

# Refugee Council response to the UKBA consultation *Reforming asylum support: effective support for those with protection needs*

**4 February 2010**

This cover notes sets out our concerns about the UK Border Agency (UKBA) consultation *Reforming asylum support: effective support for those with protection needs* published on 12<sup>th</sup> November 2009.

It should be read as part of our formal response to the consultation, alongside our response on the UKBA pro forma (attached)

## **Refugee Council concerns about asylum support**

The current system of asylum support in the UK fails to provide adequate, timely and consistent financial support to asylum seekers. Many people, including children and those with serious health issues, struggle to meet their basic living needs and endure prolonged periods of poverty, exclusion and ill-health as a direct result of the failure to administer a fair and just asylum support system. Our concerns, based on our experience of giving advice to thousands of people at our offices around the country, have been raised repeatedly with the UK Border Agency and throughout government. We have made a series of positive recommendations for alternative ways of approaching asylum support (see for example The Asylum Support Partnership *"Second Destitution Tally 2009"*

<http://www.refugeecouncil.org.uk/policy/responses/2009/destitution.htm>)

## **The proposals in the consultation document**

The Ministerial foreword to the consultation makes it clear that the proposals have been designed first and foremost to prevent abuse of the asylum system, to encourage returns of those whose claims have been refused and to increase the penalties for those who do not 'play by the rules' set by the UKBA.

There is no recognition of the current high levels of destitution among asylum seekers in the UK, often caused by the failure to deliver support promptly to those who are eligible, nor is there any mention of the need to improve the asylum system so that refugees are correctly identified, supported and protected in a timely manner.

**We are concerned that the proposals will fail to create a coherent asylum support system which meets the needs of asylum seeking individuals and families in the UK. This means that destitution will remain a feature of the UK asylum system, at great cost to individuals and to society.**

In response to the particular proposals in this consultation paper, we urge the government to:

1. Commit to ending destitution as a feature of the UK asylum system by providing asylum support in cash to all those who have claimed asylum until they are granted status or leave the country.
2. Retain cash support for families, and do not introduce the payment card for refused asylum seeking families who are currently supported under section 95.
3. Retain a right of appeal for all those whose application for asylum support is turned down.
4. Invest in better quality decisions and access to independent legal advice early in the asylum process.

## **Positive elements of the proposals**

We welcome the commitments from UKBA to:

- fulfil the UK's obligations under the 1951 Refugee Convention
- provide 'an appropriate level' of support to people who would otherwise be destitute
- support refugee integration
- process further submissions quickly
- support people to return under the Assisted Voluntary Returns Programme
- improve the quality of decision making and conclude the 'legacy' asylum cases by summer 2011
- work in partnership with local authorities and the voluntary sector to deliver a fair and efficient system
- repeal section 9 of the 2004 Act, which has been widely condemned as it enabled the UKBA to withdraw support from families whose claims had been refused, and take affected children into care where necessary to avoid a breach of their rights
- repeal section 10 of the 2004 Act, which hasn't ever been used but which gives UKBA the power to require asylum seekers to undertake 'compulsory volunteering' as a condition of support
- continue exploring 'the potential value' of early access to legal advice in increasing the quality of asylum decision making, and the intention to roll out the early access to legal advice project across the Midlands Region
- continue to support some unsuccessful asylum applicants who would otherwise be destitute

### Concerns about the proposals

We have serious concerns about the following proposals in the consultation document:

- the overwhelming emphasis on reducing perceived abuse of the asylum system as opposed to preventing asylum seeker destitution. It is of grave concern that the proposals indicate that UKBA is seeking to use asylum support as a mechanism to deal with perceived abuse of the asylum system, and we anticipate that vulnerable refugees will suffer as a result
- the statement that asylum support can or should be used to encourage people whose asylum claims have been refused to return to their countries of origin. This approach fails to recognise the complexities surrounding return, or the inadequacies of the asylum determination system which mean that refugees with protection needs have their asylum claims refused inappropriately and are expected to return when it is not safe for them to do so
- statements that only those who 'play by the rules' will be supported, without any detail about what such compliance will entail
- the lack of detail on the methodology and evidence base used by UKBA to evaluate current asylum support provision to ensure UKBA is providing an appropriate level of support.
- the failure to acknowledge or seek to address UKBA's current poor administration of the asylum support system, which leaves asylum seekers who are entitled to support destitute. There are no proposals to improve UKBA administration of the asylum support system
- the consultation fails to respond to the evidence presented by the sector about the extent of destitution among asylum seekers, including in the Refugee Council's *More Token Gestures* research on Section 4 vouchers, the Asylum Support Partnership's *Second Destitution Tally May 2009* and the many Still Human Still Here reports on the destitution facing refused asylum seekers
- the intention to 're-enact' section 55 of the 2002 Act, which contributes to destitution by arbitrarily denying asylum support to those who do not claim asylum 'as soon as reasonably practicable'
- the suggestion that families who are not co-operating fully or actively planning and implementing their departure will be denied support and could therefore be left destitute is very worrying. There is little supporting detail in terms of specific proposals
- the proposal to provide support in the form of the payment card, as opposed to cash, to families whose claims are refused but who will receive support for a time-limited period (three months) because they are taking steps to leave to UK, or because they would otherwise have the right to support from local authorities
- the proposal to '[bring] failed asylum seeking families into full board accommodation where we believe that will help removal'
- the proposal to set a fixed time limit for asylum support on the basis that an individual is taking steps to leave the UK and to remove the right of appeal, despite such an appeal being an essential safeguard against the inappropriate and unlawful removal of asylum support

***The UKBA form does not allow space for comments on questions 7 or 8 so our responses are set out below to those questions.***

**Q7: Do you agree that case owners should be able to tailor accommodation provisions for those who have been found to have no protection needs and bring families who purposefully frustrate the system into full board accommodation (where this could assist with removal or return)?**

**No.**

- In our experience, families with children who have been in the UK a long time often feel let down by the system and fear for their safety if forced to leave the UK. We are not aware of evidence that families are purposefully frustrating the system on a significant scale.
- Families with children should continue to receive cash support until they are granted status or leave the UK; the suggestion that families who are not co-operating fully or actively planning and implementing their departure will be denied support and left destitute is very worrying. There is little supporting detail in terms of specific proposals.
- The proposal to prohibit local authorities from providing support to a child or his/her family, if the child is eligible for UKBA support, is alarming considering the delays and errors inherent in the current asylum support system. Local authorities provide an essential safety net to ensure that children and their families do not find themselves destitute as a result of the UKBA's operational inadequacies. With this in mind, it is difficult to see how the proposals within the consultation are compatible with the Government's duty to safeguard and promote the welfare of children seeking asylum.
- The proposal to provide support in the form of the payment card, as opposed to cash, to families whose claims are refused but who will receive support for a time-limited period (three months) because they are taking steps to leave the UK, or because they would otherwise have the right to support from local authorities is unjustified and will lead to greater hardship for families without evidence that misery and poverty leads to return. Initial monitoring by the Asylum Support Partnership of the implementation of the payment card for section 4 clients suggests that the card contributes to the hardship experienced by refused asylum seekers and can, in many cases, act as an obstacle to accessing support. The UKBA should not consider extending use of the card without thorough evaluation of the impact of the card on families and, more specifically, on children.
- The Refugee Council is opposed to the detention of children. We do not believe that removing families from their communities and requiring them to live in full board accommodation will be effective in making people return. It was tried in the A2D project at Millbank in Kent without success.
- We would be concerned about measures intended to lead to return that resulted in disruption to children, including leaving schools and friends and other support services, including health and social care.
- We have raised these concerns in relation to previous pilots and have suggested ways in which families at the end of the process could be better supported.

**Q8: Do you agree that the offences to tackle support fraud should apply to all types of support?**

**Yes.**

- We have no objection to the seeking of standard powers for prosecuting fraud cases, though we have some concerns regarding the UKBA's interpretation of 'fraud' and the low number of cases that fall within this criteria. We challenge the UKBA's assertion that existence of a bank account constitutes evidence of fraud, and request a detailed outline of the UKBA's further investigations resulting in the withdrawal of support. We refer to the outcome of the recent 'Identity and Passport Service interview pilot' which aimed to identify fraudulent use of the asylum support

system. The project failed to result in a single case of support being withdrawn as a result of fraud.

- We are disappointed that there is little attempt in the consultation to deal with issues which affect a far greater number of people, for example consultation on measures that the UKBA could take to deal with administrative problems and delays in managing the asylum support process.

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