

The impact of section 55 on the Inter-Agency Partnership and the asylum seekers it supports

"I just want to say that section 55 leads people to despair, loneliness, and theft, as what are you supposed to do when you are sleeping rough and do not have the right to work? NASS seems to think I have hidden people able to help me should things go wrong, but I have no one, nothing, nowhere." *26 year old male from Somalia – awaiting section 55 decision (RAP)*

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1. Executive summary

Since its implementation on 8 January 2003, Section 55 of the Nationality, Immigration and Asylum Act 2002 (NIA Act 2002) led to significant change within the Asylum Support Programme. As a result the Chief Executives of the six refugee agencies that make up the Inter-Agency Partnership (IAP)¹ proposed that research was conducted to qualify and quantify the impact that section 55 has had both on asylum seekers and the services that their agencies provide. The basic mandate was to collect and collate evidence in relation to policy on section 55, monitor decisions made under section 55, and to evaluate procedures and systems put in place to implement the legislation on the basis of cost, time and resources.

The research, conducted between September and December 2003, documents the experiences of 2,904 asylum seekers seen by the IAP. During the research period, 366 clients were initially refused support under section 55, 308 clients were allowed to apply to NASS for support under section 55 (initial decision), and 2,230 clients were pending a Level 2 screening interview (in emergency accommodation). This research also surveyed 154 asylum seekers in order to learn first hand their experience of the impact of section 55.

Findings

- 1.1 Of the clients refused access to NASS support under section 55 who participated in this survey, 61.3% were sleeping rough, with a further 8% facing imminent homelessness. 70% experienced great difficulty in accessing food on a daily basis. The irregular diet and lack of shelter had a negative impact on the health of 57.4% of the clients surveyed.
- 1.2 Home Office figures indicate that the refusal rate for section 55 decisions remained over 70% between 8 January and 17 December 2003. This is surprising considering that the High Court and Court of Appeal judged on successive occasions that the interview process required a more flexible approach (e.g. taking the applicant's state of mind into consideration) when trying to find out why an asylum seeker didn't submit their claim on arrival.
- 1.3 Examination of the section 55 refusal letters show that although specific circumstances relating to each case are listed, the refusal letters still contain repeated general phrases. The research findings thus suggest that each case is not fully considered on its individual merits as required by High Court and Court of Appeal rulings.
- 1.4 Section 55 decision letters regularly include references to events taking place in an asylum seeker's country of origin, making judgements on the credibility of the asylum claim rather than whether the "as soon as reasonably practicable" test is met.

¹ The Inter-Agency Partnership was formed in 1999 prior to the introduction of NASS. The Partnership is contracted by NASS to provide advice, support and emergency accommodation to newly arrived asylum seekers and to provide on-going support to asylum seekers living in dispersal accommodation. The Partnership consists of six established agencies - Migrant Helpline, Refugee Action, Refugee Arrivals Project, Refugee Council, Scottish Refugee Council and the Welsh Refugee Council.

- 1.5 The drafters of section 55 assume that an asylum seeker would ignore the advice of an agent, and would have a strong awareness of the UK asylum process before arrival. However, this client survey demonstrates that these assumptions are false. 69.4% of clients surveyed relied on an agent to enter the UK - 71.9% of which were refused access to NASS support. 152 of the 154 clients surveyed did not have prior information on the UK asylum system before entering the UK. Of this group, 8.4% did not know they were coming to the UK until they arrived.
- 1.6 On 10 November 2003, the Home Secretary David Blunkett reiterated that with section 55, many of the people 'losing out' only claimed asylum after being here for months². However, 48.8% of IAP clients who were refused between 3 and 21 November applied for asylum the same day or the next day after arrival in the UK. A total of 65% of IAP clients who were denied eligibility to apply for NASS support had applied within, at most, three days of arrival.
- 1.7 On 17 December, 2003 the Home Secretary announced that if asylum seekers give a credible explanation of how they arrived in the UK within three days of applying for asylum they will be considered to have made their claim "as soon as reasonably practicable". The justification for this new approach is confirmed by this research report. However, since the research was carried out, the IAP has evidence that the Home Office's dismissal of asylum seekers' accounts of when they arrived in the UK, means that many individuals continue to be denied access to NASS support on the ground of credibility.
- 1.8 The Home Office expects genuine asylum seekers to apply at port, but its asylum statistics show that individuals granted refugee status continue to apply in-country. The evidence suggests that section 55 is not changing the 'behaviour' of newly arrived asylum seekers.
- 1.9 67% of the reconsideration requests submitted by the IAP were successful. A large number of these decisions are overturned on ECHR grounds. This is alarming on consideration that decisions are reversed so quickly after submissions, indicating that many destitution issues should have been considered more thoroughly in the original decision making process.
- 1.10 It took the RANS Unit an average of 5.39 days to reconsider section 55 decisions, rather than the 24 hour timeframe it has made commitment to honour.
- 1.11 The data also verified current assumptions that the IAP is only seeing a small percentage of the clients refused under section 55 - an estimated 18%. This is of great concern to the IAP as staff are uncertain where these clients go for assistance and support or what conditions they are living in.
- 1.12 A significant effect of section 55 is the impact on IAP managed emergency accommodation (EA) – the total number in EA with section 55 holding letters peaked at 3,084 (week ending 20 November, 2003). During the research period an average of

² From interview with Keith Best, 10 November 2003

27.8% of clients in EA were awaiting a section 55 screening interview or decision. Backlogs in EA have an impact on the policy of dispersal.

- 1.13 The average length of time for clients in EA with a section 55 holding letter is 116.19 days. The Grant Agreements with the IAP state that EA is designed to accommodate clients for an average of seven nights only.
- 1.14 This report highlights miscommunication within the RANS Unit, inconsistent application of the policy and general difficulties in communicating between the Home Office and the IAP.
- 1.15 61.7% of clients surveyed were unhappy with the section 55 screening process (Level 2 screening). 39.6% of these stated that they felt they had not been understood properly by the interviewer or that the interviewer did not show any interest in listening to their story. 13.6% of the clients surveyed had interpretation/interpreter concerns and 8.4% found the process frightening and threatening.
- 1.16 The High Court³ judged on 31 July, 2003 that there were still flaws in the procedures for processing asylum support claims. This research demonstrates that many of these flaws still exist.

³R -v- Secretary of State for the Home Department (Exparte S,D and T)

2. Introduction

The Nationality, Immigration and Asylum Act 2002 (NIA Act 2002), which gained Royal Assent on 8 November, introduced a ream of new measures designed to "deal with the very widespread abuse of our asylum system by those who are economic migrants"⁴. One of the key measures designed to tackle such abuse of the system is section 55 (s.55), a last minute addition to the NIA Act 2002⁵. Under section 55, the Secretary of State for the Home Department is legally allowed to deny asylum seekers access to apply for support from the National Asylum Support Service (NASS) if they fail to claim asylum "as soon as reasonably practicable" (s.55.1). However, if in doing so this denial of support results in a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) then legally support must be reinstated (s.55.5).

This research shows that despite a number of High Court and Court of Appeal judgments aimed at providing safeguards within the screening process, section 55 is still causing real suffering to newly arrived asylum seekers. Too many decisions under section 55 appear to be arbitrary, contradictory and unsafe, because they are based purely on whether the applicant's response to questioning is credible. Too many decisions rely on judgements about applicants' countries and their circumstances there, which can only be properly made after full asylum interviews with representation and rights of appeal. The system put in place to operate section 55 is wasteful of time and money - there is a backlog of asylum seekers awaiting section 55 decisions, to add to the backlog for dispersal, the backlog for asylum determination, and the backlog at appeal stages.

2.1 Section 55 – questionable assumptions

Section 55 is founded on questionable assumptions regarding asylum seekers, and consequently denies many individuals genuinely fleeing persecution eligibility to apply for NASS support.

When section 55 was debated in the House of Commons, Beverley Hughes, the Minister of State for Immigration, said that the intention was to punish asylum seekers who apply for asylum after being in the UK for a long time as these were individuals seen to be using the asylum process as a way of avoiding removal from the country instead of as a system of protection^{6,7}. It was argued that denying late claimants access to NASS was an effective way to cut down on

⁴ 10 Downing Street press release, 28 November 2002:

<http://www.number-10.gov.uk/output/page1125.asp>

⁵ For an overview of how section 55 works, please see Appendix B

⁶ Reference to Beverley Hughes' statement to the House of Commons and on the Today Programme, BBC Radio 4.

⁷ "If people are genuinely fleeing persecution we expect them to claim asylum at the earliest possible opportunity - as soon as they arrive in the country. If they have been in the country for weeks, months, or even years, before claiming asylum, that casts doubts on the credibility of their claim. We will still consider their asylum claim and will do so quickly, but we are not prepared to support them at the government's expense while we do so." 10 Downing Street press release, 28 November 2002:

<http://www.number-10.gov.uk/output/page1125.asp>

abuse of the asylum system – aimed at individuals who had been caught illegally working, or students who on the expiration of their visas wanted to stay in the UK and therefore claimed asylum. It is this motivation that many parliamentarians supported when they passed the bill. The implementation of Section 55 (from January 8th 2003) has not corresponded with the Government's stated aims above. Rather than being reserved for clear cases where individuals submit an asylum claim to prolong their stay in the UK, instead it has penalised the majority of asylum seekers who make their claim in-country, i.e. not at port. Large numbers of asylum seekers who submit asylum claims once in-country have been denied access to NASS, and are thus unsupported whilst their asylum claims are being considered.

Despite the avoidance of the framers of section 55 to set a time limit for the submission of asylum claims, the findings of this research project lead us to believe that from January 8, 2003 the Home Office interpreted "as soon as reasonably practicable" to mean either submitting an asylum claim at the port of entry or within 24 hours of arrival. As a result 65% of the individuals surveyed as a part of this research were denied eligibility to apply for NASS support despite claiming asylum within three days of arrival.

On 17 December, 2003, the Home Secretary announced that if asylum seekers give a credible explanation of how they arrived in the UK within three days of applying for asylum they will be considered to have made their claim "as soon as reasonably practicable". Based on its own experience of working with asylum seekers, the IAP would expect to see increasing numbers being granted access to NASS support post 17 December, 2003. The IAP intends to continue monitoring RANS decision making. However, preliminary analysis of section 55 decision making trends after the implementation of these new arrangements on 22 December, 2003 continue to be a matter for concern. Close examination of case studies available to the IAP reveal that individuals are still being denied access to NASS support on the grounds that their accounts of how and when they arrived in the UK are not credible.

In general terms the issue of credibility is extremely important to the Immigration, and Nationality Directorate (IND), which is also charged with determining whether or not a person is genuinely in need of protection. With regard to section 55, close scrutiny of decision letters leads us to believe that decision making is based on the assumption that asylum seekers are 'bogus' until proven otherwise. As a result the evidence required to prove both that an asylum claim was submitted "as soon as reasonably practicable" and the details of the individual's arrival in the UK, is unreasonably high.

The evidence also demonstrates that section 55 decision makers are judging the credibility of asylum seekers' accounts according to a very limited sphere of reference. The quote below aptly shows that judgements on credibility are being made without sufficient attention to cultural norms and mores outside the UK.

You claim that a friend of your mother and father, your priest, had paid for you to leave the Democratic Republic of Congo. You claim according to your screening interview that this was because the priest was the one that had "married your parents". The Secretary of State representative has concluded that this information is weak and unconvincing as to concluding and assessing how you afforded making the expensive journey from the Democratic Republic of Congo to the United Kingdom. *From section 55 refusal letter given to a 22 year old Congolese female*

Crucial to an understanding of the policy intent of section 55 is an appreciation of basic assumptions that the Home Office holds regarding migration and refugee flows. A fundamental supposition is that 'economic migrants' and 'genuine refugees' exhibit different behavioural patterns. Home Office statements reflect a belief that genuine asylum seekers apply for asylum immediately upon arrival in the UK, at port; while those who intend to abuse the system apply after they have passed through immigration control, in-country.

However, an analysis of the Home Office's own data reveals that of the asylum applicants who were granted asylum⁸ in the third quarter of 2003, 79% had applied in-country and 21% had applied at port. Of the asylum applicants who received humanitarian protection (HP), 87.5% had applied in-country and 12.5% had applied at port⁹. The reality, therefore, is the exact opposite of the Home Office position; individuals genuinely in need of protection will often apply for asylum after they have entered the UK.

The Home Office designed section 55 to "tackle abuse of asylum support"¹⁰. But, due to inaccurate assumptions regarding the behaviour of economic migrants versus 'genuine' refugees, the implementation of section 55 is potentially targeting the very people the asylum process is there to protect and thus denying support to those who need it most.

2.2 Section 55 - unworkable in practice

The set up and maintenance of the section 55 process has required a great deal of resources on the part of both the Home Office and the voluntary sector. Whilst it is not possible for this research project to discern the true impact this has had on the Home Office, the IAP has had to invest a great deal of time and scarce resources in order to assist asylum seekers who have been denied access to NASS support. This report highlights the wide-reaching effects of section 55 that result from inconsistencies in the decision making process and the erratic implementation of section 55.

2.3 Reasons for research

The IAP has traditionally been the first point of contact for most newly arrived asylum seekers¹¹. Once an individual had applied for asylum, they were often directed to the nearest Partnership agency in order to receive assistance applying to NASS for support and/or accommodation if required¹². The IAP One Stop Service offices around the country became a central resource for newly arrived asylum seekers, as well as key assistants in communicating with NASS about support issues.

Since the introduction of section 55 at the beginning of 2003, the needs of many of the clients seen by the IAP has changed. As a result of section 55 large numbers of asylum seekers have

⁸ Refugee status under the 1951 Convention Relating to the Status of Refugees

⁹ More information on this is found in Section 3

¹⁰ IND press release, 8 January 2003

¹¹ The IAP saw an estimated 80% of newly arrived asylum seekers prior to January 8, 2003.

¹² The other common institutions that often assist newly arrived asylum seekers include Citizen Advice Bureaux (CABx) and refugee community organisations (RCOs).

been restricted access to NASS support and the staff of the IAP as well as many other charities working with this client group have found they are powerless to help.

However, because the IAP has traditionally been a focal resource for asylum seekers, it is uniquely placed to conduct large-scale research. As previously stated, the IAP does not come into contact with all asylum seekers affected by section 55, however its well established role in facilitating access to NASS means that the clients who visit One Stop Service offices across the UK are a statistically significant sample. What remains a key concern for the IAP, as well as other organisations assisting asylum seekers, is that even with such large-scale research the true impact of section 55 remains difficult to quantify. Many asylum seekers denied access to NASS support do not rely on the services offered by the IAP or other organisations and it is clear that there are large numbers who have become invisible – potentially even to the Home Office.

2.4 Brief overview of project

The mandate for the project to research the practical implications of section 55 emerged from the joint need of all the Partnership agencies to access reliable data on the impact of section 55 on their services and clients. Hence the Chief Executives of the IAP proposed this Section 55 Research Project, a unique undertaking which involved joint participation from each of the Partnership agencies. The Researcher sat within the Inter-Agency Co-ordination Team (ICT) and was charged with co-ordinating the research within the six Partnership agencies¹³. The project lasted for three months between September and December 2003.

The objectives of the research project were to

- collect and collate evidence in relation to policy on section 55;
- monitor decisions made under section 55 on the basis of process, context and content, and consistency with the provisions set out in recent High Court and Court of Appeal judgements;
- evaluate the procedures and systems put in place in order to implement section 55 on the basis of cost, time and resources; and
- work with and maintain communication with the IAP and external partners on issues concerning section 55.

The research involved gathering statistical data from each Partnership agency on numbers affected by section 55; surveying asylum seekers who had been refused support under section 55 or were waiting for a decision; examining the decision letters received by IAP clients, investigating reconsideration submissions and decisions; and compiling procedural concerns the IAP staff have experienced when assisting section 55 clients.

¹³ For information on the ICT, see Appendix A.

3. The impact of section 55 on the IAP

The Home Office publishes some basic figures relating to section 55 in their quarterly statistics. Before examining the impact of section 55 on the IAP, it is important to review the overall picture across the UK.

According to Home Office figures, 7,490 cases were denied access to NASS support under section 55 from January to September 2003. When the number of cases exempted from section 55 (family, and asylum seekers with special needs) is subtracted, this means that overall 77.09% of the cases referred to NASS for a section 55 decision were refused eligibility to apply for support.

There was a drop in the number of cases referred to NASS for a section 55 decision in the second quarter. This may be because of the drop in overall asylum applications during this period. But during this quarter (Q2), there was an increase in the number of cases exempt from section 55 on human rights grounds¹⁴ and a slight drop in the percentage of cases refused under section 55.

	Number of cases referred to NASS for a s.55 decision	Number denied access to NASS support under s.55	Number eligible for NASS support because applied for asylum "as soon as reasonably practicable"	Number exempt from consideration under s.55 because family	Number exempted from consideration under s.55 to avoid breach of ECHR
Q1 2003	4,365	2,850	325	685	505
Q2 2003	3,110	1,830	265	540	475
Q3 2003	4,260	2,810	445	795	210

Table: Data from Home Office quarterly asylum statistics: <http://www.homeoffice.gov.uk/rds/immigration1.html>

Despite the slight deviation in the second quarter in the number of section 55 decisions, the decision making trend has been steady since its inception - the refusal rate remained above 70% throughout the year.

¹⁴ Clients can be exempted from section 55 in order to avoid a breach of Article 3 of the European Convention of Human Rights (ECHR). For information on the ECHR, please see Glossary in Appendix A.

	Number of cases ineligible for support under s.55	Percentage of assessed cases denied support under s.55
Q1 2003	2,850	77%
Q2 2003	1,830	71%
Q3 2003	2,810	81%

Table: These percentages were calculated by subtracting the number of asylum seekers exempt from section 55 (families etc.) from the total number referred to NASS (i.e. Q3: 4,260 – 795 = 3,465; 2,810 is 81% of 3465).

Another important trend to note is the number of cases exempted from reconsideration to avoid a breach of an individual's human rights, according to the ECHR. There was a noticeable increase in the proportion of cases exempted in the second quarter followed by a dramatic drop in the third quarter. This implies that following the High Court test case judgment on R -v- Secretary of State for the Home Department (Exparte S,D and T) (from now on referred to as "Maurice Kay judgment S,D and T"), the RANS Unit actually became more strict in interpreting Mr. Justice Maurice Kay's definition of destitution that constituted "inhumane and degrading treatment"¹⁵. This is concerning because the following Court of Appeal case of R -v- Secretary of State for the Home Department (Exparte S and T) (from now on referred to as "CoA judgment S and T") raised the Article 3 threshold. The IAP will monitor the fourth quarter statistics closely to establish if this is the case or not.

	Number exempted from consideration under s.55 to avoid breach of ECHR	Percentage of assessed cases exempt from consideration under s.55 to avoid breach of ECHR
Q1 2003	505	14%
Q2 2003	475	18.5%
Q3 2003	210	6%

Table: These percentages were calculated by subtracting the number of asylum seekers exempt from section 55 (families etc.) from the total referred to NASS (i.e. Q3: 4,260 – 795 = 3,465; 210 is 6% of 3465).

Please note that figures are not available on the number of asylum seekers made destitute as a result of section 55 as some individuals refused support will be able to find food and shelter. At the time of writing, there is not a feasible way to ascertain how many asylum seekers are made destitute by the policy, because the nature of the policy forces people to become invisible and unaccounted for.

The above Home Office figures for all section 55 clients reveal that the decision-making pattern has been largely unaffected by the increased complexity of the policy and procedures resulting from the High Court and Court of Appeal rulings. The courts judged on successive occasions that the interview process required a more flexible approach (e.g. taking the applicant's state of

¹⁵ See Legal challenges to section 55, Appendix C.

mind into consideration) when trying to find out why an asylum seeker didn't submit their claim on arrival.

It is interesting to note that the 'behaviour' of the asylum seekers themselves did not change as a result of section 55. Individuals granted refugee status continued to apply in-country, demonstrating that the Home Office assumption that 'genuine' refugees will apply at port is weak. Furthermore, the figures below imply that section 55 is not 'punishing' individuals intending to abuse the asylum system while assisting those genuinely in need of protection as originally intended. Instead, it is the very people the UK has an international duty to protect who are negatively affected by this legislation.

