

From persecution to destitution: Section 95 asylum support

Briefing by The Children's Society

Introduction

Levels of asylum support are alarmingly low, pushing over 10,000 children seeking safety from war and persecution into poverty¹. Rates of support for these children and their families have not increased since 2011. This represents a cut in real terms of almost 7.5%, with food prices increasing by 13% in the same period. This system of support pushes children and their families well below the government's poverty threshold² – with some now living on little more than a third of what would be needed to escape poverty. The UN Convention on the Rights of the Child states that the best interest of the child should be a primary consideration in all actions concerning them and that this applies to all children within the state's jurisdiction, regardless of immigration status.

In April, a High Court judgement (*Refugee Action v Secretary of State for the Home Department*) found that the Home Secretary had acted unlawfully in deciding that asylum seekers' support meets their essential living needs. The Home Secretary has until 9 August 2014 to re-assess asylum support levels.

The Children's Society is calling for the government to raise levels of asylum support so that no child is forced to grow up in poverty as a result of fleeing persecution.

Key Points

- Rates of asylum support are inadequate, forcing parents to skip meals so they can feed their children and leaving them unable to buy them warm clothing in the winter. Almost 40% of people on asylum support say they cannot afford to feed themselves or their children³.
- Asylum support rates have not increased since 2011, which means almost a 7.5% cut in real terms for families. A couple with a 10-year-old child is £605 per year worse off now than they would have been in 2011.
- These rates of asylum support are pushing people well below the poverty line. In some cases, a family needs nearly three times as much as they currently receive on asylum support to be lifted out of poverty.
- Children aged 16 and 17 receive considerably less than younger children – £13.16 per week less than children under 16, despite the fact they are typically in full-time education.
- Asylum seekers are not allowed to work except in very exceptional circumstances, so they are wholly dependent on the asylum support they receive.
- On 9 April, 2014, the High Court ruled that the Home Secretary acted unlawfully in deciding the level of asylum support required to meet essential living needs. The government has until 9 August 2014 to re-assess asylum support rates.

¹ Answer to written parliamentary question 8 July 2014:

http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140708/text/140708w0001.htm#140708w0001.htm_wqn57

² Defined as living on less than 60% of the median UK household income.

³ Refugee Action research: http://www.refugee-action.org.uk/assets/0001/0045/Briefing_on_support_rates_legal_challenge_April_2014.pdf

What is asylum support?

Most people who claim asylum are destitute when they arrive in the UK, having had to leave their possessions and money behind. They are not permitted to work until they are granted the right to remain, but they can access asylum support as set out in the Immigration and Asylum Act 1999 under Section 95.

Section 95 states that once an asylum claim is made, support is provided in the form of accommodation and/or cash support. The amount received depends on a person's household circumstances, e.g. the age and number of children in the family and the family structure (see Annex 1 for examples).

Parliamentary inquiry shows families struggling to make ends meet

In 2012, a cross-party parliamentary inquiry into asylum support for children and young people, that we supported, highlighted the serious implications of the system on children's health, well-being and development⁴. It found that inadequate levels of financial support leave families struggling to make ends meet. The current asylum support system severely limits a family's ability to access essential living needs and provide their children with the full range of activities needed for them to learn, develop and participate fully in society.

The inquiry found that parents are not able to afford to give their children nutritious food regularly. Their children are prevented from participating in education fully because they cannot afford such activities as school trips. Many have trouble affording essential items such as school uniforms.

A family from Sri Lanka living near Manchester on Section 95

Esma had no money to support herself and her son and was not allowed to work. They are wholly dependent on Section 95 asylum support. "I try to keep £1 every week but then have to use it because it's not enough money." Esma says there is just about enough money for food, but the "money goes in one go" as the supermarket is expensive. Sometimes she gets help from the children's centre, church or from friends. She used to rely on the British Red Cross for food parcels, but now she cannot afford to go to collect them, because now that her son is five years old, she would have to buy him a bus ticket.

