



Scottish Refugee Council Memorandum

Inquiry into Asylum

Evidence submitted by Scottish Refugee Council

April 2013

About Scottish Refugee Council

Scottish Refugee Council is Scotland's leading refugee charity with a vision to ensure that all refugees seeking protection in Scotland are welcomed, treated with dignity and respect and are able to achieve their full potential. We provide advice and information to people seeking asylum and refugees in Scotland. We also campaign for the fair treatment of refugees and asylum seekers and to raise awareness of refugee issues.

About the inquiry

The Home Affairs Select Committee of the UK Parliament is undertaking an inquiry into asylum, the first focused inquiry in this area in ten years. The inquiry will cover a range of issues in three broad areas: the process of claiming asylum, the treatment of asylum applicants and the outcomes after an asylum decision has been made.

Introduction

Scottish Refugee Council warmly welcomes the Committee's timely inquiry into this important area. Our response sets out some general comments before providing detailed responses to each aspect of the committee's inquiry. We also suggest questions the Committee may wish to pose to UK Government officials. Further to the Home Secretary's announcement that she would abolish the UK Border Agency (UKBA) on 26 March 2013 and the absence of any further detail, we use the term 'former UK Border Agency' when referring to the work of what was UKBA.

In January 2013, we published the report *Improving the Lives of Refugees in Scotland after the Referendum: an Appraisal of the Options*¹ to inform debate on asylum policy within the context of

¹ Scottish Refugee Council takes no view on Scotland's constitutional status following the outcome of the referendum in 2014 nor do we have a view on which government should exercise competence in the differing aspects of asylum and refugee policy. See

http://www.scottishrefugeecouncil.org.uk/assets/0000/5495/4087_SRC_Referendum_Report_V3.pdf

Scottish Refugee Council

5 Cadogan Square, (170 Blythswood Court), Glasgow G2 7PH

Tel: 0141 248 9799 Fax: 0141 243 2499 www.scottishrefugeecouncil.org.uk

Registered charity no: SC008639

the Scottish referendum on independence in 2014. The report sets out key principles of a fair and humane refugee protection system. These are consistent with the 1951 Refugee Convention; European legislation relating to refugees; and human rights instruments and principles. Against these principles and each of the potential outcomes of the referendum: status quo, increased powers to the Scottish Parliament and independence for Scotland, the report makes recommendations within six areas of asylum policy mirroring much of the focus of the Committee's inquiry: *access to the territory and asylum procedure; assessing the asylum claim in a fair and efficient process; reception and integration of asylum seekers; refugee integration; responsibility-sharing and return.*

We refer the Committee to the principles and recommendations in this report which is submitted alongside this memorandum.

Summary

- Recent reforms to the asylum process implemented on 1 April 2013 including triaging cases, abandoning the single case owner approach and stripping back UKBA's regional structure are retrograde steps which will lead to new delays and backlogs;
- It is unclear to what extent the various projects conceived as part of the Asylum Improvement Project to improve the asylum process, agreed in the Coalition Agreement, have been implemented;
- Abolishing the UKBA and moving functions directly back to the Home Office will not resolve fundamental concerns and conflicts inherent in the work of the Agency;
- An independent asylum agency, separate from government and with the necessary expertise, should be formed. The administration of asylum support should be handed over to the Department for Work and Pensions;
- The Detained Fast Track (DFT) is unfair, expensive and ineffective and should be ended;
- A key barrier to accessing the asylum process is that the majority of asylum claims can only be lodged in one location. The only other European countries which follow this practice have much smaller territories and populations (Belgium, Ireland and Norway);
- Between 2009 and 2012 Scottish Refugee Council issued 257 travel grants using charitable funds to enable people with no other resources to travel from Glasgow to Croydon to claim asylum;
- On average, women wait longer than men for a decision on their asylum claim. Poor quality decision-making, poor credibility assessments are significant factors. Waiting times for a decision increases significantly for women with children. 55% waited for more than two years to get status compared to just 42% of women without children.
- The UK Government needs to return to a more inclusive approach to its assessment of who is in need of protection;
- Temporary refugee status acts to inhibit the full integration of refugees into their new communities by increasing practical and psychological barriers. It places a bureaucratic burden on the UKBA with little or no rationale and with no purpose beyond the symbolic
- Section 4 support has all of the problems associated with voucher support abolished in 2002, with the added issue of it not fulfilling the purpose it was initially intended for, that is, short term support for people close to leaving the country;

- Section 95 support is not enough to allow asylum applicants to live a dignified existence. Over two thirds of refugees and asylum seekers find it difficult to cope financially, but with the severity of financial struggle worse for asylum seekers;
- More humane treatment of asylum seekers in Scotland in relation to healthcare and educations has not acted as a pull factor;
- Many destitute asylum seekers in Scotland spend long periods of time destitute, with the average being a year and a half but some up to six years;
- The UK Government's policy of forcing refused asylum seekers into abject poverty is completely unethical, lacks any moral underpinning and is ineffective;
- The regulation of legal advice and the provision of publically-funded legal representation are devolved matters and thus the Solicitors Regulatory Authority has no competence in Scotland. Regulation of legal representatives in Scotland practising in asylum needs to be proportionate and cost-effective;
- As a whole, UK media coverage of asylum issues is not balanced and much of it carries both an implicit and explicit anti-asylum bias. It has negative impacts on public perceptions, policy and feelings of isolation and stigmatisation amongst asylum seekers. Media outlets in Scotland are more balanced and accurate and include the voices of refugees;
- Monitoring of returns should be introduced including NGOs in regions of return and linked to development initiatives; and
- Arbitrary moves from immigration detention in Scotland to England and vice-versa are impacting on detainees' access to justice.

