

Newcastle JSNA: Refugees and Asylum Seekers December 2008

'Where are we now?'

Facts and Figures

It is essential that we understand the needs of refugees and asylum seekers in context of the different circumstances and legal statuses that determine their entitlements. The term, 'refugee' has a precise legal definition under the 1951 UN Convention on Refugees, to which the UK is a signatory. It describes a person who

"...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country for his nationality, and is unable or, owing to such a fear, is unwilling to avail himself of the protection of that country"

Anyone can claim refugee status in a country which a signatory of the 1951 convention. In addition, the terms 'refugee' and 'asylum seeker' have particular meanings in the context of UK immigration law – the Refugee Council provides a useful, plain English summary:

- An **asylum seeker** is a person who has left their country of origin and formally applied for asylum in another country but whose application has not yet been decided.
- A **refugee** is someone whose asylum application has been successful and who has permission to stay in another country having proved he or she would face persecution at home.
- A 'Failed' asylum seeker is a person whose asylum application has been completed but failed and who has no other protection claim awaiting a decision. Some failed (refused) asylum seekers voluntarily return home, the Government forcibly returns other. Some are unwilling or unable to return because it is not safe or practical for them to do so.
- An 'Illegal Immigrant' is someone whose entry or presence in a country contravenes immigration laws. There is no such thing as an illegal asylum seeker – the UK has signed the 1951 Convention on Refugees, which means that anyone has the right to apply for asylum in the UK.

It is also important that we distinguish between asylum seekers/refugees and **migrant workers** from those countries who have recently joined the European Union. People from these countries, such as Poland and the Czech Republic, are

free to move anywhere within the EU to live and work, although there are tight restrictions on the benefits to which they may be entitled in the UK.

The process of getting refugee status is long and complicated, as is the process of appeal. Under the current asylum system, a person who claims refugee status upon arriving in the UK will receive support under **section 95** of the Immigration and Asylum Act 1999. If the UK Government decide that the claim meets the criteria laid down in the 1951 UN Convention on Refugees the person will be granted refugee status and have limited leave to remain, usually for five years, after which their case will be reviewed.

Should the UK government refuse the initial claim the applicant can appeal to the Asylum and Immigration tribunal and they will continue to receive support until they have exhausted all right to appeal. If they have exhausted all right to appeal, the Government requires that they leave the country. If the government accepts that it is currently not possible for them to leave the country then they may still be entitled to limited support – see '**section 4** support' below.

There are, in addition, some circumstances where a local authority might support vulnerable asylum seekers under either the **National Assistance Act 1948** or the **Children Act 1989**. This may include failed asylum seekers who would otherwise have no entitlement to public support. The details of these circumstances are set out in the next section.

The Government expects failed asylum seekers to leave the country. Those unwilling or unable to do so are not entitled to any support from public funds and may end up destitute. This means they have no legal entitlement to housing, means of subsistence or healthcare. The voluntary and community sector in Newcastle is working under great pressure to address the basic needs of these destitute asylum seekers.

Legal Statutes

The UK asylum rules entail an often-confusing array of legal statuses for those people applying for refugee status and moving through the system. This section provides a summary of the most common legal statuses and different kinds of support offered to refugees and asylum seekers in Newcastle. Table 1 sets out the number of people in Newcastle supported under the each of the legal statuses set out here.

Newcastle City Council is the lead local authority in the North East Consortium in supporting asylum seekers under **Section 95** of the Immigration and Asylum Act 1999. This is the most common type of support wherein the UK Borders Agency funds accommodation and/or subsistence payments while it considers a person's asylum claim. Your Homes Newcastle takes the lead in managing and providing this support in Newcastle and they provide most of the housing although two private contractors provide a smaller amount of accommodation. Refused asylum

seekers may continue to receive central government funded support under **Section 4** of the Immigration and Asylum Act 1999 – sometimes know as ‘hard case support’. These people are supported by the same agencies and in much the same way as they were/would be under **section 95** – the principle difference being that they are issued with vouchers rather than cash to buy food and toiletries) to refused asylum seekers who are destitute and either:

- cannot leave the UK (for example because of illness or lack of a safe route of return) and/or;
- are taking reasonable steps to leave the UK (by, for example, complying with efforts to obtain travel documentation).

