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## Asylum?

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## Supporting refugees and asylum seekers

Although recent figures indicate a considerable reduction in applications, the last decade has seen unprecedented numbers of people applying for asylum in the UK. Historically, the majority of such forced migrants tended to reside in London and the South East of England. However, new rules introduced in the Immigration and Asylum Act (1999) made access to limited public support conditional on applicants accepting that they will be dispersed on a 'no choice' basis to locations across the country. Consequently, new populations of forced migrants are now resident in many towns and cities across Britain.

Certain critics argued that, initially at least, dispersal policy was driven by the availability of cheap accommodation rather than a concern to best meet the basic needs of dispersed forced migrants. Others have highlighted a fragmentation of provision and a lack of strategic policy direction which resulted in considerable numbers of migrants being accommodated in substandard housing and/or receiving poor allied support services.<sup>1</sup> The situation is further complicated by the 'tiering of entitlement' that exist for forced migrants, dependant upon their specific immigration (socio-legal) status at different stages of the asylum process.<sup>2</sup>

### THE RESEARCH

- John Perry, *Housing and Support Services for Asylum Seekers and Refugees: a Good Practice Guide*, The Chartered Institute of Housing for the Joseph Rowntree Foundation, 2005
- Nancy Kelley and Lise Meldgaard, *The End of the Road: The Impact of the Asylum and Immigration (Treatment of Claimants) Act 2004*, Barnardo's, 2005

### The tiering of welfare entitlement

Within the generic population of people previously referred to as 'forced migrants' four basic sub-groups can be identified each with different rights to welfare. *Asylum seekers* are migrants who are making a claim for refugee status. They apply to a body under the direction of the Home Office, the National Asylum Support Service (NASS), for basic housing and social security benefits (routinely paid 70% of income support). To be eligible for support individuals must be destitute and, as previously noted, be willing to be dispersed as directed. NASS houses asylum seekers by subcontracting to a mixture of providers including local authorities, private companies and to a lesser extent housing associations. Provided their case is processed within 12 months asylum seekers are not allowed to work. *Refugees* are those migrants whose claim for asylum has been successful. They enjoy the same welfare rights as citizens which they access via the mainstream welfare system. They are allowed to work. *Humanitarian protection/discretionary leave status* (previously known as exceptional leave to remain), is granted for periods of up to 3 years to certain migrants whom the government recognises would be in danger if they were returned to their country of origin. They enjoy the same welfare rights as refugees and are entitled to work. Finally, *failed asylum seekers* (i.e. whose claim for asylum has been refused) have no right to remain and thus no rights to accommodation and support. They are not entitled to work They must leave NASS accommodation within 28 days of notification by the Home Office. Such migrants, under specified

circumstances, (e.g. no safe route for return, illness or awaiting replacement documentation), may be able to access 'hardcase' support under Section 4 of the Immigration and Asylum Act (1999). The tight eligibility criteria of Section 4 and administrative deficiencies in NASS have resulted in substantial numbers of failed asylum seekers in urgent need being denied support. Many others simply leave NASS accommodation and disappear. Considerable numbers whose asylum claim has failed are living in unknown locations without any rights to basic welfare. Accurate statistics are unavailable but a recent government report estimates that between 155,000 and 283,500 failed asylum seekers remain in the UK.<sup>3</sup>

### **Identifying and building on good practice**

Practitioners across the public, private and voluntary sectors who have to make sense of this complex and changing policy backdrop whilst endeavouring to support forced migrants have a need for accessible information and guidance. John Perry's recently published report meets such needs admirably. It is aimed at housing professionals and others involved in supporting new migrants residing in the UK. It focuses mainly on policy relating to forced migrants but other new migrant groups (e.g. nationals of the new accession states to the European Union), are also discussed. Drawing on much relevant literature and discussions held with a wide range of respondents, including service providers, researchers, refugee organisations and migrants themselves, the report provides a wide-ranging review, of many aspects of national policy and a multitude of local initiatives. More importantly for those responsible for meeting the needs of forced migrants the research steers clear of attempting a systematic evaluation of currently available local housing and support services in favour of highlighting a existing examples of 'good practice' in the hope that they will inform and enhance future provision elsewhere.

As a resource to guide and stimulate practitioners' thinking the work offers a great deal. Although Perry does not attempt to give a detailed legal overview of asylum/immigration and allied welfare legislation the report, nonetheless, provides a wealth of information in an accessible and straightforward manner. Each chapter begins with a bullet point summary which clearly sets out its aims and the topics covered. Similarly, each concludes with a final checklist to encourage readers to reflect on their own organisations' practices and consider how their future provision may be enhanced. Additionally, the report is complimented by seven detailed and extensive appendices that are a valuable resource in their own right.

The first three chapters clearly set out both the national policy context and the asylum claiming process. The vital role that good housing plays in promoting the well-being of new migrants is emphasised. Issues relating to the various rights of different groups of new migrants are discussed and the responsibilities of providers, in respect of their statutory duties and best serving their clients' needs are laid out. Moving beyond the beyond basic tiering of entitlement outlined above, the particular rights of migrant families, disabled migrants and unaccompanied minors are also outlined. Chapters, four five and six provide more detailed discussions of issues about accommodation, support services and the integration of migrants into host communities. Each of these chapters begins by outlining 'policy and good practice guidance' and subsequently moves on to provide a host of 'practical examples'. These are brief descriptions of local projects which clearly illustrate many effective ways in which forced migrants can be supported. An especially useful feature here is the way in which each overview

concludes with a contact phone number or email/web address. Further information or advice for anyone who is looking to establish or improve a service is thus readily available. The concluding chapters present much for service providers to reflect upon. Here Perry make a strong case for housing providers to develop refugee housing strategies to complement existing policies on homelessness, and community cohesion etc. The resource implications and potential funding sources for the ‘joined up’ partnerships of provision that he advocates are also considered.

