

# Out in the cold

Homelessness among destitute  
refugees in London

Refugees reveal the reality of living in destitution

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# APPENDIX 1: METHODOLOGY

## 1. Research process

A questionnaire was developed, in consultation with destitute refugees, practitioners working with them, and policy experts. It included both multiple choice questions, with the option to select “other” and/or elaborate, and open-ended questions.

The survey was carried out in our Day Centre, over two consecutive Thursdays. The questionnaire was produced in English and French, and interpreters were hired for Tigrina, Amharic, and Arabic. This minimised the possible biasing of the survey sample created by language barriers. Assistance was available for anyone who wanted it, as was a private space.

Where the survey was conducted in English or French, respondents either wrote down their responses, or they spoke them and these were recorded verbatim. French responses were subsequently translated into English. Where an interpreter was employed, s/he translated the responses and recorded them in English as the answers were given.

We received 135 responses.

## 2. Limitations

In common with any research project, this one presented challenges and had certain limitations. One significant limitation was the relatively small sample size.

Others relate to the issue of self-selection and, connectedly, to the sensitive nature of some of the information sought. These issues were:

The survey was voluntary, and therefore self-selecting. This may mean that the most vulnerable – those whose accommodation situations are likely to be worst – are under-represented because they feel least able to

engage in the process and least confident in speaking. It is also true that in some cases having particularly pressing housing issues to report may make some people more likely to opt into a survey on housing.

People are likely to be reluctant to share some sensitive or personal information – for example, about abusive relationships. The questionnaire only gets to half of the story. This becomes evident in certain responses. One woman told us: “Over the last year I have stayed in many different places, but I won’t mention where.” It is likely that, in many cases, the full reality is bleaker than the portion of it described in the survey response.

Individual questions could be refused, and some were.

## 3. JRS UK’s criteria for offering support

In order to register with JRS UK and receive the full support we offer, one needs to 1) be destitute and 2) have a protection need.

For operative purposes, JRS UK defines as destitute anyone who:

- is not eligible for asylum support or social security benefits, or
- is receiving assistance less than that provided by asylum support provision (e.g. some social services care packages)

Most of those we support have applied for asylum and been refused, and many are preparing a fresh claim. Some are preparing an initial asylum claim, or there is reason to think that they ought to be. We also support some people who have been granted refugee status, and whose asylum support has been cut off, but who are waiting to be transferred to the wider Department of Work and Pensions system.

This can take a very long time, during which those granted refugee status are left destitute.

The Joseph Rowntree Foundation defines destitution as: 'Lacking the means to meet basic needs of shelter, warmth, food, water and health.' JRS UK's operative definition is grounded in a similar understanding – 'refused asylum seekers' are denied both the opportunity to work, and any formal support whatsoever.

These criteria enable us to focus limited resources where they are the most urgently needed.

# APPENDIX 2: POLICY AND SOCIAL CONTEXT <sup>1</sup>

## 1. The hostile environment

In addition to the Right to Rent legislation, other key aspects of the hostile environment agenda are:

### 1.1 Charging for NHS care

In England, healthcare charges have been gradually extended to many people without permanent residency, including undocumented migrants and those with refused asylum claims. The Immigration Act 2014 included significant extensions to charging for secondary care.<sup>2</sup> Since August 2017, charges have been extended into community health services. Services now chargeable include community midwifery, district nursing, drug and alcohol treatment, and mental health services amongst others.

As of 23rd October 2017, payment is demanded upfront for all services included within the charging regime (*i.e.* hospital care and community services), and treatment for “non-urgent care” is prohibited without it. The definition of urgent care is left to physicians to determine, which means much uncertainty for patients about eligibility for access. There are also plans to begin charging overseas visitors and undocumented migrants for primary care in the near future, and to try to do so for emergency services. Furthermore, healthcare providers are now obliged to check patients’ immigration status, even for many services that remain free. There are no clear guidelines on how this is to be done; in response to concerns and request for clarification, the

Health Secretary’s office stated that there were ‘no fixed evidential requirements’.<sup>3</sup> The prospect of immigration checks will inevitably deter those of undocumented immigration status from seeking medical attention. There is good evidence that charging has already been deterring many from accessing hospital care.<sup>4</sup>

Importantly, an unpaid bill of £500 or more counts against a person attempting to regularise their immigration status – so NHS charging is likely to deter those struggling to gain recognition as refugees from seeking even emergency care, for which payment would theoretically be demanded after treatment.

This is significant to the current report given the detrimental effect of homelessness and wider destitution on health.

For more information, see JRS UK’s briefing, “NHS Charging Regulations: Impact on undocumented migrants, refused asylum seekers, and other vulnerable groups” (December 2017).

