

# Refugee agencies policy response



Welsh Refugee Council

## The Impact of Section 4 Support

September 2006

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## About the inter-agency partnership

The Asylum Support Programme Inter-Agency Partnership (IAP) consists of six agencies: Refugee Council, Refugee Action, Migrant Helpline, Refugee Arrivals Project, Scottish Refugee Council and Welsh Refugee Council. It also includes representations from subcontractors and refugee community organisations (RCOs).

The IAP delivers asylum support services to asylum seekers across the U.K. as contracted by the National Asylum Support Service (NASS). IAP advises and assists asylum seekers with their asylum support applications, and provides subsidiary advice to failed asylum seekers requiring support. This consultation response has been prepared by the Inter-Agency Co-Ordination Team (ICT) on behalf of the IAP.

## About the agencies

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. We not only give help and support to asylum seekers and refugees, but also work with them to ensure their needs and concerns are addressed by decision-makers.

Refugee Arrivals Project (RAP), is an independent, not-for-profit organisation that provides humanitarian assistance and support services to new applicant asylum seekers and refugees. Through its work RAP seeks to influence the development of refugee policy for all asylum seekers and refugees.

Migrant Helpline has a long history of working with asylum seekers, refugees and migrants in the South East. As well as providing direct services we proactively promote awareness of the issues surrounding our clients and work with host communities to assist with integration.

Refugee Action is an independent national charity that works with refugees to build new lives in the UK. With 25 years of experience in reception, resettlement, development and integration, we provide advice and support to asylum seekers and refugees in 10 regions across England.

Scottish Refugee Council provides help and advice to those who have fled human rights abuses or other persecution in their homeland and now seek refuge in Scotland. We are a membership organisation that works independently and in partnership with others to provide support to refugees from arrival to settlement and integration into Scottish society. We campaign to ensure that the UK Government meets its international, legal and humanitarian obligations and to raise awareness of refugee issues.

The Welsh Refugee Council (WRC) empowers refugees and asylum seekers to rebuild their lives in Wales. It provides advice, support and information to asylum seekers and

refugees and advocates and campaigns for refugee rights as enshrined in international law.

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# Executive Summary and Recommendations

1. The Asylum Support Programme Inter-Agency Partnership (IAP) consists of six agencies: Refugee Council, Refugee Action, Migrant Helpline, Refugee Arrivals Project, Scottish Refugee Council and Welsh Refugee Council. It also includes representations from subcontractors and refugee community organisations (RCOs).
2. The IAP delivers asylum support services to asylum seekers across the UK as contracted by the National Asylum Support Service (NASS). IAP advises and assists asylum seekers with their asylum support applications, and provides subsidiary advice to failed asylum seekers requiring support.
3. This report has been prepared by the Inter-Agency Co-Ordination Team (ICT) on behalf of the IAP in order to ensure that the experience of the IAP agencies in working with section 4 clients is captured and used to inform policy and practice development in this area. The report covers the IAP's experience and concerns relating to nature and administration of section 4 support.
4. Section 4 of the Asylum and Immigration Act 1999 (as amended by section 49 of the Nationality and Asylum Act 2002) allows the Secretary of State to provide support, in very limited circumstances, to refused asylum seekers. The purpose of section 4 is to provide temporary support to people who are destitute and who, through no fault of their own, are unable to leave the UK. This may be because there is no viable route of return to their home country, because they have submitted a fresh asylum application, or because they have a medical condition, including pregnancy, that prevents them from travelling.
5. The number of people applying for and receiving section 4 support has increased exponentially since January 2005. Between 2004 and 2005, the number of people applying for section 4 support increased by 433 percent: from 3000 applicants in 2004 to 16 000 in 2005<sup>1</sup>. This explosion in the numbers applying for section 4 followed a successful judicial review in the case of Abdullah vs. SSHD enabling destitute asylum

seekers at the end of the asylum process with no access to a safe route of voluntary return to receive section 4 support. This case also served to advertise the availability of section 4 to destitute asylum seekers at the end of the asylum process.

6. Section 4 support is intended to be temporary. However, in reality people experience significant periods on section 4 support. While the average length of time on section 4 support is 260 days, a large proportion, 45 per cent, of recipients spend significantly longer on section 4 support.
7. IAP agencies have used various stakeholder forums to raise their concerns about section 4 with the government agency set up to administer the 1999 Act – the National Asylum Support Service (NASS)<sup>2</sup>. Historically NASS has taken a case-by-case approach to addressing problems, and many problems have been resolved in this way. However, the experience of the IAP agencies is that the problems besetting section 4 are widespread and ongoing and require a systemic problem solving approach.

### *Key Findings*

8. Section 4 support has evolved beyond its original policy intention to provide limited and temporary assistance to people unable to leave the country through no fault of their own. It is the sole means of support to people for considerable lengths of time and is failing to meet their most basic needs.
9. The average time people spend on section 4 support is 8.7 months which surpasses the average 6 months spent on section 95 support. Figures provided by NASS to stakeholders in March this year showed that 28 per cent of the 5 181 people on section 4 support had been on it for longer than a year. The cash-less nature of section 4 means that it is an inappropriate form of support for this length of time.

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<sup>1</sup> NASS briefing note to NASS Forum members, 12 January 2006

<sup>2</sup>Up until June 2006, NASS existed as a distinct directorate within the Immigration and Nationality Directorate (IND). In July 2006 NASS was dissolved into the IND to reflect the move towards single case ownership of asylum support and determination functions within the New Asylum Model. This paper continues to refer to NASS as it has been the agency with which much of the interaction described in this report has occurred.

10. The political intention behind the limited support is to 'convey the message of return', yet for those on section 4 support, return is impossible both in the short term and, for many, in the long term. This may be because for instance, they are unable to travel for medical reasons, or because there is no safe route of return, they are awaiting Voluntary Return through the IOM or removals to their home country have been suspended. For some, conditions in their home country mean that the possibility of return to their home country in the near future is remote.
11. Furthermore, there has been no evidence to suggest that a cash-less system either motivates people to leave the country or discourages them from entering the country in the first place. The 2002 Home Office Report, "Understanding the decision-making of asylum seekers", found that: 'There was little evidence that respondents had detailed knowledge of UK immigration or asylum procedures, entitlements to benefits in the UK, or the availability of work in the UK.'<sup>3</sup>
12. Given that the majority of people are supported for significantly longer than the prescribed temporary periods through no fault of their own, the inadequacies of the section 4 support system is resulting in significant periods of sustained hardship and deprivation for thousands of people.
13. The report finds that vouchers fail to meet the needs of section 4 clients and their dependants; that vouchers stigmatise and humiliate people, and do not provide value for money. The quality of accommodation provided to people on section 4 support is frequently of a very poor standard and NASS has few quality assurance mechanisms in place to monitor and enforce quality section 4 accommodation provision. The report also reveals a concerning attitude prevalent among section 4 accommodation providers that poor quality accommodation provision is justified as it is for people who have 'no right to be in the UK'. Lastly, the report challenges the validity of the many variations that exist between the support provided to section 4 clients and those provided under sections 95 and 98 of the Immigration and Asylum Act 1999.

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<sup>3</sup> "Understanding the decision-making of asylum seekers", *Findings 172*, Research, Development and Statistics Directorate, Home Office <http://www.homeoffice.gov.uk/rds/pdfs2/r172.pdf> (accessed 7 July 2006).

14. The systems and processes for administering section 4 applications and support are beset by bureaucratic weaknesses. These weaknesses are exacerbated by the burgeoning demand for section 4 support resulting in significant delays and errors in the administration of support. Vulnerable people, so-called 'priority A cases' or people who are street homeless and/or heavily pregnant or with health problems or have children, should receive a decision on their application within 48 hours. Yet IAP agencies report that vulnerable clients can wait up to 3 weeks for an application to be determined and accommodation provided. In some documented cases clients have waited more than six weeks for a decision. The impact of these delays on clients, who are already by definition destitute, is devastating. Many are forced to sleep rough for the entire time that they are waiting for a decision on section 4 to be made.

### *Recommendations*

15. This report proposes two sets of recommendations

- the preferred model of support which we consider will have the most profound impact in improving the situation of refused asylum seekers but which may not be immediately achievable; and
- a set of interim recommendations that the IND could introduce immediately and that would result in significant improvements in the lives of refused asylum seekers.

#### **A: Preferred model of delivery for support**

16. The level and nature of section 4 support, and the mechanisms to administer it were developed to meet the needs of a small number of people who required temporary support until they returned to their country of origin. In reality section 4 is the sole means of support for a large number of people for a considerable length of time. As such, the nature and level of support and the mechanisms to administer it are no longer fit for task.

17. The experience of the IAP agencies in attempting to assist clients to apply for section 4 support and to have their needs met while on this support leads unequivocally to the following recommendation.

***Recommendation 1:***

***Section 4 should be abolished and section 95 support be extended to all asylum seekers from initial asylum application to grant by fresh claim or voluntary or enforced removal from the country.***

18. This would create a seamless system of support the benefits of which include:

- decreased numbers of asylum seekers experiencing destitution as they fall between the gaps created by the two separate systems of support
- elimination of the inefficiencies and duplications of current administrative arrangements and the costs therein
- Asylum seekers and their dependants would receive equal forms of support, regardless of where they are in the system, eliminating the hierarchy which currently exists
- A likely increase in the numbers of people who sign up for Voluntary Return and a decrease in the numbers who abscond. The UNHCR report on 'Alternatives to Detention of Asylum Seekers and Refugees' (April 2006) found that access to support systems throughout the asylum process resulted in higher levels of compliance with asylum procedures and lower rates of absconding. The principle of seamless support is highly consistent with the close contact management practices of the New Asylum Model.
- NASS and IAP agencies would be saved the trouble of the constant case-by-case problem solving and the costs therein.

**B: Interim measures to improve current delivery of section 4 support**

19. This report also identifies a number of interim actions that the IND should take until the above recommendation is enacted and which would greatly improve the section 4 regime.

***Recommendation 2 - Vouchers:***

***Replace vouchers with cash provision***

20. The introduction of cash payments for section 4 recipients would be of immense benefit to the IND and to asylum seekers. Asylum seekers would be able to meet a greater range of their needs and would not be humiliated through having to use vouchers. Cash would also enable asylum seekers to maximise the value of their support provision,

purchasing goods at their best price. The IND would be able to administer a simple and universal system for the provision of both section 4 and section 95 support, likely to result in administrative cost savings. Furthermore, illegal practices associated with the black market trade in vouchers would be eliminated.

