

**Destitution by design**

Withdrawal of support from in-country asylum applicants:  
An impact assessment for London



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## **Cover photograph credit**

Cover image: asylum sleepers forced to sleep rough in Calais, France, after being refused entry to the Red Cross camp at Sangatte, 2002  
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# Executive summary

## Asylum policy and the role of the Mayor

How asylum seekers are treated matters crucially to London. Most of them, if not dispersed, choose to live in the capital. Asylum seekers and refugees are an important minority in London's population. Their communities play a key role in its social, cultural and economic life.

Mayor of London Ken Livingstone recognises the direct link between asylum policy and his statutory duty to promote social and economic development, equalities and better health in the city. He has argued repeatedly for policies on asylum that will build stronger communities, challenge racism, and help combat social exclusion.

The Nationality Immigration and Asylum Act 2002 represented a very different vision, jeopardising London's long-term social and economic interests. The gravest threat of all, in the Mayor's view, is posed by its Section 55.

This gives the Home Secretary the power to deny any state support to asylum seekers judged to be 'late' in lodging their claim – those who make their asylum claim in-country and cannot convince the Home Office that they did so *'as soon as reasonably practicable after ... arrival in the United Kingdom'*. Experience over recent years shows that a majority of all asylum seekers apply in-country. The inevitable effect of Section 55 is to leave many of them entirely destitute.

It came into force in January 2003. Its effect was limited by court actions for much of that year. But the Mayor believes there is now enough evidence to assess what, if applied in its present form, Section 55 is likely to mean for London over time.

Its potential impact on London cannot be eased significantly by the Home Secretary's announcement in December 2003 that those claiming asylum within 72 hours of entering the UK would in principle get support. In practice, the Mayor notes, this criterion is still subject to the judgment of NASS caseworkers, and anyway will not help many asylum seekers who for good reasons apply later than that.

The Mayor believes it is therefore vital to begin the search for better evidence about the likely impact of Section 55. In this report he outlines some of its key consequences in London – across sectors and areas of the city, and across services – so far as they have emerged to date, or can reasonably be foreseen from available evidence. His aim in doing this is to

- help bring these consequences of Section 55 into the public arena.
- suggest a framework for London-wide monitoring and debate about it
- encourage London citizens, boroughs and partner agencies to make their own appraisal of its possible impact on their area and interests
- inform his dialogue with the Government about the future of Section 55.

## **Findings: national context**

### **Section 55 and its interpretation**

As originally presented by the Government to MPs and the public, Section 55 was aimed at a subset of in-country applicants who had

- typically been working illegally
- been living in the UK for a considerable time
- obviously abused the right to claim asylum.

### **Implementing Section 55**

The current Section 55 system for deciding whether to allocate public support to in-country asylum seekers

- presents them with an extra series of obstacles, from initial registration onwards, which could deter them from pursuing their asylum claims regardless of their merits
- gives wide scope for refusing support regardless of the merits of their asylum claim
- shows a particular lack of transparency, so that changes to its criteria and methods may be hard to carry through unless set down in statute
- offers no effective, viable means of redress where refusal decisions are mistaken or are threatening an applicant's human rights.

### **In-country applications**

Many people genuinely fleeing persecution can be expected to lodge asylum applications in-country for good reasons arising directly from their experience as refugees, which may not be weakened by the withdrawal of material support under Section 55. Women refugees may have especially strong reasons for applying in-country, exposing them to particular risk of destitution under this measure.

The withdrawal of support is likely to have little sustained effect on the proportion of asylum seekers who lodge their application in-country – unless it leads some of them to abandon the idea of claiming asylum and try to survive illegally in the UK instead.

### **Numbers**

Assuming that UK asylum applications continue at the rate seen for 2003, it is reasonable to expect that around 14,000 UK asylum applicants could be subject annually to the effect of Section 55, and that a large majority of them will find no way out of destitution.

### **Impact on wider asylum system**

Key elements of the current asylum reception regime are likely to be weakened dramatically by withdrawal of support to in-country applicants under Section 55:

- a large majority of asylum seekers will now be outside the NASS dispersal process
- more people, regardless of the merits of their case, are likely to opt for illegal residence instead of making in-country asylum applications
- for many or most asylum seekers, 'end-to-end' case management as envisaged by the Government's 2002 reforms will become more difficult, or impossible
- return of rejected asylum seekers, whether voluntary or coercive, will be less likely.

## **Findings: London**

### **London: scale and gender**

On available information, around 10,000 asylum seekers a year, or 200 each week, are likely to be made destitute by Section 55 in London.

Early evidence suggests women who arrived to seek asylum without children could be particularly at risk. While women are around one in four of all principal asylum applicants, a survey for this report indicated that they made up almost half of asylum seekers left destitute in London by Section 55.

### **Refugee communities**

Section 55 is imposing severe strains on refugee community households and neighbourhoods in London, and on refugee community organisations, which could over time weaken their contribution to building social cohesion and limit their capacity for partnership work to promote local development. While it remains in force, funding is urgently needed to support RCOs and other non-statutory bodies in their work to alleviate its personal and social impact.

At the same time Section 55 creates new barriers to the eventual integration of asylum seekers who secure refugee status, further undermining long-term development of these communities.

### **Housing and homelessness**

Section 55 can be expected to

- exert severe pressure on accommodation within London's existing refugee and asylum seeker communities
- depress housing conditions for many households within them, with more overcrowding
- bring a substantial rise in homelessness in London
- reverse much of the decline in rough sleeping achieved since 1998
- undermine work by the Mayor and Government to tackle London's homelessness.

### **Social services**

Although conclusive data on the issue are not yet available, it is reasonable to expect that Section 55 will over time add significantly to the annual workload of social services departments across London:

- its exemption for destitute asylum seekers with special needs covers a wide range of needs categories and levels of dependency
- screening and pre-assessment of Section 55 cases is unlikely to be identified in boroughs' activity data if no care provision ensues, but could represent significant extra work
- initial experience of borough engagement in trying proactively to address needs among Section 55 destitute asylum seekers indicates that this will be a demanding task calling for extensive officer input.

## **Health**

Asylum seekers denied support by Section 55 will be at even greater risk of personal ill-health than other asylum applicants, because of

- destitution
- poor and overcrowded housing conditions
- sleeping rough
- particularly severe barriers to getting timely access to health care.

Public health in London is likely to be jeopardised too by the social effects of this measure, in which overcrowding combine with extreme poverty. Though full effects will only become visible where these asylum seekers have better access to health services, and practitioners focus more explicitly on their needs, Section 55 can over time clearly be expected to generate significant extra pressure on London health services.

## **Community safety**

There is a serious risk that community safety in London will be undermined by the withdrawal of support to in-country asylum applicants, at each of these levels:

- it is likely to feed public hostility to asylum seekers and reinforce linkages between these attitudes and racist activity in London, giving new impetus to hate crime
- asylum seekers affected by Section 55 will be more exposed to other crimes of theft and violence, and to a variety of risks arising from illegal employment in London's sex industry and other sectors
- total destitution imposed by this measure increases the risk that some more vulnerable people could be recruited into organised crime.

## **Recommendations**

### **1. The GLA should**

**(a) discuss with the following agencies the need for regular information on the impact of Section 55 of the NIA Act in their areas of competence, and invite them to share it with the GLA as it becomes available:**

- **London boroughs**
- **London Region NHS**
- **Metropolitan Police Service**
- **Inter-Agency Partnership and other relevant voluntary sector partners dealing with asylum seeker and refugee accommodation, and with homelessness**

**(b) collate such information and feed it into the monthly review meetings which the Home Secretary has agreed to hold with the Mayor and key partners, to assess the impact of this measure on London.**

### **2. The Home Office should be asked to monitor and publish data on the following:**

- **disability among asylum applicants**
- **characteristics of in-country applicants denied support including location, time since entry to UK, age, gender, country of origin**
- **proportion of negative Section 55 decisions subsequently reversed**
- **asylum application outcomes for in-country applicants denied support.**

### **3. The Home Office, together with ODPM and DoH, should be asked to meet the GLA, ALG, voluntary and community sector partners and other key providers to discuss**

- **costs imposed on London providers by its implementation of Section 55**
- **mechanisms to ensure full reimbursement of these costs.**

### **4. The support of Parliament should be sought**

- **for repeal of Section 55 of the Nationality Immigration & Asylum Act 2002, or failing this,**
- **for amendment of Section 55 so as to**
  - **restrict its use to manifestly abusive claims**
  - **ensure an effective and sustainable way of challenging negative decisions.**

### **5. Pending change in Section 55 itself, Home Office should be asked to plan a review of the implementation of this measure after six months - with a call for evidence from other agencies – to look for example at**

- **available information on its impact**
- **guidelines to NASS**
- **inter-agency working**
- **resource issues.**



# Chapter 1

## Introduction

### **Asylum policy and the role of the Mayor**

- 1.1 The way asylum seekers are treated by public policy matters crucially to London. Today as throughout its history, people migrating from abroad play a key part in the city's development – and many come seeking asylum. Most UK refugees and asylum seekers live in London. The Mayor of London Ken Livingstone recognises the direct link between asylum policy and his duty to promote the city's social and economic development, greater equality and better health among its people.
- 1.2 Receiving asylum seekers can and should bring long-run benefits to London that outweigh any initial costs. The city's unique diversity, stemming from immigration including the arrival of asylum seekers, generates energy and new ideas that help drive economic growth for London and the UK.
- 1.3 But reaping those long-run benefits depends on getting public policy right. For London is also a city where many people live highly insecure lives. Alongside its wealth, some London communities live on the edge of poverty and social exclusion. Its vibrant mix of cultures has not freed London from racist harassment and violence. The Mayor has therefore argued repeatedly for policies on asylum that will build stronger communities, challenge racism, and help integrate people who will have the right to stay in the UK and contribute to our society and economy.
- 1.4 On some issues the Government's stance has fitted well with this vision. The Mayor has for example welcomed its recognition of the potential economic benefits of immigration, and its decision to grant leave to remain to many asylum seeker families waiting years for an asylum decision. But other Government initiatives on asylum in recent years, and especially major new pieces of legislation introduced in 2002 and 2003, have in the Mayor's view been unbalanced and detrimental to London's long-term interests as a diverse world city.<sup>1</sup> Focusing heavily on control and deterrence, they are likely to encourage rather than curb abuse of the asylum process; undermine not strengthen local communities; and foster social exclusion.
- 1.5 Section 55 of the Nationality Immigration and Asylum (NIA) Act 2002 posed these problems in acute form. This is the power to deny support to people claiming asylum after arrival on UK soil. It has the effect of leaving them entirely destitute.

### **Section 55: search for evidence**

- 1.6 This measure came into force on 8 January 2003. More than a year later its full implications are still largely hidden from public scrutiny, for two main reasons. Firstly for much of 2003 its effect was limited by litigation, and by administrative upheaval as Home Office systems for applying it were brought into line with court rulings. Secondly and crucially, excluding people from support also means excluding them

from contact with almost all public agencies, so there is no way they can be included in standard official data-sets. As it makes asylum seekers destitute, Section 55 automatically makes them invisible to official agencies.

- 1.7 The Mayor of London nevertheless decided in autumn 2003, hearing initial reports of a growing crisis in London caused by Section 55, that he must begin the search for fuller evidence about its impact on the city. He therefore called for the preparation of this GLA report.
- 1.8 Other work in hand should soon add to the evidence presented here. The Refugee Council with Oxfam will shortly publish a report examining its effects UK-wide, especially on asylum seekers individually, refugee communities and voluntary sector bodies.<sup>2</sup> During winter 2003/04 the Inter-Agency Partnership, which coordinates work in asylum reception by six major voluntary sector bodies, conducted a review of their experience of the operation of Section 55 across the UK.
- 1.9 In a report published just before this one, the House of Commons Select Committee on Home Affairs looked at Section 55 as an element of the asylum support regime.<sup>3</sup> While it concurred in part with the Government's argument for introducing it, the Committee also expressed some of the doubts about its operation set out in this GLA report and concluded by echoing the Mayor's concern to find more evidence on its implications:
- '... the Government should commission an independent review of the working of Section 55, so that any decision on whether to keep or repeal the provision can be based on more than merely anecdotal evidence.'*

### **The Mayor's impact assessment**

- 1.10 In this report the Mayor examines Section 55's likely impact in London – across sectors and sub-regions, and across services – so far as it can be worked out from the partial evidence available at this stage. His aim in doing this is to
- help bring the consequences of Section 55 into the public arena.
  - suggest a framework for London-wide monitoring and debate about it
  - encourage London citizens and partner agencies to make their own appraisal of its possible impact on their area and interests
  - inform his dialogue with the Government about the future of Section 55.
- 1.11 Though Section 55 has been nominally in force since early 2003 there remains, as indicated above, much uncertainty about its long-term effect. In the absence of systematic London-wide data, estimates and suggested outcomes here remain tentative. Trends in asylum applications and asylum seekers' behaviour respond to unpredictable factors, some of course outside the UK. So the following pages attempt only to indicate some ways in which Section 55 could impact on London, and very roughly the scale of such effects. Imprecise as the answers may be at this stage, the Mayor believes these questions must now be faced.

- 1.12 To help Londoners and policy-makers get a better grasp of the implications of Section 55, the Mayor commissioned a snap-shot survey of asylum seekers visiting refugee community groups and voluntary sector support agencies on a day in late November 2003. Key findings are included below, and a full account of the study is attached as Annex A.
- 1.13 This is the Mayor's report about what Section 55 means for the city he represents. Like almost everyone who listens to asylum seekers affected by it, he has been shocked and disturbed by their personal testimony. But the stories of individual asylum seekers are being told elsewhere, for example in the forthcoming Refugee Council/Oxfam study.<sup>4</sup> This report focuses instead on what happens to a city – to communities, relationships and services – when large numbers of people in it are left without any means to provide for themselves.
- 1.14 In Chapters 2 to 5 the report looks at general issues arising nationally from the withdrawal of support to in-country applicants. This sets the scene for an assessment of its impact specifically on London, in chapters 6 to 11, in terms of
- scale: numbers of people affected
  - refugee communities and community organisations
  - homelessness and housing
  - role of social services
  - health
  - community safety, including race relations.
- 1.15 Finally Chapter 12 sets out recommendations about coping with the impact of this measure on London; learning from the city's experience of it; and changes to the law which are now called for, in the light of that experience.

### **Acknowledgements**

- 1.16 Colleagues in many partner organisations have generously contributed ideas and information to this impact assessment, sharing the Mayor's concern that Section 55 be opened to public scrutiny. Colleagues at LASC are particularly thanked for their help in seeking information on social services, and also Resource Information Service for their fast and professional work on the survey. The prompt and thoughtful response of many community and voluntary sector organisations to this survey is greatly appreciated by the Mayor, and has made a key contribution to this report.
- 1.17 Responsibility for its contents rests entirely with the Mayor and GLA.

## **Terminology**

*Refugee* means, in this report, someone to whom the Government has decided to give

- recognition as a refugee in the sense of the 1951 UN Convention, with indefinite leave to remain in the UK – that is, recognition as a person who, because of a ‘well-founded fear’ of persecution, has fled their own country; cannot or dare not return to it; and therefore seeks asylum in another country<sup>5</sup>; or
- the subsidiary and time-limited status of Exceptional Leave to Remain (up to April 2003) or currently, Humanitarian Protection or Discretionary Leave.

*Asylum seeker* means someone who has applied to be recognised as a refugee but still awaits a decision on their application by the Government or courts.

*Destitution* means the state of being ‘*extremely poor and lacking the means to provide for oneself*’.<sup>6</sup>

## Chapter 2

# Section 55 and its interpretation

### Introduction

2.1 This chapter looks at Section 55 and its meaning. First its statutory content is outlined. Next, other policy measures that are important parts of its context are briefly indicated. Lastly the chapter considers how Section 55 has been presented and interpreted – initially by the Government, and then by the courts.

### In-country applicants: what the Act says

2.2 Section 55 of the Nationality Immigration and Asylum (NIA) Act prohibits both central government and local authorities from supporting asylum seekers unless they can convince the Home Office that they made their asylum claim *'as soon as reasonably practicable after ... arrival in the United Kingdom'*. Crucially it means the Government's National Asylum Support Agency (NASS) will not in general offer either accommodation or means of subsistence to any asylum seeker who lodges her or his application in-country, and cannot satisfy the Home Office that they did so at the earliest 'practicable' opportunity.

2.3 There are exemptions. Section 55 of the NIA Act, taken together with ministerial comments as it was moved in Parliament, will allow in-country applicants to get support under existing arrangements if they

- are, or have, children under 18
- have special needs, expressed by the minister as *'a need for care and attention that has not been caused solely by destitution or its effects'*, such as *'a chronic need for support'*
- are applying for asylum because conditions have changed in their country of origin (and can show they have done so at the earliest opportunity)
- can persuade the Home Office that they would otherwise suffer inhumane or degrading treatment contrary to Article 3 of the European Convention on Human Rights (ECHR).

### Related policy measures

2.4 In the complex environment of asylum policy, many measures interact with Section 55 to some degree. But three could be especially significant: two introduced by administrative decision, and one within the NIA Act itself.

2.5 Firstly and crucially, the Government decided in July 2002 to stop giving permission for asylum seekers to take paid employment. It is this policy, denying them any legal way to earn an income, which ensures that refusal of NASS support under Section 55 will result in destitution. A tiny minority of asylum seekers, it is true, have private means. But they are ineligible for NASS support anyway. Section 55 is aimed at

adult non-dependants with no financial means of their own. By definition, they are destitute if excluded both from state support and from paid employment.

2.6 Secondly, the NIA Act's Section 57 limited the scope for in-country applicants to make a case for state support under one or other of the exemptions of Section 55 (para. 2.2 above). This Section permits the Home Secretary simply not to entertain an application from applicants who – in his judgment – had failed to give '*complete or accurate*' information, or to cooperate with further Home Office enquiries.

2.7 Lastly, new curbs on legal aid in asylum and immigration cases may exacerbate the effect of Section 55 on individual asylum seekers and on London's refugee community organisations.<sup>7</sup> Details of these curbs, taking effect during 2004, are awaited at the time of writing. They are however widely expected to reduce sharply the capacity of solicitors and accredited advisers to guide and represent those seeking UK asylum. Inevitably many will turn to refugee community organisations for alternative, informal advice about their asylum claim (whether or not they are legally empowered to give it), intensifying pressures on the same bodies that are in the front line of the community response to Section 55.

#### **'Weeks, months or even years': the Government's case for Section 55**

2.8 What is Section 55 for, in the Government's view? Since such a measure did not appear in the White Paper that preceded the NIA Bill, and was never put out to consultation, the Government's case for it has to be pieced together from disparate ministerial comments. It appears to be as follows:

- Validity of asylum claims is related to the time and place where they are made. Their credibility immediately drops sharply if they are not made at port of entry, and then more slowly until the application is lodged.
- A sizeable (though unspecified) proportion of in-country claims are thus abuses of the asylum system.
- In-country claims may sometimes be well-founded, so have to be processed by the Home Office albeit with scepticism.
- Section 55 is needed both to avoid spending money on people who are probably abusing the system, and to 'send a message' to asylum seekers world-wide that for maximum credibility they must lodge claims at port of entry.

