

Refugee Council conference report



Practice and procedure: An asylum policy and legislation update

Refugee Council conferences
Organised in association with the Immigration Law Practitioners'
Association (ILPA)

Regent's College, London
7 March 2007

Royal York Hotel, York
22 March 2007

About the Refugee Council

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. We not only give help and support to asylum seekers and refugees, but also work with them to ensure their needs and concerns are addressed by decision-makers. To find out more about what we do please visit www.refugeecouncil.org.uk

Aims and objectives of the conferences

The last year has seen significant changes in asylum policy and legislation, changes that have had a substantial impact on the practices and procedures of those working with asylum seekers and refugees. The introduction of provisions contained in the Immigration, Asylum and Nationality Act 2006, the impact of the New Asylum Model, the effect of operational changes at the Home Office and the implications of EU asylum directives have all played a part in changing the legal and policy environment.

The Refugee Council conferences in London and York provided opportunities to discuss UK asylum policy and practice. The events highlighted key legislative changes relating to asylum and gave delegates from across the public, private and charity sectors the opportunity to exchange good practice, to update knowledge, develop an understanding of the challenges ahead and examine how these challenges might be met.

The aim of the morning plenary sessions and the afternoon workshops was to help those working with refugees and asylum seekers to understand the new legislative and policy landscape by:

- identifying the implications of current and proposed government policies and legislation
- relating new asylum policies and legislation to the roles of statutory and other agencies
- suggesting ways of improving services and integration for asylum seekers and refugees, and demonstrating practical initiatives to develop more comprehensive and consistent support
- exploring how agencies can work together across a range of sectors to meet the challenges of change in a sustainable way.

The conference in **London** was chaired by **Anna Reisenberger**, Acting Chief Executive of the Refugee Council. During the morning six speakers provided information and raised critical issues: **Shami Chakrabarti, Lin Homer, Gemma Juma, Renaé Mann, Nick Oakeshott** and **Steve Symonds**. The conference in **York** was chaired by **Hermione McEwen**, Senior Solicitor, Greater Manchester Immigration Aid Unit and member of the Immigration Law Practitioners' Association Executive Committee. Here the six speakers were **Chris Hudson** and **Nancy Kelley**, and the four who had spoken in London (**Gemma Juma, Renaé Mann, Nick Oakeshott** and **Steve Symonds**). In the afternoons, workshops on a range of topics provided an opportunity for delegates to learn more about particular issues, to share their experience, and to discuss the development of policy and practice. In total about 350 people attended the two conferences.

Structure of this report

This report has three sections which reflect the discussions that took place at the conferences in London and York and during the workshops at both venues.

The report first gives an account of the plenary sessions at the London conference. Four of the speakers gave their presentations again at the York conference. The second part of the report gives an account of the two additional contributions. Unfortunately due to a technical problem no recording is available for the presentation by Chris Hudson, Regional Director, Immigration and Nationality Department (IND). However, his talk was on the same subject as that of Lin Homer, Director General, IND, at the London conference (page 7). He also answered questions at the end of the morning session; a summary appears on page 19. The third part of the report provides brief summaries of the workshop discussions which are derived from material provided by notetakers in both London and York.

While the Refugee Council welcomes a diverse range of speakers and workshop facilitators, the views and opinions expressed by them in the conferences were not necessarily those of the Refugee Council.

The Refugee Council would like to express thanks to all speakers, workshop facilitators, notetakers, volunteers and delegates, and to the Immigration Law Practitioners' Association.

London, 7 March 2007

The conference was chaired by **Anna Reisenberger**, Acting Chief Executive, Refugee Council. She welcomed all delegates, and hoped they would have an interesting, enjoyable and useful day. She said that the Immigration Law Practitioners' Association (ILPA) had helped put today's programme together and she noted that in addition to the material provided for Steve Symonds' sessions, further information is available on ILPA's website (www.ilpa.org.uk). The Refugee Council has been holding regular conferences about asylum and immigration legislation because of the "unrelenting series" of new bills before Parliament. Recently there has been a change of emphasis from asylum to migration. However, there are asylum issues hidden within the UK Borders Bill at present being considered in Parliament, and many challenges are arising as previous asylum legislation works its way through to implementation. The Refugee Council welcomes the move to the New Asylum Model – the subject to be tackled by the first speaker – so long as asylum seekers get a real opportunity to state their case and there is proper quality decision-making. The Refugee Council is also looking forward to the new and more independent Inspectorate for the Home Office. Anna Reisenberger concluded by stressing that regardless of how people enter the UK, they have a legal right to seek asylum.

Renaé Mann, Co-ordinator of the Inter Agency Partnership, then spoke about **The New Asylum Model: the experience of clients so far**. She has worked in the refugee and asylum field in the UK and Australia for nine years, in service delivery, policy and community development posts, in both voluntary and public sectors. She described the work of the Partnership and its role in relation to the New Asylum Model (NAM). She outlined how NAM had been experienced by the Partnership's clients so far, and set out issues and concerns arising from these experiences.

The Partnership consists of six voluntary sector agencies funded by the Home Office to provide independent advice and support to asylum seekers across the UK: Migrant Helpline, Refugee Action, Refugee Arrivals Project, Refugee Council, Scottish Refugee Council and Welsh Refugee Council. The organisations are involved in the provision of initial accommodation, induction centres, one-stop services, voluntary returns advice, and Sunrise, the Home Office's integration programme for people recognised as refugees in the UK. As well as service delivery, a critical part of the Partnership's work is monitoring and evaluating how asylum policies and processes impact on clients. The Partnership agencies aim to use this understanding to influence the implementation and development of NAM for the benefit of clients.

Renaé Mann outlined the three key features of NAM which are being monitored by the Partnership: speed, segmentation and closer contact with clients. She noted that a detailed Refugee Council briefing on NAM was included in the delegate pack and is also available at www.refugeecouncil.org.uk.

Fast-track processing of asylum applications is a critical component of NAM. The Home Office expects that when the process is fully operational asylum cases will be resolved within six months and that in so-called "general cases" the initial decision will be made within 20 working days. The speed of processing depends in part on the segment to which an asylum seeker is assigned. The five potential segments relate to (i) people the Home Office think could have claimed asylum in a third country, (ii) minors, (iii) claims from nationals of countries designated as generally "safe" and with no appeal rights inside the UK, (iv) claims the Home Office consider "late and opportunistic" and (v) cases from the general caseload that do not fit into other segments. The segmentation of a case determines not just the speed of processing, but the

support to which a person is entitled, assistance to access legal advice, and the level of contact with the case owner. The case owner system involves one Home Office official maintaining responsibility for a particular asylum seeker or family throughout the determination process, acting as a single point of contact, resolving difficulties and managing the case.

One positive consequence of the emphasis on speed is that because the process is much faster, people given a favourable decision should be able to integrate into mainstream services earlier. However, pressure on local services is considerable because people so newly-arrived may have little knowledge about life in the UK or have a limited command of English.

Overall the speed of the NAM process has many disadvantages. Although there is some regional variation, the following are current areas of concern:

- poor information and inadequate interpreting facilities resulting in asylum applicants having a poor understanding of the NAM process
- the inability of asylum applicants to access quality legal representation, and insufficient time being given to applicants and legal representatives to prepare cases adequately
- unmet care and support needs and the level of destitution amongst those who have claimed asylum.

The Partnership considers that the current approach of prioritising speed over quality in implementing NAM leads to poor initial decisions, increased appeals, inadequate support resulting in unmet needs, and poor stakeholder engagement.

In relation to segmentation, the Partnership agencies have found that asylum seekers are not aware of the implications of their allocation to a particular segment, of the NAM process itself, or of their rights and entitlements within NAM. For example, in Croydon, Migrant Helpline provides initial accommodation to asylum seekers who are destitute after they have lodged their asylum application. Asylum seekers often arrive in the late afternoon or evening and are dispersed before noon the following day, leaving insufficient time for Migrant Helpline staff to brief them about the NAM process and to assess their support needs.

Although the Partnership supports the concept of case owners, in practice it has found that most asylum seekers do not know who their case owner is, or what the role of a case owner entails. In some cases, contact between an asylum applicant and their case owner occurs for the first time at the substantive interview. Case owners themselves have shown insufficient flexibility in their dealings with asylum seekers, for example refusing to delay a substantive interview until after an asylum applicant has obtained legal advice and representation. The Partnership has found that many case owners prioritise the NAM schedule over the quality of decision-making. Moreover, there is currently limited interaction between asylum seekers and case owners, resulting in case owners failing to consider the overall needs of asylum seekers as had been envisaged when NAM was designed.