***Recommendation 3 – Accommodation:***

***The IND should acknowledge the right of section 4 clients to be placed in quality accommodation that reflects both their legal right to be in the UK, and the fact that many of them are likely to be accommodated for long periods of time, and communicates unequivocally these principles to private accommodation providers;***

***Recommendation 4 – Accommodation:***

***The IND should immediately apply the standards of accommodation set out in the 'Target' accommodation contracts for section 95 accommodation providers to those providing accommodation under section 4; and introduce a rigorous system of inspection visits, and contract compliance measures to ensure that these standards are adhered to.***

21. Recommendations 3 and 4 aim to improve the quality of section 4 accommodation which frequently falls below the standard of section 95 accommodation and which causes entirely avoidable suffering for clients. The shift to Target contracts and tighter monitoring systems would also ensure that the IND receives value for the money it is investing in accommodation.
22. One of the persistent concerns amongst IAP agencies and other voluntary sector and legal stakeholders working with asylum seekers is the delays that occur in deciding whether an applicant is eligible for section 4 support and then awarding that support. The IAP has asked NASS to clarify whether there is a legal impediment to the provision of interim support pending a section 4 decision: the answer appears to be that the legislation is silent on this issue. The IAP therefore recommends that the following:

***Recommendation 5 – Interim Support:***

***Interim accommodation and support should be granted immediately to applicants who may meet the criteria for section 4 support, pending the full assessment of their claim.***

23. This would bring the treatment of section 4 applicants into line with section 95 applicants who receive initial support under section 98 of the 1999 Act pending the full investigation of their support claim. It would also be consistent with housing legislation for vulnerable people: section 188 of the Housing Act 1996 places a duty on local housing authorities to provide immediate interim accommodation if they have 'reason to believe that an applicant ***may be*** homeless, eligible for assistance and have a priority need...' pending completion of inquiries and a decision as to that person's full entitlement under the Act. The Homelessness Code of Guidance for Local Authorities (ODPM, July 2002) states that this is 'an important part of the safety net for people who have priority need and are unintentionally homeless.'
24. The advantages of interim support for these extremely vulnerable section 4 applicants would be enormous as the risks associated with prolonged periods of destitution and homelessness would be minimised. Furthermore, by applying a precautionary approach to the awarding of section 4 support the IND would avoid potential breaches of applicants' human rights by ensuring that its systems do not cause destitution.

# Part One - Introduction

1. The Asylum Support Programme Inter-Agency Partnership (IAP) consists of six agencies: Refugee Council, Refugee Action, Migrant Helpline, Refugee Arrivals Project, Scottish Refugee Council and Welsh Refugee Council. It also includes representations from subcontractors and refugee community organisations (RCOs).
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3. This report has been prepared by the Inter-Agency Co-Ordination Team (ICT) on behalf of the IAP.

## *Purpose and scope*

4. This report has been developed in order to ensure that the experience of the IAP agencies in working with section 4 clients is captured and used to inform future policy and practice development in this area. This report aims to
  - Contribute to the understanding of the original intention of section 4 support and the reality of current delivery of support;
  - Outline the experience of agencies in working with clients on section 4 support;
  - Identify and analyse problems arising out of the section 4 regime and detail the impact of these problems on clients, agencies and other key stakeholders; and
  - Propose solutions for improving section 4 support.
5. This report covers the IAP's experience and concerns relating to *the level and nature* of section 4 support, including accommodation as well as the *systems and processes* of the section 4 support regime (e.g. the application process, accommodation inspection processes etc).
6. Issues covered by the report include:
  - The limitations of vouchers
  - Inadequacies of section 4 accommodation quality, provision and management

- Inequalities in support in comparison to other NASS support
- Inefficiencies in the application process
- The shifting burden on stakeholder agencies to support destitute asylum seekers rendered so by the inefficient section 4 process
- The coercive use of support by NASS to achieve immigration service objectives

### *Approach and methodology*

7. Material to inform this report has been gathered from case studies and interviews with case advisors in One Stop Services and from data provided by NASS.

## Part Two – Background

### *Legislative context – what is section 4 support and what is its purpose?*

8. Section 4 of the Asylum and Immigration Act 1999, as amended by section 49 of the Nationality, Immigration and Asylum Act 2002, allows the Secretary of State to provide support, in very limited circumstances, to unsuccessful asylum seekers – people who have received a negative asylum decision and exhausted their appeal rights. The purpose of section 4 support is to provide ‘short-term’ support to people who are destitute and who, through no fault of their own, are unable to leave the UK (see section below on length of time on section 4 support).
9. The section 4 eligibility criteria are set out in the 2005 Regulations to this Act and the NASS Policy Bulletin 71<sup>4</sup>. The Secretary of State can grant section 4 support to a person who is destitute and meets one of the following conditions:
  - The person is taking all reasonable steps to leave the UK, or to place themselves in a position in which they are able to leave the UK. This could include complying with attempts to obtain a travel document to facilitate departure.
  - The person is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.
  - The person is unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available.
  - The person has made an application in Scotland for judicial review of a decision in relation to his asylum claim, or, in England, Wales or Northern Ireland, has applied for such a judicial review and been granted permission to proceed.
  - The provision of accommodation is necessary for the purpose of avoiding a breach of a person’s Convention rights, within the meaning of the Human Rights Act 1998.
10. Successful section 4 applicants receive board of £35 per week (provided in vouchers redeemable at specified supermarkets) and are housed in accommodation contracted by NASS with private and public providers.

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<sup>4</sup> Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005.

## Abudullah v SSHD

11. Until January 2005, the number of people receiving section 4 support was relatively low: 1425 people were granted section 4 support over the last three quarters of 2004 combined.<sup>5</sup> However in late 2004, the successful judicial review case R (Abdullah vs. SSHD), resulted in NASS conceding that failed asylum seekers no longer had to register for the voluntary return and repatriation programme in order to receive section 4 support. The Abdullah case successfully argued that section 4 should be granted if there was no viable route of return. Significantly, Abdullah was an Iraqi national. The ruling resulted in thousands of Iraqi nationals in the UK who were unsuccessful destitute asylum applicants applying for section 4 support. In the first quarter alone of 2005, section 4 support was granted to 6,105 people<sup>6</sup>. While this was a spike in demand, applications have remained high since late 2004 (see below).

*Table 1: Number of positive section 4 decisions 2004-2006*

| Positive section 4 decisions 2004-2006 <sup>7</sup> |                      |
|---|----------------------|
| Q1 2004   | Figure not available |
| Q2 2004   | 175                  |
| Q3 2004   | 365                  |
| Q4 2004   | 885                  |
| <b>Q2-4, 2004 Total</b>                             | <b>1, 425 (+)</b>    |
| Q1 2005   | 6,105                |
| Q2 2005   | 1, 750               |
| Q3 2005   | 1,510                |
| Q4 2005   | 960                  |
| <b>2005 Total</b>                                   | <b>10,325</b>        |
| Q1 2006   | 1,825                |

### *Who is on section 4 support?*

12. As outlined above, failed asylum seekers can claim section 4 support if they can meet certain criteria and prove that they are destitute. At the end of February 2006, 5181

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<sup>5</sup> *Asylum Statistics: 1<sup>st</sup> Quarter 2006 United Kingdom*, Home Office, <http://www.homeoffice.gov.uk/rds/pdfs06/asylumq106.pdf>, page 9

<sup>6</sup> *ibid*

<sup>7</sup> *ibid*

people were receiving section 4 support. The following table shows where these people were living by region.

*Table 2: Section 4 support by region, February 2006<sup>8</sup>*

| <i>Region</i>            | <b>Totals</b> |
|--------------------------|---------------|
| East Midlands            | 499           |
| East of England          | 36            |
| London                   | 980           |
| North East               | 184           |
| North West               | 720           |
| Scotland                 | 130           |
| South East               | 56            |
| South West               | 272           |
| Wales                    | 188           |
| West Midlands            | 952           |
| Yorkshire And The Humber | 1164          |
| <b>Total</b>             | <b>5181</b>   |

13. The following table shows the 'top ten' nationalities of people who applied for section 4 support in 2005.

*Table 3: Section 4 support decisions for 2005 by top ten nationalities<sup>9</sup>*

| <b>Nationality</b> | <b>Total decisions</b> | <b>Positive decisions</b> | <b>% Positive decisions</b> | <b>Refused</b> | <b>% Refused</b> |
|--------------------|------------------------|---------------------------|-----------------------------|----------------|------------------|
| Iraq               | 9564                   | 8356                      | 87                          | 1208           | 13               |
| Iran               | 867                    | 402                       | 46                          | 465            | 54               |
| Eritrea            | 734                    | 411                       | 56                          | 323            | 44               |
| Somalia            | 401                    | 175                       | 44                          | 226            | 56               |
| Congo              | 350                    | 150                       | 43                          | 200            | 57               |
| Ethiopia           | 262                    | 111                       | 42                          | 151            | 58               |
| Sudan              | 261                    | 139                       | 53                          | 122            | 47               |

<sup>8</sup> Supplied by NASS, March 2006.

<sup>9</sup> Supplied by NASS, January 2006.

|              |              |              |           |             |           |
|--------------|--------------|--------------|-----------|-------------|-----------|
| Afghanistan  | 226          | 136          | 60        | 90          | 40        |
| Zimbabwe     | 225          | 85           | 38        | 140         | 62        |
| DR Congo     | 218          | 100          | 46        | 118         | 54        |
| <b>Total</b> | <b>13108</b> | <b>10065</b> | <b>77</b> | <b>3043</b> | <b>23</b> |

As the table shows, Iraqi claimants make up the overwhelming majority of all those who apply for and receive section 4 support. 83 per cent of all positive section 4 decisions in 2005 were awarded to Iraqi nationals.

### *The length of time on section 4 support*

14. Government representatives and officials have frequently emphasised that the purpose of section 4 support is to provide 'short-term' or 'temporary' support to people who are unable to return to their country of origin through no fault of their own. This notion of 'short-termism' has been used to justify differences between the type and quality of support provided under section 4 and those provided through other NASS support mechanisms (i.e. section 95 and 98 support).
  
15. At the National Asylum Stakeholders Forum (NASF) in March 2006 Jeremy Oppenheim, the Director of NASS responded to stakeholders' concerns about the variable and often poor quality of section 4 accommodation advising that it needed to differ from section 95 accommodation to 'convey the message of return' (NASF Forum 21 March 2006). Similarly, on 23<sup>rd</sup> March 2006, Tony McNulty, then Home Office Minister for Immigration, Citizenship and Nationality stated that 'Support for failed asylum seekers is limited and temporary to ensure that it does not act as an incentive to remain'.<sup>10</sup>
  
16. While the Home Office has not defined the period of time considered 'short term', the NASS policy bulletin 71 give some clues as to the intended length of time on section 4 support. For people 'taking all reasonable steps to leave the UK or [who] place themselves in a position to leave, support shall initially be granted for three months'. For those people granted support for medical reasons, the length of support is 'determined

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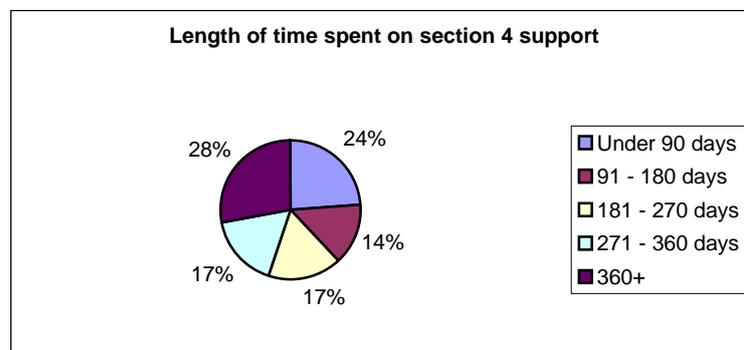
<sup>10</sup> *Guardian* newspaper, 23 March 2006.

on a case by case basis' and for 'women in the late stages of pregnancy, support shall initially be provided until 8 weeks after the expected date of delivery.'<sup>11</sup>

17. In reality, people are supported under section 4 for significantly longer than three months. According to NASS statistics provided at the March 2006 NASF meeting the average amount of time that people had been on section 4 support was 260 days, or 8.7 months. For Iraqi nationals the average length of time was 268 days, or approximately 8.9 months. NASS advised that, although they believed it to be incorrect, their records showed that the longest period of time anyone has spent on section 4 support is 2, 250 days or six and a quarter years. So far NASS has been unable to provide any data on the range of number of days spent on section 4 support or on the median length of time.