2.9 The closest the Government itself has come to articulating this argument for Section 55 is in briefings to Parliamentary supporters shortly before they voted on the new measure. A Home Office briefing to Labour MPs, the day it was introduced to Parliament, put the question '*Why are [we] presuming against providing support for in the [sic] country applicants?*'<sup>8</sup> In reply it said those genuinely fleeing persecution can generally be expected to '*ask for protection as soon as they arrive in the country*', and went on:

*'If they wait weeks or even months to do so it casts doubt on the credibility of their claim and we expect them to counter that with a credible account. We are dealing with what we know is widespread abuse of the system.'*

2.10 The Home Office document then gave examples of the ‘widespread abuse’ supposedly linked (as it implied) with in-country applications, starting with people ‘who decide to enter illegally to work illegally, then decide to claim asylum to access support or when they get caught working illegally’. A second Government briefing for Labour MPs just before they voted on the new measure put similar points.<sup>9</sup>

2.11 As the new Act became law, Home Office minister Beverley Hughes announced Section 55’s launch in uncompromising terms: ‘We are determined to deal with the very widespread abuse of our asylum system by those who are simply economic migrants ...’. But once again she said Section 55 was aimed at people who had ‘been in the country for weeks, months, or even years, before claiming asylum...’<sup>10</sup>

**2.12 As originally presented by the Government to MPs and the public, therefore, Section 55 was aimed at a subset of in-country applicants who had**

- **typically been working illegally**
- **been living in the UK for a considerable time**
- **obviously abused the right to claim asylum.**

### **Interpreting Section 55: court rulings**

2.13 Even before Section 55 became law, the Joint Lords/Commons Committee on Human Rights warned that it was fraught with judicial controversy. In a critique of amendments to the Nationality Immigration and Asylum Bill including the future Section 55, in October 2002, the Committee noted: ‘There is a risk that leaving a person destitute would inevitably threaten a violation of rights under Articles 3 and/or 8 of the ECHR’. It then listed other concerns about Section 55 including a ‘lack of objectivity’ in its requirement to make asylum claims ‘as soon as reasonably practicable’, and the absence of any appeal to an adjudicator.<sup>11</sup>

2.14 A series of court actions through 2003 explored these and similar concerns about the measure. Key judgments were as follows:

- **February – High Court:** In test cases brought on behalf of six asylum seekers denied support by NASS under Section 55, Mr Justice Collins quashed these decisions on the grounds that
  - the NASS interview procedure had been unfair, not giving applicants adequate scope to explain why they applied in-country; and
  - destitution itself created a risk of ‘inhuman and degrading treatment’ contrary to their rights under the ECHR Article 3, so state support should be provided to avert that risk.
- **March – Court of Appeal:** Hearing the Home Secretary’s appeal against the preceding judgment by Mr Justice Collins, the Appeal Court
  - upheld his view that NASS assessment procedures had been inadequate, and called for sweeping changes in those procedures; but

- overruled his opinion that Article 3 rights could be engaged just by the risk of suffering *'inhuman and degrading treatment'*, insisting that the applicant would have actually to suffer the degrading effects of destitution before a claim for NASS help could succeed on human rights grounds.

In a crucial passage, the Appeal Court said some people refused support under Section 55 might

*'be brought so low that they will be driven to resort to crime or to prostitution in order to survive. Unlike Collins J we do not consider that the fact that there is a real risk that an individual asylum seeker will be reduced to this state of degradation of itself engages Article 3. It is not unlawful for the Secretary of State to decline to provide support unless and until it is clear that charitable support has not been provided and the individual is incapable of fending for himself.'*<sup>12</sup>

- **July – High Court:** In three further test cases, Article 3 rights were held to have been breached by refusal of support under Section 55.
- **September - Court of Appeal:** Overturning the High Court's judgment in I, one of the three July test cases, the Appeal Court spelt out more clearly than ever its view that the destitute asylum seeker's rights under Article 3 could not be brought into play until their predicament *'had reached or was verging on the inhuman or the degrading'*.<sup>13</sup> Leaving people destitute and homeless – even leaving them to survive like I, in the public areas of Heathrow Airport - was not a breach of their human rights.

The Court also emphasised that it could not define *'a simple test which can be applied in every case. The reality is that each case has to be judged in relation to all the circumstances which are relevant to it.'* It thus opened up a wide grey area within which Section 55 could lawfully operate, pushing large numbers of asylum seekers into severe social exclusion without necessarily contravening their human rights or engaging any public duty of care.

## Chapter 3

### **Implementing Section 55: how the system works**

3.1 Applying Section 55 has meant setting up a complex new administrative system for managing support to in-country applicants, running in parallel to the process for determining asylum claims. Looking at the mechanics of this system helps to show why Section 55 has such a powerful impact. It falls broadly into three stages: arrival and registration, known as Level 1 screening; secondly the Home Office decision on eligibility for support; and lastly attempts to challenge that decision if it is negative.

#### **Stage 1: arrival and registration**

3.2 Wherever they are in Britain, people with no dependants wanting to claim asylum after entry to the UK will have to find their way to one of three Asylum Screening Units or ASUs. (Other options are offered to families with dependent children, unaccompanied minors and people with visible special needs, but all these are anyway exempt from the effect of Section 55.) ASUs are operated at Croydon, Liverpool, and Solihull by the Immigration and Nationality Directorate (IND) of the Home Office.

3.3 In the preliminary or Level 1 screening by the ASU, basic details of applicants' identity are recorded and checked, fingerprints are taken, and they are issued with an Asylum Registration Card (ARC) confirming that the Home Office recognises their asylum claim. If they want NASS support while awaiting the asylum decision, this is also registered at the Level 1 interview. Depending on what time they reach the ASU, the interview may be delayed for at least a day, sometimes longer. Until they have been through it, no accommodation will be offered.

3.4 Once Level 1 screening is completed, the applicant is offered emergency housing - managed by a voluntary sector agency - pending the full or Level 2 assessment.

#### **Stage 2: the Section 55 decision**

3.5 The object of Level 2 assessment is to judge whether asylum seekers are entitled to NASS support: accommodation and/or cash payments for subsistence. In theory this is entirely separate from IND procedures for determining their asylum claim, though in practice (see below) Section 55 breaks down the dividing line between them.

3.6 For all asylum seekers, Level 2 screening aims to find out whether they have housing or means of support of their own. For in-country applicants, under Section 55, it also means examining whether they could have lodged their claim sooner after entering the UK. The crude interview process initially set up by NASS to make this assessment was heavily criticised by the Court of Appeal in March. Level 2 screening for in-country applicants, conducted by a special unit called the Restricted Access to NASS Support (RANS) team, is now detailed and structured so that - in principle - it will examine more objectively the asylum seeker's reasons for applying in-country.

- 3.7 **Interview criteria:** How RANS officers actually make Section 55 decisions in practice is not publicly known. Though the questionnaire they use in the Level 2 interview has been shown to partner agencies, caseworker notes which guide them in running that interview and deriving conclusions are not published by NASS. The Home Office has turned down requests to see these notes, even from voluntary sector organisations which are its own partners helping with asylum reception.<sup>14</sup>
- 3.8 A public version of the methods and criteria applied in Section 55 interviews was produced by the Home Office in spring 2003 as an IND Policy Bulletin. Though in part outdated, it gives some idea of the approach ostensibly followed during 2003.<sup>15</sup> It adopts the Section 55 test prescribed by the Court of Appeal in March: *'On the premise that the purpose of coming to this country was to claim asylum and having regard both to the practicable opportunity of claiming asylum and the asylum seeker's personal circumstances, could the asylum seeker reasonably have been expected to claim asylum earlier than he or she did?'* Guidelines for applying it are then indicated, which include:
- each case is to be *'considered on its own merits taking into account ... that person's circumstances'*
  - it is relevant to consider their *'state of mind on arrival'*, and what they were told by the facilitator who brought them to the UK
  - the burden of *'satisfying the Secretary of State'* that the test has been met, rests on the applicant.
- 3.9 Again emphasising that *'every case must be considered on its individual merits and on the facts of the particular case'*, the Bulletin gives examples of asylum applications lodged under different circumstances to illustrate how the Section 55 test may be applied. They suggest why, in the circumstances of most in-country asylum applications, refusal has consistently been the most likely outcome. As well as two cases where applicants spent several months in the UK before making apparently dubious asylum claims, the Bulletin's negative examples include others that match quite normal experiences of people with well-founded asylum claims who lodge them in-country. Section 55 refusal would probably be justified, this Bulletin indicates, in one case within a week of the asylum seeker's entry to the UK, and in the other after four days in the country (see Box 1).
- 3.10 **Outcome:** A positive decision at Level 2 opens the way for the asylum seeker to get NASS support until their asylum claim is determined. If the Level 2 decision is negative, NASS may allow the client a further seven days in their emergency accommodation. But it insists this extension is discretionary and in many cases has insisted that such asylum seekers be evicted immediately.

**Box 1: Refusing support under Section 55 – Home Office illustrative examples**

***‘Example 1:***

*‘An adult with no dependants has applied for asylum at the Asylum Screening Unit (ASU) in Croydon and gives an account of arriving in the UK in the back of a lorry the previous week. He asserts that it took him a week to establish himself, to find a friend to stay with and to decide how to apply for asylum. He has provided few details of how he travelled to the UK and has no evidence to support his assertions.*

***‘In this example support would normally be refused because it would appear on these facts that the asylum seeker is unable to satisfy the Secretary of State that he applied for asylum as soon as reasonably practicable.’***

***‘Example 8:***

*‘An adult with no dependants has applied for asylum at the Asylum Screening Unit (ASU) in Croydon and gives an account of arriving in the UK by air four days before applying for asylum. He claims that an agent told him not to apply for asylum on arrival but admits that no pressure was put on him by the agent. He admits that his reason for coming to the UK was to claim asylum and that he knew the immigration officer he spoke to at the airport was the right person from whom to claim asylum. There is nothing on the particular facts to suggest that it was reasonable for him to accept the agent's advice. He asserts that it took him three days to find a solicitor and that he did not know how to apply until he obtained legal advice.*

***‘In this example support would normally be refused because it would appear on these facts that the asylum seeker is unable to satisfy the Secretary of State that he applied for asylum as soon as reasonably practicable. The applicant had the practical opportunity of claiming asylum on arrival. He knew he could do so at the airport but chose to accept his agent's advice even though he was under no pressure to do so. In addition he was also in the UK for four days before he went to Croydon to apply for asylum. His reason for this delay is not considered to be adequate. He could have reasonably applied for asylum earlier, notwithstanding that he could also have applied on arrival.’***

Immigration & Nationality Directorate guidance, issued April 2003 – emphasis in original.<sup>16</sup>

- 3.11 **72-hour concession:** In December 2003, the Home Secretary announced to the House of Commons what seemed to be a major concession in the way Section 55 would be applied to in-country asylum seekers. From now on, officers making these decisions would ‘... allow them—subject to people's giving an honest appraisal of how they reached the country and how long they have been here—72 hours, rather than the current practice of 24 hours, in relation to people claiming asylum and being entitled benefit’.<sup>17</sup>

- 3.12 Explaining in January 2004 how the Home Office would apply this new limit on its use of Section 55, the head of the RANS Unit said that as from the date of the Home Secretary's announcement, *'it will be generally accepted that a person has claimed asylum as soon as reasonably practicable if he claims within three days of arriving in the country.'* His statement was at once qualified:  
*'This will, of course, only be a presumption, subject to any particular circumstances of the case which might indicate that he could not have claimed within that period - or indeed that he could and should have claimed earlier.'*<sup>18</sup>
- 3.13 The Home Secretary's announcement had ostensibly heralded a substantial fall in the percentage of in-country applicants left destitute. Practitioners had widely reported throughout 2003 that support was often being refused under Section 55 to applicants who had been in the country for only a day or two.
- 3.14 In practice however the 72-hour concession may have little long-term effect. Firstly, basing NASS support decisions on a general and arbitrary criterion of this kind would be at odds with successive court judgments on Section 55 (see chapter 2). Like IND's own Policy Bulletin on its implementation, the courts have insisted repeatedly that each case be assessed on its individual merits. So if applied literally, the Home Secretary's three-day grace period could be vulnerable to legal challenge by people who are denied support because they fall outside it.
- 3.15 But if, secondly, this *'general presumption'* is hedged around with RANS judgments on each case (as the head of RANS Unit implies) there is clearly scope for many people claiming asylum within 72 hours to get negative Section 55 decisions. Crucially, RANS interviewers have been particularly inclined to reject what in-country asylum seekers say about their time of entry to the UK – unless they can document it, which is often impossible. On past experience, therefore, it is likely that many applicants who state that they arrived within the past 72 hours will be disbelieved, leaving the RANS refusal rate little changed.
- 3.16 While its practical effect on levels of destitution may thus be slight, the Home Secretary's announcement of the 72-hour concession offers an important insight into the gap between published policy on Section 55 and the way it actually operates. His Commons statement refers to *'the current practice of 24 hours'* as the cut-off point before Section 55 is applied. This 24-hour rule had previously been unknown to those outside his Department and does not appear anywhere in its published account of NASS procedures for determining Section 55 cases.

### **Stage 3: challenging negative decisions**

- 3.17 Section 55 explicitly removes, for these negative decisions, any right of appeal to an Adjudicator. There remain only two ways of overturning it. First, the RANS Unit which made it can simply be asked to reconsider. Alternatively the asylum seeker in question may be able to seek a judicial review.
- 3.18 **Reconsideration:** Requests for reconsideration are on one of two grounds:

- RANS Unit's judgment that asylum had been claimed later than '*reasonably practicable*' was made on a faulty basis, or is called into question by new information;
- events since the initial decision – generally, the effects of destitution – have reduced this person to a state where s/he is suffering '*inhuman and degrading treatment*' contrary to their rights under the European Convention on Human Rights (ECHR) Article 3, thus entitling them to NASS support under Section 55(5).

3.19 Such requests have to date mostly been made on the latter human rights grounds. But judicial rulings during 2003 on the implementation of Section 55 have, as indicated, set a high threshold for recognising a person's suffering as '*inhuman and degrading treatment*' in the terms of ECHR Article 3. In August the head of the RANS Unit spelt out the kind of evidence it would demand, if a Section 55 refusal was to be reversed on these grounds (Box 2).

3.20 His remarkable statement not only calls for information on complex, difficult issues like current capacity of local charitable bodies, changing medical conditions, and a person's sense of dignity – including the question whether the applicant has been forced to beg or steal – but also insists that it must all be specific to the individual applicant. As the Refugee Council told voluntary agencies shortly after this RANS/NASS statement: '*From (our)... experience it would appear that NASS requires a complete account of the circumstances affecting the client since their support has been terminated under Section 55*'.<sup>19</sup>

**Box 2: Reconsideration of Section 55 decisions on human rights grounds: evidence required by RANS Unit of National Asylum Support Service**

In order to reverse an initial Section 55 decision on Article 3 grounds

*'... we will need to see individualised evidence of the circumstances of the applicant, such as:*

- *evidence from a doctor or hospital relating to physical symptoms of lack of support (malnutrition, weight loss, stomach disorders etc);*
- *evidence that there is no charitable accommodation or support available in the area, and that there is no other support available (friends, family, community etc);*
- *evidence from a doctor or hospital of any other physical or mental conditions; or*
- *evidence of how the applicant is living and how this is impacting on his state of mind (eg. having to beg or steal, no washing facilities etc) such that it is diminishing his human dignity.'*

Letter from Head of RANS Unit, 16 August 2003 (emphasis in original)<sup>20</sup>

3.21 Only in exceptional cases could such elaborate evidence be assembled by an individual asylum seeker, destitute and with no accommodation of their own,

unfamiliar with UK institutions and often knowing little English. Voluntary sector agencies and community groups have generally had to step in to research and prepare submissions to NASS on their behalf. This is one reason why Section 55 puts huge strain on these sectors, above all in London where numbers are greatest.

- 3.22 NASS's stated aim is to give a decision on reconsideration requests within 24 hours. Though performance was reported to have improved at the end of 2003, this target has frequently been missed. Indeed for much of that year, both lawyers and voluntary bodies were reporting delays of days or weeks in getting any response at all from NASS on Section 55 issues. According to a High Court submission on behalf of Shelter in October 2003, on the crisis surrounding Section 55 refusals, *'NASS are systematically failing to respond to written representations made by either voluntary organisations or solicitors. It is rare for a reply to be received in less than a week; in a majority of cases, no response is received.'*<sup>21</sup>
- 3.23 In part this reflects the persistent organisational weakness of NASS, described by Citizens Advice Bureau advisers dealing with it across the range of asylum issues as *'the worst government bureaucracy they have ever had to deal with.'*<sup>22</sup> It may also reflect other factors, such as the inherent difficulty of making reconsideration judgments or lack of capacity within the RANS Unit.
- 3.24 The Home Office releases no data on the success/rejection rate for its reconsideration of Section 55 decisions.
- 3.25 No accommodation is available, in general, to the asylum seeker who is asking for reconsideration of a negative Section 55 decision. If NASS has not managed to complete this process within 24 hours, it will at its discretion offer them emergency accommodation for one night, but only if it feels the evidence submitted makes a *'seriously arguable case'* that their human rights have been breached.
- 3.26 **Judicial review:** Given the difficulties faced in pursuing a request for RANS reconsideration, many asylum seekers denied support have instead applied to the High Court for judicial review of the negative Section 55 decision. Taking this route also gives the opportunity to seek 'interim relief' pending the Court's hearing of their case. This means NASS has to support them in emergency accommodation, unlike those awaiting RANS reconsideration.
- 3.27 Such applications to the High Court have had a very high success rate. Around 90% secure interim relief, usually with little opposition from the Home Office. Once interim relief has been granted on human rights grounds, the Home Office has invariably conceded the asylum seeker's right to continuing NASS support under Section 55(5).<sup>23</sup>
- 3.28 But this approach has two major flaws. First, the enormous number of destitute applicants pursuing it has severely strained the capacity of the judicial system. The financial cost has been substantial, since judicial review costs on average around

£5000 in public funds per case (or at least 15 times more than a hearing before an Asylum Support Adjudicator)<sup>24</sup>. Even more problematic, High Court judges have made clear they cannot cope indefinitely with the volume of Section 55 cases generated during 2003. Clearly this is not viable as a long-term remedy for the defects of the Section 55 system. In a statement incorporating views of fellow judges, Mr Justice Maurice Kay commented in October 2003 that

- asylum support matters accounted for *'a quarter of all cases lodged in the Administrative Court this year ... [and] approximately 800 cases in our current workload'*
- new Section 55 applications were still coming in at the rate of about 60 per week
- the flood of Section 55 cases was *'having a significant impact on the ability of the Court to process cases in this and other areas'*.<sup>25</sup>

3.29 Yet this High Court route is available, secondly, only to a small minority of asylum seekers made destitute by Section 55. Access to it depends on finding a lawyer with appropriate expertise and capacity. Mr Justice Kay's statement adds: *'... so stretched are the resources of the relatively small numbers of lawyers who are willing and able to provide expert advice in this field that many potential claimants are unable to pursue applications ... the cases which are coming into court in almost unmanageable numbers are the tip of an iceberg. The solicitors acting in this case are having to turn away far more clients than they are able to take on.'*

### **Impact of court rulings: the Section 55 backlog**

3.30 The process launched by NASS in January 2003 for determining Section 55 cases was effectively brought to a halt in February by the High Court ruling of Mr Justice Collins. Reinforced by the Court of Appeal judgment the following month, the High Court's searching criticism of NASS interview procedures left the Home Office with no option but to reshape them radically.

3.31 Immediately after the High Court ruling, it began to issue 'pending letters' to all new in-country applicants for NASS support which entitled them to emergency accommodation until it had finished reconstructing its Section 55 decision-making process. This task took it several months. Until it was complete, most support applications by in-country asylum seekers had to be put on hold. By summer 2003, more than 3,000 of them were in emergency accommodation in various parts of the UK, awaiting Section 55 decisions.

3.32 By the time its revised decision-making process began to function – as outlined in the previous chapter – NASS was left with a large backlog of unresolved cases. In November 2003 it launched a special clearance operation to try and clear the backlog. Recognising that it would be unfair to demand detailed accounts of their arrival in the UK from people whose cases had been pending for months, the Home Office implied that it would be relatively lenient in assessing them under Section 55 and was *'not intent on making large numbers of clients destitute'*.<sup>26</sup>

- 3.33 The entire Section 55 system was thus constrained throughout 2003 by these court judgments and Home Office efforts to adapt to them. In considering the analysis set out in following chapters it must be borne in mind that the impact of Section 55 nationally and in London has so far been damped by
- partial suspension of the decision-making process through much of 2003
  - softening of RANS criteria in late 2003 for applicants caught in the backlog.