Newcastle City Council supports some failed asylum seekers under **Section 21** of the **National Assistance Act 1948**. This act says that a local authority has a duty to provide support for people aged eighteen or over who because of age, illness, disability or any other circumstances are in need of care and attention, which is not otherwise available to them. However, the Immigration and Asylum Act 1999 amended this in order to disqualify those who are destitute because of a failed asylum claim. This means that in order to be eligible for assistance a failed asylum seeker must have needs which are ‘above and beyond’ destitution, commonly know as ‘destitute plus’. Such circumstances would typically be ill health, disability and old age but there may be others such as domestic violence and /or if an individual is an expectant or nursing mother. There is an increasing amount of case law on this issue. Newcastle City Council is reviewing the cases of all of the people supported under the terms of this act in the light of recent case law. See the “What is coming on the horizon?” section.

The **Children Act 1989** says that a local authority has a duty of care to offer support to anyone under the age of 18, regardless of their immigration status. Where there is a carer, the local authority will support a child under **section 17** of the act, providing subsistence payments and accommodation but not necessarily any other services. Where there is not a carer, the local authority will support unaccompanied children under **Section 20** of the act, which places a duty on a local authority to look after a child if they appear to be in need, by providing them with services and accommodation.

Asylum numbers are fluid with cases being resolved and statuses changing all of the time. The general trend has been for a decreasing number of new cases combined with an effort on the part of government to deal with a backlog. Newcastle hosts the most Asylum seekers of all North East local authorities – 3% of all dispersed asylum seekers in the UK. This is a similar amount, relative to population size, as other regional centres such as Leeds and Liverpool. Table 1 provides a summary of the number of people in the asylum system in Newcastle compared to the region and the rest of the UK.

Table 1 – Summary of the number of people in the Asylum System in Newcastle, the North East and the UK – August 2008. Source: UK Border Agency and Newcastle City Council

Area	Section 4	Section 95	Section 21	Section 17 Children and families	Section 20 Unaccompanied children	Total
Newcastle	336	740	118	44 adults 62 children	121	1421
North East	898	2280	Not Available	Not Available	Not available	3178
UK	12056	24023	Not Available	Not Available	Not available	36079

The UK Border Agency (UKBA) data shows that current asylum seekers come from many different countries but the largest national groupings are from Iran, Iraq and Zimbabwe. The experience in Newcastle (2001 to 2007) is that the most typical age is 25-34 with very few people over 60.

The number of new asylum claims has reduced in recent years, in part because the Government has tightened border controls and is now much more likely to refuse applications.

Calculating how many people remain in Newcastle when they are no longer in contact with the asylum system is a challenging task. Failed asylum seekers, for example, will lose access to support and be lost to the authorities while those granted leave to remain are able to move freely around the UK. It is also difficult to obtain statistics on completed cases from the UKBA.

Newcastle City Council's Equality and Inclusion team is working on a pilot research project aimed at getting a more accurate picture of the number of destitute failed asylum seekers in the city. We intend to base the research on successful surveys carried out in other cities, including Leeds and Leicester. Until then we are reliant upon best estimates from our partners in the voluntary sector.

- It is extremely difficult know how many **refugees** stay in Newcastle after receiving a positive decision. The Government supplies details of all dispersed asylum seekers to Primary Care Trusts and Newcastle PCT calculates that the Government have allocated 6341 asylum cases to Newcastle since 2001. Nationally, around 20% of asylum cases are successful after appeal.
- Research by [‘Open Door’](#), a regional charity, estimates that in 2006 there were more than 300 ‘failed’ asylum seekers living **destitute** in Newcastle. Recent research in Leeds found that the number of destitute failed asylum seekers had increased in that city between 2006 and 2008

Trends

We expect the number of new asylum cases dispersed to the city will remain steady at around 300 – 350 each year. We may need to revise this in light of any decisions by the UK Border Authority (UKBA) about contracts in the region and any increase in difficulties around the world.