General Comments

- (i) Scottish Refugee Council is deeply concerned that reforms that the former UK Border Agency are currently implementing to cuts costs to the asylum system will lead to further delays and create new backlogs. The reforms described as the New Asylum Operating Model became operational on 1 April 2013. They include 'triaging' asylum claims into five 'decision pathways'²; and ending the principle created in 2007 under the New Asylum Model of having a single case owner, at Higher Executive Officer level, responsible for an asylum case from start to conclusion. Instead lower grade case owners in a new Asylum Decisions Directorate will make initial decisions, passing the case to a different case owner in the Asylum Litigation and Removals Directorate if the case progresses to appeal.
- (ii) These are retrograde steps which dissipate responsibility and have the real potential for creating significant delays and new backlogs due to the multiple transfers of cases between these different directorates and different pathways. This is compounded by the continued lack of an effective IT system in place within the former Agency. Despite becoming operational on 1 April 2013 little has been communicated externally to those impacted by this new system and those supporting people through it.

² These are the Detained Fast Track; 'non-detained likely grants'; 'green' (easy to conclude); 'amber' (harder to conclude); and 'red' (most difficult to conclude). Cases may also move between the different pathways.

- (ii) It is also unclear to what extent the various projects conceived as part of the Asylum Improvement Project, agreed in the Coalition Agreement,³ have been implemented. Furthermore, the stripping back of the UK Border Agency's regional structure means that there is the potential for much less understanding of the devolved contexts in Scotland, Wales and Northern Ireland and ability to act quickly to resolve issues. Whilst welcome that the former agency will retain a Scotland Regional Director, this role no longer has operational authority.
- (iii) These reforms are taking place when the Agency is moving under the direct control of Home Office Ministers. It is worrying that no mention of asylum was made in the Home Secretary's announcement on the abolition of the UK Border Agency and it is not clear where asylum will fit within the new proposed structure.⁴ Whilst asylum makes up a very small proportion of the former Agency's overall work, the decisions it makes are of the highest consequence to the fundamental rights of individuals seeking protection in the UK. Furthermore it was the former Agency's performance in this area which has been the focus of much of the criticism by the Independent Inspector of Borders and Immigration as well as by the Home Affairs Select Committee.
- (iv) We are glad that the Secretary of State has recognised the systemic failings at the heart of the UK Border Agency. Scottish Refugee Council has had long standing concerns about the many contradictory functions of the organisation, which on the one hand for example comes under pressure to meet ambitious targets to cap immigration and on the other has to make life and death decisions on complex asylum cases where the requirement to offer protection should be the over-riding concern.
- (v) Scottish Refugee Council strongly contends that simply moving functions directly back to the Home Office will not resolve these and other fundamental concerns and conflicts of the former Agency's work. We firmly believe that to create a UK asylum system that the parliament and public have confidence in then more radical action needs to be taken.
- (vi) Asylum should be completely divorced from immigration decision-making. An independent asylum agency, separate from government and with the necessary expertise, should be formed. The administration of asylum support should be handed over to the Department for Work and Pensions, a government department much better suited and more competent in administering a benefits system.
- (vii) *Questions:*
An initial aim of the New Asylum Model in 2007 was to segment cases according to certain 'types'. Given this was largely abandoned and given that there are still fundamental flaws in assessments of who should be routed into the Detained Fast Track, how will the Home Office ensure that their revised approach will work and be consistently applied?

³ "We will explore new ways to improve the current asylum system to speed up the processing of applications." HM Government, *The Coalition: Our programme for government*, May 2010, p. 21

⁴ See <https://www.gov.uk/government/speeches/home-secretary-uk-border-agency-oral-statement>

A key aim of introducing a single case owner approach at HEO grade in the New Asylum Model was to focus individual responsibility on case owners to make quality decisions. How will responsibility and quality now be achieved if this approach has appeared to have failed?

What aspects of the Asylum Improvement Project have been concluded and implemented; concluded and not implemented; stalled?

Response to each aspect of the Committee's inquiry

1. The effectiveness of the UK Border Agency screening process, including the method of determining eligibility for the 'Detained Fast Track' procedure

- 1.1 Asylum screening is the procedure that facilitates access to the UK asylum process. The UK Government must ensure that all men, women and children seeking protection across the UK can access the UK asylum procedure, regardless of whether they are newly-arrived or already residing somewhere within the UK. It is our view that there is a real risk that the current screening process is inhibiting fair and equal access to the asylum process.
- 1.2 Given the emphasis on 'triaging' in the new asylum procedure and the consequent need to ask more detailed questions at the screening stage, it is essential that people are fully informed of their rights, have access to information about the asylum process in a language they understand, and have access to quality legal advice **before** attending their screening interview.
- 1.3 Scottish Refugee Council is opposed to the detention of people seeking asylum solely for the purpose of assessing their claim and believes that the Detained Fast Track (DFT) procedure should be abolished. The DFT does not operate in Scotland, but we endorse Detention Action's findings that the DFT is expensive, unfair and ineffective.⁵ Further evidence from the Independent Inspector of Borders and Immigration⁶, the United Nations High Commissioner for Refugees (UNHCR)⁷ and Human Rights Watch⁸ shows that complex asylum cases involving gender-based persecution and trafficking continue to be incorrectly routed into the DFT, contravening international human rights standards and the UK Government's own policies, and restricting access to justice.
- 1.4 We welcome the current work to address some of the practical and procedural problems at the Asylum Screening Unit (ASU) in Croydon. Efforts reportedly underway include