Port vs. In-Country Status			
	Total	Port	In-Country
Grants of Asylum – Q1 2003	1,520	345 (23%)	1,175 (77%)
Grants of ELR – Q1 2003	3,970	580 (15%)	3,390 (85%)
Grants of Asylum – Q2 2003	1,010	280 (28%)	730 (73%)
Grants of Humanitarian Protection - Q2 2003	45	10 (24%)	35 (76%)
Grants of Discretionary Leave - Q2 2003	1,025	220 (21%)	805 (79%)
Grants of Asylum – Q3 2003	775	160 (21%)	615 (79%)
Grants of Humanitarian Protection - Q3 2003	40	5 (12.5%)	35 (87.5%)
Grants of Discretionary Leave - Q3 2003	920	190 (21%)	730 (79%)

Table: Figures provided by the Home Office

3.1 IAP clients affected by section 55¹⁶

The first objective of this research project was to collect and collate evidence in relation to policy on section 55. One of the ways the Partnership agencies endeavoured to meet this objective was to collate figures on asylum seekers subject to section 55 seen by their offices. This exercise was designed to give an overall picture across the IAP in November, 2003. The

¹⁶ All statistical data submitted by the IAP for this research project is in Appendix F

results will also show the overall percentage of clients seen by the Partnership agencies that are affected by section 55 as well as positive and negative decision rates.

Figures are not yet available from the Home Office for the number of asylum seekers refused support under section 55 during November 2003 to correspond with the research conducted within the IAP. The Partnership agencies, as mentioned before, once saw an estimated 80% of all newly arrived asylum seekers. Based on this trend, the IAP should have seen about 5,992 negative section 55 cases so far this year, but this is not the case. The IAP does not have figures for the total number of asylum seekers that it has seen who are subject to section 55, but data has been collected to ascertain the overall impact of legislation on the Partnership agencies.

3.1.1 Statistics – overall findings

The results show that an average of 32.2% of all sessions where Partnership staff advised clients during November 2003 focused on the needs of section 55 clients. In the three week research period (ending 22nd November), of the 2,904 clients seen who were affected by section 55, the Partner Agencies saw

- 366 clients who were initially refused support under section 55;
- 308 clients who were allowed to apply to NASS for support under section 55 (initial decision); and
- 2,230 clients who were pending a Level 2 screening interview (in emergency accommodation).

Of those clients who received an initial decision during the research period, 54.3% were negative and 45.7% were positive.

These figures vary greatly from the national breakdown of positive and negative decisions, demonstrating that many clients refused support under section 55 are not seeking assistance from the IAP. The discrepancy may be due to the fact that many clients who were originally refused support under section 55 did not choose to visit a One Stop Service office and instead went to someone in their community, to a Citizens Advice Bureau (CABx) or to another charity. On the other hand, those who received a positive decision were motivated to go to a One Stop Service in order to gain access to emergency accommodation or receive assistance in applying for NASS support.

3.1.2 Reconsiderations

A number of the Partnership agencies assisted clients who were refused access to NASS support under section 55 by requesting the RANS Unit reconsider decisions. Referred to as a 'reconsideration', this involves submitting evidence that either the client's human rights have been breached or challenging the initial decision on technical grounds. Between 3rd and 21st November, the Partnership agencies submitted 49 reconsiderations to the RANS Unit. The IAP received 35 reconsidered decisions. Of these, 12 (34.2%) received negative, meaning the

original decision was upheld, and 23 (65.7%) were positive, meaning that either the original decision was overturned or the client was granted access to support on human rights grounds.

The majority of these decisions were overturned on ECHR grounds. Whilst this may demonstrate the fact that the reconsideration process is effective, close examination of the case studies reveals that the Home Office has overlooked ECHR issues in both initial decision making and subsequent reconsiderations. The process of submitting a reconsideration is time consuming and has required some IAP offices to refocus resources in order to appropriately advise clients of their options and offer support in preparing detailed witness statements.

3.1.3 Advice topics

While the Partnership agencies were unable to provide shelter or other basic needs to clients refused under section 55, many still came to the One Stop Services for advice. A few of the Partnership agencies were able to calculate what advice topics section 55 clients needed when they visited their offices. Migrant Helpline, the Partnership agency with the largest percentage of section 55 clients, found that its Croydon office spent 30.2% of its time with these clients advising them on where to find food and shelter. Its Dover office spent 26% of its time with section 55 clients discussing the progress of their section 55 decision and 24.7% advising clients on travel issues (for instance, how to get to Croydon for the Level 2 screening). Both offices also spent time discussing legal issues, such as how to contact a solicitor, with section 55 clients (Croydon: 21.2%, Dover: 22.5%).

The Refugee Council was unable to break down the advice topics to discern how much time was spent discussing food, shelter or community contacts. But it did find that 13.2% of section 55 advice sessions centred around health, 16.6% focussed on accessing legal advice and 44.1% of advice sessions were classified as discussions about the NASS process.

Scottish Refugee Council, which mostly had clients awaiting their section 55 decision, also found that its most common advice session for section 55 clients focused on food and shelter (28.08%). The other advice sessions centred equally on legal matters, finding community contacts or 'other' (11.23% each).

Thus, due to the nature of section 55 combined with the pressing needs of clients affected by section 55, this policy has had a significant impact on the services the Partnership agencies can provide for their clients.

3.1.4 Clients with section 55 holding letters (pending clients)

One of the greatest ways that some of the Partnership agencies feel the impact of section 55 is the pressure it exerts on the provision of emergency accommodation. The Partnership agencies began to monitor the number of clients in their EA in early April 2003 when the backlog of RANS decisions was first felt.

These large numbers of clients in IAP managed EA had, and continues to have, a significant impact on the IAP's capacity to house destitute asylum seekers who are eligible for NASS

support under section 98¹⁷. Clients in EA with section 55 holding letters are not supported under section 98 and are not yet eligible to apply for section 95 support. Therefore they are not eligible for dispersal and thus need to remain in EA until their section 55 decision is made. As a result, there is limited space for clients who are eligible for NASS support in need of emergency accommodation. The percentage of clients in EA with section 55 pending letters breaks down as follows:

Month	Average percentage of s.55 pending clients in EA
June	22.8%
July	27.5%
August	28.4%
September	28.5%
October	29.0%
November	30.5%

Thus, on average, 27.8% of clients in EA between June and November have a section 55 pending letter.

Prior to the Platinum House Backlog Clearance Exercise¹⁸, the number of clients in emergency accommodation with a section 55 holding letter reached 2,765. Once the Platinum House exercise began, the number of asylum seekers in IAP managed EA decreased (in the South East and London). But, in turn, there was a steady increase in the number of clients in EA after 7th July. The total number in EA with a holding letter peaked this year the week ending 20 November with 3,084.

¹⁷ For a description of section 98 and section 95 support, please see the Glossary, Appendix A.

¹⁸ For a description of the Platinum House Backlog Clearance Exercise, please see the Glossary, Appendix A.

Date (week ending)	Number of clients with section 55 holding letters in EA			Decisions received
11 April	1372			n/a
17 April	1492			n/a
25 April	1680			n/a
2 May	1721			n/a
9 May	1861			n/a
16 May	1868			n/a
23 May	1898			n/a
30 May	1927			n/a
5 June	1970			n/a
12 June	2209			n/a
19 June	2256			75
26 June	2255			83
3 July	2315			36
10 July	2558			54
17 July	2765			52
24 July	2694			57
	Pre 7 July	Post 7 July	Total	
31 July	1910	590	2500	502
7 August	1793	812	2605	391
14 August	1544	940	2484	363
21 August	1452	1328	2780	555
28 August	1352	1519	2871	474
4 September	1317	1661	2978	78
11 September	1257	1451	2708	81
18 September	1047	1652	2699	105
25 September	884	1712	2596	69
2 October	982	1818	2800	159
9 October	866	1873	2739	59
16 October	794	2050	2844	71
23 October	756	2050	2806	86
30 October	681	2188	2869	73
6 November	683	2287	2970	56
13 November	699	2279	2978	50
20 November	672	2412	3084	106
27 November	648	2322	2970	89
4 December	648	2322	2970	89

Table: These figures are collated weekly by the ICT. Notes: Week ending 19th June was the first week the IAP collected figures on the weekly number of section 55 decisions. The Platinum House Backlog Clearance Exercise commenced on the 7th July. The Partnership agencies broke down the figures to show the number of clients in EA prior to and after the beginning of the backlog clearing exercise from 31 July 2003. Also note: weeks ending 31st July to 21st August saw large numbers of decisions received in the Migrant Helpline Dover Induction Centre.

Another concern is the amount of time clients remain in emergency accommodation – housing that is meant to be for a short time period only. The average length of time for clients in IAP

emergency accommodation with a section 55 holding letter is 116.19 days. The IAP Grant Agreements with the Home Office state that EA is designed to accommodate clients for an average of seven nights only.

3.2 The impact of section 55 on asylum seekers

3.2.1 Client survey – overview

Another main objective of this research project was to discover the impact of section 55 on asylum seekers themselves. Thus, the Partnership agencies conducted surveys on a random sample of clients who were or still are either in EA pending a section 55 screening or who had been refused under section 55. It was hoped that the survey would give the IAP the opportunity to hear the client’s point of view and explore the human impact of the policy and whether it appeared to meet the Home Office’s original intentions.

During the four week data collection period (up to the week ending 28th November 2003), the Partnership agencies surveyed 154 clients. This is a statistically significant number allowing us to interpret the findings as a true sample of the experiences of the IAP clients affected by section 55¹⁹.

The number of clients surveyed by each Partnership agency may be summarised as follows:

MHL	RA	RAP	RC	SRC	WRC	Total
30	15	14	84	12	n/a	154

3.2.1.1 Demographic profile

The Partnership agencies strove to survey a diverse sample of clients. The IAP interviewed individuals from a range of ages and nationalities, both males and females. The random selection of clients reflected the demographic make up of IAP clients affected by section 55. The demographic breakdown of the clients surveyed includes:

Gender	Count	Percentage
Female	35	22.7%
Male	119	77.2%
Total	154	

Table: Gender profile of clients surveyed

¹⁹ See Appendix G to learn how the sample size was calculated.

Age	Count	Percentage
Under 18²⁰	6	3.9%
18 - 24	47	30.5%
25 - 34	81	52.6%
35 - 44	12	7.8%
45 - 54	3	2.0%
54 +	1	0.6%
Unknown	4	2.6%
Total	154	

Table: Age profile of clients surveyed

Nationality	Count	Percentage
Congo	21	13.6%
Iran	20	13.0%
Iraq	19	12.3%
Sudan	10	6.5%
Eritrea	9	5.9%
Liberia	8	5.2%
Zimbabwe	7	4.6%
Ethiopia	7	4.6%
Angola	6	3.9%
Burundi	6	3.9%
Somalia	6	3.9%
Other	35	22.9%
Total	154	

Table: Nationality profile (top 11) of clients surveyed

3.2.1.2 Survey design

The survey focussed on two client groups affected by section 55:

- those who were 'pending' or waiting for a decision on whether or not they were eligible for support under section 55
- those who had received a negative decision under section 55 and thus were ineligible for support

The IAP surveyed 53 clients who were pending (34.4% of total surveyed) and 101 clients who had been refused support under section 55 (65.6% of total surveyed).

The survey questions were grouped into four main categories, based on the focus of the questions: journey to the UK, concerns for those denied eligibility to apply for support, concerns

²⁰ These were 'age-dispute' cases where the client claims to be under the age of 18 (and thus should be exempt from s55) but the Home Office disputed this claim and were treating the client as an adult.

for those in EA with a pending letter, and views on the overall experience of the UK asylum system.

3.2.2 Journey to the UK

These questions focused on the client’s journey to the UK and what they understood about the UK asylum process prior to arrival in the UK. These questions were of particular importance as section 55 was based on the assumption that genuine asylum seekers would claim asylum “as soon as reasonably practicable”, which the RANS Unit interprets to mean at the point of arrival. The Home Office assumes that those intending to abuse the asylum system wait to apply until after they have entered the UK. Studying the awareness asylum seekers had of the UK asylum process prior to arrival may shed light on the validity of this Home Office assumption.

3.2.2.1 Method of travel to the UK

The main method of travel into the UK for those surveyed was by aeroplane (61.0%) followed by lorry (33.8%). However, it should be noted that this often was not the only mode of transport for the clients surveyed. Many used multiple methods of transport during their journey to the UK – the method counted in the survey was the mode of transport used when the asylum seeker crossed the border into the UK.

“I walked through the border into Turkey, went to Istanbul and then travelled to the UK in a lorry.” *25 year old Iranian male (RAP)*

“I travelled by bus to Angola, then took a plane to Heathrow.” *22 year old Congolese male (RC)*

The two quotes above mirror the pattern that emerged from the surveys – most clients who were originally from Africa arrived in the UK by plane (91%) while clients from the Middle East (93%) and Europe (100%) usually came to the UK via lorry. Please see the chart below which details the mode of transport used by the survey sample to enter the UK:

Ethnicity	Plane	Car	Boat	Lorry	Total
Africa	83	0	2	6	91
North Africa	9	0	0	1	10
Middle East	1	2	0	40	43
Asia	0	0	0	3	3
Europe	0	0	0	6	6
Unknown	0	0	0	0	1
Total	93	2	2	56	154

Table: Please note that for the purpose of this survey countries were classified into regions according to the Home Office’s convention.

3.2.2.2 The use of agents²¹

The survey asked about difficulties that clients faced during the journey to explore prior knowledge and reliance on others. Relying on the help of others can influence how a person enters the UK and how they approach authorities to apply for asylum. The question surrounding the use of agents is especially significant because of the Court of Appeal test case judgment *R - v- Secretary of State for the Home Department (Exparte Q et al)* (from now on referred to as "CoA Q et al") which stated the interviewer must take what an agent tells the client into consideration when determining if a client applied for asylum "as soon as reasonably practicable".

Asylum seekers often noted in the survey that they depended on help to get to the UK. 107 clients (69.5%) who were surveyed mentioned specifically that an agent or smuggler helped them during their journey. An agent is a person who is paid money to smuggle individuals into a country. Agents often make most of the arrangements, including procuring documentation needed to leave the home country, mapping the journey and providing instructions on what to do when entering the UK.

Other clients had relatives or friends who helped arrange the journey (11 in total, 7.1%). 9 clients made all the arrangements on their own (5.8%) while some depended on other means - a Christian organisation for example (6 in total, 3.9%)²².

"I travelled by plane. I had money for the ticket which I gave to the agent. While I was being treated in hospital a doctor found this agent who helped to provide the French passport". *28 year old Congolese female (MHL)*

"I came by lorry and did not have any documents. My family paid an agent money to get me out [of the country]. I had three days notice to leave". *21 year old Kurdish male from Iran (RC)*

The large number of clients surveyed who used an agent to travel to the UK reflects the very common practice of paying someone to help leave the country of origin and enter another country. The use of agents will continue to be a major strategy for people seeking asylum, especially as immigration policies continue to tighten and become more restrictive. The frequency with which clients were denied eligibility to apply for support because they depended

²¹ An agent is someone who facilitates the journey and/or entry of an individual into a foreign country. In this research, most agents facilitated the 'smuggling' of asylum seekers as opposed to 'trafficking'. Smuggling involves helping someone enter a country illegally and is provided by an agent for a fee. Human trafficking involves the movement of people through violence, deception or coercion for the purpose of forced labour, servitude or slavery-like practices. For more information on trafficking, please see the Anti-Slavery website (www.antislavery.org) or *The Cost of Survival* by John Morrison.

²² 23 clients surveyed did not mention any detail about their journey to the UK and therefore it is not known if they received assistance (14.9%).

on an agent is concerning – 71.9% of those who used an agent were denied the right to apply for support. When relevant, the RANS refusal letters now mention that the interviewer considered the use of an agent, in compliance with the CoA Q et al judgment, but the fact that many individuals continue to be refused when they were following the directions of their agent raises the question of whether or not the interviewer took these statements seriously. (See research results of examining decision letters, page 33).

“You had the opportunity to claim asylum at the airport but you failed to do so. You claim that you were not aware that you could claim asylum from an Immigration Officer and also the agent had told you that if you exposed yourself at the airport, you would be sent back and he would get into trouble and he would harm you, but you do not know how he would harm you. This is not considered to be an adequate reason for not claiming asylum on arrival at the airport.”

From refusal letter sent to 18 year old Liberian female (RC)

“You had every opportunity to seek asylum on arrival, as on your own admission you came to the UK specifically to seek asylum. When this was put to you your response was that you intended to apply for asylum after seeking advice. This explanation has not been found to be an acceptable reason for not seeking asylum at the airport. Although you claimed that you were instructed by the agent to claim asylum “in the city” you did not have to follow his instructions especially as he did not travel with you and did not apply pressure.”

Letter from the RANS Unit, dated 4 November 2003, refusing reconsideration request of Eritrean male aged 24

3.2.2.3 Prior knowledge of ‘asylum’

This research demonstrates that the Home Office expects those who are in genuine need of protection to claim asylum as soon as they enter the UK. The anecdotal evidence in this report shows that this expectation is based on a narrow view of the experiences and world-views of someone fleeing persecution. It presumes a prior knowledge of the western definition of ‘asylum’ as a specific legal process that one must navigate in order to be entitled to protection. The questions in this part of the survey were designed to explore what prior knowledge the client surveyed had of ‘asylum’.

In the survey, some asylum seekers declared that they did have some knowledge of asylum prior to arriving in the UK (27 total, 17.5%). However, this knowledge was usually very general and in some cases was gained from prior experience – from cellmates in prison, from the refugees who seek protection in their country or simply from television programmes that discussed asylum or refugee issues at length. A small number said they learned about asylum directly from their agent.

One young man was a refugee before but was forcibly repatriated to his country of origin. When he returned home he faced more problems and had to leave again and decided that he must go further to avoid being repatriated by force again. *18 year old from Rwanda (SRC)*

Knew about right to refuge from persecution. Found information on the internet. *31 year old male from Nigeria (SRC)*

I've learned about 'asylum' when I was at school. I've learned about the history of wars and persecution in my country and about asylum seeking in a safe country. But it was abstract idea until I had to do it myself. At first I thought I was going to go to the Ivory Coast but there I was in prison and had to flee. *26 year old male from Liberia (MHL)*

Others only understood asylum as a general concept, saying they knew that people could seek protection if they were in danger (29 total, 18.8%). 10 clients surveyed (6.5%) didn't know about asylum, but understood Europe and/or the UK as a place where one's human rights are respected.

"I knew you could apply for asylum in Europe and the UK, as these countries have human rights and support people who suffer in their countries. People talk about it, although you are risking your life doing so back home". *50 year old female from Zimbabwe (RAP)*

"I did not know anything about asylum. I had heard about political asylum in general in my country but have no great knowledge about it." *42 year old male from Congo (MHL)*

But the majority of clients surveyed had no prior knowledge of asylum before entering the UK (86 total, 55.8%). Counted in this group are individuals who said that they just felt they had to flee their home country like a 34 year old man interviewed by Refugee Action. He fled from Angola and learned from his agent to say "running from persecution", but prior to that he had no knowledge of asylum.

"I had a good life before the troubles - I never thought about asylum or being a refugee. I knew people had to leave home to find help in other places". *19 year old male from Iran (RC)*

No knowledge of concept of asylum. Only knew he was fleeing persecution – no idea of the right to refuge. All knowledge was gained after entry into the UK. *18 year old male from Liberia*

3.2.2.4 Knowledge of the UK asylum system

The evidence demonstrates that the Home Office also expects individuals from other countries to have knowledge of the asylum system before entering the UK – despite significant legislative changes in a short period of time. The survey included a question about knowledge of the UK asylum process in order to glean how many individuals had knowledge of what was expected of them when they arrived in the UK.

While most clients surveyed had little or no knowledge of asylum prior to arriving in the UK, even fewer had an understanding of the asylum system in the UK. 152 (98.7%) of the 154 clients surveyed said they did not have prior information on the UK asylum system before arriving in the UK. Of this, 13 (8.4%) asylum seekers did not even know they were coming to the UK until they arrived. Many of the clients who said they did not know the UK asylum process only knew what to do because they were given instructions by their agent.

