

Report of the Assistant Chief Executive (Citizens and Communities)

Report to Executive Board

Date: 17 July 2013

Subject: Response to the Deputation to Council on destitution in the asylum seeking population of Leeds

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Burmantofts and Richmond Hill, City and Hunslet, Chapel Allerton, Gipton and Harehills		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. A deputation to Full Council on 8th May 2013 was made on the subject of asylum related destitution and its impact in Leeds.
2. An estimated 400 individuals, including families with children, are considered as being destitute in Leeds – trapped by global politics, by personal choice not to voluntarily return to a country they have fled from, or for other administrative reasons.
3. It's not easy for local authorities to always respond effectively to destitution cases as national policies and immigration law impede our ability to respond and help people in destitution. Indeed in some cases, local authorities are left shouldering a financial burden that it cannot plan for because of national immigration policy and law.
4. The personal impact of destitution on individuals can be significant and the council and its partners recognises the urgent need to address this issue.

Recommendations

That Members of Executive Board:

- Authorise the Chief Executive to write to the Home Secretary voicing concerns that the current application of the asylum process is allowing too many people to fall destitute, and that the burden of responsibility needs to be more equally shared between local and national government.
- Endorse the findings of the All Party Parliamentary Inquiry, and agrees to act on the findings that can be achieved by local government.
- Support relevant policies of the Still Human Still Here campaign to end institutional destitution for asylum seekers.

1 Purpose of this report

- 1.1 To provide a background on the causes and impact of asylum related destitution in Leeds.
- 1.2 To provide information to enable Executive Board to consider the council's proposed response to the deputation.

2 Background information

2.1 Reasons for Asylum Related Destitution in Leeds

- 2.2 The UK asylum system is complex, and there are a number of stages and points where, because people have no recourse to public funds, there is a risk of destitution.
- 2.3 There are a number of migrant groups with No Recourse to Public Funds (NRPF)ⁱ - no rights to access to state benefits or support - and this includes people studying, working or living in the UK who meet the required immigration controls and can support themselves.
- 2.4 Destitution tends to arise when asylum seekers become deemed as NRPF because of a change in status, but also with no legal right to work can no longer support themselves. Asylum seekers tend to be even less likely to be in a position to support themselves when they become NRPF, as they have never had the right to work in the UK and have most often left their home countries under difficult circumstances, with no independent means.

2.5 When asylum related destitution occurs

- 2.6 There are some critical points where destitution is most likely to occur for individuals and families seeking asylum. These are:
 - A - Before an asylum claim is processed
 - B - During the claim process
 - C - During the wait period for appeal
 - D - During the "limbo" period following a negative decision
 - E - Following a positive decision

2.7 A - Before an asylum claim is processed

- 2.7.1 During the first period after arrival in the UK, depending on how the asylum seeker entered the UK, there may be a period before they make an asylum claim, during which they can become destitute. Reasons for the delay in application can vary from an individual's lack of knowledge or understanding of the asylum system, to having been deliberately trafficked and prevented from making a claim.

2.7.2 For others, there can also be an administrative delay between claiming asylum and the claim being processed to be assigned accommodation or receive UKBA Asylum Support.

2.7.3 In Leeds, there tends to be very few of these types of cases, mainly due to its geography as Leeds is not a regular port of entry, nevertheless the administrative delays usually account for 2 or 3 cases a year in total.

2.8 B - During the claim process

2.8.1 During the claim process, people seeking asylum are entitled to claim Asylum Support, also called Section 95ⁱⁱ support.

2.8.2 To access this, asylum seekers sign an Asylum Support Agreement. This contains a number of terms and conditions that must be complied with, or support can be withdrawn either temporarily or permanently.

2.8.3 The agreement covers living at the accommodation allocated; there being no disruptive or violent behaviour; collecting their allocated support on the exact day from the exact location specified; complying with reporting requirements and responding quickly to requests for further information whenever requested.

2.8.4 For a variety of reasons, sometimes the Home Office removes support from asylum seekers for breaches of the Agreement, or through administrative error and during this point there is an increased risk of destitution. This would account for about 1 in 10 of the cases we see in Leeds.