⁵ Alger, T & Phelps, J. (2011) *Fast Track to Despair: the unnecessary detention of asylum seekers*, Detention Action, available at <http://detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/FastTracktoDespair-printed-version.pdf>

⁶ Vine, John (2012) *A thematic inspection of the detained fast track July – September 2011*, Independent Chief Inspector of the UK Border Agency, available at http://icinspector.independent.gov.uk/wp-content/uploads/2012/02/Asylum_A-thematic-inspection-of-Detained-Fast-Track.pdf

⁷ UNHCR (2010) Quality Integration Project, Key observations and recommendations http://www.unhcr.org/fileadmin/user_upload/pdf/First_Quality_Integration_Project_Report_Key_Findings_and_Rec_01.pdf

⁸ Human Rights Watch (2010) *Fast-tracked unfairness: detention and denial of women asylum seekers in the UK* <http://www.hrw.org/sites/default/files/reports/uk0210webwcover.pdf>

refurbishment of the facility to improve privacy, streamlining of procedures to reduce waiting times, improved signposting and referrals to support services, and investment in staff training to tackle the pervasive culture of disbelief and attitude of hostility towards applicants. There has been little indication however that these changes are being rolled out to other screening locations.

- 1.5 One of the major barriers to accessing the asylum process is that in-country asylum claims can only be lodged at the ASU in Croydon (except for families with children or in very exceptional circumstances). The UK Government continues to insist that asylum applicants claim at port despite the reality that only one in ten do so. There are many legitimate reasons for people claiming asylum from inside the UK rather than at a port or airport and those in need of protection should not be penalised for being in one part of the UK or another. Every week we see distressed and vulnerable people whose journeys to Glasgow have been controlled by smugglers or traffickers, or who are studying or residing in Scotland and have become unable to return home due to a change in circumstances. People should be able to register a claim for asylum across the UK.
- 1.6 Most European countries including Germany, Switzerland, Austria and Sweden allow for in-country applications to be lodged in a number of local offices across the country. Countries which have only one office where an asylum claim can be lodged (Belgium, Ireland and Norway) have a smaller territory or population to the UK.
- 1.7 Many people seeking to register a claim for asylum are destitute and have no means of travelling to Croydon. Scottish Refugee Council provides small grants to asylum seekers who are destitute⁹. Around one fifth of these grants are issued to people who are yet to register their asylum claim. Between 2009 and 2012 Scottish Refugee Council issued 257 travel grants to enable people with no other resources to travel from Glasgow to Croydon to claim asylum.¹⁰ It should not be the role of charity to meet the aims of Government policy for people to claim asylum as soon as possible. However without us supporting people then they would not be able to access the asylum procedure.
- 1.8 A recent study highlighted the distress and anxiety experienced by those who must travel hundreds of additional miles to access the asylum process and the impact this has on their ability to engage effectively with the screening interview.¹¹ The study suggests that participants found an already difficult screening interview more challenging following the discomfort, stress and exhaustion of the overnight bus journey.
- 1.9 *Case Study – Florence*
Florence was 6 months pregnant and had mobility difficulties when she presented to Scottish Refugee Council (SRC) to claim asylum. She said she had had no ante-natal care

⁹ These are provided by the Refugee Survival Trust and distributed via Scottish Refugee Council's caseworkers according to specific criteria.

¹⁰ Gillespie, M (2012) *Trapped: Destitution and Asylum in Scotland*, Scottish Poverty & Information Unit, Glasgow Caledonian University, available at:

www.scottishrefugeecouncil.org.uk/assets/0000/5050/Trapped_destitution_and_asylum_final.pdf

¹¹ Chapple, R. (2012) *The First Steps in Asylum: the journey from Glasgow to Croydon*, MA Dissertation submitted to Glasgow University

and that she was destitute. Someone had paid for her to travel to Glasgow from London. We don't know who or why. When SRC caseworkers requested a screening interview in Scotland for her, UKBA responded: "she travelled from London, she can travel back". SRC used funds from the Refugee Survival Trust to get her an overnight bus ticket back to London and gave her a small amount of cash for some food. Florence left the office distressed with £20 cash and an overnight bus ticket. When we sought feedback from ASU staff the following morning, we were told that Florence had arrived in labour and had had to be taken to hospital by ambulance.

1.10 For those who make it to the ASU in Croydon, it can then be difficult to get access to a walk-in appointment to register an asylum claim. There are no written guidelines for ASU staff on assessing eligibility for walk-in appointments¹². Destitute clients for whom Scottish Refugee Council has facilitated travel to Croydon have been turned away from the ASU and refused access to the asylum process, support and accommodation.