"I had no idea about the 'asylum' process and did not know what asylum is. I was only informed when I was at the police station". *19 year old male from Iraq (RAP)*

One man understood the concept of asylum as seeking refuge to protect your own life. The only knowledge he had of the process was that he knew that if you need protection you should contact the appropriate authorities. This man did not know the 'appropriate authorities' were at the airport and claimed asylum at Croydon. He was refused support under section 55. *32 year old male from Liberia (RC)*

The findings are not surprising in light of the responses of those surveyed. The overwhelming majority did not know the specifics of claiming asylum in the UK. Those who knew they should approach an immigration officer found they did so too late. The narrow interpretation of "as soon as reasonably practicable" does not allow for consideration of the fact that most applicants fleeing persecution do not have knowledge of the UK asylum process.

3.2.2.5 Why asylum seekers waited to apply for asylum

The IAP wanted to hear in the clients' own words why they waited to apply for asylum, why they did not claim asylum at the port of entry into the UK:

- 64 (41.6%) clients said in the survey that they did not know how to apply for asylum or did not know they needed to apply for asylum
- 36 (23.4%) clients surveyed said that they thought they were doing the right thing, based on instructions from their agent or from someone they met after arrival in the UK

- 15 (9.7%) clients surveyed said that they knew they needed to apply for asylum once they arrived in the UK, but were unable to do so immediately
- 33 (21.4%) individuals said that they did apply for asylum “as soon as reasonably practicable” but were refused or are pending a decision

The remaining asylum seekers fell into the ‘other category’ including two individuals who were too scared to approach anyone at the airport for fear of being returned, and two clients who applied for asylum once they felt the situation in their home country had become too dangerous for them to return.

She didn’t know what to do or where to go, eventually she told the police her situation after reporting an attempted rape. The police told her she should apply for asylum. *36 year old Mongolian female (RA) – pending*

He went to claim asylum at Glasgow Immigration the day he arrived. He was sent to stay overnight in a hotel and told to return the next day. *26 year old man from the Ivory Coast. (SRC) - pending*

“As I was travelling with my agent, he made sure that he and I passed safely through the Immigration control. The next day my agent took me to Croydon to claim asylum.” *25 year old man from Guinea (MHL) - refused*

“I did not wait to apply. [After getting out of a lorry,] I approached a man in uniform who directed me to the police who then directed me to the Home Office.” *23 year old man from Iran (MHL) - refused*

“I learned from my lecturer at school that I will have to apply for asylum at the airport terminal within 24 hours. I was not aware there was another place to claim asylum. I waited because the agent took all my documents after the immigration control at the airport. He left me to go to buy food as it was late evening but he never came back. I had to sleep at the airport and the next day asked people for a UN officer and they directed me to the Home Office.” *26 year old man from Liberia (MHL)*

This final quote above is an interesting story of a person who thought he knew the asylum process and what he needed to do in order to claim asylum in the UK, as the Home Office expects of most genuine refugees. He had taken the time to learn all he could about what was expected of him from a trusted source. However, his information was slightly inaccurate, and consequently he was not eligible to apply for NASS support.

As discussed in a later section of this report, not knowing about the concept of asylum or the asylum process in the UK is seen by NASS to demonstrate a lack of credibility and thus many individuals are refused support under section 55. Furthermore, trusting an agent’s instructions is

also seen as not credible. However, according to these findings, not only is it credible, it is common.

3.2.3 Issues faced by clients refused under section 55

This next set of questions was only asked of clients who had received a RANS refusal letter and thus were ineligible to apply for NASS support. To date, this is one of the few glimpses the IAP has into what happens to clients refused under section 55.

One of the most pressing questions the IAP asked clients is how those not entitled to apply for NASS support are supporting themselves. Where are they sleeping? Where are they getting food? Are these clients destitute?

Interviewers for this research project asked clients who have been refused support under section 55 how they have been meeting their immediate needs like food, shelter and access to toilets and washing facilities. Of the 101 clients who we interviewed in this situation, 62 (61.3%) were sleeping rough and eight (8.0%) were facing homelessness because their temporary housing has ended. Of those with places to sleep at night, the arrangements were not sustainable and they feared how long they would be allowed to benefit from the hospitality of a mosque, church or member of the community. It is important to note that asylum seekers are not entitled to housing benefit and therefore are not able to stay in night shelters for the homeless²³.

"I was sleeping in a church but they told me yesterday I cannot sleep there anymore as some church members have started to complain." *29 year old Congolese male (MHL)*

"I've stayed in several different places on different nights with people who are sympathetic. This continued for a month. One night I was given a blanket and sent to a night shelter". *21 year old female from Somalia (RA)*

Without support for 10 days. Sleeping in subways, in Victoria station or bus shelters. *31 year old male from Eritrea (RC)*

"Sleeping in the bus station with only a blanket to keep me warm in this cold weather". *27 year old male from Sudan (MHL)*

²³ According to a survey of homeless provision conducted by Shelter at the end of 2002, there are only three night shelters nationally (two in London and one in Bristol) which admit individuals who are not in receipt of housing benefits.

71 (70.3%) of the asylum seekers surveyed were experiencing great difficulty in accessing food on a daily basis, especially on weekends when the Croydon Refugee Day Centre and the Refugee Council Day Centre were closed. The lack of regular, healthy food and shelter has had a negative impact on the health of 58 (57.4%) clients surveyed. The health problems of those surveyed were often digestive disorders, skin ailments, severe headaches and chest congestion while a few had very specific health concerns like epilepsy or physical wounds which were made worse by the stress of their living conditions. 18 (17.8%) clients stated that they had difficulty accessing health care (a few said this was because they did not have an address which is needed in order to register for a GP, others because the health care practitioner thought the individual was not entitled to basic health care).

"I'm sleeping rough on the park bench. I use a soup kitchen and rely on kind-hearted people to hand me food. I use the mosque to wash myself and pray. I fear my health is at risk here." *28 year old man from Libya (MHL)*

He sleeps rough in the parks and streets of Brixton. He gets food from the Refugee Council (Day Centre) during the week, begging or out of bins on the weekend. He had problems with his stomach for over a year and lack of proper food has made it worse. *28 year old Kurdish male (RC)*

She could only stay a few days with her sister, who has mental health problems. She has eaten with a friend, at the Refugee Council or not at all. She has medicine for depression and gastritis, but unable to take it because no food to take it with. *30 year old Congolese female (RC)*

He is sleeping rough, sometimes by an underground station or on the street. No proper food for most days, no shower for 12 days. Now getting food from Refugee Council. As a result of his experiences here in the UK, has developed a serious gastric problem and is vomiting blood. *32 year old Eritrean male (RC)*

"The only main concern I have is my well being and sleeping rough on the street. I feel my health is going down [the] hill day by day. I also feel that I am coming down with a kidney infection because of not having access to toilet facilities". *28 year old man from Sudan (MHL)*

This last account highlights another common concern many clients (34 total, 33.7%) brought up during the survey, their inability to access hygiene facilities – places to use the toilet, wash and clean clothes. 32 (31.7%) clients stated explicitly that they were concerned about the cold because they did not have proper clothing, blankets or shelter to protect them. 16 (15.8%) individuals feared for their safety because they had to sleep on the streets and four clients were saddened that they could not practice Ramadan because the impact of section 55.

"I'm sleeping rough on the streets. I was referred to the Refugee Day Centre for some food. I cannot meet requirements of basic hygiene. I cannot find places to shower or use toilets. I cannot wash my clothes. I am carrying around my dirty clothes." *28 year old man from DRC (MHL)*

"I am sleeping on the streets moving from place to place. My solicitor gave me some money for food for a few days. I usually go to pray at the Mosque where I make use of the facilities for cleaning and washing. It is very cold outside and I do not have warm clothing to protect myself." *23 year old Iranian male (MHL)*

45 (44.6%) clients who were surveyed admitted that they are suffering emotionally - the stress, fear and loneliness has made many feel despondent and depressed. A further 22 (21.8%) disclosed that they have felt humiliated and ashamed. Having to beg for assistance, being dirty when coming into contact with others, was too much for them.

He has been sleeping on the floors of different friends, eating tinned food once a week from a church. He is able to shower at one of the houses, though sometimes they don't have soap. He has no means to travel to his [asylum] interview or to communicate [with the Home Office]. This has been going on for three months and now he is feeling suicidal. *30 year old male from Angola (RA)*

"I am staying with a lady with children who is providing me accommodation and sharing food. I sleep in the living room. I am worried about staying and being a burden to someone who is no relation. I was happier and more relaxed in the hostel when I was not dependent on someone else. It is humiliating not to be able to share expenses or contribute". *43 year old woman from Somalia (RA)*

A man who had been without support for 10 days found that not being able to speak English causes great difficulties. He has been abused by drunks when sleeping on the street. He is suffering from the cold and rain and wants to see a doctor about stomach pains. He is not used to begging and finds it humiliating, (crying while sharing his story with the interviewer). *31 year old male from Eritrea (RC)*

And finally, 17 (16.8%) clients had other concerns that have arisen as a result of being unsupported. This includes being unable to visit their solicitor, being unable to stay in contact with family overseas or frustration at the uncertainty of their situation.

As some of the excerpts from the survey demonstrate, for the clients who are ineligible to apply for NASS support, their suffering is all interconnected. Having no shelter from the cold and a poor diet may affect their health; having no money may make the journey to a doctor, legal representative or charity difficult; some may be forced to beg or steal for food or money to meet basic needs which is likely to cause great shame and humiliation. The accounts given by

clients as part of this research suggest that the above cause great stress and anxiety which may again, affect health and emotional well-being²⁴.

He sleeps at a friend's house and then leaves early in the morning. He said it has been very difficult for him to find food, but last week a charity gave him some money for food and he hopes he will receive some food vouchers from the British Red Cross this week. He eats on the street, has no access to a proper meal nor to make one, junk food is on the menu constantly. He doesn't have a place to wash himself, brush his teeth or wash his clothes. He is unsure how long he can sleep at his friend's house. He says he is utterly distraught, feels he has been treated as an animal rather than a human being. He said it has shattered his confidence, his human dignity is lost, he is frustrated and anxious. He said, had he known about applying for asylum as soon as possible, he would have done so but he didn't know. He needs winter clothing and a warm place to stay during the day. He doesn't have money for travelling. He had trouble getting health care – he has health problems. A couple days ago he was dizzy, couldn't walk or stand. He went to A&E but was told he needs a GP. He went to a medical centre where they help asylum seekers and they took his details and told him about a doctor nearby, but he found he couldn't register with the GP because he didn't have an address. He concluded by saying he was sad, depressed, "without words to express my feelings". *22 year old male from Angola (RC)*

There are more stories than this research project had the capacity to capture. Most staff and volunteers in the Partnership agencies have similar stories they could share. They may hear more detail because many come in to repeat contact with individual clients and thus earn their trust²⁵. These stories are painful for staff and volunteers to hear as they often feel powerless to help.

These findings demonstrate that not everyone has a support network they can rely upon, an alternative safety net they can access when denied the right to apply for support. The Home Office assumed that the refugee communities and the charity sector would step in to fill the gap, but this is obviously not the case for many of the clients seen by the IAP.

3.2.4 Emergency accommodation

Another component of the impact of section 55 is the issues faced by clients in possession of a pending letter. The questions in this segment of the survey were designed to gain insight into what concerns clients in this situation had.

²⁴ It is interesting to note that in the Maurice Kay judgment S,D and T, Mr. Justice Maurice Kay ruled that 'inhumane and degrading treatment' under Article 3 of the ECHR could include "sleeping rough, begging for food or money with which to buy it and the fear, humiliation and physical and mental suffering which soon ensue, particularly where the asylum seeker may be driven to crime and prostitution in order to survive."

²⁵ For a few stories shared with a volunteer at the Refugee Council Day Centre, please see Appendix H.

Of the IAP clients surveyed who were in emergency accommodation (EA), most were in EA with a pending letter meaning they are still waiting to attend their Level 2 screening. Others had been placed in EA because to deny them shelter would be a breach of their human rights.

Of those surveyed (53 total), 19 (35.8%) had been in EA for one month or less, 11 (20.8%) had been in EA for 2-4 months, 18 (34%) for five to seven months and three (5.7%) for over eight months. Two individuals surveyed did not respond to this question.

16 (30.1%) had a need that was not being met while they were in emergency accommodation. The most common being poor health/lacking the proper medication followed by an inability to cater to special dietary requirements.

"My medical needs are not being met. Have been to the walk-in centre and have been given medicine which is not helping me. They do not listen to me. I am suffering from depression. My condition is not improving and I cannot sleep and eat properly. I feel nervous, restless and cannot sleep. Though I am in EA, it is very worrying for me as to what will happen to me when I am on the streets". *27 year old female from Iran (MHL)*

While most clients who were interviewed did not mention any special unmet needs, many raised other concerns like boredom (17%), unsuitable food (34%), insufficient money (forced to spend money on food because food unsuitable), feelings of neglect, loneliness, depression (13.2%), and overcrowding/roommate problems (13.2%). Many of these issues result because individuals are in EA for prolonged periods of time due to section 55 backlogs.

He can't afford to buy proper food. He lives off chicken and chips which they serve everyday. He feels that he would be able to feed himself properly if he had access to a kitchen, but he has to buy prepared food which is more expensive. He had to save up for 5-6 weeks to buy a hair clipper for £9. *22 year old man from Burundi (SRC)*

He has been in EA for 10 months where he is only provided cereal for breakfast and he does not have access to a kitchen so he survives on dried foods that are prepared by adding boiling water. He doesn't like that visitors are not allowed in the guest rooms – not even others staying in the same hotel. Little chance to socialise with friends he makes at college. He feels isolated and depressed. *49 year old man from Iran (SRC)*

He has been in EA for 10 months. He is healthy and safe. But he was an eye doctor in Iraq and finds it very difficult to have to sit about and not be able to work. *42 year old male from Iraq (SRC)*

It is important to note that some individuals (three in total, 5.7%) said they are happy. A 24 year old man from Iraq had been in EA for three weeks and said that he did not have any problems in EA and in fact was "treated like a human being for the first time in months thanks to Refugee Action".

"Many people complain. The food is bad and not having any money is hard. But, I do not want to go back to Libya to prison – that is terrible". *35 year old man from Libya (RC)*

"I have no problems at all. I am very happy that I am in a safe place. I have made friends in the hotel". *19 year old man from Iraq (RAP)*

3.2.5 Feelings about the UK asylum process

Interviewers asked all 154 clients who agreed to participate in the survey their feelings about the UK asylum process. These questions were asked to give the clients the opportunity to express their feelings about their experiences so far.

The interviewers heard a wide range of responses, but they can be broken down into the essential sentiments as follows:

- 30 (19.5%) thought that the asylum process is too long, confusing and frustrating
- 61.7% of clients surveyed were unhappy with the section 55 screening process. 61 (39.6%) of these stated that they felt they had not been understood properly by the interviewer or that the interviewer did not show any interest in listening to their story. 21 (13.6%) of the clients surveyed had interpretation/interpreter concerns and 13 (8.4%) found the process frightening and threatening
- 6 applicants were deeply scared of being sent back
- 14 clients felt that the system was unfair to them. These applicants expressed dismay because they felt that they had co-operated during the screening interview and felt that they have been honest and told their whole story
- 18 (11.7%) applicants thought that the system was fair and 21 (31.6%) did not have any problem with relating their story during the screening interview at the Home Office. Please note that this does not mean all of these individuals were pleased with the decision they received.

Terrible, awful process. Was unable to tell his full story because he was forced to use an interpreter despite being fluent in English. Felt that he wasn't able to express his feelings and that the interpreter didn't translate effectively - he knew the interpreter was using the wrong words but when he spoke for himself they criticized him for questioning their language skills. *49 year old male from Iran – pending (SRC)*

" I did not feel comfortable while I was being screened because the Immigration Officer did not seem to pay any attention to what I had to say" *27 year old male from the Sudan – negative (MHL)*

Not speaking or reading English well, he has had to rely on others to translate. Immigration Officer told him he looked cheerful and happy, implying he didn't really have any problems. He felt that his case had been trivialised. *27 year old male from Guinea – negative (RC)*

3.2.6 Feelings about accessing support

The survey also included a question about how the client felt about what they have had to go through in order to access support. The responses varied but can be categorised as follows:

- 26 (16.9%) applicants had expected support from the UK government upon their arrival
- 11 (7%) did not expect availability of support of any kind
- 28 (18.2%) said that they did not expect to have to submit a separate claim for support
- 7 (4.5%) were aware of the system before they arrived and knew what to expect upon arrival
- 10 (6.5%) stated that they simply did not know anything about the asylum process and support
- 22 (14.3%) felt that it is just unfair that basic needs are simply denied, with eight applicants very shocked that help is denied under such circumstances and three clients thought it was unfair they have been denied support when they actually applied for asylum the day they arrived
- 2% were anxious and worried about what would happen to them if denied access to support
- 27 (17.6%) applicants did not want to depend on support and would rather have the chance to support themselves by being able to work
- 5 (3.2%) applicants surveyed felt the system was fine the way it is at the moment

Anxiety about support and asylum case. Loss of dignity; depression about situation, helplessness. Living without knowing what the next day will bring. " I feel I have lost 7 months of my life and no one can give it back to me ". *27 year old female from Malawi – pending (RC)*

"The system is ok. I do feel is much too slow but the UK cannot be blamed, as there are so many claims to process. I think this [s.55] policy is horrible, as it adds to the unbearable uncertainty we already live in. We are here now. Why not just support? The only option people have when refused is to commit crime and steal to live. I would rather kill myself than committing crime." *24 year old Kurdish male from Iran – pending (RAP)*

Doesn't like accessing support. He expected help with what he experienced at home, but not in money terms. *26 year old male from Ivory Coast (SRC)*

These sentiments show that section 55 is not only placing a strain on the Partnership agencies, but is causing undue distress to many asylum seekers, many of whom are suffering from distress experienced in their country of origin and during the journey to the UK.

3.3 Survey results summary

The most valuable contribution of the surveys is the stories, the experiences given from the asylum seeker's point of view. They paint a picture of a system that is detrimental to many individuals who came to the UK hoping for safety and instead they find the daunting task of navigating a confusing asylum system at best, and the struggle for daily survival at worst.

But the survey results also demonstrate that many of the assumptions that section 55 is based on are misguided and ill-informed. The expectation that asylum seekers will not listen to their agent, will have not only an awareness of asylum but will know how and where to apply for asylum in the UK has great bearing on the way interviewers will interpret a client's responses during their section 55 screening.

4. Current implementation of section 55 – decision making

One of the key objectives of the research project was to monitor the decisions made under section 55 on the basis of process, context and content. The goal was to evaluate the decision making process and explore its consistency with the provisions set out in recent legal judgments. To do this, each Partnership agency collected and collated the decision letters received by their clients during the research period.

4.1 Initial decisions - overall research results

From this exercise, out of the 253 decision letters received²⁶, it emerged that 62% of clients were denied eligibility to apply for NASS support under section 55. In turn, 38% were granted eligibility to apply for NASS support under section 55. These figures reflect decisions made after the Level 2 screening interview, often referred to as an 'initial decision'.

Of all the decision letters examined, 65.6% of the total clients were men while 34.3% of the total clients were women. 102 (64.9%) men and 58 (36.9%) women received refusal letters. 64 (66.6%) men and 29 (30.2%) women receive a positive decision.

4.1.1 Initial *refusal* of support under section 55

During the three weeks of research ending on 21 November 2003, a total of 157 clients refused support under section 55 have been seen by 5 of the Partnership agencies, Migrant Helpline, Refugee Action, Refugee Arrivals Project, Refugee Council and Welsh Refugee Council. (Scottish Refugee Council did not receive any refusal letters between 3 and 21 November).

The results break down as follows

Week	RC	MHL	RA	RAP	WRC	Total
1	17	2	9	0	3	31
2	42	13	12	4	2	73
3	26	14	11	1	1	53
Total	85	29	32	5	6	157

The Refugee Council saw the most clients with an initial refusal letter on a weekly basis with 54.1% followed by Refugee Action (20.4%), Migrant Helpline (18.5%), Welsh Refugee Council (3.8%) and Refugee Arrivals Project (3.2%).