2.9 C - During the Wait Period for Appeal

2.9.1 The “New Asylum Model” has been operational since 2007, which has significantly sped up the process of decision making for asylum claims. This has had two significant unintended consequences in relation to destitution.

2.9.2 Firstly, asylum claims can now be decided within a few days or weeks of someone arriving in the UK, which is a vast improvement from being left waiting sometimes years, but this speed means that there is little time to prepare cases. Often, a decision is made without the asylum applicant present and evidence is generally based in the initial asylum interview alone. Roughly two thirds of applications are refused at this point. Claimants have the right to appeal, but must do so within 10 days or lose their asylum support before appeal.

2.9.3 Secondly, the relatively short period of time between dispersal and initial decision (either positive or negative) means that asylum seekers may not have built up networks of support from the third sector or know where they can go to for help if their statutory support is withdrawn.

2.9.4 Previously, when the local authority was part of a consortium paid by government to house asylum seekers, in order to prevent homelessness the Council was able

to use its discretion to allow asylum seekers to remain in accommodation, and to ensure that if they wished to appeal in the 10 day window that they were able to do so. The significantly reduced value of the new contracts with private sector providers means that they are unwilling to allow asylum seekers to stay once support has been stopped – even in cases where there is a strong indication that support will resume once paperwork is complete. This may put some people at a much greater risk of homelessness and destitution.

2.10 D - During the “limbo” period following a negative decision

- 2.10.1 If a refused asylum seeker has a serious health problem, disability or community care need (within very clearly defined parameters) at this point they can be considered “destitute plus” and apply to the local authority to provide accommodation and financial support under the National Assistance Act. In Leeds we have had fewer than 10 individual cases over the last few years, and currently only have 2 individual cases in Council support.
- 2.10.2 If an asylum application has been rejected and the claimant has exhausted their appeal rights, they are expected to make arrangements to return to their country of origin as soon as possible. Short term support, known as Section 4 can be given at this point, with the anticipation that the person, or family, are preparing to leave the UK.
- 2.10.3 There are strict requirements to qualify for Section 4 support, this includes the pre-requisite of being destitute (or otherwise destitute in the following 14 days) and also meet one of the following requirements:
- all reasonable steps to leave the UK are being taken
 - unable to leave the UK because, in the Secretary of State's opinion, no viable route of return is *currently* available; (e.g. Syria)
 - unable to leave the UK because of a physical impediment to travel (usually medical reasons)
 - a judicial review of the asylum application has been applied for, and permission given to proceed
 - accommodation is necessary to prevent a breach of the Human Rights Act
- 2.10.4 Section 4 support does not come in cash form. It is the provision of specified accommodation plus an Azure Payment card which has a maximum weekly allowance of £35.39 and is restricted to the purchase of food and essential toiletries from certain supermarkets.
- 2.10.5 The ‘no choice’ accommodation can mean having to take up an offer of accommodation anywhere in the region: this now includes the whole of Yorkshire and Humber and the North East, and is increasingly becoming the case as private

sector accommodation is much less expensive in other parts of the region. This can be a big decision for asylum seekers who may have good support networks, including legal, medical and social in a particular place. This sometimes makes them less likely to accept the Section 4 support, especially if they believe that it will be only for a short time.

2.10.6 In order to receive Section 4 status the applicant must agree to return to their country of origin. For some, who are seeking further evidence or anticipating making a fresh claim based on new evidence, this means that they will not apply for the support or they are deemed ineligible as they are not seeking to return. There are others who simply do not have the means or the mental strength to begin the process of returning to a country they have left. Being unable or unwilling to apply for Section 4 accounts for almost 1 in 5 cases in Leeds.

2.10.7 The single largest number of cases in Leeds is people waiting for Section 4 support to begin. There have been attempts to speed up the process of decisions on Section 4 cases, but this is most often considerably slower than the 21 days notice of a final negative decision, when Asylum Support stops. Almost 1 in 3 asylum-destitute people in Leeds fall into this category.

