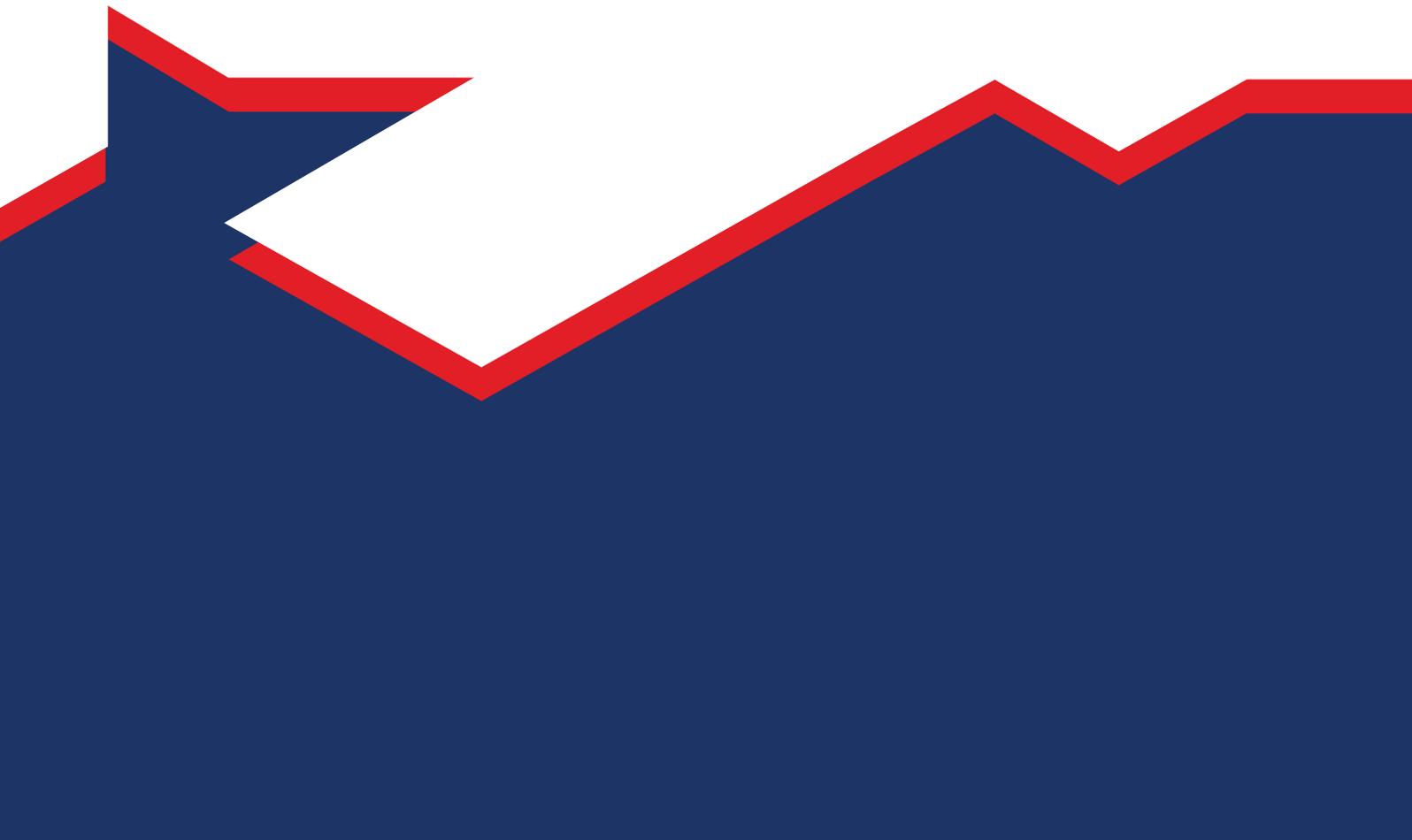




# **REFORMING ASYLUM SUPPORT: EFFECTIVE SUPPORT FOR THOSE WITH PROTECTION NEEDS**

November 2009



Completed consultation pro-formas should be sent no later than midnight on Thursday 4 February 2010 to the following address:

**Electronic:**

AsylumSupportReform@homeoffice.gsi.gov.uk

**By post:**

Asylum Policy (Immigration Policy)  
UK Border Agency  
9th Floor, West Wing  
B Block, Whitgift Centre  
Wellesley Road  
Croydon CR0 2AD

**YOUR DETAILS**

**Name**

**Organisation:**

**Contact Details**

**Postal address**

**Email**

**Telephone number**

Please feel free to provide comments on additional sheets of paper if there is not sufficient space on this form. Please specify which question(s) you are responding to on any additional sheets.

**Q1. Some asylum seekers frustrate the system by not making their claim at the earliest possible stage. Should we reserve the right not to support them in some circumstances?**

Yes

No

Don't know

Please give reasons:

**Q2. Do you agree with our proposals to repeal those parts of legislation which we do not intend to use and which:**

**a) relate to the withdrawal of support for families where they fail to cooperate with removal processes [Section 9, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004];**

Yes

No

Don't know

Please give reasons:

**b) require failed asylum seekers to participate in Community Activities as a condition of support [Section 10, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004];**

Yes

No

Don't know

Please give reasons:

**Q3. Should we support any failed asylum seekers who have been found to have no protection need by the independent appeals system?**

- Yes
- No
- Don't know

**If yes, under what circumstances should we support failed asylum seekers (tick the box next to the circumstances with which you agree):**

- Where they are unable to leave the UK due to a physical impediment or some other medical reason (e.g. late stages of pregnancy).
- Where they are unable to leave the UK because in the opinion of the Secretary of State there is no viable route of return available.
- Where there is an outstanding judicial review claim for which permission (in England and Wales) or leave (Northern Ireland) has been granted or which has been made (in Scotland).
- Where there is another issue outstanding which would require support to be provided to prevent a breach of a person's human rights
- Families with children, born before or after the appeal rights exhausted stage, who may otherwise fall to be supported by local authorities.
- Where an individual is making steps to return voluntarily.

