

Refugee Council

policy response



September 2008

Refugee Council response to consultation on proposed changes to Section 4 Regulations

The Refugee Council is the largest charity 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.

We welcome the opportunity to respond to the UKBA's proposed changes to the criteria for eligibility for support under Section 4 of the Immigration and Asylum Act 1999. Our response focuses on the proposals set out in paragraph 2 of the consultation letter, concerning changes to the eligibility criteria. As a member of the Asylum Support Partnership (ASP), we additionally endorse the ASP response to this consultation.

Section 4 support, also known as 'hard cases' support, is a very limited form of cash-less support for individuals who the Government itself acknowledges cannot return home. Support is provided to a small proportion of asylum seekers at the end of the asylum process who cannot return for a variety of reasons including:

- practical reasons, for example because an asylum seeker cannot obtain a travel document;
- medical reasons, for example because an individual is so unwell that s/he cannot travel;
- logistical reasons where there is no viable route to their country of origin;
- because they have an outstanding fresh asylum claim that the Home Office has not yet considered, or they are waiting for a judicial review of the denial of their asylum claim.

The criteria for eligibility for Section 4 support are very narrowly defined at present. Thousands of refused asylum seekers in the UK are not entitled to this form of support at all, including many who cannot return home because conditions are not safe in their country of origin. The Refugee Council assists asylum seekers in making applications for Section 4 support, many of whom have their applications refused because they do not meet the very narrowly defined current criteria. For example, we are aware of stateless asylum seekers who have their applications for Section 4 support refused by UKBA, and are concerned about the dire circumstances they face. In addition, we encounter many clients who experience unacceptable delays in receiving Section 4 support, including asylum seekers with health problems who remain destitute and ineligible for Section 4 support while their case is referred to the UKBA medical adviser.

The Refugee Council is concerned that further tightening the Section 4 eligibility criteria will

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only serve to push more individuals and families into destitution, either because of the additional delays the proposed changes are likely to result in, or because the proposed changes result in their ineligibility for Section 4 support. We believe that all asylum seekers should be provided with the right to work to support themselves for the duration of their stay in the UK. Asylum seekers should be entitled to a level of support equivalent to that received by UK citizens, and sufficient to prevent the extreme poverty currently experienced by so many, including those who have fled persecution and sought sanctuary in the UK but been denied protection status because of the deficiencies of the UK asylum system.

The Refugee Council has recently conducted research into the experiences of asylum seekers living on Section 4 voucher support.¹ We conducted a survey of organisations that work with asylum seekers on Section 4 support, and found that:

- 70 per cent of respondents felt the vouchers scheme was ineffective
- 68 per cent of respondents reported that clients were unable to buy sufficient food
- 73 per cent of respondents reported clients experiencing hunger
- 70 per cent of respondents reported that clients were unable to buy other essential items such as nappies and toiletries
- 95 per cent of respondents reported clients experiencing travel difficulties
- 75 per cent of respondents reported that clients were not able to keep in touch with their legal representatives
- 82 per cent of respondents reported that clients were unable to be in touch with people in the country to which they are expected to return
- 81 per cent of respondents reported that clients were unable to maintain good health
- 81 per cent of respondents reported that clients experienced anxiety/mental health issues as a result of being on vouchers
- 52 per cent of respondents reported poor treatment of asylum seekers in the shops accepting vouchers
- 44 per cent of respondents reported asylum seekers experiencing hostility from other shoppers
- 73 per cent of responding organisations reported having incurred additional costs to support clients on vouchers
- 63 per cent of respondents reported clients experiencing delays in receiving, or not receiving, the vouchers to which they are entitled.

The Refugee Council believes that the current Section 4 support system is inhumane, ineffective, and results in unnecessary suffering. The evidence we uncovered through our research underpins our belief that asylum seekers should be supported for the duration of their time in the UK, and should be granted permission to work so they have an opportunity to support themselves. We urge the Government to abolish the use of vouchers and introduce a higher level of support, in the form of cash.

The Refugee Council is concerned that Section 4 support operates as a punitive regime for vulnerable asylum seekers who are unable to return to their countries of origin. Our experiences of working with clients who are supported under Section 4 are that:

- The level of support provided under Section 4 is insufficient to enable asylum seekers to meet their basic needs;
- The system is poorly administered: vulnerable, destitute individuals and families often have to wait weeks before their applications for support are processed;
- The lack of any cash support presents asylum seekers with extreme difficulties in accessing legal and health support, and in meeting their most basic needs;

¹ The Refugee Council research will be published shortly and available on our website.

