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Asylum Support (Amendment) (No 2) Regulations 2004

Introduction

This briefing sets out the concerns of Citizens Advice in relation to Regulation 4 of the Asylum Support (Amendment) (No 2) Regulations 2004 (SI 2004/1313), laid before Parliament by the Home Office on 13 May 2004.

Regulation 4 provides for the revocation, with effect from 4 June 2004, of Regulation 11 of the Asylum Support Regulations 2000, which set out the 'fine print' of the asylum support system created by Part IV of the Immigration & Asylum Act 1999 and administered by the National Asylum Support Service (NASS).

Under Regulation 11 of the Asylum Support Regulations 2000, an asylum seeker who has been supported by NASS "for at least six months" without his or her asylum claim being fully determined, may "apply for an additional single payment [of £50] in respect of essential living needs". An application for a further single additional payment (SAP) of £50 may be made after a further six months on NASS support, and so on.

This provision was first announced, in June 1999, as a concession by the then Home Secretary to the widespread concern of MPs about the low level of NASS support.

This briefing is endorsed by: Amnesty International UK, Immigration Advisory Service, Immigration Law Practitioners' Association (ILPA), Medical Foundation for the Care of Victims of Torture, Refugee Action, Refugee Arrivals Project, Refugee Legal Centre, Scottish Refugee Council, and Shelter.

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The purpose of the NASS £50 Single Additional Payment

The provision in respect of the £50 single additional payment (SAP) was introduced, in June 1999, as a concession by the then Home Secretary, Jack Straw MP, to the widespread concern of MPs about the low level of NASS support.¹ NASS subsistence support payments equate to 70 per cent of the basic rate of Income Support, and the subsistence element of the full NASS support package of accommodation, subsistence support payments and support provided in kind, such as kitchen utensils and bed linen, is set at a level "equivalent to 90 per cent of [the basic rate] of Income Support".²

Over a period of six months, a single adult asylum seeker aged 25 or more in receipt of NASS support and accommodation therefore receives at least £144.82 less than a similarly aged single adult in receipt of Income Support, whilst a couple in receipt of NASS support and accommodation receives at least £226.98 less than a couple in receipt of Income Support (see Table 1, below). And asylum seekers in receipt of NASS 'subsistence only' support (who therefore do not receive any of the 'support in kind' provided to those in NASS accommodation) are even worse off relative to comparable persons in receipt of Income Support. For example, over a period of six months a single adult aged 25 or more in receipt of NASS 'subsistence only' support receives £433.94 less than a similarly aged person in receipt of Income Support (see Table 2, below). Some 40 per cent of the 80,000 asylum seekers supported by NASS are in receipt of 'subsistence only' support.³

In 1999, Ministers stated that they were introducing the provision in respect of the £50 SAP in order to (partially) address this differential in support levels and thus "help meet the cost of replacing essential items that had worn out", such as "clothes, shoes and other essentials", where an asylum seeker remained on NASS support "for more than six months through no fault of their own".⁴

Table 1: comparison of Income Support rates and level of subsistence element of full NASS support and accommodation 'package' (i.e. including 'support in kind')

	IS/wk	90% of IS/wk	Differential/wk	Diff/26 wks
Single adult (25+)	£55.65	£50.08	£5.57	£144.82
Single adult (18 - 24)	£44.05	£39.65	£4.40	£114.40
Couple (both 18+)	£87.30	£78.57	£8.73	£226.98
Lone parent (18+)	£55.65	£50.08	£5.57	£144.82

Table 2: comparison of Income Support and NASS 'subsistence only' support

	IS/wk	IS/26 wks	NASS/wk	NASS/26 wks	Differential
Single adult (25+)	£55.65	£1,446.90	£38.96	£1,012.96	£433.94
Single adult (18 - 24)	£44.05	£1,145.30	£30.84	£801.84	£343.36
Couple (both 18+)	£87.30	£2,269.80	£61.11	£1,588.86	£680.94
Lone parent (18+)	£55.65	£1,446.90	£38.96	£1,012.96	£433.94

¹ *Hansard*, House of Commons, 9 June 1999, col. 334.

² The Rt Hon Jack Straw MP, *Hansard*, House of Commons, 16 June 1999, col. 472.

³ Source: *Asylum Statistics: 4th Quarter 2003*, Home Office, February 2004.

⁴ Lord Williams of Mostyn, *Hansard*, House of Lords, 2 November 1999, col. 823; Lord Bach, *Hansard*, House of Lords, 25 November 1999, col. WA17; and Rt Hon Jack Straw MP, *Hansard*, House of Commons, 25 November 1999, col. 179w.

The processing of SAP applications

In 1999, Ministers argued that the low level of NASS support, relative to the basic rate of Income Support, was justifiable on the grounds that asylum seekers would only spend a very short period on NASS support. Indeed, the expectation was that the vast majority of asylum claims would be *fully* determined within six months. However, since NASS went operational in April 2000, and despite the progress made in reducing the time taken by the Home Office and Immigration Appellate Authority to process asylum claims and appeals, a great many asylum seekers have spent more than six months on NASS support.

Assisting NASS supported asylum seekers to make SAP applications to NASS, and chasing outstanding applications, has been (and remains) a key area of work for CABx in the asylum dispersal areas. In 2002, in our two major reports *Process error* and *Distant voices*, we highlighted delay on the part of NASS in processing SAP applications and the frequent need for CAB advisers to make repeat applications where NASS does not respond to the original application. *Process error* recommended that SAPs should be paid *automatically*, and the May 2003 report of the independent review of NASS – published by Ministers on 25 March 2004 – also recommended that ASYS, the NASS computerised casework system, “should be used to automate the payment of SAPs”.

The Government’s justification for abolition of the SAP

Given this recommendation of the independent review, it is surprising that, instead, Ministers have decided to abolish the provision in respect of SAPs. The decision was first announced on 25 March 2004, in Home Office news release 137/2004, although at that time no reasons were given.

In an email sent to Citizens Advice and other organisations on 11 May, the Home Office IND states that the SAP is being abolished because “[n]ow that support is provided entirely in cash [rather than in the original asylum vouchers], asylum seekers are no longer limited in where they can shop, and can get best value for their money by visiting markets, charity shops etc.,” and because “it would be very difficult to continue making such payments when UK citizens in receipt of income support do not [have access to such additional payments]”.

However, it is clear from the statements made by Ministers in 1999, cited above, that their intention in introducing the provision in respect of the £50 SAP was to (partially) address the lower level of support paid to asylum seekers relative to the basic level of Income Support, and the resultant shortfall in the total amount of support paid over a six month period. In 1999, Ministers clearly accepted that this shortfall would lead to difficulty in meeting the cost of essential items that, over such an extended period of time, wear out and thus need to be replaced. Accordingly, the replacement (in April 2002) of the original asylum vouchers with cash support, and the fact that such additional payments cannot be claimed by “UK citizens in receipt of Income Support”, have no relevance.

There is little doubt that the processing of SAP applications by NASS involves administrative costs. However, these costs could be reduced to negligible levels by the automation of SAP payments, as recommended both by Citizens Advice in 2002, and the May 2003 report to Ministers of the independent review of NASS. And, of course, the financial cost of SAP payments themselves could be minimised by the prompt resolution of asylum claims and appeals by the Home Office and Immigration Appellate Authority.