Based on experiences so far, Renaé Mann set out the following recommendations for ensuring quality:

- Give case owners appropriate flexibility in the administration of the NAM process.
- Ensure applicants have access to key advice and support, in particular access to legal representation before the substantive interview, and for all children to be accompanied by an informed responsible adult.
- Monitor initial decisions and appeals decisions to enable the NAM process to adjust, based on learning regarding decision-making quality.

- Provide continuous professional development for case owners. As specialists working in a challenging environment, they require appropriate support to continue to develop their skills.
- End segmentation as it is prejudicial and counterproductive to the aims of NAM.
- Make increased contact meaningful by enabling flexibility and creativity rather than prioritising narrow conformity to IND processing times.

The next speaker was **Steve Symonds**, Legal Officer, Immigration Law Practitioners' Association (ILPA). His talk was on **Developments in Asylum Legislation**. Steve Symonds is a barrister, and for seven years he has advised and represented asylum seekers before what is now the Asylum and Immigration Tribunal, working at the Refugee Legal Centre and Asylum Aid. Currently he has a wider immigration brief, but he maintains involvement in matters of asylum law through delivering training and disseminating information within and beyond the ILPA membership, undertaking policy work for ILPA, and supporting others who are lobbying and campaigning on asylum issues.

Steve Symonds said that his presentation would concentrate on what has been happening in the past 12 months, and what is on the horizon. He had, however, prepared for the delegate pack a paper providing context and detail on UK asylum legislation. An appendix to the paper lists primary UK asylum legislation between 1971 and 2006, but he stressed that there is even more relevant legislation including that on human rights, nationality and anti-terrorism, as well as the UK Borders Bill which Anna Reisenberger had mentioned. Also affecting asylum seekers are the orders, regulations and other instruments through which legislation is given effect. Historically, asylum law has been grounded in immigration law, but increasingly asylum law is setting the trend for immigration legislation. Examples of this are reduced appeal rights, increased criminalisation and expanded immigration powers. Steve Symonds said that indications are that the next legislation will be a consolidating bill. If so, it will be necessary to consider very carefully how the mass of past legislation is being brought together and the implications for asylum seekers.

Turning to the Immigration, Asylum and Nationality Act 2006, Steve Symonds said that it had four distinct aspects affecting asylum seekers and refugees. These are: increased border controls, alterations in accommodation and support arrangements, appeal upgrading, and changes which may exclude people from the provisions of the 1951 Refugee Convention. The new border controls include an extension of powers traditionally held by immigration officers to police officers, customs officials and in some circumstances employees of private companies. This raises serious concerns about how individual protection needs will be met. Powers to obtain carriers' information such as passenger or freight details have been widened. Requirements to share information among agencies have been extended through secondary legislation so that some powers can be exercised outside the UK, for example in Calais. All these powers have implications for immigrants in general. However, singly and together they will make it even harder for asylum seekers to get past borders to seek asylum, possibly fuelling smuggling and trafficking.

Section 43 and Section 44 of the 2006 Act relate to accommodation and support. Section 43 empowers local authorities to take a role in providing accommodation and support to refused asylum seekers still in the UK who fulfil the "hard case" criteria under Section 4 of the 1999 Act. Section 44 is a welcome provision in that it empowers government to repeal Section 9 of the 2004 Act under which families refused asylum could be made destitute if they do not take "reasonable" steps to leave the UK. Sadly, indications from the Home Office are that it has no plans to activate Section 44, so Section 9 remains on the statute book.

The 2006 Act contains a new "upgrade" appeal. This is available to people who have had refugee or other status in the past but whose application for continuing leave has been refused. However, it appears at present that the provisions are likely to have little effect.

Section 55 and Section 56 relate to exclusions. Article 1F of the Refugee Convention provides certain exclusions from protection, for example for those guilty of war crimes. Increasingly the UK government has been incorporating its own interpretation of the Refugee Convention into legislation, thereby excluding some individuals from refugee protection in cases where the Convention ought to be applied. The 2006 Act incorporates the complicated and far-reaching definition of "terrorism" given in Section 1 of the Terrorism Act 2000. Given the circumstances which sometimes lead people to seek asylum, it is easy to see how some refugees might fall within this definition.

On the immediate horizon is the UK Borders Bill. The three most significant aspects of the Bill as far as asylum seekers are concerned are those relating to biometrics, reporting conditions, and "automatic" or "mandatory" deportation. For example, under Clause 16 those with limited leave to remain may be subject to new and considerably more onerous reporting conditions. The deportation of those who have served a prison sentence can, in widely defined circumstances, take place regardless of their personal circumstances, the length of time they have spent in the UK, and the severity of their crime. As currently drafted, no discretion could be exercised even if imprisonment had been only for a few days for shoplifting or graffitiing. The provisions also appear to allow indefinite detention for someone who might possibly at a later date be subject to mandatory deportation. All these powers are extraordinarily wide, with little or no justification offered. Unless the Bill is amended, asylum seekers will be subject to them.

Finally, Steve Symonds summarised some general themes arising from this overview of the 2006 Act and the new Bill:

- the ever-increasing extension of powers of control
- the continued use of destitution as a means of discouraging – indeed punishing – asylum seekers
- the exclusion of "undesirables" regardless of the circumstances and the merits of their case
- the costliness of all these control measures, in stark contrast to the cut backs in funding for supportive measures such as legal aid.

Lin Homer, Director General, Immigration and Nationality Directorate (IND), then gave a presentation on **Operational Changes in the Immigration and Nationality Directorate**. She has been Director General of IND since August 2005, and from April will head the new Border and Immigration Agency. She is a member of the Home Office Board. Her previous work was in local government, most recently as Chief Executive of Suffolk County Council (1998-2002) and of Birmingham City Council (2002-2005).

Lin Homer said she welcomed the opportunity to speak at the conference, and regretted that she was not able to stay for the whole morning. She said that although there may be many occasions when there will be differences of opinion between IND and those attending the conference and their organisations, it is important to talk about such differences and understand each other as well as we can.

She noted that some differences are those of "tone". Steve Symonds had referred to Home Office "embarrassment" at last year's crisis over foreign nationals. The right word was not

“embarrassment” but “concern”: the Home Office was concerned that there were aspects of its system not being run as well as they should be. A firm, just and obviously fit system must be delivered. If not, public confidence in the immigration system is lost, and with it vital support for the proper work of welcoming people who do deserve asylum, making sure they are not just protected but integrated into our system.

The Home Office is not trying to move to a position where the right to apply for asylum is regarded either as unimportant, or as something from which the country shies away. However, it is a fact that 70 per cent of applicants are found to have made an unfounded application. That is not a decision made by IND but after appeals and consideration through a system which can hold its own against any other country in terms of its rights and its integrity. It therefore has to be accepted that many applicants are not entitled to refugee status under the terms of the Refugee Convention. The public expects the Home Office to deal firmly with such people. The Home Office is trying to produce a system which is fair, swift to bring justice to those entitled to refugee status, but confident about enforcing compliance with decisions when these have not been made in favour of the individual.

Last July, four strategic objectives were set out for IND and the new Border and Immigration Agency:

- Strengthen the UK's borders, use tougher checks abroad so that only those with permission can travel to the UK, and ensure it is clear who leaves the country so that action can be taken against those who break the rules.
- Fast track asylum decisions, remove those whose claims fail and integrate those who need protection.
- Enforce compliance with the UK's immigration laws, removing the most harmful people first and denying the privileges of Britain to those here illegally.
- Boost Britain's economy by bringing the right skills here from around the world and ensuring this country is easy to visit legally.

Turning to NAM, Lin Homer said that the case owner system and the 25 new regional teams mean faster and more closely controlled case management with a sense of accountability running from beginning to end. Faster decision-making can help give people the status to which they are entitled, encouraging successful applicants to integrate fully into the community. For those whose claims are not successful, enforcement steps will be implemented quickly before relationships are built up, children are settled in school and speak only English, etc. This has not happened in the past when delays – due to Home Office shortcomings or the actions of applicants – made firm implementation of a negative decision more painful for all concerned.

Lin Homer said that although the aim within NAM is continuity of case owners, inevitably there will be situations where continuity is lost, for example if staff move on. From Renaé Mann's notes in the delegate pack it appears that this aim has not yet been achieved in all cases. However, Lin Homer pointed out that the system is in its early days and she urged delegates to help make it work.

One of the benefits of the case owner system is that cases will no longer be handled by several people. This should improve the quality of decision-making, with less duplication and less risk that important information will be overlooked or lost when papers are transferred from one person to another. Now the case owner will have responsibility for ensuring quality and will be accountable for this as well as for ensuring cases are concluded speedily and appropriately.

