

Please complete the following:

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Organisation (please write 'individual' if responding in a private capacity): Refugee Council

Position (if applicable): Protection Adviser

## **Race**

1. How do you consider the scheme could be improved to ensure UKBA takes its duties with regard to race into account?

Asylum Item 6: We note that UKBA does not have a clear policy in relation to the use of interpreters and translators, with the result that family members or other detainees can be used for interpreting in inappropriate situations. This is a problem that also applies to the various contractors used by UKBA.

## **Disability**

2. How do you consider the scheme could be improved to ensure UKBA takes its duties with regard to disability into account?

Asylum Item 7: We recommend that UKBA takes a wider view of the nature of disability to encompass mental illness and conditions such as Post Traumatic Stress Disorder. The Refugee Council is seriously concerned that many detained asylum seekers suffer from mental illness that goes largely unrecognised and untreated. People are further disadvantaged by periods of detention, of unspecified duration, which inevitably affects their mental health.

Asylum Item 8: We recommend that reasonable adjustments should be made to ensure that arrangements for reporting are sensitive to the needs of people with disabilities.

Enforcement Item 12: Similarly, there must be consideration of the particular needs of people who are being removed if they have disabilities. It is not acceptable that there should be regard to such needs only "where practicable" as stated in Item 12 of the Action Plan. If there are real obstacles to removal because of a person's disability then it should go not ahead.

## **Gender**

3. How do you consider the scheme could be improved to ensure UKBA takes its duties with regard to gender into account?

Asylum Item 4: Child care for substantive interviews: Although this is a general family issue, it most directly impacts on women, in particular single parents. The Refugee Council regards with great concern the failure to make routine provision for child care for women so that they can attend their substantive asylum interview without the distraction of caring for their children. A woman may be distressed and distracted by the presence of her children. This may cause her to withhold distressing details that are central to her asylum claim, or even change them to protect her children. This may in turn lead to her asylum claim being incorrectly refused or her account being disbelieved. Recent examples from our Leeds Induction Centre involved a domestic violence case where the children were too young to be left alone, but old enough to understand what was going on. They had to attend the interview and listen to their mother's account of the domestic violence she suffered from their father.

In a separate case a Sri Lankan woman with a one year old and a three year old child was forced to take her children with her to her asylum interview. Even though she

was visibly very distressed, and cried throughout the interview with her three year old clinging to her for comfort, the interview continued.

From the point of view of UKBA, the failure to provide child care may lead to longer, more protracted interviews and a failure to get the full information that is necessary to make a decision on the individual's asylum claim. The benefits of providing child care for asylum interviews both to the applicant and to UKBA are enormous, and we believe this should be introduced as a priority. It has been introduced in Wales and we recommend it should be policy in all regions to provide child care for substantive asylum interviews.

Asylum Items 4, 9 and 10: Screening of women who have been victims of rape, sexual violence or torture: the Refugee Council is opposed to the use of the "Fast Track" to process asylum claims on an accelerated timescale. It is particularly detrimental to women who have been the victims of rape, sexual violence or torture who may find relating and confirming such experiences a difficult and traumatising process. The factor of late disclosure of information about experiences of rape and sexual violence in such circumstances is well known and clearly is a problem in relation to any accelerated procedures in that it results in the inappropriate denial of asylum to some very vulnerable women. In theory, women who have experienced rape and sexual violence should not be subjected to such a pressurised and streamlined experience, but in practice many are. The current screening procedures are inadequate for identifying and excluding such cases from the Detained Fast Track but they have not been revised. Women who do disclose rape and torture additionally find it difficult to get out of the Fast Track once they have been assigned to it.

The Fifth Report of the UNHCR Quality Initiative Project, whose Key Findings were published in June 2008, looked in detail at the Fast Track and observed:

"UNHCR has examined the assessment of gender specific issues in Yarl's Wood decisions. UNHCR notes that some Case Owners do not appear to possess the necessary skills and expertise to ensure that the full range of gender related claims are recognised in asylum decisions. UNHCR recommends that all DFT Case Owners receive training on the correct identification and assessment of gender issues in asylum claims. UNHCR's audit also examined the application of procedural safeguards in the DFT which aim to ensure that the speed of the DFT process does not affect the quality of decisions produced. UNHCR considers that the screening of asylum applicants and procedures for the application of flexibility and the removal of unsuitable cases from the DFT are often not operating effectively to identify complex claims and vulnerable applicants. As a result, UNHCR is concerned that inappropriate cases are being routed to and remaining within the DFT".