#### **Implementing Section 55: overview**

- 3.34 **The current Section 55 system for deciding whether to allocate NASS support to in-country asylum seekers**
- **presents them with an extra series of obstacles, from initial registration onwards, which could deter them from pursuing their asylum claims regardless of their merits**
  - **gives wide scope for refusing support to them regardless of the merits of their asylum claim**
  - **shows a particular lack of transparency, so that changes to its criteria and methods may be hard to carry through unless set down in statute**
  - **offers no effective, viable means of redress where refusal decisions are mistaken or are threatening an applicant's human rights.**

## Chapter 4

# How will asylum seekers respond?

### Reasons for claiming asylum in-country

- 4.1 Central to the Government's case for Section 55 is the idea that the validity of an asylum claim is necessarily linked to the time and place where it was lodged. As a minister told Parliament, introducing this measure in 2002, *'if an individual is genuinely fleeing persecution they [will] ask for protection as soon as they arrive in the United Kingdom'*, so that a failure to do so will always *'cast doubt on their credibility and intentions'*.<sup>27</sup>
- 4.2 No evidence for this claim has ever been produced. Available statistics do not demonstrate the alleged link between place and validity of asylum claims. Analysis of 2001 data, for example, showed that in-country applications accounted that year for two out of three positive asylum decisions - much the same as the ratio between in-country and total applications.<sup>28</sup> The same point emerges if in-country asylum applications are broken down by country of origin. For both 2001 and 2002 the highest numbers by far were made by people from Iraq, Somalia and Afghanistan. All three are also countries for which the Home Office was making positive decisions at a relatively high rate, recognising that - in its own terms - such applicants were at least as likely as others to be genuine.<sup>29</sup>
- 4.3 There are many reasons why someone with a genuine, well-founded fear of persecution - that is, a refugee - may apply for asylum not at the moment of arrival in the UK but some time later. Often these factors will combine for a single person. For many, they will be made more problematic by knowing little English.
- 4.4 Some may deter the asylum seeker from making an immediate application even if their transport delivers them to a port with Immigration Service officers on hand to receive it. The following are examples cited by practitioners:
- ignorance of asylum procedure
  - wanting to consult a legal representative before applying
  - fears of immediate removal, which can sometimes be exacerbated by the attitude of the Immigration Officer first encountered
  - fear of compromising people in country of origin who helped with their escape
  - waiting for news from their country of origin in the hope they might return
  - illness on arrival.
- 4.5 But inevitably, given that asylum seekers have no legal routes into the UK, many will first set foot on UK soil at a distance from Immigration Service offices. They will then have no way of proving when they arrived. Refugee Council case records illustrate the point: most asylum seekers are found to have lodged their claim within a few days of arrival, but commonly lack documentation to prove this.

- 4.6 If for instance an asylum seeker reaches the UK on a lorry that sets her or him down away from a port or airport, it could well take them several days to get orientated, find shelter, and locate an Immigration Service office. This delay may arise even if no other factor inhibits them from making immediate application. Yet Home Office guidance on how to operate Section 55 (see chapter 3 above) suggests such an applicant will generally have little chance of state support.
- 4.7 There is a further powerful reason why someone with a valid claim may not come forward and lodge it immediately. They may just not be able to talk about it – unless they are given the kind of support, reassurance and time which HM Immigration Service is currently unlikely to offer at any UK port of entry.
- 4.8 The Medical Foundation for Care of Victims of Torture has explained authoritatively why this may be so. So far from indicating that an asylum claim is fraudulent, *'late disclosure'* of a person's case for wanting protection may actually testify to the ordeal they have been through.<sup>30</sup> Its paper gives much evidence of the medical, psychological and cultural barriers that a refugee may face in setting out their full case, sometimes for years after the events that forced them to flee. Though written as a plea against the introduction of non-suspensive appeals (outside the UK) under Section 94 of the NIA Act, it thus also shows why in-country applicants may well be genuine, contrary to the presumption behind Section 55.
- 4.9 Three of the Foundation's cases, reproduced in Box 3, illustrate the point. Whether these particular victims made their initial asylum claims at port or in-country, personal circumstances of the kind described here could clearly inhibit genuine refugees from lodging an application the moment they reach UK soil.

### **Women and in-country applications**

- 4.10 Women with a genuine case for asylum may be particularly likely to apply for it in-country. This is hard to establish definitively because the Home Office does not record the location or outcome of asylum applications by gender. But there are specific reasons why it may be so.
- 4.11 Firstly, cultural and psychological barriers that inhibit disclosure to Home Office officials will typically be even greater for women refugees than for men. Setting out major changes needed to remove gender bias from UK procedures – including Immigration Service interviews – the Refugee Women's Legal Group explains how *'Procedural and evidential barriers prevent women's access to the asylum determination process'*.<sup>31</sup>

**Box 3: Why people may be 'late' in explaining their case for seeking asylum**

Case histories: Medical Foundation for the Care of Victims of Torture<sup>32</sup>

*A European women who was raped in her home by two soldiers never told anyone about it, including her husband, whom she feared might leave her if he knew. Interviewed by a male IND caseworker, she felt unable to disclose the rape to a strange man. She also felt she could not trust the interpreter not to tell others in her ethnic community. She did not properly understand what the interview was about or the implications of making a claim independently of her husband's application without revealing her torture and the family's claim was refused.*

*After some counselling she disclosed the rape to a female therapist at the Medical Foundation and was even able to tell her husband. Nonetheless, she did not want to use an interpreter as she was still terrified of others in their ethnic community finding out. She made an independent application for asylum and is awaiting the outcome.*

(MF case no. 25740)

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*A North African man was detained by state agents who beat him and forced a bottle into his anus. He experienced this assault as a severe insult. In his culture, anal intercourse or interference is considered a lifelong disgrace, such that few victims of anal assault would ever disclose the attack.*

*After his initial asylum application was refused and an appeal failed, he finally disclosed his torture to his solicitor, who referred him to the Medical Foundation. He himself wrote to the Medical Foundation from detention, stating that he was prepared to reveal the full extent of his torture, in order, he said, "to save my life ... even though I was and still am ashamed" about what happened. Physical examination by a Medical Foundation surgeon was extremely distressing for this man and could not be completed. The surgeon found sufficient evidence of the man's torture, however, and provided a medical report. He was eventually granted refugee status*

(MF case no. 9343)

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*A Middle Eastern couple with two young children. He was imprisoned and tortured for eight years. She was raped at home in front of the children. Interviewed within days of their arrival in England, the couple could not bring themselves to tell the Home Office about any of this torture and their application was refused. The husband said that he tried to forget about what had happened to him. He described feeling as though he were 'suffocating'. He knew his wife had been raped, but did not reveal it to their solicitor until a subsequent appointment*

*Referred to the Medical Foundation, the wife agreed to see a counsellor without her husband and was then able to speak about her rape. The IND questioned the applicants' credibility when the solicitor attempted to introduce this 'new information'. When the family was finally granted refugee status on appeal, one of the children danced around the therapist's office singing, 'We are safe, we are safe. We do not need to be afraid.'*

(MF case no. 26168)

- 4.12 Secondly the persecution that drives women to seek sanctuary in the UK will frequently be gender-specific. One form of it – though not the only one – is sexual violence. As the Medical Foundation case histories illustrate, this may make it particularly hard for them to talk about their need for asylum unless they have some preparation and support, possibly over a considerable period. The Foundation has reported a steady rise over recent years in the proportion of their new referrals who are women, for example from 25% for 2000 to 40% in the third quarter of 2002.<sup>33</sup>
- 4.13 Male refugees of course suffer sexual assault too. But for men it will often be one among various means of torture by state agents in the course of political persecution. For women, rape or other forms of gender-based persecution may well be the central ground of their asylum application. Given the barriers to disclosure facing many women in the IND interview (above), this implies that the Section 55 requirement to make an application immediately on arrival could be even harder to meet for such women asylum seekers, than for men.
- 4.14 Women’s applications will arise in a significant number of cases, thirdly, from the breakdown of their relationship with a partner who had been the principal applicant in a family seeking UK asylum. Research into their own case records by the Refugee Women’s Resource Project at Asylum Aid showed that of women lodging independent asylum claims during the 1990s, 15% or almost one in six had previously been dependent on a relationship with a principal asylum applicant which had broken down because of family or marital problems, including domestic violence.<sup>34</sup> Necessarily such an asylum application will be made in-country.
- 4.15 Many people genuinely fleeing persecution can be expected to lodge asylum applications in-country for good reasons arising directly from their experience as refugees, which may not be weakened by the withdrawal of material support under Section 55. Women refugees may have especially strong reasons for applying in-country, exposing them to particular risk of destitution under this measure.**

#### **‘Modifying behaviour’?**

- 4.16 When the future Section 55 was laid before Parliament, Peers were told: *‘What do we expect will be the impact of this? On past experience, it is likely that a great proportion of asylum applications will be made on entry at the ports. ... Currently, two-thirds of applications for asylum are not made on entry at the ports, they are made in-country. Applicants are likely to modify their behaviour and to come forward at an earlier stage.’*<sup>35</sup>
- 4.17 Experience in fact indicates the opposite. The Asylum and Immigration Act 1996, which withdrew support from adult in-country asylum applicants, offers the nearest historical parallel to Section 55 (though there are also major differences).<sup>36</sup> In-country applications did fall in the first two years after its introduction, but never

went significantly below half of total UK asylum claims. By 1998 they were rising again and after 1999 accounted for most applications.

- 4.18 Still more striking is experience since Section 55 itself came into force in January 2003. For 2001 asylum applications made in-country were 65% of the UK total, and 68% for 2002. But in the first quarter of 2003 as Section 55 began to take effect, the in-country asylum claims which it was supposed to deter jumped to 74% of the total, the highest level in recent years. After falling back in the second quarter they reached 72% for the third, and over the year as whole seem likely to be at a historically high level. If 2003 showed 'modification' in asylum seekers' behaviour, in short, it was probably towards lodging claims in-country – directly contrary to the assumption underlying the decision to introduce Section 55.
- 4.19 Why are asylum applicants unlikely to respond to the prospect of destitution by switching to port-of-entry applications, as the Home Office asserts? Such a change requires two things. Firstly most asylum seekers must be well informed before reaching this country about relevant UK law and current Home Office policy on its implementation. Secondly a majority of them must be able to act on this information by applying as soon as they arrive. On available evidence, it cannot reasonably be assumed that either of these conditions will be met.
- 4.20 **Information before arrival.** Research to date on asylum seekers' motives for coming to the UK, including work commissioned by the Home Office, indicates that they typically have little knowledge of the UK asylum regime before arrival.<sup>37</sup>
- 4.21 Emerging evidence about the role of people smuggling casts further doubt on the idea that the average asylum seeker will know in advance about the UK system. In a recent study for the Home Office, Koser and Pinkerton note '*a growing consensus that an increasing proportion of asylum seekers – possibly the majority – now pays migration agents of one kind or another to move them into Western Europe.*<sup>38</sup>' Albeit tentatively from a small-scale study, they then point out that in some of these cases at least it is the smuggler who decides where the asylum seeker will end up. As Koser and Pinkerton add, this means '*... information about potential destinations is effectively redundant for these asylum seekers, as the choice of destination is no longer theirs to make.*'
- 4.22 **Action on arrival.** Analysis above points to strong reasons why many asylum seekers are not in a position to apply at port of entry. Detailed advance information about UK policy and regulations may dispose of one of these reasons: their ignorance of asylum procedure. But it does not in itself dissolve any of the other obstacles to immediate application on arrival. So, even in the unlikely event that most asylum seekers could acquaint themselves en route to the UK with the NIA Act Section 55 and current Home Office guidelines, it is reasonable to expect that a large percentage would still apply in-country.

4.23 There is an important caveat. Once would-be asylum seekers are in the UK and get to hear about the meaning of Section 55, it could lead a significant number of them – genuine refugees included – to abandon the idea of lodging an asylum claim. As indicated in the next chapter where the issue is examined further, this could mean a fall in both the number and the proportion of asylum seekers making in-country claims, together with a rise in the number of people illegally resident in the UK.

4.24 Finally some asylum seekers, while persisting with their asylum claim, may be so daunted by the complexity of the Section 55 procedure (chapter 2) that they give up trying to claim any form of NASS support. As yet there is no direct evidence to show whether this is happening. However it offers one possible explanation for the striking decline during 2003 in the proportion of all asylum seekers who ask for NASS support (see next chapter).

**4.25 The withdrawal of support is thus likely to have little sustained effect on the proportion of asylum seekers who lodge their application in-country – unless it leads some of them to abandon the idea of claiming asylum and try to survive illegally in the UK instead.**

## Chapter 5

### **National impact: scale of destitution and the asylum regime**

5.1 This chapter outlines basic effects of Section 55 at UK level, which set the scene for analysing its impact on London. First a tentative estimate will be made of the number of asylum seekers likely to be refused support under Section 55 in a full year, if current policies remain in force. Secondly, some indirect effects of this measure on the wider asylum system are outlined.

#### **Numbers affected: the scale of destitution**

5.2 To get an idea of how many people may be refused support under Section 55, it is assumed here that the 2003 pattern of asylum applications will persist into 2004 and beyond. Data are available at the time of writing for the first three quarters of 2003 only. In this calculation, figures are projected for the whole year by assuming that fourth quarter (Q4) values equal the average of the two previous ones. On this basis, it is estimated that UK asylum applications will total 50,000 per annum.<sup>39</sup>

5.3 Projecting the number affected by Section 55 in future will then, in principle, require values for the following variables:

- a) applications made in-country as a proportion of total asylum applications
- b) the proportion of in-country asylum seekers who ask for NASS support; are aged over 18; and have no dependent children under 18 with them
- c) rate of refusal on requests for support considered by NASS under Section 55 (excluding family cases).

5.4 Values for the second set of factors (b) will be particularly uncertain. In reality, the percentage who ask for NASS support, are minors or have dependent children with them may differ as between in-country and port asylum seekers. Since there is no way of knowing what these differences may be, they are ignored for the present calculation. Instead it uses overall percentages, as reported for all asylum applicants or (in the case of 'no dependent children') for all those requesting NASS support.

5.5 Table 2 shows latest available values for these variables, defined as above. Data on characteristics relating to age and dependants, it should be noted, are released only annually and with a considerable lag. For in-country applications and for NASS support requests, annualised 2003 values here are based on Q2 and Q3 for consistency with the projection of total annual asylum claims (above). The NASS rate of Section 55 refusals is policy-driven and was affected by upheaval in this policy earlier in 2003, so the value used here is for its third quarter only.

**Table 1: Estimating future negative Section 55 decisions – key variables**

Variable	value	date
as proportion of total UK asylum claims:		
• applications made in-country	71%	2003 (a)
• requests for NASS support	68%	2003 (a)
• aged under 18	85%	2002
as proportion of all applicants asking for NASS support		
• no dependent children	83%	2002
as proportion of cases considered under Section 55		
• requests refused by NASS (non-family only)	81%	2003 Q3

**Sources:**

Home Office, *Asylum Statistics Third Quarter 2003*

Home Office, *Asylum statistics: United Kingdom 2001 and 2002*

**Note:** (a) annualised: assumes Q4 = average of Q2, Q3

5.6 The net effect is that about 28% of all UK asylum seekers are projected to be left by Section 55 without support. This contrasts with the proportion of ‘up to 40%’ currently suggested by some practitioners. The relatively low level of the GLA estimate is explained in particular, as Table 1 indicates, by the fact that it allows for the recent striking decline in the rate at which asylum seekers are requesting NASS support. The figure of 68% shown here is several percentage points below the rate at which such requests were made in the preceding two years. There are no grounds for supposing that a growing proportion reach the UK with access to private means. Subject to further research, it seems reasonable to suggest that a rise in the number of applicants who accept destitution without even asking for NASS help may be helping to limit the scale of destitution directly attributable to Section 55.

5.7 The possibility that current policy, in particular Section 55, may induce a switch from asylum seeking to illegal residence is considered later in this chapter but is ignored for the purpose of the present estimate of numbers. If such a switch were to happen on a significant scale, obviously, the number of asylum seekers refused support under Section 55 would drop as illegal resident numbers rose correspondingly.

5.8 An indicative estimate of the number of people liable to be caught annually by Section 55 can thus be made as follows:

- projected total UK asylum applications per annum = **50,000**
  - estimated proportion refused support under Section 55 = **28%**
- hence number made destitute, UK-wide per annum = **14,000** approx.

5.9 Obviously great uncertainty surrounds this indicative figure, which could be pushed up or down to some extent by factors about which there are no statistical clues. The

possible divergence between in-country and port applicants, hidden in Table 1 statistics, has already been mentioned. Again, the calculation made here assumes that any principal asylum applicant with one or more dependants will escape the effect of Section 55. In fact it is highly likely that, among the asylum seeking households including one dependant, some will be adult couples not accompanied by any children under 18. Such couples, if they apply in-country, could clearly be at risk of getting no support. As we have no information about how many there are, no allowance is made for them in the indicative estimate above.

5.10 This estimate, it will be noted, takes into account exemptions from the effect of Section 55 and omits those who have identifiable alternative means of subsistence. Decisions by the RANS Unit to provide support on Article 3 human rights grounds are factored into the refusal rate shown in Table 1. All these 14,000-odd people denied support under Section 55 would in practice face destitution unless they

- can somehow find a long-term charitable benefactor, or sustained support by entering into a settled relationship; or
- are assessed by a local authority as having special needs and hence qualify for local authority care under the National Assistance Act 1948.

5.11 Given this baseline estimate, the actual level of destitution found in the UK (and therefore in London) at any one time will depend on how soon the asylum seekers in question get asylum decisions, and on the extent of any voluntary movement out of the country.

5.12 **Time to decision:** Asylum seekers made destitute by Section 55 will of course remain so unless and until they get a positive decision.<sup>40</sup> At end-September 2003, initial decisions were awaited on 29,100 asylum applications. The proportion of applicants getting decisions within two months has been rising, to 81% in the second quarter of 2003. But the volume of appeals against initial IND decisions remains large. At end-September 2003 some 45,000 appeals cases were pending, around two-thirds with the Immigration Appellate Authority and a third with the Home Office. For a large percentage of applicants, clearly, determining asylum claims will continue to take many months.

5.13 **Voluntary departure:** Having lodged an application, the asylum seeker may choose to leave the UK before their claim is decided. Such voluntary departures might slightly reduce the UK's net total of applicants left destitute by the NIA Act. But they cannot realistically be expected to affect it much, for two reasons. Firstly if someone is completely penniless they are even less likely than other asylum seekers to secure return transport back out of the UK. Secondly, as we have seen, in-country applicants are at least as likely as others to be genuinely fleeing persecution, which means voluntary return to their country of origin is unlikely to appeal to them.

5.14 **On balance, assuming that total UK asylum applications continue at roughly the rate seen for 2003, it is reasonable to expect that around**

**14,000 UK asylum applicants could be subject annually to the effect of Section 55, and that a large majority of them will find no way out of destitution.**

**Impact on the wider asylum reception system**

- 5.15 Two key concepts underpin current Government policy on receiving UK asylum seekers. The first is the nationally managed NASS system for their dispersal. This *'national machinery to plan and co-ordinate provision'* for destitute asylum seekers, the 1998 White Paper argued, would ensure their placement could be planned *'strategically'* with local authorities, voluntary organisations and others. Crucially, the White Paper added, *'This nationwide approach will help to relieve the burden on provision in London'*.<sup>41</sup>
- 5.16 The 2002 White Paper, secondly, added the idea of making asylum reception an *'end-to-end'* process through which the Home Office could control each asylum case more effectively, from application onwards:  
*The key principles underpinning our reforms are that asylum seekers are both supported and tracked through the system ... Everyone will be subjected to a more managed system so that we can keep in contact with them throughout the process.... Such a system will be ... truly 'end-to-end' in its approach. It will be a quick, high-quality, highly-managed system, which will assist those in genuine need of protection. And enable us to return swiftly those not in need of protection.*<sup>42</sup>
- 5.17 Both these central pillars of the Government's current reception regime – nationally planned dispersal and *'end-to-end'* management of asylum cases – are likely to be seriously damaged by the impact of Section 55. To see why, it is helpful to distinguish between two groups of in-country asylum seekers to whom it denies support: those who go ahead and apply for asylum, and those who give up.
- 5.18 **In-country applicants proceeding with claim:** Initial phases of the Section 55 process (as outlined in chapter 2) are common to all asylum seekers and correspond to the sequence mapped out in the 2002 White Paper and the NIA Act: induction, registration, the issuing of an Asylum Registration Card. But beyond that stage, for those who are refused NASS support under Section 55, the process envisaged by current policy begins to break down.
- 5.19 A sizeable proportion of all asylum seekers – nearly a third in 2003, as Table 1 indicates – claim no NASS support at all, and therefore cannot be dispersed. Of those who do get NASS support, around 40% receive subsistence-only support and are therefore not dispersed, since dispersal hinges on provision of accommodation. Adding the in-country applicants refused support under Section 55 who similarly cannot be dispersed, it is clear that a large majority of UK asylum seekers now fall out of the NASS dispersal system. This in turn calls into question the viability of structures built up by regional consortia to support the NASS operation.