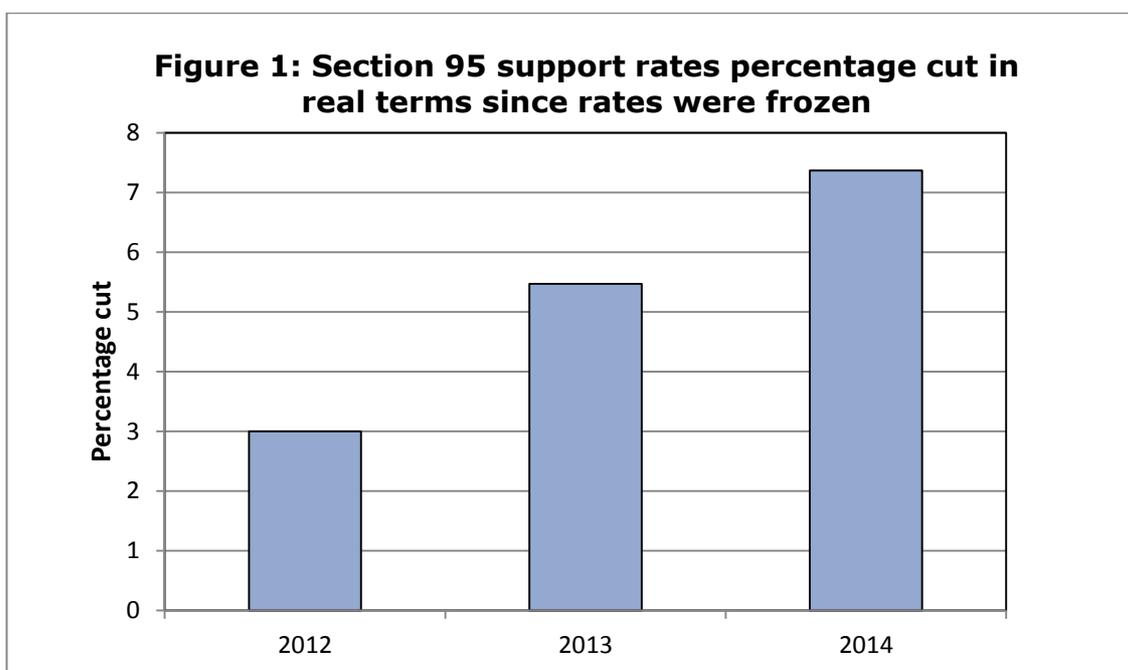
Cut in asylum support rates in real terms

Despite asylum support being at such low levels, Section 95 asylum support rates have not increased for over three years, since April 2011. The high court judgement stated that the Secretary of State had failed to take into account the extent to which rates of asylum support had been eroded in real terms given the effect of inflation.

Our analysis (see figure 1) shows that this freeze amounts to an almost 7.5% cut in real terms since 2011. This is a year-on-year increase from a real term cut of around 3% in 2012 (see Annex 1). This means, for example, that a family with a 10-year-old child is £605 worse off in 2014 than they would have been in 2011. This is the result of significant rises in the cost of living for this same period, for example, between 2011 and 2013, food and non-alcoholic beverages rose in price by just over 13%⁵.

⁴ Parliamentary inquiry into asylum support for children and young people <http://www.childrengroup.org.uk/what-we-do/policy-and-lobbying/parliamentary-work/parliamentary-inquiry-asylum-support-and-children-0>

