



The Refugee Council's response to the  
Department of Health consultation paper:

"Proposal to exclude Overseas Visitors from  
Eligibility to Free NHS Primary Medical  
Services"

August 2004

## **1. About the Refugee Council**

1.1 The Refugee Council is the largest charity in the UK providing help and advice to asylum seekers and refugees. We also work with them to ensure that policy makers address their needs and concerns.

## **2. Introduction**

2.1 In its consultation paper *Proposal to exclude Overseas Visitors from Eligibility to Free NHS Primary Medical Services*, the Department of Health is proposing to deny free primary medical services to unsuccessful asylum seekers. These proposals follow changes introduced in April 2004, which remove free access for unsuccessful asylum seekers to certain types of secondary health care. The Refugee Council believes that this proposal raises a number of concerns.

2.3 In our response of 3 November 2003 to the consultation paper *Proposed Amendment to the NHS Regulations (Charges to Overseas Visitor) 1989*, we raised many issues of concern which still apply to this consultation.

## **3. Impact of exclusion from secondary health care**

3.1 The Refugee Council has had some first hand experience of the impact of the withdrawal of secondary care from unsuccessful asylum seekers, and we have found that there is a lot of confusion among frontline NHS staff who are unfamiliar with documentation or otherwise unclear about entitlements. A seven months pregnant asylum seeker from Somalia was denied antenatal screening because reception staff were unfamiliar with her documentation (which included an application registration card (ARC), a letter from the National Asylum Support Service (NASS) granting her support, and letters from the Home Office confirming that she had applied for asylum). A pregnant 16 year old - also an asylum seeker - was denied antenatal care and told that she needed a letter granting her leave to remain.

3.2 We have found that in cases of extreme suffering and illness where there is an urgent need for care that it has been provided regardless of the asylum seeker's immigration status and we welcome this. However, we are concerned that the withdrawal of primary care will result in a greater pressure on Accident and Emergency (A&E) departments and secondary care services, as those denied treatment and assistance at the primary care stage become seriously ill and approach A&E departments directly.

## **4. Health as a fundamental right**

4.1 Good health is a fundamental right. Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises "the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health". Inadequate access to health services will impact not just on an individual's quality of life and self-development but also on the collective health of the community.

## **5. Unsuccessful asylum seekers - destitute and vulnerable**

5.1 The Refugee Council believes that free primary medical care for unsuccessful asylum seekers should continue to be provided until they are removed from the UK. Unsuccessful asylum seekers are prohibited from working and, having no means to support themselves, will be unable to pay for either NHS services or those of private providers. There are a number of vulnerable groups whose health and wellbeing may be seriously affected by this proposal:

- People with long-term illnesses such as diabetes that will need GP services to prevent them from becoming seriously ill
- Expecting and nursing mothers in need of antenatal and postnatal care
- Children in need of immunisations and child development checks
- People with illnesses that may become serious and life-threatening but which could have been diagnosed and treated inexpensively at an early stage with the attention of a GP

## **6. Refugees' specific health needs**

6.1 Refugees can suffer a range of health problems relating to their experiences of war, political persecution, torture, imprisonment, and the conditions of flight from their country of origin. Their state of health can also be affected by destitution, prolonged separation from family members, difficulties with cultural adaptation and lack of perspective of one's future during lengthy asylum determination procedures. A recent report by the British Medical Association (BMA)<sup>1</sup> found that although most asylum seekers are healthy on arrival, but their health would subsequently deteriorate as a result of environmental factors.

## **7. Barriers to access health services**

7.1 Under the *Charges to Overseas Visitors Regulations 2004*, asylum seekers and refugees are legally entitled to access primary and secondary healthcare services from the NHS. In practice, however, they face many difficulties in accessing such services. This includes language<sup>2</sup>, lack of knowledge about entitlement<sup>3</sup>, and lack of information about the health service<sup>4</sup>. These cause delays in health access resulting in individuals presenting late at A&E departments. Similarly, denying primary care would encourage late presentation to A&E departments and ill health only being managed at crisis point. This would have health implications for the individuals affected, would be costly to the NHS, and may pose a risk to public health.