- 5.20 Destitution and extreme instability in their housing (chapter 7) will mean that many cannot meaningfully give contact addresses to IND, or report regularly. At the end of the process, removal of rejected applicants will be particularly difficult since IND will have no idea where they are.
- 5.21 **In-country applicants abandoning claim: the switch to illegality:** Section 55 could play a crucial role in persuading some people arriving in the UK who would otherwise have applied for asylum, to opt instead to try to stay as long-term illegal residents – whether or not they are genuinely in need of protection. The possibility of this switch from asylum applications to illegal residence could arise in several different ways.
- 5.22 Firstly those who know they have no valid legal grounds for an asylum claim, generally economic migrants, will now have no financial incentive either to put in an application. On the contrary, they will have good reason to avoid any contact with IND. In this scenario, Section 55 would indeed cut the number of asylum applications as the Government hopes, but would do so by prompting these illegal immigrants simply to disappear ‘underground’ as fast as possible.
- 5.23 Secondly, those who have a genuine claim but are in-country, will have good reason to doubt whether their substantive asylum application can now be assessed impartially by the Home Secretary. The Government’s essential argument for Section 55 is that in-country claims are ‘*less credible*’.
- 5.24 Operationally too, IND determination of a person’s asylum claim is now tainted by the NASS decision on entitlement to support. Hitherto the two agencies had distinct roles, and the support decision had no bearing on the case for asylum. But the roles of the two agencies are now blurred. To decide under Section 55 if an asylum claim has been lodged ‘*as soon as reasonably practicable*’, NASS staff will have access to the facts of a person’s asylum claim as noted by IND at the initial screening interview.<sup>43</sup>
- 5.25 Quite possibly, therefore, an increasing number of genuine asylum seekers will feel their chances of finding sanctuary in the UK are greater if they stay hidden in friendly communities, than if they approach IND to lodge an asylum application in-country. What they cannot be expected to do, is return to the country from which they fled in genuine fear of persecution.
- 5.26 Finally destitution itself gives asylum seekers caught by Section 55 a further powerful motive - whatever the merits of their claim - to give up their claim and try instead to stay in the UK outside the law. Without state support, those not willing to engage in crime have only one option for securing an income, which is to take a job. Since Government policy forbids asylum seekers to work whilst their claim is being processed, those made destitute by Section 55 may face a choice between pursuing a valid claim for asylum, and taking illegal employment for the sake of material survival. In some cases, clearly, the latter may seem the rational option.

- 5.27 Key elements of the current asylum reception regime are thus likely to be weakened dramatically by withdrawal of support to in-country applicants under Section 55:**
- a large majority of asylum seekers will now be outside the NASS dispersal process**
  - more people, regardless of the merits of their case, are likely to opt for illegal residence instead of making in-country asylum applications**
  - for many or most asylum seekers, 'end-to-end' case management as envisaged by the Government's 2002 reforms will become more difficult, or impossible**
  - return of rejected asylum seekers, whether voluntary or coercive, will be less likely.**

## Chapter 6

### **London impact: estimating the scale of Section 55 destitution**

6.1 Nationally, on the analysis of chapter 5, withdrawal of support to in-country asylum seekers can be expected to leave something like 14,000 people destitute each year, assuming a steady trend in total UK asylum applications. How many of them might be in London? Since Section 55 rules out any Home Office influence over their movements, answering this question requires a judgment about where asylum seekers may tend to go of their own accord, if destitute.

6.2 The only current statistical basis for such a judgment lies in NASS data on the location of asylum seekers to whom it provides means of subsistence only. These are asylum seekers who have, within the limits of extreme poverty, made their own choice about where to settle whilst their claim is determined. On average over the 12 month period to September 2003, 74% of those getting subsistence-only support from NASS were in London. This percentage is the best available guide to the location of people affected by Section 55.

6.3 An indicative estimate of the number of the number made destitute by it in London each year can then be made by multiplying the national figure by this percentage:  $14,000 \times 74\% = 10,000$  people approximately. **On available information around 10,000 asylum seekers each year, or 200 per week, are likely to be made destitute by Section 55 in London.**

6.4 This annual flow of some 10,000 destitute people will include a small proportion who qualify for borough support because of special needs (as discussed below).

#### **The RIS survey**

6.5 In October 2003 the Mayor convened a pan-London meeting of community groups and other stakeholders to consider the issues raised for London by Section 55. It established that negative NASS decisions under Section 55 was generating a crisis for refugee communities and agencies across the city, as well as personal suffering for the asylum seekers in question. But, it noted, the scale of the crisis was likely to be hidden from conventional measures of homelessness. Asylum seekers forced to sleep out would tend to avoid known rough sleeping sites. More important, communities were going to great lengths to offer them shelter. Putting community members under intolerable strain, this could not be a viable long-term solution to the crisis but meant that it remained largely invisible to policy-makers.

6.6 The Mayor therefore undertook a brief enquiry into the numbers of asylum seekers in London denied support under Section 55, as a first step towards identifying its impact in the capital. Given the difficulty of conducting direct counts, it was decided to ask community and voluntary organisations serving asylum seekers to record the

numbers of people contacting them who had been refused support under Section 55 ('section 55 cases'). To minimise double-counting, all were asked to record this figure for a single day.

6.7 Resource Information Service (RIS) was commissioned to carry out the survey, the first systematic study of the consequences of Section 55. It approached over 300 refugee community organisations (RCOs) and agencies specialising in services to refugees and asylum seekers, across London, of whom a 'priority group' of 92 were expected to have most contact with Section 55 cases.

6.8 The survey date was in late November 2003 and RIS reported its results in December. The response rate could have held down by several factors, including a short project timescale, postal delays and the fact that the survey date fell within the Eid festival. The 75 organisations which replied nevertheless included half the priority group, considered a good response rate. The researchers' judgment from talking to these organisations was that '*while some double-counting is still possible, we are confident the effect is minimal*'. There were some signs that the survey date, coinciding with Eid, could have reduced the count of asylum seekers.

6.9 Besides data on numbers of these asylum seekers, and some of their basic characteristics and circumstances, comments were gathered from just over 50 respondents on how Section 55 is affecting them as organisations. The RIS report is attached as Annex A.

6.10 These are key findings about numbers of people made destitute by Section 55 in London:

- Over 1100 asylum seekers were seen by responding organisations on the survey date, of whom 283 or **25% had been refused support under Section 55**.
- Within this sizeable count of people refused support under Section 55, **almost half – 47% – were women**.
- Allowing for the one-half of their priority organisations which did not respond, RIS '*cautiously*' infer that **total case-load per day for such organisations across London would be over 500 people affected by Section 55**.

6.11 RIS findings are thus broadly consistent with this report's analysis of the likely scale of Section 55 destitution nationally and in London. First, the finding that 25% of all asylum seekers contacting London agencies are Section 55 cases would imply that well over one-quarter of *recent* applicants are getting negative decisions, given London's high percentage of 'longer-term' asylum seekers. It thus roughly tallies with the estimate above (Table 1, chapter 5) that, nationally, 28% of new asylum seekers could be refused support under Section 55.

6.12 Secondly, the finding that women made up 47% of these destitute asylum seekers looks particularly significant. Virtually all Section 55 cases will be principal applicants.<sup>44</sup> Women have in recent years typically represented around one-quarter of the annual UK total of principal applicants. If RIS data on people approaching

London agencies reflect the wider asylum seeker population, therefore, **women arriving to seek asylum without children may be overrepresented among people denied support under Section 55 – and hence even more likely than male in-country applicants to be made destitute by it.** This would confirm inherent gender bias in the Section 55 regime, as suggested in chapter 4.

6.13 Lastly the estimate by RIS that on a given day London support agencies and community groups will probably see over 500 Section 55 cases, must imply a substantially higher figure for the total population of Section 55 destitute asylum seekers in London at any one time – including those who do not visit such services on that day. This relationship, inherent in a snapshot survey of the kind reported here, is spelt out in supporting comments received from organisations replying to RIS. Several of them point out (see Annex A) that they are currently dealing with more Section 55 cases than appear in their return for the survey date. For example:

- *‘... we had three clients only [on the survey date] but as a whole we received 10 clients who have negative decisions’.*
- *‘we are currently assisting approximately 8 clients who are affected by negative section 55 decisions. We saw no one on this date.’*
- *‘We get about 25 clients a month who come to us with section 55 negative decisions. However on the 26<sup>th</sup> Nov we did not see any such clients’.*

6.14 Deriving a specific figure for total population from the incidence of visits to support organisations is impossible, but realistically it must be some multiple of the RIS estimate of 500-plus contacts. The RIS finding thus appears consistent with the GLA estimate above that an average of about 200 asylum seekers will become destitute in London each week as a result of Section 55 decisions (depending what assumptions are made about the length of time each of them spends in that state, in London). Any such inference must be very tentative, pending further research. But on the evidence so far assembled, it is clearly reasonable to suppose that Section 55 destitution in London will be on the scale estimated above.



## Chapter 7

# Communities and their organisations

### Potential and pressures

- 7.1 People who come to London seeking sanctuary contribute to its development collectively as well as individually. With an estimated total of more than 500 community-based organisations, London's asylum seekers and refugees have developed self-organisation and self-help to an exceptional degree. They show a potential to strengthen social cohesion, energise local regeneration and give civic leadership - within their own communities and beyond - which London cannot afford to waste.
- 7.2 But London's refugee and asylum seeker communities also face serious social exclusion, in ways that could make it hard for them to fulfil this potential. In general they suffer extensive poverty, with higher levels of long-term unemployment than any other section of London's labour force. The standard of their housing is often poor. Above all these are people whose very right to be in the country is questioned by the state, or at some stage has been. This has allowed some elements of the media and the non-refugee public to mark them out for prejudice and hostility (see chapter 11).
- 7.3 New demands on London's existing refugees and asylum seekers arising from Section 55 thus come on top of pressures that are already among the most intense faced by any community in London or the UK.

### Section 55 – community response

- 7.4 Before Section 55, it was regularly noted that very few asylum seekers and refugees featured among people homeless on London streets, even though they were often insecurely housed and very poor. The sense of solidarity which is deeply rooted in most refugee communities means that (as one RCO representative remarked) they *'will not let people sleep rough'*.<sup>45</sup> Since 2000 many tens of thousands of asylum seekers – up to 29,000 at a time – have chosen to stay in London on subsistence-only support rather than undergo NASS dispersal. The city's refugee communities have simply absorbed them, leaving very few with no roof over their heads.
- 7.5 From summer 2003 onwards, faced with an influx of hundreds of Section 55 destitute people a month, they tried again to shelter them. In the front line of this effort have been individual households within settled refugee communities. So far there are no systematic accounts of their experience, but there are clear indications that it is subjecting many of them to great stress. One refugee activist in an African RCO described accommodating overnight in his home as many as five strangers made destitute by Section 55, because he could not contemplate them sleeping rough. On some mornings, he said, coping with these visitors made it hard to get off to work on time. In a written comment he added:

*'... all our member report to us they are facing problems by accommodating these people and, at times, when we ask them to hold one or two persons for few days ... Many [Section 55 asylum seekers] keep coming and inform us they are living rough and we are shocked and worried about their future.'*

*'This issue is not only affecting asylum seekers – it is affecting every household member of our community. We are very worried [about] the effect it is creating to both the asylum seeker and the family... stress to the family settled in the UK too.'*<sup>46</sup>

7.6 The level of need created by Section 55 has however proved too much for households to absorb entirely. They have not been able to save a substantial minority of these destitute newcomers from sleeping rough (see chapter 8).

**Box 4: Impact of Section 55 at community level, London November 2003 - some examples**

Comments made in response to RIS survey, by refugee community organisations and voluntary sector support agencies (VS):

*'It creates so much additional pressure on resources. We can't refuse to help them, they are our community members. This is unfair, inhuman and pushes people into further hardships. We desperately need either emergency help or repeal this section.'* (RCO)

*Section 55 has '... increased mental health problems, increased the number of people facing destitution. The Association cannot provide alternative help required for this group due to lack of resources. There is increased burden to friends and families who seek alternative help from the association. It is a traumatic experience for everyone.'* (RCO)

*'... our organisation is predominantly concerned with providing advice to clients as well as other services such as a mentoring project and after-school and holiday activities for refugee children. An increase in the help needed by clients who have been affected by Section 55 means that staff time and effort is taken away from our core work. Our food project was not designed to help those who had no food whatsoever and so has meant we have withdrawn this support from other clients.'* (VS)

*'... we are not set up to deal with destitution, and have no resources to provide adequately for people who are deprived of accommodation and finances - this is a financial drain on the services offered by the organisation'* (VS)

7.7 Exclusion of destitute asylum seekers from all systems of state support has, GLA enquiries suggest, isolated many of them from statutory sector agencies. In many areas of London RCOs, backed by voluntary sector agencies and faith groups, have had to try to address needs which community members and families could not meet on their own. Together these non-statutory bodies have put a massive effort into helping asylum applicants refused support under Section 55:

- advising and representing them through the complex process of seeking RANS reconsideration of the Section 55 decision, or in applying for judicial review
- trying to locate shelter for them for example in people's homes, community spaces, churches, and mosques
- providing what food they could, and blankets or sleeping bags
- negotiating with social services and other statutory agencies to help address individual needs for care and protection
- comforting and counselling people who in many cases reach them in a state of extreme physical and emotional distress.

7.8 No funding has been offered by the Government to help community and other non-statutory bodies perform this vital role. Without extra resources, it has put severe strain on them, undermining their other work and making it harder for them to sustain the long-term social contribution outlined above. Comments made in response to the RIS survey for the Mayor illustrate the effect which Section 55 destitution has had on organisations based in refugee communities, or working closely with them. Box 4 above gives a few examples.

### **Street homelessness and the future**

7.9 If it remains in force for long, Section 55 could have an impact not only on the current well-being of refugee communities but also on their future development. Analysis in this report (chapters 6 and 8) indicates that a sizeable minority of asylum seekers who get negative Section 55 decisions could spend time sleeping rough. Homelessness charity Shelter has spelt out the subtle but profound effect this will have if it lasts more than a few weeks – see Box 5.

#### **Box 5: Street homelessness – the 'three week rule'**

Shelter, citing S Keyes and M Kennedy, *Sick to Death of Homelessness* (1992)/P Grenier, *Still Dying for a Home* (1996):

*'... one study into the health risks of street homelessness suggests there is a 'three week rule'. This describes the period during which people rapidly adapt to homelessness in order to survive, and after which it much more difficult to integrate back into mainstream society. This particularly applies to young people, who tend to adapt quickly to survive the trauma of homelessness. The 'three week rule' suggests that after that brief period individuals are deskilled to such an extent that that they lose the interpersonal, budgeting and simple life skills to adapt readily to being rehoused. ... [and therefore] ... often require intensive support and resettlement when they are finally housed.'*<sup>47</sup>

7.10 Noting that on past experience most in-country asylum seekers could be expected to get refugee status, Shelter goes on to express concern that

*'... a large amount of resources will be required in the future to help homeless refugees out of a culture of street homelessness ... If these resources are not forthcoming, people who have been recognised as refugees may remain in a long term cycle of homelessness.'*

7.11 Whether they have to sleep rough or not, people left unsupported by Section 55 will find it exceptionally hard to take up induction, English language and pre-vocational training courses. Typically they are forced to move constantly, have no money for travel around the city, and will be preoccupied with survival. Basic courses that play a key role in preparing people for eventual integration - should their asylum claims eventually succeed - will thus in practice be inaccessible to them. Funding rules confirm their exclusion from this important provision, as the head of the Refugee Council's Training & Employment Section (TES) pointed out:

*'... if asylum seekers are not supported under NASS then they will not have free access to college funded language and basic skills courses. TES currently run such courses in partnership with colleges and they are very over-subscribed - but in future there will be an increasing number of people that we will not be able to offer places to.'*<sup>48</sup>

7.12 Exclusion from support by Section 55 and ensuing destitution thus pose a threat to the social integration of a substantial minority of asylum seekers, and hence to the cohesion of communities in which they will eventually settle.

**7.13 Section 55 is imposing severe strains on refugee community households and neighbourhoods in London, and on refugee community organisations, which could over time weaken their contribution to building social cohesion and limit their capacity for partnership work to promote local development. While it remains in force, funding is urgently needed to support RCOs and other non-statutory bodies in their work to alleviate its personal and social impact.**

**7.14 At the same time Section 55 creates new barriers to the eventual integration of asylum seekers who secure refugee status, further undermining long-term development of these communities.**

## Chapter 8

# Homelessness and housing

- 8.1 London, where most Section 55 destitute asylum seekers are likely to be found, faces greater pressure on its housing capacity than any other part of the country. Rising demand together with a long-term decline in supply, especially of lower-cost homes, have left the city with a severe housing shortage. This bears especially harshly on its poorer residents. Key aspects of the city's housing crisis are set out in the London Housing Strategy 2003 (see Box 6) by the London Housing Board which comprises representatives from the Government Office for London, GLA, ALG, LDA, Housing Corporation and English Partnerships.<sup>49</sup>
- 8.2 Against this background of intense housing shortage, the Section 55 regime could produce a major increase in the level of homelessness in London, probably in acute forms. Analysis above suggests that at least 10,000 in-country asylum seekers a year, made destitute by Section 55, are likely to be in London. None will have a home, and only a small minority will gain support as special needs cases.
- 8.3 An additional 10,000 people would represent an unprecedented leap in the city's homeless population. If destitute in-country asylum seekers had access to London's system of temporary accommodation under the Housing Act, the annual flow of homeless people into it would rise by a massive proportion – perhaps a fifth or more. But in fact they have no such access.
- 8.4 Asylum seekers left destitute in London by Section 55, and not securing some care and support as special needs cases, will be on their own. They may find a space to sleep with friends, relatives or someone employing them illegally. Alternatively they will be on the city's streets.

### **Accommodation in the community**

- 8.5 Past experience suggests many will seek such spaces within the city's refugee communities. If they find it, as Shelter and ten other NGOs commented in a letter to the Home Secretary, *'This will increase the number of homeless asylum seekers and refugees living in inappropriate, overcrowded and unsanitary conditions'*. Shelter has put this in the context of the bad housing conditions already experienced by many existing asylum seekers and refugees, who are the people most likely to take destitute in-country applicants in from the streets. Its testimony to the GLA Assembly's Public Services Committee in December 2002 noted that they were more likely than other Londoners to experience overcrowded conditions.<sup>50</sup>
- 8.6 The problems faced by London refugee communities in trying to absorb destitute in-country applicants since January 2003 are compounded by the role they already play – largely unseen – in accommodating huge numbers of subsistence-only asylum

## **Box 6: London's housing shortage 2003**

### **Current position**

*'The demands of the capital's economic and population growth have not been matched by an increase in the supply of housing. New housing provision from all sources has averaged just over 20,000 units since 1987. ...A substantial proportion of working households in London are unable to buy a home, putting the dream of owning a home beyond the reach of households on low and even medium incomes.'*

*'London has 39% of all households sharing accommodation, 51% of overcrowded households (1.5 persons per room) and 21% of households containing concealed families in England ...6.9% of dwellings in London were estimated as unfit in 2002. Across all tenures it is estimated from the 2001 English House Condition Survey that just over 36% of London's homes do not meet the decent homes standard, and nearly 41% of all social rented housing in London is estimated to be non-decent.'*

### **Homelessness**

*'London has the highest levels of homelessness and concentration of families living in bed and breakfast hotels in the country. In 2001/2 over 30,000 households were accepted by London boroughs as unintentionally homeless and in priority need – around a quarter of all homelessness acceptances in England.'*

*'In March 2003 there were 58,597 homeless households in temporary accommodation including 7,262 households in bed and breakfast hotels.'*

*'Approximately 61% of all households accepted as homeless in London between January and March 2003 were of black or minority ethnic origin – a disproportionately high percentage compared with London's total ethnic population of 32%.'*

*'There is an additional (but currently un-quantified) groups of hidden homeless households – those 'self placed' in temporary accommodation or living as part of someone else's households and requiring their own separate accommodation.'*

*'The Government's national target for reducing rough sleeping by two thirds by 2002 has been achieved. But in areas of central London the number have reduced by only 48% since 1998 when there were an estimated 612 people. In June 2002, there remained an estimated 320 people sleeping rough in London.'*

### **Asylum seekers and homelessness**

*'A higher proportion of people from minority ethnic groups are among the most deprived, especially recent migrants and those seeking asylum... Poor housing and homelessness are major contributors to the wide health inequalities that exist in London between different communities and areas of the capital.'*

*'Asylum seekers are a significant group in London. There is evidence that substantial numbers of dispersed households drift back to London once they have received positive status. The number of asylum seeking households in temporary accommodation supported by housing and social services departments and the National Asylum Seekers Service (NASS) has been falling. However, the numbers claiming subsistence-only support from NASS are increasing (15% in the last year). There are concerns about the living conditions and support for asylum seekers not housed in temporary accommodation by boroughs' housing departments.'*

seekers. These are people accepted for NASS support who, rather than be dispersed to NASS accommodation, opt to receive money towards essential living needs only. At the end of September 2003 almost 25,000 asylum seekers in London were receiving subsistence-only support.<sup>51</sup>

8.7 Most will have been staying with family and friends in the city's refugee and asylum seeker communities. Given that these communities face unemployment and poverty on a scale well above the London average, accommodating such a large number of recent subsistence-only asylum applicants must inevitably put many existing refugee and asylum seeker households under severe pressure. The London Housing Board acknowledges this point in its London Housing Strategy 2003 (Box 6).