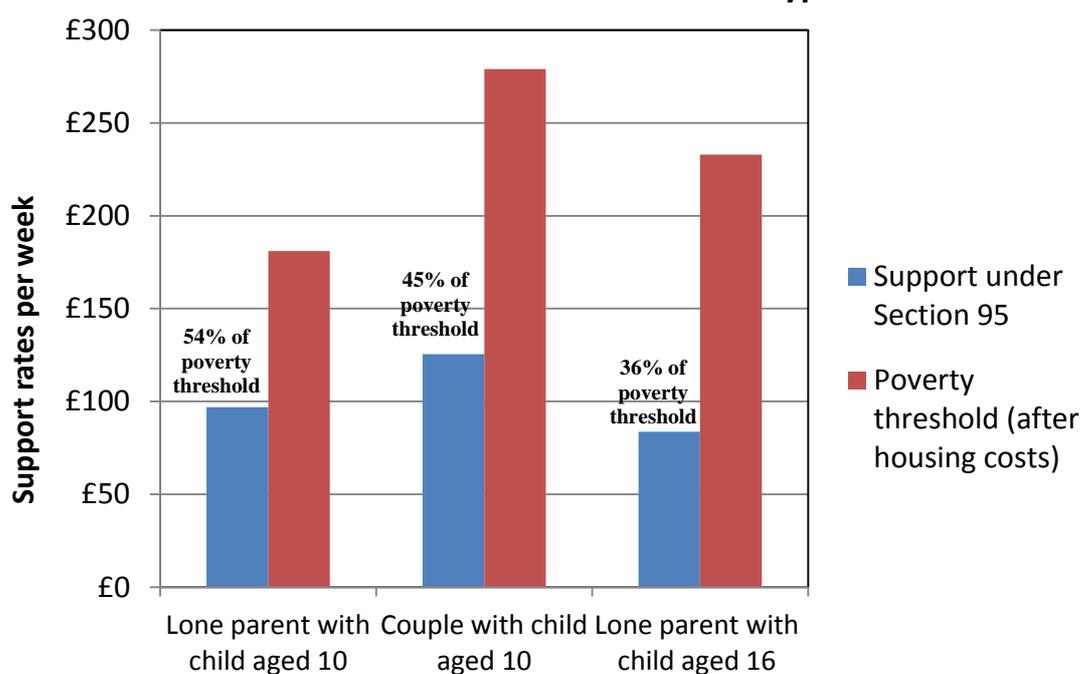
⁵ Office of National Statistics – consumer price inflation reference tables: <http://www.ons.gov.uk/ons/rel/cpi/consumer-price-indices/december-2013/consumer-price-inflation-reference-tables.xls>



Asylum support rates fall further below the poverty line

The government defines the poverty threshold, or 'poverty line', as living on less than 60% of the median UK household income. Asylum support rates are well below this poverty threshold. As shown in figure 2, a couple with a child aged 10 for example, lives on £125 per week. This amount would have to double for them to be lifted above the poverty line. Rates of asylum support were already well below the poverty threshold in 2011, even before rates were frozen.

Figure 2: Section 95 support in 2014 compared to poverty thresholds for three household types



Comparison with mainstream benefits

When asylum support was introduced in 2000 under the Immigration and Asylum Act Bill, payments were fixed at 70% of mainstream benefit rates⁶. It was noted that “the link to the amount of income support benefits [was] generally quite helpful”⁷.

Two reasons have been given for breaking this link. One is that, theoretically, families are on Section 95 support for short periods and second, they do not have to pay rent or utilities⁸. In practice, however, these families can spend long periods of time on Section 95⁹ support – an average of 18 months – while waiting for a final decision to be made on their asylum claim. And, although families do not pay for their housing or utilities, the amount deducted from their support to compensate for this does not equate to that given to families on mainstream benefit.

The standard (2014) rates of deduction for fuel costs for rents of more than one room¹⁰ are given in the table below¹¹.

Category of fuel cost	Weekly deduction
Heating	£27.55
Hot water	£3.20
Lighting	£2.20
Cooking	£3.20
All fuel	£36.15

In addition, deductions may be made for water rates (average household water rates are around £7.46 per week for 2014.¹²) This gives a total deduction of around £43.61 per week from Housing Benefit for rents of more than one room that include fuel and water charges.

Rates of Section 95 support are typically considerably lower than mainstream support with these rates of deduction. For example, asylum support for a lone parent with a 16-year-old child is £72.20 per week lower than standard mainstream support rates. As a result, many families now don't receive 70% of mainstream support rates (see figure 3).

⁶ By this we mean relevant rates of support within the mainstream benefits system for families with no other income or capital.

⁷ See evidence from Mike O'Brien, Immigration Minister the Special Standing Committee on the Immigration and Asylum Bill on 11 May 1999

⁸ “The levels of subsistence support reflect the temporary nature of support to an asylum seeker and the fact they have access to fully furnished, rent free accommodation with utilities and council tax included.” (Home Office response to a letter from the Red Cross to the Home Secretary on changes to support rates, 23 September, 2009. Quoted in *Still Human Still Here* submission for the United Nations Universal Periodic Review of the UK, May 2012

⁹ <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/71/71we-5.htm>

¹⁰ Deductions for a single room are lower.

