Consultation on
"Reforming support for failed asylum seekers and other illegal migrants"
A Briefing for Local Authorities

The consultation paper is called ‘Reforming support for failed asylum seekers and other illegal migrants’ and can be found here: https://www.gov.uk/government/consultations/reform-of-support-for-failed-asylum-seekers-and-other-illegal-migrants.


DEADLINE FOR RESPONSES: Wednesday 9th September.
Responses should be sent to: FASSupportConsultation2015@homeoffice.gsi.gov.uk

1. Background to proposed changes to asylum support

People seeking asylum do not have permission to work in the UK, therefore many have no choice but to rely on financial support from the Home Office. They are only eligible for this government assistance if they have no other means of supporting themselves whilst they wait for a decision to be made on their application for asylum. This support is called Section 95.

People who have been refused asylum but cannot return home (e.g. they are waiting for travel documents or there is no safe route to their country) are entitled to apply for support. Families remain on Section 95 support, while single people can apply for a different support called Section 4

The government has made a number of announcements in the last few weeks aimed at reducing the support given to asylum seekers and refused asylum seekers.

- On 16th July, the government announced that they would be introducing a new flat rate of support for all people in receipt of Section 95 support from 10th August 2015. As a result, children seeking asylum will see their weekly cash payment from the Home Office cut by £16 per week. A couple with one child will now receive just under £111 per week, 40% less than a comparative family on income support. This change is not within the scope of this consultation.

- On 3rd August, the government announced they would make it an offence for landlords not to evict a refused asylum seeker. Landlords who do not evict illegal migrants or fail to carry out a "right to rent" check in advance of letting a property could face up to five years in prison. This proposal is not within the scope of this consultation.

The Consultation

- On the 4th August, the government published plans to make substantial changes to Section 95 and Section 4 support. The plans include proposals to withdraw asylum support for families that have been refused refugee protection. The government states this support currently costs £45 million per year and the changes will affect at least 2,900 families (10,100 parents and children) that have sought asylum. The consultation also makes reference to proposed changes to Section 4 which
would affect single applicants who have had their cases for asylum refused. However, until further details are set out in the regulations it is **unclear how eligibility criteria would change**, and the likely impact on Local Authorities is therefore unknown.

The Home Office is seeking feedback on these proposals, as set out in the ‘Reforming support for failed asylum seekers and other illegal migrants’ consultation paper.

### 2. Why this matters

The proposed changes remove all means of support from families who have been refused asylum in the UK. Children will be left totally without access to food or a roof over their heads, let alone medicines, clothes or books.

With no permission to work, and no access to public funds, these individuals will be forced to access whatever support is available to them through Local Authorities, food banks, charities and faith-based groups, or face the indignity and fear of life on the streets.

Lots of research has shown that destitution has incredibly damaging effects on the physical and psychological health of people seeking asylum. It places them at risk of exploitation and can force them to use survival strategies such as illegal working and prostitution. While this of course causes unnecessary suffering for the individual, it also has an effect on the wider community and increases pressure on local health and social services.

Our evidence shows that these measures will not discourage people from seeking asylum in the UK nor will they increase the numbers leaving the country. They will, however, force children and vulnerable adults further into poverty and utter destitution; breaking the spirit of our country’s proud tradition of providing protection and contravening our duties under the Children’s Act 1989.

### 3. Why should Local Authorities respond to the consultation?

- The consultation specifically invites responses from Local Authorities.
- **Previous attempts to withdraw financial support** for asylum seekers have shown that Local Authorities, Charities, faith groups, and generous local people are forced to step in and compensate.
- The withdrawal of support from families leaves Local Authority staff (social workers, housing officers etc) in an impossible position. As a previous attempt to withdraw support to families piloted in 2004-05 in Bradford, Kirklees, Leeds, Wakefield, Blackburn, Bolton, Manchester, Oldham, Rochdale, Salford, Stockport, Trafford and Wigan has shown, these measures are incompatible with the Children Act 1989 and Human Rights Act 1998 and leave Local Authority staff with critical moral and ethical dilemmas but also fearful they are leaving themselves open to litigation.