Regionalisation, with six regions and 25 teams, should help to overcome some of the problems produced by the previous centralised system. Staff will have responsibility for listening to what

other stakeholders are saying so that services can be improved. It should be easier to make connections between the person making a decision on the case and the person whose claim is contained within the file. There will be a wider range of talented people in the regional teams with upgraded posts. Such changes have been introduced in response to suggestions from organisations such as those represented at the conference.

Lin Homer stressed her commitment to voluntary returns, which she said are always preferable to detention and enforced return. People must accept that decisions are final and that they must leave. Trials are taking place with voice recognition, tagging and different forms of accommodation so that detention can be used only when necessary and only for brief periods. At present, of 2,000 detention places about 1,000 are being used for refused asylum seekers; in most cases detention is short although sometimes it is prolonged because of the complexity of a case, or lack of cooperation about redocumentation. She continued, "Nonetheless, we will not shy away from forced removals where those are necessary. In our view there is no country where removal is in all cases and at all times out of the question." She urged delegates to consider why removal is necessary, saying that a strong signal must go out that just getting into the UK does not mean asylum will be granted.

Lin Homer outlined the steps being taken to improve the quality of initial decision-making. The case owners are being assessed on a 55 day training programme and the accreditation of case owners by the Law Society is being explored. UNHCR has reviewed decision-making and made recommendations. Twenty per cent of decisions across teams are being sampled to ensure they meet the high standards now expected. In Solihull a pilot project is under way to explore provision of high quality legal advice to applicants earlier in the process, and for case owners and legal representatives to agree the parameters of an interview before it takes place. She described this as "A real culture change for IND". In relation to the greater emphasis on quality, she said "We see no need to trade speed for quality."

Finally, she stressed again the value IND places on the opinions and experience of stakeholders as vital contributions to improvement.

In the brief **question period** which followed one delegate asked why, in the last quarter of 2006, seven to ten per cent of initial decisions were made while applicants were detained despite UNHCR research showing that those who are not detained are extremely unlikely to abscond as after all, they want their claim to be processed. Lin Homer said detention at the early stages of the determination process has a number of benefits for the Home Office. It provides the opportunity to get clarity about what the case is about, and with the applicants close at hand an early decision is possible. Detention also sends a message that an asylum application is a serious matter and there will be follow-through. At present a significant proportion of people make unfounded applications and the best way to deter such applications is to determine them quickly and firmly.

Another delegate expressed concern about the situation in Liverpool, where Reliance House closes its doors at 1pm. After this people are told to return the next working day for preliminary screening. This is especially unfortunate on Fridays, as no support is then available until Monday for people who may have no money and speak no English and may become victims of crime or be driven to commit crimes. Surely a government building could stay open for longer? He also urged that Liverpool be assigned more than one segment. Lin Homer said she recognised that there were impacts on a locality. In the future there will be someone in each region who can discuss such issues and take steps to resolve them. She noted, however, that there will always be people who don't understand the system and turn up at the wrong time. Appointment

systems and quick allocation to a case owner will help. But if someone turns up at the screening centre not having asked for asylum at the port of arrival they may well have been in the country some days or weeks and know their way around. On the question of segmentation Lin Homer said it didn't make sense to require the same expertise everywhere.

Concern was expressed that in her talk Lin Homer had appeared to characterise people as either "failed asylum seeker" or "economic migrant" and that such characterisation feeds down to case workers and the new case owners. The true situation is much more complex – there are a multitude of reasons why people flee, including fleeing from torture. Lin Homer stressed again that 70 per cent of applications are unfounded. She said she could sympathise with economic migrants as human beings who want to move but that within a system designed to protect refugees the UK cannot absorb them. Managed migration allows many people to come to the UK by a legal route.

After a break for refreshments, **Shami Chakrabarti**, Director, Liberty, spoke on **Asylum: the new dirty word?** She is a barrister, and worked as a lawyer in the Home Office from 1996 until 2001. Since then she has worked for Liberty (the National Council for Civil Liberties), first as in-house counsel and now as Director. She has written, spoken and broadcast widely on the importance of the post-World War II human rights framework as an essential component of democratic society. She is a governor of the London School of Economics and the British Film Institute and a Master of the Bench of the Middle Temple.

Shami Chakrabarti said that the story of asylum policy and politics is not a positive one, and in her talk she would try to set that fact in a broader political, historical and human rights context. She said she was speaking as Director of Liberty, a domestic human rights organisation, and as an ex-Home Office lawyer. But she was also speaking as the daughter of "economic migrants" who came to the UK at a time when that phrase had not even been invented let alone used in the way it is now to suggest something dishonourable, dishonest or positively malevolent.

She quoted Ronald Reagan's statement when visiting Bergen-Belsen concentration camp in 1985: "Freedom-loving people around the world must say 'I am a refugee in a crowded boat foundering off the coast of Vietnam, I am a Laotian, a Cambodian, a Cuban and a Mesquito Indian in Nicaragua.'" Two decades later, speaking to the CBI in April 2004, Tony Blair said "The UN Convention on Refugees, first introduced in 1951, has started to show its age."

Shami Chakrabarti argued that we must catalogue the ways in which the rights and freedoms of asylum seekers are constantly cut back, but we must also go to the heart of the matter: whether we in Britain and perhaps in the rest of Europe still believe in the Refugee Convention and in human rights at all, or whether the rules of the game have changed. She asked if the world is really so different today that we should no longer have human rights and no longer have a right to asylum. She insisted that there needs to be a proper debate about this. In her view Britain and Europe are in danger of breaking faith with the original refugees of the Holocaust and forgetting why the Convention came into being and why it is as important now as it was then.

The very idea of asylum in modern Britain has, she said, been denigrated by politicians across the spectrum and in parts of the press. Some newspapers have played a significant role in the demonisation of asylum seekers, but it is too easy to blame the press when politicians are rather more important. She noted that in the 1970s and 1980s people didn't talk of "asylum seekers". The word used was "refugees" with a dictionary definition broader than that in the Refugee

Convention. It was used to mean people in fear, in need, desperately moving across national boundaries or continents for reasons of war, famine and so on.

The phrase “asylum seekers” came into use in the mid-1990s with the word “bogus” attached to it. Even though ministers, to their credit, quickly stopped using the word “bogus” it did not matter. The word was out there and it now “hangs in the air” and is understood even when not spoken. There has been a cheapening of what was once a noble and positive concept in the English language and in UK and international law.

Shami Chakrabarti pointed out that in the 1970s the “refugee” was essentially a white, European, rather heroic figure forced to flee because of the Cold War. A refugee was a Russian ballet dancer, a tennis player, a defecting spy, someone who made Britain and the world feel rather good about themselves, a vindication of a chosen way of life and democratic values, someone who made evident how good we had it here and how bad they had it there. At that time demonised unwelcome migrants were more akin to people like her parents – that is, economic migrants, completely legal, some with the right of abode, from new Commonwealth countries. When Britain began to open the door to Europe it began to close the door to the Commonwealth in terms of non-asylum immigration. The Commonwealth of the 1970s was a multiracial, multicultural family of nations and Commonwealth migrants came from both developed and developing countries. However European migration comes from the developed world. Shami Chakrabarti said that while it is fine to have an open door to Europe, there is a danger of trying to turn Europe into a white fortress to the detriment of race relations and human rights standards.

Although “demonisation” and “dehumanisation” are strong words, Shami Chakrabarti argued that they do describe the way in which asylum seekers are characterised. A *Daily Express* headline in November 2001 said “Refugees flooding into the UK like ants”. The newspaper claims it was quoting someone else, but surely this can only be described as dehumanisation? Devaluing the right to claim asylum and the people who seek it cuts away at the cornerstone of the post-war human rights framework.

Asylum seekers appear to be subject to experimental policies which are then expanded. For example, as part of the roll out of the ID card scheme and new passport application arrangements there is a suggestion that children aged 11-16 may be fingerprinted. Outside of the criminal justice system, asylum seekers were first to be fingerprinted. Cutting back legal aid and access to the courts is becoming an issue across the board, but it started with asylum seekers. Ministerial criticism of judges started in the context of the courts protecting the human rights of asylum seekers, and in relation to section 55 we had the bizarre situation of “toffs in wigs” telling a Labour government that starving people is not an acceptable means of social control. David Blunkett said in 2003 “Frankly, I’m personally fed up with having to deal with a situation where Parliament debates issues and judges overturn them. I don’t want any mixed messages going out, so I’m making it absolutely clear today that we don’t accept what Justice Collins has said.” Thus, something which starts with asylum seekers may have broader ramifications for rights, freedoms and the rule of law.