Recent research carried out in Leeds found a significant increase in the number of destitute 'failed' asylum seekers in the city. While there are pitfalls in assuming that the Leeds results would be replicated elsewhere they do reinforce the messages that we are getting from the voluntary sector in Newcastle.

The UKBA decision to improve the decision making for new applications has been reinforced by their approach to older cases. The first phase of 'The Case Resolution Programme (or Legacy) resulted in 180 families having their case reviewed by the UKBA. The vast majority were granted refugee status, leading to a difficult period for the City: potential homelessness and high costs in dealing with the private sector when procuring premises. This trend of reviewing older cases will continue for some time to come (2011 is the UKBA Target)

The Governments policy is to distribute unaccompanied minors seeking asylum in the UK across the country and are looking for LA's to apply for Specialist Authority status to accept these young people and meet their needs. Newcastle/The North East are considering applying for Specialist Authority status to provide services to additional unaccompanied minors seeking asylum in the UK. It has been suggested that up to 300 young people aged 16-18 years could be dispersed to the city/region. If Specialist Authority status is granted the implications for social care, welfare, health, education and training, both within Children's services and adult services need to be considered and plans to meet these needs should be negotiated with the Government and other North East LA's.

Targets

The [Asylum Seekers Unit \(ASU\)](#) delivers the service against a Government specification and must report how well it has done. The areas include:

- ensuring the property is of a good standard
- ensuring the ASU has met newly arrived households and they have been taken to their property and had the amenities explained to them.
- provide interpretation when required
- provide useful information on facilities in the locality
- register people with GPs and if required, other health services
- register people with education services
- publicise a complaints procedure.
- provide specified reports to the Home Office.

Performance

Indicators

There has been a strict compliance with the terms of the contract, reducing the exposure to penalties to a minimum – a total of .01% over the past two years of the current contract

Ongoing commitment to the Service Level Agreement with Adult /Children's Services ensures that new cases are supported quickly

In 2006, the Asylum Seekers Unit achieved Charter Mark, which has been verified by ongoing assessment

Local views

The Asylum Seekers Unit have a range of methods to consult with users of the service and the Unit has been cited as best practice by the Charter Mark assessor. These include face to face interviews, customer surveys, drop in sessions and events.

Views are sought 1, 3 and 6 months after clients are dispersed to Newcastle. The Unit also ask people to complete a questionnaire after they have received a decision on their asylum claim and support is ceased. Responses are analysed quarterly and the information is used to help plan improvements to the service. Read the [1 month](#), [3 month](#), [6 month](#) and [exit](#) surveys.

From January to April 2007 ASU carried out an independently assessed Satisfaction Survey which showed that 92% of respondents were satisfied with the services of the ASU.

The third sector have expressed concern about legislation and have raised a number of issues, particularly:

- The decision making process which is perceived to based upon a wish to 'look tough' on asylum cases – to both refugees and the UK public
- "Failed" asylum seekers who have exhausted all right to appeal – many find themselves destitute, unable or unwilling to leave the country but with no means of support. Third sector agencies have argued that this is a deliberate policy aimed as reducing asylum applications and/or encouraging potential claimants to leave the UK of there own accord.

National and Local Strategies

National policy – Official national policy from the [UK Border Agency](#) states that UK policy is to welcome those deemed genuine refugees and quickly remove those deemed false, "The United Kingdom has a proud tradition of providing a

place of safety for genuine refugees. However, we are determined to refuse protection to those who do not need it and will take steps to remove those who are found to have made false claims.”