1.11 *Questions*

In relation to developing the new Asylum Operating Model, how has the Home Office evaluated the impact of changes on ensuring people have fair and equal access to the UK asylum process in line with international law and EU Directives?

2. The use of Country of Origin Information and Operational Guidance Notes in determining the outcome of asylum applications

2.1 We make no detailed comments on the use of COI and OGNs in asylum determination. However we draw the Committee's attention to the fact that many asylum seekers who are refused and forced into destitution would have qualified for some form of subsidiary protection and immigration status had they applied for asylum in another country or had they applied in the UK in the past. Those refused include: people who would have to return to areas of armed conflict or endemic violence and people at serious risk of systemic or generalised violence of their human rights but who have not been able to establish that they, individually, are at risk. Since 2005 less than 1 in 10 people who seek asylum in the UK have been granted protection outside of the 1951 Refugee Convention whereas in 2003 this was 1 in 4. Scottish Refugee Council believes that the UK Government needs to return to a more inclusive approach to its assessment of who is in need of protection.

3. The assessment of the credibility of women, the mentally ill, victims of torture and specific nationalities within the decision-making process and whether this is reflected in appeal outcomes

3.1 The UK Government must do more to tackle the 'culture of disbelief' among decision-makers by vastly improving management, training and guidance. Decision-makers must fully understand and implement the correct standard of proof when assessing credibility and making an initial decision on a case.

¹² National Asylum Stakeholder Forum Quality & Equalities Subgroup in January 2013

- 3.2 Scottish Refugee Council's three-year longitudinal study of refugee integration in Scotland found that on average, women wait longer than men for a decision on their asylum claim: 49% of women in our study waited more than 2 years for their current status, compared to 22% of men.¹³ There could be several reasons for the gender differentiation, but it is very likely that poor quality decision-making, including poor credibility assessments and lengthy appeals processes in women's cases are significant factors.¹⁴
- 3.3 In order to improve decision-making for women, the mentally ill, victims of torture and other potentially vulnerable groups, the Home Office must improve how it assesses and responds to vulnerability at the beginning of the asylum process. Assessments should be conducted throughout the asylum procedure at key points, in recognition of the dynamics of vulnerability, the impact of trauma on disclosure and the impact of the asylum process.
- 3.4 It has also been suggested that part of the reason for this gender differentiation concerns disclosure. The impact of trauma and in particular experiences of sexual violence on disclosure is well documented.¹⁵ Two-thirds of women in the asylum process have experienced physical and/or sexual violence.¹⁶ Our integration study indicates that the waiting time for a decision increases significantly for women with children: 55% waited for more than two years to get status compared to just 42% of women without children.¹⁷ Women with children are even less likely to disclose all of the reasons for their claim at the initial decision-making stage, especially as childcare is not available for asylum interviews in several locations.
- 3.5 Quality legal advice is crucial to an applicant's engagement with the asylum process, the disclosure of information relevant to the asylum claim, and the decision-maker's ability to make an assessment of credibility. The UK Government must ensure access to quality legal advice before the substantive asylum interview and improve access to legal advice in the Detained Fast Track procedure.
- 3.6 The provision of professional and quality interpreting is essential to facilitating effective decision-making and making an accurate assessment of credibility. The issue of interpreting is even more complex for women who have experienced gender-based violence, victims of torture, the mentally-ill, or those whose claims involve issues of sexuality or gender identity, for example. If applicants are not confident in or comfortable with the interpreter it will have a major impact on disclosure and the assessment of credibility. Most interviews are not recorded, which makes it impossible to verify the quality of interpreting or its impact on the interview at a later stage.

¹³ Mulvey, G. (2013) *In Search of Normality: Refugee Integration in Scotland*, Glasgow, Scottish Refugee Council, available at http://www.scottishrefugeecouncil.org.uk/assets/0000/5790/final_report.pdf

¹⁴ Mugeridge, H. & Maman, C. (2011) *Unsustainable: the quality of initial decision-making in women's asylum claims*, Asylum Aid, www.asylumaid.org.uk/data/files/unsustainableweb.pdf

¹⁵ Bogner, D et al (2007) *Impact of sexual violence on disclosure during Home Office interviews*, British Journal of Psychiatry, Vol. 191:75-81

¹⁶ Zimmerman, C. (2009) *Asylum Seeking Women: violence and health*, London School of Hygiene & Tropical Medicine and Scottish Refugee Council, available at

http://www.scottishrefugeecouncil.org.uk/assets/0000/0097/Asylum_seeking_women_violence_and_health.pdf

¹⁷ Mulvey, G. (2013) *In Search of Normality: Refugee Integration in Scotland*, Glasgow, Scottish Refugee Council, available at http://www.scottishrefugeecouncil.org.uk/assets/0000/5790/final_report.pdf

3.8 We are concerned about recent evidence of the poor quality of decision-making and credibility assessments in cases involving LGBT asylum applicants. We feel that these issues merit consideration within the inquiry particularly as improving the assessment of LGBT claims was a specific commitment within the Coalition Agreement. We draw the attention of the Committee to recent research by the Equality Network, BEMIS and GRAMNet¹⁸ in Scotland and Stonewall¹⁹, highlighting in particular, issues around a lack of training and awareness among decision-makers leading to stereotyping and poor credibility assessment.