Shami Chakrabarti stressed that such issues need to be seen as everyone’s problems, not just the concern of people like those attending the conference. If not, too many people will start to develop a parallel notion, replacing universal human rights with citizens’ rights or rights that have to be earned. There is a danger of this happening. David Cameron suggested last year that the Human Rights Act should be replaced with a home-grown Bill of Rights, affording “rights for free-born Englishmen” rather than universal human rights. If countries around the world adopt

this framework (fuelled perhaps not just by issues of migration but by the “war on terror”) it would be “the death of human rights itself and of the Refugee Convention as its cornerstone.”

Criminalisation – including incarceration – is another aspect of the demonisation of asylum seekers. Despite a 61 per cent drop in asylum applications, there has been an increase in detention places. In this country (and perhaps in Europe) the idea now seems to be “lock them out or lock them up.” Since the mid-1990s there have been new visa requirements, carriers’ liability and transit visa restrictions. In her view this last point warrants more attention than it has received.

Looking to the future, Shami Chakrabarti said that there has to be greater connection between foreign policy and domestic policy. It is not good enough for torture “over there” to be justification for war but not for granting asylum. There is great concern now about climate change and what to do about the asylum seekers it will generate. She said there appears to be an emotional disconnection between what happens “over there” and what happens here. That needs to change otherwise in the end we will lose the protection of the Refugee Convention itself.

In the **question period**, a delegate asked whether Shami Chakrabarti shared his concern about the outsourcing of detention and deportation services. Does such outsourcing mean that the government wants to distance itself from responsibility for how the services are provided? Shami Chakrabarti said she was anxious about outsourcing on two grounds: that it diminished direct governmental accountability for protecting people and that it might constrain the voice of involved NGOs because of their dependence on service provision contracts. Another delegate suggested that the reduction of refugee status to five years might erode rights contained in the Refugee Convention and make the process of integration more difficult. Shami Chakrabarti agreed although she noted that there might be circumstances – such as a civil war – in which it would be appropriate to give temporary protection. However, she considered that the Refugee Convention was being attacked in more fundamental ways, by stopping people getting here and by not handling asylum claims in a fair and dignified way.

Shami Chakrabarti commented that Lin Homer is an official, not a politician, and it is the political principles which we need to discuss. That has to be done with politicians. She stressed again the need for fundamental debate, beginning with whether we still believe in asylum and whether the government is still interested in protecting people.

Nick Oakeshott, Tribunal Team Leader, Refugee Legal Centre (RLC), was the next speaker. His talk provided **An update on forced removals and returns**. Since joining RLC in 1999 he has gained extensive asylum casework experience and has also worked on RLC policy and casework strategy. He is one of the UK coordinators of the European Legal Network on Asylum and a visiting lecturer in immigration and asylum law at Westminster University.

Nick Oakeshott said that as a lawyer working with asylum seekers, one of the worst pieces of news he can receive is that one of his clients has been detained for the purposes of removal. He knows that the client may have been separated from his family, may not have the necessary medication, is likely to be distraught and that he himself will be dealing with the most intransigent parts of IND. His concern is advocating on behalf of his clients to prevent inappropriate removals, but from the government’s perspective the integrity of the asylum system is maintained through detention and forced removals. Against that, the government has to balance individual rights not to be returned to persecution and not to be removed from the

UK when that would breach human rights obligations. There is also the matter of public opinion, which is divided. People may approve of deportation as a policy, but when they know an individual who is about to be deported they object, sign petitions and mount campaigns. He said that the balance which the government is striking is wrong as it prioritises the “integrity” of the system above the rights of the applicants.

A Home Office press release issued on 27 February 2007 was headed “Record High on Removals of Failed Asylum Seekers”. It deals with the Prime Minister’s “tipping the balance target” having been met for the first time over a full year with “more failed asylum seekers removed from the UK than made unfounded claims.” Both Liam Byrne, the Immigration Minister, and Lord David Triesman, a Foreign Office Minister and the Prime Minister’s Special Envoy on Returns, are quoted as expressing pleasure in this achievement. It is clear from the press release that forced removal and return are not just a matter for the Home Office, as both the Foreign Office and the Prime Minister are involved. These are also not just domestic matters but issues of an international nature. In relation to the use of language, Nick Oakeshott said that “tipping” is a word used in relation to rubbish, not people: language means something in this context. He said he would, reluctantly, continue to use the word in what he said about the policy.

The tipping target is based on a comparison for a given period between the number of unsuccessful asylum seekers (including dependants) removed, and the number of new applicants (including dependants) who it is predicted will fail to be granted refugee status or other leave after their case has gone through the initial decision-making and appeals process. The second figure is based on recent rates at which grants of asylum are made at first instance and the proportion of cases refused and allowed at appeal.

Nick Oakeshott said that it is good that there is a predictive element to the calculation. In Lin Homer’s talk she had pointed to a “failure” rate of 70 per cent, but close examination of the figures shows that the proportion entitled to stay in the UK may actually be 35 per cent rather than 30 per cent. Five per cent may not sound like a great difference but it represents just under 2,000 people, including dependants. It is also worth noting that the word “removals” in the calculation does not refer only to enforced removals, but includes third country cases (where the Home Office may not even have considered the asylum application), voluntary returns, voluntary assisted returns and people who have left the UK without informing the immigration authorities.

According to the government’s five-year strategy, the tipping target will be achieved through the better contact management of NAM. NAM is designed not just to improve the quality of the asylum process, but to facilitate the tipping target being met. Another strategy being used to meet the target is to prevent applicants concealing their true identity, through fingerprinting or by prosecuting people for arriving in the UK without appropriate travel documents. RLC has noticed an increasing number of asylum claimants being prosecuted for failure to produce travel documents. The intention is to compel people to obtain documentation before leaving their country (which is obviously problematic) or to discourage them from claiming asylum on arrival. The government is also attempting international solutions by making what is called “best use” in return arrangements (for example, a charter flight at the end of February took women and children to Kinshasa), and by exploring new routes of return, including Somaliland as a destination. The assumption is that removals will deter other applicants although the government has to be careful that it is not breaking its human rights obligations under international law in carrying these out.

Nick Oakeshott then discussed other methods relevant to achieving the tipping target. These include the extension of visa controls, airline liaison officers and interception on the high seas. A

particular anxiety is the impact of the tipping target on the quality of decision-making which has been a long standing concern. In the fast-track processes at Oakington, Harmondsworth and Yarl's Wood the initial decision is being made within a few days and any appeal within a week. It is not surprising that over 90 per cent of applications and appeals fail as it is quite impossible to prepare and present applications within such a time frame. Once the appeal process is finished the Home Office can remove the unsuccessful applicant as soon as redocumentation has occurred. However, the quality of screening before forced removal is "problematic". Individual cases are not being screened well enough particularly as those currently being removed are mainly legacy cases. Those involved may not have had legal representation for a long time, yet there may be grounds for a fresh claim because of a change in their circumstances here or in their country of origin.

There is concern too about the Home Office's use of sticks and carrots, for example denying the right to work or access to housing and health care whilst offering substantial funding for voluntary assisted return. Because of changes to legal aid and legal services arrangements, it may be difficult for unsuccessful asylum seekers to obtain competent legal support or in fact, any legal support at all. Currently there are important issues about forced removal to Zimbabwe and Iraq, about Home Office threats of prosecution for non-cooperation with the redocumentation process, and the use of long-term detention pending redocumentation.

Given the short time frames, forced removals can usually only be challenged effectively by a lawyer. However, there are often some non-legal steps that will be worth taking, including organising local petitions, alerting MPs, or contacting the National Coalition of Anti-Deportation Campaigns (www.ncadc.org.uk). Other actions to help prevent inappropriate removals can be to locate the client, find a lawyer who can help, obtain papers from the client or previous representatives, assist with communication, help with support (such as obtaining clothing and keys) and find a release address and bail sureties.

The final presentation in the morning was by **Gemma Juma**, International Protection Manager, Refugee Council, who spoke on **Asylum policy developments: from the EU to the UK**. She has worked on international refugee protection policy at the Refugee Council since 2002. She was previously a policy advisor at Mind, and has worked for a women's development NGO in Tanzania.

She began by stressing that EU asylum policy is "incredibly fast moving, complex and little understood" but it is something which we cannot ignore. Decisions taken by the UK and other states at the EU level have profound implications for UK asylum law and policy and for asylum seekers in the UK and elsewhere across Europe. She said that she would be providing an overview of the main EU asylum laws that are in place; an outline of their implications for refugees and asylum seekers; and an indication of some of the protection gaps that exist in EU asylum policy, highlighting the role that the Refugee Council and many other NGOs believe the UK should play in filling these gaps and in ensuring that the EU takes its fair share of responsibility for refugees.