Our partner organisations in the third sector have expressed concern about a number of issues, particularly:

- The decision making process which is perceived to be based upon a wish to ‘look tough’ on asylum cases – to both refugees and the UK public
- Pilot schemes to test Section 9 of the 2004 Asylum and Immigration Act have taken place in three areas of the country. Under this legislation, families who have reached the end of the asylum process and exhausted all their appeal rights can have their financial support and accommodation removed if they ‘fail to take reasonable steps’ to leave the UK. In the event that families are made destitute, they can face having their children removed and taken into the care of social services. The pilot was not well received but the Government is seeking to work with the LGA to move this agenda forward.
- “Failed” asylum seekers who have exhausted all right to appeal – many find themselves destitute, unable or unwilling to leave the country but with no means of support. Third sector agencies have argued that this is a deliberate policy aimed at reducing asylum applications and/or encouraging potential claimants to leave the UK of their own accord.

Current strategies and priorities:

- Continue to deliver the contract to support asylum seekers under sections 95 and 4 of the Asylum and Immigration Act 1999
- Continue to meet our duties in accordance with the National Assistance Act and Children Act.
- Develop direct and campaigning work with and around destitute failed asylum seekers
- The UKBA case resolution program will continue through to completion in 2011. The program is an attempt to deal with a backlog of asylum claims nationally.

Current activity and services

Your Homes Newcastle

As previously above [Your Homes Newcastle](#) continues to support asylum seekers under the terms of the contract with the UK Border Agency. That is, providing accommodation, services and support under the terms of the Asylum and Immigration Act 1999. This includes:

- Managing housing for asylum seekers in the city
- Providing ongoing support as households establish themselves in the community – including registering people with health services
- Working to raise awareness throughout the city in order to tackle misconceptions, misinformation and half-truths that are often exist about people seeking asylum.
- Many third sector agencies in the city provide advice and material support to asylum seekers and refugees including specific projects around employment, integration etc. In addition, many agencies campaign and lobbying in an effort to influence national asylum policy

Newcastle City Council

In addition, as described above, the local authority supports asylum seekers and failed asylum seekers under the terms of the national assistance act 1948 and the children act 1989. Newcastle City Council Adult Services Directorate has two specialist posts to deal with asylum seekers under **Section 21 of the National Assistance act**. In the first instance, the Newcastle Team checks the immigration status, carries out a community care assessment and, if necessary, a human rights assessment of all new referrals. They also obtain supporting information from the applicant's GP/hospital consultant and arrange emergency accommodation where needed. A failed asylum seekers panel at the city council meets monthly to consider such claims for support and if agreed the City Council arranges accommodation and notifies the UKBA. The Council carries out six-monthly reviews of the person's circumstances. Specialised staff within the Newcastle City Council Children's Services Directorate handles the cases of children and young people supported under the **Children Act**. They also receive support from other agencies, both statutory and voluntary. Newcastle City Council Children's Social Care department supports unaccompanied asylum seeker children in exactly the same way as any other vulnerable child, using mainstream resources. The initial response team make the first assessment, providing housing and support as appropriate before arranging foster care. When an unaccompanied child reached the age of 16, the Leaving Care Team becomes responsible for their wellbeing. This team have specific resources – three full time social workers, a leaving care worker and one full time CAMHS primary mental health worker who assesses and supports all referrals.

Newcastle PCT

A member of staff from the BME health improvement team within Newcastle PCT makes a home visit to each asylum seeker referred to them by the UK Border Authority. At this visit, they ensure that asylum seeker is able to register with a GP practice as well as offering advice on accessing other services and on lifestyle changes such as giving up smoking.

The Voluntary Sector

Local voluntary sector agencies are attempting to support destitute failed asylum seekers with the support of the local authority and statutory agencies where appropriate and within the law. We have three distinct work streams around 'failed' asylum seekers – providing housing & subsistence, legal services and campaigning.

What is this telling us'?

What are the key inequalities?