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<sup>1</sup> British Medical Association. *Asylum Seekers: meeting their health needs*, October 2002.

<sup>2</sup> Gammell et al 1993. *Refugees services provision and access to the NHS*.

<sup>3</sup> Taylor. *Health Care for refugees and asylum seekers in Britain*, 1998.

<sup>4</sup> Rutter. *Refugee Children in the Classroom*, 1994.

## **8. Lack of awareness**

8.1 The Refugee Council noted in a survey of 81 NHS trusts carried out in 1997 in Manchester and London that 67 per cent of the respondents (NHS staff) wrongly believed that refugees and asylum seekers were not entitled to free health care<sup>5</sup>. The survey also revealed that the respondents used the terms 'immigrants', 'illegal', and 'refugee' interchangeably. These findings are worrying. The Refugee Council believes that the proposed amendment will exacerbate this lack of awareness, and will result in asylum seekers and refugees not only being questioned about their immigration status inappropriately but also being refused services to which they are entitled. Other NHS customer groups including those from settled minority communities are also likely to be affected.

## **9. Inappropriate checks by practice staff**

9.1 These proposals would require general practitioners (GPs) and practice staff to check whether patients have a legal right to be in the UK. Health professionals are trained to deliver healthcare. It would be unreasonable to expect them to administer immigration checks. Asylum seekers and refugees carry a range of documents that NHS staff may not be familiar with.

## **10. Implementation**

10.1 The Refugee Council welcomes the provision of 2.5 that somebody who requires immediate treatment will be entitled to services, but we are concerned that in practise this decision will be reached by unqualified reception staff and not a health care clinician. It should be made clear to all primary health care providers that everybody requesting primary care services should be assessed by a health care clinician before being denied assistance.

10.2 We have already had experience of such decisions being made by reception staff without the involvement of a health care clinician. A female from the Sudan was undergoing treatment for mental health problems and had to register with a new GP when she moved to a different catchment area. When she tried to register with the new practice she was told by the receptionist that they could not assist without proof that she was entitled. She was not assessed by a health care clinician to determine whether or not she required urgent attention.

10.4 The Refugee Council also has concerns about how staff will distinguish between unsuccessful asylum seekers and applicants still pursuing their claim. As described above, we are already seeing asylum seekers being denied access to both primary and secondary because of confusion about their status. Furthermore, there are some categories of unsuccessful asylum seekers who have good reasons for remaining in the UK. Could the DH provide clarification on whether the following groups will be eligible for primary health care, and provide reasons where a particular category is excluded:

- Asylum seekers applying for a judicial review of the decision to refuse asylum

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<sup>5</sup> A survey of NHS Trusts in Manchester and London, September 1997.

- Asylum seekers who have exhausted their appeals but that have submitted further representations to the Home Office
- Asylum seekers who cannot be removed on grounds of ill health
- Asylum seekers who cannot be removed from the UK for other reasons
- Asylum seekers in receipt of section support under Section 4 of the Immigration and Asylum Act 1999<sup>6</sup>

## **11. Delayed removal**

11.1 In practice, many asylum seekers at the end of the asylum process are not quickly removed from the UK for bureaucratic reasons. We are aware of cases where individuals wait for months and even years for their identity to be verified in order for removal to be effected.

## **12. Race relations implications**

12.1 Under the amended Race Relations Act 1976, public authorities have a duty to promote good relations. The Refugee Council urges that a race impact assessment be carried out prior to this proposal being taken any further.

## **13. International and national commitments and obligations**

13.1 The Refugee Council urges the Government to honour national and international commitments such as:

- Health as a fundamental human right
- Combating racism and racial discrimination at European and international level, in particular through the European Union, Council of Europe and the United Nations
- Health equality and social inclusion initiatives, which will be undermined if the changes in this consultation are implemented

**The Refugee Council**  
**August 2004**

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<sup>6</sup> See Section 3 of the NASS Policy Bulletin 71 for information on people eligible for Section 4 support.