²⁶ The Partnership agencies were unable to submit all the letters relating to clients seen.

The age groups of the clients who received negative decision letters are as follows:

Age	Total
Under 18	7
18 - 24	42
25 - 34	71
35 - 44	24
45 - 54	5
Over 55	6
Unknown	9

During the three weeks of research, the country of origin of clients with an initial refusal letter from NASS seen by the IAP breaks down as follows:

Nationality	Total	Percentage
DRC	21	13.4%
Ethiopia	9	5.7%
Eritrea	10	6.4%
Iran	19	12.1%
Iraq	14	8.9%
Somali	21	13.4%
Other	63	40.1%

Of the negative decision letters received, 111 (70.7%) arrived in the UK by air, 32 (20.4%) by lorry, 6 (3.8%) by ship, 3 (1.9%) by train, 2 (1.3%) by coach and three unknown. The refusal letters state that these applicants did not apply for asylum "as soon as reasonably practicable". The time lapse between arriving in the UK and applying for asylum according to the letters the IAP have received is as follows:

	Air	Lorry	Ship	Train	Coach	Unknown	Total
Same day	19	13	3	0	0	0	35
Next day	30	7	1	1	1	0	40
2-3 days after arrival	19	6	0	2	0	0	27
4-8 days after arrival	21	3	2	0	0	0	26
9+ days after arrival	22	1	0	0	1	0	24
Unknown	0	2	0	0	0	3	5

This means that 22.3% of those refused under section 55.1 applied for asylum on the same day they arrived. 25.5% applied for asylum within one day following arrival in the UK, 17.2% applied within two to three days of entering the UK and 16.6% between four and eight days. 15.3%

applied after waiting nine or more days in the UK before applying for asylum. This figure includes those who have been in the UK for a number of years and the situation in their country changed to make it unsafe for them to return.

4.1.2 Reasons for refusal

Each letter states that the person did not apply for asylum "as soon as reasonably practicable". The letters contain reasons why the RANS Unit made this decision. Earlier in the year, the IAP found that there was a predictable repetition of several basic phrases that were given as the reasons why a person was denied eligibility for NASS support under section 55. As a result of the numerous High Court and Court of Appeal rulings however, the negative RANS decision letters are now much more detailed and specific to the individuals involved. However, the reasons can be grouped into several broad categories, as the RANS Unit continues to use repeated phrases.

In the table below, 'other' includes reasons like "fear of being refused entry into the country are irrational" or "it is not necessary to seek legal advice before claiming asylum". This final point is concerning as pre-January 8, 2003, seeking legal advice in order to apply for asylum was recommended for in-country applicants. Furthermore, it was very common for asylum seekers who did not arrive in London to use a legal representative to apply for asylum by post. That some are told to see a legal representative to apply for asylum is not surprising given how recent the change in legislation was.

It is very concerning that 33 letters received during the research project stated "not in need of support..." as one of the reasons for refusal. The RANS Unit was established to make section 55 decisions, which means that it should only be concerned with whether or not a person applied for asylum "as soon as reasonably practicable" (s.55.1). The role of the RANS Unit is not to assess whether or not the person is destitute and in need of support. That is part of the NASS application process. These 33 individuals have wrongly been denied access to apply to NASS for support in error.

Reason for refusal	Count			
	Week 1	Week 2	Week 3	Total
Did not claim at port of entry	6	33	28	67
No undue pressure from agent	5	14	13	32
Account not credible/not believed	6	41	31	78
Inadequate details of journey	7	31	12	50
Could not have passed through Immigration Service without being questioned/IO speaks to all visitors	7	14	15	36
Details of journey incorrect (i.e., flight information)	3	9	10	22
No evidence to prove date of arrival	6	21	19	46
Intended to mislead UK immigration authorities	4	9	6	19
Issues around false identity (i.e., 'not plausible that agent withheld details of false identity')	2	10	0	12
Contradictions within account	2	11	9	22
Unbelievable that agent would take beyond port of arrival	0	2	1	3
If understood concept of asylum, then would have sought help from nearest authority/ "Did not make reasonable enquiries"	4	32	19	55
Ignorance of procedure no excuse; "the importance of claiming asylum at Immigration is well understood; signs at airport are visible"	3	17	8	28
Other	6	13	12	31

Table: Please note that each decision letter contains multiple reasons for refusal.

Some excerpts from decision letters, demonstrating the inconsistencies in the decision making include:

Using own documents not credible:

The Secretary of State does not find the manner in which the applicant claimed to have entered the UK credible. The applicant stated that he used his own passport to enter the UK. The applicant admitted producing his own documents to Immigration Control, and that the Immigration Officer opened his passport then let him through. The Secretary of State's official states that in light of recent security increase at the ports, he finds the applicant's explanation unsatisfactory. *36 year old male from Eritrea*

Using false documents not credible:

The applicant claimed that the priest acting as his agent gave over his passport when he passed through Immigration Control. The applicant was unsure of any details contained in his passport as it was not his. The Secretary of State's official deemed it inconceivable that he would assume an identity without the full knowledge of what was printed on the passport. The applicant claimed that no questions were asked of him and that he was allowed through once his passport had been stamped. The Secretary of State Official finds the applicant's explanation unsatisfactory. *36 year old male from Zimbabwe*

Making yourself visible when with an agent not credible:

The applicant claimed that upon arrival in the UK, the agent dropped her off from the lorry at a petrol station in an unknown location and told her she was in Britain. The applicant claimed that she went to the petrol station and told them that she wanted to hand herself over. The applicant stated that she was given £1.70 and directions to the Home Office. She explained that she walked and arrived there at 12:00noon. The Secretary of State's official believes that it is not credible that applicant would have travelled in front of the lorry with the agent as he would have been at risk of being detected. *38 year old female from Iraq.*

Not making yourself visible when with an agent not credible:

The applicant claimed that the agent warned her that she would be deported to Eritrea. The Secretary of State did not accept this account and noted that the agent did not make any direct threats. The Secretary of State believed that applicant would still have been in the position to talk to an Immigration Officer upon arrival and that the agent would have had no power to intervene. *19 year old female from Eritrea*

Staying in a lorry not credible:

The applicant claimed that whilst travelling on the lorry he did not stop for a break and was not let out. The Secretary of State's official did not find this probable as he believed that the applicant would not have survived for 13 days without getting out for fresh air. *26 year old Iranian male*

Wanting to get out of a lorry not credible:

The applicant stated he knocked on the side of the lorry despite warnings not to get arrested on purpose. Taking this warning into account, it is not deemed likely that the applicant was unaware of his surroundings at that time, as he would not have wanted to risk being found by the police. This discrepancy further undermines the applicant's version of events. *29 year old male from Iraq.*

Approaching Immigration control not credible:

The applicant claimed that she could not claim asylum at Immigration control because the agent told her they would deport her back to Turkey. The applicant claimed that she was too scared to lodge an asylum claim at the airport and that she expected the agent to take her to a woman who would help her in the UK. The applicant then claimed she went back to Immigration control to seek assistance. The Secretary of State's official believes that if she was so scared of being deported then she would not have approached Immigration. *27 year old Iranian female.*

Not approaching Immigration control not credible:

The applicant claimed that the agent warned her that she would be deported to Eritrea. The Secretary of State official believes that a genuine refugee would have sought assistance from the authorities of a safe country at their earliest opportunity. The Secretary of State notes that although the applicant passed through Immigration, she did not present herself and her problems. *20 year old Eritrean female*

An agent who is not helpful is not credible:

On getting out of lorry at railway station somewhere in London, the applicant was directed to a police station an hour away from where he was dropped off. The Secretary of State's official believes the lorry driver would have called the police instead of allowing the applicant to walk for his personal safety. *22 year old Iraqi male.*

An agent who is helpful is not credible:

The Secretary of State does not accept the explanation that the applicant believed her agent who promised to sort everything out once the applicant was inside the country and that because she was so desperate to escape the applicant just did everything the agent told her. *28 year old Liberian female*

Other examples of reasons given client for refusal under section 55 include:

Inadequate details of the journey to the UK, unable to recall the number plates or the nationality of the drivers in the lorry. *24 year old male from Iraq*

Applicant claims to have been arrested on day arrived in UK and said he was given a map (submitted in interview). However, IND is aware that the Surrey police do not hand out maps. IND believe that the applicant was trying to mislead. *26 year old Afghan male*

IND accepts that whilst a person may have to use deception to facilitate fleeing his or her country it is not necessary to use it to enter a safe country and therefore applicant should have mentioned his circumstances to Immigration on arrival. *24 year old Kenyan male*

IND does not believe that the applicant's agent had destroyed applicant's passport and that the agent beat him up because he asked for it back. The IND considers applicant's story as being highly implausible as an agent is more likely to keep a passport for further use in his work. *32 year old male from Iraq*

Your account that you were abandoned by your agent in Liverpool and coincidentally met a Somali woman who provided you with food and accommodation is found to be incredible and this Somali woman's actions to be inconsistent with those of a complete stranger whom you claim to have met for the first time a day before you claimed asylum. You claim this very Somali woman actually advised you how and where to claim asylum. If so, she would have been aware of the procedures on the very day that you claim to have arrived. This undermines your claim to be in need of international protection. *34 year old Somali female.*

This final quote is concerning for several reasons. First, it mentions that the caseworker doesn't believe the person is in need of "international protection". This is not within the remit of the Level 2 screening interview. An asylum seeker's protection needs under the 1951 UN Convention Relating to the Status of Refugees is the subject of an asylum interview. Second, it is worrying that the Secretary of State presumes that someone who was not trained in immigration law would know all the intricacies of the new legislation.

And finally, the belief that it is improbable that a member of an asylum seeker's community would offer support contradicts one of the expectations of the drafters of section 55, that asylum seekers could access support from their community. This individual and others like her are expected to access community support, yet it is not seen as credible when someone who is not family provides support. This inconsistency may cause undue stress to refugee communities and illustrates the inherent contradictions of the policy itself²⁷.

²⁷ This is particularly significant in assessing whether unsupported asylum seekers have reached the Article 3 threshold required to successfully have a negative decision reconsidered.

4.1.3 Initial *positive* section 55 decisions

During the three weeks of research ending on 21 November 2003, a total of 96 clients granted eligibility to apply for NASS support have been seen by five of the Partnership agencies, Migrant Helpline, Refugee Action, Refugee Arrivals Project, Refugee Council and Welsh Refugee Council. The Scottish Refugee Council did not receive any positive letters between 3 and 21 November.

The figures break down as follows:

Week	RC	MHL	RA	RAP	WRC	Total
1	2	28	9	0	1	40
2	1	21	6	3	0	31
3	0	17	4	4	0	25
Total	3	66	19	7	1	96

Migrant Helpline saw the most clients with an initial positive letter on a weekly basis with 68.7% followed by Refugee Action (19.8%), Refugee Arrivals Project (7.3%), Refugee Council (3%) and Welsh Refugee Council (1%).

The nationalities of this client group were:

Nationality	Count	Percentage
Angola	6	6.3%
DRC	7	7.3%
Iran	14	14.7%
Iraq	19	20.0%
Sudan	11	11.6%
Other	39	40.6%

4.1.4 Reasons for a positive decision

Of the 93 clients who received a positive RANS decision letter:

- 38 (40.9%) were granted eligibility to apply for NASS support because the RANS Unit deemed the client had applied for asylum "as soon as reasonably practicable"
- 37 (39.8%) clients were granted access to emergency accommodation to avoid a breach of their human rights, despite the fact the RANS Unit did not feel the client had applied for asylum "as soon as reasonably practicable"
- 18 letters granted access to emergency accommodation because the client had a dependent under the age of 18 (19.3%) and thus were exempted from section 55

One letter stated both that the client had applied "as soon as reasonably practicable" and "however, ... you may access emergency accommodation in order to avoid breach of your

Convention Rights". This type of confusion is not unusual to IAP staff who have come across similar situations frequently.

Of the clients who were deemed eligible for support under section 55 because they claimed asylum "as soon as reasonably practicable", the majority arrived by lorry and claimed asylum the same day as arrival or the next day. The findings break down as follows:

	Airport	Lorry	Train	Ship	Car	Total
Same day	2	11	1	2	0	16
Next day	2	13	0	0	1	16
2-3 days after arrival	0	3	0	0	0	3
4-8 days after arrival	0	1	0	0	0	1
9+ days after arrival	0	2	0	0	0	2

It is interesting to note that four clients were seen to have applied for asylum "as soon as reasonably practicable" after arriving by plane and leaving the airport to claim asylum at an Asylum Screening Unit when many were refused for doing the same thing. The lack of data (for example, regular access to screening notes or detailed explanations for why someone was granted a positive decision) makes it difficult to understand the grounds for positive decisions which appear inconsistent with many refusals for clients in similar circumstances.

Of the clients who were granted access to emergency accommodation in order to avoid a breach of the ECHR, six arrived in the UK by lorry, one by train, 27 by air and three were unknown. The length of time these clients waited to claim varied greatly as demonstrated below:

	Airport	Lorry	Train	Unknown	Total
Same day	2	0	0	0	2
Next day	11	1	0	1	13
2-3 days after arrival	5	3	0	2	10
4-8 days after arrival	6	2	0	0	8
9+ days after arrival	2 (65 days, 81 days)	0	1 (14 days)	0	3
Unknown	1	0	0	0	1

Note: The two asylum seekers who claimed asylum the same day they arrived were seen as not applying "as soon as reasonably practicable" because they left the airport and applied at the ASU in Croydon. They received a positive decision to prevent a breach of ECHR.

4.1.5 Findings – initial decisions

There are great inconsistencies in the reasons for both negative and positive decisions, but there is a lack of data to help us understand the grounds for the decisions made. These inconsistencies parallel the findings of research into the asylum determination process by

Asylum Aid²⁸. There are also inconsistencies between the circumstances of clients granted a positive decision and clients issued with refusal letters. Thus the Partnership agencies and legal advisers must continue to use the legal system and the reconsideration process to challenge the decisions.

4.2 Reconsideration process - overall research results

As stated in the beginning of the report, there is no mechanism in place to appeal a decision made under section 55. Therefore, the only option is to either challenge the decision in the courts, seeking a Judicial Review, or submit a request to have the decision reconsidered.

4.2.1 Reconsideration decisions received

During the three weeks of the research period, the Partnership agencies submitted 49 cases to the RANS Unit for reconsideration. Please note that these 49 only represent a small proportion of the number of cases the RANS Unit receives for reconsideration. Law practitioners and other agencies, including refugee community organisations submit a large number of reconsideration requests.

At the conclusion of the research period, the IAP had received decisions on 35 of the 49 reconsiderations submitted. These break down as follows:

Decision	Total	Percentage of decisions received
Positive decision	23	65.7%
Negative decision	12	34.3%

The high success rate of overturned decisions demonstrate that many of the initial decision were either made without attention to the potential of a breach of an individual's human rights or without careful consideration of the facts of the case.

4.2.2 ECHR

Of the 23 positive decisions reviewed, 19 (82.6%) were granted in order to avoid a breach of the client's ECHR rights (s.55.5). This may be interpreted as demonstrating that section 55 is working and that the reconsideration process is a safety mechanism for those who become severely destitute over time. However, closer scrutiny suggests that actually the RANS Unit is not paying due attention to ECHR issues when making the original decision as highlighted in the chart below.

²⁸ *No reason at all* and *Still no reason at all* by Asylum Aid: www.asylumaid.org.uk

The 19 positive section 55.5 reconsideration decisions may be analysed as follows:

Evidence submitted in reconsideration	Total
Independent medical evidence of physical or mental conditions	14 (of which at least 4 known to be caused by rough sleeping)
Pregnancy	3
Sleeping rough or imminent risk of homelessness	2
Total	19

As shown, medical conditions were the main basis for the majority of decisions to be overturned when the cases were reconsidered. Only four of these cases presented medical concerns that occurred or were made worse by sleeping rough and thus were pre-existing conditions. That the RANS Unit dismissed these medical conditions in the initial decision is of great concern.

There is a great deal of consistency in the RANS Unit's refusal of reconsideration requests alleging a breach of clients' human rights. The most common responses were:

- No established destitution/no specific evidence of length of time of such destitution, or any impact on client, or client's physical or mental health (seven cases)
- No information provided of what steps taken by client to obtain other support and not enough information provided with regard to the personal circumstances of the client to indicate that Article 3 threshold reached (three cases)

While the written responses were consistent, the justification for the comments were not. Clients in what appear to be similar situations as those refused have been granted eligibility to apply for NASS support. It is difficult to comment on these responses, because in all except four of these negative cases we have not seen the reconsideration requests submitted by the Partnership agencies. Of the four cases we have seen, two clients were being temporarily housed by someone from their community at the date of the reconsideration request. In a third, it was stated that the client would become destitute upon eviction from emergency accommodation two days after the date of the reconsideration letter. In the fourth, it was stated that the client was sleeping rough, was begging for food, and his physical and mental health were deteriorating. The RANS Unit declined the reconsideration request on the grounds that it had not been demonstrated that the client had exhausted potential sources of charitable support. Hence, in all these cases, the RANS Unit did not believe that the client was suffering a breach of Article 3.

Refugee Action submitted a reconsideration request on Article 3 grounds for a 36 year old Somali woman. Staff included letters from local charities, Shelter, Leicester City Council Social Service Department and The Red Cross as evidence that the client was unable to access charitable support. This woman had been homeless since 6 November 2003.

"...although the British Red Cross is not able to provide accommodation, it provides support in form of food vouchers, blankets, toiletries and tinned provisions. In view of this it is concluded that the decision-maker correctly stated that your client has support from the Red Cross. Therefore there is not sufficient evidence as to why your client is unable to avail herself of charitable or other support."

Letter from the RANS Unit declining the request to grant access to the NASS system (dated 29 November 2003)

4.2.3 "As soon as reasonably practicable"

In two cases submitted for reconsideration, it was accepted that the client had in fact applied for asylum "as soon as reasonably practicable". In the first of these, the Partnership agency successfully argued that the initial refusal was "without rational, reasonable or evidential basis". In the second, the RANS Unit initially argued that a client who had claimed asylum within one hour of disembarking his plane had not claimed soon enough. After being asked to reconsider, the RANS Unit issued a second negative letter, but when challenged by an agency manager, stated this letter had been issued in error.

But many of the reconsiderations submitted by the IAP on s.55.1 grounds were refused. The IAP received 12 reconsideration cases with negative outcomes during the research period. In 10 of these cases, the evidence to support reconsideration covered both the timeliness/credibility of the applicant's claim and alleged breach of the claimant's human rights.

Some example statements included in reconsideration refusal letters:

"In your letter of 30 September you state that your client feared persecution in Angola. It is therefore reasonable to expect that if your client left his country fearing for his life, then he should have made his true intentions of travel to the UK known to the authorities in the UK upon his arrival. It is also noted that your client entered the UK illegally. Therefore it is considered no matter what your client's thoughts were, he should have presented himself before the UK authorities on his arrival. It is accordingly maintained that it is not accepted that your client claimed asylum as soon as reasonably practicable."

NASS letter dated 6 November 2003, refusing reconsideration request of an Angolan male aged 26 (RC)

"In your submissions you claim your client was sitting on the chair inside the airport before being approached by the Immigration Officer for approximately 15-20 minutes. However, this casts doubt on your client credibility as your client previously stated that it was an hour after his arrival that he was approached by the Immigration Officer. This therefore establishes the fact that your client had every opportunity to claim asylum before being approached by an Immigration Officer, considering the fact that he was there for an hour. It is therefore decided that the decision to refuse your client NASS support is sound...."

NASS letter dated 13 November 2003 refusing reconsideration request of Pakistani male aged 38 (MHL)

As noted before, the question of credibility seems to be of primary concern when making a decision instead of taking variations in cultural practices into account. And, the standard of evidence needed to prove a client applied for asylum "as soon as reasonably practicable" is set unreasonably high. Also, there is great inconsistency on initial decisions regarding section 55.1 being overturned after closer investigation of the facts of the case.

4.2.4 Practical concerns

The IAP is greatly concerned with the large number of reconsideration decision letters that contain mistakes or errors that take great time and effort to rectify as well as decisions that resulted from a lack of consideration of the evidence submitted. The level of inconsistency is very disconcerting to IAP staff – frequently staff submit similar cases with similar evidence and receive two different decisions.

