asylum support as a lever to achieve political objectives. In 1996, Conservative Home Secretary Michael Howard justified plans to remove benefits from in-country asylum applicants as necessary to crack down on 'bogus' asylum applicants. In April 2000, the voucher policy was introduced under the pretext that it would discourage unfounded claims. Similarly, Section 55 was introduced to "deal with the very widespread abuse of our asylum system by those who are economic migrants".<sup>18</sup>

Like previous attempts to configure support to achieve political ends, this latest attempt also appears to be based on the assumption that the merit of an asylum application is tied to the timing of an asylum application.

In the period since the introduction of Section 55, analysis of statistics for positive asylum decisions reveals that in-country applications are no less credible than applications made at the port of entry. In fact, the majority of positive decisions are granted to applicants who applied in-country.

Ministers also predicted that once Section 55 was operational, asylum applicants would start applying at port in order to avoid destitution. Yet this has not been the case. By the fourth quarter of 2003, the percentage of individuals claiming asylum in-country had reached 73 per cent.

The voucher policy, predicated on the belief that individuals were drawn to the UK's cash benefits system, was widely criticised for being socially divisive. The policy was eventually repealed after sustained pressure from a range of organisations within civil society including the Transport and General Workers Union and Oxfam. Research into the motives of asylum seekers and commissioned by the Home Office itself reveals a complex set of factors at play.<sup>19</sup> To reduce these motives to such a crude level for the purpose of policy making is highly problematic.

As this study illustrates, individuals left unsupported by Section 55 are preoccupied by the goal of basic survival. Even keeping in touch with lawyers and attending important interviews in connection with the asylum claim become difficult. By extension, steps that might be taken during this time that would otherwise enable integration will be virtually impossible.

In recent years, refugee integration has assumed great importance across the EU. In the UK, the Government has published a strategy,<sup>20</sup> set up a high level working group<sup>21</sup> and set aside substantial funds to promote refugee integration. Yet at the same time, Section 55 operates to exclude potential refugees from participation in society at the most basic level.

## Recommendations

Having carried out this study, we come to the conclusion that Section 55 must be repealed. Any justification for this policy cannot be sustained in the light of its adverse impact on individuals left without means to support themselves and on the organisations struggling to help them. The Government seems unmoved by statistical and anecdotal evidence of the impact of Section 55, but these experiences would not naturally come to the official attention because there is no official record of numbers forced into destitution and of what that experience might entail.

We therefore endorse the view taken by the Home Affairs Select Committee recently, that the Government commission an independent review of the workings of Section 55 so that any decision on whether to keep or repeal the provision be based on the fullest range of evidence. The Government must also ensure that this time the voices of the destitute and the organisations left to support them are heard.

We recommend the following:

- Section 55 should be repealed.
- Pending a change in Section 55 policy, there should be an independent review of the impact of Section 55 with a call for evidence from destitute asylum seekers, the refugee community and the voluntary sector.
- The Government should immediately review the impact of Section 55 on their strategies to achieve refugee integration, a reduction in homelessness and implementation of the Voluntary Sector Compact.



11. a) Have you or members of your community had to provide emergency shelter for asylum seekers?

Yes  No

b) If yes, what kind of accommodation?

Private (e.g. home)  Hotel/B&B  Shelter  Other (specify)

12. a) Does your organisation have funding to cover the cost of the services you are providing to asylum seekers refused support under Section 55?

Yes  No

b) If not, how have you paid for these services? \_\_\_\_\_

13. Since the implementation of Section 55 in January 2003, have you seen an increase or decrease in the numbers of asylum seekers requesting your services?

Increase  Decrease  No change

14. Has dealing with the impact of Section 55 affected your ability to provide services to other asylum seekers and refugees?

Yes  No

15. a) Is the type and level of service provision required under Section 55 sustainable in the long-term?

Yes  No

b) If not, why not? \_\_\_\_\_

16. If you  or any of your clients  would be willing to speak to us in more detail about the impact of Section 55, please provide a contact name and telephone number (please check appropriate box/es).