2.11 E - Following a positive decision

2.11.1 At the end of the asylum process upon being given a positive decision and “refugee status”, people are given a maximum 28 days notice to leave their accommodation provided by UKBA and move into mainstream provision: securing a job, accommodation etc.

2.11.2 Due to the difficulty of getting a National Insurance number, or activating a benefit claim and getting housing in place within this short timeframe, refugees often become homeless or risk destitution immediately after gaining their status. Importantly however, they do at this point have recourse to public funds and are expected to receive the same support as other local authority citizens in the same circumstances. Unfortunately for some people, particularly single males, this means that they have the same vulnerability to homelessness or insecure accommodation as others without means or a network of support.

2.11.3 Housing Options report that the numbers of these cases are very low, in line with our robust approach to preventing homelessness across the board, but that there have been a small number of cases of people sleeping rough, or in receipt of emergency hostel accommodation until benefits can be activated.

2.12 Figures for Asylum Related Destitution in Leeds

2.13 It is virtually impossible to give an accurate figure on the number of people in Leeds experiencing asylum-related destitution. The last well researched piece of work on destitution in Leeds was a Joseph Rowntree Foundation report by Dr Hannah Lewis in 2009 and even in that extensive research she states why it is not

possible to calculate with any certainty the number of people destitute in Leeds from the official sources we have availableⁱⁱⁱ.

- 2.14 That said, we can take a reasonable guess at numbers from unofficial sources and by working with the third sector, including churches and faith groups, to look at how many people they are currently supporting, as many destitute asylum seekers rely upon friends and charity to meet their basic needs.
- 2.15 The third sector response to destitution in Leeds has involved the co-ordinated provision of basic practical support – however most organisations are reporting strain due to a lack of resources, reliance on sporadic donations and the restrictions on refused asylum seekers' entitlements. Charities and groups provide a vital life line to many destitute asylees in the city, but their support, however overstretched, may in fact conceal the seriousness and extent of destitution.
- 2.16 Conversely also whilst some destitute asylum seekers benefit from community based support, dependency on others can also facilitate exploitation and there have been several documented cases of physical and sexual exploitation of destitute females in the city.
- 2.17 The migrant third sector working with destitute asylum seekers reports:
 - 2.17.1 PAFRAS, Positive Action for Refugees and Asylum Seekers, runs a drop in for food parcels and essentials, in St Aiden's parish hall in Harehills. In the last calendar year 2012, PAFRAS recorded 261 new individuals take up their support, on top of existing clients.
 - 2.17.2 LASSN, Leeds Asylum Seekers Support Network, runs a project called Shortstop, which provides overnight beds in volunteers' houses for destitute asylum seekers and refugees. In the year to April 2012, the Shortstop project prevent 163 individuals from otherwise being homeless.
 - 2.17.3 Abigail Housing provides homes to destitute refugees and asylum seekers in Leeds and Bradford on two projects: the Destitution Project that provides housing to asylum seekers who would otherwise be on the streets and the Refugee Housing Project which provides temporary accommodation for new refugees, to help bridge the gap between Home Office support and an independent housing situation. In the last year, Abigail has had 50 new individuals in need of their housing, and has an extended waiting list.
 - 2.17.4 York Street Health Practice, has 1151 registered patients who are homeless, with estimates of more than 1 in 3 who are destitute asylum seekers.
 - 2.17.5 St George's Crypt regularly reports that many of those accessing night shelter are asylum seekers, with appeal rights exhausted and no plan in place to be returned to their country of origin.
 - 2.17.6 Meeting Point, based in Christ Church in Upper Armley provides a hot food and essentials parcel drop in service weekly, and regularly supports more than 100 destitute asylum seekers.

- 2.17.7 St Vincent's Centre on York Road also sees a number of destitute asylum seekers attend its weekly drop in.
- 2.17.8 St Monica's is a converted house, owned by the Catholic Diocese of Leeds, and has been used to provide a safe home environment for long term destitute females in Leeds. The waiting list has been full for a number of months, however the decision has just been reached to suspend this provision.
- 2.17.9 Refugee Council reports that their Leeds office had over 1000 appointments with destitute clients in the last year.
- 2.18 The best estimate from these combined sources is that there are currently around 300 – 400 individuals destitute in Leeds, outside of the official system, and reliant on support from charities and faith groups.