In 1999, at the Tampere European Council, EU heads of state outlined that they wanted to create a level playing field for asylum based on:

- "an open and secure European Union, fully committed to the obligations of the Geneva Refugee Convention and other relevant human rights instruments"
- "a comprehensive approach to migration with greater coherence between internal and external policies"

- “the absolute respect of the right to seek asylum and the need to ensure nobody is sent back to persecution”.

These were the principles upon which a common European asylum system was to be based. NGOs were hopeful that this would mean higher standards of treatment for asylum seekers across many European countries, and that the UK would take a leading role in driving asylum standards up across the whole of the EU. Unfortunately, the picture so far has been somewhat different.

The laws enacted in stage one of the Common European Asylum System are of the utmost importance for refugee protection in Europe, and for refugees and asylum seekers in the UK, as they affect whether an asylum claim can be made, which country is responsible for assessing that claim, how the claim will be processed, support during processing, and whether an individual will be recognised as a refugee.

Third-country cases are regulated by what is called Dublin II. The main principle behind this regulation is that the EU country which first allowed an individual to enter the EU must take responsibility for assessing that individual's asylum claim. Thus, in 2004 the UK removed almost 2,000 asylum claimants to such countries without first considering their application. Asylum seekers may be sent to countries where there is effectively no chance of being recognised as a refugee. For example, the UK removes many people to Greece but in 2005 only 39 people were accorded refugee status there.

The Reception Directive covers access to employment, housing and education. The Qualification/Definition Directive provides a common definition of who is a refugee. This dates only from October 2006; it is hoped that it will iron out current inconsistencies. For example, the European Council on Refugees and Exiles (ECRE) has noted that 84 per cent of those from Chechnya seeking asylum in Austria are granted status, whereas in the Slovak Republic none are successful. The Procedures Directive covers fast-track systems, detention and other procedural matters. Standards have been agreed, but at rock-bottom levels. UNHCR and others consider that some may breach Convention standards if they are implemented.

Gemma Juma said that standards have gone down rather than up as had been hoped. Sadly this change has often been driven by the UK. There is a real risk that fundamental human rights will be breached with the shift of emphasis away from improving protection and asylum standards and towards restricting “illegal” immigration and enhancing border controls.

Stage two of the Common European Asylum System has a deadline of 2010 but little progress has been made thus far on ensuring common asylum procedures and uniform status for refugees and others in need of international protection. Current EU policy priorities are focused on strengthening borders and relationships with non-EU countries rather than internal EU asylum systems. There are a substantial number of border management projects via the EU border management agency known as Frontex. These aim to stop people from reaching the EU, but Gemma Juma pointed out that they are blunt instruments which stop everyone, regardless of whether they are refugees fleeing persecution who have a need for protection. Pressure is being put on Libya to prevent migrants, including refugees, from reaching the EU even though that country has never signed the Refugee Convention. Processing asylum claims externally, regional protection programmes and resettlement are also under discussion. ECRE's website (www.ecre.org) has useful briefings about these subjects.

Gemma Juma said that the Refugee Council and others concerned with protection see four key challenges:

- ensuring access for refugees to a safe place in the EU

- improving asylum systems so common standards are raised and objectives, such as the speed of a determination process, do not undermine the quality of decision-making
- improving monitoring of returns by stressing the primacy of safety above the achievement of arbitrary numerical targets
- moving towards a fairer and more transparent mechanism for deciding how the EU can share responsibility for refugee protection.

In drawing the morning session to a close, **Anna Reisenberger** drew attention to the Still Human Still Here campaign (www.stillhuman.org.uk). This is a campaign on behalf of asylum seekers whose claims have failed. They have no right to work, those who are able to access support only receive vouchers worth £35 per week, and many are left destitute. The Refugee Council together with other organisations is trying to get the UK Borders Bill amended so that refused asylum seekers are entitled to the same support as asylum seekers whose claims are still being determined. She urged delegates and their organisations to back the campaign.

York, 22 March 2007

The York conference was chaired by **Hermione McEwen**, ILPA Executive Committee Member and Senior Solicitor, Greater Manchester Immigration Aid Unit. She welcomed delegates and hoped they would have a useful and enjoyable day.

The first speaker was **Chris Hudson**. His talk was on **Operational Changes in the Immigration and Nationality Directorate (IND)**. Chris Hudson is Regional Director for the North East, Yorkshire and the Humber within IND. He has worked in the Home Office for over 30 years on a wide range of topics including police, criminal policy, prisons, probation and immigration; he has twice been Private Secretary to Home Office Ministers. Since 1998 his main focus has been on asylum policy and casework. We regret that it has not been possible to provide an account of his presentation, because of technical problems with the recording of the session. The PowerPoint slides he used were, however, the same as those used by Lin Homer in her London presentation. Note that in the final question period of the morning, all the questions from delegates were directed to Chris Hudson (page 19).

The next speaker was **Renaé Mann**, Co-ordinator, Inter Agency Partnership. She spoke on **The New Asylum Model: the experience of clients so far**. For a note about Renaé Mann's experience and a report on her presentation on the same subject at the London conference see page 4.

The third speaker was **Steve Symonds**, Legal Officer, Immigration Law Practitioners' Association. His presentation on **Developments in asylum legislation** was also given at the London conference (page 6).

After a break for refreshments, **Gemma Juma**, International Protection Manager, Refugee Council, spoke on **Asylum policy developments: from the EU to the UK** (page 14). Following this, **Nick Oakeshott** spoke on **Current issues in forced removals and returns** (page 12).

The final speaker in the morning session was **Nancy Kelley**, Head of International and UK Policy at the Refugee Council. She spoke on **Asylum: the end of human rights?** Before coming to the Refugee Council in 2005 she was a Principal Policy Officer for Barnardo's focusing on education, mental health and asylum-seeking children and families; she chaired the Refugee Children's Consortium. She has worked with the Children's Rights Commissioner for London and for Mind. She is an experienced trainer and has published widely.

Nancy Kelley began her talk with a quotation from Lyn Beth Neylon, former President of Human Rights USA: "You are a human being. You have rights inherent in that reality. You have dignity and worth that exist prior to law". Refugees, asylum seekers and refused asylum seekers are human beings; they have rights inherent in that reality; they have dignity and worth that exist prior to law. In fact, as a group they are defined precisely by their having a claim to rights, set out in the Universal Declaration on Human Rights and elaborated in the 1951 Refugee Convention: the rights to seek and enjoy asylum from persecution.

She followed this introduction with another quotation, this time from the Home Secretary, John Reid, speaking on BBC Breakfast on 7 March 2007: "It is unfair that foreigners come to this country illegitimately and steal our benefits, steal our services like the NHS and undermine the minimum wage by working". She said "What has gone wrong? How has it become necessary for

me to begin a speech by stating that refugees hold rights, something that is obvious and should be beyond challenge? How have we reached a position where our treatment of asylum seekers is dictated by prejudice and the meanest possible interpretation of the law, rather than our belief in the rights, dignity and worth of human beings?"

Nancy Kelley said that she would concentrate on three areas where there have been shifts in policy which erode both the right to asylum and our commitment to provide the barest essentials for a dignified life: border controls, the refugee determination system and the position of those at the end of the process. These are areas where the gap between human rights and the lived experience of those seeking asylum in the UK has become too big to ignore.

The changes to border controls mean that there is now no lawful way of entering the UK to seek asylum, thus forcing desperate people into the hands of traffickers. Visas are now required from 108 countries, up from 19; among those added to the list are refugee-producing countries such as Afghanistan, China, Democratic Republic of Congo, Eritrea, Iran, Iraq, Pakistan, Somalia and Zimbabwe. By adding Zimbabwe to the list in 2002 the UK government achieved an immediate 61 per cent drop in asylum applications and this was cited as "success" in tackling abuse of the asylum system. In addition to tightening controls at UK ports, there has been an extension to "juxtaposed controls", with UK immigration officers posted to embarkation ports. Carrier sanctions have also been increased. These impose fines on airlines, ferry operators and other carriers for every "illegal" migrant who reaches UK shores. The companies involved are not bound by international law and are free to turn away refugees whose lives are at risk. If people are unable to leave their country of origin or to reach a safe country such as the UK, the right to asylum itself is undermined. As borders tighten around the UK and the EU, we need to push politicians to consider those people who are left outside, or their right to asylum will be denied and become meaningless.