8.8 To expect their communities also to cope with the wave of in-country applicants made destitute by Section 55, would clearly be unrealistic. (See also chapter 7 above). Few will have spare bedrooms or annexes standing ready to receive yet more destitute guests. Even if the new arrivals do find a place to sleep within London's refugee communities in the short-term, such arrangements are likely to be grossly unsatisfactory and highly unstable. They are unlikely to last.

8.9 Host households in rented properties may risk breaching tenancy agreements (if they are not already doing so by taking in subsistence-only asylum seekers). For families with children, the pressure of such arrangements could be especially damaging, not least for the children. Social, psychological and physical strains on host households will be exacerbated by the in-country asylum seeker's complete destitution. Someone on NASS subsistence-only support might offer token help with household costs. The in-country asylum seeker can raise money to contribute to them only by breaking the law – in turn exposing their hosts to extra risks.

8.10 If asylum seekers left destitute in London by Section 55 cannot be accommodated within the city's existing refugee communities, they are likely to be forced on to the street. They then have two main options: seek shelter in a hostel, or sleep rough.

### **Hostels**

8.11 London currently offers some 3200 quick-access bed-spaces in hostels for homeless people<sup>52</sup>. But many of these are barred to asylum seekers by the funding structure of the agency running them. Such services generally rely on claiming Housing Benefit for each person they take in, which rules out asylum seekers who have no recourse to public funds. In any case, quick-access bed-spaces are to a growing extent restricted to people referred through Government-funded Contact and Assessment Teams which, again, could only help those who have recourse to public funds.

8.12 People without Housing Benefit entitlement can therefore now be catered for only in a few London hostels with purely charitable funding. These hostels have

little chance of coping with the pressure likely to arise from the withdrawal of support to in-country asylum seekers.

### **Rough sleeping**

8.13 Recent years have seen a steady fall in the number of people sleeping rough in London. The record of individuals sleeping rough through the year maintained by the Combined Homelessness and Information Network (CHAIN) found that 3519 people did so in 2002/03 in London, a reduction of 22% since 1999/2000.<sup>53</sup>

Measured as the number sleeping rough on a given night, it has fallen even more steeply. In 1998 the Government set the target of reducing this figure by two-thirds from a baseline count that year of 650 people, in London. By June 2002 it had been halved and in June 2003 was down to 267, bringing the city very close to the target.

8.14 Section 55 as currently applied will soon reverse this achievement. Given the limits on the capacity of the city's refugee communities and hostels, some in-country asylum seekers who are refused support will inevitably have to sleep rough. Conventional street counts may well miss them altogether because they tend to avoid 'established' rough sleeping sites. The RIS survey for the Mayor (see chapter 6 and Annex A) has however shed some light on the issue. Results from this survey, conducted on a single day in November 2003, indicated that

- each day, over 500 asylum seekers with negative Section 55 decisions were visiting London community and support organisations
- 29% of these people would have spent the previous night on the streets, or '*abandoned buildings, vehicles, bus stops, telephone boxes etc.*'

8.15 This implies that, just amongst the Section 55 destitute asylum seekers who use such services on a given day, something like 140-150 people will be sleeping rough. If people not making contact with support services were added in, this figure would clearly be higher. So on available evidence, Section 55 has probably already increased London rough sleeping from the last known figure by at least 50%, and may soon drive it back towards the level of the late 1990s.

### **Impact on GLA and Government policy**

8.16 Tackling London's homelessness and its shortage of affordable homes is a key objective for the Mayor and a central theme of his London Plan. Similarly, the London Housing Strategy 2003 confirms the importance which the Government and other key stakeholders attach to dealing with homelessness in London:

*'We must tackle and prevent homelessness in London and in particular end the use of bed and breakfast accommodation for households with children. It is vital that strong links are made between measures to prevent homelessness and Supporting People for the range of households and individuals at risk of homelessness.'*<sup>54</sup>

8.17 Initiatives outlined by the London Housing Board in the London Housing Strategy 2003, and the Mayor's work with the Office of the Deputy Prime Minister

to deal with London's housing crisis, will inevitably be set back considerably by the huge increment in homelessness brought about by Section 55 of the NIA Act.

**8.18 Overall, then, Section 55 can be expected to**

- **exert severe pressure on accommodation within London's existing refugee and asylum seeker communities**
- **depress housing conditions for many households within them, with more overcrowding**
- **bring a substantial rise in homelessness in London**
- **reverse much of the decline in rough sleeping achieved since 1998**
- **undermine work by the Mayor and Government to tackle London's homelessness.**



## Chapter 9

# Special needs and the role of social services

### Social services duties

- 9.1 In-country asylum seekers denied NASS assistance by Section 55 may look to London borough social services departments for support if they have special needs. Introducing the new measure into the NIA Act, Home Office Minister Lord Filkin confirmed that if a destitute in-country asylum applicant has *'a need for care and attention that has not been caused solely by destitution or its effects'*, they will still be able to seek support – including accommodation – from a local authority under the National Assistance Act 1948 Section 21(1)(a).
- 9.2 In assigning special needs cases to local authorities the Government could rely on the test case *Westminster City Council v NASS*.<sup>55</sup> In this major judgment, also in October 2002, Lord Hoffman ruled that the Immigration and Asylum Act 1999 had distinguished *'able bodied destitute'* asylum seekers from the *'infirm destitute'* – those who had long-term care needs distinct from the effects of their extreme poverty. Taking the former out of the scope of local authority duties and passing them to NASS, the 1999 Act had left the latter with local authorities.<sup>56</sup>
- 9.3 Though predating the NIA Act, the Hoffman judgment has a direct bearing on Section 55 cases. The key to National Assistance Act care for infirm asylum seekers, it argues, is that they have no home and no right to help in getting one under Housing Benefit or homelessness legislation. That applies with particular force where people are excluded from all state support under Section 55.
- 9.4 The judgment also drew this local authority duty very broadly:
- **Level of need:** Entitlement to care under the National Assistance Act 1948 may not rest on the intensity of a person's special needs. Even for a relatively low-dependency client, the absence of any other housing option meant *'care and attention ... could not be given to him otherwise than in accommodation provided under [National Assistance Act] section 21'* – so the borough must accommodate and care for her/him.<sup>57</sup>
  - **Range of qualifying conditions:** A wide spectrum of personal conditions could give rise to this entitlement. The National Assistance Act 1948 makes a local authority responsible for adults who need care and attention *'by reason of age, illness, disability or any other circumstance ...'*. Historically, Hoffman notes, it was invoked mostly to provide residential care for older people.
- 9.5 In principle, therefore, Section 55 could open up a sizeable new area of need for London boroughs' social services. This would not mean net growth in demand, clearly, if Section 55 special needs cases would otherwise have presented to boroughs as NASS-supported clients with the same needs. But there are three

reasons why – at a given rate of UK asylum applications – Section 55 may imply a net increase in demand for London social services departments:

- by taking many more asylum applicants out of the dispersal system (chapter 3), it expands the client base remaining in London;
- while care needs arising directly from ‘*physical effects*’ of destitution may not be eligible for borough intervention under the National Assistance Act, it is possible that underlying special needs – otherwise dormant – may be triggered by deprivation and anxiety following a negative Section 55 decision; and
- in excluding only ‘*the physical effects, or anticipated physical effects*’ of destitution from local authorities’ duty of care, the 1999 Act leaves open the possibility – subject to legal opinion – that they might become responsible if Section 55 destitution made an asylum seeker *mentally* ill.

### **Potential demand for services – some clues**

9.6 How many Section 55 destitute asylum seekers are likely to turn to London boroughs for care on grounds of special needs? Evidence from which to estimate this potential demand is very limited indeed, but some clues are available which point to a possible order of magnitude.

9.7 **Physical disability:** A 2002 survey of community organisations found ‘*significant evidence that thousands of disabled refugees and asylum seekers are resident in this country*’.<sup>58</sup> Citing a variety of estimates it suggested physical disability could range from 3 to 10% of the refugee and asylum seeker population. The middle of this range – 6.5% – might then be taken as a reasonably representative figure.

9.8 **Mental health:** Here the empirical basis for estimating possible special needs demand is even weaker. But for purposes of this indicative calculation, it is assumed that the proportion of Section 55 asylum seekers presenting with mental health care needs will be similar to the percentage for physical disability. This would be in line with the relationship for Londoners in general: the number of mental illness cases taken on annually by London boroughs’ social services is of a similar order to the number of physical disability cases.<sup>59</sup> On this assumption, then, a further 6.5% of Section 55 cases might be eligible for care on grounds of mental health needs.

9.9 **Other needs categories:** Smaller numbers of Section 55 destitute asylum seekers may also apply for social services care under headings such as

- Older people: Asylum seekers aged 50 or over regularly make up about 3% of all principal applicants, with 1% who are 60 and over and a significantly higher percentage for women than for men. In the RIS survey commissioned by the Mayor (chapter 6), asylum seekers over 60 made up 2% of Section 55 cases.
- Pregnant women: If they apply for asylum in-country and receive a negative Section 55 decision pregnant women may, as noted, in some circumstances be eligible instead for social services care. Home Office guidance is that they can seek support from local authorities during the first 17 weeks of pregnancy, and then in remaining weeks from NASS under Article 3 of the ECHR.<sup>60</sup>

9.10 Taking these headings together, potential demand for social services care arising from the application of Section 55 might be expected to lie somewhere between 1,000 and 2,000 extra cases per annum across London.

### **Borough experience**

9.11 In December 2003 the London Asylum Seekers Consortium (LASC), in liaison with GLA, undertook a brief survey to find out from London boroughs how many people made destitute under Section 55 they had provided with care and accommodation. Responses showed however that authorities had data only on numbers of asylum seekers cared for by social services outside the Interim Scheme, in accordance with Hoffman and preceding court rulings (see above para.9.2).<sup>61</sup> These clients in principle included any affected by Section 55. The outcome of this exercise was as follows:<sup>62</sup>

- of 23 authorities which responded, 16 said they were providing care services to a total of just 236 non-Interim Scheme asylum seekers at end-October 2003, while a further seven boroughs had no asylum seekers in this category
- among these clients, no borough could identify Section 55 cases as such
- some data were found on inspection to be unreliable, and boroughs were not collecting them in a consistent way
- no comparable data were available on cases rejected at initial screening, or found on assessment not to meet the authority's criteria for providing care.

9.12 The survey thus served mainly to demonstrate the shortage of information on this area of social care, and cannot be taken as a guide to the impact of Section 55 on London social services. However it did produce useful information on current unit costs. Across care categories, the average cost of care per person cited by the 16 respondent boroughs was £225 a week or about £12000 a year. Allowing for wide variation in the level of service involved, this confirms that even one or two thousand extra cases may entail a significant increase in social services expenditure across London.

9.13 A fuller picture of potential need for local authority services among Section 55 destitute asylum seekers has emerged from LB Lambeth, where they gathered in relatively large numbers from summer 2003 onwards to attend the Refugee Council's Brixton premises. Within the limits imposed on it by the NIA Act and community care legislation, LB Lambeth made a corporate decision to try to address the needs of these asylum seekers for support, advice and in some cases community care.<sup>63</sup>

9.14 The result was an extensive borough effort, illustrating the scale of work required to deal systematically with the personal and social consequences of Section 55 destitution:

- gathered information on, or assessed, 41 individual asylum seekers
- 'conducted four assessments on groups of asylum seekers... because we believed that we are required to establish whether any of them have needs

above and beyond destitution and whether the Council would have to provide resources to meet [these] under community care legislation’

- gave information on where to seek legal and medical advice
- informed these asylum seekers of their right to social services assessments, and made such assessments in 16 cases leading to decisions to accommodate and support ten of them
- made representations to NASS on medical needs of people denied support under Section 55, leading to reversal of this decision in several cases
- supported High Court challenges to Section 55 decisions.

**9.15 Overall, although conclusive data on the issue are not yet available, it is reasonable to expect that Section 55 will over time add significantly to the annual workload of social services departments across London:**

- **its exemption for destitute asylum seekers with special needs covers a wide range of needs categories and levels of dependency**
- **screening and pre-assessment of Section 55 cases is unlikely to be identified in boroughs’ activity data if no care provision ensues, but could represent significant extra work**
- **initial experience of borough engagement in trying proactively to address needs among Section 55 destitute asylum seekers indicates that this will be a demanding task calling for extensive officer input.**

## Chapter 10

### Health

10.1 Available evidence suggests that asylum seekers and refugees generally are in poorer health than the UK population as a whole, both physically and mentally. In a review of research on healthcare needs of asylum, the British Medical Association (BMA) notes

- the finding that two-thirds of refugees have experienced significant anxiety or depression
- the few available studies '*suggest that one in six refugees ... has a physical health problem severe enough to affect their life.*'<sup>64</sup>

10.2 Denial of state support under the NIA Act Section 55 must be expected to depress still further the health status of asylum seekers who have not applied at port of entry. If the new measure leads would-be asylum seekers to opt for going 'underground' rather than lodging an application, the implications for individual and public health are clearly even more serious. However the following analysis deals with people who have made an in-country asylum application, but are then refused support.

10.3 The impact of Section 55 on their health can be considered under three main headings: poverty, housing, and access to services. The first two correspond to key threats to asylum seekers' health identified by the 2002 BMA survey (above): diseases linked to poverty, and overcrowding. More generally, they tally with determinants of health identified in the London Health Strategy including the unemployment rate and the proportion of homes judged unfit to live in.<sup>65</sup>

#### Poverty

10.4 For the in-country asylum seeker, as we have seen, withdrawal of NASS support together with the Government's decision in 2002 to end the employment concession means that they have no legal means of securing any income. Loss of income, as the *Health in London* report points out, is likely to

- increase social isolation and stigma
- prompt behaviour changes that damage health - smoking, drug taking and alcohol consumption.

#### Housing

10.5 Asylum seekers denied support under Section 55 will be homeless, as shown earlier, with a sizeable minority of them on London's streets. Increased risk of mortality and morbidity among the homeless has been confirmed by many studies, including a major review of housing and health in London.<sup>66</sup> Even where these asylum seekers find some sort of lodging, their housing conditions may undermine health. Unfit housing is associated with

- a range of illnesses: respiratory problems, infections, allergic diseases, heart disease, stroke, hypothermia and gastro-intestinal disease
- threats to safety: poor maintenance, lighting and design can lead to accidents and fires.

10.6 Overcrowding, rising steadily as Section 55 pushes thousands more destitute asylum seekers into London's refugee communities, will pose an especially acute threat to physical and mental health both for these individuals and for the communities they are joining. Poor, overcrowded housing may combine with poverty (above) to disrupt people's efforts to manage chronic health conditions, and could lead to a rise in the incidence of serious illness.

10.7 Overcrowding in poor quality housing will also expose these communities, and hence Londoners in general, to a higher risk of communicable disease. Tuberculosis (TB) in particular is now a real threat in London. A Parliamentary briefing in December 2002 by the Stop TB Partnership (which includes the World Health Organisation and the Department for International Development) pointed out that over the decade from 1991, TB infection rates have risen by 80% in London. In 2001 the city had more than 40% of all UK cases of the illness.<sup>67</sup> The briefing stated:

*'The highest rates in the UK are in parts of London with high levels of immigration, such as Brent, Newham, Ealing and Hackney. The TB burden in these boroughs is not dissimilar to Russia, China and Brazil – countries that have some of the highest rates in the world.'*

10.8 Information so far available suggests TB is very rare among newly-arriving asylum seekers, relatively few of whom come from countries where it is widespread. Home Office screening of 5,000 asylum seekers passing through its Kent induction centre in the latter half of 2002 found not one case of infectious TB amongst them, while officers of London PCTs confirm that they see little sign of the disease among recent arrivals.<sup>68</sup> But as Section 55 destitution drives up the level of overcrowding within London's refugee communities, asylum seekers and host population alike will be increasingly at risk of infection. People denied support under Section 55 are particularly likely to seek accommodation in the four London boroughs just identified where TB now has the strongest hold, since their established refugee and asylum seeker populations are among the largest in London.

### **Access**

10.9 All asylum applicants with or without support are still entitled to use NHS services. Whether she or he will get access to them in practice is another matter. Even for asylum seekers with state support, access to health care is problematic. Barriers they face include language, cultural differences, and ignorance of entitlement - both on their part and among health practitioners - as well as outright discrimination.

10.10 One key problem for most asylum seekers is difficulty in getting through the main gateway to primary care, by registering with a GP. A survey of 140 asylum seekers in one London borough, it was reported, had showed that 95% of them had been refused GP registration at least once in the preceding 12 months. PCT officers further noted that poor access to GP services was reflected in high use of hospitals' A & E facilities by asylum seekers in London.<sup>69</sup>

10.11 Once in-country asylum seekers are excluded by Section 55 from any support system, these barriers to getting health care may be still harder to surmount:

- they will have even less chance of finding a stable address than asylum seekers placed by statutory agencies, making it more difficult to register with a GP
- frequent moves, as they lodge wherever they can, will rule out continuity of care and (again) limit their ability to manage medical conditions
- prejudice towards asylum seekers may deepen among health practitioners
- confusion about entitlements could be compounded, especially for these Section 55 asylum seekers, by more stringent regulations on charging foreign users of NHS services as from April 2004.<sup>70</sup>

10.12 Difficulty in getting help with health costs is likely to present an additional obstacle. In principle asylum seekers can, like other people on very low incomes, claim exemption from health charges by getting an HC2 certificate. Those supported by NASS and by the local authority should be provided with a form to claim this certificate, or be told how to get it. But for asylum seekers shut out of the state support system by Section 55, getting hold of the HC2 certificate may be very difficult. Even if they obtain it, unstable and marginalised living conditions could mean it is little use to them in securing health care. They may for example be unable to document the fact that they have no income or permanent address.

### **Section 55 and health services: an example**

10.13 Potential effects of Section 55 outlined above appear not to have shown up so far in NHS data on demand for healthcare services. In part this must simply reflect the barriers encountered by destitute asylum seekers in making contact with health services. Even when they do, existing monitoring systems within the NHS – as in the case of social services – seem unlikely in general to identify those contacts as Section 55-related, still less to record the needs associated with them.

10.14 Where a particular service has sought actively to address the needs of these asylum seekers, however, the scale of potential demand has rapidly become clear. The point is illustrated by a specialist GP practice in Brixton which takes asylum seekers on referral from the Refugee Council. The two GPs at this report that

- the third quarter of 2003 saw a sharp rise in Refugee Council referrals for emergency consultations
- in December 2003 they saw between three and six Section 55 cases per day
- increased service to asylum seekers is stirring tensions among patients
- consultations with Section 55 patients take 40 minutes on average, four times the period normally allocated, partly because of the need for interpreting

- Section 55 has also brought them extra administrative tasks, such as drafting letters supporting requests to NASS for reconsideration of negative decisions
- the result is a heavy extra demand on their time including substantially longer per day at the surgery, with knock-on effects on other work.

10.15 The specific experience of this practice is of course in part a function of its link with the Refugee Council, just as LB Lambeth's activity in providing social services support (para.9.14) also reflects its connection with those premises. But a GP's surgery in north London situated near a large block of asylum seekers' emergency accommodation also reports seeing a sharp rise in Section 55 cases late in 2003.

### **Overview**

10.16 **Asylum seekers denied support by Section 55 will be at even greater risk of personal ill-health than other asylum applicants, because of**

- **destitution**
  - **poor and overcrowded housing conditions**
  - **sleeping rough**
  - **particularly severe barriers to getting timely access to health care.**
- Public health in London is likely to be jeopardised too by the social effects of this measure, in which overcrowding combine with extreme poverty. Though full effects will only become visible where these asylum seekers have better access to health services, and practitioners focus more explicitly on their needs, Section 55 can clearly be expected to generate significant extra pressure on London health services over time.**

## Chapter 11

# Community safety

11.1 Changes in policy towards asylum seekers can have repercussions for community safety in London – positive or negative – at three levels which are distinct though interrelated:

- public attitudes: risks of hostile action against asylum seekers and refugees, and risks of stimulating racism more generally
- other threats to the safety and security of asylum seekers
- risks of criminal behaviour by asylum seekers.