3 Main issues

- 3.1 There are a few existing statutory ways the local authority has a role in preventing asylum related destitution.
- 3.2 Firstly, all local authorities in the UK have a duty to advise^{iv} people who have no recourse to public funds on their personal circumstances and to assist them in finding a solution to their destitution. And in the limited circumstances^v of National Assistance Act, provide support and accommodation for people with additional community care needs.
- 3.3 An additional concession introduced in April 2012, was the Destitution Domestic Violence concession, which introduced the possibility of allowing someone with NRPF to request temporary leave for three months, which allows them to apply for access to public funds and give them the time to make a separate application for indefinite leave to remain under the Domestic Violence Rule. Once granted temporary leave they are eligible to access public funds, including housing benefit, seek support from domestic violence shelters or apply for a homelessness assessment at housing options.
- 3.4 The deputation on destitution however sought a further 3 ways that the local authority could act to prevent destitution:
- 3.5 **A - Writing to the Home Secretary on the Subject of Destitution**
- 3.5.1 The deputation referred to the motions that have now been passed in Council Chambers in Glasgow, Sheffield, Bristol and Oxford where it was agreed to write to the Home Secretary condemning the way current asylum policy and practice renders people destitute, resulting in a devastating hardship for asylum seekers.
- 3.5.2 The letter to the Home Secretary could also request a renewed dialogue between national and local government on preventing destitution, and working to resolve the situation effectively.

3.6 **B – Endorsing the findings of the 2013 All-Party Parliamentary Inquiry into Asylum Support**

3.6.1 During early 2013, the Children’s Society supported an All Party Parliamentary Inquiry into Asylum Support for Children and Young People. Evidence was taken in Leeds as well as a number of cities around the UK. The Inquiry found that despite legal protections being in statute to prevent destitution in children asylum seekers, children made up between 13 and 20% of the destitute population in most areas.

3.6.2 The Inquiry presented its findings in Parliament, and have published them in full.

3.6.3 The main recommendations for the report are for national Government:

- To abolish Section 4 and institute a single cash based support for all children and families seeking asylum in the UK, as well as to review the amount of support made to families, with the intention that it should never fall below 70% of comparable mainstream benefit and is reviewed annually.
- To grant permission to work for asylum seeking parents and young adults if their claim for asylum has not been concluded within six months. Refused asylum seekers who cannot be returned to their country of origin should also be allowed to work.

3.6.4 But there are also some recommendations for local government and the local third sector:

- To ensure that newly dispersed families are provided with comprehensive information about their rights and entitlements, as well as practical information about services in their areas and where to get support. The Local Authority and third sector should work together to limit vulnerability of new arrivals.
- For local authorities to enforce housing law and monitor standards by private housing providers
- To promote positive relations between asylum, refugee and settled communities and support the country’s proud tradition of giving sanctuary to those in need of protection

3.6.5 **C – To Support the Policies of the Still Human, Still Here Campaign**

3.6.1 Still Human, Still Here is a coalition of over 50 organisations that are campaigning to end asylum related destitution in the UK.

3.6.2 Through campaigning, the coalition is urging Government to:

- Provide asylum seekers who would otherwise be destitute with sufficient support so that they can meet their essential living needs

until they are returned to their country of origin or are given permission to stay in the UK

- Provide free access to healthcare for all asylum seekers while they are in the UK
- Grant asylum seekers permission to work if their case has not been resolved within six months or they have been refused, but temporarily cannot be returned through no fault of their own
- Improve decision making and ensure that all those in need of protection receive it.