### 1.2 Work

The 2016 Act makes working without proper documentation a criminal offence in its own right, with a maximum custodial sentence of six months and/or an unlimited fine in England and Wales. This new offence covers all workers, whether self-employed or employed. The 2016 Immigration Act also makes it a criminal offence for employers to employ someone who they ‘know

1 This partly draws on research conducted by Ms Jess Scott at the University of Cambridge in summer 2017.

2 <https://www.doctorsoftheworld.org.uk/Handlers/Download.ashx?IDMF=8f735eb1-d357-4df5-9723-cf7081bda719> p.6.

3 The Health Secretary’s office stated that “The changes do not require that a patient will need to provide a means of identification to qualify for free care. While this may be helpful in demonstrating eligibility, other information will be used by trained NHS staff to ensure the residency status of a patient is identified. The Regulations simply require that a relevant body must make such enquiries that it is satisfied are reasonable in the circumstances to determine whether charges should be made. There are no fixed evidential requirements.”

4 Hanne Ockert-Axelsson, ‘Sick, tired, and afraid: assessing the relationship between unpaid hospital bills and the consequences debt can have on immigration status for undocumented migrants at an East End London Clinic’, MSc Thesis, KCL, 2017.

or have reasonable cause to believe' is undocumented. The maximum custodial sentence for employing an undocumented migrant is also increased from two years to five years. This, of course, makes it even more difficult for undocumented migrants to secure income.

### 1.3 Driving licences

The 2014 Act provided the UK Government with the power to revoke UK driving licences held by undocumented migrants. The 2016 Act provides two new measures: 1. It gives power for police and immigration officers to search people and premises, in order to seize revoked or unrevoked UK driving licences of undocumented migrants; and 2. It creates a new criminal offence of driving whilst unlawfully present in the UK. This is significant not only for the exclusion from driving, but also because the driving licence constitutes a form of ID that could help access other services. It could also provide a record that would help in regularising immigration status.

### 1.4 Banks

The 2014 Act prohibited banks and building societies from opening current accounts for individuals who do not have immigration permission or a right to be in the UK. The 2016 Act goes further and prevents undocumented migrants from continuing to operate existing bank accounts.<sup>5</sup> If the account holder is confirmed to be undocumented, the Home Office has the power to:

1. Require banks and building societies to close the account as soon as reasonably practicable; or
2. Apply to the courts to freeze the account until the undocumented immigrant leaves the UK.

### 1.5 Information

New measures in the 2016 Act build up data collection and data sharing between the Home Office and its "partners". This involves gathering personal data on migrants from other government departments (e.g., Dept of Education, NHS); from NGOs or from private for-profit companies (e.g., banks and money lenders, including through the CIFAS databases).

Under the 2016 Act, banks and building societies will be required regularly to check the immigration status of their account holders. If it establishes that a client is undocumented, a bank or building society will have a duty to report this to the Home Office.

### 1.6 Detention

All undocumented migrants and all those claiming asylum in the UK are liable to being detained in an immigration removal centre. In the UK, there is no time limit on detention, and some people are held for years. In this, the UK is very unusual among European countries. Because immigration detention is an administrative process, the initial decision to detain someone does not automatically go before a judge.

Those surveyed in the Day Centre live in perpetual fear of detention.

There is good evidence that conditions in immigration removal centres are poor. For example, accessing healthcare within centres is often difficult, partly due to a culture of disbelief by staff, and partly due to insufficient medical professionals.<sup>6</sup> Immigration detention itself can take a severe toll on mental and physical health.<sup>7</sup>

<sup>5</sup> Immigration Act 2016, Schedule 7 (<http://www.legislation.gov.uk/ukpga/2016/19/schedule/7/enacted>).

<sup>6</sup> <http://www.medicaljustice.org.uk/wp-content/uploads/2016/04/healthwatch-detention-centres-final-ok-2014.pdf>

<sup>7</sup> For example, this is a finding of Women for Refugee Women, 'We are still here: the continued detention of women seeking asylum in Yarlswood', November 2017.

## 1.7 Unfolding impact

Much hostile environment legislation is not yet fully in force, or has come into force so recently that its full effects have yet to be felt. For example, as tenancies come up for renewal, more and more landlords will respond to right to rent legislation, evicting or issuing *ultimata* for tenants' friends and family to leave if they do not have immigration status.

