



Section 4 Support

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PAFRAS (Positive Action for Refugees and Asylum Seekers) is an independent organisation based in Leeds. By working directly with asylum seekers and refugees it has consistently adapted to best meet and respond to the needs of some of the most marginalised people in society. Consequently, recognising the growing severity of destitution policies, in 2005 PAFRAS opened a 'drop-in' providing food parcels, hot meals, clothes, and toiletries. Simultaneously experienced case workers offer one-to-one support and give free information and assistance; primarily to destitute asylum seekers.

Below an underclass, destitute asylum seekers exist not even on the periphery of society; denied access to the world around them and forced into a life of penury. To be a destitute asylum seeker is to live a life of indefinite limbo that is largely invisible, and often ignored. It is also a life of fear; fear of detention, exploitation, and deportation.

It is from the experiences of those who are forced into destitution that PAFRAS briefing papers are drawn. All of the individual cases referred to stem from interviews or conversations with people who use the PAFRAS drop-in, and are used with their consent. As such, insight is offered into a corner of society that exists beyond the reach of mainstream provision. Drawing from these perspectives, PAFRAS briefing papers provide concise analyses of key policies and concerns relating to those who are rendered destitute through the asylum process. In doing so, the human impacts of destitution policies are emphasised. This, the first of these briefing papers, focuses on the provision of Section 4 support for those who have come to the 'end of process' in their asylum claim. It discusses the rationale behind Section 4 support and the wider context in which it has been created. And in doing so, it raises questions about the coercive basis of British asylum policy.

What is Section 4 support?

In 1998, the recently elected New Labour government set the tone of their future asylum policies through the publication of a White Paper *Fairer, Faster, Firmer – a Modern Approach to Immigration and Asylum*. At the core of the White Paper's proposals was a desire to demarcate 'genuine' from 'bogus' asylum seekers, and in

doing so create a system which deterred the latter from entering the country. As such, a range of measures were introduced which explicitly sought to ensure that conditions for asylum seekers were markedly removed from the rest of the population. Among these, a National Asylum Support Service (NASS) was created to administer a separate system of 'welfare', and a system of voucher support was introduced for asylum seekers through the Immigration and Asylum Act 1999 (the 1999 Act).

After considerable pressure, the voucher system was abolished for asylum claimants and cash payments (set at 70% of income support) were (re)instated. However, voucher provision was retained through Section 4 of the 1999 Act for those who have come to the 'end of process' in their asylum claim, but are unable to return home through 'no fault of their own'.

Section 4 criteria

Applications for Section 4 support may be made if the applicant has no child under 18, and is classed as a 'former' asylum seeker. Further, one or more of a number of criteria must be met. These are that the applicant is destitute (and can provide evidence of this), and:

- is taking all reasonable steps to leave the UK;
- is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason;
- is unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available;
- has made an application in Scotland for a judicial review of a decision in relation to his asylum claim, or, in England, Wales or Northern Ireland, has applied for such a judicial review and been granted permission to proceed or;
- the provision of accommodation is necessary for the purpose of voiding a breach of a person's Convention rights, within the meaning of the Human Rights Act 1998 (this normally applies when fresh evidence for an applicants claim for asylum is produced).

Following this, if an application is successful then the individual is entitled to £35 per week in vouchers and access to accommodation should be provided.

Securing provision of Section 4 support

Even when the relevant conditions for Section 4 support are fulfilled, securing this support is not guaranteed. Providing evidence of destitution, by its nature inherently difficult, is compounded by a number of factors. Where an applicant has been staying at a friend's house who is also seeking asylum – as is often the case – they may be reluctant to explain this due to fear that this may harm their friend's application. Further, statutory organisations are sometimes unwilling to provide letters of support to provide evidence of destitution. As such, applicants are increasingly reliant on charities, faith based networks, and community organisations to acknowledge their situation.

This can be a humiliating and degrading experience as applicants may be forced to ask the same networks they are involved in, and often integral to, to write letters explaining the gravity of their situation. And even where destitution is acknowledged the further criteria of Section 4 support can be so stringent that applications are nevertheless refused. In 2006, for example, a woman with terminal cancer explained to PAFRAS that she was refused support because it was deemed, no matter the seriousness of the illness, that she was well enough to be returned.

Whilst certain refused asylum seekers will not be accepted back into their country of origin (applying, for example, to many Eritrean's) this, further, does not guarantee Section 4 support. Even where it is accepted that it is too dangerous for certain people to return to a country, this does not necessarily mean that this will be interpreted as equating to 'no viable route of return'. In such circumstances one would assume that this, instead, would suggest applicability for Section 4 under the European Convention on Human Rights (ECHR). However, this is not the case. Despite what is widely recognised as an ongoing campaign of ethnic cleansing in Darfur, for example, the UK government continued deporting refused asylum seekers until this was brought to a halt by the Court of Appeal in April 2007. In a judgment regarding returning Darfuri's of non-Arab background, the Court of Appeal ruled that it was unlawful to return people into conditions which would significantly reduce their quality of life (such as into squatter camps). Nevertheless, guidance produced by the Border and Immigration Agency (BIA) only two

months later stated that in cases where it was believed that such conditions would not be 'unduly harsh' then an assisted voluntary return package could be offered through the International Organisation for Migration (IOM). Instead of offering Section 4 support then on the basis that the general situation is too unsafe for asylum seekers to be returned (as advocated by, for example, the UNHCR); it is offered instead if an individual 'volunteers' to return home. Moreover, failure to do means that an individual is classed as being outside of their country not because of a well founded fear of persecution, but because they choose not to relocate back. As has been well documented, in such contexts people can be left with a stark choice of either destitution or 'volunteering' to return to their country from which they have fled. As one male asylum seeker told PAFRAS, he had signed for voluntary return even though he was terrified of returning home as 'destitution became too much'.