18. While the average length of time on section 4 support is 260 days, a large proportion, 45 per cent, spend significantly longer on section 4 support. As the chart below shows, 28 per cent of those on section 4 support had been on it for longer than 360 days.

**Chart 1: Length of time on section 4 support**



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<sup>11</sup> NASS Policy Bulletin 71: Section 4 of the Immigration and Asylum Act 1999, page 5.

## Part Three – Findings (Level and nature of section 4 support).

19. Due to the exponential growth in the number of failed asylum seekers on section 4 support since January 2005, IAP agencies have developed a comprehensive and broad-ranging understanding of the experience of section 4 support for claimants. Many of the agencies' concerns about the impact of section 4 support on clients have been communicated to NASS, and many problems have been resolved on a case-by-case basis. The following section outlines those problems that are ongoing and systemic and which agencies consider need a systemic problem-solving approach.

20. This section deals with the following issues:

- The limitations of vouchers
- The shortcomings of accommodation and the lack of inspection systems
- Inequalities in support compared to section 95 support.

### *The limitations of vouchers*

21. IAP agencies have consistently opposed the use of vouchers for asylum seekers throughout the asylum process because they are inflexible, they stigmatise the user, and they are not cost effective. In 2002 the Government ended the NASS voucher system for section 95 and 98 supported asylum seekers. The then Home Secretary, Rt. Hon. David Blunkett MP said, it was: *'too slow, vulnerable to fraud and felt to be unfair by both asylum seekers and local communities.'*<sup>12</sup> While this led to the discontinuation of the use of vouchers for asylum seekers on sections 95 and 98 of the Asylum and Immigration Support Act 1999 (those at the beginning of the asylum process), their use has continued for those on section 4 support. The continued use of vouchers can be seen as an attempt to reduce the attraction of NASS support and coerce compliance with voluntary return.

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<sup>12</sup> Home Office press release, 29 October 2001.

22. Stakeholders in the charity and voluntary sector have long argued that NASS has the legal scope to provide section 4 support in cash, NASS however has consistently maintained that they are legally bound to provide section 4 support through vouchers only. This position has recently been entrenched through the passing of the Immigration and Nationality Act (2006), clause 43 of which stipulates that section 4 support is only available through non-cash means, i.e. vouchers or full board accommodation.

23. This clause also gives the Secretary of State flexibility to provide additional support when necessary to cover items such as nappies, razors, clothing etc. The IAP agencies welcome this additional flexibility and recognise that it may help some individuals on a case-by-case basis. However the IAP is concerned that the fundamental problems created by a non-cash system will continue to cause distress and hardship for people supported under section 4 and will continue to impact heavily on the IAP agencies and other stakeholders. The IAP remains opposed to the use of vouchers and a non-cash support system.

**Vouchers are unable to meet people's needs.**

24. Section 4 accommodation providers are responsible for issuing vouchers worth £35 per week to claimants placed in their accommodation. The type of voucher issued to a claimant is decided by the accommodation provider – and may vary from a voucher that can be used at any supermarket in the area to 'luncheon vouchers' that may be used in only one supermarket.

25. The IAP has regularly provided evidence to NASS on the inability of vouchers to meet people's most essential needs. Commonly reported problems include:

- Mothers of new-born babies being unable to purchase the items necessary to care for their babies, including clothing, formula, and adequate bedding;
- People being unable to purchase halal meat;
- People being unable to purchase toiletries and cleaning products at supermarkets, especially in the areas where they have been issued with luncheon vouchers;

26. In addition, vouchers cannot be used to purchase travel so asylum seekers, often in poor health and/or with children, have to walk long distances to attend medical appointments and go to the supermarket. 83 per cent of respondents to a questionnaire compiled by the Home Office in 2002 as part of its review into *Asylum seekers' experiences of the voucher scheme in the UK* stated that they had been unable to attend an appointment because of insufficient cash for fares<sup>13</sup>.
27. The cumulative effects on section 4 recipients of not being able to meet their basic needs (or those of their dependants) because of the inflexible nature of vouchers are significant and wide-ranging. IAP case advisors report increasing numbers of highly distressed and depressed section 4 clients, who are stuck in a form of limbo – unable to return to their home country but with very few rights in the UK. By definition, those on section 4 support are vulnerable and destitute: to exacerbate this through a system that too often denies access to basic needs seems highly unjust.
28. It should also be noted that the vulnerability of this group of people is exacerbated the fact that the NHS does not allow them access to free health care because of their status as asylum seekers whose claims have failed. The Refugee Council and Oxfam report *First do no harm: denying healthcare to people whose asylum claims have failed*<sup>14</sup> documents the impact of this policy on asylum seekers and recommends the restoration of access to free health care.
29. While section 43 of the Immigration, Asylum and Nationality Act 2006 will provide additional assistance to some section 4 recipients and is welcomed by the IAP it is likely to be difficult to access, with strict eligibility rules. The impact on the wellbeing of unsuccessful asylum seekers is therefore likely to be limited.
30. The 2002 Home Office vouchers review reported that 66 per cent of asylum seekers with dependants felt they were unable to buy everything they needed for their dependants.

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<sup>13</sup> *Asylum seekers' experiences of the voucher system in the UK – fieldwork report*, Andrea Eagle, Lesley Duff, Carlyne Tah and Nicola Smith, Home Office Research, Development and Statistics Directorate, March 2002, p.13.

<sup>14</sup> *First do no harm: denying healthcare to people whose asylum claims have failed*, Nancy Kelley and Juliette Stevenson, Refugee Council and Oxfam, June 2006.

The following case studies from IAP case workers illustrate the kind of difficulties experienced by people using section 4 support in attempting to meet needs their and those of their dependants.

#### Case Studies – Limitations of section 4 vouchers

- A woman in Leeds attempted to use vouchers to buy nappies and other toiletries for her child but was refused at Morrisons, Asda and Tesco. She also attempted to purchase phone cards with her vouchers but this was also refused at the supermarkets. [Source: Refugee Council, Leeds]
- Asylum seekers in Newcastle are issued with ordinary luncheon vouchers, which can be exchanged for food only at Asda, Morrison and Tesco. These supermarkets are all out of town – there are smaller supermarket outlets (Iceland, Co-Op) in the centre of town, but they do not accept vouchers. [Source: North England Refugee Service]
- Section 4 clients in West London are issued with vouchers that can be used in Somerfield or Quicksave supermarkets. Neither of these supermarkets provides halal meat. [Source: Refugee Arrivals Project]
- The Welsh Refugee Council has persuaded Tesco Superstores to accept vouchers for non-food items. However the Superstores are a long distance away from client accommodation, and clients do not have money to pay for transport to and from the stores. [Source: Welsh Refugee Council]
- A client in Plymouth who has regular medical appointments at a hospital following an accident is unable to get to his appointments as he is on section 4 support and cannot spend vouchers on transport there. There is no free hospital transport. There is a service for those who don't have their own transport but there is a charge. [Source: Refugee Action]
- A woman in Leicester RCA on section 4 support with a 7 week old baby was refused baby nappies, lotion and shampoo when trying to spend her vouchers. She was not able to buy any baby clothes either. We referred to NASS who addressed the toiletries and nappies but said she would have to go to charity for baby clothes. [Source: Refugee Action]

#### **Vouchers stigmatise, degrade and demean**

31. IAP case advisors report that the stigmatisation of clients through the use of vouchers is common. This has significant implications for community cohesion and the mental health and wellbeing of people supported under section 4.

32. As part of the Home Office's 2002 review of vouchers, 205 asylum seekers completed a questionnaire outlining their experiences of vouchers. The review report summarised the feelings of the respondents when using vouchers as follows:

- 70 per cent felt embarrassed when using vouchers because they felt they were being looked at.
- 68 per cent felt embarrassed because they had difficulty adding up the cost of their shopping and knowing which vouchers to use<sup>15</sup>.

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<sup>15</sup> Op cit, p.11

33. Many commentators, among them government and opposition members of parliament, spokespeople for human rights and asylum rights organisations, welfare charities and refugee communities, criticised vouchers prior to their use being abolished for those receiving section 95 (of the 1999 Act) support. Many of their concerns related to the degrading and demeaning nature of vouchers. The December 2000 Oxfam report, *Token Gestures - the effects of the voucher scheme on asylum seekers and organisations in the UK*, documents these criticisms in its opening pages, including the following:

*"a degrading system"*

**Rt Hon Michael Portillo MP, shadow chancellor, BBC Question Time, 28<sup>th</sup> September 2000**

*"It is our clear view that vouchers are demeaning and stigmatise a vulnerable group in society (...)."*

**Simon Hughes MP, Liberal Democrat home affairs spokesman**

*"The voucher system has been introduced to humiliate asylum seekers. It is a system which deprives them of basic human needs".*

**London refugee community organisation, response to T&G/Oxfam/Refugee Council survey**

*"I have yet to meet anyone receiving vouchers, or anyone from an organisation working with asylum seekers, who does not believe that vouchers humiliate and stigmatise those who are forced to depend on them."*

**Neil Gerrard MP, Chair of the All Party Group on Refugees**

*"It is unacceptable that asylum seekers, who are among the most vulnerable people in our society, should be forced to shop at specified outlets and then have to calculate their purchases to the last penny to fit the value of vouchers for which no change can be given. This is humiliating. Being denied cash implies that you cannot be trusted with it. This exposes asylum seekers to prejudice and encourages negative views on asylum seekers. The voucher scheme should be done away with and asylum seekers allowed cash. Just like the rest of us."*

**Judith Woodward, co-chair of the Asylum Rights Campaign**

### **Impact on IAP agencies**

34. Since April 2005 the IAP agencies have used a variety of means to express to NASS their concerns about the use of vouchers, including:
- individual case work with NASS staff
  - six-weekly NASS/IAP Operational Interface Meeting
  - NASS Forum meetings for external stakeholders; and
  - meetings with and letters to Jeremy Oppenheim, the former Director of NASS and senior NASS casework and policy staff.
35. Agencies have brought to NASS's attention numerous case studies demonstrating the failure of vouchers and are frustrated by the lack of progress developing *systemic* solutions to the voucher problem. While agencies appreciate the efforts that NASS has made in working with providers to meet clients' needs on a *case-by-case* basis, we consider that the scale of the problem necessitates fundamental system change. IAP agencies' One Stop Services are overwhelmed by the volume of work associated with section 4, and the pursuit of case by case solutions to voucher problems is neither an efficient use of resources nor is it sustainable.