3.7 To date, Bristol City Council is the only local authority to sign up to join the campaign.

3.8 Though many of the aspects of the campaign are elements that the Local Authority supports, it is considered more appropriate not to join the coalition itself, but rather look at where their policy ideas and practice can be taken forward in Leeds.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Engagement with individuals and community organisations working with destitute asylum seekers has been undertaken to inform the contents of this report. When the decisions are taken by Executive Board further consultation can be undertaken with a wider group of stakeholders.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Equality and diversity considerations are included throughout this report in relation to different aspects of destitution. For example, the disproportionate impact on women, on children and on people with health conditions and disabilities. Considerations to promoting cohesion and integration are included throughout the report, and in particular in working in partnership with the migrant third sector to ensure positive relations between new communities and the city, as well as ensuring that the right to seek asylum is upheld. The Equality, Diversity, Cohesion and Integration Screening Appendix expands further on these points.

4.3 Council Policies and City Priorities

4.3.1 The ambition of Leeds to be the best city includes a core aim of being a welcoming, open and fair city. There are a number of other relevant priorities and initiatives including child-friendly city, homeless prevention strategy and the supporting people strategy which relate to the issue of destitution.

4.4 Resources and value for money

- 4.4.1 Whilst there are no specific resource implications arising from the recommendations of this report, the issue of destitution does create financial burdens and challenges for the authority.
- 4.4.2 Support in the form of accommodation, subsistence or additional social care for 'destitute plus' individuals, is provided owing to statutory duties under community care and children's legislation and remains unfunded and unreimbursed from national government. Local authorities must meet these costs from existing budgets, but have limited ability to plan for numbers needing provision as decisions are made on where to place people by the Home Office, rather than the Local Authority.
- 4.4.3 In the last 3 years, numbers of single adults supported by local authorities for health or social care reasons have decreased (to fewer than 10 per annum in Leeds), whereas there has been a steady increase in the numbers of supported children and family cases (this number is difficult to extract as there is no differentiation in support for children with a valid asylum claim or appeal rights exhausted. There have also been an increased number of these cases from the emergent EU rather than just asylum cases, and so this also hides the raw numbers). The vast majority of these cases are waiting for a decision on human rights applications for leave to remain in the UK from the UKBA and would be destitute without local authority support. This support can be ongoing for years because of delays in decision-making on immigration claims. The financial burden of providing support to this group lies disproportionately with local authorities, who have little control over this decision-making process.
- 4.4.4 The lack of 'end of process' activity for refused asylum seekers, expected to return home of their own accord, has a consequent reliance on the local authority services as a safety net for those in the limbo period.
- 4.4.5 In short, in order for the local authority to reduce its spending on NRPF cases (both from asylum and wider migration routes), and to provide an adequate safety net at the same time, there needs to be renewed dialogue between the Home Office and local authorities and a dialogue at national level in order to prevent local tax payers picking up the burden of failures in the national system.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a complex issue but the key legal issue to consider is that a failure to provide services, where there is entitlement, could result in judicial review and claims for damages.

4.6 Risk Management

- 4.6.1 The national local authority NRPF Network report recommends that all local authorities ensure local policies and procedures are developed to ensure statutory duties to people with NRPF are met; that data is recorded and cases are monitored and reviewed to facilitate resolution and minimise safeguarding risks; and that local authorities should work in partnership across departments, locality teams and even regionally and nationally, to share expertise and avoid duplication of work.

5 Conclusions

- 5.1 The causes of asylum related destitution are complex, but are largely institutional.
- 5.2 When people become destitute in Leeds, there are a number of third sector agencies who help them, but there are only limited circumstances where the local authority can offer direct support.
- 5.3 There is no statutory guidance on the duties of local authorities to people with no recourse to public funds and this leads to inconsistency, between local authorities and sometimes within the local authority itself dependent on which service is first accessed. The legal framework to support people also changes frequently and there is stronger legal representation for some clients than others – which can skew what support can be accessed.
- 5.4 For the local authority, there is also the additional danger for this area of work to be misunderstood and for this to reflect badly on local authorities and the clients they support, so there is a need for absolute clarity of the Authority's stance and practice on destitution.
- 5.5 There is a stronger danger however, of viewing destitute individuals solely through the lens of financial burden on the local authority – and the deputation asked the authority to also understand the situation from a personal and individual level. Many previously destitute residents of Leeds have gone on to achieve independence and give back to the community, a good example being one member of the deputation. There are others who have become destitute and become more vulnerable and desperate as they await decision on their fate, and have been damaged by the process, and in rare cases committed suicide.
- 5.6 The deputation raised the issue of destitution as being potentially devastating for the individuals concerned, and this is of grave concern to a Local Authority trying to plan for and support all of its residents in a restricted financial climate. The lines of responsibility for vulnerable people in asylum-related destitution are not as clear as they can be and the deputation also gives the Council the opportunity to raise this issue further.