During the research period, for instance, the IAP submitted three reconsideration cases on the grounds of a client's pregnancy, or the birth of child. The responses of the RANS Unit in these three cases were quite varied. In one case where the reconsideration request was submitted after the birth of the child, the RANS Unit responded that this was not a priority case, and the positive decision was only received after a complaint had been made by the IAP agency advising the client. In a second case, three reconsideration requests were made over a period of nearly four months before a positive response was received. In the final case, two reconsideration requests were made. These examples illustrate the inability of the RANS Unit to make decisions on reconsiderations within the recommended 24hour timeframe²⁹, even in clear cut cases – families are exempt from section 55.

Another issue is the amount of time and resources required to submit a reconsideration request to the RANS Unit. This research shows that together with communication issues (see Section 5) this has a significant impact on organisations advising clients on reconsiderations.

The evidence shows clearly that the reconsideration process would not be utilised to such an extent if initial decisions making was fair and consistent. It is important to note that clients are

²⁹ When the RANS Unit was originally established, the director of NASS, Freda Chaloner, committed to making reconsideration decisions within 24 hours of submission. Mr. Justice Maurice Kay, in his guidance handed down on 24 October 2003 recommended that the RANS Unit make a decision on reconsideration requests within 24 hours.

unable to access EA while they are waiting for a reconsideration of their initial decision. The average waiting time for a reconsideration decision was 5.39 days – this means that these clients must remain unsupported while they await their decision. Furthermore even if the level of destitution experienced when the reconsideration request is submitted does not, according to the RANS Unit, meet the Article 3 threshold, by the time the decision is made five days later, the level and impact of destitution will be significantly higher.

5. Procedural review of section 55

One of the objectives of this research project was to evaluate the procedures and systems put in place in order to implement section 55. One of the ways the IAP met this objective was to pull together the key communication concerns its staff have experienced when dealing with the RANS Unit. The evidence submitted highlights some of the NASS/RANS miscommunication and inconsistencies and revealed the additional work and resources needed to implement section 55.

19 concerns were noted between 3 and 21 November, many of which contained multiple entries. Of these, the most common was the need for multiple contact with the RANS Unit in order to resolve an issue for a client (11 total). There were an equal number of entries under the categories, 'RANS unresponsive' and 'flawed liaison between IND and RANS'³⁰ (10 each). Eight staff found they received conflicting advice from the RANS Unit and three staff from the IAP found the RANS Unit inaccessible. While these entries are not a statistical sample of the procedural concerns experienced by the IAP, it does give an idea of the kinds of difficulties staff have in communicating with the RANS Unit regarding section 55. Furthermore, based on anecdotal evidence, the IAP is inclined to believe that these examples under-represent the stress caused by procedural concerns on both staff and the clients they are serving.

In addition to the research discussed above, several IAP agencies submitted some of their specific concerns regarding section 55. A few of the key points these agencies raised are detailed below.

5.1 Communication concerns

Communication problems with the RANS Unit were the most common issue raised within the IAP regarding section 55, as noted above. The weak communication flow frequently results in unnecessary distress for IAP staff and their clients and is a waste of time and resources for both the RANS Unit and the IAP. While frustrating for staff, the ineffective communication often has the most detrimental impact on the client.

Migrant Helpline had a client who was suicidal. He had been refused support under section 55. Migrant Helpline staff communicated with the RANS Unit both via telephone and fax, but they were passed from caseworker to caseworker. The staff at Migrant Helpline made it known that this was an urgent case, but it took three days for the case to be resolved.

³⁰ Please note this refers to communication issues between the RANS Unit and other departments within IND, particularly the Asylum Casework Directorate.

A Refugee Action client who is HIV positive was refused support under section 55. On 3 November, the client came to Refugee Action who immediately submitted a reconsideration with medical evidence proving he was HIV positive. The RANS Unit sent a confirmation that they had received the reconsideration on the same day, but no decision was granted. Refugee Action phoned on 4, 5 and 6 November and then was asked to fax a new letter with supporting evidence. They did so. Several times the RANS Unit told Refugee Action that a decision had been made and was going to be faxed. Yet, no fax was received. The decision that was finally received said that the client was refused because there was no medical evidence or proof of destitution (both of which had already been sent). On 10 November, Refugee Action sent the evidence again. RANS staff confirmed receipt of the evidence. However, on 11 November, RANS staff say they never received the fax. The case was not resolved until 13 November.

Also, on a number of occasions, the RANS Unit has declined to inform the IAP of the outcome of decisions made, even if that decision has a direct impact on the service it provides to a client. Frequently the RANS Unit will inform the Partnership agencies that a decision has been made, but will not inform them whether the decision was positive or negative. Therefore IAP staff do not know until the last minute whether the client is entitled to remain in EA or if they need to be prepared for eviction.

And finally, copies of Level 2 screening invitations are commonly not copied to the IAP and thus staff at the IAP are unaware when clients in their EA are invited for a screening.

5.2 Relationship between the RANS Unit and other parts of IND

Section 55 impacts policies and procedures across IND. The IAP note that many staff within IND are unaware of section 55 and its implications for their procedures. This confusion makes the work of the IAP more time-consuming and complicated.

Scottish Refugee Council staff have had to explain Home Office policy relating to section 55 to Immigration Service and Asylum Casework Directorate employees. In one instance the section 55 process was explained to an employee at the Asylum Screening Unit in Liverpool who agreed to look into the case. The individual never returned the call and it later emerged that they had failed to follow up the enquiry because they did not know what RANS was.

The Refugee Arrivals Project is placed in a unique situation due to the relationship between Eaton House (part of IND) and the RANS Unit. Most clients are referred to the Refugee Arrivals Project by Eaton House Enforcement Unit located in West London. These clients are normally required to report to Eaton House on weekly or bi-weekly basis. The RANS Unit can track a client's reporting appointments at Eaton House directly by database. Therefore, the RANS Unit normally faxes Level 2 screening interview appointment letters to Eaton House with the expectation that the letters will be handed to applicants at the time they go to Eaton House for reporting purposes. Despite RAP's frequent attempts to resolve this issue, Eaton House frequently fails to submit the appointment letters to applicants.

A client assisted by the Refugee Arrivals Project arrived in the UK on August 30 and applied for asylum through Eaton House. Lunar House sent a letter to the applicant on September 10 via Eaton House inviting him to attend his Level 2 screening interview. Eaton House did not hand the client this letter and therefore the client missed the screening interview. As a result, the client was refused access to NASS support. The Refugee Arrivals Project had difficulty getting a response from both Eaton House and the RANS Unit to rectify the problem.

Even a year after section 55 was implemented, many IND staff still appear to be largely unaware of section 55; its impact on potential asylum seekers; and its impact upon the services the IAP can provide. This is especially true outside of London.

Scottish Refugee Council's out-of-hours service has received calls from Immigration Officers asking them to accommodate new arrivals overnight before their asylum claim is even registered. By failing to register asylum claims and instead attempting to refer the person to Scottish Refugee Council's EA, Immigration Officials endanger the person's chance of meeting the legal requirements set out in section 55.

5.3 Policy inconsistencies

The IAP is also concerned with inconsistencies in the application of section 55. This is especially true for clients with special needs, families and age-dispute cases – cases which, according to the policy, should be exempt from section 55. Often, a Partnership agency will submit a number of similar cases to the RANS Unit, but the clients will receive different decisions. It is common for section 55 policy to undergo significant change with little or no consultation and with insufficient briefings to both IAP and IND.

Families arriving in Scotland one week were automatically issued with a positive RANS letter. But the next week families were issued with holding letters until they could attend a Level 2 screening interview. Neither Scottish Refugee Council nor staff at Scottish Enforcement Unit were properly informed of the change. Then, after a period of one week things reverted back to the way they had been run before.

The IAP has also experienced policy inconsistencies when dealing with pregnant women. The time a woman has to be pregnant before she is entitled to a positive RANS letter varies depending on which member of the RANS Unit the IAP speaks to: some pregnant women have received positive letters very early in the pregnancy, other women have been told to wait until the eighth month.

5.4 Time limited 'holding letters'

It is unclear why clients are now issued time limited holding letters which need to be renewed each month. The IAP is not permitted to apply for a new holding letter until the old one has expired. This means that the IAP routinely accommodates clients overnight after one holding letter has expired and before a new one can be issued. It would be more practical to issue clients with a holding letter that would expire when clients receive their section 55 decision. Furthermore, when clients have been screened at IND's Asylum Screening Unit in Liverpool it normally takes multiple phone calls before a holding letter is issued each month, and the section 55 procedures normally have to be explained to staff there.

A client of the Welsh Refugee Council arrived in the UK on 8 October 2003. He was issued a holding letter that had to be renewed on the 8th of each month. The Welsh Refugee Council faxed a request to the RANS Unit on 8 December asking for the holding letter to be renewed. The Welsh Refugee Council received a telephone call from the RANS Unit later that day and was informed that, as the applicant's asylum claim had been fully determined on 4 December, they were not going to issue authorisation to re-admit him to EA. On 9 December, the Welsh Refugee Council contacted his legal representative who had not received any information on the client's decision. After learning that the decision was a refusal, the client and his legal adviser agreed to lodge an appeal. When the Welsh Refugee Council contacted the RANS Unit to inform them an appeal would be lodged, the RANS caseworker said they would call the Welsh Refugee Council back regarding EA. On 10 December, the RANS Unit informed the Welsh Refugee Council that as the Home Office did not have the appeal papers it was not possible to authorise EA. The RANS Unit agreed a letter from solicitor of intention to appeal would be looked at but informed them that until the Home Office has actually received the appeal, EA would not be authorised.

Migrant Helpline contacts within the RANS Unit were trying to address the issue of clients who have been awaiting a RANS decision since June 2003. A number of these cases have been identified (using CID) as having had decisions made but never issued. In many cases the files for these clients cannot be located easily, and the physical file is needed before the decision letter can be issued. Some files are in Leeds, Liverpool and other locations. This applies to RANS grant letters as well as refusals, and in practice means that Migrant Helpline may have clients in EA who could in fact have been dispersed had letters been issued.

5.5 Platinum House

The feedback Migrant Helpline received from its clients indicates that this procedure was confusing and even distressing for them. A couple of issues came up more than once:

- The briefing from NASS was unclear and not always in the native language
- The briefing by NASS was incomplete
- Decision Letters did not always reach the clients following screening interview
- Clients regularly missed meals due to travel times

Furthermore, if a client missed a Level 2 screening appointment (sometimes linked to failed communication by the RANS Unit), the client received an immediate withdrawal of EA or NASS support. The IAP had to arrange a new screening appointment date before the client could access EA or support. This remains stressful and time-consuming for both staff and clients.

5.6 Accessing the asylum system

Accessing the asylum system is very difficult for many clients who present in the regions. For example, since 2 September 2003 single asylum seekers arriving in Scotland have no longer been able to lodge their claim in Glasgow (unless they have special needs) and now have to travel to Liverpool. Section 55 requires asylum seekers to make their asylum claim "as soon as reasonably practicable". Making asylum seekers travel from Glasgow to Liverpool to lodge their claim clearly makes it more difficult for asylum seekers to meet this legal requirement.

The restricted access to the Asylum System in the regions is made worse by the recent changes to Asylum Screening Unit opening hours. Whilst the IAP acknowledges the aim to reduce backlogs, screen the maximum number of clients possible, and to deal with the most vulnerable clients quickly so that they can access section 98 support and be admitted to EA, again this policy serves as another barrier to claiming asylum in the UK. In partnership with the IAP the Immigration Service has started issuing clients with a pro-forma so they can prove when they first presented at the ASU, with a specific time to return for Level 1 screening. This is an extremely positive step, but does not resolve the issue of support in the interim, nor does it cater for those arriving at the ASU outside its short opening hours. Clients are not able to access support, and are consequently left unsupported for a period of time completely at the discretion of the ASU. Clearly, this is unacceptable – especially for those clients who initially presented in the regions and have been forced to travel unfunded to an ASU. The IAP strongly urges a review of this policy.

5.7 Induction Centre issues

The aim of Induction is to get clients through the process and dispersed within seven working days (in practice more like 10/14 days). There are issues in the Induction accommodation which arise because RANS clients see NASS clients coming and going very quickly, whilst they have been in accommodation for anything up to five months. These clients become restless and agitated about their situation, which in turn causes problems for Migrant Helpline staff who are providing accommodation and services. RANS clients often see the situation as discriminatory because they don't understand why they are being treated differently to other clients.

5.8 Non-passenger ports

Although the numbers are not large, there are asylum seekers who enter the UK at non-passenger ports. These asylum seekers have difficulty accessing Immigration and thus proving that they applied for asylum "as soon as reasonably practicable". It is also difficult for these clients to travel to Croydon or Liverpool. It is possible that many of these individuals will never enter the asylum system, due to the barriers which make applications more difficult.

5.9 Exclusion from the asylum process

Once an asylum seeker is denied access to NASS support under section 55, they have a harder time complying with asylum procedures. Individuals who are unsupported will often be unable to access legal advice or receive essential correspondence from the Home Office because they do not have an address. Some claimants may therefore be excluded from the system with the Home Office unable to effectively track them in the UK. There is no way of knowing how many individuals are excluded, or choose to exclude themselves, in this way.

5.10 Other

The IAP have had a number of clients who have received a positive asylum decision before receiving a RANS decision. As the 'grace' period in accommodation for these clients is only seven days, it poses an almost impossible task for the One Stop Service to obtain the necessary paperwork and forms to enable the client to move on to mainstream benefits and to find accommodation. The clients may therefore find themselves with status, but homeless and unsupported.

5.11 Dover Ashford Margate Project

Migrant Helpline in Kent has a dedicated team within the RANS Unit, known as the DAMP (Dover Ashford Margate Project). This has alleviated many of the communications problems experienced by Migrant Helpline.

Migrant Helpline produces a daily list of clients awaiting a RANS decision, and the DAMP team uses this list to call clients to Croydon for Level 2 screening interviews. Migrant Helpline therefore has prior warning that clients are required to go to Croydon and consequently can brief them accordingly.

Establishing a similar arrangement for the other IAP agencies would alleviate many of the procedural concerns outlined in this section.

6. Conclusion

The evidence from the research project strongly suggests that section 55 is not a workable policy. The pattern that has emerged from the research documents many unforeseen implications. These have unintentionally undermined the very aim of the policy.

6.1 Section 55 statistics

When examining the figures collected by each Partnership agency on the clients they see who are affected by section 55, it is obvious that each One Stop Service has felt the ramifications of section 55 on its services. For some like Migrant Helpline and Refugee Council, it is the large number of asylum seekers who come to their office with a RANS refusal letter, in desperate need of assistance that the IAP cannot provide. For other offices, the number of clients in emergency accommodation for extended periods of time has reduced their capacity to efficiently provide core services.

One key implication of section 55 that the statistics reveal is that the IAP is only seeing a small percentage of clients refused under section 55. To date, no one knows exactly what is happening to the unseen clients – whether or not they have access to regular food and shelter, if they have found community support, or if they have absconded from the asylum system altogether. It is also likely that many unsupported asylum seekers will be forced into crime or prostitution to survive.

Many destitute asylum seekers with no recourse to support naturally turn to the Partnership agencies for support. The difficult concept to accept, however, is that no charity or refugee community organisation is funded to assist people in these circumstances, yet somehow the charity sector is expected to bridge the gap.

6.2 Client survey

The client survey illuminated how individuals are often caught in a downhill spiral once refused the right to apply for asylum support. Research shows that refugees often must rely on what they are told by agents or ill-informed family members because they do not have an awareness of the concept of asylum or knowledge of the UK asylum process. The research shows that in many cases the Home Office does not accept this lack of knowledge as evidence to support a late asylum application.

Both clients refused support under section 55 and clients who are awaiting their Level 2 screening stated that the asylum support system is stressful at best, frightening and confusing at worst. Many are distressed because they felt they had applied for asylum “as soon as reasonably practicable”, that they tried to comply with the UK asylum procedures to the best of their knowledge, and yet the Secretary of State did not find their account credible.

6.3 Decision letters

Examining the decision letters revealed that the RANS Unit can be inconsistent in their decisions on whether or not a person applied for asylum "as soon as reasonably practicable". The detailed letters demonstrate the RANS Unit is no longer using a form letter, which is in compliance with court rulings. The RANS Unit is now required to consider each case on its individual merits. However, the RANS Unit's dismissal of credible and common explanations for why a person applied for asylum in-country implies that this not the case. Thus it is not just the inconsistencies that demonstrate the flawed decision making process. It is also the consistency in assuming all in-country applicants are 'economic migrants' with the intent of abusing the system and making the evidence needed to 'prove' a person is genuinely seeking asylum unrealistic.

6.4 Reconsiderations

The reconsideration process is a vital safety net for those who are denied eligibility to apply for NASS support. The IAP witness a high success rate in getting an original decision overturned due to practical reasons and inconsistencies. That a large number of decisions are overturned on ECHR grounds so quickly after submissions indicate that many destitution issues should have been considered more thoroughly in the original decision. This demonstrates that the initial decision making process is flawed. Couple this with the high success rate of Judicial Reviews, and a picture of a system that is not just flawed, but unjust, emerges.

The reconsideration cases that were successful, according to the few cases that were submitted for the research project, made reference to legal precedents, describe in detail the clients' actual or imminent homelessness, and contain medical evidence that a physical or mental condition is or will be worsened by sleeping rough or irregular diet. According to court rulings, evidence of physical or mental conditions is not necessary to warrant entitlement to support in order to avoid a breach of Article 3 of the ECHR. However, the trend tends to appear that it is very difficult to prove someone is suffering a breach of their human rights without a physical or mental condition that is exacerbated by sleeping rough.

6.5 Procedural concerns

Throughout 2003, section 55 has become more cumbersome and complicated. The research establishes that the section 55 process and procedures are inefficient and prone to error. This creates a great strain on IAP staff who must spend time chasing decisions and seeking clarification from the RANS Unit.

Considering the policy from an economic and value for money perspective, the IAP would suggest that consideration should be given to the following questions.³¹ Does the financial cost

³¹ When asked what additional budgetary resources have been redirected and allocated to cover operating costs relating to section 55 since 8 January 2003, Beverley Hughes said, in a written statement to Parliament, "The Immigration and Nationality Directorate's (IND) resources cover a wide range of activities including the cost of administering work related to section 55 of the Nationality, Immigration and

of operating the RANS Unit, and the cost to the Court system justify the reduced government expenditure resulting from not providing support to clients refused under section 55? As Mr. Justice Maurice Kay stated in the guidance handed down to the Administrative Court on 24 October 2003, surely this process is taking much needed resources away from the processing of asylum claims. That the RANS Unit relies on the large numbers of staff seconded from other sections of IND supports such an assertion.

Section 55 and the way it is being implemented not only negatively affects the basic survival of thousands of asylum seekers, it also means refugee agencies and presumably the Home Office are beginning to lose touch with a large section of the asylum seeking community. Tom Daly, Deputy Manager of the Refugee Council Eastern Region office explains: "Before there was the One Stop Service, emergency accommodation and dispersal – it was a tight ship, we knew where everyone was. Plus, it was run on humanitarian lines, people trusted it. Today, section 55 has taken One Stop Services out of the reception equation and now its all broken down – we don't know where people are. They are being left to wander on their own."³²

In conclusion, this research strongly suggests that the basis of section 55 as originally announced to Parliament – to crack down on abuse of the asylum system – is not reflected in the current interpretation of the legislation. The time, cost and resources needed to sustain section 55 cannot be justified when the initial decision-making process is inefficient and flawed. The impact on asylum seekers who are refused eligibility to apply for support has yet to be accurately measured, but this research shows a worrying level of destitution and suffering.