### **Impact on community cohesion**

36. While it is difficult to demonstrate, the use of vouchers for people on section 4 support is likely to have a negative impact on community cohesion. Any system that marginalises groups within a community has negative impacts not just on those who are marginalised but on the community as a whole. Furthermore, those using the section 4 vouchers are likely to be from black and minority ethnic groups, and may encounter institutional racism even without the additional stigmatisation of vouchers. The possible role of vouchers in exacerbating community tensions along the lines of race should be examined against the duty of public authorities to promote good relations between people of different racial groups (Race Relations Act 1976).

### **Value for money**

37. Vouchers cannot provide value for money for three reasons:

- first, change cannot be given if the voucher user purchases items whose total value are lower than the value of the voucher (the vendor keeps the difference)<sup>16</sup>;
- second, the voucher user cannot purchase the same goods for a cheaper price at a store outside the voucher scheme – for instance, to purchase fresh fruit and vegetables in a market. The user is ‘captured’ by prices set by the supermarket that accepts the voucher and is unable to maximise its value by ‘shopping around’. In the 2002 Home Office report, 76 per cent of respondents said that they were not able to buy the same goods in a cheaper shop<sup>17</sup>; and
- third, NASS is unable to guarantee the voucher user that they can access the essential items that they require nor ensure that they will be for the lowest price or quality, or that irrespective of where they are accommodated that they same access and quality will be available.

The IAP questions the use of public funding for a scheme that is inherently fiscally wasteful.

### *Poor quality accommodation*

38. IAP agencies have frequently presented to NASS concerns regarding the quality of section 4 accommodation. Common problems reported by One Stop Service case advisors include:

- Rooms without locks in shared accommodation (this is especially traumatic for single women who have experienced rape and sexual harassment);
- Inadequate bedding;
- Lack of facilities for new-born babies – e.g. bedding, sterilising equipment, prams;
- Lack of heating, or heating that requires coins to activate (this is difficult when people on section 4 support are only issued with vouchers);
- Unclean premises – and no equipment with which to clean them;
- Special needs being ignored – such as needing a ground floor flat due to a physical disability or needing their own room due to mental illness.

39. As with voucher problems, NASS has advised agencies to notify them on a case by case basis whenever accommodation problems arise. While this approach can result in

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<sup>16</sup> 77 per cent of respondents to the Home questionnaire into the Asylum seekers’ experience of vouchers reported that they “bought extra, unwanted items to make up the total value of the voucher”. (page 12).

<sup>17</sup> Op cit; page 17

changes to individual circumstances, it fails to address the underlying, systemic problems besetting the quality of section 4 accommodation. A case advisor for the North England Refugee Service interviewed for the purposes of this report said that: 'although problems get sorted, they are repeated over and over.' This piecemeal approach to problem solving ignores the fundamental systemic problems with section 4 accommodation provision and causes unnecessary stress for OSS case advisors and their clients.

#### *Section 4 accommodation – case studies*

A single woman with a three month old baby was placed in section 4 accommodation with Caradon Estates that had no heating and is damp. Between October and December 2005 the woman complained repeatedly to Caradon Estates about the lack of heating and the effect it was having on her baby. She was supplied with an electric heater that did not work. Finally, after contacting Refugee Arrivals Project (RAP) in late December 2005, the woman was moved after repeated requests from a RAP case advisor. The woman and her baby had spent three winter months without heating.

The woman was moved into accommodation which had no cot for her baby. The property was filthy and no cleaning equipment has been provided. [Section 4 accommodation providers have a contractual agreement with NASS to either clean the property or provide the tenant with cleaning equipment]. The RAP case advisor made frequent calls to Caradon throughout January and February asking that the property be cleaned or a vacuum cleaner provided. On the 10th February 2006 the heating in this property also broke down. An electric heater was provided to the client four days later, but the woman and her baby did not have hot water until the boiler was repaired on the 6 March 2006. [*Source: Refugee Arrivals Project*].

A family is living in a damp flat with water leaking through the ceiling from the flat above. The carpets are dirty, they have been provided with no cleaning equipment and a cleaner has not been for 4 months. There are rats in the bedrooms. The children have developed allergies and are frequently ill with colds, coughing and vomiting. The family has complained to the manager and accommodation provider but no action has been taken. [*Source: Refugee Council*].

A single Iranian man was taken to a property with no mattress, no light bulbs, a broken shower, no vacuum cleaner/brush/mop. The door to the room was broken and the gas cooker didn't work properly. He complained to the landlord but no action was taken. He had to buy light bulbs, mop etc out of £35 vouchers which left him without enough money for food. The landlord said he would reimburse the client for this expenditure but still hasn't.

Other residents of property treated the client badly because of his different faith (they ignored him, threw his food in the bin, didn't let him use the same pots, cutlery etc). The client asked to be moved but the accommodation provider refused. Refugee Action requested that he be moved but was informed by NASS that clients must live with people of different religions and could not request to be moved on this basis. Tension in the property escalated until the client was physically threatened by a member of the house. The client called his landlord to tell him. The landlord then told another house-member that the client had complained and as a result the house-member physically assaulted the client and threatened his life. The client called the police who intervened and advised the client that he

was not safe at the property and needed to be moved immediately. Refugee Action called the Regional NASS office and it was agreed he should be moved. *[Source: Refugee Action]*

A mother and father of a three week old baby were placed in a filthy, bug-infested room in Leicester [they brought some of the bugs into the local Refugee Action office to demonstrate their size]. The father is HIV positive. The family were dousing their bedding in Dettol and sleeping on wet bedding because they were so concerned about the bugs, the husband's HIV status and the risks to their baby. The clients initially complained to the accommodation provider but no action was taken. When Refugee Action complained, the accommodation provider said that they had asked the landlord to look into it and had informed the local council, but they wouldn't move the family unless they received a letter from Council saying that the property wasn't fit for human habitation. *[Source: Refugee Action]*

An elderly couple had to wait two months before [the accommodation provider] arranged suitable accommodation for them. The accommodation offered had a number of structural issues: there was no bed, bedding or other facilities in the property. A choice of two bedrooms was offered: one did not have a door, the other was on the ground floor without a curtain. It appeared that several people had keys for this property and the couple did not feel safe. The couple was repeatedly asked to come to the property to be officially 'accommodated' - and had to walk several miles to get there - several times either the provider did not meet them there as agreed, or the major issues had not been resolved.

*[Source: Refugee Action]*

40. Section 4 accommodation providers are also responsible for administering vouchers to those supported by section 4 which can also be problematic. The Ipswich office of the Refugee Council recently reported to the IND the following incidents in relation to the provision of vouchers:

*Clients [have been] informed that, rather than receiving vouchers on a weekly basis, they must wait until one month's worth of vouchers have been accumulated, and then they will be given these all at once.*

*A specific day [is] being set for delivery of voucher, which is then not adhered to. In one case, a client received a phone call telling him to come to an address at the back of Ipswich railway station at 10pm to receive his vouchers.*

41. Similarly, the Welsh Refugee Council reports that [the accommodation provider] "went through a period of 'posting' via ordinary mail vouchers to clients and frequently they did not arrive – on occasions clients would go several weeks with no vouchers at all."

42. Vouchers are the sole means by which section 4 recipients can purchase their food and other items essential for survival. It is therefore critical that the systems in place to administer the vouchers are robust and do not fail: people's lives depend upon them.

### **Why is section 4 accommodation failing?**

#### The perceived purpose of section 4 accommodation

43. Accommodation provided for those receiving support under section 4 of the 1999 Act is frequently of a much lower quality than that provided under section 95 of the Act. While there is no legislative basis for this variation in the quality of accommodation, government ministers, as reported by NASS officials, consider that section 4 accommodation is 'designed to convey the concept of return' and should therefore differ from section 95 support<sup>18</sup>. Accommodation providers are able to exploit this difference without sanction due to the vagueness of the section 4 specification.

44. Accommodation providers have used this reported ministers' view to defend the quality of its accommodation against IAP agency complaints about their accommodation standards. In recent emails to two separate One-Stop Services the Head of Client Administration for one of the accommodation providers, stated that:

*"Jeremy Oppenheim, the Director of NASS, made it quite clear in our meeting with him at NASS' Bristol offices on 10<sup>th</sup> February 2006, that section 4 service users are asylum seekers whose applications to remain in the UK have been unsuccessful. As such the Government has ruled that these failed asylum seekers no longer have the right to be in the UK, and are they are required to return to their countries as soon as possible. Therefore, the level of service provision should be basic, so as not to be an inducement for these unsuccessful applicants to remain in the country for longer than is absolutely necessary, and so as to encourage and expedite their departure from the UK. The stay with a section 4 provider is the last port before removal from the UK".*

45. The email correspondence contains a number of factual errors and reveals a concerning interpretation of the role of section 4 accommodation. Contrary to the provider's statement, section 4 is designed to support people who have reached the end of the

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<sup>18</sup> Jeremy Oppenheim, former Director of NASS at the NASS Stakeholders Forum, March 2006.

asylum process but who are destitute and who, through no fault of their own, are unable to leave the country. They therefore **do** have the lawful right to be in the country until the obstacle to their departure is removed – such as a fresh claim is heard, a safe route of return becomes available, or a medical condition is resolved.

46. To argue that the level of service provision should be “basic... so as to encourage and expedite their departure from the UK” contradicts the legislative principle at the heart of section 4 support. People on section 4 support have a legally established and acknowledged right to be in the country. The role of the accommodation provider is not to undermine this right by providing sub-standard accommodation in order to ‘encourage’ them to leave. Furthermore, the accommodation provider seems to be confusing section 4 accommodation with removal centres when he states that the section 4 provider is the ‘last port before removal from the UK.’ The IAP is concerned that the attitude prevalent amongst government ministers, accommodation providers and some NASS officials appears to suggest that section 4 support quality is a tool for coercing recipients’ compliance with voluntary return. The IAP strongly opposes such use of a policy.

#### Contractual standards and compliance measures

47. The IAP agencies have identified that one of the main impediments to improving the quality of section 4 accommodation is the weak contractual standards that are in place between section 4 accommodation providers and NASS. It appears that the looseness of the requirements for section 4 accommodation has been exploited by some accommodation providers to provide sub-standard accommodation. For instance, the standards to be found in Schedule 9 of the section 4 accommodation contract frequently uses the word ‘adequate’: the experience of the IAP agencies is that the word ‘adequate’ is open to wide interpretation. ‘Adequate’ bedding for instance, can take the form of a mattress with no bed linen, to be shared by a whole family.

48. A copy of a client inventory for one provider’s section 4 accommodation that a client brought into the Refugee Council described as ‘optional’ the following items:

- Saucepan
- Frying pan
- Wooden spoon set
- Kitchen knife
- Chopping board

- Tin opener
- Kettle
- Towel
- Tea towel
- Face cloth.

49. In this particular inventory, many of the above items and others not listed as optional were not provided to the client. Most notably, the inventory stated that the following items were not provided:

- a bed sheet
- a saucepan
- a wooden spoon set
- a tin opener
- a kettle
- a towel
- a tea towel.

