

HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
HOME AFFAIRS COMMITTEE

ASYLUM

TUESDAY 2 JULY 2013

ALISON HARVEY

TOM HAMILTON-SHAW and MAURICE WREN

Evidence heard in Public

Questions 253 - 314

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Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 2 July 2013

Members present:

Keith Vaz (Chair)
Nicola Blackwood
Mr James Clappison
Michael Ellis
Dr Julian Huppert
Steve McCabe
Chris Ruane
Mr David Winnick

Examination of Witness

Witness: **Alison Harvey**, Immigration Lawyers Practitioners Association, gave evidence.

Q253 Chair: Alison Harvey, welcome to this session. As you know, the Select Committee is conducting an inquiry into asylum and we are most grateful to you for being here. Could we declare any interests that are over and above what is in the Register of Members' Interests? I declare that my wife is an immigration solicitor.

Can I start with a question about backlogs? Of course, all the time you have been in the ILPA, a considerable length of time, you have heard about the asylum backlogs. Do you think these backlogs will ever be cleared?

Alison Harvey: That is a question of the resources that go to them. There will always be what the Border Agency calls "frictional levels" because there will always be cases going through. There is no reason that I can see why there should be any backlogs when the numbers of persons claiming asylum have fallen so dramatically. There is not a big intake of cases. There is no reason why they cannot be decided. I think we will continue to have backlogs as long as we do not have sustainable decisions. That is not going to help. We are not going to turn the cases around.

Q254 Chair: Do you think the abolition of the six-month target has had any effects on your members and their clients?

Alison Harvey: Not really, because I do not think the target was ever stuck to. It never happened, so we have not noticed its passing.

Q255 Chair: What about the level of success as far as those who go to the tribunal is concerned? I think it is now running at 25%, a quarter of the cases.

Alison Harvey: It is between 25% and 30% but it also varies considerably by country. For a country such as Sri Lanka, you are more likely to win on appeal than not. It is surprising that that sort of failure rate on appeal does not inform the Border Agency's decision making and mean that they start looking again at what they are doing on those cases.

Q256 Chair: Do you find that your members and their clients feel that there is a deliberate decision to slow down the whole process for one reason or another? Or do you think that there is a willingness to try to get things moving? I am thinking about the abolition of the UKBA and its replacement by the Immigration and Visa Department of the Home Office. Has it made any difference whatever?

Alison Harvey: Not yet—no, none.

Q257 Chair: Do you foresee it making any difference? Because the Committee has taken evidence from a number of individuals who suggest that the people who are running things are going to be exactly the same.

Alison Harvey: The leaked memo from the Permanent Secretary at the time of the change said, “You will be sitting in the same desks next to the same people doing the same job.” That is a part of the concern. There has been restructuring but that is nothing new. The Border Agency was always restructuring.

There are also the changes in the grades of decision maker, which I do find very concerning. The idea is if you make decisions, you will be at executive officer rather than higher executive officer grade, and that means that a lot of people are leaving the asylum decision-making jobs. Anyone who can get a job at the higher executive grade—unless they desperately want to stay making decisions—will be moved on. There is a huge churn of staff, which is going to slow things down. I do not think the intention was to slow things down. I could sign up to every word the Home Secretary said about the Border Agency when she abolished it; I agree with her.

Q258 Chair: Yes. Closed, secretive and defensive?

Alison Harvey: Closed, secretive and defensive, and the rest. I thought she did an excellent summary of what was wrong with it.

Q259 Chair: But the solution to try to make it open and transparent and less secretive you do not think is apparent at the moment?

Alison Harvey: I think it will be necessary to go right to the top to look at all the layers of management you have and who are doing the jobs. I think that until one grapples with that, dealing with the people on the front line is not going to change things and is likely to create a lot of confusion for them.

Q260 Chair: As you know, the private sector firm Capita was asked to ensure that those who were still here in the migration refusal pool, some who could include asylum seekers, were notified and they were trying to remove them. Do you have any evidence from your members as to whether or not this has been successful? Because we are trying to track down how many people Capita have managed to remove in exchange for their £40 million over four years.