## 2. Destitution

Recent research by the Joseph Rowntree Foundation shows high levels of destitution in the UK population as a whole, and demonstrates its crushing impact on human lives.<sup>8</sup> It was observed that migrants faced “compounding difficulties. Benefit eligibility restrictions affecting some groups of migrants meant that they often had an income level even lower than that of our UK-born interviewees...and they tended to have been in this position for an extended period of time. Many current and refused asylum seekers viewed their lack of access to the labour market as the major cause of their destitution. Social isolation, while also affecting many UK-born interviewees, could be particularly prevalent among destitute migrants...”<sup>9</sup> It should be noted that this study was UK-wide, and conducted from Scotland, and much of the policy most relevant to the destitute refugees surveyed here is specific to England. For example, in all other parts of the UK, ‘refused asylum seekers’ are exempted from any NHS charging. The experience of those in England specifically is likely to be even worse.

## 3. Support for destitute refugees after refusal of an initial asylum claim

### 3.1 Outgoing legislation: Section 4 support

Section 4 of the Immigration and Asylum Act

1999 provides for support to rejected asylum seekers who are considered to be destitute and where there is a temporary barrier to their return. A ‘rejected asylum seeker’ is eligible for this form of support if s/he appears to be destitute and meets at least one of the following conditions:<sup>10</sup>

- S/he is taking all reasonable steps to leave the UK or place himself or herself in a position in which they are able to leave the UK. This could include complying with attempts to obtain a travel document to facilitate departure;
- S/he is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason;
- S/he is unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available;
- S/he has made an application for judicial review of a decision in relation to the asylum claim and the court has granted permission to proceed; or,
- The provision of accommodation is necessary for the purpose of avoiding a breach of a person’s Convention rights, within the meaning of the Human Rights Act 1998.

In order to receive Section 4 support, someone who has been refused asylum must normally sign a statement saying that s/he will return to her or his country of origin when the Secretary of State considers it safe. This creates an insuperable difficulty for those who are in fear for their lives should they return to their country of origin.

The support provided under Section 4 is comprised of accommodation and subsistence vouchers. The accommodation providers supply the vouchers, the exact nature of which is left at their discretion.

8 Joseph Rowntree Foundation, “Destitution in the UK” (April 2016).

9 *Ibid.*, p.4.

10 The following text is taken from “Asylum Support, Section 4 Policy and Process – Version 7” chapter 1, section 1.2 and lightly amended for grammatical context.

This system for providing support is still in operation at the time of publication, but is shortly to become obsolete. However, Section 4 was in force at the time at which the survey was conducted. It is therefore relevant to understanding the systems that refugees must navigate in order to meet their needs, and how those systems are failing them. Those we support – the respondents to this survey – are not in receipt of Section 4 support.

### 3.2 Even more limited destitution support

The 2016 Immigration Act replaces section 4 with another provision (Section 95A), yet to come into force. It will be harder to qualify for. It will be paid in cash at the same level as Section 95 support (£36.95 per week, rising to £37.75 on 5th February 2018).

The criteria for accessing Section 95A support will be more restrictive than those previously in play for Section 4.

Regulations will require single adults to apply within a highly restrictive 21-day “grace period” after refusal of their asylum claim. Additionally, what is meant by a “genuine obstacle” to leaving the UK is yet to be defined.

There will be no right of appeal on refusal of support.

Right to rent legislation also makes it harder to apply for destitution support, because to do so, one needs to explain where one has been living, and why one cannot stay there any longer. This requires those the applicant has been staying with to confirm – and they are unlikely to do so if it may result in eviction.

### 3.3 Support for families

At the time of publication, those whose asylum claims have been refused and who have children continue to be supported under

the system for those with pending asylum claims. However, legislation yet to come into force will change this.

The 2016 Immigration Act makes it much more difficult for destitute families to access emergency support. It removes Section 94(5) of the Immigration and Asylum Act 1999, which had allowed for families with children who have had their claim rejected to remain supported under Section 95 until they leave the UK. Under new regulations Section 95 support will be discontinued after 90 days for families whose asylum claim is finally rejected. The restrictions on families with children applying for Section 95A support will be the same as those on single adults.

The removal of support from families who must (but cannot, or do not) return to a country of origin raised an awkward conflict with the legal obligations of Local Government to support families and children from falling into destitution. The Act therefore now makes provision for local authorities to support destitute refused ‘asylum seekers’ with dependent children where “support is necessary to safeguard and promote the welfare of a dependent child.”<sup>11</sup> However, the complexity of the different kinds of support system has caused concern with some legal experts that some families will not receive support and thus be left destitute.<sup>12</sup>

11 Schedule 12, paragraph 10A

12 Zoe Harper, Legal Officer, ILPA “The Immigration Act 2016: its implementation and potential challenges in Wales”, p.17: “Given the complexity of the different provisions for support and accommodation to families, there is a real risk of families with children falling through the gaps between the various systems.”



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