"My experience so far has not been a human one! I can't even start to imagine how or why people like us are treated like animals! I can only pray for the situation to get better... my main concern is my health and well-being." *28 year old male from Sudan*

"I feel it is shameful and embarrassing to go begging for food and shelter. In my country, people do not allow strangers to sleep on the streets. This would not happen to any foreigner. Is [the UK] a civilised country?" *27 year old male from DRC*

Asylum Act 2002. This cost is not separately identifiable within the total IND budget". *Hansard, 17 Dec 2003: Column 936W*

³² From in exile, *Destitution beyond reasonableness*, Jan/Feb 2003

7. Recommendations

The IAP strongly recommends that the Government repeal section 55. The IAP believes that there is significant evidence to support the view that this policy is causing unnecessary distress to newly arrived asylum seekers, and decision making is not refined enough to truly penalise those trying to abuse the system. In fact, there is no evidence that section 55 is meeting its objective to reduce abuse of the asylum system.

If Section 55 is not repealed then many changes are required to make it a humane policy, to ensure that it works in practice and meets the original policy intention of excluding people who had been in the country for long periods prior to making an asylum claim rather than penalising asylum seekers who are ignorant of the system.

Decision making process

The initial decision making process must be improved. If the quality of initial decision making is improved then unsupported asylum seekers would be less dependent on the reconsideration process and/or the court system. In order to improve initial decision making, the following are recommended:

- 7.1 This research shows that there is considerable divergence in the competence of staff within the RANS Unit, as well as those conducting Level 2 screening. There is inconsistency in complying with relevant screening guidelines. Thus, more training is required for both the interviewing teams and the Post Refusal Casework Team.
- 7.2 The screening interview should focus on the test for section 55.1 – whether or not the client applied for asylum “as soon as reasonably practicable”. Other areas of questioning designed to test credibility should not be relevant.
- 7.3 The RANS Unit should comply with the CoA Q et al ruling³³ that the interviewer must allow the possibility that a client would follow the advice of an agent they trusted to help them journey to safety. The interviewer should also acknowledge that applying at Immigration control is not as well known or understood as currently supposed and thus many clients apply for asylum after passing through Immigration control.
- 7.4 The RANS Unit should consider each case on its individual merits yet remain consistent in the application of the policy. With a wider interpretation of “as soon as reasonably practicable” this should not be difficult.
- 7.5 The screening interview should be made less intimidating. The client should have the opportunity to raise concerns regarding the quality of the interpreting service provided. Clients should also be allowed the opportunity to comment on whether or not they were satisfied with the screening interview and felt they were listened to, were understood and were able to explain their experience regarding applying for asylum.

³³ Court of Appeal test case judgment R -v- Secretary of State for the Home Department (Exparte Q et al)

- 7.6 The RANS Unit must continue to carry out the backlog clearing exercises across the UK and in London. However, along with the goal of clearing the backlog in EA, the aim should be to make quality initial decisions.
- 7.7 Clients should be given copies of their screening notes with more consistency. The interviewer should stress that it is important for the client to keep the screening notes in case they wish to challenge the decision.

Support issues

- 7.8 If the Home Office will not provide a safety net for destitute asylum seekers (i.e., NASS support), then the IAP is of the view that asylum seekers should be given permission to work.
- 7.9 If the Home Office expects refugee communities and local charities to provide a safety net for destitute asylum seekers instead of NASS, then it should provide funding to appropriate agencies to facilitate such services.

Procedural concerns

- 7.10 There is a great need to increase awareness of the section 55 process and procedures across the whole of IND, particularly within the Immigration Service and the Asylum Screening Units. Particular attention should be given to regional operations including Scotland.
- 7.11 Migrant Helpline in Kent works with a dedicated team within the RANS Unit, known as DAMP (Dover Ashford Margate Project) that has alleviated many of the problems it experienced. The DAMP team is aware of the unique situation in Kent and is able to answer most queries efficiently. This has improved communication between Migrant Helpline and the RANS Unit. Similar teams should be established for the other IAP agencies.
- 7.12 The RANS Unit should inform the relevant IAP agency of any section 55 decisions it has made for an IAP client. This information should be passed on more consistently and in a more timely fashion than current practices.
- 7.13 There should be better communication flows between the RANS Unit, other NASS departments and the Asylum Casework Directorate. When clients receive a decision on their asylum application prior to hearing from the RANS Unit, legal advisers and IAP staff have great difficulty chasing the required documents to allow the client to access the appropriate support. This is unnecessary and consumes great time and resources for the refugee sector and IND.
- 7.14 The need to renew holding letters while a client is in EA is unnecessary and an inefficient use of staff time and resources for both the IAP and the RANS Unit. Instead, the IAP recommend that holding letters expire once a client has attended a Level 2 screening interview. If clients are denied access to NASS support, then a time limited letter should

be issued at this point allowing the client to remain in EA up to seven days from the negative section 55 decision.

- 7.15 Transportation costs to the Level 2 screening should be provided for destitute asylum seekers.
- 7.16 Clients who enter the UK via non-passenger ports where the Immigration Service is not present should be treated as port applicants automatically. This is currently the case for a few ports like Immingham, but should be made a general, consistent policy across the UK.

Policy concerns

- 7.17 The RANS Unit must be more consistent in applying the policies regarding asylum seekers classified as having additional or care needs. This is especially true for pregnant women and clients who are HIV positive or who have TB.
- 7.18 The RANS Unit needs to be more consistent in its implementation of exempting families from section 55. Currently, some families are issued a letter entitling them to EA immediately while others must attend a Level 2 screening interview.
- 7.19 IND needs to redirect resources from section 55 to the Asylum Casework Directorate. If asylum decisions were made in a timely fashion, the cost of supporting asylum seekers would be reduced.

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Glossary

Asylum Casework Directorate (ACD)

Home Office department that assesses asylum applications (part of IND). Once referred to as the Integrated Casework Directorate (ICD).

Asylum Screening Unit (ASU)

Home Office department that holds preliminary interviews with in-country asylum seekers to establish a person's identity, prior to a full IND interview on the details of the case (conducted by the ICD).

Asylum seeker

Regarding an individual who has fled their home due to fear of persecution, has entered the UK, and has applied for asylum. While the individual is waiting for the Government to process their asylum application, the person is called an asylum seeker. If the Government decides the person is genuinely in need of protection, they will grant the individual either refugee status or a type of temporary protection (i.e., humanitarian protection or discretionary leave), allowing the individual to stay in the UK and integrate into British society.

Asylum Support Adjudicator (ASA)

An independent organisation that considers appeals from asylum seekers whose NASS support has been withdrawn or discontinued. Legal representatives, the IAP, the client themselves, or any other advice agency may submit ASA appeals for consideration. Clients refused under section 55 can not appeal to the ASA.

Emergency accommodation (EA)

Section 98 of the Immigration and Asylum Act 1999 allows the Secretary of State to provide the provision of support to destitute asylum seekers while their application for NASS support is being processed. This is often full-board accommodation.

European Convention of Human Rights (ECHR):

Drafted in 1949 after the Second World War

Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment

Human Rights Act 1998 (HRA)

The Human Rights Act has its origins in the Council of Europe's *Convention of Human Rights*. The United Kingdom was one of the founder members and the first to sign up to the measures in the Convention in 1951. It is, however, one of the last signatories to incorporate the ECHR into domestic law. The ECHR has been an international obligation since 1951, but where citizens felt UK law and practice contravened these rights, they had to go to the European Court in Strasbourg for a ruling. Now they can use the British courts to enforce their rights.

Immigration Nationality Directorate (IND)

The Home Office department responsible for all immigration and asylum issues. IND contains Immigration Service, ACD and NASS.

Inter-Agency Partnership

NASS (see below) funds the voluntary sector to provide emergency support and advice to asylum seekers across the country. Six charities are contracted to assist in implementing the support arrangements for asylum seekers that came into effect on 3 April 2000 under the Immigration and Asylum Act 1999 when NASS was created. The voluntary agencies funded by NASS are Migrant Helpline, Refugee Action, Refugee Arrivals Project, Refugee Council, Scottish Refugee Council, and Welsh Refugee Council. These six charities, which make up the Asylum Support Programme Inter-Agency Partnership (IAP or Partnership agencies), are independent charities. However, they work as a partnership to provide support to asylum seekers through One Stop Services around the UK (see the 'info centre' of the Refugee Council website for more information on One Stop Services: www.refugeecouncil.org.uk).

Inter-Agency Co-ordination Team

The Inter-Agency Co-ordination Team (ICT) is a small team set up to service the Asylum Support Programme Inter-Agency Partnership (IAP). ICT is the team responsible for this research project.

NASS

In April 2000, the Home Office established the National Asylum Support Service (NASS), to coordinate the arrangements for supporting asylum seekers, including their dispersal to different areas of the UK. It was established under the terms of the Immigration and Asylum Act 1999, which removed asylum seekers from the mainstream welfare system. NASS provides a basic package of support to asylum seekers. To qualify for NASS support, an asylum seeker has to show that s/he is destitute (i.e. has no other means of support). Asylum seekers can apply to NASS for section 95 support which includes either accommodation and support, or support only, if they have somewhere to stay, in which case no accommodation costs will be paid by NASS.

Platinum House Backlog Clearance Exercise

The CoA Q et al ruling³⁴ demanded a radical overhaul of procedures relating to section 55. With the decision-making process was prolonged, an increasing number of asylum seekers were waiting for section 55 decisions in EA. Subsequently, NASS did not make decisions on these backlog cases because they focused their resources on screening newly arrived asylum seekers. In July, 2003 the Home Office began an exercise to clear the backlog of clients in emergency accommodation with a section 55 holding letter. NASS initiated a six month backlog clearing exercise for clients in London EA prior to July 7. The exercise was called Platinum House after the location of the screening interviews.

After an initial clearing of the pre-7 July clients in London EA, the RANS Unit conducted backlog clearing exercises in the regions. RANS now plan to conduct further backlog screenings for those who arrived post 7 July.

RANS Unit

With the creation of section 55, NASS established a team of people who would ascertain whether or not an asylum seeker was eligible for support under section 55. The RANS Unit (Restricted Access to NASS Support) was created and is officially part of the NASS system. The RANS Unit, with support from the Immigration Service, conducts an in-depth screening interview that focuses on an asylum seeker's entry into the UK and their application for asylum (called Level 2 Screening). The RANS Unit is also responsible for reconsideration of s.55 decisions.

Reconsideration

Individuals refused NASS support under section 55 cannot appeal the decision. However, asylum seekers can request to have their case reconsidered. A reconsideration of a decision on ECHR grounds requires some or all of the following supporting evidence:

- Evidence that there is no support available to the individual including charitable accommodation or support from friends, family or community

³⁴ Court of Appeal test case judgment R -v- Secretary of State for the Home Department (Ex parte Q et al)

- Evidence from a doctor or hospital relating to physical symptoms of lack of support (such as malnutrition, stomach disorders, weight loss)
- Evidence from a doctor or hospital of any physical or mental conditions
- Evidence of how the applicant is living and how this is impacting on his/her state of mind (such as how it is diminishing his/her human dignity)

Universal Declaration of Human Rights, 1948 United Nations

Article 14 (1): Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Section 55 of the Nationality, Immigration and Asylum Act (2002):

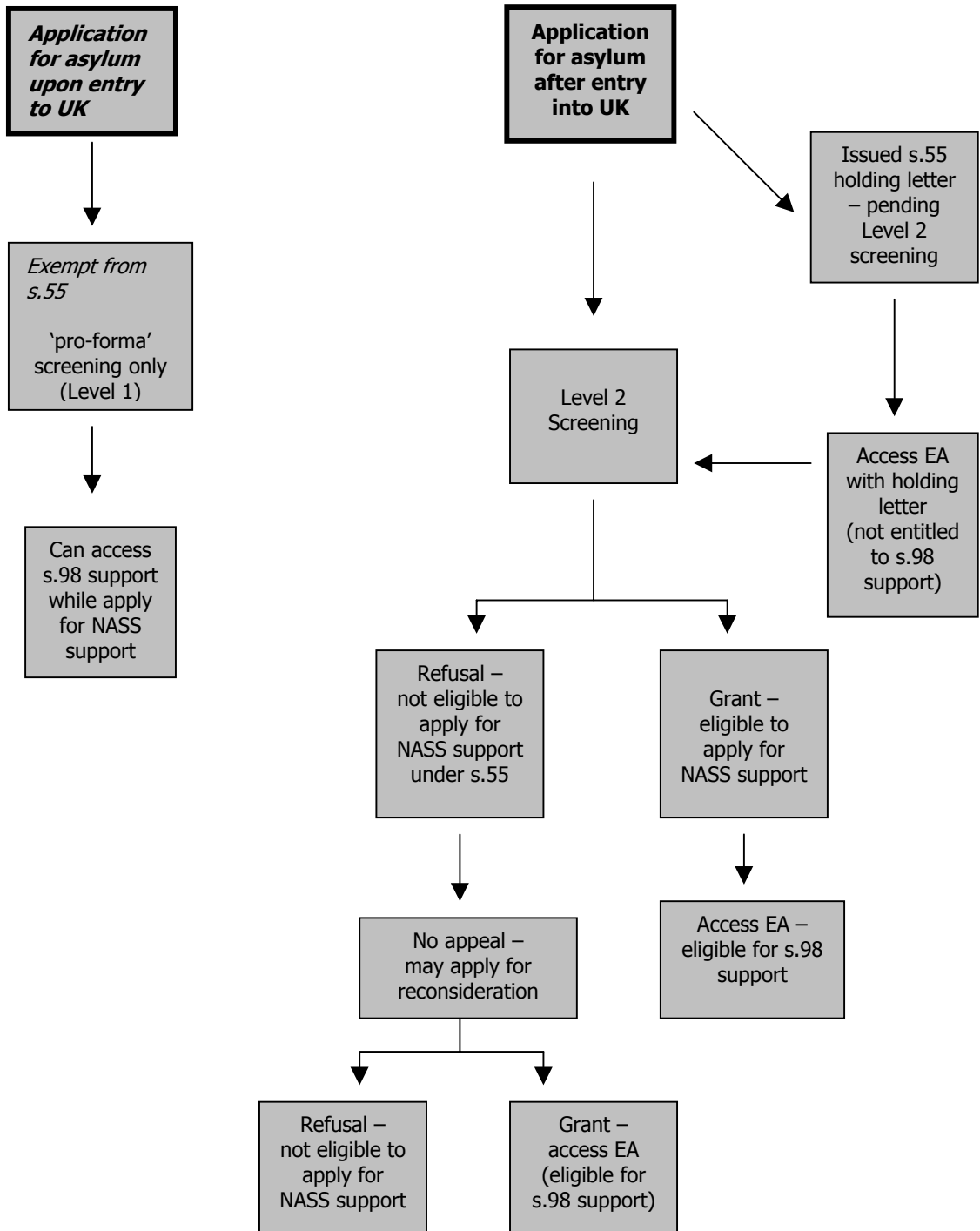
- (1) The Secretary of State may not provide or arrange for the provision of support to a person under a provision mentioned in subsection (2) if-
 - (a) the person makes a claim for asylum which is recorded by the Secretary of State, and
 - (b) the Secretary of State is not satisfied that the claim was made as soon as reasonably practicable after the person's arrival in the United Kingdom.
- (2) The provisions are-
 - (a) sections 4, 95 and 98 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker, &c.), and
 - (b) sections 17 and 24 of this Act (accommodation centre).
- (3) An authority may not provide or arrange for the provision of support to a person under a provision mentioned in subsection (4) if-
 - (a) the person has made a claim for asylum, and
 - (b) the Secretary of State is not satisfied that the claim was made as soon as reasonably practicable after the person's arrival in the United Kingdom.
- (4) The provisions are-
 - (a) section 29(1)(b) of the Housing (Scotland) Act 1987 (c. 26) (accommodation pending review),
 - (b) section 188(3) or 204(4) of the Housing Act 1996 (c. 52) (accommodation pending review or appeal), and
 - (c) section 2 of the Local Government Act 2000 (c. 22) (promotion of well-being).
- (5) This section shall not prevent-
 - (a) the exercise of a power by the Secretary of State to the extent necessary for the purpose of avoiding a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)),

- (b) the provision of support under section 95 of the Immigration and Asylum Act 1999 (c. 33) or section 17 of this Act in accordance with section 122 of that Act (children), or
 - (c) the provision of support under section 98 of the Immigration and Asylum Act 1999 or section 24 of this Act (provisional support) to a person under the age of 18 and the household of which he forms part.
- (6) An authority which proposes to provide or arrange for the provision of support to a person under a provision mentioned in subsection (4)-
- (a) must inform the Secretary of State if the authority believes that the person has made a claim for asylum,
 - (b) must act in accordance with any guidance issued by the Secretary of State to determine whether subsection (3) applies, and
 - (c) shall not be prohibited from providing or arranging for the provision of support if the authority has complied with paragraph (a) and (b) and concluded that subsection (3) does not apply.
- (7) The Secretary of State may by order-
- (a) add, remove or amend an entry in the list in subsection (4);
 - (b) provide for subsection (3) not to have effect in specified cases or circumstances.
- (8) An order under subsection (7)-
- (a) may include transitional, consequential or incidental provision,
 - (b) must be made by statutory instrument, and
 - (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (9) For the purposes of this section "claim for asylum" has the same meaning as in section 18.
- (10) A decision of the Secretary of State that this section prevents him from providing or arranging for the provision of support to a person is not a decision that the person does not qualify for support for the purpose of section 103 of the Immigration and Asylum Act 1999 (appeals).
- (11) This section does not prevent a person's compliance with a residence restriction imposed in reliance on section 70 (induction).

The Nationality, Immigration and Asylum Act 2002 can be found on the website for Her Majesty's Stationery Office: www.hmso.gov.uk

How section 55 works

At the time of writing, the steps involved in the section 55 process are as follows:



This general overview of the process intends to clarify the way section 55 works in practice, describing the procedures in place that an asylum seeker must navigate in order to access asylum support. This is an overview only and will not cover all possible scenarios.

Applying for asylum

When asylum seekers arrive in the UK, they can apply for asylum either:

- At the port of entry – this means that the person applied for asylum with Immigration Service at a point of entry into the UK, (e.g., the immigration control desk at the airport). Port applicants are entitled to apply for NASS support and may access emergency accommodation³⁵.
- ‘In-country’ – this means the asylum applicant passed through immigration control (or didn’t encounter an immigration point) and applied for asylum once already in the UK. This can include those who are dropped off from the back of a lorry miles from a port, as well as those who apply at an airport after passing through immigration control.

Currently, ‘in-country’ asylum seekers can only officially apply for asylum at an Asylum Screening Unit (ASU) – there are three, located in Croydon, Solihull³⁶ and Liverpool. This is discussed in greater detail in the Appendix D.

S.55 Holding Letter – Pending

All in-country applicants then must undergo a screening interview (which involves determining if the asylum seeker is eligible for support under section 55). However, the Immigration Nationality Directorate (IND) is often unable to screen an asylum seeker immediately after they have submitted their asylum claim. Thus, IND is unable to make a decision on the client’s eligibility to apply for NASS support. In these situations, IND gives the client a ‘pending’ letter. The pending letter states that the asylum seeker is able to stay in emergency accommodation (EA) while they await their screening appointment. Importantly, the issue of a pending letter does not guarantee access to the asylum support system.

Emergency accommodation

For clients with pending letters, Partnership agencies are able to book the client into EA while they wait for their section 55 screening appointment (see ‘screening’ below). Clients in this category are not eligible for section 98 (Immigration and Asylum Act 1999) support and thus are without status.

Clients who are issued with a positive letter after screening (granting the applicant eligibility to apply for NASS support) are entitled to emergency accommodation under section 98 while they

³⁵ For more information, see Glossary, Appendix A

³⁶ Solihull, in the West Midlands, only conducts a very limited number of section 55 Level 2 screening interviews

wait for their application for NASS support to be processed. If approved for NASS support, the client is then dispersed while they wait for a decision on their asylum application.

Screening

IND has set up a special team to screen asylum applicants in order to determine whether or not they are eligible for asylum support, the Restricted Access to NASS Support (RANS) Unit. When Section 55 was first implemented, the Immigration Service used to interview clients and then the RANS Unit would make decisions on eligibility. This was strongly criticised both in both the High Court and CoA Q et al. NASS responded by distilling the initial screening interviews into Level 1 and Level 2, with decisions on eligibility following Level 2 screening being made by the interviewer (in some cases Immigration Service staff, and in some cases RANS staff).

This screening takes an average of 3 hours. The asylum seeker is asked how they came to the UK, when they arrived and why they waited to apply for asylum. They are also questioned in detail so the RANS Unit can ascertain if their story is credible. Despite the significance of this interview, a legal representative is not present.