- The requirement to move to specific Section 4 accommodation in order to be entitled to support often entails individuals and families being uprooted from their friends, families, and communities, and forced to live on very limited voucher support without the assistance of their existing social support networks.

We anticipate that the proposed amendments to the eligibility criteria will result in severe consequences for refused asylum seekers in the UK, including increased destitution and human suffering. We request that the UKBA provide stakeholders with an assessment of the impact of the proposed changes on the numbers who will be eligible for Section 4 support, as well as a detailed assessment of the implications of the changes for AVR programmes.

The Refugee Council welcomes the provision of support to assist the return and reintegration of asylum seekers. Our Voluntary Return Project works closely with the UKBA, IOM and others to develop programmes to support safe, sustainable and dignified returns. Leaving asylum seekers destitute or facing hurdles to access basic support undermines their capacity to properly consider voluntary return and plan for the future. As the proposed changes have potential implications for AVR programmes beyond the administrative changes noted above, we recommend that they be presented and consulted upon at the UKBA Voluntary Return Steering Group.

We agree with UKBA that the current reference to 'complying with attempts to obtain a travel document' is unclear. However, we are concerned that the proposed criterion of actually applying for a travel document will result in people being inappropriately excluded from asylum support, as outlined in the ASP response to this consultation.

The Refugee Council anticipates that the proposed new criterion of securing acceptance on a voluntary returns programme will result in additional ineligibility for support for individuals who are not able to return to their country of origin. We have the following particular concerns about this proposal:

1. One of the implications of the change is that the eligibility conditions for VARRP (Voluntary Assisted Return and Reintegration Programme) and AVR (Assisted Voluntary Return) programmes will be de facto conditions of eligibility for Section 4 support. As a result, the Refugee Council believes that Home Office will need to consult formally on any proposed changes to the eligibility conditions of voluntary return programmes, as these will function as conditions of entitlement to Section 4 support. We advise that if the proposed changes are introduced, the UKBA and the Government make a public commitment to consult on changes to voluntary return programmes in the future.
2. Under the proposal, entitlement to support will be conditional on the actions of third parties, namely the International Organization for Migration (IOM) and the UKBA Assisted Voluntary Returns Team, rather than the actions of the individual asylum seeker, or his/her need for support. We are concerned that the proposal will result in a situation whereby actions taken by UKBA or IOM in processing an individual's application for voluntary return may result in immense suffering and destitution.
3. If an application to an AVR programme is refused, the consequence will be loss of eligibility to support. Currently, if an application to an AVR programme is refused, there are no procedures for appeal against that refusal (the same AVR team that made the initial refusal can review the decision). We believe that under the new proposal, UKBA will need to introduce independent appeal procedures into the operation of the AVR programme, to ensure that unreasonable refusals, such as decisions made contrary to AVR eligibility criteria, can be challenged and examined. An independent appeal procedure should be introduced before implementing the proposed changes. Without such an appeal procedure, we anticipate that there will be legal challenges to any refusal of Section 4 support based on this criterion.

The proposed requirement for acceptance on a voluntary returns programme has the following implications for the administration of AVR programmes:

i. Under current procedures, asylum seekers do not receive written acknowledgement that their application for AVR has been received, nor a written decision on their application. We believe that if the proposed change goes ahead, the UKBA and the Government should introduce the following:

- Asylum seekers should be provided with written acknowledgement that an application for AVR has been made.
- Asylum seekers should be provided with written notification of a decision on their application.
- Written notification to refuse an application should include the reasons for refusal, as well as information about how to challenge the refusal or request a review.

ii. Under current procedures, applicants for AVR and VARRP approach IOM and complete an application for return with them. Under the proposed changes, we believe that in order to avoid delays in UKBA making a decision about asylum support, applications should be made directly to UKBA. The UKBA should then refer the application to IOM in order to process the application for voluntary return.

The Refugee Council is keen to work with UKBA and assist it to seize the opportunity provided by the forthcoming Immigration and Citizenship Bill to deliver an asylum support system that is fit for purpose. We urge the Government to use the Bill as an opportunity to introduce cash support and the right to work for all asylum seekers in the UK, until the point at which they are granted status in the UK or actually leave the country.

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