Alison Harvey: There are no figures and I understand there was no performance target either. We have seen all kinds of people with whom Capita has got in touch wrongly—British citizens, people who have invested £1 million in the UK, nurses, people with live claims. I am not surprised because Capita were not given a list by the Border Agency of people who had no outstanding matters and asked to send them a text and encourage them to go, which never looked like the most likely way of making people move.

Q261 Chair: We do not have benchmarks?

Alison Harvey: No benchmarks.

Q262 Chair: Rather like the e-Borders contract, it all sounds like a very good idea but at the end of the day if you do not know how many people—

Alison Harvey: Well, it does not sound like a terribly good idea—a message on your mobile phone saying, “Excuse me, please, sorry, would you mind awfully leaving the UK?” It is not obvious how that was supposed to work.

Capita were just given access to the Border Agency’s database. Now, some of those cases are incredibly complex. It is not surprising they were making mistakes because to look at that and work out whether the person still had permission would be difficult enough without the backlogs, which mean that updates on status have not made it to the database so that half the time Capita is looking at out-of-date information in any event.

Q263 Dr Huppert: It is good to see you again, Ms Harvey. We have discussed this on a number of occasions. Could I look at a whole range of issues around legal advice?

Alison Harvey: Certainly.

Dr Huppert: There are a number of areas I would like to ask you about. Firstly, we have discussed the fact that the Border Agency, now the Home Office, does not always make the right decisions; there are issues there. Would you agree there are also legal advisers who do not give accurate advice, that there are immigration practitioners who on occasion give rather poor advice to their clients?

Alison Harvey: Yes.

Q264 Dr Huppert: What steps can you take or could we take to try to control that market?

Alison Harvey: The most important thing in my experience that keeps you away from bad advice is having good advice to go to. Many people are in touch with migrant community organisations, with various support groups of one kind or another, refugees in the case of domestic violence, so many lawyers receive phone calls from people seeking to refer the clients and cannot take them.

The latest legal aid contracts, in the legal aid agency’s wisdom, gave just 100 case starts to each firm. There was no real differentiation on quality. Some people who got in are marvellous; some people were people who did not get a contract in the previous round and who no one missed. If the person who everyone wants as their lawyer and who has capacity to do more than 100 cases runs out of case starts, they can have up to 50% more but then no more, even if the person down the road cannot use up their case starts because they are dreadful. You cannot follow the quality. The very issue that the Lord Chancellor has backed down on today in criminal legal aid is a factor of the contractual set-up.

Q265 Dr Huppert: I have certainly seen it in some of my constituents’ concerns about very poor advice, so I think we need to follow that up. You mentioned legal aid. One of the issues that was raised in debate last week in the House was about the proposed residency test: people would have to be here for 12 months. With a particular focus on asylum claims, do you have concerns about that and what sort of concerns are they?

Alison Harvey: Many. There is an exception for asylum seekers but it is only for as long as you are seeking asylum. Once you are recognised as a refugee you will have to wait 12 months before you get legal aid. That is contrary to Article 16 of the Refugee Convention, which requires that refugees have legal aid on the same terms as nationals.

As to the asylum seeker exception, clearly when you are a failed asylum seeker, for example, a child who because of section 83 of the Nationality, Immigration and Asylum Act 2002 cannot appeal and upgrade to refugee, that would also kick you out. Asylum seekers at the end of the process will not be able to get legal aid for support matters insofar as it is

available for housing and homelessness matters or for care proceedings. The asylum seeker exception is extremely confusing as to how it will work for fresh claims. The consultation paper says if you have made a fresh claim you will get legal aid. I cannot tell if “made” is a term of art or if it is the case that you will not get legal aid to make the fresh claim itself. The Border Agency or the Home Office are worried about that because they could get a claim and then get evidence later.

Q266 Dr Huppert: One last question, if I may, Chair, just following up from that. We have had suggestions that one of the problems is exactly that—that applicants do not get legal advice before their initial screening interviews and so the process does not go well from the start and they are then trying to rectify it afterwards. Do you think there should be some sort of process where there is some even basic legal advice prior to screening or is that unrealistic?