### **Public attitudes and risks to community safety**

11.2 Hostility to asylum seekers poses a far-reaching threat to community safety in London. Since these are people whose right to stay in the country is being questioned by the state, views can be freely voiced about them that would be socially unacceptable – even illegal – if expressed about other groups. But as almost all asylum seekers will also belong to ethnic minorities, prejudiced views about them become a permitted code for racism. In this way such hostility puts at risk not just the safety of asylum seekers themselves, and London's wider refugee population with whom they will be identified, but also the chances of its diverse racial and ethnic communities continuing to live and interact in peace and mutual trust.

11.3 Metropolitan Police Service (MPS) data on racist incidents in London have not to date shown how many involve asylum seekers or refugees. As from autumn 2003 the MPS began to flag their presence in hate crime incidents.<sup>71</sup> But more localised survey evidence together with a long series of violent attacks, including murders, in any case leaves little doubt that refugees and asylum seekers live with the constant threat of open aggression.<sup>72</sup>

11.4 Recent experience has confirmed the way this threat is linked on the one hand to public debate on asylum, and on the other hand to more general racist activity. After a spate of negative statements about asylum during election campaigns in 2000 and 2001, groups monitoring racism observed an increase in attacks on Black and minority ethnic communities whilst the overtly racist British National Party (BNP) gained in electoral support, notably in London. Its leader declared '*The asylum seeker issue has been great for us. This issue legitimises us*'.<sup>73</sup> In July 2001 a group of UK civil rights organisations reported to the UN Human Rights Committee: '*Negative presentation of asylum seekers has not only led to direct attacks on asylum seekers but also an underlying greater hostility towards all those from ethnic minority communities, and heightened racial tensions. ... the recent riots in Oldham and Bradford are to an extent directly linked to the above.*'<sup>74</sup>

11.5 A further wave of public hostility to asylum seekers in winter 2002-03, again associated with antagonistic comment from some politicians and parts of the

media, brought further electoral advances for the racist BNP. As one of its organisers said in February 2003: *'Asylum was the touchpaper we needed to win the support, to give us credibility and legitimacy'*.<sup>75</sup>

11.6 The role of some media in fuelling hostility towards asylum seekers and refugees has been investigated in recent research. A report by Article 19 in 2003 analysed the *'inaccurate and provocative'* treatment of asylum issues by UK media.<sup>76</sup> A forthcoming study in London, for the Mayor, suggests how media coverage of asylum issues may heighten the risk of community tensions and harassment.<sup>77</sup> Such tensions emerged during winter 2002/03 when refugee community and support organisations (RCOs) across London reported a wave of antagonism fuelled by current, intensely hostile media coverage. The GLA received reports that RCO offices had been attacked, staff were in fear and some organisations had stopped publicising their services for fear of being targeted.<sup>78</sup>

11.7 Realistically Section 55, and the Government's arguments for it, must be expected over time to fuel the public animosity already faced by asylum seekers:

- Section 55 turns many of them into outcasts of a kind unknown anywhere else in the UK social system - lending credence to the idea that they do not belong here at all, regardless of their asylum claim
- it is likely to sharpen negative stereotypes as a growing number of destitute asylum seekers are obliged to live in degradation on the streets, with some (below) possibly turning in desperation to crime
- by arguing explicitly in support of Section 55 that in-country claims are *'less credible'*, ministers have officially endorsed a two-tier view of asylum seekers which legitimises prejudice against any one of them.

**Box 6: Section 55 and community tensions – Lambeth, October 2003**

Statement by Deputy Borough Commander, Lambeth Borough Police, on events following the arrival locally of groups of Section 55 asylum seekers<sup>79</sup>

*'Sleeping on the streets increases the vulnerability of the individuals concerned, many of whom speak little or no English. There are clear and obvious dangers and I am aware that some of the asylum seekers have, allegedly, been verbally abused and that stones have, allegedly, been thrown at them whilst sleeping. ... We treat such allegations with the utmost seriousness – we will not tolerate any form of hate crime. ...*

*'... the current situation has the potential to seriously damage community relations within Lambeth. Some members of the community are spending nights with the asylum seekers, to demonstrate their support [for] them, whilst others feel antagonistic towards them – it is a divisive issue. Lambeth is a richly diverse Borough and I do not want to see the positive relationships, that have been built, damaged as a result of this ongoing situation.'*

11.8 A major London-wide effort will be needed to tackle the threefold challenge outlined above: public perceptions, the threat to asylum seekers and refugees, and the wider threat to race relations. Section 55 will magnify the task by pushing many of the people most directly involved into a marginal existence where, even more than other refugees and asylum seekers, they may hesitate to report harassment and violence to the police.

11.9 The Metropolitan Police Service (MPS) has of course a key part to play addressing this challenge. Its Diversity Directorate opened discussions in 2003 with refugee community groups to work out how it could most effectively respond. But input will be needed from other agencies too, including London boroughs and a range of voluntary bodies – not least from refugee community organisations themselves, at the same time as they struggle to cope with the humanitarian crisis created by Section 55. Statutory and other organisations including refugee community representatives are brought together in the London Forum on Refugees Asylum Seekers and Community Safety, convened by the Mayor, which during 2003/04 began examining how they could jointly address the issues raised by Section 55.

#### **Other risks to asylum seekers' safety and security**

11.10 Besides heightening the risks posed to asylum seekers by public hostility, Section 55 is likely to make people who fail to apply for asylum on entry highly vulnerable to dangers of other kinds. This is because, if the NASS decision is negative, it will

- leave them destitute, with no legal means of raising money to live on
- subject most to extreme forms of homelessness, making it harder to protect them and leaving them very dependent on whoever offers shelter
- cut them off from all public agencies except IND, with which their contact may be haphazard
- give them, even if genuine refugees, an incentive to opt for illegal residence rather than an asylum application (see chapter 5)
- make it particularly unlikely that they will feel able to tell police about threats or crimes against them.

11.11 In these circumstances, new arrivals made destitute by Section 55 must be more exposed than other London residents to crimes such as

- assault of all kinds, including rape and other sexual violence
- robbery
- domestic violence - where they came to the UK in a couple without dependants, or formed a relationship post-entry
- debt collection with menaces, by gangs who smuggled them into the UK.

11.12 Illegal labour is however the area where Section 55 is likely to have the widest and most damaging implications for these people's security. For those who are trafficked into the UK, Section 55 may make little difference because they have already been coerced into work. But for the majority who have not been trafficked, destitution resulting from Section 55 can be expected to apply a different kind of

coercion. Denied the right to work legally by Government policy, they will (chapter 5) face a choice between staying inside the law to pursue their asylum claim, and looking for an income outside it. Those who opt for an income will presumably start with sectors of London's economy where irregular immigrant labour is already widely used, under very exploitative conditions. In some sectors, like catering and construction, they could face serious risks to their health and safety.

11.13 London's sex industry can be expected to take many of them – women primarily, though possibly some men and children too. There is growing evidence of the extent to which this industry relies on immigrant women. A 1999 survey of sex workers using support projects across the UK found that as many as 50% of them in central London were of foreign origin, and around 33% in other parts of London.<sup>80</sup> This contrasted sharply with other regions of the country where the great majority of sex workers were from the UK. Commenting on the conviction of a West London pimp in January 2003, the MPS Vice Squad commented that in the 'hundreds' of brothels and saunas now operating in outer London '*most of the prostitutes ... were believed to be asylum seekers or illegal immigrants, most of them from Eastern Europe, Thailand or the Baltic states*'.<sup>81</sup>

11.14 Women appear, on initial evidence, particularly likely to get negative decisions under Section 55.<sup>82</sup> A sex industry already vigorously acquiring migrant women workers is likely to be adept at recruiting women asylum seekers made destitute in London by Section 55. Given the degree of their dependence on anyone who can offer shelter and subsistence, some could end up effectively as slaves. More generally women taking sex work because of Section 55 destitution may well face much the same dangers as their co-workers who come to London as trafficking victims: intense exploitation, intimidation and abuse.

11.15 Onward trafficking to other countries for sexual exploitation is a further risk that could face those caught by Section 55. Preliminary police studies suggest already '*that the UK is a transit country for underage prostitutes, with West African girls passing through the UK en route to Italy*'.<sup>83</sup> Such trade could readily be developed to include adult women for sale abroad. Women left destitute and completely isolated by Section 55 could be particularly vulnerable to pressure to submit to it. One reason they might do so is the belief that, with no legitimate means of surviving in the UK, this is their only route out of the country.

### **Risk of criminality among asylum seekers**

11.16 The limited available information indicates that – even if a tiny minority arrive with criminal intent – asylum applicants overall are if anything less likely to be involved in crime than the host population. An overview by the Association of Chief Police Officers of policing needs associated with asylum seekers and refugees affirms that '*the vast majority of people seeking asylum are law abiding citizens*'.<sup>84</sup>

11.17 But those stripped of state support by Section 55 must, to a greater degree than other asylum seekers, be at risk of getting involved eventually in crime. Most

obviously this could be a question of day-to-day survival. Denied any right to take paid work and any legal income, some may turn to various kinds of property crime in order to get food and clothe themselves.

11.18 Section 55 itself then adds a further strong inducement for asylum seekers without NASS support to slip into crime. For most applicants with a negative Section 55 decision, the only realistic prospect of securing state support is to show that otherwise their Article 3 ECHR rights will be breached, thus engaging the Home Secretary's duty under Section 55(5). But the Appeal Court, followed by the Home Office, has made clear that the applicant must '*reach or be verging on*' degradation of an advanced kind before their Article 3 claim can succeed. Both suggest criminal behaviour as one of the criteria they would use to judge whether the applicant has reached a sufficient degree of degradation to activate his/her Article 3 rights (see chapters 2, 3). Under the current Section 55 regime, therefore, the destitute asylum seeker's chances of retrieving NASS support are clearly enhanced by demonstrating that s/he has come close to or even engaged in begging, prostitution or theft.

11.19 Beyond this initial stage of petty crime lies a more serious danger. Because Section 55 gives them such strong incentives to live outside the law, some of these asylum seekers could be drawn into more organised crime. This could happen through intimidation, with criminal gangs exerting leverage on them by threatening to expose (say) their illegal employment or petty crimes committed to raise personal income. It could involve an exchange of accommodation or money for services rendered to the gang. Conceivably some destitute asylum seekers could be attracted to gangs simply as the kind of long-term 'support system' they have been denied by the state. Whatever the reason, the individual who gets involved in crime at this level would clearly have little chance of escaping.

11.20 **There is, in summary, a serious risk that community safety in London will be undermined by the withdrawal of support to in-country asylum seekers, at each of the levels we have identified:**

- **it is likely to feed public hostility to asylum seekers and reinforce linkages between these attitudes and racist activity in London, giving new impetus to hate crime**
- **asylum seekers affected by Section 55 will be more exposed to other crimes of theft and violence, and to a variety of risks arising from illegal employment in London's sex industry and other sectors**
- **total destitution imposed by this measure increases the risk that some more vulnerable people could be recruited into organised crime.**



## Chapter 12

# Conclusion and recommendations

16.1 This report has shown that withdrawal of state support from in-country asylum applicants must, on available evidence, be expected to have a substantial and largely harmful impact not just on those individuals but also on

- the stability and viability of the wider UK system for asylum reception
- refugee and asylum seeker communities in London
- race relations in the city more generally
- London's effort to tackle homelessness
- public health
- community safety
- agencies providing emergency support in these service areas and hence
- these providers' budgets.

16.2 Key conclusions, highlighted through the report, are listed in full in the Executive Summary in its opening pages. They confirm that the interests of Londoners require immediate action by the Government, either to rescind Section 55 of the Nationality Immigration and Asylum Act or to amend it so that it affects only the small proportion of in-country asylum claims which are manifestly abusive.

16.3 Pending action to repeal Section 55, this impact assessment suggests several steps which could help London to deal constructively with its consequences:

### Recommendations

1. The GLA should

(a) discuss with the following agencies the need for regular information on the impact of Section 55 of the NIA Act in their areas of competence, and invite them to share it with the GLA as it becomes available:

- London boroughs
- London Region NHS
- Metropolitan Police Service
- Inter-Agency Partnership and other relevant voluntary sector partners dealing with asylum seeker and refugee accommodation, and with homelessness

(b) collate such information and feed it into the monthly review meetings which the Home Secretary has agreed to hold with the Mayor and key partners, to assess the impact of this measure on London.

2. The Home Office should be asked to monitor and publish data on the following:

- disability among asylum applicants

- characteristics of in-country applicants denied support including location, time since entry to UK, age, gender, country of origin
  - asylum application outcomes for in-country applicants denied support.
3. The Home Office, together with ODPM and DoH, should be asked to meet the GLA, ALG, voluntary and community sector partners and other key providers to discuss
- costs imposed on London providers by its implementation of Section 55
  - mechanisms to ensure full reimbursement of these costs.
4. The support of Parliament should be sought
- for repeal of Section 55 of the Nationality Immigration & Asylum Act 2002, or failing this,
  - for amendment of Section 55 so as to
    - restrict its use to manifestly abusive claims
    - ensure an effective and sustainable way of challenging negative decisions.
5. Pending change in Section 55 itself, Home Office should be asked to plan a review of the implementation of this measure after six months - with a call for evidence from other agencies – to look for example at
- available information on its impact
  - guidelines to NASS
  - inter-agency working
  - resource issues.

## **ANNEX A**

**Resource Information Service**

### ***Section 55 Asylum Seekers in London: a Survey of Community Organisations***

**Report commissioned by the Mayor of London**  
December 2003

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## **1. Introduction**

This report provides the results of a short piece of research carried out by Resource Information Service on behalf of the Mayor of London. We surveyed over 300 Refugee Community Organisations, specialist services for refugees and asylum seekers and other voluntary organisations to attempt to discover how many of them were seeing asylum seekers with no access to public funds because of Section 55 of the Nationality Immigration and Asylum Act 2003. We also attempted to learn more about the demographic profile, housing and other support needs of these potentially destitute individuals.

## **2. Background**

In November 2003, Resource Information Service (RIS) was commissioned by the Mayor of London, Ken Livingstone to carry out a survey of the quantity of work done by refugee communities and other services to support asylum seekers who have no access to public funds under Section 55 of the Nationality, Immigration and Asylum Act 2002.

There was much anecdotal evidence that Refugee Community Organisations (RCOs) and other helping services are seeing increased numbers of asylum seekers in need of help because they have been refused support under Section 55. The Mayor of London is seriously concerned about the impact of Section 55, not only causing severe hardship to many asylum seekers but also putting extra strain on communities and services across London. With other concerned organisations, he intends to lobby central Government to change this policy. But to do that he urgently needs a clearer picture of its effects across the city.

## **3. Summary of findings**

In total, the 75 responding organisations saw 283 asylum seekers directly affected by Section 55 on the survey day. This represented some 14% of their total client case load on that day, and over 25% of the asylum seekers they saw. From the response rate, we estimate total numbers of section 55 asylum seekers using services in London to be around 500 per day.

The demographic profile shows roughly equal numbers of men and women, of all ages, but with the majority under 40 years old. The largest single country of origin was Somalia, but there were also significant numbers from Iraq, Turkey and Zimbabwe, although the spread of countries was very wide. There were very few people from the more settled communities in the UK, although China, India and Pakistan all feature in the Home Office statistics as producing significant numbers of asylum seekers.

The majority of these asylum seekers are living a transitory lifestyle, staying with friends, family or other members of their community. However a significant number (46) were reported to be sleeping rough in London, at a time when total numbers of rough sleepers are under 300 (GLA *Homelessness Bulletin* September 2003).

These asylum seekers also have a range of other support needs, predominantly food and clothing, although large numbers of them also have physical and mental health/emotional support needs. The surveyed groups are attempting to provide services to meet these needs, but for many the only response is to refer people on to other services.

#### 4. Methodology

We carried out a postal survey to get a snapshot of services provided on one day, Wednesday 26th November 2003. In total 311 organisations were sent questionnaires. This survey group was comprised of 92 RCOs and specialist services for refugees and asylum seekers that we anticipated recently arrived asylum seekers were likely to in contact with. A wider pool of 219 other RCOs, homelessness services and other voluntary organisations that might be in contact with asylum seekers were also sent the survey.

The survey asked for quantitative information about the numbers of people seen that day, how many were asylum seekers and how many asylum seekers affected by Section 55 were seen. Respondents were also asked to provide information on others without access to public funds for other reasons (eg. appeal rights exhausted) in order to eliminate them from this research.

The focus on services provided on one day only, was designed to minimise the amount of double-counting from asylum seekers using multiple services. Where services were closed on the survey date, they were allowed to measure either the Tuesday or Thursday of that week. Whilst some double-counting is still possible, we are confident the effect is minimal.

All 311 organisations were sent the questionnaire, covering letter and guidance notes (see Appendix A). This was followed up by a fax to over 200 organisations, and telephone calls to the 92 priority organisations (see above).

Following the survey date, respondents were chased up by phone, email and fax to maximise the response rate. Again, research staff concentrated on obtaining responses from the 92 priority groups. Where survey data seemed unusual, or where numbers provided were notably high, groups were interviewed by phone to verify their numbers.

#### 5. Response rate

A total of 75 completed survey forms were returned, for an overall response rate of 24%. However the response rate from the priority list of 92 services was 50%. We consider this response rate to be high enough to draw substantive conclusions from.

The response rate was adversely affected by several factors:

1. A very short timescale for the project, forms went out only 6 days before the survey date.
2. The survey date falling on the day after Eid (some RCOs took 2-3 days holiday).
3. The poor state of the postal service in London meant that many forms took over a week to arrive by 1st class post

Type of organisation	Forms sent	Forms returned	Response rate
Priority list	92	47	51%
Others	219	28	13%
<b>Total</b>	<b>311</b>	<b>75</b>	<b>24%</b>

## Type of organisation responding

The organisations responding were mainly RCOs, or other specialist services for refugees and asylum seekers:

Type of organisation	Number	Percentage
Refugee Community Organisation	36	48%
Specialist service for refugees/asylum seekers	20	27%
Other voluntary organisation	17	23%
Other statutory service	1	1%
Other	1	1%
<b>Total</b>	<b>75</b>	<b>100%</b>

## 6. Results

### Clients

In total, the 75 responding organisations saw a total of 1,999 clients on the date of the survey. Of these, 1,117 (56%) were asylum seekers. And of these asylum seekers, 283 were unable to access public funds because of a decision under Section 55. This represents 14% of their total case-load on that day and 25% of the asylum seekers they saw. Respondents also frequently commented that such cases took up more staff time and other resources to deal with than other cases.

Category	RCOs and specialist lists	Other	Total	Percentage
Total number of people seen on survey day	1,211	788	1,999	100%
Number of asylum seekers	838	279	1,117	56%
Number affected by section 55	231	52	283	14%
Others not in receipt of benefits or NASS	58	11	69	3%
<b>Total</b>	<b>1,211</b>	<b>788</b>	<b>1,999</b>	<b>100%</b>

As would be expected, most (61%) of asylum seekers were reported as clients by RCOs or specialist services for refugees and asylum seekers. But an even higher proportion of asylum seekers affected by Section 55 went to these services (81%). Given that we have a high response rate (50%) from this section, we could cautiously estimate similar numbers in the non-responding services, leading to a total daily case-load across London of over 500 people affected by Section 55.

The remaining questions focus only on the 283 clients affected by Section 55. In some cases total response do not total 283, as one service couldn't provide data on gender or living arrangements for their clients.

### Demographic profile

#### Gender

The split by gender was fairly even, with slightly more men (53%) than women (47%).

Gender	Number	Percentage
Male	131	53%
Female	117	47%
<b>Total</b>	<b>248</b>	<b>100%</b>

## Age

The age range covered people of all ages, from young people disputing their age with the Home Office, to people over 60. However the majority of people were in the 26-40 age group.

Age range	Number	Percentage
18-25	77	27%
26-40	157	55%
41-60	43	15%
over 60	6	2%
Not known	0	0%
<b>Total</b>	<b>283</b>	<b>100%</b>

## Country of origin

People affected by Section 55 come from a wide range of countries. The table below lists the 10 countries that produced the highest numbers of new asylum seekers in 2003, but 43% of Section 55 cases come from other countries.