¹¹ See Appendix A: http://www.rightsnet.org.uk/pdfs/HB_Circular-A24-2013.doc

¹² <http://www.ofwat.gov.uk/content?id=192dccbd-7145-11e2-86f2-f5a13c2eef0b>

Figure 3: Comparison between rates of mainstream support and asylum support in 2014 for three household types

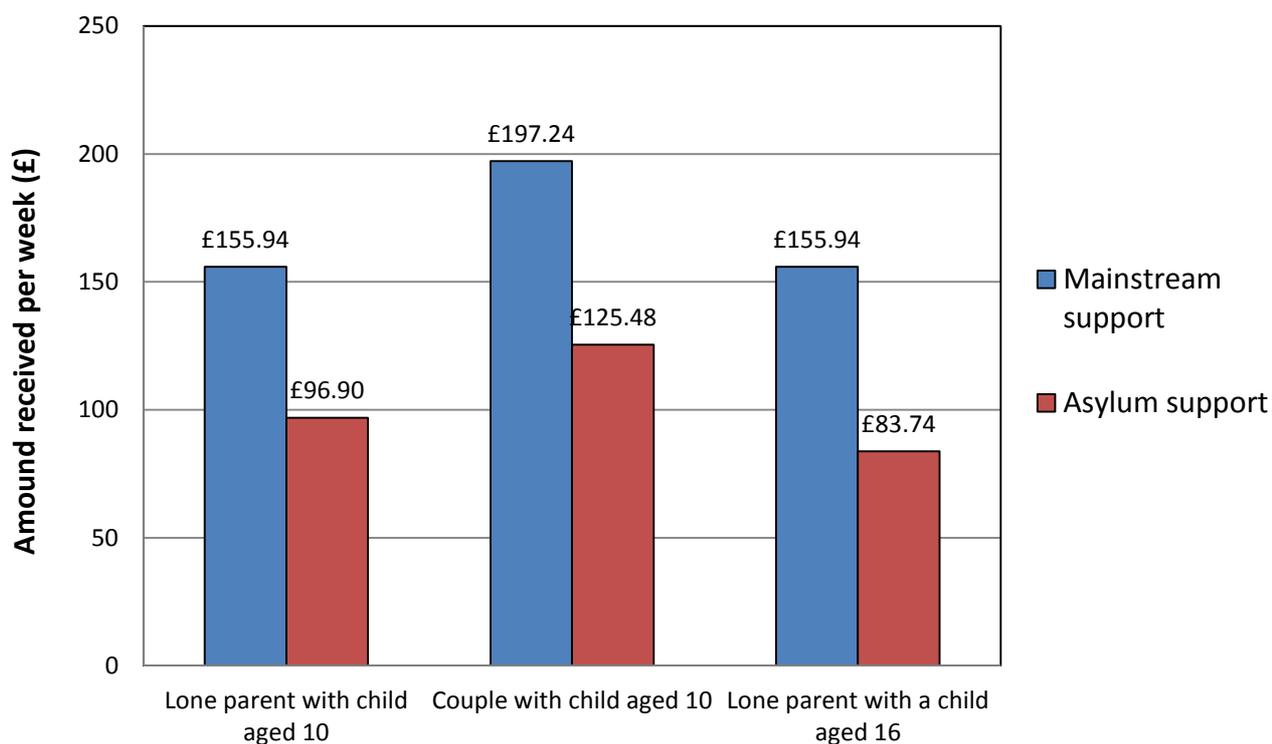


Figure 4: Rates of support in 2014	Mainstream support	Asylum support	Proportion of mainstream support
Lone parent with child aged 10	£155.94	£96.90	62%
Couple with child aged 10	£197.24	£125.48	64%
Lone parent with a child aged 16	£155.94	£83.74	54%

Asylum support needs to be linked to the mainstream benefit system again, with asylum support payments fixed at 70% as was the case when the system was set up.

High Court judgment finds calculations unlawful

In April 2014, the High Court ruled¹³ that the way the Secretary of State had calculated levels of support provided under Section 95 was unlawful. It ruled that Theresa May had failed to gather sufficient evidence to make it possible for her to make a rational judgment in setting asylum support rates. In particular, it said she had failed to include such fundamental household goods as washing powder and nappies when considering rates of support for new mothers as essential living needs. The High Court ordered the Secretary of State to reassess the level at which asylum support should be set, in accordance with the guidance contained in the judgement.

