

7 December 2012



Written evidence to the Parliamentary Inquiry on Asylum Support for Children

About ASAP

The Asylum Support Appeal's Project (ASAP) is a registered charity that provides specialist advice on asylum support law. We run a full-time duty "representative scheme" at the First-Tier (Asylum Support) Tribunal (the Tribunal), where our staff and pro-bono solicitors and barristers give advice and representation to over 300 appellants a year. We run a second tier advice line and regular training sessions on asylum support law for refugee community organisations. Our third area of activity is advocacy and policy work based on the evidence gathered at the Tribunal and through our links with a large constituency of organisations working directly with asylum seekers.

ASAP is grateful for this opportunity to submit evidence to the Inquiry. We have seen the evidence submitted by Refugee Action and Still Human Still Here and we echo their concerns. Their evidence on the impact of the low rate of support is supported by our experience of representing destitute asylum seekers with children at the First-tier Tribunal.

In addition, we would like to submit evidence in response to Question 10 from the Committee:

10. Are there any concerns about the current administration of the asylum support system with relation to children?

Quality of decision-making

We draw the Inquiry's attention to our report on Section 4 decision-making "*No Credibility: UKBA decision-making and Section 4 support*".¹ This was a survey of our case files, which highlighted the poor quality of decision-making around the destitution test in Section 4 cases. In relation to children, the report found:

¹ <http://stillhumanstillhere.files.wordpress.com/2009/01/asap-no-credibility-report-high-res.pdf>

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“It is unclear how UKBA decision making is consistent with its statutory duty to safeguard the welfare of children under Section 55 of the Borders, Citizenship and Immigration Act 2009. There were 23 children – all but one under the age of five – listed as dependants on applications. Yet not one decision letter made any reference to dependants or how children’s welfare had been taken into account in the process.”

UKBA decision-making on support applications from families with children has not improved since the *No Credibility* report. In the last two years, ASAP has represented 148 families with dependent children in appeals against the refusal or withdrawal of asylum support. Of these, 53% were allowed, 10% were remitted and 24% were dismissed (the rest were withdrawn or adjourned). That means in over 60% of cases the Tribunal overturned the initial decision of the UKBA.

Case study

Poor decision-making means that families with children are left destitute while they wait for their appeal to be heard by the UKBA. In a case we represented this week, a child wrote a letter directly to the Tribunal:

“I am just a child but I have a lot to say. My family are never this upset. My dad and mam get stressed we get very very upset. What is more upsetting is that were homeless if you can please help cause now I’m really upset. If you can’t help me don’t get the idea of what it’s like to be me! (just to tell you I’m nine years old).“

The child was one of five children. The whole family had been refused accommodation and support by UKBA. The appeal was allowed.

Barriers to asylum support appeals for women

We also draw your attention to our report on Barriers to Support Appeals for Women.² In this report we conducted interviews with 22 female appellants at the First tier Tribunal (Asylum Support) and advice and support agencies. The responses highlighted the difficulties faced by women with children in trying to appeal to the Tribunal:

“Eight women had dependent children in the UK7 – mostly young children under the age of 5 – and all were lone parents. Four brought the children to the appeal and said this made the experience more difficult. One appellant said: “I had all my belongings with me

² <http://asaproject.org/web/images/PDFs/reports/barrierstoappeals.pdf>

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and a pushchair and children...very difficult.” Another who had to bring her 3 year old twins said: ‘We had to wake up early (5 am), they wanted food, juice and the train was very busy.’

Agencies said childcare created a large number of hurdles from making it difficult to travel to an agency for advice, let alone travel to London for the hearing, to not wanting to bring children to the tribunal as it has no childcare facilities. Women are told in advance of the hearing date by the tribunal that they are not allowed to bring children into the hearing, but in practice this does happen as there is no alternative. Conflicts with childcare could mean women who decided to appeal had to postpone the hearing date, prolonging their destitution.

Another barrier to appeal highlighted by most agencies was the Section 4 rule that allows refused asylum seekers who are pregnant to qualify for support only six weeks before their due date.⁸ “The due date is not static and can differ from woman to woman... Unfortunately strong medical evidence is required for the UKBA to consider otherwise (granting support earlier), leaving women longer without support while pregnant and potentially of no fixed abode, which has an effect on their health, eating habits, sleep pattern and stability.”

Case Study

‘Sarah’ brought her three children aged 1, 3 and 5 to the tribunal for her appeal. A first date had to be postponed because initially she did not get the correct travel tickets for the children. The journey was difficult because they had to walk to the station and it was stressful managing three small children on the train. The children went into the appeal hearing with Sarah as there was no one to look after them. During the hearing one of the children became disruptive, banged his head on the floor and started to cry. Then Sarah was asked to provide information about her previous accommodation, which involved discussing an incident when one of the children was assaulted. Not only did this make it difficult for Sarah to explain why the accommodation was unsuitable, it was inappropriate and upsetting.

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