

CO/12131/2010
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

1st witness statement of: Donna Covey
Exhibit: DC1
Date:
Filed on behalf of: Refugee Action

The Queen on the application of:

Michael KANYEMBA

Claimant

-and-

The Secretary of State for the Home Department

Defendant

-and-

Refugee Action

Intervener

WITNESS STATEMENT OF DONNA COVEY

I, Donna Covey, Chief Executive of the Refugee Council, 240-250 Ferndale Road, London SW9 8BB say as follows:

1. I am authorised to make this statement on behalf of the Refugee Council. This statement is made from my own knowledge, from discussions with colleagues, and from documents available to me.
2. In this statement I will give information regarding the Refugee Council, its experience of delays by the Defendant in dealing with applications for Section 4 support and our concerns regarding the impact of destitution on asylum seekers.

The Refugee Council

3. The Refugee Council is a leading charity in the UK working with asylum seekers and refugees. We not only give direct help and support, but also work with asylum seekers and refugees to ensure their needs and concerns are addressed.
4. As a human rights charity, independent of government, we work to ensure that refugees are given the protection they need, that they are treated with respect and understanding, and that they have the same rights, opportunities and responsibilities as other members of our society. We achieve this mission by:

- supporting refugees and working with them as they build a new life
 - speaking up for refugees and ensuring that refugees themselves have a strong voice in all areas of UK life
 - building links with people from across our society to increase mutual understanding of refugees
 - making the case for a fair and just asylum system
 - taking a leading role in helping to build up a vibrant, sustainable and successful refugee sector in the UK and internationally
5. One of the services that the Refugee Council provides is free advice and information to refugees and asylum seekers through our One Stop Services in London, the East of England, West Midlands and Yorkshire and Humberside. This service includes assisting asylum seekers to make applications for Section 4 support. This service is funded by the UK Border Agency. Our clients include people with health problems, including mental ill health, pregnant women and families with children of all ages.
6. The Refugee Council has specialist experience of working with asylum seekers who are children through its Children's Panel. The Children's Panel works directly with separated children, as well as giving advice to those involved in their support. The Children's Panel has operated since 1994, and is the only national service of its kind. The Panel employs around 14 fully supported Advisers, many of whom speak the languages of the children they are working with. We receive referrals from statutory and voluntary organisations. This work means that the Refugee Council has specialist experience of the particular difficulties faced by refugee children. Although the children asylum seekers we work with are unaccompanied, there is the common experience that all newly arrived children face in terms of living with the uncertainty of their position and in attempting to continue to develop their potential in very difficult circumstances. Therefore, Refugee Council considers its specialist experience of working with children who are asylum seekers enables it to have a very good understanding of the impact on children generally of living with uncertain immigration status in poor quality accommodation, having access to limited and/or poor quality food and of having to move around regularly as a result of parents being destitute.

Delays in deciding Section 4 support applications in 'further submissions' cases

7. I have been provided with the statistics produced by Refugee Action regarding general delays in making decisions on applications for Section 4 support and those where the support applications are made on the basis that people have lodged further submissions asserting fresh claims for asylum. The Refugee Council

confirms its experience of delays in making decisions on applications for support in further submissions cases corresponds with the delays set out by Refugee Action.

The Refugee Council's concerns regarding further submissions and access to asylum support

8. In common with Refugee Action and other NGOs dealing with asylum support issues, the Refugee Council was extremely concerned about the impact of the changes introduced by the UK Border Agency (UKBA) in October 2009. We wrote to Lin Homer the then Chief Executive of the UKBA setting out our concerns regarding the changes introduced and she responded on 30 October 2009.
9. I am informed that the details of the changes and the way in which they were introduced are set out in a statement made by Refugee Action's Chief Executive and therefore I do not repeat them in this statement. In essence, these changes required further submissions to be made in person, and provided that applications for section 4 support based on the making of further submissions would not be considered unless a decision could not be made on the further submissions within a "reasonable timeframe", subsequently defined as 15 working days. I shall refer to this second change as the "October 2009 section 4 policy".
10. The Refugee Council has raised its concerns with the UKBA regarding the legality of the October 2009 section 4 policy and its impact on destitute asylum seekers. We have raised these concerns in meetings with UKBA officials and in correspondence.
11. In July 2010, as part of the Asylum Support Partnership, we produced a briefing paper entitled: "Further submissions and access to asylum support". The Asylum Support Partnership comprised One Stop Services providers (at that time, the Refugee Council, the Scottish Refugee Council, the Welsh Refugee Council and the North of England Refugee Service).
12. The purpose of the briefing paper was to set out the agencies' experience of the impact of the changes introduced in October 2009.
13. The Asylum Support Partnership explained that:

"Our evidence suggests that those with no alternative means of support or with additional needs, including children, people with serious health issues, and torture and trauma survivors, endure prolonged periods of poverty, exclusion and ill-health as a direct result of the denial or withdrawal of asylum support."