6 Recommendations

6.0 That Members of Executive Board:

- Authorise the Chief Executive to write to the Home Secretary voicing concerns that the current application of the asylum process is allowing too many people to fall destitute, and that the burden of responsibility needs to be more equally shared between local and national government.
- Endorse the findings of the All Party Parliamentary Inquiry, and agrees to act on the findings that can be achieved by local government.
- Support relevant policies of the Still Human Still Here campaign to end institutional destitution for asylum seekers.

7 Background documents^{vi}

7.1 None

ⁱ Migrants with No Recourse to Public Funds and at risk of destitution fall into the broad categories of:

- Asylum seekers with an asylum claim in process but who have been refused UKBA Asylum Support (previously known as NASS support).
- Asylum seekers who have reached the end of the legal process and been refused.
- Irregular or undocumented migrants: migrants who have entered the country without a visa or have stayed after the expiry of their visa or have other immigration irregularities.

- Regular migrants with no income: migrants who are in the country legally with a visa but whose circumstances have changed so that they are no longer receiving an income from employment or other sources.
- Migrants who do not have the right to reside, which includes migrants from outside the EEA and, in some circumstances, EEA nationals.
- Migrants (and, occasionally, returning UK citizens) who do not pass the habitual residence test.
- **Note** - NRPF is not always a permanent state. The circumstances of some clients may change over time so that they become eligible for public funds.

ii Benefit entitlements of asylum seekers under S95 and S4 as percentages of mainstream benefits:

	Mainstream Benefit	Section 95	% of mainstream	Section 4	% of mainstream
Single Adult (18-24)	£ 56.25	£ 36.62	65%	£ 35.39	63%
Single Adult (25+)	£ 71.00	£ 36.62	52%	£ 35.39	50%
Couple, no children	£ 111.45	£ 75.52	68%	£ 70.78	64%
Couple, with children	£ 128.85	£ 75.52	59%	£ 70.78	55%
Pregnant woman (25+)	£ 71.00	£ 29.62	42%	£ 35.39	50%

iii Reasons for not being able to accurately guess the numbers of destitute include:

- This is a highly mobile population: some people will leave Leeds on receiving a refusal to go to other areas, others will come to Leeds from other places in the region.
- Figures on asylum decision for the UK are broken down by country of origin, rather than location accommodated in the UK, so we do not know how many negative decisions there are in Leeds.
- Families are (or should) continue to be supported, and the Home Office statistics do not differentiate.
- Removal and return figures are only available on a national scale and do not account for people leaving the UK independently.

iv Duties on Council in encountering people with NRPF include:

- explaining the situation and possible options
- practical and emotional support from qualified staff
- assistance in obtaining "Section 4" support from the UK Borders Agency (for refused asylum seekers who meet strict criteria) or from other sources of financial help
- referral and signposting to agencies that assist with voluntary return to country of origin
- help and advice on health care
- assistance in accessing other services, such as local schools and English for Speakers of Other Languages (ESOL) classes
- provision of information about local community organisations

^v To be eligible for care services from a local authority in the UK, including accommodation and financial support, an individual with NRPF must also be:

- an adult, including adults with responsibility for children;
- ordinarily resident in the local authority area;
- assessed as having community care or mental health needs under the National Assistance Act 1948, or be someone whom there is a duty to support under the Children Act 1989;
- eligible for support under immigration law; or
- someone who has to be supported to prevent a breach of their human rights, under the European Convention on Human Rights;

To be eligible for services from Islington Council, an individual or family must be 'ordinarily resident' in the borough.

^{vi} The background documents listed in this section are available for download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.