Interestingly we found very few people from the more settled communities in the UK. Although China, India and Pakistan all feature in the list of 10 countries that produce the highest numbers of asylum seekers, they hardly featured in this survey. We attempted to contact Chinese community groups, who confirmed they weren't seeing asylum seekers. It may be that asylum seekers from these countries are less likely to remain in London, as there is a wider spread of community support than for other communities.

Nationality	Number	Percentage
Somalia	52	18%
Zimbabwe	26	9%
China	0	0%
India	5	2%
Iraq	29	10%
Iran	11	4%
Turkey	29	10%
Afghanistan	5	2%
Pakistan	3	1%
Other nationalities	122	43%
Not known	1	0%
<b>Total</b>	<b>283</b>	<b>100%</b>

## Living arrangements

We asked respondents to ask where people affected by Section 55 slept on the night prior to the survey date.

Situation	Number	Percentage
Sleeping rough in the street	46	20%
Staying in an unoccupied building/squatting etc.	20	9%
Staying with friends/family/community	130	56%
Staying in lodgings provided by a community group	23	10%
Other	15	6%
Not known	14	n/a
<b>Total</b>	<b>248</b>	<b>100%</b>

Although the majority of clients affected by section 55 are staying with friends, families or other members of their community, respondents reported that they have a very transitory lifestyle, moving from friend to friend, anxious not to outstay their welcome.

And a total of 46 people were reported to have slept rough the night before, with a further 20 people sleeping in abandoned buildings, vehicles, bus stops, telephone boxes etc. If these figures are accurate (and outreach teams working with people sleeping rough tend to find fewer people bedded down than advice services and day centres report to them), then this is a worrying figure. Latest data from local authorities shows a total counted rough sleeping population in London of under 300.

### Support needs

Respondents were also asked what other support needs their clients affected by Section 55 presented with. Although the practical needs for food and shelter were the most prevalent need, the majority of clients also had physical health problems and emotional/mental health support needs.

<b>Support need</b>	<b>Number</b>	<b>Percentage</b>
Accommodation	205	72%
Food	200	71%
Clothing	154	54%
Washing facilities	119	42%
Health needs	141	50%
Emotional/mental health needs	160	57%
Other	68	24%
<b>Total</b>	<b>283</b>	<b>100%</b>

Whilst the RCOs and other groups surveyed attempt to provide services to meet their clients' needs, in every case some needs were not met. The most common response is often to try and refer people on to other services to meet their needs.

<b>Support need</b>	<b>Number</b>	<b>Percentage</b>
Accommodation or help finding accommodation	117	41%
Food	138	49%
Clothing	70	25%
Washing facilities	49	17%
Health needs	50	18%
Emotional/mental health needs	105	37%
Referral to other services	199	70%
Other	39	14%
<b>Total</b>	<b>283</b>	<b>100%</b>

### Credits

Researcher: Cathy Jacobs, Researcher, RIS  
 Project Management: Matt Harrison, Director, RIS

Resource Information Service (RIS) is a registered charity (289076) and company limited by guarantee (1804411). RIS was established in 1987 to research, write, publish and distribute information to help people in need due to homelessness, poverty, ill-health, disability, disadvantage or discrimination.

**Appendix A Questionnaire**  
**Resource Information Service**

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**Asylum Seekers who have no access to public funds**

***Snapshot survey of service provision in London on Wednesday 26th November 2003***

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***Please return to RIS, Bramah House, 65-71 Bermondsey Street, London SE1 3XF  
by 3rd December 2003.***

Name of service	
Address	
Name of person completing this form	
Telephone number	

***Please complete questions 1-4 and as many of the others as possible. Please refer to the guidance notices for help completing this form, or telephone Cathy Jacobs on 020 7939 0665. Note that questions 5 - 10 only relate to the section 55 asylum seekers that you saw on the day.***

**1 What type of organisation are you?**

Refugee Community Organisation

Specialist service for refugees/asylum seekers

Voluntary organisation

Statutory service

Other (please specify)


**2 On the day of the survey (26th November), how many people used your service?**

**3 How many of these people were asylum seekers?**

**4 How many of the asylum seekers using your service on that day had no access to public funds/benefits or NASS support?**

	<i>number</i>
Because of a negative Section 55 decision	
Other reason (if known please specify)	

***Note that the following questions only relate to those clients with a negative Section 55 decision whom you saw on Wednesday 26th November. Please give total numbers for that day***

**5 Gender of those with a negative Section 55 decision**

	<i>number</i>
Male	
Female	

**6 Age of those with a negative Section 55 decision**

	<i>number</i>
18-25	
26-40	
41-60	
over 60	
not known	

**7 Country of origin of those with a negative Section 55 decision**

	<i>number</i>
Somalia	
Zimbabwe	
China	
India	
Iraq	
Iran	
Turkey	
Afghanistan	
Pakistan	
Other nationalities	
Not known	

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**8 Where were they staying on the night of Tuesday 25th November?**

Sleeping rough in the street

Staying in an unoccupied building/squatting/sleeping in a vehicle etc.

Staying with friends or family

Staying in lodgings provided by a community group/voluntary organisation

Other

Not known

*number*



**9 What additional support needs did this group have?**

Accommodation

Food

Clothing

Washing facilities

Health needs

Emotional/mental health needs

Other

*number*


**10 Did your group/organisation provide support with any of the above?**

Accommodation or help finding accommodation

Food

Clothing

Washing facilities

Health needs

Emotional/mental health needs

Referral to other services

Other

*number*


11 Please make any comments about the impact of Section 55 negative decisions on your community group or organisation below

*Please return this questionnaire by 3rd December to:*

**Resource Information  
Service  
Bramah House  
65-71 Bermondsey Street  
London  
SE1 3XF**

**Contact: Cathy Jacobs  
Tel: 020 7939 0665  
Fax: 020 7939 0642  
Email: [cathy.jacobs@ris.org.uk](mailto:cathy.jacobs@ris.org.uk)**

## Appendix B Covering letter

20th November 2003

Dear colleague,

### **How much work are you doing supporting asylum seekers refused access to public funds under Section 55?**

Resource Information Service has been commissioned by the Mayor of London, Ken Livingstone to carry out a survey of the quantity of work done by refugee communities and other services to support asylum seekers who have no access to public funds under Section 55 of the Nationality, Immigration and Asylum Act 2002.

There is much anecdotal evidence that Refugee Community Organisations and other helping services are seeing increased numbers of asylum seekers in need of help because they have been refused support under Section 55. The Mayor of London is seriously concerned about the impact of Section 55, not only causing severe hardship to many asylum seekers but also putting extra strain on communities and services across London. With other concerned organisations, he intends to lobby central Government to change this policy. But to do that he urgently needs a clearer picture of its effects across the city.

This is why he has asked us to do this survey. It is taking place over one day Wednesday 26<sup>th</sup> November. We would simply like you to record how many asylum seekers you see over this day who fall into this category and a few brief details about their circumstances and what support you have provided. Please see the enclosed questionnaire and guidance notes to help you complete the form.

Please note that survey data results will be aggregated and therefore anonymous. Individual details you provide will not be disclosed without your consent.

In pressing the Government to change its mind about Section 55, the Mayor of London is working closely with other major organisations. Our survey is very simple, as you will see, gathering basic figures on how many asylum seekers are affected. We are doing it quickly because the Mayor wants to use the figures at a meeting with Members of Parliament next month. It will be followed up with a national study by the Refugee Council, looking more deeply into the effect of Section 55 on people denied support and on voluntary and community sector services.

So in a few days' time some of you may receive a second questionnaire from the Refugee Council. We do realise that these enquiries put extra demand on your time, when you have so much else to cope with. But the Mayor asks us to reassure you that these enquiries will both play a vital part in revealing the truth about Section 55, and helping to make the case for change.

If you would like any help with the form or further clarification, please ring Cathy Jacobs on 020 7939 0665.

Yours sincerely,

Cathy Jacobs

## Appendix C Guidance notes

The survey is to take place on **Wednesday 26<sup>th</sup> November 2003**. If your service is closed during this day, you can use a day on either side of the date (Tuesday 25<sup>th</sup> or Thursday 27<sup>th</sup> of November) as your survey day. We want to collect data showing how many people you have seen during the course of the chosen day and of those, how many are asylum seekers who have had a negative decision under Section 55 of the Nationality, Immigration and Asylum Act 2002. (See below for definitions.)

If you are not sure of exact numbers where required, we would like you to make an estimate.

Contact details. This is not essential information, but will help us if we need to follow up with further queries.

1. Type of organisation. Please tell us what type of group or service you are.
2. Please give us the total number of people using your service during the day of the survey.
3. Of the total number of people using your service how many are asylum seekers. For the purposes of this survey, an asylum seeker is someone who has put in a claim for asylum to the Home Office and the claim is under consideration by the Home Office or is awaiting an appeal in the courts.
4. We are interested particularly in those who have had a negative decision under Section 55 of the Nationality, Immigration and Asylum Act 2002 and are not eligible for NASS support. This came into force on January 2003. Applicants need to demonstrate that they have applied for asylum, meet criteria for destitution and must have applied for asylum 'as soon as reasonably practicable' if not at the port of entry. If they cannot demonstrate these things and do not fall into the few exemption groups, they have access to basic support (shelter and food) denied.  
Please note that there are other reasons for asylum seekers being refused support by the National Asylum Support Service (NASS), for example failing to comply with any conditions attached to support, eg dispersal.
- 5, 6, 7 Please provide us with a breakdown of details about the people you have seen with negative Section 55 decisions. How many men, women, their approximate age and country of origin.
8. Please provide us with details of where these asylum seekers were staying on the night before the survey.
9. Please tell us of any other support needs you had identified for this group.
10. Please tell us if you were able to provide any additional support services for this group and what these were.
11. Finally please add any comments you may have about the impact on your service of people made destitute by negative decisions under Section 55.

For specific queries about NASS (National Asylum Support Service) contact NASS on 0845 602 1739. For queries about the support status for individual clients contact the NASS Support and Discontinuation Helpline on 0845 600 0914 (Monday-Friday 9am – 4.45pm).

**Please return the questionnaire by Wednesday December 3<sup>rd</sup> 2003.**

*If you would like any help with the form or further clarification, please ring Cathy Jacobs on 020 7939 0665. Return the questionnaire to Resource Information Service, Bramah House, 65-71 Bermondsey Street, London SE1 3XF or fax 020 7939 0642*

## Appendix D Comments from respondents

Note: RCO = refugee community organisation

VO & S = voluntary organisation - specialist services for refugees and asylum seekers

VO & S	<b>On form</b> "... was not contacted by any people affected by section 55 on the date. However we are aware than many other organisations in the sector are being approached by people in this situation. We do not operate a drop-in service .... It may also be the case that people affected by section 55 find it difficult to access our advice line because of lack of access to a phone or that people don't know of its existence."
VO & S	<b>On form</b> "we have more and more clients affected by this. As many of our clients are receiving room and board only while awaiting section 55 decisions, I anticipate the scope of the problem to increase significantly in the near future. All we can do is provide clothing and blankets, limited money and information about soup kitchens in the area." And " we have two large centres near us accommodating people waiting section 55 decisions, so the potential for a large influx of homeless people is worrying."
RCO	<b>By phone</b> Has only 1 client affected by section 55. She applied in-country and has been refused NASS support in spite of being disabled (paralysis and wheelchair user, continence problems). Has demanded considerable amount of time attending hospital, social service and Refugee Legal Centre with her to provide help and interpreting for her. Still has no means of support. Other service users have leave to remain or applied at port of entry. <b>On form</b> "it is not our policy to help our clients financially as we are a charity organisation, but in this specific case we had no choice but to do so". And "there are some Armenian Asylum Seekers who receive no support from NASS, but they are lucky to have some relatives or friend in the UK".
Vol Org	<b>On form</b> On the day of the survey "we had three clients only but as a whole we received 10 clients who have negative decisions. This decision affects this client group – mental, physical and emotional. They feel hopeless in life and we feel hopeless to support them. .... NASS must support them since they are inside this country. As women their situation makes them insecure and vulnerable where ever they go to ask for help."
RCO and Vol org	<b>On form</b> "our advice service has been dealing with relatively increased number of asylum seekers who does not have access to any service when they need specialist help which our service does not have the capacity or expertise to provide."
RCO	<b>On form</b> "this is the most inhumane decision ever made by the home office. Refused asylum seekers come to us for immediate support, but very regrettably, we say 'sorry we do not have the resources'. We know that these people have no body to turn to in such desperate situations, but it is all we can do. Mad! Cruel!"
RCO	<b>On form</b> "Section 55 ...is very hard for asylum seekers because when they arrive most of them they can't speak English and also they escape for life from their from their countries when they arrive they don't have money, enough clothes."
RCO	<b>On form</b> "the impact is very severe on individuals, and we try very hard to assist them to find accommodation and encourage them to find a job to be able to survive."
RCO	<b>On form</b> "Desperate asylum seekers visit us every week, hoping to get assistance and support from us and our members. We cannot cope with the suffering of the client group as we cannot meet their basic needs eg accommodation, money, etc."
RCO	<b>On form</b> "It creates so much additional pressure on resources. We can't refuse to help them, they are our community members. This is unfair, inhuman and pushes people into further hardships. We desperately need either emergency help or repeal this section."
RCO	<b>On form</b> "Those negative decisions have affected our clients and some of them are suffering from a severe depression".

RCO	<b>On form</b> "there have been a good many people affected by section 55.... Has left people destitute and desperate. People also feel ashamed as they take hospitality from others in the community. ... Our records show 43 people affected by section 55."
RCO	<b>On form</b> "As a result of section 55 we come across destitute people who are in need of our support but we are not in a position to help other signpost/refer them to the refugee council."
Vol Org	<b>On form</b> "... we have surprisingly only seen a couple of such cases in the past 6 months! Perhaps the message is getting out that agencies such as ours cannot provide any accommodation. I asked our outreach manager if there are any such cases seen during the street count 2 nights ago, and again there were no such clients." (Day centre service with street team)
VO & S	<b>On form</b> "there are daily drop-ins of asylum seekers desperately looking for help. They move from one advice service to another in search of assistance."
VO & S	<b>On form</b> "We run a food project ... it was originally set up when the voucher system was introduced ... but has had to be amended in response to changing legislation." ... "our organisation is predominantly concerned with providing advice to clients as well as other services such as a mentoring project and after-school and holiday activities for refugee children. An increase in the help needed by clients who have been affected by section 55 means that staff time and effort is taken away from our core work. Our food project was not designed to support those who had no food whatsoever and so has meant we have withdrawn this support from other clients. We have emergency food stocks of non-perishable goods but the supply of these is erratic as it relies on donations, mainly from local churches. Whilst at Harvest Festival time we have relatively good stocks at other times we have very little food available so those affected by section 55 cannot rely on us every week. We will be unable to sustain this help as we see more people every week without any support, whether awaiting the start of NASS support or benefits, or have been refused asylum but are not yet to be removed from the country. In these cases of asylum refusal many involve children who NASS and Social Services both deny responsibility for."
RCO	<b>On form</b> Section 55 is causing "hardship to many asylum seekers and also putting extra strain on communities and services."
VO & S	<b>On form</b> "we are currently assisting approximately 8 clients who are affected by negative section 55 decisions. We saw no one on this date."
RCO	<b>On form</b> "our network is not able to give them adequate support. They need first of all a shelter, we can't provide them. They need financial support and food. We can give them on a weekly basis, (once a week) food parcels. They need desperately emotional support. We can't give them since our funds to have a counsellor ran out."
RCO	<b>By phone</b> "we see many prisoners of conscience who have been refused support – this is a major problem – we are helpless, we can't do everything we are only a small organisation. We sometimes fundraise for them from other humanitarian organisations like the Prisoners of Conscience Appeal Fund. They may get a one off payment of £300-£450 – that's all."
VO & S	<b>On form</b> "we have four clients (male/female). None of them gets any support and really they are in a bad shape."
RCO	<b>On form</b> "many of our target group (Asylum Seekers) are helpless in obtaining their basic needs of shelter, food and clothing"
Vol Org	<b>On phone</b> "the asylum seekers we have contact with here are established/have ILR – we are not seeing newly arrived asylum seekers or those with negative section 55 decision that I know of." (Day centre service with street team)

RCO	<b>On form</b> "Asylum seekers who are destitute with no support can be involved in shop lifting which is forced to them because they are hungry with no clothes. Many will be in bad health which can lead to chronic illness."
VO & S	<b>On form</b> "we have allocated staff to deal with the number of clients affected by section 55 refusals. This impacts on our general service provision, it is work we are not funded for and it forms a basic and essential service in advice and advocacy for this client group. We have an allocated amount of time and money to overturn negative decisions and have statistics on all of our clients seen to date under section 55 if needed".
RCO	<b>On form</b> "We get about 25 clients a month who come to us with section 55 negative decisions. However on the 26 <sup>th</sup> Nov we did not see any such clients. These clients are mainly supported by friends and relatives. A few had been forced to opt for voluntary assisted return to their country. We have helped 22 such clients".
RCO	<b>On form</b> "The impact of section 55 is causing severe damage to the lives of our Angolan clients ... [who] are affected mentally and physically. The organisation support seems to be completely restricted. The organisation is unable to assist them further. It's inhumane."
VO & S	<b>On form</b> "2 of our section 55 clients arrived in UK severely traumatized after having spent long spells in prison and tortured. They were too sick to make an asylum claim. Even the HO interview was stopped during interrogation due to clients mental health."
VO & S	<b>By phone</b> Spoke to P who said we really need to speak to hostels and emergency accommodation where people have been staying who receive negative decisions and have to throw people out. They will be doing some outreach work in the near future to try and find where people are going. <b>On form</b> "we are not set up to deal with destitution, and have no resources to provide adequately for people who are deprived of accommodation and finances -this is a financial drain on the services offered by the organisation -we have no means of referral to other organisations and there seems to be no-one to cater with providing for of the basic necessities of people affected by section 55 [e.g. Shelter; Refugee Council; ]
VO & S	<b>On form</b> "Homeless clients have attended the centre outside of the usual opening hours for the day centre. This means time spent doing necessary administration is decreased as we attend to such clients. We then give them food (to take away), clothes and sleeping bags. Time is spent trying to understand and be understood. Generally clients who attend and present as homeless add an additional 45minutes to 1 hour to the days work."
VO & S	<b>On phone</b> "We haven't seen anyone with negative section 55 decision in the last couple of months. We cannot provide any help or accommodation, so I think people here on the grapevine and they do not come to us. We can only provide advice, not accommodation."
RCO	<b>On form</b> "Most of the Refugees we work with arrival at our service as last resource, frustration, scared and worried about the discrimination they feel being as refugees and impending regulations of children going to care if their applications are denied. They are the most venerable and emotionally weak. We offer specialist support in Somali language and we referred them appropriate services for further assistance."
RCO	<b>On form</b> "...those who comes to this country, they are coming to save their life. There are 45 people ... (registered with us) not accepted by the home office. They don't have anything, food or accommodation. There are about 250 or more people, and we are collecting the data."
RCO	<b>On form</b> "Section 55 is one of the worst legislation and the way they interpret it is worse. This is not fair, and it is against human rights..."
RCO	<b>By phone</b> "on a typical day we see 2 or 3 people in need. Most of these have had a negative section 55 decision, but we cannot provide food, shelter, clothes."