Name: \_\_\_\_\_

Tel: \_\_\_\_\_

General comments:  
(If you wish to make further comments, please feel free to enclose additional sheets)

## Endnotes

- <sup>1</sup> *The Times*, "we are a haven for the persecuted, but not a home to liars and cheats", 7th October 2002
  - <sup>2</sup> *Joint Committee on Human Rights Seventeenth Report, Nationality Immigration and Asylum Bill Joint Committee on Human Rights Twenty-third Report, Nationality Immigration and Asylum Bill: Further Report* ([www.publications.parliament.uk/pa/jt200102/jtselect/jtrights/jtrights.htm](http://www.publications.parliament.uk/pa/jt200102/jtselect/jtrights/jtrights.htm))
  - <sup>3</sup> "We were then told clearly that the Section was intended to deal not with people who had been in the country for only a short time, but with people who had been in the country for weeks and months, and it would not be used to deal with people who had been here a matter of days." *Commons Hansard, Mr. Neil Gerrard (Walthamstow) (Lab): 17 Dec 2003: Column 1637*
  - <sup>4</sup> PLP Briefing: *New amendments to the Nationality, Immigration and Asylum Bill*, Home Office, 7th October 2002 and *Nationality, Immigration and Asylum Bill, Commons Consideration of Lords Amendments, Briefing for Labour MPs*, 1st November 2002
  - <sup>5</sup> "...judgement would be made on reasonableness", "honest errors will not be penalised..." and that the government would be prepared to accept torture or trauma as reason for a late application"  
*Lords Hansard, Filkin 17 Oct 2002: Column 997-999*
  - <sup>6</sup> Home Office Asylum Statistics: 1st, 2nd, 3rd and 4th Quarter 2003.
  - <sup>7</sup> 2nd Quarter: 1,830 negative decisions issued; 3rd Quarter: 2,810 negative decisions issued.
  - <sup>8</sup> *Destitution by design. Withdrawal of support from in-country asylum applicants: an impact assessment for London*, Greater London Authority, February 2004.
  - <sup>9</sup> Total number of negative decisions issued divided by number of weeks issued in (7490/38=197)
  - <sup>10</sup> R v Secretary of State for the Home Department (ex parte S, D & T).
  - <sup>11</sup> R v Secretary of State for the Home Department (ex parte T).
  - <sup>12</sup> R v Secretary of State for the Home Department (ex parte Zardarsht)
- Source: letter from Andrew Dent and Joy Munro, Home Office: Section 55 of the Nationality, Immigration and Asylum Act 2002: Regional backlog case handling exercise, 12th November 2003
- <sup>13</sup> Shelter fact sheet: *Mental Health and Homelessness*
  - <sup>14</sup> R v LB Hammersmith (ex parte M and others)
  - <sup>15</sup> In response to GLA's claims that 15,000 had been made destitute by Section 55 Beverley Hughes said: "It is completely untrue to say that 15,000 people have been made homeless as a result of section 55. There is no evidence of this whatsoever. Our experience has shown that the vast majority of those who are refused support do not become destitute, finding support from friends, family or community or charity groups." Home Office Press Release, December 2003
  - <sup>16</sup> Shelter factsheet: *Housing and Homelessness in England: the facts*, October 2003
  - <sup>17</sup> *Getting it right together: Compact on relations between Government and the voluntary and community sector in England*, Home Office. November 1998
  - <sup>18</sup> Downing Street Press Release 28th November 2002
  - <sup>19</sup> Home Office Research Study 243. *Understanding the decision-making of asylum seekers*. July 2002
  - <sup>20</sup> The Home Office Refugee Integration Strategy, *Full and Equal Citizens*, was launched on 2nd November 2000. It established a Challenge Fund, designed to promote projects that address specific social needs amongst refugee communities. For more information see [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk).
  - <sup>21</sup> The National Refugee Integration Forum





"If civilisation means anything, it means that we do not leave people destitute - unable to eat, with no accommodation whatever - regardless of the foundedness or unfoundedness of their claim."

**Commons Hansard, Home Secretary (Jack Straw), 12 April 2000: Column 437**

Under Section 55 of the Nationality, Immigration and Asylum Act 2002, destitute asylum applicants can be denied access to basic state support if they are unable to prove that they applied for asylum "as soon as reasonably practicable" after entering the UK. This regulation has been used to deny basic state support to people who have applied within days and sometimes even within hours of arrival, many of whom are particularly vulnerable and in genuine need of international protection.

This report presents the findings of a study investigating the real impact Section 55 is having on asylum seekers, charities and refugee communities one year after its implementation. These findings reveal that Section 55 is, in fact, forcing many asylum seekers into destitution and placing an unsustainable burden on the voluntary sector and the refugee community at large.