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1 Proposals include an exception for those who have a further submission pending or otherwise cannot leave through no fault of their own, which would allow for their grace period to be extended.

2 For more info on the effects of destitution on health, see:

- [http://www.qni.org.uk/docs/Homelessness_is_bad_for_your_health.pdf](http://www.qni.org.uk/docs/Homelessness_is_bad_for_your_health.pdf)
- [http://www.refugeecouncil.org.uk/assets/0001/7074/Health_access_report_jun06.pdf](http://www.refugeecouncil.org.uk/assets/0001/7074/Health_access_report_jun06.pdf)
- [http://www.redcross.org.uk/~/media/BritishRedCross/Documents/What%20we%20do/UK%20services/Greater%20Manchester%20destitution%20report.pdf](http://www.redcross.org.uk/~/media/BritishRedCross/Documents/What%20we%20do/UK%20services/Greater%20Manchester%20destitution%20report.pdf)
• The proposed changes are certain to have a financial impact on already stretched Council budgets, both directly (Home Office estimate the ‘Cost to Local Authorities of supporting applications while a leave to remain application is decided - £31.9million’) and indirectly (for instance through increased pressure on local health and mental health services caused by making people destitute).

• Local Authorities are already doing a lot to help people seeking safety to settle and integrate, and in certain limited circumstances (e.g. if they have a severe health issue or have a child in need of care), Councils have a duty to support asylum seeking individuals facing destitution.

• In the consultation document, the Home Office states that the new proposals should not create an extra burden for Local Authorities, and project they will deliver savings for the public purse. They also state that if Local Authorities were to end up supporting people the Home Office has withdrawn support from, they “would wish to discuss and address those impacts and their financial implications with local authorities in accordance with the new burdens doctrine and with the Devolved Administrations.” However, the consultation contains no clear commitments about how such costs would be offset.

• Even under current policy, the national No Recourse to Public Funds Network has noted that Local Authorities and the third sector are already effectively being used as “a safety net for those in limbo”. In a March 2011 report, the NRPF network noted that “The financial risk of supporting people with NRPF who have no access to support from the UKBA is falling on local authorities, but the decision making is out of their control.” This situation is likely to be exacerbated by the proposed changes.

• The withdrawal of asylum support will make it more difficult for vulnerable families with children to access NHS services, following changes to entitlement to access healthcare brought in under the Immigration Act 2014. Local Councils also have duties around protecting public health, safeguarding vulnerable adults and promoting community cohesion, all of which could be undermined by these proposals.

4. Consultation Questions

There are 10 questions:

Question 1 refers to proposed changes that will affect asylum seekers applying to be released from detention on bail. See Detention Action’s briefing for guidance on this.

Question 2 is about Section 4 support for individuals.

Questions 3, 4 and 5 refer to changes to support for refused families

Questions 6, 7 and 8 look at the impact on Local Authorities

Questions 9 and 10 seek input on the impact assessments and likely effects on people with protected characteristics.

If you can’t answer all the questions just answer those that are relevant to you so that your knowledge and experience are fed into this vital consultation.

5. What have Local Authorities and MPs done to date on the issue of asylum support?
Prior to these announcements, 43 MPs, 9 City Councils and over 320 civil society organisations had already asked the government to ensure that people seeking refugee protection are afforded sufficient financial support set at 70% of income support so that they can truly meet their essential living needs. This is one of four key advocacy goals for ending asylum destitution promoted by the Still Human Still Here coalition.

13 Local Authorities (Glasgow, Bristol, Sheffield, Oxford, Bradford, Leeds, Liverpool, Kirklees, Swansea, Leicester, Manchester, Birmingham and Cambridge) have also shown their opposition to current government policies that force those seeking safety into poverty and homelessness by passing a Motion Against Destitution.