The Home Office five-year strategy suggests that detention of refused asylum seekers will increasingly be the norm. This is despite UNHCR's findings, in a study of alternatives to detention in 34 countries, that there is no evidence that detention is needed while an application is being processed, and little or no evidence of its necessity even for those at the end of the process. The impact of detention is well documented, especially its effects on vulnerable people such as torture survivors and children. As a practice, detention violates the dignity and humanity of those detained, as well as the fundamental right to liberty itself. Its combination with fast-tracking is having a demonstrable impact on refugee protection. Those detained seldom have adequate legal support, or time to prepare their case properly by obtaining medical reports or accessing documentation from their country of origin. During the second quarter of 2006 only one per cent of those fast-tracked through Harmondsworth received a positive initial decision, although most were from Afghanistan. None of those processed at Yarl's Wood during the same period were successful. Yet in the general caseload nine per cent were successful at first decision. It is clear that every further restriction in access to legal support is a blow against asylum itself.

Nick Oakeshott spoke about the government's "tipping target". Since its introduction the focus on the number of returns has been relentless. Perhaps the most striking example of the clash between government policy and human rights is the attempt to circumvent not only the Refugee Convention and the Human Rights Act but also the UN Convention against Torture by negotiating "memoranda of understanding" – non-binding agreements between states – that allow the UK to return people to countries known to have a record of using torture. Agreements have been signed with Jordan, Libya and Algeria. In 2004 the human rights centre in Jordan received more than 250 allegations of torture in detention not including those detained by the intelligence services. Human Rights Watch argues that the UK cannot deport security suspects

to Jordan without violating the principle of non-refoulement which prohibits the forcible transfer of a person to a country where he or she may face torture. The UN Special Rapporteur on Torture has requested governments to refrain from seeking diplomatic assurances in order to avoid their international obligations.

So while border controls prevent people from accessing places of safety, and the use of detention and restrictions to accessing legal advice degrade the quality of protection for those who are able to reach safety, this attempt to circumvent the principle of non refoulement represents the negation not only of the right to asylum, but also the right to be protected from torture and ultimately the right to life itself.

Nancy Kelley then described policies designed to make life intolerable for people at the end of the process. She said that such policies simply drive people into the illegal economy or onto the streets, and place intolerable pressure on refugee community organisations, faith organisations and other voluntary agencies. Thousands of people are affected by being denied access to housing and other support under the 2002 Act. Destitute people form an increasing proportion of the caseload of the Refugee Council and other refugee support agencies. Cases include homeless women raped on the street and children living hand-to-mouth with no place to sleep except on friends' floors.

Another major area of concern since 2004 has been deprivation of access to secondary (hospital) health care. Without evidence, this has been justified as preventing health tourism. The result has been desperately ill people on the streets with life-threatening illnesses; pregnant women giving birth without medical assistance; and those diagnosed as HIV positive being denied anti-retroviral drugs. A 2004 consultation document proposed deprivation of access to primary (GP) care as well. No report on the consultation has appeared but in February Health Minister Rosie Winterton, giving evidence to the Parliamentary Joint Committee on Human Rights, said that this was one of the topics currently under discussion with the Home Office.

Nancy Kelley pointed out that with no access to support and no right to work thousands of people are forced underground. Current policy on legacy cases seems likely to entrench the situation. The UK could have a permanently resident and permanently excluded population of desperate and destitute people.

She then turned to what action could be taken. The Refugee Council's Just Fair campaign has become part of the Still Human Still Here campaign mounted by a coalition of many organisations. She urged delegates to read the material that had been provided about the campaign, and to work individually and as organisations to persuade members of parliament to support the amendment to the UK Borders Bill which would restore support to refused asylum seekers. To a large extent the debate needed to be won at the constituency level and political leadership and practical commitment should be sought. Delegates could use today as an opportunity to forge new partnerships to work together locally, regionally and nationally.

Following Nancy Kelley's talk, there was a brief **question period**. Hermione McEwen asked speakers from the earlier session to join the panel on the platform. All the questions from delegates were addressed to Chris Hudson.

A delegate asked for more information about the new training for case owners. Was it in-house, or were external experts involved? Was there training on working with vulnerable people? Chris Hudson said the training did cover dealing with vulnerable people, such as torture survivors. He did not have full details of the training with him, but he stressed that it was much more thorough than previously, and the intention was to continue to improve it. An outline of the

training programme for new asylum caseworkers is available at the end of this report in Appendix One.

When asked whether people would get a fair hearing when their case was labelled “late and opportunistic” Chris Hudson said each case was looked at on its merits. They did try to route cases but the basic criteria used were exactly the same.

A delegate asked what steps Chris Hudson and senior colleagues take to talk directly to asylum seekers and to understand their plight. He said he did not think they had done enough to talk to communities and asylum seekers. He had recently been on a visit to Leeds and had spent 20 minutes in a day centre for asylum seekers, talking to them about asylum issues. There are arrangements in place for “out of office experiences” for staff at all levels, so there is a mechanism for doing more. The new regional structure should make this easier.

Another delegate raised the issue of the accountability of private contractors. When challenged on abuse of asylum seekers they blamed the Home Office, but when complaints were made to Home Office staff they blamed the contractors. Chris Hudson said it was a matter of contract management. If things went wrong it was the Home Office's responsibility to deal with the matter and this would certainly be done.

A delegate expressed concern about the timing of the recent charter flight returning women and children to Kinshasa, when an imminent court case would be determining whether it was safe to send people back. Chris Hudson said he did not have details of the charter flight and could not comment on it. However he recognised that enforced removal was an extremely sensitive, important and emotional subject. He considered that involvement in such cases was one of the most difficult jobs in government. He said he would like to see as many removals as possible done voluntarily, in a dignified way, but stressed that there is a process for establishing a claim to asylum and an appeal, and that if the appeal is dismissed there must be an end. He said that there was a responsibility on all of us, “whichever part of the debate we are coming from”, to recognise that there is an issue about what happens at the end of the process as, in his view, it cannot be right and fair for people who have failed to establish a claim to remain in the UK indefinitely. Nick Oakeshott said we all accept that these are difficult issues and it was encouraging to hear someone from the Home Office talking with humanity about enforced removals. Unfortunately, up to now in his day-to-day work he had found it difficult to engage, discuss and sort out issues relating to those facing deportation. An institutional momentum seemed to take place once an individual had been detained for removal and this impedes dealing with the substantive matter. He hoped that things would work better under NAM but there was continuing concern about legacy cases.

Hermione McEwen thanked all the speakers for their contributions, and particularly thanked Chris Hudson for exposing himself to questioning for a second time.

Workshops

The following brief reports summarise ideas and information drawn from the London and York workshops.

Children: NAM, reform and unaccompanied children seeking asylum

Facilitator (London and York): **Judith Dennis**, Unaccompanied Children's Adviser, Refugee Council

The workshops discussed the Home Office's reform of the services provided to unaccompanied children. On 1 March 2007 the Home Office issued a consultation paper entitled *Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children* with responses due by 31 May. Also new for children is the application of NAM to children's asylum claims. The workshops provided an opportunity to learn about changes that have already been implemented and changes that have been proposed and to share experience and concerns.

Judith Dennis set out the main proposals including new arrangements for dispersal to specialist local authorities, age assessment through dental X-rays, interviews for those over 12 years of age, and the use of foster placements for those aged over 16. She explained how children will fit into the NAM process and the training and responsibilities specialist children's case owners will have. She described proposed procedures for screening, reporting, interviews and appeals, and noted that re-examination of cases will take place when a child reaches 17.5 years of age rather than at 18. Participants discussed how support might be given to a child at each of these stages. Among the points arising were the need for support workers to have a thorough knowledge of the process and to be confident in their role so as to prepare the child in as clear and supportive a way as possible, the value of building trusting relationships with case owners, and the importance of preparation in working with legal representatives and interpreters. Where refusal on an asylum claim is final, support workers need to give careful consideration to how best to discuss the challenges of return.

(Notetakers: Zerabuck Berhane, Musafiri Kialonda, Esthery Murumbi, Beba Parker)

Destitution: Responding to practical needs of destitute asylum seekers

London Facilitator: **Jan Shaw**, Refugee Programme Director, Amnesty International UK

York Facilitator: **Nick Scott Flynn**, Consultant, Refugee, Humanitarian and Management Issues

In the past few years many research reports have documented the suffering and despair of those in destitution as a result of government policies. The London workshops on destitution were led by Jan Shaw, author of *Down and Out in London* (2006) (www.amnesty.org.uk) and the York workshops by Nick Scott Flynn, who co-authored *Mental Health, Destitution and Asylum-Seekers* (2006). The facilitators outlined the combination of policies which have produced destitution, the scale of destitution, reasons for carrying out research on destitution, as well as the problems and stresses of doing such work. They also discussed their research findings. They described barriers impeding statutory and voluntary support for destitute people, and campaigns under way to alter government policies, including Still Human Still Here (to which attention had been drawn in the morning sessions).