3.9 *Question*
What impact has introducing a Gender Champion to the former Agency had? What learning has there been from this work on how other equality groups should be treated?

4. The effectiveness of the 5 year review system introduced in 2005

4.1 The starting point of our perspective on the 5-year review is the principle that refugees should be able to fully rebuild their lives in Britain. From that principle and the existing evidence base we would argue that temporary refugee status acts to inhibit the full integration of refugees into their new communities. Research we conducted with the University of Strathclyde highlights the increased practical and psychological difficulties placed on refugees whose status here is insecure, or at least that they feel it to be insecure²⁰. There are a number of aspects of refugees' lives that they are unable to develop due to the liminality of their status.

4.3 A key aspect of refugee integration, and one the UK Government has promoted, is employment. Our research suggests that perennial refugee struggles to access the labour market are exacerbated by only having 5-years status in the UK. Refugees tell us that employers are less likely to employ them, particularly in jobs that require some initial training, if their status is not secure.

"I can't found a job because I'm a refugee for 5-years....and I understand for employers why they don't take me for this" (Female refugee from central Asia).

"I think as an employer maybe if you want to employ somebody in a long term position....somebody is just here for a temporary, maybe 5-years or you're no sure about their future in the country, maybe an employee maybe would choose one who is a citizen" (Male refugee from East Africa).

¹⁸ Cowan, T. et al (2011) *Sanctuary, Safety and Solidarity: Lesbian, Gay, Bisexual, Transgender Asylum Seekers and Refugees in Scotland*, Equality Network, BEMIS & GRAMNet, available at www.gla.ac.uk/media/media_202481_en.pdf

¹⁹ Miles, N. (2010) *No Going Back: lesbian and gay people and the asylum system*, Stonewall, available at <http://www.stonewall.org.uk/other/startdownload.asp?openType=forced&documentID=2213>

²⁰ Stewart, E., Mulvey, G. (2011) *Becoming British citizens? Experiences and opinions of refugees living in Scotland*, Strathclyde University and Scottish Refugee Council http://www.scottishrefugeecouncil.org.uk/policy_and_research/research_reports

4.4 The other major concern for refugees with regard to having temporary status concerns the psychological impact and its practical consequences. Refugees in many cases struggle to develop a sense of belonging to Britain and even to their neighbourhood. While successive UK Governments have promoted the concept of Britishness and with it the desire for migrants to develop a British identity, 5-year status acts to slow any identification with Britain. In the meantime many refugees try to simply get through and survive those 5 years. In some senses the 5-year status freezes the lives of refugees.

“As it comes nearer to the 5 years then I will start thinking about my fear of going back to where I come from” (female refugee from West Africa).

4.5 Over and above the effects on refugees themselves, it is clear that this process places a bureaucratic burden on the UKBA with little or no rationale and with no purpose beyond the symbolic. What is more, there is provision within the Refugee Convention for the removal of status and so the policy is also unnecessary if its aim is to provide the opportunity for the UKBA to remove status from people deemed undesirable²¹. In practice all refugees to our knowledge reaching the end of their 5-year status who have applied in-time have been granted indefinite leave to remain. Thus policy has prevented refugees from integrating and has placed a burden on a UK Government agency for no apparent purpose. As such the policy is not a rational one and should be replaced by the previously unproblematic practice of permanent status.

4.6 *Questions:*

What proportion of refugees reaching the end of their 5-years limited leave are granted indefinite leave to remain?

What is the purpose of the policy? What analysis has the Home Office conducted to consider whether the policy is meeting its aim?

5. Whether the system of support to asylum applicants (including section 4 support) is sufficient and effective and possible improvements

5.1 Our starting point for discussion of asylum support is that it should be adequate for people to live a dignified existence and should be paid in cash²². Section 4 support has all of the problems associated with voucher support abolished in 2002, with the added issue of it not fulfilling the purpose it was initially intended for, that is, short term support for people close

²¹ Article 1 (c) of the Refugee Convention provides for the State to ‘cessate’ refugee status if an individual refugee voluntarily returns to their country of origin or reavails themselves to the protection of that country or another country. That is to say they are no longer required to be protected. Article 1 (f) allows for the state to revoke ‘refugee’ status if the individual refugee commits a serious crime. Refugee status can also be cancelled if it is found that a refugee was granted refugee status through by deception (UNHCR 2004). Following any of these processes being applied to an individual in the UK, the Home Office has power under the immigration rules to remove the individual’s immigration leave. For example, example section 76 of the Nationality, Immigration and Asylum Act 2002 allows for indefinite leave of refugees to be withdrawn.

Further to these means to withdraw refugee status based on the acts of the individual, the UK Government, following consultation with UNHCR, can also review all the cases of particular nationalities if a ‘non-temporary’ change occurs in their country of origin. This situation has yet to arise in the UK.

²² It has been widely evidenced that voucher support is stigmatising and overly restrictive, meaning recipients cannot pay for buses, second hand clothes and culturally specific food.

to leaving the country.²³ Instead many people spend long periods of time on Section 4 voucher support with no prospect of them leaving the country and with all of the problems associated with both cashlessness and stigmatisation.