50. The IAP considers that all these items are essential to basic living and should be provided as a minimum and without exception in every section 4 accommodation premises. It should be remembered that those on section 4 support are destitute and survive on vouchers: their ability to survive on these vouchers will be undermined if such basis items as a kitchen knife or a tin opener are not available to them.

51. The same provider also required the client to sign a 'licence to occupy.' Among the stipulations of this licence is the requirement that the client is not permitted to 'play... any radio, television or pre-recorded music, musical instrument...'. This requirement seems unnecessarily harsh and is indicative of the diminished rights enjoyed by those on section 4 support.

52. The IAP has been urging NASS since 2004 to strengthen its minimum standards for providers of section 4 accommodation. At the July 2004 NASS-IAP Operational Interface Meeting, Kat Lorenz of Refugee Action sent NASS a list of suggested section 4 Standards of Accommodation on behalf of the IAP<sup>19</sup>. The IAP is disappointed that at the April 2006

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<sup>19</sup> Email to Elaine Bass from Kat Lorenz, 19 August 2004.

OIM the IAP agencies were still asking NASS to introduce more tightly specified standards of accommodation.

53. The IND is endeavouring to move all section 4 accommodation providers onto the section 95 accommodation contract – the ‘Target’ contract. The Target contract is a comprehensive document with detailed specifications of what is and is not acceptable in the provision of section 95 accommodation. It also has robust performance measures. The IAP welcomes this move and urges the IND to facilitate the transition of section 4 accommodation providers to the Target contract as soon as possible.
54. Another weakness in the accommodation regime has been the absence of a robust contract inspection and contract compliance function in NASS. The IAP agencies have essentially become a de-facto monitoring service: informing NASS when standards are not being met and insisting that they be enforced. NASS has recently set up regional accommodation monitoring teams, another move which is welcomed by the IAP and that we hope will result in improved standards of accommodation.

### *Variations with section 95 and section 98 support*

55. There are many instances in which support provided under section 4 of the Immigration and Asylum Act 1999 falls short of that provided under sections 95 and 98. IAP agencies are not aware of any legislative justification for these discrepancies and question their validity. The differences in levels of support serve to create a hierarchy of asylum seekers without a valid policy reason other than to force coercion with voluntary return: both groups of asylum seekers (those on section 95 or section 98 support and those on section 4 support) are legally entitled to be in the UK and to receive support. Both groups have basic needs that are likely to vary over time. IAP agencies have long argued that there is no justification for these discrepancies, that they cause unnecessary hardship and that section 4 support should be equalised with section 95 support.
56. These inequities would be addressed by the overarching recommendation of this report: that section 4 support be abolished as a separate form of support with all asylum seekers being entitled to section 95 support from time of claim to grant or departure from the country. In the meantime, the IAP supports the approach proposed by the Citizens’ Advice Bureau in their report, *Shaming Destitution: NASS section 4 support for failed*

*asylum seekers who are temporarily unable to leave the UK*, that 'the level of section 4 subsistence support should mirror that of section 95 support (which is banded according to age etc)<sup>20</sup>.

### **Maternity provisions**

57. Pregnant women on section 95 support receive a £300 maternity grant to help cover the cost of equipping themselves for a newborn baby (for example, to help purchase baby clothing, a push-chair, sterilising equipment etc). Pregnant women and mothers of young children also receive an additional weekly allowance to ensure the purchase of healthy food and milk. Furthermore, pregnant women in Initial Accommodation, supported under section 98 of the 1999 Act, receive a maternity package that provides them with items that they are likely to need during and immediately after delivery of a baby. These are important allowances that recognise that the good health of babies and children should be protected regardless of their immigration status.

58. Unfortunately these provisions do not extend to pregnant women on section 4 support or to their babies. NASS is currently consulting stakeholders on the draft regulations arising from section 43 of the Immigration, Asylum and Nationality Act 2006 which allows the Secretary of State to provide to refused asylum seekers 'facilities and services of a specified nature' in addition to accommodation. Section 5 of the draft regulations relates to additional support for pregnant women and new mothers; the IAP has recommended to NASS that they provide the same level of additional support as that provided to pregnant and new mothers supported under sections 95 and 98. NASS officials report that they are endeavouring to equalise support across the three categories (sections 95, 98 and section 4). The IAP will welcome this parity if it is introduced by NASS.

### **Termination of tenancy**

59. People on section 4 support receive 14 days notice of termination of support, as compared to 21 days for people on section 95 whose support is terminated. The policy reason behind this differentiation in termination periods is unclear and there seems to be no legislative basis for it. The IAP and the Citizens' Advice Bureau have been advocating for the extension of the section 4 notice period to 21 days to match the section 95

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<sup>20</sup> Dustan, Richard, *Shaming Destitution: NASS section 4 support for failed asylum seekers who are temporarily unable to leave the UK*, Social Policy Unit, Citizens Advice, June 2006. p. 25

provisions. One anticipated benefit of such a change would be to allow greater numbers of people adequate time to sign up to Voluntary Assisted Return and Reintegration (VARRP) before they vacate their accommodation.

60. The IAP considers that the termination and eviction period for both section 95 and section 4 accommodation should be extended to 28 days. This would be consistent with the High Court judgement in the case of *R v Secretary of State for the Environment ex p Shelter and the Refugee Council* that 'public authorities were under a public law duty to act reasonably in evicting asylum-seekers from accommodation in cases where the statutory duty to provide accommodation had been withdrawn. Subject to consideration of individual cases, the court suggested that at least 28 days was generally appropriate.'<sup>21</sup>

### *Conclusion and recommendations*

#### **Vouchers**

61. As detailed in Part Two, 62 per cent, almost two thirds of recipients have been on section 4 support for more than 6 months; 28 per cent for more than a year. Given its inflexibility, the voucher scheme is highly unlikely to be able to meet the variety of needs that will arise for these people over such a long period of time. Shoes and clothing are likely to wear out and need replacing; personal hygiene and health needs are likely to arise; unexpected costs (such as having to pay for a gas meter in section 4 accommodation) will occur. The voucher scheme is simply not designed for supporting people in a humane and appropriate way for an extended period of time.

62. Furthermore, the use of vouchers is demeaning and degrading to users and does not provide value for money to government funders. The same objections to vouchers that led to the abolition of the scheme for section 95 claimants remain pertinent to the debate on the validity of the use for those receiving section 4 support. Supporters of vouchers for section 95 support argue that they dissuade asylum seekers from coming to the UK. A similar argument is used to support vouchers for section 4 recipients, namely that they incentivise voluntary return. There is no evidence to support either of these claims.

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<sup>21</sup> Summary of judgement in *Support for asylum-seekers: a guide to legal and welfare rights*, Sue Willman, Stephen Knafler and Stephen Pierce, LAG Education and Service Trust Ltd (2004) (2<sup>nd</sup> Edition).

63. The IAP therefore recommends that:

- NASS pursue with government decision makers the re-introduction of cash payments for people receiving section 4 support;

#### **Accommodation**

64. The IAP is concerned about the quality of section 4 accommodation and its use as a tool for coercing people supported under section 4 to voluntarily return to their country of origin. The quality of accommodation reflects the principle expressed by NASS and perpetuated by accommodation providers that section 4 accommodation is a temporary measure prior to departure from the UK, and can therefore be more 'basic' than section 95 accommodation. Even if this justification for poor standards was not undermined by the fact that most people spend considerable time on section 4 support, in itself it represents an unacceptable approach to the welfare of people who are legally acknowledged to be rightfully in the UK, and rightfully supported by the UK government.

65. This willingness by NASS to accept a lower standard of accommodation for section 4 clients than for section 95 clients is reflected in the much looser quality standards applied to section 4 accommodation providers, and until recently, the absence of a compliance or inspection regime.

66. IAP agencies recommend that NASS:

- Clarifies in writing to accommodation providers and stakeholders the right of section 4 clients to be placed in quality accommodation that reflects both their legal right to be in the UK, and the fact that many of them are likely to be accommodated for long periods of time;
- immediately applies to section 4 accommodation providers the standards of accommodation set out in the 'Target' accommodation contracts for section 95 accommodation providers; and
- introduces a rigorous system of inspection visits, and contract compliance measures to ensure that these standards are adhered to.

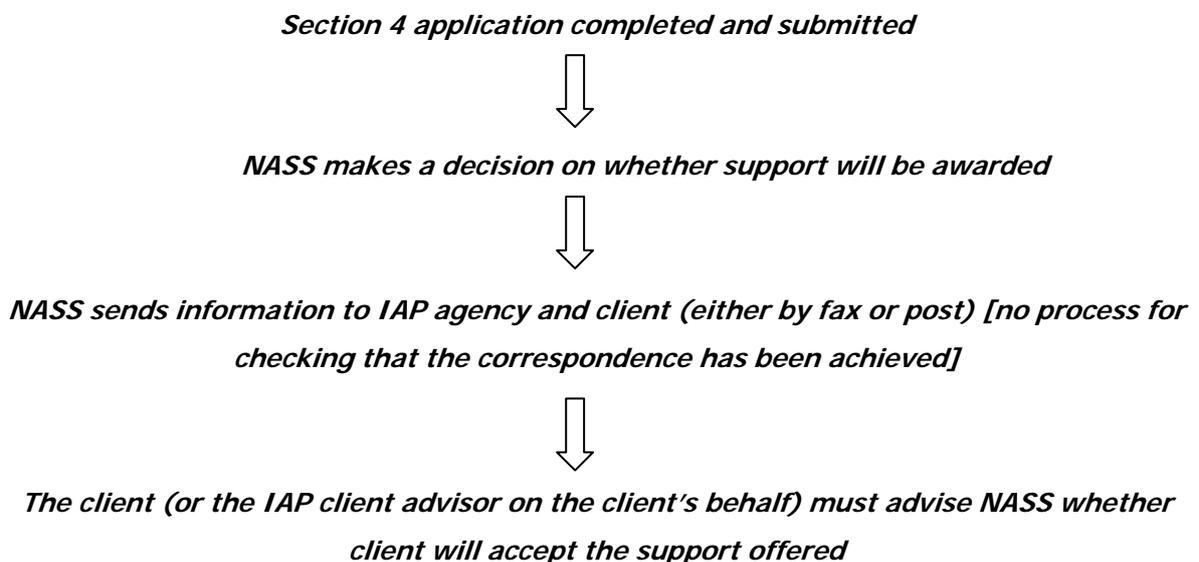
## Part Four – Findings (Administration of section 4 support)

67. This section focuses on the problems that are occurring with the bureaucratic systems set up to administer section 4 support - including communication, decision making, data collection and reporting. The central finding of this report is that the system set up for administering section 4 support cannot cope with the volume of applications and is buckling under the pressure. The main implication of this breakdown for IAP agencies and clients is the significant delays that occur in the awarding of section 4 support.

### *Background*

68. Section 4 support is administered separately from other components of NASS support. A dedicated section 4 team within NASS deals with all applications, case decision making, and accommodation requests, booking and complaints. Up until recently, section 4 applications were also recorded on a separate (and different) database to section 95 applications. The NASS section 4 team has now migrated all section 4 cases to the NASS-wide ASYS database.