Participants shared their experience of working with destitute asylum seekers. They discussed the distress and sometimes the shame experienced by destitute asylum seekers as well as the mental health implications of destitution. Other issues raised were access to Section 4 support

and why some asylum seekers choose not to apply for this, the possibilities and limits of local authority and health service assistance, the availability and quality of interpreters and legal support, and fundraising.

(Notetakers: Zoe Burton, Miriam Mudokwani, Angela Sykes, Lucy Yallop)

Detention: Detained fast tracking of asylum claims in the New Asylum Model

Facilitator (London and York): **Sarah Cutler**, Assistant Director – Policy, Bail for Immigration Detainees (BID)

The Home Office sees detention as a key part of NAM, in order both to fast-track applicants' asylum claims and to remove those who are refused asylum. Each year an estimated 30,000 asylum seekers pass through detention, including 2,000 children. Sarah Cutler explained BID's work in supporting bail applications, providing information for detainees to make their own applications, and campaigning on human rights concerns arising from BID's experience of the system (www.biduk.org). She outlined where and under what circumstances an asylum seeker is detained, and the intended timescales of the fast track and "super fast track" processes. She provided statistics on length of detention, extent of legal representation and asylum determinations for those fast-tracked.

As noted by several speakers earlier in the day, detained fast-tracking raises many significant human rights issues. Sarah Cutler explained BID's concerns about the impossibility of fair hearings within the timescales allowed, the inadequacies in systems for legal representation and the funding of such representation, and the lack of legal safeguards against prolonged and arbitrary detention at the end of the asylum process. She suggested changes which urgently need to be made by the Home Office, the Department for Constitutional Affairs and the Legal Services Commission. Participants discussed conditions in detention, the difficulty of finding good quality legal practitioners still willing to work in this field, and the practical steps which visitors' groups and others can take to support those in detention.

(Notetakers: Vanessa Kanoui, Natasha King, Angela Sykes)

Gender: Dealing with gender-based persecution in asylum cases

London Facilitator: **Liz Barratt**, Associate, Immigration Team, Bindman and Partners

York Facilitator: **Katherine Henderson**, Solicitor and Head of Immigration, Browell Smith and Company

The workshop discussed types of persecution faced by women, as well as the problem of fitting gender within the grounds of the Refugee Convention, and more general problems faced by women seeking asylum. As UNHCR has pointed out, gender is not specifically referenced in the definition of a refugee in the Refugee Convention. However it was argued at the workshop that "properly interpreted" the Convention does cover gender related claims. The facilitators unpicked the concept of "a well founded fear of persecution" and discussed how persecution is defined and how membership of a particular social group can be used in women's asylum claims. They explained that there are many gender specific forms of persecution (including domestic slavery, forced abortion, trafficking, female genital mutilation (FGM), rape and other forms of sexual violence) and that persecution may be on the grounds of gender, or the harm inflicted may take a gender specific form although the cause is unrelated to gender (e.g. rape because of political party activity).

Workshop participants discussed two case studies and considered whether serious harm was feared, whether the state was able or willing to afford protection, whether there were possible Convention grounds for an asylum claim and what evidence would be required to make such arguments. Questions were raised about how to raise awareness of gender specific persecution and to ensure that country reports include a gender aspect; how to ensure female lawyers and interpreters are available to women during their asylum claim; whether there are sensitive ways of encouraging disclosure of traumatic events early in the asylum process; and practical issues about attendance at interviews or legal appointments without the presence of children.
(Notetakers: Carolina Albuerne, Helen Clegg)

Integration and advocacy: Supporting integration and advocacy in the community: learning from experience in Glasgow

Facilitator (London and York): **Gary Christie**, Policy Officer, Scottish Refugee Council

As a result of devolved powers, not all the UK legislation which affects asylum seekers and refugees applies in Scotland. In his presentation Gary Christie gave some details about this and went on to describe Scotland's emphasis on community cohesion and the "warmer welcome" asylum seekers have received in Scotland compared to in England.

Among devolved powers are education, housing and health. In Scotland there has been no attempt to cut English for Speakers of Other Languages (ESOL) provision to asylum seekers. Section 11 of the 2004 Act (which restricts access to social housing for recognised refugees to the area to which they were dispersed) does not extend to Scotland. No guidance has been issued to health staff about enforcing payment for secondary health care. The role of the police in forced removal of refused asylum seekers is to ensure public safety and not to carry out any removal. The increased powers proposed for immigration officers in the UK Borders Bill (if passed) will not apply to Scotland. One example of disadvantage, however, has been the difficulty of ensuring support for asylum seekers with special care needs as Glasgow City Council does not comply with the NASS vs Westminster ruling.

Gary Christie described the development of the Scottish Refugee Integration Forum and the Refugee Policy Forum; outlined media campaigns by the Scottish Refugee Council and the Scottish Executive; and pointed to research showing somewhat less prejudice and fewer misconceptions in Scotland compared with England. The police have taken practical steps to encourage community cohesion. There are now about 20 refugee community organisations in Glasgow and welcoming, advocacy and campaigning organisations (e.g. to fight dawn raids) have sprung up. Participants described attempts at integration in their own localities, and discussed the pros and cons of "representative" forums, the value of large-scale campaigns versus "human stories" in local press, work through schools, the potential of mentoring schemes, and other initiatives.

(Notetakers: Mariam Barry, Emer O'Sullivan, Sharon Witton, Fathieh Yazdi)

Legal advice: Accessing legal advice

London Facilitators: **Stefan Vnuk**, Head of Immigration Department, Fisher Meredith Solicitors, and **Fiona Hannan**, Senior Legal Adviser, Legal Services Commission

York Facilitators: **Hermione McEwen**, Senior Solicitor, Greater Manchester Immigration Aid Unit, and **Paul Newell**, Head of Immigration Policy, Legal Services Commission

During the morning sessions there had been frequent references to the lack of adequate legal support for asylum seekers and the implications this has on the likelihood of an asylum application being successful. In the workshops participants heard about types of legal advice, current arrangements for legal representation, changes to legal representation and funding structures to be introduced in October 2007, the role of the Legal Services Commission (LSC) in ensuring quality, experience with NAM and fast-tracking, and issues concerning the substantial number of legacy cases.

Participants discussed case studies which raised questions about the responsibility of teachers, doctors and others to obtain legal support for individual asylum seekers. They shared concerns about current difficulties in identifying and locating good quality legal advice, whether LSC would be able to ensure sufficient providers in all new NAM sites, and whether accessing advice would become even more problematic after the new funding arrangements take effect. There was discussion of the merits test, and asylum seekers' dismay when practitioners refuse to take cases to appeal. Workshop handouts set out the stages of an asylum application, the importance of legal support, a referral form for legal advice, and guidance on working with legal representatives in asylum cases.

(Notetakers: Carolina Albuerne, Enise Aymer, Carina Crawford-Rolt, Sharon Witton)

Partnerships: Inspiring partnerships and multi-agency work: innovative approaches in adding value to local projects

London Facilitators: **Dick Williams**, Regional Development Manager, Refugee Council, **Devan Kanthasamy**, Refugee Housing Partnership Facilitator, Housing Associations Charitable Trust (hact), and **Pat Jones**, Ph.D. student, University of Birmingham, with **Duncan Wahuho**, Refugee Support Worker, Bradford Accommodate

York Facilitators: **Devan Kanthasamy**, Refugee Housing Partnership Facilitator, Housing Associations Charitable Trust (hact), and **Pat Jones**, Ph.D. student, University of Birmingham and **Nimo Gual**, Community Research Officer, Irwell Valley Housing Association (York)

As asylum seekers and refugees have wide ranging needs, partnerships and multi-agency work are critical. Experience has been building up of the ways in which local authorities, refugee community organisations (RCOs) and other organisations and agencies can work together, sharing information and ideas, co-ordinating activities, avoiding duplication, and identifying gaps in service provision. In this way impact can be maximised and outcomes for asylum seekers and refugees improved. Experience has also built up about the difficulties which are likely to arise when trying to build effective partnerships and how such difficulties might be avoided or overcome. The facilitators described types of current partnerships and outlined key factors such as clear understanding of the common aim, the intended impact, and the roles of individual partners. They stressed the need to tackle issues about inequality of power between partners, communication difficulties and the need for agreed ways of handling disagreements.

Hact's Accommodate projects in Birmingham, Bolton, Bradford, Leeds and Sheffield provided important examples of partnership working that have been subject to careful planning and evaluation (www.hact.org.uk). Participants learned about Accommodate's aims and working

methods, its stress on RCO capacity building and its achievements. Among the topics raised in the discussion were how to ensure an effective refugee voice, the feasibility of bottom up rather than top down partnership work, and funding for initial stages of work.