- 5.2 Section 95 support is not enough to allow asylum applicants to live a dignified existence. Asylum rates currently sit at just £36.62 per week that is 65% of income support paid to those under 25 and 51% of the levels paid to those who are over 25 and to lone parents. The level of income most widely used as a signifier of living in poverty is below 60% of male median income. Asylum support stands at less than 31% of that level. The UKBA arguments about costs such as utility bills and housing being met and that these make up the shortfall is a disingenuous one. A 35%-49% shortfall is not made up by asylum seekers not having to meet these costs. In addition, Income Support is a 'top-up' benefit. Those on Income Support usually also have access to other benefits and so the 35%-49% underpay for asylum seekers is made even worse when other forms of support are taken into account.
- 5.3 Both asylum support rates and many of the associated hangover effects of the asylum process are forcing people into poverty. Over two thirds of refugees and asylum seekers find it difficult to cope financially,²⁴ but with the severity of financial struggle worse for asylum seekers. Support levels are clearly the primary reason for this. However we believe that the UK Government's overall dispersal policy also contributes to poverty, from housing in hard-to-let properties in deprived areas to enforced reliance on state support due to the absence of the right to work.
- 5.4 In relation to other reception conditions, more humane provision in Scotland in terms of health and educational access²⁵ has not led to more arrivals in Scotland. This, along with other research, refutes any notion of 'pull factors' that lead asylum applicants to aim for specific destinations²⁶. UK Government policy and practice should not be based around theoretical assumptions that all existing evidence refutes.
- 5.5 *Question:*
Has the Home Office conducted any analysis on the support levels required to keep people out of poverty?

6. The prevalence of destitution amongst asylum applicants and refused asylum seekers

²³ See for example, Mulvey, G. (2009) "Even Among Asylum Seekers We Are The Lowest" *Life on Section 4 Support In Glasgow*, Scottish Refugee Council, available at:

http://www.scottishrefugeecouncil.org.uk/policy_and_research/research_reports/research_reports_archive

Reynolds, S. (2010) *Your inflexible friend: the cost of living without cash*, Asylum Support Partnership

http://www.scottishrefugeecouncil.org.uk/policy_and_research/research_reports/research_reports_archive

²⁴ Scottish Refugee Council's integration study highlights financial strain throughout and beyond the asylum process

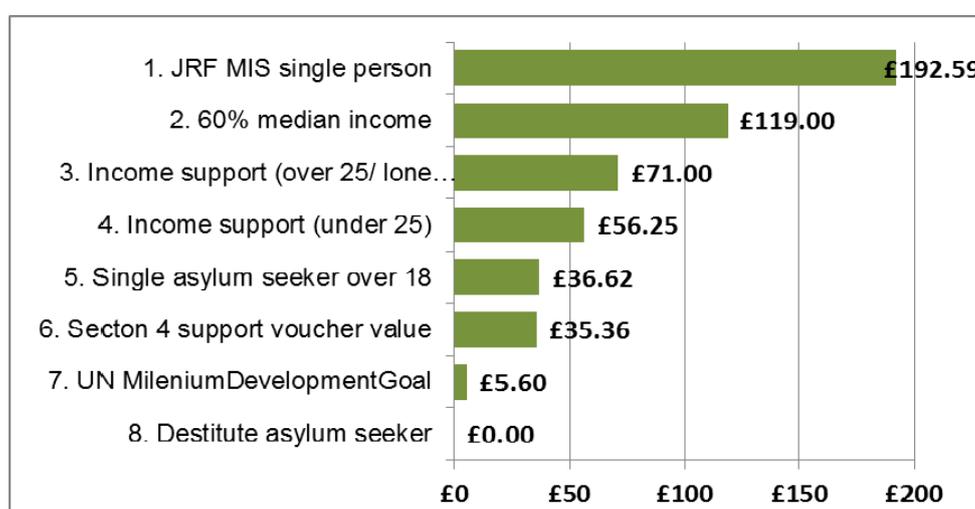
²⁵ In Scotland, a refused asylum seeker is still entitled to free secondary health treatment. For further details and for provision in other devolved nations see Northern Ireland Law Centre (2012) *Refused asylum seekers and access to free secondary healthcare: a comparison of England, Scotland, Wales & Northern Ireland*, available at:

http://www.lawcentreni.org/component/content/article/63-policy-briefings/865-refused-asylum-seekers-and-access-to-free-secondary-healthcare.html#_edn10

²⁶ Robinson and Segrott 2002 *Understanding the decision-making of asylum seekers* Home Office Research Study 243 and Crawley 2010 *Chance or Choice? Understanding Why Asylum Seekers Come to the UK*

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- 6.1 Our starting point is that nobody should be deliberately made destitute by policy as an ‘incentive’ to leave the UK. Destitution means living on no support whatsoever. The aim of the policy of removing all support was described as ‘starve them out’ when first suggested in 2003²⁷ and Scottish Refugee Council remains of the view that such a policy is completely unethical and lacks any moral underpinning. What is more, it is also ineffective, and means that people forced on to the streets rely more on charities and the goodwill of fellow Scottish residents, while having little or no impact on future intentions.
- 6.2 Absolute poverty is not something society should tolerate never mind deliberately create. The table below²⁸ gives an indication of the brutal nature of this policy.