69. The section 4 application procedure is complicated with unnecessary duplication of effort by voluntary sector, NASS and accommodation providers, resulting in client confusion and hardship and poor service delivery. The section 4 procedure (from application to placement in accommodation) is as follows:





***NASS books accommodation with the provider***



***Accommodation provider advises client of accommodation offered***



***Accommodation provider collects the client and takes them to their accommodation.***

70. Critical weaknesses occur at the following points of the system

- application submission to NASS (applications go missing);
- decision making process (delays occur, more information is needed);
- decision notification – NASS notifies the client of the decision and the client must then confirm with NASS that they still want section 4 support (more delays occur);
- between approving accommodation and the provider offering accommodation when delays occur because accommodation is not available or suitable.

### *Delays in section 4 decisions*

#### **Background**

71. In July 2005 in response to the burgeoning demand for section 4 support and resultant delays in awarding support, NASS, in consultation with the IAP, introduced a system of prioritisation of section 4 applications to ensure that the most vulnerable clients received swift decisions on their claims. NASS agreed that applicants who have additional needs over and above their destitution, such as they are pregnant or have mental health or health needs, and are street homeless should be categorised as 'Priority A' applicants. All other applicants are 'Priority B'. Priority A clients are supposed to receive a decision on their section 4 application and accommodation granted (if successful) within 48 hours of the application. This timeframe was extended to 5 days for priority B applications.

#### **Ongoing delays**

72. Whilst NASS has made considerable progress in reducing the backlog of section 4 applications, significant and frequent delays still occur in the administration of all section 4 applications. At the July 2006 NASS Stakeholders Forum, Hilary Tarrant, Head of

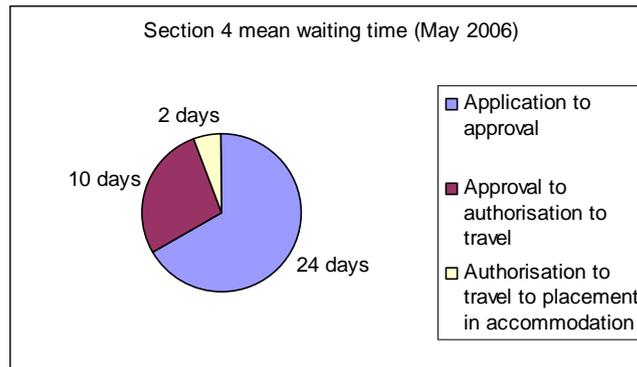
Casework Transformation reported that the average waiting time (decision only) for Priority A applications was 5 days and for Priority B this was 15 days. She also reported that demand for section 4 remained high, at approximately 210 applications per week (compared to approximately 170 per week six months ago). Attempts to decrease the waiting time for section 4 applications over the last few months had apparently been undermined by staff absences and shortages.

73. It should be noted that following a positive section 4 support decision, the applicant must then confirm with NASS that accommodation is still required and then wait for accommodation to be allocated. The Birmingham office of the Refugee Council has started collecting data on the time taken to process, approve and accommodate section 4 support applications. This data, which does not differentiate between priority A and priority B cases, analyses the time taken at the three significant steps of the section 4 process:

- the time between submission of application and decision,
- the time between approval and authorisation to travel to the allocated accommodation, and
- actual placement in accommodation.

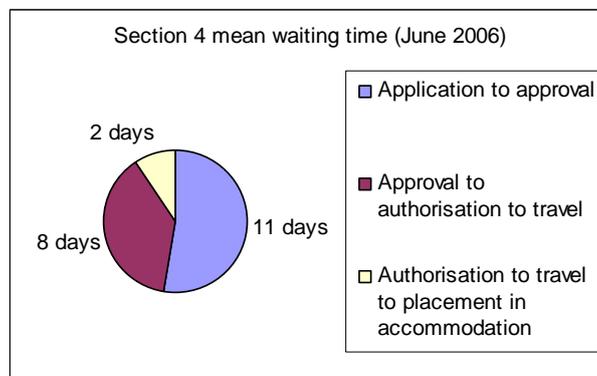
74. Based on 56 applications which reached conclusion by the end of June, it shows a mean waiting time of 21 days, or three weeks, between application and accommodation. The following two charts compare the average number of days taken for each of the three stages in the process of receiving section 4 support as described above in May 2006 and June 2006. In both periods, a significant portion of the delay before an applicant was accommodated occurred following the approval of the application: 12 days in May and ten days in June.

**Chart Two: Mean waiting time at each stage of the section 4 application process(May 2006)**



**Note: based on 70 section 4 applications which reached the collection stage in May 2006.**

**Chart Three: Mean waiting time at each stage of the section 4 application process (June 2006)**



**Note: based on 56 applications which reached conclusion by the end of June 2006**

75. A comparison of the two months' data shows that the time taken by the IND to reach a decision dropped considerably between May and June 2006, whilst the time take to actually accommodate successful applicant remained relatively the same.

**Length of delays: priority A**

76. Delays in priority A cases are of most concern to IAP agencies because of the additional vulnerability of the client. The following case studies illustrate the level of need of priority A cases, as well as the kind of delays that are experienced in the administration of their claims for support.

**Case Studies – delays in section 4 ‘priority A’ cases**

**Client A (couple): Destitute and have a fresh claim.**

23/2/06 - Sent priority A, the couple was rendered invalid as there was a problem with main applicant for s.4 being dependant. Re faxed 2/3/06  
2/3/06 – re- faxed to s.4  
14/3/06 – chased with s.4 still pending  
21/3/06 – chased with s.4 again still pending  
3/4/06 – spoke to manager, xxx she asked me to re-fax to 020 8604 6777  
still no action

**Client B Destitute and awaiting chemotherapy for cancer.**

16/2/06 – s.4 submitted as priority A  
24/2/06 – chased with s.4  
28/2/06 – chased with s.4  
6/3/06 – chased with s.4  
13/3/06 – respond to s.4 request for further medical evidence, cannot get it from hospital requested a decision be made.  
20/3/06 – chased with s.4 – S.4 admit the person dealing with it, xxx, is on holiday and the papers have been sitting on his desk with no action. Escalated to manager at this point, via email section4queries@homeoffice.gsi.gov.uk.  
28/3/06 – chased with s.4 manager, xxx – empty promises, has been passed to doctor will not give me decision or predicted item scale as to decision.  
30/3/06 – chased with s.4  
3/4/06 – Finally spoke to [another] s.4 manager xxx, authorised on the spot fax sent immediately accommodation booked for client next day. Authorised for only 4 weeks awaiting further medical evidence.

**Client C: Homeless with fresh application submitted.**

20/3/06 – submitted priority A s.4 application  
27/3/06 – s.4 request further evidence, this faxed to s.4  
3/4/06 – S.4 refused, ASA appeal submitted 4/5/06

**Client D: Single woman with a baby and is being evicted by her sister, also has fresh claim in.**

14/3/06 – S.4 application faxed priority A  
3/4/06 – after four phone calls and a fax to and from manager xxx. Finally approved.

Client E: Homeless with TB untreated

17/3/06 – s.4 priority A application made  
21/3/06 – s.4 application approved.

**Client F: Homeless, with fresh claim and serious medical condition (bullet wound in chest)**

10/3/06 – Priority A s.4 submitted  
27/3/06 – s.4 chased for decision  
28/3/06 – s.4 chased, passed to s.4 managers  
29/03/06 – s.4 chased again with managers, re – faxed application  
30/03/06 – case referred to solicitor to challenge time wasting  
3/4/06 – Finally s.4 approved

*Client G: Homeless, with a medical complaint. Section 4 support applied for in order to avoid a break of his rights under the European Convention on Human Rights.*

06/03/06 - application sent to NASS

14/03/06 - the Refugee Council case advisor phones section 4 team to check on what is happening with the application; speaks to someone called xxx and is told to call back on the 17th.

17/03/06 - the case advisor calls NASS again and speaks to xxx again who tells him that the applicant is on a 'waiting list'.

21/3/06 - the case advisor calls NASS again, speaks to xxx [a different staff member] and is told a decision has not been made as there are 'too many files.'

77. The IAP agencies do not have systematic record of the time taken to make priority A decisions and to award accommodation. As noted in paragraph 64 above, the IND reports that the current mean waiting time for a decision on a section 4 priority A application is 5 days. The IAP has also collected anecdotal evidence on the delays are occurring through qualitative interviews with OSS case advisors and through case studies.

78. The following comments on the time taken to process and grant section 4 priority A applications were recorded in interviews conducted with OSS caseworkers in April of this year as part of the research for this report.

**Table 5: IAP Case Advisor Experiences of waiting times for section 4 priority A applications**

| <b>Agency</b>                           | <b>Q1. How long do most priority A cases take?<br/>What is the common waiting time?</b>   | <b>Q2.What is the longest it has taken?</b>  |
|---|---|--|
| North of England Refugee Service (NERS) | <i>In practice, they always take at least 6 days. NERS has a tracking sheet and they call to follow up cases on the sixth day and then it will take one or two days after that. Recently had 1 case with an immediate decision – failed asylum seeker released from Durham Jail (held on Section 2 charges) and referred to NERS by probation authorities. Client was on licence to stay in the area.</i> | <i>Recently, the longest it has taken is nine days.</i>  |
| Refugee Action, Nottingham              | <i>They take 2-3 weeks for a negative decision, longer for a positive. If the client is applying for Voluntary Return, it can take a week.</i>  | <i>The longest took from 23/01/06 to 16/03/06</i>  |
| Refugee Council (Leeds)                 | <i>It currently takes 2-3 weeks to receive a decision and then 5 working days for accommodation.</i>  | <i>About 7 weeks – from 16/2 /06 to 3/4/06</i>   |
| Scottish Refugee Council                | <i>Within 2006, Priority A cases have taken less than a week. It usually takes 3-6 days (for response) and up to 5 days to travel.</i>  | <i>SRC had a case of a pregnant Chinese girl that took 3 weeks. No explanations were given for this delay.</i> |
| Migrant Helpline                        | <i>A negative outcome will take 42-72 hours. Positive outcomes are received within 72 hours, with an additional 2-3 weeks to arrange accommodation. One case judicial reviewed and picked up within hours.</i>  | <i>3 months: papers were lost and forms had to be resubmitted</i>  |
| Refugee Council (Brixton)               | <i>These cases are processed within a week with another week to book accommodation.</i>   |  |

| Agency                | Q1. How long do most priority A cases take?<br>What is the common waiting time?   | Q2.What is the longest it has taken?  |
|-----------------------|---|---|
| Welsh Refugee Council | <i>These cases take well over 48 hours. The common waiting time is 10 days. Clients in s95 accommodation invariably get evicted. There is no real consistency – in depends who picks up the case.</i> | <i>The last took 22 days. This was the case of a disputed minor with mental health problems, in s95 accommodation , homeless for 10 days.</i> |

### Causes of the delays

79. There are critical weaknesses in NASS's section 4 application process as detailed above. The system for applying for support is cumbersome and cannot cope with the high levels of demand for section 4 support.