Asylum seekers and refugees have different entitlements to support dependent upon their legal status – summarised in Table 2 (taken from [North East Public Health Observatory 2008](#)¹). Failed asylum seekers who are not entitled to support under section 4 are in the worst position

Table 2 – Refugee and asylum seekers entitlements

Section 95	Section 4	All Right Exhausted	Refugees
Supported	Supported	Not supported	Not supported
Housed	Housed	Not housed	Not housed but assisted to secure housing and with some rights
Can use NHS free	Restrictions on NHS	Restrictions on NHS	Can use NHS free
Not permitted to work	Not permitted to work	Not permitted to work	Can work and obtain benefits

Some refugees and asylum seekers may not have good English skills and therefore find public services difficult to access. A number of voluntary and public agencies in Newcastle are working with limited funds to address this by providing advice and/or **interpreting** services. In addition, from 2007/2008, the government placed restrictions on the provision of free **ESOL** (English for Speakers of Other Languages) classes to asylum seekers. Adult asylum seekers are no longer eligible for free ESOL tuition unless they have waited in excess of six months for their claim to be decided.

Discrimination and abuse can be a problem for refugees and asylum seekers regardless of their legal status. This is something the local strategic partnership attempts to minimise through the Safe Newcastle Partnership and the [Newcastle City Council Community Cohesion Strategy](#). Asylum seekers often require **legal advice** but there is a limit on legal aid available. In addition, the Government refuses the majority of cases at the first application, usually necessitating an appeal.

Even supported asylum seekers receive very limited financial assistance so that even a need to travel can cause **hardship**. Asylum seekers and, of course, failed asylum seekers are not entitled to work. **Homelessness** is clearly a problem for

failed asylum seekers with no support but even those granted refugee status must leave their supported accommodation and make their own arrangements within 28 days. For failed asylum seekers **destitution** is a serious issue – those who feel unable to agree to leave the country are not entitled to any publicly funded support and are entirely dependent upon friends and/or the voluntary sector. A number of voluntary sector agencies are working to provide support to destitute ‘failed’ asylum seekers. They are supported, where appropriate and within the law, by [Newcastle City Council](#) and [Your Homes Newcastle Asylum Seekers Unit](#).

Recently published research from the [North East Public Health Observatory with Primary Care Trusts](#) in the region examines the health issues affecting new arrivals in the region, including Asylum Seekers and refugees. Newcastle PCT has a team within the BME Health Improvement Service who work with refugees and asylum seekers. The NEPHO report found that PCTs in the region were generally knowledgeable about asylum seekers and their health especially in the urban areas, such as Newcastle, that had received the most over time. The research identified the following health issues as being especially prevalent among asylum seekers and refugees across the region. It is important to remember that many of these issues apply equally to **children** as well as adults.

- Mental Health issues, including post traumatic stress disorder (PTSD), the consequences of trauma and rape, and isolation.
- Sexual Health issues, including Sexually Transmitted Infections (STIs), HIV and unwanted pregnancies. At least one specialised practice, Arrival, make condoms available
- Lack of, or incomplete, screening and immunisations – covering a wide variety of checks from communicable disease, cervical smears, breast screening, hearing, eye checks
- Dental Health – poor dental health and accessing dental care was an issue noted directly in at least four responses.
- Poor nutrition and consequences such as vitamin deficiencies
- Skin diseases and parasitic diseases
- Musculoskeletal problems, particularly of the feet – sometimes from travelling
- Behavioural health problems – opium use, domestic violence, alcohol use, tobacco and smoking
- Hypertension, H. pylori and diabetes – Sunderland’s Health Needs Assessment work has found higher frequencies and earlier onset of these conditions

As an example, the NEPHO report highlights that in a recent analysis of case records by the liaison psychiatry team at the Royal Victoria Infirmary in Newcastle found that they had seen 50 cases of self-harm in asylum seekers and refugees between 1998 and 2007.