- 6.3 Although a snapshot, so likely a significant underreporting, research we jointly commissioned with the Refugee Survival Trust and British Red Cross found well over 100 individuals in one week in were destitute in Glasgow alone. A large proportion of those made destitute are from countries considerable barriers to return.
- 6.4 Many destitute asylum seekers spend long periods of time destitute, with the average being a year and a half, although there were cases where individuals had been in such a situation for over six years. The effects of destitution are devastating.

“They have to give me money for bras and pants. It’s very difficult because nobody gives me any money. I have to ask the Red Cross for sanitary wear.”

Destitution opens people up to potential abuse and exploitation, be that domestic abuse or effective servitude.

Rough sleeping was also not uncommon, as was ‘sofa-surfing’ for periods of time. In addition, cold weather has a major negative impact as people struggle to get warm clothes. There is also a psychological effect of the infantilisation of adults.

²⁷ David Winnick, Home Affairs Select Committee 19 November 2003

²⁸ Graph designed by Morag Gillespie in [Trapped: Destitution and asylum in Scotland \(PDF\)](http://www.scottishrefugeecouncil.org.uk/policy_and_research/research_reports)
http://www.scottishrefugeecouncil.org.uk/policy_and_research/research_reports

“at our age we are still talking about clothes”

“we should be talking about other things, paying rent or something, but we are still struggling with clothes and toiletries”²⁹

6.5 Mental health problems are also explicitly tied to destitution and have their own personal and financial costs. Experiences of destitution have long-term impacts and many of those who subsequently go on to be recognised as refugees then require substantial support in their integration.

6.6 *Questions:*

How many people who are Appeals Rights Exhausted, not in receipt of asylum support are reporting to UKBA?

What proportion of people forced into destitution are subsequently recognised as refugees? granted leave? leave the UK?

What analysis has been conducted by the Home Office on the effects of the right to work on refugees' longer-term outcomes?

7. UKBA or third sector organisations should be able to highlight concerns regarding legal practitioners to the Solicitors Regulatory Authority

7.1 Asylum is a complex and fast-moving area of law. There are drastic consequences when poor legal advice is given. There is an essential need for legal representatives who provide asylum and immigration advice in Scotland to be consistently trained, properly funded and robustly regulated with effective remedies to complain.

7.2 The regulation of legal advice in Scotland and the provision of publically-funded legal representation is a devolved matter and thus the Solicitors Regulatory Authority has no competence in Scotland.

7.3 The majority of legal representatives providing specialist immigration and asylum advice in Scotland are exempted from registration with the Office of the Immigration Services Commissioner regulatory scheme. The Law Society of Scotland and the Faculty of Advocates are Designated Professional Bodies (DPB) in terms of section 86 of the Immigration and Asylum Act 1999. Designation removes the need for Scottish solicitors or advocates to be registered individually with the Office of the Immigration Services Commissioner. The Commissioner has however the power to receive complaints against Scottish solicitors or advocates giving immigration advice and is required to monitor how any complaint passed to the Society or Faculty is handled.

7.4 Any solicitor registered with the Law Society of Scotland may advise in this complex area of civil law however in practice this has been limited to between fifteen to twenty firms³⁰. The

²⁹ Ibid

³⁰ Scottish Legal Aid Board (2010) *Best Value Review Immigration and Asylum*, Scottish Legal Aid Board, available at: <http://www.slab.org.uk/export/sites/default/common/documents/reform/ImmigrationandAsylumBestValueReviewfinal.pdf>

Law Society of Scotland has a system in place of three-yearly peer review for civil legal aid work.

- 7.5 Due to the small number of legal representatives, regulation in Scotland needs to be proportionate and cost-effective. We believe a single register of legal representatives practising in this complex area in Scotland should be developed based on signing up to a specific code of best practice in advising people seeking asylum.

8. Whether the media is balanced in their reporting of asylum issues

- 8.1 It is the view of Scottish Refugee Council that, taken as a whole, UK media coverage of asylum issues is not balanced and much of it carries both an implicit and explicit anti-asylum bias.

This conclusion has already been noted by various organisations, researchers and inquiries, including the Scottish Parliament's Equal Opportunities Committee Report into Migration and Trafficking (2010) and most recently Lord Leveson's inquiry who stated that "...when assessed as a whole, the evidence of discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers, is concerning." And, "Although the majority of the press appear to discharge this responsibility with care, there are enough examples of careless or reckless reporting to conclude that discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers is a feature of journalistic practice in parts of the press, rather than an aberration."

- 8.2 In daily monitoring of UK coverage of asylum issues, we have found that asylum seekers are regularly portrayed negatively by large-circulation media outlets, notably the Daily Mail, Daily Express and the Sun. These findings are mirrored by those of researchers from the Glasgow Media Group at Glasgow University. In a new book to be published later this year³¹, they record persistent and overwhelmingly hostile coverage of refugees and asylum in most of the national media.
- 8.3 This hostility takes a number of forms. Often terms such as 'illegal immigrant', 'asylum seeker', 'migrant' and 'refugee' are used interchangeably. While this is most noticeable in the right-wing print media, including the Daily Mail and Daily Express, other outlets including the BBC are guilty of misusing these terms.
- 8.4 In a recent Panorama programme³² the substitution of the terms 'illegal immigrants', 'failed asylum seeker', 'asylum shopper' and 'ghosts' (those living without status), left the viewer questioning the legitimacy of people claiming asylum in the UK.
- 8.5 The misrepresentation of the numbers of people seeking asylum in the UK is also of concern. Use of language such as 'flooding' and 'swamping' aims to create a climate of

³¹ Philo, G., Bryant, E., Donald P. (forthcoming) *Bad News for Refugees*, Pluto

³² *Breaking out of Britain*, 2013, television programme, BBC, London, 21 January 2013, [Accessed 15 April 2013] <http://www.bbc.co.uk/programmes/b01q9vds>

fear and crisis around asylum. The numbers of people seeking asylum in the UK are rarely reported alongside the numbers seeking asylum elsewhere in the world, thus failing to supply context and balance to the reported UK figures.