Parliamentarians have responded to the first regulations to cut S95 support rates for asylum seeking families by tabling two Early Day Motions calling for the regulations to be withdrawn. One was by Shadow Immigration Minister David Hanson MP and a second was tabled by John McDonnell MP. Both the Scottish National Party and the Green Party have submitted written questions to the Home Office querying their decision to cut asylum support for children. You can find out more about this, and the action we are encouraging people to take on our website.

6. Additional information

Levels of asylum support, even prior to the changes coming in to force on the 10th August, are already too low. Families seeking asylum already struggle to meet the essential living needs of their children. Research conducted by Refugee Action in 2012 found that two thirds of lone parents living on Section 95 could not buy non-prescription medicine, or baby products such as nappies, formula milk or bottles. This evidence formed part of the successful legal challenge against the Home Office.

The use of harsh policies as a deterrent has been proven to be ineffective and also based on flawed logic, since the Home Office’s own research reveals that access to benefits is not a motivating factor in seeking asylum in the UK. When the government withdrew all support from asylum seekers in 1996, the number of applications for asylum actually rose significantly. As a policy decision, it simply wasn’t effective. Moreover, the cost of supporting these asylum seekers quickly fell on local communities, with Local Authorities being required to meet the costs under various safeguarding regulations aimed at preventing destitution. This resulted in significantly greater costs in the long term as each Local Authority had to set up its own system of support payments locally. After much lobbying by Local Authorities, the Home Office set up a new national system in 2000.

Previous governments have also piloted similar measures to withdraw support from refused asylum seeking families in the past, and then scrapped them when they were proven to be ineffective and costly. In 2005, the Home Office tested using Section 9 to remove Section 95 support from families that had been refused asylum in order to encourage the families to leave the country. The scheme was piloted on 116 families across West Yorkshire, Manchester and London. A report on the pilot and research capturing Local Authorities’ views demonstrated that the new measures created distress and panic among families; Local Authorities believed “that Section 9 is wholly incompatible with the Children Act 1989” and risked breaching their duties under the Human Rights Act 1998; and the initiative did not encourage affected families to return home. One third of families involved in the pilot absconded, whilst fewer than 1 in 10 families made any steps to return back to their country of origin.

At the time, Ian Johnson, Director of the British Association of Social Workers commented “This piece of legislation is clearly more concerned with coercing people to go back to their country of origin than supporting children and their families...it places social workers and their employers in an insidious position from our point of view...I would hope that the government would consider repealing this kind of legislation. If this is a civilised country we live in, then there is no place for that kind of treatment of families.”

Just because someone is refused asylum, it does not mean that they do not need protection. A significant number of people whose asylum claims have been refused and whose support would be removed under this proposed legislation submit fresh evidence of their need for refugee protection and later have their claims accepted.

The UK has a proud tradition of welcoming and protecting refugees. The UK also has a proud tradition of protecting the rights and wellbeing of children, with a commitment to safeguard and promote children’s welfare in all policy-making. We are worried that these new measures will force already vulnerable people into truly desperate situations.

7. **Research and further information**
   - [Asylum Seekers with Children to See Support Rates Cut, 16th July 2015](#)
   - [The Children’s Society briefing on flat-rate support, 16th July 2015](#)
   - [All Party Parliamentary Inquiry into Asylum Support for Children and Young People, 2012-13](#)
   - [How to Win the Argument – Support Rates, Regional Asylum Activism Briefing](#)
   - [How to improve support and services for destitute migrants, 20 July 2015](#)
   - [‘Social Services Support to People with, A National Picture’, NRPF Network, March 2011](#)
   - [“Inhumane and Ineffective - Section 9 in Practice” A Joint Refugee Council and Refugee Action report on the Section 9 pilot, Jan 2006](#)
   - [Local Council Motions Against Destitution](#)
   - Detention Action Note on ‘Reforming support for failed asylum seekers and other illegal migrants’ 5 August 2015 (available from your Regional Asylum Activism co-ordinator as a separate document).

**Briefing by**

[Regional Asylum Activism Project](#) | [http://regionalasylumactivism.org](http://regionalasylumactivism.org)