(Notetakers: Vanessa Kanoui, Natasha King, Julia Treharne, Mafunghasei Maikokera)

Status: Understanding legal criteria for protection and associated rights

Facilitator (London and York): **Steve Symonds**, Legal Officer, Immigration Law Practitioners' Association

The aim of the workshop was to promote understanding of the criteria that a person must meet in order to be granted some form of protection in the UK, and the rights and entitlements that come with any particular status. There are currently six forms of status: refugee leave, humanitarian protection, discretionary leave, indefinite leave to remain, temporary protection and temporary admission. Temporary admission is distinct in that it is not a status recognising a person as lawfully present in the UK. Exceptional leave to remain is no longer granted, but there may still be some individuals with this status.

Participants suggested the key things they considered people were looking for when they sought asylum in the UK. Steve Symonds then described the types of status, setting out the criteria required to obtain each one and the situations in which someone might be excluded from protection under any of them. He outlined the legal rights associated with some of the statuses (such as permission to work and family reunion), the position of dependents, the length of time for which a status may be assigned and issues about the extension of status. Among the concerns raised in the discussion were the treatment of age disputed cases, the interpretation of issues of gender and sexual orientation, and the prospects of long term security for those granted refugee leave.

(Notetaker: Zoe Burton, Miriam Mudokwani, Hannah Elford)

Voluntary returns: Understanding voluntary returns policies and programmes

London facilitators: **Jonathan Parr**, Senior Information Officer, Refugee Council Voluntary Returns Project and **Biljana Cacic**, Advice and Information Worker, Choices, Refugee Action

York facilitators: **Jonathan Parr**, Senior Information Officer, Refugee Council Voluntary Returns Project, **Andy Forbes**, Policy Advisor, International Delivery Directorate, Home Office and **Taner Altinay**, Advice and Information Worker, Choices, Refugee Action

Since 1999 IND has supported an assisted voluntary return scheme targeted primarily at people whose asylum claims have been rejected. The scheme's public profile has been raised by the heightened interest in asylum issues and in enforced returns to meet the government's tipping targets, as discussed in the morning sessions. The current main programme (funded by IND and the European Refugee Fund) is the Voluntary Assisted Return and Reintegration Programme (VARRP) run by the International Organisation for Migration (IOM). Through this programme over 5,000 people were returned in 2006. The programme offers advice on return and reintegration from IOM's five partner agencies including Refugee Action's Choices project, support in arranging departure and on arrival in the country of origin and, as incentives to return, a cash grant and reintegration funding assistance, most often used for business set up. One of the Afghan programmes, Explore and Prepare, enables a visit to the country to examine prospects for permanent return.

Workshop participants heard details of the right to return, the right to asylum, the principle of non refoulement, the assisted voluntary return schemes in the UK and the various incentives being offered. They explored factors motivating decisions to return and considered the responsibilities of agencies advising prospective returnees. Among the topics discussed were the safety and sustainability of return, family and status factors, physical and mental health, access to medication for HIV/AIDS and destitution as a driver of return. Concern was expressed as to whether information available about the current situation in the countries of return was adequate, and whether such information took sufficiently into account possible variations within the country. The need for independent monitoring and evaluation of return programmes was highlighted.

(Notetaker: Helen Clegg, Mafunghasei Maikokera, Hannah Elford)

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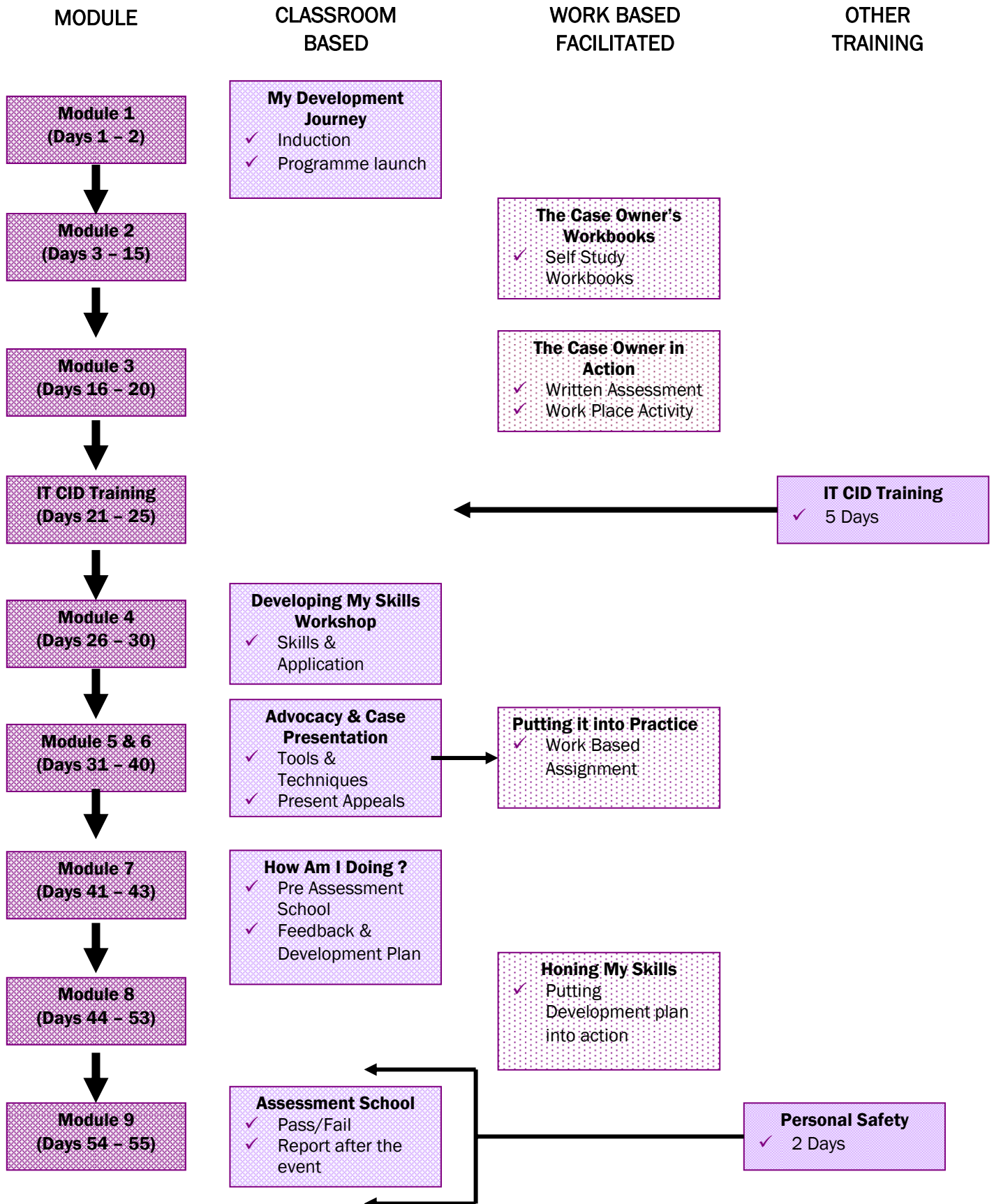
Information and Marketing Team
Refugee Council

Appendix One

**Training Programme
Asylum Case Owner**



Border and Immigration Agency



Module 1	2 days	This is the introduction to the new asylum model as well as telling people about the training programme they are about to undertake
Module 2	13 days	This is a self-study module, where Case Owners work through a series of workbooks to provide them with the theory and knowledge required to do the end-to-end case management
Module 3	5 days	This is a workplace based module, where Case Owners look at case studies and begin to make decisions and write decision letters/minutes. It is also where they get their first opportunity to shadow an experienced Case Owner at the first reporting event, substantive interview and at court.
IT skills	3 days	Case Owners learn how to use the CID database
Module 4	5 days	This is the interview skills workshop, where Case Owners get taught generic interviewing techniques, as well as more specific asylum interviewing skills, and have the opportunity to practice interviewing
Module 5	5 days	This is where Case Owners first pick up a live case, but still within a training environment, so there is always support available to them as they do each stage of the process
Module 6	3 days	This is the advocacy workshop, where Case Owners learn the skills required when they go to court. This is delivered by a legal trainer.
Module 7	3 days	This is the pre-assessment school, which helps Case Owners to identify areas where they need to improve in advance of the assessment school, as well as showing them the structure that the assessment school takes
Module 8	5-6 days	This is a workplace based module, where Case Owners focus on any development areas identified at the pre-assessment school. They also continue to deal with live cases
Module 9	2 days	Assessment School - Case Owners must pass the assessment school. They are tested on a variety of competencies, linked to interviewing, decision-making and presenting at court
Personal Safety Training	2 days	All Case Owners need to complete the two day personal safety/conflict management training course. This takes place at some point during the 55 day programme.