Section 55 decisions

After the screening, a client will receive a letter with one of two decisions:

- Positive – this letter states that the Secretary of State believes that the asylum applicant meets the section 55 criteria and is thus entitled to apply for asylum support.
- Negative – this letter will explain why the applicant is considered not eligible to apply for support. If the client receives a negative letter, they are not entitled to accommodation or money for basic living expenses including food. If the client was in EA before receiving the negative decision, they must leave EA within 7 days.

Reconsideration

There is no option to appeal a section 55 decision. The only way to challenge a decision is to request a 'reconsideration' or apply for a Court injunction pending a judicial review.

Reconsiderations requests need to be submitting in writing to the RANS Unit at NASS and must be supported with evidence to suggest either that there has been a procedural error or a breach of Article 3 of the ECHR. Access to EA will only be granted to asylum seekers with a pending reconsideration request if there is a 'seriously arguable' breach of Article 3 (ECHR).

Legal challenges to section 55

From implementation, the IAP has worked with other voluntary sector organisations and law practitioners to challenge the Home Office's interpretation of section 55. Partnership agencies have provided witness statement to support a number of judicial reviews heard in the High Court and Court of Appeal. Such cases have focused on the RANS Unit's interpretation of "as soon as reasonably practicable" and the role of the ECHR.

R -v- Secretary of State for the Home Department (Exparte Q et al)

The first hearing involved six test cases on 19 February 2003. A consortia of agencies took the Government to court arguing that denying support to asylum seekers when they could not work was inhumane and degrading treatment under Article 3 of the ECHR. This Judicial Review and the following Home Office appeal to the Court of Appeal³⁷ focused on three main areas of concern

- what constitutes "as soon as reasonably practicable";
- destitution and basic human rights; and
- fairness (including the right to appeal).

The Court of Appeal ruled that:

- Destitution itself was not in breach of Article 3 of the ECHR
- The burden of proof is on the applicant to show that s/he applied "as soon as reasonably practicable"
- When interpreting "as soon as reasonably practicable" the Secretary of State should take into account any physical and practical impediments, the mental state of the asylum seeker and anything the asylum seeker may have been told by their agent
- The threshold needed in order to prove the asylum seeker is suffering inhumane or degrading treatment and thus Article 3 of the ECHR is breached was set very high
- The system was not fair or operated fairly by the Secretary of State. However, the judgment concluded that if the proposed "radical overhaul" of the current process was carried out, then section 55 should operate effectively

For more details on the ruling, see the briefing on the Refugee Council website: *Court of Appeal judgment on section 55 of the Nationality, Immigration and Asylum Act 2002* (www.refugeecouncil.org.uk).

³⁷ Judgement handed down 18 March 2003

R –v- Secretary of State for the Home Department (Exparte S, D and T)

In July 2003 three asylum-seekers, S, D and T brought a Judicial Review of the Home Secretary's decision to refuse them support. They had been left sleeping rough for days after being refused support by NASS. The Home Secretary had decided that they did not claim asylum "as soon as reasonably practicable" and it was not a breach of Article 3 for them to be without support.

In each of the three cases the grounds of challenge fell under two headings:

1. There was a challenge to the decision of the Secretary of State that he was not satisfied that the claim for asylum was made "as soon as reasonably practicable" after arrival in the United Kingdom. This ground of challenge therefore centred upon section 55.1.
2. It was alleged that, even if the particular claimant did not make his claim for asylum, "as soon as reasonably practicable after . . . arrival in the United Kingdom", the continuing refusal of the Secretary of State to relieve him of the consequences of destitution amounts to a breach of Article 3 of the ECHR. This ground of challenge therefore centred upon section 55.5.

Mr. Justice Maurice Kay ruled that:

- The continual denial of NASS support to relieve destitution (in the cases of S, D and T) was in breach of Article 3 of the ECHR.
- There were still some flaws in the Home Office's procedures for processing asylum support claims.
- 'Inhumane and degrading treatment' under Article 3 of the ECHR could include *sleeping rough, begging for food or money with which to buy it and the fear, humiliation and physical and mental suffering which soon ensue, particularly where the asylum seeker may be driven to crime and prostitution in order to survive.*

Of the three cases in the original High Court case - S, D and T – the Home Office appealed on the decision in the "T" only. The Secretary of State did not challenge the initial finding in either "S" or "D". The facts in the case of "S" point to a clear breach of Article 3 and therefore was accepted by the Secretary State. Whilst in the case of "D", section 55.5 was not considered relevant because the Secretary of State's decision to deny support under section 55.1 was quashed by Mr. Justice Maurice Kay in the original High Court judgment.

On 23 September 2003, the Court of Appeal overturned Mr. Justice Maurice Kay's initial judgment in July by ruling that it was not inhumane or degrading treatment to refuse "T" support or accommodation under section 55.5 because he was not suffering inhumane or degrading treatment. "T" had been seeking refuge in Heathrow Airport and "had shelter, sanitary facilities and some money for food. He was not entirely well physically, but not so unwell as to need immediate treatment". This interpretation gave more clarification of the level of destitution that constituted "inhumane and degrading treatment".

Guidance on section 55 cases handed down by Mr Justice Maurice Kay, Head of the Administrative Court

Mr. Justice Maurice Kay, Head of the Administrative Court, issued a statement on 15 October expressing his concern that the High Court was the only viable appeal mechanism for asylum applicants denied support under Section 55. In the preceding six months, there had been over 800 injunctions granted to asylum applicants. This had significant implications on the financial and operational arrangement of the Administrative Court.

In an attempt to avoid a continuation of this clogging up of the system, Mr. Justice Maurice Kay selected a number of test cases (from the 800) which he felt were appropriate as lead cases. Shelter applied to intervene in these cases, providing a bundle of evidence collated from voluntary sector agencies, including the Refugee Council, Migrant Helpline and Refugee Action. Mr. Justice Maurice Kay handed down guidance to the Court on Friday 24th October, and the official Judgment was published Thursday 30th October.

The guidance included recommendations such as:

- Cases refused initially should be reconsidered within 24 hours or otherwise NASS should accommodate clients in emergency accommodation whilst their cases are reviewed
- Clients should be given 7-14 days notice before eviction from emergency accommodation (until this point, asylum seekers had to leave EA within 24 hours if they were refused support under section 55)

In his closing comments Mr. Justice Maurice Kay also stated:

- Section 55 would not be necessary if the SSHD resolved asylum claims expeditiously.
- All litigation would be avoided were there an appeal to Asylum Support Adjudicators. The Administrative Court is being required to act as a "first call dispute resolution forum" – that is not its role.
- Finally, the judge was satisfied that all these cases were fully justified on any cost analysis basis. He was concerned at the evidence that the Court were dealing with only the tip of the iceberg and that only 20-30% of potential claimants were gaining access to lawyers.

Access to the asylum system

A number of significant changes to asylum and support policy have occurred since the inception of section 55. Whilst it is beyond the remit of this report to exam each in detail, the following focuses on a number of key policy changes which are of particular concern because they impact an asylum seekers ability to prove they applied for asylum “as soon as reasonably practicable”.

In-country applications at ASUs

Before the introduction of section 55 and in the early stages of its implementation, in-country asylum applicants who did not arrive in the UK near an Asylum Screening Unit (ASU) were able to record their claim with the Immigration Service (at a port or a local enforcement office) as well as at some police stations. Immigration Service and some police stations were able to carry out the basic screening that was conducted on all new arrivals³⁸ and thus accept an initial asylum claim. This was in line with Immigration Services’ dedication to increase opportunities for clients to claim asylum. While there were some regional variations in coverage, it was not difficult for a new arrival to access the asylum system.

However, after the implementation of section 55, there was a need to conduct a much more thorough screening interview in order to assess if individuals were eligible to apply to NASS for support. Thus a second type of screening interview was created, now referred to as Level 2 (with the pro-forma screening now referred to as Level 1). Now, port applicants are still required to participate in a Level 1 screening interview. In-country applicants, however, must attend a Level 2 screening which involves establishing whether or not the client has applied for asylum “as soon as reasonably practicable”.

Many of the Immigration Service offices did not have the resources needed in order to carry out Level 2 screening. So, in August 2003 the procedure changed so that in-country asylum seekers could only apply for asylum in person at Liverpool, Croydon or Solihull ASUs where Level 2 screening is conducted. To further tighten the application process, postal applications (a common way for in-country asylum seekers outside of London to apply for asylum) were no longer accepted³⁹.

This has specific implications for the IAP, particularly the Scottish Refugee Council. The Scottish Enforcement Office will now only register asylum claims from vulnerable clients, and thus all ‘non-vulnerable’ destitute clients must travel to Liverpool in order to apply for asylum. It should be noted as well that asylum seekers are not given any funding for their travel to access the asylum system.

³⁸ This screening, often referred to as a ‘pro forma screening’ was conducted with all new arrivals, port and in-country to establish their identity, their route to the UK and basic details of the asylum claim. The asylum seeker was also fingerprinted. These details were then forwarded to the Home Office Asylum Casework Directorate in Croydon which made the decision on the asylum application.

³⁹ For London, postal applications were not accepted after 18 September 2000, for rest of country they ended on 8 February 2003.

This is also the case for those who present in non-passenger ports such as Ipswich. These individuals, many of whom have no knowledge of how to apply for asylum, are often 'found' by port operators or police. These individuals are not able to apply for asylum with either of these parties. Immigration Service operates 'flexible coverage' in port areas like Ipswich, meaning that the "port operator is instructed to contact the Immigration Service if they encounter anyone within the port area who wishes to claim asylum. The Immigration Service will then make arrangements to either attend or for the applicant to attend one of the ... Asylum Screening Units"⁴⁰. Those who are not seen by Immigration Service must find their way, with no guidance to an ASU. When they are screened, they are often unable to prove they applied for asylum "as soon as reasonably practicable" because they do not have evidence of when they arrived which is usually available to those in contact with Immigration Service.

Changes in ASU opening hours

Another issue that is a great concern is change to ASU opening hours. In order to reduce backlogs, screen a maximum number of clients and deal with vulnerable clients quickly, the ASU offices began closing at 1:00 pm in August 2003. These reduced opening hours, however, impose another barrier to claiming asylum in the UK. Clients who have not officially lodged their asylum application are unable to access emergency accommodation, and many have no option but to sleep rough. This is especially difficult for those clients who originally arrived in the regions and had to travel unfunded to Croydon or Liverpool. A 27 year old man from Sudan was detained by the police on arrival and was interviewed by them. He was then referred to Migrant Helpline in Dover who referred him to the Croydon ASU. By the time he reached Croydon the ASU had closed. He had to wait to claim asylum the next day - he was refused support under section 55 and then had to go without food or shelter during the Muslim holy month of Ramadan.

These changes are not directly related to section 55, but have a great impact on the clients seen by the IAP. The increasing obstacles that prevent individuals accessing the asylum system make it very difficult for them to prove that they have applied for asylum "as soon as reasonably practicable". Thus, many destitute asylum seekers are left without support or accommodation while they await the decision on their asylum claim.

⁴⁰ For a copy of this letter, please contact ICT.

Brief overview of methodology

To meet its objectives (listed in Section 2), the Section 55 Research Project involved several methods of research, both quantitative and qualitative. This project is unique because the research was conducted in co-operation with the Partnership agencies and as a result provides a detailed overall picture of the impact of section 55 on the IAP.

Collation of decision letters

The goal of this exercise was to analyse decision-making trends (objective 2). The Partnership agencies submitted positive and negative decision letters, during the research period, for analysis. It was expected that analysis of both positive and negative letters would reveal inconsistencies in the decision making process.

Collation of IAP section 55 statistics

The statistical data was compiled to give the IAP an overall view of how section 55 affected clients across the UK this autumn (objective 1,2). The results were expected to show the overall percentage of clients seen by the Partnership agencies that are affected by section 55 as well as positive and negative decision rates.

Client survey

The goal of this exercise was to provide more details on the impact of section 55 on the asylum seekers themselves (objective 1,3). The survey enabled a better understanding of the impact of section 55 on the clients because it gave the client point of view.

Procedural concerns

The goal of this exercise was to highlight NASS/RANS miscommunication and inconsistencies and thus the additional work and resources needed to implement section 55 (objective 3). The data was to potentially provide evidence of how much time, energy and resources have been diverted to implement the policy and some of the practical unforeseen implications of section 55.

Policy review

The goal of this exercise was to illustrate the increased complexity of section 55 and any unintended ramifications that have emerged due to its increasing complexity during implementation. For asylum seekers who apply in-country, the criteria that must be met in order to be deemed eligible for asylum support has changed and has, over time, become more strict. This has caused great confusion for IAP staff and asylum seekers. This exercise was designed to map the changes and illuminate the increased complexity and confusion of section 55.

Statistics – research results

In order to understand the statistics gathered by the IAP, a brief explanation of the categories is needed:

Total number of advice sessions:	This figure reflects the number of advice session provided by the Partnership agencies in total, not only advice sessions that focus on section 55. Unless otherwise noted, this figure is not a count of number of clients seen - thus this figure may include clients that have attended more than one advice session.
Percentage of section 55 client advice sessions:	This figure reflects the percentage of the total advice sessions that focus on section 55 issues.
Number of clients with pending letters:	This figure reflects the total number of clients in emergency accommodation with a section 55 pending letter during a given week. Hence, it does not reflect the number of new clients who received a pending letter during a week, nor does it reflect the cumulative total of section 55 clients in emergency accommodation since 8 January 2003.
Number of clients with RANS negative letters	This figure reflects the number of clients who have presented to IAP with a negative RANS letter during a given week. Thus, it may not mean that they received the negative decision that week. For some offices, this may include clients who were not in the IAP managed emergency accommodation, but came to the office for a service. Please note that this figure indicates the initial section 55 decision.
Number of clients with RANS positive letters	This figure reflects the number of clients who have presented to the IAP with a positive RANS letter during a given week. For the vast majority of cases, this also indicates the number of positive decisions received during a given week. For some offices, this figure may include clients who did not choose to access the IAP managed emergency accommodation, but came to the office for a service.
Number of cases submitted for reconsideration	This figure indicates the number of cases staff from the Partnership agencies have submitted for reconsideration (i.e. requesting support and emergency accommodation on human rights grounds, challenging factual mistakes in the decision letters, or clarifying misinterpretations of client comments during their screening).

Number of clients who received a negative RANS letter after reconsideration This figure indicates the number of negative decisions on a reconsideration submission received during the given week. Please note some decisions are not received in the same week requests are submitted.

Number of clients who received a positive RANS letter after reconsideration This figure indicates the number of positive decisions on a reconsideration submission received during a given week. Please note some decisions are not received in the same week requests are submitted.

Number of pre-pending clients Migrant Helpline and Scottish Refugee Council occasionally see clients who have either presented to their office for assistance before applying for asylum or before they have attended a Level 2 screening interview. For the sake of this research, these clients are referred to as 'pre-pending' as they have received neither a decision on their eligibility for support under section 55 nor are they allowed to access emergency accommodation while pending a decision.

Number of injunctions This reflects the number of cases where the IAP has assisted clients to take out an injunction, thereby, referring the case for Judicial Review.

Breakdown of advice topics When a client who has been denied eligibility for support under section 55 presents in an IAP office, they often need advice on a variety of basic topics. This is a sample of some of the advice topics addressed. Please note that not all Partnership agencies were able to breakdown advice sessions into specific topics for this research project, thus the figures should be viewed as a 'snapshot' only.

Average length of stay in EA with section 55 pending letters This figure reflects the average length of time a client has/had been in emergency accommodation while waiting for a decision on their eligibility for NASS support under section 5, since its inception on 8 January, 2003.

Average time between reconsideration submission and decision The RANS Unit are committed to making a decision on a reconsideration within 24 hours. However, many cases have taken longer for the RANS team to investigate. This figure reflects the average decision time for a reconsideration

Totals This figure is a cumulative total

Average total This figure is the overall average

Also note:

N/a

Not applicable

N/s

Not submitted (usually because the Partnership agency concerned did not record the information)

Overall statistics

	Refugee Council		Refugee Action	Refugee Arrivals Project	Migrant Helpline		Scottish Refugee Council ¹	Welsh Refugee Council	Total	
	London	Regions			London	Regions			Cumulative	Overall average
Total number of advice sessions	3253 ⁵		945	478	1005	540	948	699	4615	
Percentage of s.55 client advice sessions ²	28% ⁶		30.33%	10.56%	92.79%	55.74%	7.23%	2% ¹⁰		32.17%
Number of clients with pending letters ³	436	546	547	109	189	226	113	64	2230	
Number of clients with RANS negative letters	77 ⁷	21 ⁷	41	0	323	n/a ⁸	0	2	366	
Number of clients with RANS positive letter	19	9	17	5	234	12	0	12	308	
Number of cases Partner Agency submitted for reconsideration	16	17	13	0	2	0 ⁹	0	1	49	
Number of clients who received a negative RANS letter after reconsideration	1	n/s	9	n/a	1	0	0	1	12	
Number of clients who received a positive RANS letter after reconsideration	9	1	8	n/a	2	0	0	3	23	
Number of pre-pending clients	1	n/a	n/a	n/a	4	n/a	12	n/a	17	
Number of injunctions	30	1	9	n/a	n/s	n/s	0	0	40	
Breakdown of advice topics	Health	156 (13.2%)	n/s	n/s	10.22%	9.54%	1 (2.8%)	n/s		8.94%
	Legal	196 (16.6%)	n/s	n/s	21.21%	22.51%	4 (11.23%)	n/s		17.89%
	Travel	n/s	n/s	n/s	n/s	16.19%	24.74%	3 (8.42%)	n/s	16.45%
	Shelter	n/s	n/s	n/s	n/s	30.24%	13.24%	10 (28.08%)	n/s	23.85%
	Food	n/s	n/s	n/s	n/s	n/s	n/s	n/s	n/s	
	Community	n/s	n/s	n/s	n/s	0.62%	5%	4 (11.23%)	n/s	
Other ⁴	520 (44.1%)		n/s	n/s	21.49%	25.97%	4 (11.23%)	n/s		25.70%
Average length of stay in EA with s.55 pending letters	123 days	157.8 days	n/s	n/s	n/s	n/s	127.96 days	56 days		116.19 days
Average time between reconsideration submission and decision	2.5 days	n/s	6 days	n/a	n/s	n/s	n/a	7.67 days		5.39 days

1. These figures are comprised of data for week 2, 3 and week 4 as the relevant data was not available for week 1. Week 4: total number of advice sessions - 334. Percentage of s.55 advice sessions - 10.10%.
2. This is the average percentage over the three weeks of research
3. This figure represents the number of people in emergency accommodation with a section 55 pending letter during the week ending 21 November 03
4. For Refugee Council, 'other' describes enquiries about NASS support; for Migrant Helpline 'other' describes discussions on progress of decisions
5. 3253 advice sessions were provided for 4134 clients during this period
6. 912 advice sessions were provided for 938 clients who were affected by section 55 during this period (28%)
7. Refugee Council figures represents the number of clients seen in the office. Thus, the figures may include clients who did not receive a decision this week.
8. Number of clients with negative letters is not available for MHL Dover as all Dover clients are sent to Home Office in Croydon and will not see negative decision in Dover (also, no drop-in clients in Dover).
9. There were no new client cases submitted for reconsideration this week, although current clients awaiting reconsideration decision is 42.
10. Average percentage of s.55 advice sessions for WRC only includes week 2

Week ending 6 November

	Refugee Council		Refugee Action	Refugee Arrivals Project	Migrant Helpline		Scottish Refugee Council ²	Welsh Refugee Council	Total		
	London	Regions ¹			London	Regions			Cumulative	Overall average	
Total number of advice sessions	n/s	n/s	353	168	176	139	n/s	219	1055		
Percentage of s.55 client advice sessions	n/s	n/s	32%	8.90%	97.73%	66.19%	n/s	n/s		51%	
Number of clients with pending letters ³	436	472	489	100	134	209	95	62	1997		
Number of clients with RANS negative letters	15	10 ⁷	12	0	100	n/a ⁸	0	0	127		
Number of clients with RANS positive letter	8	2	11	0	77	8	0	5	111		
Number of cases Partner Agency submitted for reconsideration	2	2	3	n/a	0	0 ⁹	0	1	8		
Number of clients who received a negative RANS letter after reconsideration	n/s	n/s	3	n/a	0	0	n/s	n/s	3		
Number of clients who received a positive RANS letter after reconsideration	4	1	2	n/a	2	0	0	1	10		
Number of pre-pending (if applicable)	n/a	n/a	n/a	n/a	n/a	n/s	n/a	n/a	n/a		
Number of injunctions	9	1	6	n/a	n/s	n/s	0	0	16		
Breakdown of advice topics ⁴	Health	n/s	n/s	n/s	n/s	8.50%	9.90%	n/s	n/s		insufficient data
	Legal	n/s	n/s	n/s	n/s	23.00%	18.81%	n/s	n/s		insufficient data
	Travel	n/s	n/s	n/s	n/s	15%	31.68%	n/s	n/s		insufficient data
	Shelter	n/s	n/s	n/s	n/s	35%	6.93%	n/s	n/s		insufficient data
	Food	n/s	n/s	n/s	n/s			n/s	n/s		insufficient data
	Community	n/s	n/s	n/s	n/s	0.50%	5.94%	n/s	n/s		insufficient data
	Other ⁵	n/s	n/s	n/s	n/s	18%	26.73%	n/s	n/s		insufficient data
Average length of stay in EA with s.55 pending letters ⁶	n/s	n/s	n/s	8-12 weeks	n/s	n/s	n/s	8 weeks		insufficient data	
Average time between reconsideration submission and decision ⁶	n/s	n/s	n/s	n/a	n/s	n/s	n/s	1-2 weeks		insufficient data	

1. RC figures do not include NICEM, NERS or sub-contracted RCOs
2. Numbers reflect main applicants only for Scottish Refugee Council
3. "Number of clients with pending letters" reflects the number in emergency accommodation during the week, not additional clients seen during the week.
4. Refugee Council to submit at end of research project; Scottish Refugee Council to submit week 2 and 3 only
5. For Migrant Helpline, 'Other' includes discussions on progress of decision
6. Some offices may submit these figures at the end of the research project
7. Refugee Council figures represents the number of clients seen in the office. Thus, the figures may include clients who did not receive a decision this week.
8. Number of clients with negative letters is not available for MHL Dover as all Dover clients are sent to Home Office in Croydon and will not see negative decisions back in Dover (also, no drop-in clients in Dover)
9. There were no new client cases submitted for reconsideration this week, although current clients awaiting reconsideration decision is 45.