RCO	<b>On form</b> section 55 has “caused a lot of emotional and psychological problems to Asylum Seekers who have no-where to receive financial support. We think if this situation is to continue, London would be the city of crime, beggars, violence etc.”
RCO	<b>On phone</b> “it’s harder for men – I had this young man and I paid for all his fares... a young woman, I had stay with me. We are very limited, but we cannot be indifferent, I have no choice.” And “we spend a lot of time looking for relatives – distant ones who can put them up, anywhere, but they can’t stay long and some end up on the street.”
VO & S	<b>On phone</b> “section 55 causes emotional and psychological difficulties alongside the practical difficulties they are already facing and the uncertainty of life here.” And “we are not sure why we are seeing so few people affected by section 55 here.”
VO & S	<b>On form</b> “Asylum seekers affected by section 55 include young women, survivors of torture and people with no family or friends in UK. Local refugee groups have seen people refused support even when they claimed asylum only one or two days after their arrival in UK. The burden of supporting such asylum seekers is falling upon local asylum seekers and refugees who are already often living in poverty and lack enough resources to meet their own needs. Vulnerable female asylum seekers are being put at risk of rape or racial attack as they are left with no choice but to sleep rough. The situation will get worse as winter draws in - when asylum seekers will be left starving on the streets in the cold weather. There are indeed many legitimate reasons why asylum seekers may not be able to claim asylum as soon as they arrive – including ignorance about asylum procedures, fear/trauma, poor health and having no choice because they arrived at night or arrived in back of lorry and were dropped off nowhere near Home Office. Although asylum seekers with “special needs” should be exempt from these provisions, our experience suggests that it is extremely difficult to prove that asylum seekers have “special needs” and that vulnerable and/or disabled asylum seekers may also fall foul of Section 55.”
VO & S	<b>On phone</b> “Section 55 is a very harsh measure and indiscriminate. It is not clear for people arriving what they are supposed to do, when and where they should apply.”
VO & S	<b>On form</b> “we are seeing a steady increase in the numbers of people without any means of support, due to Section 55. Increasingly people are being ‘put up’ by members of their communities – who themselves are often just managing financially or emotionally.”
RCO	<b>On form</b> “The section 55 ...is having a very negative impact in our community. Those refused support and assistance are having a very difficult time. They are either sleeping rough or at friends houses which are already overcrowded.”
RCO	<b>On form</b> “large number of Somali community affected – they are suffering many problems and they do not know where to go”.
Vol org	<b>On form</b> “find myself in incapacity to help – witnessing inhuman, unjust, unfair treatment. Look everywhere to find support, help, organisation which can do something. Hours of unsuccessful work. Affect myself emotionally, professionally.”
VO & S	<b>On form</b> “section 55 has had a huge impact on our service in terms of providing clients with emergency provision such food and blankets.”
Vol Org	Do not see women affected by negative 55 decisions as yet. All their clients are living in hostels/EA.
RCO	<b>On phone</b> Reluctant to fill in the form. Not enough funds to support community members. Concerned that NASS questionnaire asks asylum seeker if they are in contact with a community group. He fears if they say yes, they will not get NASS support. Most of their clients are not receiving NASS support – he thinks at least 75% because of Section 55. On an average day they see maybe 6 – 7 clients, 3 of whom are new clients. They have to try and find somewhere they can stay and food for them. They might spend 2 days here, 2 days there and leave before over

	staying their welcome.
Vol org	<b>On form</b> "We provide temporary accommodation for homeless persons and soup runs as need may demand" and "Our services have been oversubscribed and we have no more funding/resources specifically targeted at helping the survey clientele."
RCO	<b>On form</b> "Our community group come in UK with already several barriers. The section 55 make them more vulnerable, more emotional problems due to bad political atmosphere in their home country and the effect of this section 55."
RCO	<b>On form</b> "on 26 <sup>th</sup> November my section was closed for Eid celebration... but 2 weeks ago I had 2 clients with a negative section 55 decision. I signposted them to solicitor, we are a charitable organisation, we have not got any resources to help them either financially or to accommodate them."
RCO	<b>On form</b> "The Kongolese community groups have homeless asylum seekers (singles) left without any other support. We believe these people if the system refuses to support them financially, that could at least make further arrangement to accommodate them."
RCO	<b>On form</b> "this will increase the number of crime in the society."

Vol Org	<b>On form</b> ... "on the day we did not have any clients with a negative section 55 decision. But on 11/11/03 we had one client who was homeless, the client was male and from Sudan."
VO & S	<b>On form</b> "The section has put our organisation in a very difficult situation, whereby these clients come to us expecting help and unfortunately we are helpless to them" and of those with negative decisions "we referred some to Mr. .... The Refugee Trustee who provides food and basics but not accommodation. These clients ... were sleeping rough ie in churches, cars, and others from one friend to another and therefore no permanent address when it comes to communication with the immigration they informed us that they were worried of this problem as well."
RCP	<b>On form</b> Section 55 has "increased mental health problems, increased the number of people facing destitution. The Association cannot provide alternative help required for this group due to lack of resources. There is increased burden to friends and families who seek alternative help from the association. It is a traumatic experience for everyone."
VO & S	<b>On form</b> "Section 55 does not really affect our group as most were here before Section 55 took effect and most have children and therefore have to be given minimal support."
RCO	<b>By phone</b> "most of the people we see have leave to remain. None affected by negative Section 55 decision. I think most people with negative 55 decision are outside of London."

## **Appendix D – List of organisations that responded to the survey**

African Francophone Refugee Association  
African Swahiliphone Refugee Project  
Aldgate Advice Centre  
Alevi Cultural Centre  
Alhija Somali Community Association  
Angola Advice & Information Centre  
Angolan Community  
Asylum Aid  
Bede House Association  
Bromley Refugee Network  
Cabinda Community  
Cardinal Hume Drop-in Project  
Centre for Armenian Information & Advice  
Church Army Women's Day Centre  
Community of Malian Refugees  
Connection at St Martins  
Croydon Somalia Community  
Davish Entreprise Development Centre  
Day-Mer (Turkish-Kurdish Community Centre)  
East European Advice Centre  
Elderly Eritrean Association  
Ethiopian Community in Britain  
Farsophone Association  
Genuine Empowerment of Mothers in Society  
Greenwich Kurdish Community Association  
Halkevi Centre  
Harmony House  
Harrow Iranian Community  
Help Point  
Iranian Association  
Iraqi Community  
Islington Somali Community  
Kongolese Centre for Information & Advice  
Kurdish Advice Centre  
Kurdish Association  
Kurdish Community Centre  
Kurdish Information & Advocacy Centre  
Lambeth Somali Community Association  
Lewisham Refugee Network  
Lime Grove Resource Centre  
Migrant Advice & Advocacy Service  
Migrant Helpline  
Migrants Resource Centre  
Multi-lingual Community Rights Shop  
Newham United Tamil Association  
Notre Dame Refugee Centre  
Ogaden Community Association  
Primary Care Refugee Project  
Red Cross Refugee Unit  
Redbridge Refugee Forum  
Refugee Action Kingston  
Refugee Advice Centre  
Refugee Day Centre  
Refugee Health Access Project  
Refugee Network Sutton

Renewal Refugee and Migrant Project  
Rwandan Women Association  
Salvation Army  
Somali Advisory Bureau  
Somali Caring Education Association  
Somali Community Information Centre  
Somali Refugee Action Group  
Somali Speakers Association  
South London Refugee Association  
Southwark Day Centre for Asylum Seekers  
Southwark Refugee Project  
St Mary Magdalene Centre for Asylum Seekers  
St Pancras Refugee Centre  
Steatham Drop-in Centre for Asylum Seekers & Refugees  
Tamil Refugee Action Group  
Tawakalifeline  
The London Tamil Sangam  
The Refugee Council  
Turkish Education Group  
Zimbabwe Community Association



## Endnotes

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- <sup>1</sup> Examples of Parliamentary briefings by the Mayor on the NIA Bill are on the GLA website at <<http://www.london.gov.uk/approot/gla/publications/refugees.jsp>>
- <sup>2</sup> Refugee Council and Oxfam, *Hungry and homeless: The impact of the withdrawal of state support on asylum seekers, refugee communities and the voluntary sector* (forthcoming 2004)
- <sup>3</sup> House of Commons Home Affairs Committee, *Asylum Applications* (2<sup>nd</sup> Report of Session 2003-04), HC 281-1
- <sup>4</sup> Refugee Council and Oxfam op.cit. (2004)
- <sup>5</sup> Definition paraphrased from UN Convention on the Status of Refugees 1951.
- <sup>6</sup> Concise Oxford English Dictionary (Tenth edition 2002)
- <sup>4</sup> See Department of Constitutional Affairs Press Notice 463/03 'New asylum legal aid measures to cut out waste and duplication' (27 November 2003); also for detailed discussion of this reform, see House of Commons Constitutional Affairs Committee Fourth Report, 28 October 2003.
- <sup>8</sup> Home Office, *PLP Briefing: New Amendments to the Nationality Immigration and Asylum Bill*, 7 Oct 2002, p.4 (file ref. 0102file\Home Office\j07 NIA Amendments.doc).
- <sup>9</sup> (? Home Office), *Nationality, Immigration & Asylum Bill: Commons Consideration of Lords Amendments: Briefing for Labour MPs*, 1 November 2002, p.8 [file ref. 0102file\Home Office\k01 NIA Amendments.doc]
- <sup>10</sup> Home Office PN ref. 327/2002, 28 Nov 2002
- <sup>11</sup> Joint Committee on Human Rights, Twenty-Third Report, *Nationality Immigration and Asylum Bill – Further Report* (22 October 2002)
- <sup>12</sup> Court of Appeal (Civil Division), *Q & Others vs SSHD*, [2003] EWCA Civ 364, paras. 62-63
- <sup>13</sup> Court of Appeal (Civil Division), *T vs SSHD* [2003] EWCA Civ 1285, para. 19
- <sup>14</sup> Personal communication, from voluntary sector agency.
- <sup>15</sup> *IND Policy Bulletin 75 – Section 55 (Late Claims) 2002 Act Guidance* (version 3, April 2003)
- <sup>16</sup> Loc.cit.
- <sup>17</sup> House of Commons, *Hansard* 17 Dec 2003, col. 1594 – debate on Asylum & Immigration (Treatment of Claimants etc) Bill
- <sup>18</sup> A. Dent (NASS Deputy Director, Head of RANS Unit), letter to T.Crowley (Inter-Agency Coordination Team) 12 January 2004
- <sup>19</sup> Inter-Agency Coordination Team Briefing No.4, *Section 55 of the NIA ACT 2002: ECHR Reconsiderations – Guidance Notes for the Inter-Agency Partnership* (August 2003)
- <sup>20</sup> A. Dent (NASS Deputy Director, Head of RANS Unit), letter to T.Crowley (Inter-Agency Coordination Team) 16 August 2003
- <sup>21</sup> Counsel's Representations on behalf of Shelter, High Court of Justice (Administrative Court), *K, H, T & S vs SSHD*, 22 October 2003
- <sup>22</sup> House of Commons Home Affairs Select Committee, Second Supplementary Submission by Citizens Advice (November 2003)
- <sup>23</sup> Statement by Mr Justice Maurice Kay, High Court of Justice (Administrative Court), *Q, D, KH, OK, JK, H, T & S vs SSHD* with intervention of Shelter, 24 October 2003
- <sup>24</sup> Average cost of cases heard by the Asylum Support Adjudicator in 2002/03 was around £320 per case.
- <sup>25</sup> Loc.cit., for this and following paragraph.
- <sup>26</sup> Memo from Tim Crowley (Policy Development Advisor, Inter-Agency Coordination Team) to Inter-Agency Partnership managers et.al., 7 November 2003
- <sup>27</sup> Lord Filkin, *Hansard*, Lords (Report Stage), 17 October 2002 col. 979
- <sup>28</sup> *Hansard*, Commons, Written Answers, 21 October 2002
- <sup>29</sup> Home Office, *Asylum statistics – United Kingdom 2002* (August 2003). 'Positive decisions' refers to the combination of refugee status and exceptional leave to remain.
- <sup>30</sup> Medical Foundation for the Care of Victims of Torture, *As if the past had not occurred* (2002)
- <sup>31</sup> Refugee Women's Legal Group, *Gender Guidelines for the Determination of Asylum Claims in the UK* (1998)
- <sup>32</sup> Quoted from *As if the past had not occurred* (2002)
- <sup>33</sup> Communication to GLA from Medical Foundation for the Care of Victims of Torture, December 2002
- <sup>34</sup> Communication from Refugee Women's Resource Project, Dec. 2002.
- <sup>35</sup> *Hansard*, Lords (Report Stage), 17 October 2002 col. 978
- <sup>36</sup> The 1996 Act lacked the discretion available under Section 55 to support some in-country applicants. On the other hand it was rapidly offset by support provided through local authorities, which would now be unlawful.

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- <sup>37</sup> Robinson V and Segrott J, *Understanding the decision making of asylum seekers*, Findings 172 (2002), Home Office Research, Development and Statistics Directorate; House of Lords, Select Committee on European Union *Thirty-Seventh Report*, (Nov. 2002) Appendix 6 'Foreigners in transit at the Sangatte Centre'.
- <sup>38</sup> Koser K and Pinkerton C, *The social networks of asylum seekers and the dissemination of information about countries of asylum* (2002), report to Home Office Research, Development and Statistics Directorate – website <http://www.homeoffice.gov.uk/rds/pdfs2/socialnetwork.pdf> - summarised in the Directorate's Findings 165 (2002)
- <sup>39</sup> Data in this and following paragraphs are from Home Office *Asylum Statistics* 2001 and 2002, and Home Office *Quarterly Asylum Statistics* (various editions).
- <sup>40</sup> Data from Home Office, *Quarterly Asylum Statistics* Third Quarter 2003. Provisional data on times to initial decision.
- <sup>41</sup> Home Office *Fairer Faster and Firmer: A Modern Approach to Asylum and Immigration* Cm 4018 (1998)
- <sup>42</sup> Home Office, *Secure Borders, Safe Haven: Integration with Diversity in Modern Britain* CM 5387 (2002)
- <sup>43</sup> Letter from Home Office Minister Beverley Hughes to the Refugee Council, 5 December 2002.
- <sup>44</sup> A principal applicant is someone applying for asylum in their own right.
- <sup>45</sup> GLA pan-London meeting on Section 55, 22 October 2004.
- <sup>46</sup> Statement to GLA pan-London meeting on Section 55 (above).
- <sup>47</sup> Statement by Director of Shelter to High Court (Administrative Court), CO/153/2003 (October 2003)
- <sup>48</sup> Personal communication (January 2003)
- <sup>49</sup> London Housing Board (2003) *Homes and Communities in London: London Housing Strategy 2003*
- <sup>50</sup> Shelter (2002) Evidence to GLA Assembly, Public Services Committee, Scrutiny of Asylum Seekers and Refugees in London.
- <sup>51</sup> London Asylum Seekers Consortium, <<http://www.westminster.gov.uk/lasc>>
- <sup>52</sup> Resource Information Service (2003) London Hostels Directory 2003,
- <sup>53</sup> Combined Homelessness And Information Network (CHAIN), personal communication Jan. 2004
- <sup>54</sup> London Housing Board (2003) *Homes and Communities in London: London Housing Strategy 2003*
- <sup>55</sup> Westminster City Council (Appellants) v National Asylum Support Service (Respondents) 17 October 2002 (UKHL 38) at <http://www.publications.parliament.uk/>
- <sup>56</sup> See loc.cit. paras. 31, 44 for Lord Hoffman's doubts as to whether this outcome had been anticipated
- <sup>57</sup> Loc. cit. para.47
- <sup>58</sup> Roberts K and Harris J, *Disabled People in refugee and asylum seeking communities*, Social Care: Race and Ethnicity Series. P13 (2002)
- <sup>59</sup> Eg. Department of Health *Detailed activity data for councils 2000-2001*, at<[http://www.doh.gov.uk/public/pss\\_hm#council](http://www.doh.gov.uk/public/pss_hm#council)>
- <sup>60</sup> Letter, Beverley Hughes to Refugee Council 5 December 2002; communication to GLA from Refugee Council, December 2002; *IND Policy Bulletin* 75 (April 2003)
- <sup>61</sup> The Interim Scheme refers to London boroughs' residual responsibility to support asylum seekers who lodged applications in-country before autumn 2000, when NASS took over the support role all new applicants.
- <sup>62</sup> Unpublished information supplied to GLA by London Asylum Seekers Consortium, December 2003
- <sup>63</sup> This account is based on a letter from Chief Executive, LB Lambeth to Mayor's Office, December 2003.
- <sup>64</sup> British Medical Association - Board of Science and Education (2002), *Asylum seekers: meeting their healthcare needs*
- <sup>65</sup> GLA with London Health Observatory (2002), *Health in London: 2002 review of the London Health Strategy high-level indicators*
- <sup>66</sup> Bardsley M, Jones I R, Kemp V, Aspinall P, Dodhia H and Bevan P (1998) *Housing and health in London: a review* (Health of Londoners Project) at <<http://www.holp.org/publications.htm>>
- <sup>67</sup> *Guardian* 5 December 2002
- <sup>68</sup> Home Office screening exercise, reported *Guardian* 7 February 2003; consultation meeting, GLA Housing and Homelessness Team with London Primary Care Trusts, December 2002 (see next endnote).
- <sup>69</sup> Information from GLA consultation with London Primary Care Trusts (PCT), December 2002, on health and asylum seekers' accommodation. See submission by GLA Housing and Homelessness Team (13 January 2003) to Joint Scrutiny on Primary Care in London by the Mayor and Assembly.
- <sup>70</sup> Department of Health Press Release: ref. 2003/0533 30 December 2003, 'Hutton announces crackdown on health cheats'
- <sup>71</sup> Personal communication, MPS Diversity Directorate, October 2003
- <sup>72</sup> See for example LB Ealing (2002), *Crime and Disorder Strategy*; also ICAR (Information Centre about Asylum and Refugees), Kings College London, *Media Image, Community Impact* (forthcoming 2004)

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for a small-scale study of the degree of harassment faced by refugee and asylum seeker communities in one London borough

<sup>73</sup> Speaking in 2000, quoted *Observer* 1 July 2001

<sup>74</sup> *Guardian* 2 July 2001. Organisations taking part included Liberty and Amnesty International.

<sup>75</sup> Kevin Scott, BNP regional organiser in north-east England, *Guardian* 7 February 2003

<sup>76</sup> Article 19, *What's the story? Media representation of refugees and asylum seekers in the UK* (2003)

<sup>77</sup> Information Centre about Asylum and Refugees (ICAR), *Media Images community impact* (forthcoming 2004)

<sup>78</sup> The following examples are from discussion at a Refugee Council conference, London 28 January 2003, and a consultative meeting convened by Metropolitan Police, 31 January 2003.

<sup>79</sup> Letter from Supt. Malcolm Tillyer, Deputy Borough Commander, Lambeth 13 October 2003 (circulated to Community Police Consultative Group)

<sup>80</sup> Kinnell H (1999) *Sex work: coercion, migration and law enforcement policy in the UK*, Europap

<sup>81</sup> Quoted *Evening Standard* 16 January 2003

<sup>82</sup> Chapter 6 above.

<sup>83</sup> MPS Policing Organised Crime Unit (2002), *Briefing on Trafficking*, December

<sup>84</sup> Association of Chief Police Officers (2001), *Guide to Meeting the Policing Needs of Asylum Seekers and Refugees*

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ngôn ngữ của bạn, hãy gọi điện theo số hoặc  
liên lạc với địa chỉ dưới đây.

### Greek

Αν θα θέλατε ένα αντίγραφο του  
παρόντος εγγράφου στη γλώσσα  
σας, παρακαλώ να τηλεφωνήσετε  
στον αριθμό ή να επικοινωνήσετε  
στην παρακάτω διεύθυνση.

### Turkish

Bu broşürü Türkçe olarak edinmek  
için lütfen aşağıdaki numaraya  
telefon edin ya da adrese başvurun.

### Punjabi

ਜੇ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਦੀ ਕਾਪੀ ਆਪਣੀ ਮਾਂਝੀ ਭਾਸ਼ਾ ਵਿੱਚ  
ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਨੰਬਰ 020 7983 4100  
ਤੇ ਫੋਨ ਕਰੋ ਜਾਂ ਹੇਠਾਂ ਦਿੱਤੇ ਪਤਾ 'ਤੇ ਸੰਪਰਕ ਕਰੋ।

### Hindi

यदि आप इस दस्तावेज़ की प्रति अपनी भाषा में चाहते हैं,  
तो कृपया निम्नलिखित नम्बर पर फोन करें अथवा दिये  
गये पता पर सम्पर्क करें।

### Bengali

আপনি যদি আপনার ভাষায় এই দলিলের প্রতিলিপি  
(কপি) চান, তা হলে নীচের ফোন নম্বরে  
বা ঠিকানায় অনুগ্রহ করে যোগাযোগ করুন।

### Urdu

اگر آپ اس دستاویز کی نقل اپنی زبان میں چاہتے  
ہیں، تو براہ کرم نیچے دیئے گئے نمبر پر فون کریں  
یا دیئے گئے پتے پر رابطہ قائم کریں۔

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કોપીની જોઈશ તો, કૃપા કરી આપેલ નંબર ઉપર  
ફોન કરો અથવા નીચેના સરનામે સંપર્ક કરો.

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