80. OSS staff advised that NASS provided the following reasons for decision making delays (sample only):

- *'They always blame a shortage of staff' (NERS)*
- *'NASS blame heavy caseload on delays... Faxes are getting lost and applications are not being logged. Further information is needed...'* (Scottish Refugee Council)
- *'The main reason is that they haven't received the application.'* (Refugee Council)
- *'NASS blame a lack of staff...'* (Welsh Refugee Council)
- *Delays come down to re-submitting paperwork – twice is not unusual. Different fax numbers are given by different people.'* (Migrant Helpline)
- *'...they are busy and dealing with a large number of applications. They have sometimes asked for evidence of how clients support themselves without support, which can cause further delay.'* (Scottish Refugee Council)
- *'Case worker on holiday, lost applications.'* (Refugee Council)

### Impact of delays

81. The impact of delays in deciding and awarding support on this already vulnerable group is significant. The key criteria for granting section 4 support is destitution; for the applicant the withholding of support due to administrative delays means prolonged periods of time without any means of support. Whilst charities are able to provide some support, it is usually a one-off measure and cannot be sustained; many people therefore spend considerable amounts of time without food, water and shelter while waiting for

NASS to make a decision on their claim. According to NASS, around two thirds of applications for section 4 support are successful.

82. Risks caused by the delays in the provision of support include:

- Exacerbation of any pre-existing health problems (often present in priority A cases)
- Exposure to exploitation by individuals wanting to take advantage of desperate and vulnerable claimants, in particular women and children who then become reliant upon these people for support pending the section 4 application outcome
- Prolonged exposure to violence and other abuse due to sleeping 'rough'.

83. As is evident from the case studies outlined above, OSS case advisors can expend considerable time and energy 'chasing' and re-faxing section 4 applications. This is not an efficient use of IAP staff time and causes immense frustration. One Stop Services have reported an increase in the number of 'critical incidents' where staff members are put at risk through violence and/or abuse from clients. They put this down to the dramatic increase in the number of section 4 clients they are seeing, many of whom are desperate, hungry and homeless.

#### **NASS's response**

84. NASS has responded to IAP and other agencies' complaints about section 4 delays and has put in place measures to mitigate the delays caused by the bureaucratic inefficiencies described above. The separate section 4 database has been abandoned and section 4 applications are now recorded on the NASS-wide ASYS database. Applications are now also scanned onto the database to avoid the risk of them becoming lost and systems have been put in place to ensure that priority A cases are treated with priority. As mentioned above, this has had an impact on the waiting times for section 4 applications and the IAP welcomes this improvement. However, also as detailed above, a waiting time of 15 days for someone who is destitute and sleeping on the streets is simply 15 days too long.

#### *Conclusion and Recommendations*

85. The demand for section 4 support has surpassed NASS's capacity to respond effectively. Systems for administering the support were set up to deal with predicted low numbers of applications. However, demand for section 4 has increased exponentially and NASS's

systems are no longer fit for purpose. Between 2004 and 2005, the number of people applying for section 4 support increased by 433 percent: from 3000 applicants in 2004 to 16 000 in 2005.

86. Furthermore the application process is unnecessarily cumbersome, with applicants having to provide evidence of destitution and medical needs (which are then verified by the NASS doctor) and confirm that they still want the support once they have applied.

87. While NASS has made considerable effort to improve its systems, the sheer volume of the applications and the cumbersome nature of the assessment process mean that delays will undoubtedly continue to occur. NASS has recently admitted in an email to an IAP staff member that they are not in a position to meet the agreed priority A and B timeframes because of the volume of cases.<sup>22</sup>

88. In the same email, NASS revealed that they were endeavouring 'to make all decisions within ten days.' The applicant must then verify that they still want the support and wait for accommodation to be booked and for the accommodation provider to pick them up. Research conducted by the Birmingham office of the Refugee Council showed that in June 2006 the average waiting time for all clients from application of section 4 support to collection for accommodation was 21 days. This is a long time for someone who is destitute to wait for support. Given that 70 per cent of section 4 applications are successful, it is fair to say that the overwhelming majority of applicants are required to wait for long periods of time to receive the support to which they are legally entitled.

89. These problems are likely to be exacerbated by the section 4 regulations enacting section 43 of the 2006 IAN Act which allows for the provision of additional support to section 4 recipients in a limited number of circumstances. NASS is in the process of consulting on how to administer and grant this additional support: another layer of unwieldy and expensive bureaucratic systems is likely to be put in place. The measures are necessary to counteract the negative effects of vouchers and illustrate the lengths NASS has to go to in order to mitigate the failures of section 4 support.

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<sup>22</sup> Email to Kat Lorenz, Refugee Action from Prem Gopalan, NASS Section 4 Casework team, 26 June 2006.

90. The IAP makes the following recommendations to mitigate the impact on clients of the bureaucratic weaknesses besetting the section 4 application process.

### **Preferred model**

91. As outlined in Part Three of this report, the IAP agencies recommend the abolition of section 4 as a separate category of support – to be replaced by a system of seamless support from application for asylum through to granting of a claim or removal. As well as improving the quality of support received, a single support mechanism eliminate the need for separate and cumbersome bureaucratic systems to process section 4 applications and respond to ongoing case problems. The replacement of a complex and costly system with one that is simple and efficient is likely to result in cost savings for IND.

92. It would also eliminate the bureaucratic frustrations suffered by OSS case advisors in trying to assist clients applying for, and in receipt of, section 4 support.

### **Interim Measures**

93. Until the above recommendation can be achieved, the IND should immediately institute the provision of interim section 4 support following to all applicants pending the full investigation of their claim, as detailed below. This would mitigate the harm caused by ongoing delays in the provision of section 4 support.

94. As soon as the immigration and destitution status of the applicant have been confirmed, accommodation and support should be granted immediately to applicants, pending the full assessment of their claim. This is similar to the provisions of the Housing Act 1996 (section 188) whereby local housing authorities have a duty to provide immediate interim accommodation if they have 'reason to believe that an applicant *may be* homeless, eligible for assistance and have a priority need...' pending completion of inquiries and a decision as to that person's full entitlement under the Act.

95. The Homelessness Code of Guidance for Local Authorities (ODPM, July 2002) states that this is 'an important part of the safety net for people who have priority need and are unintentionally homeless.'

96. Although asylum support legislation and regulations are silent on whether interim support can be provided to those applying for support under section 4 of the Immigration and

Asylum Act (IAA) 1999, the precedent for interim support through section 98 of the Act which allows for temporary support until the Secretary of State is able to determine whether support may be provided under section 95 of the Act.

# Part Five – Summary of key findings and recommendations

## Section 4 report – key recommendations

| Identified problem   | Description of the problem: impact on clients and IAP agencies  | Proposed solution  | Benefits   |
|--|---|--|--|
| <b>1. Preferred model for delivery of support - the abolition of s4 support and the extension of s95 support to all asylum seekers from initial asylum application to grant by fresh claim or removal from the country.</b>  |   |  |  |
| <p>Section 4 support has evolved beyond its original policy intention to provide limited and temporary assistance to people unable to leave the country through no fault of their own. It is the sole means of support to people for considerable lengths of time and is failing to meet their most basic needs.</p> | <p>The average time people spend on section 4 support is 8.7 months which surpasses the average 6 months spent on s95 support. Figures provided by NASS to stakeholders in March this year showed that 28 per cent of the 5 181 people on section 4 support had been on it for longer than a year. The cash-less nature of s4 means that it is an inappropriate form of support for this length of time.</p> <p>The political intention behind the limited support is to 'convey the message of return', yet for those on section 4 support, return is impossible both in the short term and, for many, in the long term. This may be because for instance, they are unable to travel for medical reasons, or because there is no safe route of return, they are awaiting Voluntary Return through the IOM or removals to their home country have been suspended. For some, conditions in their home country mean that the possibility of return to their home country in the near future is remote.</p> <p>Furthermore, there has been no evidence to suggest that a cash-</p> | <p>Abolish section 4 as a separate form of support and enable all failed asylum seekers to remain on s95 support until they are able to leave the country or they gain status through their fresh claim application. This would entail asylum seekers at the end of process receiving the same cash support as asylum seekers whose claims are undergoing determination. They would also remain in the same accommodation as provided under s95.</p> | <ul style="list-style-type: none"> <li>• Decrease in the number of asylum seekers and their dependents who face destitution when they fall between the gaps created by the two separate forms of support.</li> <li>• Applicants receive a form of support that is flexible enough to meet their needs for long periods of time.</li> <li>• The right of those on section 4 support to be in the UK is recognised through the provision of support equal to those at other stages of the asylum process.</li> <li>• The provision of seamless support, from asylum application to removal from the country, is likely to result in an increase in the numbers of people who sign up for Voluntary Return and a decrease in the numbers who abscond. The UNHCR report on 'Alternatives to Detention of Asylum Seekers and Refugees' (April 2006) found that</li> </ul> |

<sup>23</sup> "Understanding the decision-making of asylum seekers", *Findings 172*, Research, Development and Statistics Directorate, Home Office <http://www.homeoffice.gov.uk/rds/pdfs2/r172.pdf> (accessed 7 July 2006)

**Registered charity numbers:** Refugee Action: 283660 Migrant Helpline: 1088631  
 Scottish Refugee Council: SCO08639 Refugee Council: 1014576 Welsh Refugee Council: 1044885



| Identified problem | Description of the problem: impact on clients and IAP agencies  | Proposed solution | Benefits   |
|--------------------|---|-------------------|--|
|                    | <p>less system either motivates people to leave the country or discourages them from entering the country in the first place. The 2002 Home Office Report, "Understanding the decision-making of asylum seekers", found that: 'There was little evidence that respondents had detailed knowledge of UK immigration or asylum procedures, entitlements to benefits in the UK, or the availability of work in the UK.'<sup>23</sup></p> <p>Case studies and interviews with asylum seekers reveal that vouchers do not enable them to meet many of their basic needs or those of their dependents. The cumulative effects of this deprivation are significant and wide-ranging. One Stop Service case advisors report increasing numbers of highly distressed and depressed section 4 clients, who are stuck in a form of limbo – unable to return to their home country but with very few rights in the UK. By definition, those on section 4 support are vulnerable and destitute: to exacerbate this through a system that too often denies access to basic needs is unjust.</p> <p>Weaknesses in the system have resulted in significant delays in the granting and allocation of support to applicants, exacerbating pre-existing destitution and medical conditions, and causing high</p> |                   | <p>access to support systems throughout the asylum process resulted in higher levels of compliance with asylum procedures and lower rates of absconding. The principle of seamless support is highly consistent with the close contact management practices of the New Asylum Model.</p> <ul style="list-style-type: none"> <li>• An improvement in the quality of accommodation provided as claimants remain in s95 accommodation which is covered by the stricter quality assurance mechanisms of the Target Contract.</li> <li>• Higher initial cost to IND through supporting increased numbers on s95 support would be offset to some extent by the savings associated with increased numbers of people choosing voluntary return, a significantly cheaper form of return than forced removals<sup>24</sup>.</li> </ul> |

<sup>24</sup> According to the UK National Audit Office the cost per person of assisted voluntary return is £1,100, compared with £11 000 per forced removal. *National Audit Office Press Notice: Returning Failed Asylum Applicants, July 2005*. <http://www.nao.org.uk/pn/05-06/050676.htm> (accessed 7 July 2006).