The report is, however, much more than a practitioners’ guide. It is also a piece of wide ranging research that makes important recommendations in five related areas. See, for example, Points for Practice below.

#### **POINTS FOR PRACTICE**

- **Accommodation** - many forced migrants become vulnerable to homelessness as their immigration status changes following a decision on their asylum claim. Effective liaison between different local agencies can lead to innovative measures to reduce this risk.
- **Support services** - asylum seekers and refugees have diverse support needs. Service providers must avoid making broad assumptions and consult with individual migrants to plan effective support.
- **Community integration** - ‘community support plans’ which recognise and build on the needs of existing community members alongside those of new migrants are important if meaningful community cohesion is to be achieved.
- **Partnerships** – local authorities and housing associations are often well placed to take a lead in coordinating support services for forced migrants. Establishing close partnerships/cooperation with Refugee Community Organisations and black and multi-ethnic housing organisations will help to ensure the development of culturally sensitive services.
- **Strategies** - the needs of new migrants need to have a higher profile than at present. Agencies should develop specific refugee housing strategies to complement existing BME and homelessness strategies.

Elsewhere many commentators have been highly critical of exclusive elements of the UK asylum support system. Perry recognises that new migrants present housing organizations with a challenge; one they must often meet within the wider context of an often hostile response from certain sectors of the press and public that construct those claiming asylum as ‘undeserving’ economic migrants. A particular strength of his approach is the way in which he accentuates positive aspects of current provision and practice whilst simultaneously acknowledging that many local authorities and housing associations, particularly those outside the bigger conurbations, have yet to fully engage in meeting the needs of forced migrants. However, within the context of this report which searches out good practice within the myriad of existing services, the author rightly makes, “providing better housing and related services to asylum seekers, refugees and new migrants more generally – especially in places where services do not exist or fall short” (p.6), his overarching priority.

#### **Failed asylum seekers, destitution and ‘Section 9’**

Forced migrants’ susceptibility to homelessness and destitution has become nationally recognised. Until recently Section 55 of the Nationality, Immigration and Asylum Act

(2002) enabled the government to refuse NASS support to migrants who did not lodge a claim for asylum 'as soon as reasonably practicable', (i.e. within 72 hours of entering the country). This was a major cause of destitution. Extensive lobbying and a successful challenge in the courts effectively ended its use in November 2005. As much local research indicates, however, destitution remains a very real issue for failed asylum seekers.<sup>4</sup> Section 9 of the Asylum and Immigration (Treatment of Claimants etc.) Act (2004) looks set to exacerbate such problems. It sets out new powers for NASS to terminate support for failed asylum seekers with dependant children. It places an obligation on adult failed asylum seekers with families to actively cooperate with moves to return them to their country of origin. Those who are deemed to have 'failed to take reasonable steps' to leave the UK face the possibility of destitution and their children being taken into care.

Kelly and Meldgaard's research reports the views of social care staff from 33 local authorities, 18 of which were involved in piloting Section 9 at time of interview. The research indicates an overwhelming resentment of the policy from those who will be responsible for administering it at local level. Detailed discussions of relevant legislation illustrate the inherent tension between this new immigration law and the duty of local authorities to meet the welfare needs of children. The report argues strongly that Section 9 is incompatible with the Children Act (1989) and the Human Rights Act (1998) and undermines the principle of child centred social work. Importantly, it notes that Section 9 has failed to facilitate the return of any family in the pilot areas. To date its effects have been entirely negative with 35 families 'disappearing' and ceasing contact with welfare support services. Aside from the practical, emotional and psychological cost that the policy is likely to cause to already vulnerable families, the report also details how any moves to place children in care will involve local authorities incurring substantial costs as financial responsibility for their support transfers from NASS to local authority budgets. Other key findings indicate a worrying lack of coherent training and guidance about relevant processes and procedures for social workers. The authors fear this may lead to widely diverging local practices and result in a 'postcode lottery' of support.

The full impact of section 9 has yet to be felt due to its relatively recent introduction. However, the report illustrates the dilemma that some working to support forced migrants face i.e. involvement in implementing hard line policies that counter their personal and professional beliefs. As the escalating protests of social care staff reported in this study illustrate, all the 'good practice' in the world cannot make a profoundly bad policy, which purposefully promotes destitution, virtuous.

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<sup>1</sup>Robinson, V., Andersson, R. and Musterd, S. (2003) *Spreading the burden? A review of policies to disperse asylum seekers and refugees*, Bristol, Policy Press.

Zetter, R and Pearl, M. (2000) 'The minority within the minority: refugee community-based organisations in the UK and the impact of restrictionism on asylum-seekers', *Journal of Ethnic and Migration Studies*, 26(4) pp.657-697.

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<sup>2</sup> Dwyer, P. (2005) 'Governance, forced migration and welfare', *Social Policy and Administration*, 39(6) pp.622-639.

<sup>3</sup> National Audit Office (2005) *Returning Failed Asylum Applicants: Report by the Comptroller Auditor General*, HC 76 Session 2005-2006, 14 July 2005, London, The Stationary Office.

<sup>4</sup> See e.g. LDSG (2005) *Destitution of asylum seekers in Leeds*, Leeds, report by the Leeds Destitution Steering Group, January 2005 and Refugee Action (2005) *A Report of Destitution in the Asylum System in Leicester*, Leicester, Refugee Action/Leicester Refugee and Asylum Seekers' Voluntary Sector Forum