The UNHCR findings were despite the fact that Case Owners had received the most comprehensive training UKBA has so far devised under the New Asylum Model and were also despite the existence of an Asylum Policy Instruction (API) on Gender since 2004. Clearly more needs to be done both by way of reinforcement training and supervision to ensure that guidelines are actually followed and monitored.

We are also concerned that some policies that are extremely detrimental to all - such as the ending of support entitlement following a failed appeal - have a disproportionate effect on women. A great many people are forced into absolute destitution by the policy of ending entitlement to support for asylum seekers who are appeal rights exhausted and we know of some women driven into prostitution as a result. Between 1.12.06 and 31.08.08, the Vulnerable Women's Project (VWP) at the Refugee Council assisted 151 asylum-seeking women who had been raped or exposed to sexual violence. 10 of these women reported having to agree to have sex with strange men in return for somewhere to stay.

The Refugee Council believes that the fact that pregnant women who receive support at the end of the process are required to move to other accommodation places

them at a disadvantage because it is then impossible to ensure continuity of care. We are also concerned that they receive reduced amounts of maternity grant.

The Refugee Council is a signatory to the Charter on the Rights of Women Seeking Asylum developed by the Refugee Womens Resource Project at Asylum Aid and we would urge UKBA to adopt the Charter's Recommendations.

#### **Age, faith and belief and sexual orientation**

4. Should the scheme consider age, faith and belief and sexual orientation, and if so, which aspects should be included?

We strongly believe that the scheme should encompass age, religion or belief and sexual orientation. There is the same need for recognition of, and provision for, guidance, training and monitoring on such issues as there is for race, disability and gender. The Equality Bill announced in the Queen's Speech in December 2008 will apply the duty equally to these strands. We strongly recommend that they form part of the Action Plan.

This is particularly the case in relation to religion or belief and sexuality as these may be the very factors that forced an individual to flee persecution in the first place. UKBA decision makers must have a clear understanding and knowledge about people's circumstances and the threats they face. As with gender information, this needs to be appropriately built into country guidance and Asylum Policy Instructions.

We are concerned that lesbian, gay, bisexual and transgender asylum seekers are faced with removal to countries where their sexuality places them at great risk. In no circumstances is it appropriate that people should be expected to return on the basis that they "keep a low profile" and "be discreet" about their sexuality.

Equally, during the process of dealing with their claims UKBA staff need to be sensitive to individual's needs on the grounds of their sexuality. One example is the issue of detention and the implications of detaining openly gay men in an all male Centre. We are concerned that individuals might be subject to further persecution in addition to that which they fled. UKBA must ensure safeguards are in place to prevent this happening or to respond if there is evidence that it is taking place.

With regard to age there is clearly a need to safeguard older people. This was highlighted in the report "Older refugees in the UK" published by the Refugee Council and Age Concern in January 2008. This highlighted the needs of these refugees. We found that older refugees, and especially older women refugees, faced particular problems in accessing services. Older refugees may be resistant to approaching public authorities for assistance due to their experiences in exile, or of discrimination in their country of settlement. They may also feel insecure due to a loss of social status, difficulty in contributing financially and lacking social networks. This can lead to their dependence on younger generations, and in extreme cases, to violence against older refugees, triggered by dependency and isolation and mostly affecting women. (P.14) The UKBA, like all public bodies, needs to be aware of the vulnerability of many older refugees and cannot presume that they will necessarily be provided with support from their own overstretched community organisations.

There is also of course the need to ensure that there are procedures in place to protect children, particularly unaccompanied children and those whose age may be in dispute.

We have made reference earlier in our response to the need for child care to cover asylum interviews. It is worth noting that the recent 'UKBA Code of Practice for keeping children safe from harm' states that 'UK Border Agency Staff must ensure that arrangements are in place so that parents are not required to give an account of personal victimisation or humiliation (in an asylum claim for instance) if their children are present. Such arrangements might be provision of child care..' We urge UKBA to implement this aspect of the Code as a matter of urgency.

## Staff training

5. Are there any specific subjects which ought to be included in staff training?

We believe there should training on i) Trafficking; ii) Rape and sexual violence; iii) Mental health.issues; iv) Sexuality. It would be beneficial if these could be supplemented by external independent agencies such as RWRP, Medical Foundation.and refugee community organisations with particular expertise on the issues. The Refugee Council would be happy to facilitate such arrangements..

## Other comments

6. Are there any other comments you would like to make?

**It is not clear from the various documents published how the plan is to be evaluated and when the results themselves will be published. In our view the plan needs to be more explicit about how the various actions are to be assessed and when the results will be known.**

Thank you for responding to this questionnaire. Please do not hesitate to contact the Diversity Policy Team at:

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If you require further information or if you should wish to make any further comments