- 8.6 The Press Complaints Commission (PCC) Editors' Code of Conduct states that '*The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability*'. While this is largely respected, it is frequently flouted when it comes to immigration status. A recent Daily Express headline, 'Refugee gang in cocaine plot' (March 6, 2013) helps cement negative stereotypes.
- 8.7 We believe that the situation in Scotland presents a more balanced picture with fairly regular, accurate and insightful reporting from the Herald, the Scotsman, the Daily Record and STV as well as local media such as the Evening Times, the Glaswegian and STV local. A significant factor in this is the inclusion of refugees' own voices and the perspectives of those who represent them.
- 8.8 These more balanced stories however rarely receive the prominence of negative stories in, for example, the Scottish Daily Mail, which regularly aims to manufacture a link between asylum and rising legal bills, or pressure on public services on its front pages.
- 8.9 Scottish Refugee Council has written several times to the Scottish Daily Mail to contest inaccuracies and point out poor use of terminology as already outlined. As this has had no effect on the coverage of asylum issues, we have lodged complaints with the Press Complaints Commission twice in just over a year in relation to highly inaccurate and misleading (December 2011 and January 2012). In both cases our complaints were resolved with corrections and apologies being printed.³³
- 8.10 We would argue that the continued publication of inaccurate 'non-news' news stories concerning asylum on the front pages of the Scottish Daily Mail contradicts the statement made by the paper's Managing Editor to the Joint Committee on Human Rights in 2007 that: "*The idea that they [Daily Mail] journalists are running around looking for inflammatory things to say about asylum seekers is wrong.*"
- 8.11 Scottish Refugee Council believes that such unbalanced reporting impacts on government policy, as we witness a continued tightening of legislation around asylum as politicians perceive public opinion to be anti-asylum.
- 8.12 Both Scottish Refugee Council's own research³⁴ and research by the Glasgow University Media Group note the effect of negative media coverage on the mental health of asylum seekers who are further isolated and stigmatised by such unbalanced reporting. Those

³³ See <http://www.pcc.org.uk/news/index.html?article=ODM4NA==> and <http://www.pcc.org.uk/news/index.html?article=ODM4NA==>

³⁴ Mulvey, G. (2013) *In Search of Normality: Refugee Integration in Scotland*, Glasgow, Scottish Refugee Council, available at http://www.scottishrefugeecouncil.org.uk/assets/0000/5790/final_report.pdf

interviewed felt they were all *'tarred with the same brush'* and that asylum seekers were made to equal *'bad men'*. The researchers interviewed asylum seekers who felt suicidal because of negative perceptions, along with those who had been verbally abused and had even abandoned their asylum claims because of the fear that claims for asylum were not being taken seriously in this country. Those interviewed did not blame hostile host communities, noting that they merely believed what they were told about asylum seekers in the media.

8.14 Conversely, interviewees felt accurate and insightful coverage did make a positive difference and this echoes our experience at Scottish Refugee Council. Without media coverage of the realities of child asylum seekers in detention the public would never have supported the successful campaign to end the practice. Coverage of the real stories of asylum seekers always generate powerful reaction and in Scotland this has helped to drive a more engaged and informed political environment.

8.15 *Questions (to newspaper editors):
Does your newspaper fall into the majority or minority discussed by Lord Leveson?*

9. The prevalence of refused asylum seekers who are tortured upon return to their country of origin and how the UK Government can monitor this

9.1 Whilst we are unable to provide detailed evidence in relation to the prevalence of those tortured upon return, we would refer the Committee to our principles on return in the annex. To ensure returns are sustainable, the UK should put in place systems to ensure that those it returns have reached their final destination safely. There should be subsequent monitoring and follow-up which should include NGOs in the region. The reintegration of returnees should also be linked to reconstruction and development initiatives.

10. Other relevant issues

10.1 Scottish Refugee Council supports the submission of the Detention Forum in relation to issues surrounding immigration detention. We would add specifically however our concerns around access to justice for detainees in Dungavel House Immigration Removal centre who are transferred often arbitrarily around the UK detention estate and thus away from the jurisdiction of legal representatives in Scotland who can act on their behalf. Anecdotally this happens when a detained has engaged the services of a legal representative. Consequently this has an impact on the public purse in Scotland.

Questions:

How many detainees have been transferred from Dungavel to other centres in the UK Government's immigration detention estate and vice-versa? What justification is given for these moves and what policy is being followed?

For further information please contact:

**Gary Christie
Head of Policy & Communications
Scottish Refugee Council**

E: gary.christie@scottishrefugeecouncil.org.uk