Week ending 13 November

	Refugee Council		Refugee Action	Refugee Arrivals Project	Migrant Helpline		Scottish Refugee Council ²	Welsh Refugee Council	Total	
	London	Regions ¹			London	Regions			Cumulative	Overall average
Total number of advice sessions	n/s	n/s	243	175	381	245	350	250	1401	
Percentage of s.55 client advice sessions	n/s	n/s	26%	8%	88.45%	55.51%	4% ³	2%		29.16%
Number of clients with pending letters ³	442	466	541	95	156	222	111	62	2095	
Number of clients with RANS negative letters	39	8 ⁶	11	0	124	n/a ⁷	0	2	176	
Number of clients with RANS positive letter	6	3	1	3	57	0	0	3	73	
Number of cases Partner Agency submitted for reconsideration	14	17	5	n/a	2	0 ⁸	0	3	41	
Number of clients who received a negative RANS letter after reconsideration	n/s	n/s	3	n/a	1	0	0	0	1	
Number of clients who received a positive RANS letter after reconsideration	10	1	3	n/a	0	0	0	1	15	
Number of pre-pending clients	n/a	n/a	n/a	n/a	n/s	n/s	6	n/a	6	
Number of injunctions	39	0	1	0	0	0	0	0	40	
Breakdown of advice topics ⁴	Health	n/s	n/s	n/s	n/s	11.59%	11.38%	1	n/s	insufficient data
	Legal	n/s	n/s	n/s	n/s	19.87%	23.95%	1	n/s	insufficient data
	Travel	n/s	n/s	n/s	n/s	13.58%	26.95%	0	n/s	insufficient data
	Shelter	n/s	n/s	n/s	n/s	29.47%	10.78%	3	n/s	insufficient data
	Food	n/s	n/s	n/s	n/s			0	n/s	insufficient data
	Community	n/s	n/s	n/s	n/s	0.99%	5.39%	1	n/s	insufficient data
Other ⁵	n/s	n/s	n/s	n/s	24.50%	21.56%	0	n/s	insufficient data	
Average length of stay in EA with s.55 pending letters ⁴	n/s	n/s	n/s	70 days	n/s	n/s	127.47 days	56 days		84.49 days
Average time between reconsideration submission and decision ⁴	n/s	n/s	n/s	n/a	n/s	n/s	n/a	1 week		insufficient data

1. RC figures do not include NICEM, NERS or sub-contracted RCOs
2. Numbers reflect main applicants only for Scottish Refugee Council
3. "Number of clients with pending letters" reflects the number in emergency accommodation during the week, not additional clients seen during the week.
4. Some offices may submit these figures at the end of the research project
5. For Migrant Helpline, 'other' includes discussions on the progress of client's decision
6. Refugee Council figures represents the number of clients seen in the office. Thus, the figures may include clients who did not receive a decision this week.
7. Number of clients with negative letters is not available for MHL Dover as all Dover clients are sent to Home Office in Croydon and will not see negative decisions back in Dover (also, no drop-in clients in Dover)
8. There were no new client cases submitted for reconsideration this week, although current clients awaiting reconsideration decision is 45.
9. SRC percentage of s.55 clients reflects only those seen on Thursday and Friday of this week. The number of injunctions also only reflect the number from these two days.

Week ending 21 November

	Refugee Council		Refugee Action	Refugee Arrivals Project	Migrant Helpline		Scottish Refugee Council ²	Welsh Refugee Council	Total	
	London	Regions ¹			London	Regions			Cumulative	Overall average
Total number of advice sessions	n/s	n/s	349	135	448	156	264	230	1582	
Percentage of s.55 client advice sessions	n/s	n/s	33%	14.80%	92.19%	45.51%	7.60%	0%		31.68%
Number of clients with pending letters ³	436	546	547	109	189	226	113	64	2230	
Number of clients with RANS negative letters	23	8 ⁶	18	0	99	n/a ⁷	0	0	140	
Number of clients with RANS positive letter	5	3	5	4	100	4	0	4	125	
Number of cases Partner Agency submitted for reconsideration	4	2	5	0	0	0 ⁸	0	0	11	
Number of clients who received a negative RANS letter after reconsideration	n/s	n/s	3	n/a	0	0	0	1	4	
Number of clients who received a positive RANS letter after reconsideration	1	0	3	n/a	0	0	0	1	5	
Number of pre-pending clients	n/a	n/a	n/a	n/a	4	n/a	6	n/a	10	
Number of injunctions	9	0	2	n/s	n/s	n/s	0	n/s	11	
Breakdown of advice topics ⁴	Health	n/s	n/s	n/s	n/s	10.59%	7.34%	0	n/s	insufficient data
	Legal	n/s	n/s	n/s	n/s	20.78%	24.77%	3	n/s	insufficient data
	Travel	n/s	n/s	n/s	n/s	20%	15.60%	3	n/s	insufficient data
	Shelter	n/s	n/s	n/s	n/s	26.27%	22.02%	4	n/s	insufficient data
	Food	n/s	n/s	n/s	n/s			3	n/s	insufficient data
	Community	n/s	n/s	n/s	n/s	0.39%	3.67%	3	n/s	insufficient data
Other ⁵	n/s	n/s	n/s	n/s	21.96%	26.61%	4	n/s	insufficient data	
Average length of stay in EA with s.55 pending letters ⁴	n/s	n/s	n/s	n/s	n/s	n/s	128.45 days	8 weeks		insufficient data
Average time between reconsideration submission and decision ⁴	n/s	n/s	n/s	n/s	n/s	n/s	n/a	6 days		insufficient data

1. RC figures do not include NICEM, NERS or sub-contracted RCOs
2. Numbers reflect main applicants only for Scottish Refugee Council
3. "Number of clients with pending letters" reflects the number in emergency accommodation during the week, not additional clients seen during the week.
4. Some offices may submit these figures at the end of the research project
5. For Migrant Helpline, 'other' includes discussions on the progress of client's decision
6. Refugee Council figures represents the number of clients seen in the office. Thus, the figures may include clients who did not receive a decision this week.
7. Number of clients with negative letters is not available for MHL Dover as all Dover clients are sent to Home Office in Croydon and will not see negative decisions back in Dover (also, no drop-in clients in Dover)
8. There were no new client cases submitted for reconsideration this week, although current clients awaiting reconsideration decision is 42.

Client survey

I. Sample size

Based on figures from the third quarter, the population size (number of clients) affected by section 55 was 924⁴¹. For the research project, the IAP surveyed 154 clients. Thus we are 90% confident (with 6.1% interval +/-) that the survey represents the clients seen by the IAP during November^{42, 43}.

II. Survey questions

Instructions

Before you begin the survey, please remind the client that:

- Participating in the survey is voluntary
- The survey is part of a research project aimed at helping the IAP assess the impact of section 55

Note:

- Some questions are made up of multiple questions and these must be asked of everyone.
- Some questions contain bullet points – these are potential follow up questions to be used to either clarify the question or obtain more information in case the client is not answering. You do not need to ask all clients these questions.
- Be careful not to 'lead' the answer (ie. do not ask – 'did you arrive by boat or plane?'. Instead ask, 'how did you arrive in the UK?')

Question numbers	1-6	7-10	11-13	14-16	17
	All	Negative clients	Pending clients	All	Only clients in RC Day Centre, Croydon Refugee Day Centre, SRC

⁴¹ The base 'population size' was calculated using the figures for the number of singles directly impacted by section 55 in the third quarter. We then based the population size that would be seen by the IAP under normal conditions (80% of total) - (4,260-795=3465/3=1155. 80% of 1,155 = 924)

⁴² The calculation of the sample size and confidence level was done using the following website: <http://www.pearsonncs.com/research-notes/sample-calc.htm>

⁴³ If you have a 6.1% confidence interval at the 90% confidence level the table is basically saying that if you conducted the same survey 100 times, 90 out of the 100 surveys should yield results within +/- 6.1% of the current number.

Questions 1-6 are designed to help us understand the asylum seeker's journey to the UK (thus why the client is subject to section 55) and what they knew about the UK asylum process before and when arrived in the UK (thus why didn't the client apply 'as soon as reasonably practicable')

1. How did you travel to the UK?

(This question aims to find out what resources the client used/needed in order to get to the UK and who they relied upon to help them)

If they only give a one-word answer, some follow up questions could include:

- What did they do to get to the UK?
- How did you obtain the needed travel documents to enter the UK?
- Did any person or agency help you arrange the travel?

2. Did you have any difficulties in travelling to and entering the UK?

(If this didn't emerge from the previous question, this question aims to discover if it is easy or difficult for people fleeing persecution to exit their country, travel and enter the UK legally).

Note: the client does not need to share WHY they left their country of origin, nor do they have to share any personal details of any persecution that occurred when leaving or during the journey.

Potential follow-up questions to elaborate:

- Did you have time to plan your journey?
- Did you travel with anyone? Why?
- What was your experience going through Immigration Control in the UK?

3. What did you understand about 'asylum' before leaving your country?

(This question aims to learn what the client understood about asylum as a concept when deciding to flee)

3a. Where/from whom did you learn this information?

4. What did you know about applying for asylum in the UK before you left your home country?

(The Home Office seems to assume clients have a working knowledge of the UK asylum process when deciding to come to the UK – this question aims to find out if this is true?)

4a. Where/from whom did you learn this information?

5. Did you learn more about the asylum system during your journey or when you entered the UK?

5a. If so, where/ from whom did you learn this information?

6. Why did you wait to apply for asylum?

(This question hopes to learn the client's point of view about applying for asylum – what they did, how they did it, who they approached, etc.)

6a. How did you know what to do?

*Questions 7-10 are to be asked of clients who have been **refused** support under section 55. These questions are aimed at learning how destitute clients are meeting their immediate needs.*

7. How are you meeting your immediate needs for food and shelter?

If they do not understand the question or only give a one-word answer, some follow up questions could include:

- Where are you sleeping?
- How are you finding food? Where are you eating?
- What about basic hygiene?
- Will you be able to continue sleeping/eating at these places?

8. What additional concerns do you have?

If they do not understand the question or only give a one-word answer, some follow up questions could include:

- How are you feeling about this situation?
- Do you have any other immediate needs that aren't being met now?

9. Do you have any special needs? How are these special needs affected by your current situation?

10. What are your feelings about your experiences so far in trying to meet your immediate needs for food or shelter?

*Questions 11 -13 are for clients who are in EA with **pending letters***

11. How long have you been in EA?

12. Do you have any special needs that aren't able to be met in your current accommodation?

13. Have you experienced any problems while in EA?

Questions 14 – 16 aim to learn the client's view on their experiences so far when navigating section 55.

14. What are your feelings so far on the UK asylum process?

14a. How do you feel about your screening?

- Did you feel you were able to tell your full story? If not, why?
- Did you feel the Immigration Officer listened to you?

14b. How do you feel about the waiting period, if any?

15. What are your feelings about your experience trying to access asylum support?

If they do not understand the question or only give a one-word answer, some follow up questions could include:

- Did you expect to have to apply for asylum support?
- Did you feel you have been treated fairly?

16. Do you have any other comments/concerns about section 55?

For clients at the Refugee Council Day Centre, Croydon Day Centre (Migrant Helpline) and Scottish Refugee Council only:

17. Would you be willing to speak to us again about your experiences?

Stories I have been told

These stories are from a volunteer in the Refugee Council Day Centre:

Four Sudanese men

When RANS clients started having to sleep rough this autumn, I came up from Chiswick by car to bring hot food and a storm kettle one night. Four men from the Sudan were trying to sleep outside the [Refugee Council's] building, huddled against the wall in their sleeping bags. It was so cold they could not sleep and were walking up and down beating their arms against their chests. They had a big bottle of water with them and Refugee Council food parcels with biscuits and dry food to last them over night. The experience of sleeping out was made more difficult for them because they spoke so little English.

Abdir*

When I came in at 9.30am Abdir was sitting bundled up in coats on an easy chair by the door. I asked him if he would like to join an English class later, but he said he had a terrible headache and was on medication. He wanted to see a doctor. He told me that he and three friends had landed up at Croydon where they had been sleeping on the streets for four days. They had had no food and had been eating out of dustbins. He was wearing three pairs of trousers one over the other but still he could not get warm. He had had no chance to wash or change his clothes. On Sunday he had started being very sick. Someone sent him to hospital. They discharged him with paracetamol. He still did not feel like eating and later gave his paracetamol to another client whose need was greater than his own. He was sick enough to be sent to hospital; Abdir was referred to the Pavilion Practice by the Refugee Council Health Access Worker.

Anna*

Due to past experiences, Anna had a well-founded fear of being raped. She was tired and confused when she arrived at the Refugee Council and her case was not finished until 6:00pm. By then the group going to the Afro-Caribbean Centre had left. She was given instructions of how to get there but could not find it. (This is a common problem for our clients, they don't know how to read maps and they don't speak enough English to ask the way). She spent the night alone on the street. She was so worried about being raped that she spent the whole night upright in front of a security camera, waving to make sure she would be seen. The next morning she was gaunt and near the end of her tether. An appointment was made for her to attend a clinic at St Thomas's Hospital for urgent medical attention. The other women refused support under section 55 were very supportive and that night they waited to escort her to the Afro-Caribbean Centre and helped to carry the new clothes she had been given in a dustbin sack.

Places at the Afro-Caribbean Centre are in limited supply and are given to clients either on the basis of extreme need or, for less desperate cases, nights are allocated on rotation. There was some question of whether Anna might have to lose her place after a few days, but because she was a rape victim this did not apply. A different female client did say it was difficult to sleep with men around in the same premises.

A few days later, Anna had to travel to Liverpool for a hearing. She wanted a long coat but we did not have one. Living outside the money economy makes even simple tasks difficult. When she came back she needed an envelope and a stamp to send off photos. She also needed to see her lawyer that day. She was worried about waiting in a queue to claim travel money in case she did not get to her lawyer and back before nightfall and would face another night on the street if the Refugee Council was closed.

Her story has a good outcome. She has obtained an injunction and is in temporary accommodation. She now looks completely different. The dark circles under her eyes had gone, someone had found her a thick sweater and matching hat so she was warm and she wanted to talk about her good fortune. She said, 'I have got a bed now and there is a shower and there is even a washing machine!'

Volunteers' Experience

I come in at 9.30am to prepare for the English classes which start at 10.00am. This is the time the RANS clients start to come up for breakfast. There are no other volunteers in the Day Centre at this time, so they often come to us for information. We also go round the room 'trawling' for students, so we interact with them then too.

When you come into the room you are immediately aware of how tired people are. Some are stretched full length on the sofa, some are sitting close to the table, sleeping with their heads on their arms. Sometimes sick or elderly people are grateful for a blanket to cover themselves with as they sit upright in a chair, and women try to give themselves a little privacy by covering their faces with the corner of a scarf. New clients dare not relax into sleep for fear of missing their turn or being in the wrong place at the wrong time. Some are so stressed and anxious they need to tell you their story even though you have explained you are only an English teacher. Some are very cold. Many want to see a doctor.

Ramadhan was a particularly hard time because many clients were fasting. In the evening, as sun went down, they would rush to the table where the bread and tuna were set out. Some nights Michael (chef at Refugee Council Day Centre) would serve hot meals, eaten in hungry silence, before the Security Guards came and the clients shuffled out into the night with their sleeping bags.

** Names have been changes in order to respect privacy*

Further resources

Hungry and Homeless: the impact of the withdrawal of state support on asylum seekers, refugee communities and the voluntary sector

Refugee Council. Available March 2003
www.refugeecouncil.org.uk

Migrant Helpline

The Rendezvous Building
Freight Services Approach Road
Eastern Docks
Dover CT16 1JA
Tel: 01304 203977
Fax: 01304 203995
www.migranthehelpline.org.uk

Refugee Action

The Old Fire Station
150 Waterloo Road
London SE1 8SB
Tel: 020 7654 7700
Fax: 020 7401 3699
www.refugee-action.org.uk

Refugee Arrivals Project

41b Cross Lances Road
Hounslow, Middlesex TW3 2AD
Tel: 020 8607 6888
Fax: 020 8607 6851
www.refugee-arrivals.org.uk

Refugee Council

3 Bondway
London SW8 1SJ
Tel: 020 7820 3000
Fax: 020 7582 9929
www.refugeecouncil.org.uk

Scottish Refugee Council

5 Cadogan Square
(170 Blythswood Court)
Glasgow G2 7PH
Tel: 0141 248 9799
Fax: 0141 243 2499
www.scottishrefugeecouncil.org.uk

Welsh Refugee Council

Phoenix House
389 Newport Road
Cardiff CF24 1TP
Tel: 02920 489 800

Immigration and Nationality Directorate

www.ind.homeoffice.gov.uk

Still no reason at all, by Asylum Aid

A report on the asylum determination process
www.asylumaid.org.uk

The Cost of Survival by John Morrison, 1998

The trafficking of refugees to the UK
www.refugeecouncil.org.uk

Information Service

The information survival kit for public and voluntary sector employees about the UK asylum process and asylum support issues
www.refugeecouncil.org.uk

Further research

Further research is needed to assess what is happening to asylum seekers denied eligibility to apply for NASS support who are currently not seen by the IAP or other large charities. Closer scrutiny of the decision making process is also recommended. Decision letters are not detailed enough to discern why a positive decision was granted, and the nuances in each case. This is an area of potential research in the future as more client screening notes are made available.

A thorough audit of the cost of section 55 is also advised. This should quantify the operating costs for the Home Office, the IAP agencies, the wider refugee sector as well as Refugee Community Organisations.

Registered charity numbers: Migrant Helpline: 1088631 Refugee Action: 283660 Refugee Arrivals Project: 1013556
Refugee Council: 1014576 Scottish Refugee Council: SCO 08639 Welsh Refugee Council: 1044885