Other circumstances (please list)

**Q4. Do you agree that we should be able to set a fixed time limit for support for those supported on the basis that they are taking steps to leave, with no right of appeal?**

- Yes
- No
- Don't know

Please give reasons:

**Q5. Do you agree that the way in which support is provided to asylum seekers should be different than the way support is provided to those who have been found to have no protection need?**

Yes

No

Don't know

Please give reasons:

**Q6. Do you think that closer working with both the voluntary sector and local authorities will:**  
**a) help applicants understand the options available to them at each stage of the process?**

- Yes
- No
- Don't know

**b) encourage those who are found to have no protection need to accept their position and return voluntarily?**

- Yes
- No
- Don't know

Please give reasons:

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

- Yes
- No
- Don't know

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

- Yes
- No
- Don't know

## **Scottish Refugee Council**

### **Reforming Asylum Support: Effective support for those with protection needs**

#### ***Additional responses to consultation Questions 3, 7 & 8***

**Q3. Should we support any failed asylum seekers who have been found to have no protection need by the independent appeals system?**

Yes.

**If yes, under what circumstances should we support failed asylum seekers**

All.

People who are refused asylum should be supported in all of the circumstances listed because they are unable to return to their country of origin through no fault of their own or because they have outstanding representations on their claim.

People who are refused asylum should be supported until they leave the UK voluntarily, are granted leave to remain or are removed. This support should be provided in the form of cash payments. Such a system would remove destitution from the asylum system and its well-documented impacts on vulnerable individuals and families and costs. For the UKBA such a single support system would be much easier to administer and achieve the stated goal of a system which is simple and cost-effective to deliver and which avoids unnecessary administrative processes.

Evidence and our operational experience strongly points to the fact that refusing, or withdrawing support, and the resultant destitution experienced by asylum seekers does not encourage increased returns. Instead, vulnerable people will experience abject destitution, misery, exploitation and abuse in Scotland and the UK rather than returning to a country which they do not believe to be safe or they do not believe they have had a fair decision on their asylum claim. Recent research Scottish Refugee Council conducted into asylum applicants on Section 4 found that it was dehumanising and had no link to returns. Many of the interviewees felt that their willingness to continue on Section 4 despite its huge difficulties was indicative of the problems they have in their countries of origin.

We challenge the reliance by UKBA on an independent appeals system as stated in the question to validate the decisions it makes on asylum claims. It implies an eschewing of its responsibility as a government body exercising a public law decision in a critical area and the responsibility to implement an international protection treaty to the standards and principles of that scheme. If an asylum seeker can access legal advice for an appeal, the public expense of legal aid (in Scotland through the

Scottish Legal Aid Board) can be considerable to overturn a wrong decision by the UKBA. This causes a significant burden on the legal system.

It is vital that increased focus is placed on getting asylum decisions right first time. Nearly one in four decisions are found to be wrong by the Asylum and Immigration Tribunal with this figure increasing for particular nationalities. Better initial decisions would improve the efficiency of the system and save costs on support and accommodation.

We welcome the UKBA's commitment to explore the potential of early access to legal advice for asylum seekers and welcome the roll-out of the Solihull pilot across the Midlands. We urge the UKBA to enter discussions with the Scottish Government and Scottish Legal Aid Board to consider how this could be achieved in Scotland.

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

No.

We are opposed to the use of asylum support to enforce compliance amongst refused asylum seeking families. As previously stated this is an ineffective and inhumane policy.

Families with children should continue to receive cash support at the same level which meets their essential living needs until they are granted status or leave the UK. The assertion that families who are not co-operating fully or actively planning and implementing their departure will be denied support and left destitute is deeply concerning. The consultation is silent on specific details of this proposal.

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

Yes.

We have no issue with the UKBA seeking powers to investigate and prosecute fraudulent Section 4 claims. However, we would challenge the discourse of fraud and abuse which runs throughout the proposals and the disproportionate emphasis that the UKBA has placed on these. The UKBA's own information suggests that this power would be little used<sup>1</sup>.

Overall the consultation is focused towards reducing perceived abuses of the asylum support system with little substantive evidence in support rather than tackling

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<sup>1</sup> "As a preliminary estimate, it is assumed that between 30 and 380 additional cases (from the current section 4 stock where these power do not apply) could be put forward for prosecution. " p.10  
Consultation Impact Assessment

destitution amongst applicants who are eligible for support. The consultation is silent on measures to improve this.

We are also concerned by the increasing recurring use of 'genuine' in reference to applicants who have yet to have their claim for protection assessed (e.g. p.8). This is perplexing and worrying as it implies the agency can somehow assess when an application is not 'genuine' before it has exercised its responsibilities under the Refugee Convention.

Gary Christie  
Policy & Research Manager  
Scottish Refugee Council  
[gary.christie@scottishrefugeecouncil.org.uk](mailto:gary.christie@scottishrefugeecouncil.org.uk)