| Identified problem | Description of the problem: impact on clients and IAP agencies  | Proposed solution | Benefits |
|--------------------|---|-------------------|----------|
|                    | <p>levels of frustration amongst IAP agencies.</p> <p>Whilst entrenching the voucher regime through Immigration, Asylum and Nationality Act 2006, the Government also used the Act to enable the Secretary of State to provide additional assistance to people on section 4 support, presumably to mitigate some of the negative effects of vouchers. Ironically, NASS officials now have to manage the risk that this may result in some people on section 4 receiving more assistance than those on section 95 support.</p> |                   |          |

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| Identified problem   | Description of the problem: impact on clients and IAP agencies  | Proposed solution   | Benefits  |
|--|---|---|---|
| <p>Failure of the bureaucratic systems set up to administer section 4 support.</p> | <p>The demand for section 4 support has surpassed NASS's capacity to respond effectively. Systems for administering the support were set up to deal with predicted low numbers of applications. However, demand for section 4 has increased exponentially and NASS's systems are no longer fit for purpose.</p> <p>Furthermore the application process is unnecessarily cumbersome, with applicants having to provide evidence of destitution and medical needs (which are then verified by the NASS doctor) and confirm that they still want the support once they have applied. Given that 70 per cent of applications for section 4 support are successful the purpose of this process seems little more than to discourage people applying. This is not a sound principle on which to build an effective bureaucratic system.</p> <p>These problems are likely to be exacerbated by the section 4 regulations enacting section 43 of the 2006 IAN Act which allows for the provision of additional support to section 4 recipients in a limited number of circumstances. NASS is in the process of consulting on how to administer and grant this additional support: another layer of unwieldy and expensive bureaucratic systems is likely to be put in place. The measures are necessary to counteract the negative effects of vouchers and illustrate the lengths NASS has to go to in order to mitigate the failures of section 4 support.</p> | <p>Abolish section 4 support and maintain failed asylum seekers on s95 support (as above). The applicant would stay in the same accommodation as placed in under s95.</p> | <ul style="list-style-type: none"> <li>• Eliminates the need for separate and cumbersome bureaucratic systems to process section 4 applications and respond to ongoing case problems. The replacement of a complex and costly system with one that is simple and efficient is likely to result in cost savings for IND.</li> <li>• Eliminates the bureaucratic frustrations suffered by OSS case advisors in trying to assist clients applying for, an in receipt of, section 4 support.</li> </ul> |

| Identified problem  | Description of the problem: impact on clients and IAP agencies | Proposed solution | Benefits |
|---|--|-------------------|----------|
| <i>2. Interim measures to improve current delivery of section 4 support</i> |  |                   |          |

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| Identified problem                                  | Description of the problem: impact on clients and IAP agencies   | Proposed solution                            | Benefits  |
|---|--|--|---|
| <p>The failure of vouchers as a form of support</p> | <p>1. The ability of people on section 4 support to meet the basic needs and those of their dependents is severely curtailed by the use of vouchers. These vouchers are only redeemable at limited number of shops, usually large supermarkets. Commonly experienced problems include:</p> <ul style="list-style-type: none"> <li>• Mothers of new born babies not being able to purchase items necessary to care for their babies, including nappies, clothing, formula</li> <li>• People unable to purchase halal meat</li> <li>• People unable to purchase toiletries and cleaning products</li> </ul> <p>The vouchers also do not allow the recipient to travel to essential appointments, such as to the doctor. Clients become distressed and depressed at not being able to meet their most basic needs.</p> <p>IAP case advisors spend considerable time and energy trying to resolve voucher problems on a case by case basis and agencies have repeatedly asked for a systematic solution to address these ongoing problems.</p> <p>2. Vouchers stigmatise, degrade and demean people on section 4 support.</p> <p>3. Vouchers are expensive to administer and are not cost effective. Voucher users cannot shop around in small local shops to get the best price for items they need to purchase and do not receive change if they spend less than the value of their voucher. The supermarket owner keeps the difference between the value of the voucher and the value of the purchased goods. Vouchers are effectively a government subsidy to supermarket owners.</p> <p>A black market in vouchers has arisen, meaning that some people are profiteering illegally from government supplied vouchers.</p> | <p>Replace vouchers with cash provision.</p> | <ul style="list-style-type: none"> <li>• Asylum seekers would be able to meet a greater range of their needs, including travelling to essential appointments. This is particularly important for parents with young children; for people with complex medical needs; and for people on section 4 support for long periods of time.</li> <li>• Asylum seekers would not be humiliated through having to use vouchers.</li> <li>• Asylum seekers are able to maximise the value of their support provision, purchasing goods at their best price.</li> <li>• IND would be able to administer a simple and universal system for the provision of both s4 and s95 support. This is likely to result in administrative cost savings.</li> <li>• Illegal practices associated with the black market trade in vouchers would be eliminated.</li> </ul> |



| Identified problem  | Description of the problem: impact on clients and IAP agencies   | Proposed solution   | Benefits   |
|---|--|---|--|
| <p>The quality of section 4 accommodation is often sub-standard and there are few quality assurance mechanisms in place to improve quality.</p> | <p>IAP One Stop Services are frequently visited by clients who have often very serious complaints regarding the quality of their section 4 accommodation. Common problems include:</p> <ul style="list-style-type: none"> <li>• Lack of or inadequate bedding, including for newborn babies</li> <li>• Unclean premises and no cleaning equipment</li> <li>• No locks on doors – especially traumatic for single women who have been victims of rape</li> <li>• No heating</li> <li>• Gas and electricity meters that tenants are unable to use because they do not have cash</li> <li>• Overcrowding</li> </ul> <p>NASS's ability to improve the quality of section 4 accommodation is limited by a very vague service specification with no agreed performance targets and by the attitude of some providers who feel that section 4 clients should be entitled only to 'basic' provision because they have 'no right to be in the UK.' This excuse for poor provision reveals a very limited understanding of the rights of people on section 4 support, yet accommodation providers say it reflects what they are being told by the managers at the highest level of NASS.</p> <p>Although NASS is establishing a contract compliance system, the current and historical absence of robust quality assurance measures has meant that NASS has only been made aware of problems with accommodation through complaints from the IAP agencies and other client representatives. These representatives have provided a de-facto contract monitoring and compliance role that should be undertaken by NASS.</p> | <p>The IAP recommends that NASS:</p> <ul style="list-style-type: none"> <li>• acknowledges the right of section 4 clients to be placed in quality accommodation that reflects both their legal right to be in the UK, and the fact that many of them are likely to be accommodated for long periods of time;</li> <li>• communicates unequivocally these principles to private accommodation providers;</li> <li>• immediately applies the standards of accommodation set out in the 'Target' accommodation contracts for section 95 accommodation providers to those providing accommodation under section 4; and</li> <li>• introduces a rigorous system of inspection visits, and contract compliance measures to ensure that these standards are adhered to.</li> </ul> | <ul style="list-style-type: none"> <li>• The health and safety of people on section 4 support are enhanced by living in accommodation that is fit for human habitation.</li> <li>• Decreased burden to IAP agencies having to pursue accommodation complaints on clients' behalf.</li> <li>• The establishment of robust contract monitoring mechanisms ensure that NASS receives services that they pay for.</li> </ul> |



| Identified problem                               | Description of the problem: impact on clients and IAP agencies   | Proposed solution  | Benefits   |
|--|--|--|--|
| Delays in the section 4 decision making process. | The volume of section 4 applications, coupled with poor administrative systems at NASS, mean that many destitute applicants experience long delays before a decision is made on their case. In order to try and manage demand, in 2005 the IAP agencies and NASS agreed to a prioritisation system whereby applicants are categorised by OSS case advisors | As soon as the immigration and destitution status of the applicant have been confirmed, accommodation and support should be granted immediately to applicants, pending the full assessment of their claim. This is similar to the provisions of the Housing Act 1996 (section 188) whereby local housing | <ul style="list-style-type: none"> <li>• The risks associated with prolonged periods of destitution and homelessness are minimised for applicants.</li> <li>• NASS applies a precautionary approach to the awarding of section 4 support and avoids potential breaches of applicants'</li> </ul> |

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| Identified problem | Description of the problem: impact on clients and IAP agencies  | Proposed solution   | Benefits   |
|--------------------|---|---|--|
|                    | <p>as either priority A or priority B. Priority A cases are the most vulnerable and should have a decision made and accommodation allocated within 48 hours; priority B cases are less vulnerable and should have a decision made and accommodation allocated within 5 days.</p> <p>Unfortunately, even with recent administrative improvements in place, NASS has not managed to meet these timeframes. The result is that many highly vulnerable people spend protracted periods of time sleeping rough with no means of support.</p> <p>The reasons given by NASS for the delays include the following:</p> <ul style="list-style-type: none"> <li>• an application has been lost</li> <li>• an application is 'in the queue'</li> <li>• the case-worker is on leave</li> <li>• further information is required</li> <li>• the NASS medical doctor is verifying the medical claim</li> </ul> <p>While NASS has made considerable effort to improve its systems, the sheer volume of the applications and the cumbersome nature of the assessment process mean that delays will undoubtedly continue to occur. NASS has recently admitted in an email to an IAP staff member that they are not in a position to meet the agreed priority A and B timeframes</p> | <p>authorities have a duty to provide immediate interim accommodation if they have 'reason to believe that an applicant <i>may be</i> homeless, eligible for assistance and have a priority need...' pending completion of inquiries and a decision as to that person's full entitlement under the Act.</p> <p>The Homelessness Code of Guidance for Local Authorities (ODPM, July 2002) states that this is 'an important part of the safety net for people who have priority need and are unintentionally homeless.'</p> <p>Although asylum support legislation and regulations are silent on whether interim support can be provided to those applying for support under section 4 of the Immigration and Asylum Act (IAA) 1999, the precedent for interim support through section 98 of the Act which allows for temporary support until the Secretary of State is able to determine whether support may be provided under section 95 of the Act.</p> | <p>human rights by ensuring that its systems do not cause destitution.</p> |

| Identified problem | Description of the problem: impact on clients and IAP agencies   | Proposed solution | Benefits |
|--------------------|--|-------------------|----------|
|                    | <p>because of the volume of cases.<sup>25</sup></p> <p>In the same email, NASS revealed that they were endeavouring 'to make all decisions within ten days.' The applicant must then verify that they still want the support and wait for accommodation to be booked and for the accommodation provide to pick them up. Research conducted by the Birmingham office of the Refugee Council showed that in May 2006 the average waiting time for all clients from application of section 4 support to collection for accommodation was 36 days. This is a long time for someone who is destitute to wait for support. Given that 70 per cent of s4 applications are successful, it is fair to say that the overwhelming majority of applicants are required to wait for long periods of time to receive the support to which they are legally entitled.</p> |                   |          |

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<sup>25</sup> Email to Kat Lorenz, Refugee Action from Prem Gopalan, NASS Section 4 Casework team, 26 June 2006  
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**Registered charity numbers:**  
 Scottish Refugee Council: SCO08639

Refugee Action: 283660  
 Refugee Council: 1014576

Migrant Helpline: 1088631  
 Welsh Refugee Council: 1044885

Registered address: British Refugee Council, 240-250 Ferndale Road, London SW9 8BB  
 Charity no. 1014576 Company no. 272514  
[www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