14. We said in the briefing paper that:

Since the 14th October 2009, the agencies have seen a large number of people who have experienced prolonged destitution, either because:

- *They are unable to get through on the appointment booking telephone line;*
- *They cannot afford the travel to deliver their further submissions in person;*
- *They are waiting for their appointment and cannot access support; or*
- *They have delivered their further submissions but the UKBA has refused to consider their support application or there has been a delay in allocating support.*

The first obstacle to obtaining section 4 support for people who wish to make further submissions is to get an appointment to attend at the Further Submissions Unit in Liverpool (for cases dealt with by the Case Resolution Directorate). In the July 2010 briefing paper, we set out the difficulties experienced by agencies, legal representatives, individuals and others supporting them in getting through by telephone in order to arrange appointments for the further submissions to be lodged. At the time of that briefing paper, the Liverpool FSU was booking appointments seven working days in advance but it would often take several days to get through on the telephone line to make an appointment. Colleagues still report significant delays and difficulties in getting an appointment to make further submissions.

15. The briefing paper also sets out the hardship experienced by vulnerable groups in travelling long distances in order to lodge further submissions. Although UKBA allowed certain vulnerable groups to make their further submissions by post or fax if they fell within 'exceptional' criteria, there were many vulnerable people who did not fall within these criteria, but were unable to travel to Liverpool to the FSU and others who did not have the means to travel.

16. The briefing paper also dealt with the agencies' experience of the impact of the October 2009 section 4 policy. It stated that:

"The delay in deciding support applications and allocating accommodation means that many clients have experience of sleeping rough, often as a way of minimising the burden of relying on friends or family for financial support and accommodation..."

The briefing paper recommended a reversal of, inter alia, the October 2009 section 4 policy. The briefing paper was sent to Lin Homer, the then Chief Executive of the UK Border Agency.

17. As set out in the briefing paper, in common with other agencies assisting asylum seekers to access support, the Refugee Council has serious concerns regarding the impact of the October 2009 section 4 policy. It has particular concerns regarding the impact on children and other especially vulnerable groups. In this regard I refer to the case studies set out in the briefing paper. Our Brixton office reported (pp. 6-7 of the paper) that "they see approximately 15 clients per week whose application for section 4 following presentation of further submissions has not been decided within the 15 day deadline".
18. Based on its extensive experience of working with child asylum seekers, it is the Refugee Council's firm view that the impact of the policy under challenge is especially harmful for children. This is because we regularly come across destitute asylum seeking families who are relying on the support of friends, relatives or other community members which involves living in severely overcrowded accommodation, with limited access to food. Many of them are families who have made further submissions asserting fresh claims for asylum. Because these are families rather than single people, they have to move around frequently in order to maintain the goodwill of those accommodating them who are, usually, also of limited means and often have their own families to support. This inevitably creates huge uncertainty for children who, if of school age, are often unable to regularly attend school. Clearly the disruption in their daily lives is, in the Refugee Council's view, likely to have a detrimental impact on their development and on their ability to fully participate in the day to day activities that other children take for granted.

Assistance from the Refugee Council to destitute asylum seekers

19. As set out above, the briefing paper refers to people relying on the Refugee Council for hot meals, food parcels, laundry and showers in order to survive.
20. I would like to make clear that it is only our day centre in London that currently provides a service that includes one hot meal (lunch) per day and use of shower and laundry facilities. We have been offering destitution services since 1996, when we set up a Day Centre in response to the high number of asylum seekers and refugees living in poverty and hardship in London. However, following significant cuts to funding for our services last year, and the loss of over a third of our staff, we have had to make major changes to the way we run our client services. We have found in the current climate that while many of our donors remain extremely generous, it has also been difficult to sustain funding for our destitution services in their current form.

This means that the very limited services that we are able to offer are very likely to be further cut back.


21. The Refugee Council does not offer accommodation other than that funded by the UKBA under section 98 of the 1999 Act i.e. Initial Accommodation, so that a large number of the people who use the services of our day centre will be street homeless. In very limited circumstances, such as to avoid families becoming street homeless the Refugee Council will pay for low cost 'bed and breakfast' accommodation but only for a short period of time (no more than a couple of nights) whilst we advocate for support to be provided by statutory authorities e.g. under the Children Act 1989 or Community Care legislation.
22. We sometimes receive donations of food parcels and clothes and if these are available, we will distribute them, but this is clearly limited and dependent on availability. The food parcels will be made up of whatever is donated to the Refugee Council and tends to include non perishable goods such as grains and dry pasta so that access to cooking facilities is necessary for those who receive them.
23. In the Refugee Council's experience there is very limited provision in terms of accommodation for destitute asylum seekers, as most services are funded through housing benefit. That which is available, though Churches, Mosques, Synagogues etc. will be very short term and insecure. Such provision usually entails sleeping on the floor of the Church, Mosque or Synagogue and is available during week days only.
24. I have read the statement made by Hugo Tristram of the British Red Cross and can confirm that the impact of destitution on our clients is similar to that documented by the Red Cross. Our clients frequently report sleeping in bus shelters, parks and on night buses, they report fear of authorities, indignity and lack of self worth.
25. I attach marked 'DC/1' copies of the documents and correspondence referred to in this statement.

Conclusion

26. The Refugee Council's experience is that the impact of the policy under challenge is to prolong the destitution of one of the most vulnerable groups in our society.

27. As set out in the attached briefing paper and in this statement, the Refugee Council is particularly concerned about the particular detriment to especially vulnerable groups such as children, pregnant women and torture/trauma survivors.

I believe the facts stated in this witness statement to be true.

Signed: 
Donna Covey

Date: 03/04/12.