In addition, Newcastle PCT highlight a number of **areas that are of particular concern in Newcastle**, notably **sexual health** and **mental health** issues, many of which are the consequence of torture or abuse. **Dental problems** were also highlighted by Newcastle PCT as was the fact that many people also require catch up immunisations and cervical smears. The other major issue highlighted in Newcastle was the task of ensuring **access to healthcare**:

- Access to appropriate services including GP registration and secondary care services, particularly in relation to sexual and mental health and appropriate initial assessment, clear explanation and discussion with patients.
- Destitute asylum seekers being denied access to secondary care except A&E treatment, proposals to restrict primary care to this group too which has public health implications.
- Those on Section 4 support having vouchers rather than cash which can mean that they must travel long distances to spend them; having less to spend than those on income support and often not being able to buy appropriate provisions for babies.

Some asylum seekers and refugees come from parts of the world that have high rates of certain diseases. Authorities need to be aware of what these diseases are, who may need to be screened and arrangements for proper control – the Health Protection Agency has responsibility in this area. Infectious diseases that are significant are Tuberculosis (TB), Human Immunodeficiency Virus (HIV), Hepatitis and Malaria. There are some concerns that not all cases of HIV are being picked up. For example, in the Black African population in the North East living with HIV (290 of the total number of 868), there are 213 women and only 77 men. This is much more likely to represent the ways in which HIV is detected in antenatal settings than the incidence of HIV (NEPHO 2008)

What are the key gaps in knowledge / services?

It is very difficult for us to know where people go when they have been through the asylum application system. If a decision is positive then refugees may move freely around the UK. 'Failed' asylum seekers who the UK Border Authority do not remove from the country will lose access to support and be lost to the authorities.

What are the risks of not delivering our targets?

If we fail to manage and meet the needs of refugees and asylum seekers, we risk

- Increasing numbers of destitute homeless asylum seekers with no recourse to public funds
- Increasing pressure on the third sector organisations

- Social and community cohesion problems
- Public health problems because of
 - particular health needs that people have upon arrival and;
 - health problems that may emerge because of destitution

Is what we are doing working?

The [Asylum Seekers Unit at Your Homes Newcastle](#) succeeds in supporting asylum seekers under the terms of the contract

Newcastle City Council takes its duties under the National Assistance Act 1948 and Children Act 1989 very seriously and supports more people in this way than all of the other local authorities in the region combined. Newcastle is talking to other authorities in the region in an effort to share the workload more widely.

The recent report by the [North East Public Health Observatory](#)¹ found that, like other PCTs in the region, Newcastle PCT has specialist staff, knowledgeable about asylum seekers and refugees

There the numbers of destitute failed asylum seekers who have no recourse to public funds continues to increase but there is a limited to what local public agencies can do address this. We will continue to assist our partners in the voluntary sector in their support and campaigning work.

What is coming on the horizon?

Recent case law on the national assistance act means that up to half of the people currently supported by Newcastle City Council under the terms of the act may no longer be entitled to that assistance. As of December 2008, the authority is engaged in a review of all cases and plans a managed move of all eligible cases onto UK Border Authority support – either section 95 or section 4. The Council is implementing these changes in consultation with its third sector partners. The primary concern arising from this change is that those people unwilling to accept section 4 support may become destitute.

What should we be doing next?

Most of the issues and our plans for what we should be doing next are set out in previous sections.

In summary:

¹ [New Arrivals in North East England: Mapping Migrant Health and NHS Delivery – North East Public Health Observatory \(2008\)](#)

- Continue to help, where possible, destitute 'failed asylum seekers' by working with our third sector partners
- Support asylum seekers while they wait for a decision on their asylum claim and assist them to move on if their claim is successful
- Continue to monitor asylum seeker health needs
- Support the integration of refugees and asylum seekers into the city
- Continue to support vulnerable asylum seekers and children under the National Assistance Act and the Children Act

Many asylum seekers and refugees have serious physical and mental health problems – because of the countries they are from and because of their experiences. However, the relatively successful partnership working between the various voluntary and statutory agencies in the city together with the managed nature of asylum seekers arrival in city means we are confident that we do well at meeting their health needs. As emphasised throughout this report, **our principal area of concern** is what happens after the asylum application process, particularly the situation of **destitute** 'failed' asylum seekers who remain in the city.