¹³ The judgment in *Refugee Action, R (On the Application Of) v The Secretary of State for the Home Department* [2014] EWHC 1033 (Admin) is available at: <http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2014/1033.html&query=refugee+and+action&method=boolean>

In addition, the court found that the Home Secretary had misinterpreted her duties towards 16 and 17-year-old children in light of domestic, European and international law, including the UN Convention on the Rights of the Child, which treats under-18s as children with specific additional needs and to whom specific obligations are owed. Despite this, the UK's asylum support system treats these children as adults where support is concerned. In contrast, those in this age group on mainstream benefits are normally considered children, a position which the government has recently reinforced through the rules for the new Universal Credit system¹⁴. Furthermore, 16 and 17-year-old children are typically required to remain in full-time education until 18 and will have additional associated costs as a result.

We estimate that to align rates of support for 16 and 17 year olds with those for younger asylum-seeking children would cost about £225,000 a year¹⁵.

Recommendations

The current rates of asylum support are far too low, having been frozen since 2011. They are pushing families and children below the poverty line. In some cases families would need nearly three times the amount they currently receive just to be moved above the poverty line. The government must take a more practical approach to asylum support, and make sure that these children and their families get enough financial support for their essential living needs to be met.

We therefore call on the government to:

- **Apply a cost of living increase to asylum support rates so that they reflect at least 70% of mainstream support rates, and increase this in line with inflation annually.**
- **Ensure 16 and 17-year-olds are treated as children within the asylum support system in line with international obligations under the UN Convention on the Rights of the Child and to make sure they can fully participate in education.**

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About The Children's Society

The Children's Society supports nearly 48,000 children and young people every year through our specialist services and children's centres. We believe in achieving a better childhood for every child but have a particular focus on children who have nowhere else to turn, such as children living in poverty, young carers, young refugees, children at risk on the streets, disabled children and children in trouble with the law. We seek to give a voice to children and young people and influence policy and practice so they have a better chance in life.

¹⁴ The Welfare Reform Bill specifies that a basic condition of entitlement for Universal Credit is that the claimant is at least 18, although some exceptions apply, this reiterates the point that 16 and 17 year olds should not normally be treated as independent adults within the benefits system. <http://www.legislation.gov.uk/ukpga/2012/5/section/4/enacted>

¹⁵ Aligning support for 16 and 17 year olds with younger children would give each child around an additional £13 per week. There are 333 young people aged 16 and 17 on Section 95: http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140708/text/140708w0001.htm#140708w0001.htm_wqn57

Annex 1: Section 95 asylum support rates from 2011-2014 for three family types

SECTION 95 SUPPORT RATES								
<i>Lone parent with child aged 10</i>								
Year	Rate per week	Rate per year	% cut	Cut in amount per week	Cut in amount per year	Poverty threshold (AHC ¹⁶) per week	Poverty threshold (AHC) per year	% of poverty threshold (AHC)
2011	96.90	5052.64	0.00	0.00	0.00	172	8968.57	56.34
2012	96.90	5052.64	3.00	2.82	146.88	173	9020.71	56.01
2013	96.90	5052.64	5.47	5.14	267.91	177	9229.29	54.75
2014	96.90	5052.64	7.37	6.92	360.86	181	9437.86	53.54
<i>Couple with child aged 10</i>								
Year	Rate per week	Rate per year	% cut	Cut in amount per week	Cut in amount per year	Poverty threshold (AHC) per week	Poverty threshold (AHC) per year	% of poverty threshold (AHC)
2011	125.48	6542.89	0.00	0.00	0.00	264	13765.71	47.53
2012	125.48	6542.89	3.00	4.72	246.30	266	13870.00	47.17
2013	125.48	6542.89	5.47	8.62	449.25	272	14182.86	46.13
2014	125.48	6542.89	7.37	11.61	605.12	279	14547.86	44.97
<i>Lone parent with child aged 16</i>								
Year	Rate per week	Rate per year	% cut	Cut in amount per week	Cut in amount per year	Poverty threshold (AHC) per week	Poverty threshold (AHC) per year	% of poverty threshold (AHC)
2011	83.74	4366.44	0.00	0.00	0.00	220	11471.43	38.1
2012	83.74	4366.44	3.00	2.10	109.69	222	11575.71	37.7
2013	83.74	4366.44	5.47	3.84	200.08	227	11836.43	36.9
2014	83.74	4366.44	7.37	5.17	269.50	233	12149.29	35.9

¹⁶ After housing costs (AHC)