According to the Home Office, over 8,700 people were receiving Section 4 support at the end of the first quarter of 2007. This number could be significantly higher. Yet unawareness of Section 4 provision, difficulty of securing this support, and fear that signing up will automatically mean having to 'voluntarily' return ensures that many people who are eligible for Section 4 support do not receive it. For those who do secure Section 4, they may be obliged to participate in unpaid 'community activities' and refusal to comply can lead to termination of support.

Section 4 housing

The provision of Section 4 accommodation operates in a public/private market whereby landlords and housing providers procure contracts from NASS. This housing is offered on a 'no-choice basis' and there is no obligation to house an asylum seeker where support networks have already been established. On the contrary, uprooting people from areas where people are settled is not unknown. Concerns have been noted that Section 4 accommodation is of particularly poor standard with a variety of organisations expressing alarm. Further, in 2006 an Inter-Agency Partnership (IAP) Report emphasised that such lack of standards are embedded; with government ministers suggesting that quality should remain 'basic' (and lower than NASS accommodation) in order to 'convey the concept of return'. Although

NASS has cancelled contracts with a number of housing providers due to poor conditions, as the IAP has stated these standards are in part tied to the contractual arrangements that are put in place between NASS and those who provide accommodation. For the asylum seeker on Section 4 support, this is of little comfort. If an applicant refuses an offer of accommodation then Section 4 support can be withdrawn, and another application will have to be put in. This climate of fear ensures that many people in Section 4 accommodation who are in a position to complain do not do so. A female asylum seeker from Cameroon for example, who had been given Section 4 on the basis that she was 7 months pregnant, was afraid to make a complaint that the room she had been allocated had no bed. As such, whilst pregnant, for a period she slept on a floor.¹

Claims that complaining has led to negative consequences are not uncommon. After the first night of being housed a man seeking asylum from Ethiopia reported to his housing provider that his accommodation was infested with insects. When this was not acted upon he began contacting a variety of agencies for assistance and, after the bites became so severe that they began drawing blood, a health worker further added support. Only after the housing provider was threatened with being reported to the police – over a month after the first complaint had been made – was other accommodation offered. This, however, took another few days and in the meantime the applicant's electricity supply was cut off.²

Experiences of voucher provision

The provision of £35 per week in food vouchers exists through a contractual relationship between selected supermarkets and NASS. In some cases the full amount has to be spent in one visit, as change will not be given. In others only food can be purchased and there is no provision for toiletries and other essential items.

As the vouchers are only usable in particular locations the Section 4 recipient is forced to travel to the food provider that is chosen for them. For many, this can be far from their accommodation and without access to money can require walking long distances. Moreover, the recipient has to collect vouchers from their housing provider on a weekly basis and, again, this can be some distance away. One woman close to giving birth, for example, has told PAFRAS that on numerous

occasions she has been forced to walk for miles in order, simply, to purchase food for a week. Spending the vouchers consequently presents a set of logistical difficulties. A range of research reports have emphasised that many people receiving Section 4 support struggle to buy everything they need. Further, research has noted that vouchers stigmatise those who purchase items with them. A combination of such factors has resulted, not surprisingly, in a market of vouchers whereby they are 'sold' for cash. This is rarely an equal exchange, however, and £35 worth of vouchers seldom trades for £35 in 'real' money.

Conclusions

The considerable opposition to the use of voucher support for asylum seekers implemented in the 1999 Act was based on a variety of factors. Some of these have been outlined above, and the case against voucher provision was so thorough that the New Labour government eventually (re)instated cash support. This body of criticism is no less relevant when applied to those who have come to the 'end of process'. In certain regards, on the contrary, it is more pertinent. Contracting out the provision of Section 4 support has fostered a market whereby many recipients are scared, vulnerable, and open to exploitation. Yet a principle of less eligibility ensures that voucher provision is 'limited' – as explained by a Home Office Minister in 2006 – so as not to 'act as an incentive to remain'. In this context, the failed asylum seeker is consolidated as a modern incarnation of the 'undeserving poor' whereby those who can secure Section 4 support are, by design, consigned to a peripheral existence. As one male asylum seeker, receiving Section 4 support due to a judicial review of his case explained:

*'It is better than the streets, but does not allow me to live. Am I worth less than other people? I feel like I am being punished.'*³

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¹ Interview with author, June 2007.

² Interview with author, July 2007.

³ Ibid.