Alison Harvey: Ideally, I think you would have legal advice at the earliest possible stage. I think the most important thing with screening is that you take the minimum of information at screening, almost nothing, and that you give a decent time to build a relationship of trust and confidence with the legal representative before you present the claim. The Border Agency or the Home Office seem to assume that we would spend that time helping cook up a pack of stories, whereas in fact very much of that time is spent persuading people to set their case before the Home Office.

Q267 Mr Clappison: Can I ask you a big picture question on this because the subjects we have been dealing with so far—and I suspect some of the ones to come—are really fine-tuning parts of the system? If you were giving marks out of 10, how many marks out of 10 would you give the asylum system and how do you improve it?

Alison Harvey: I would probably give it three to four, but it is decreasing because the agency is introducing a new asylum operating model that I would give zero. I would give it zero because I think it is conceptually flawed. It cannot work. It is about routing your case through the system in a certain way based on information it is not possible to obtain at the stage when the case is routed.

You go into this route provided you are not trafficked, tortured, et cetera, but I will not know that when I put you in the route. I am then told that “hand-off” will have to be managed to get you out of the wrong route back into the right one, but no one has worked out how to do that yet so my confidence is a bit low. Collecting good information early on is the answer and concentrating on the meat of the claim. Rather than running around thinking for reasons not to believe somebody, look at whether on return they would face persecution. If they would not, why bother to work out whether they are telling the truth or not? It is simply that you are not faced with a refugee.

Q268 Mr Winnick: Britain has a very good history, despite blemishes, in giving asylum over a long period of time. If you made a list of some of the most unpopular issues in the country among people in the country at large, asylum would come pretty near the top. Do you think those who are looking at claims and deciding on these issues, case owners and the rest, are influenced by the Government’s general approach, which is not necessarily friendly, and the fact that that Government approach—whichever Government is in office—knows full well the position of our public opinion about asylum seekers?

Alison Harvey: The experience I recall that showed that to me most clearly was when I was at the Medical Foundation for the Care of Victims of Torture many years ago. We were going in with stories of what was happening to people with low levels of support, children in bed and breakfasts. We were terribly worried because all our examples were of Kosovan

children and we said we will stick with it because although everyone hates them, these are the children who are suffering.

By the time our examples came before Committees like this, Ministers had started speaking positively about Kosovo; suddenly, everyone was listening. It turned overnight and it was partly what people saw on their television screens but it was partly the lead from the top. It influenced everybody. It influenced parliamentarians. It influences the case workers, I think.

Q269 Mr Winnick: If politicians have a responsibility to try to distinguish and explain between genuine asylum seekers and those—obviously there are a number, you would not deny it—who have no genuine claim.

Alison Harvey: I think they are all genuine asylum seekers. They may not be refugees, but if you are seeking asylum then—

Mr Winnick: But you do recognise that some do not have genuine claims?

Alison Harvey: I recognise that some do not, but I also think there are a number of people who do not meet the criteria in the Refugee Convention who think they do. They are asking for protection with a sincere heart but we are telling them, “I am sorry, there is a threshold and you are below it.”

Q270 Mr Winnick: Recognising that quite a number are certainly genuine, coming from countries where the utmost repression and violence and rape is so common, do you think that if politicians have a responsibility to try to explain that to the public so organisations like your own and others, however difficult, also have a responsibility to put that across as far as is possible through the media and other sources?

Alison Harvey: Yes. I think immigration lawyers perhaps do not play well in the media so we are perhaps doing everyone a favour by keeping out of it. Yes, I think if people make the connection between where someone has come from and what is happening to them the story makes more sense. People do have a concept that maybe Afghanistan is not a great place to be, or Sri Lanka is not a great place to be, and that at least gives them a context to think about an individual case. It does not mean everyone from that country is a refugee, but it starts you thinking in a clearer way.

Q271 Chair: Further to Mr Winnick’s question, do you not think there is even more of a responsibility if somebody comes in to see a member of ILPA and they say, “Well, actually, I am seeking asylum from India” isn’t it important for the lawyer to say, “What is the asylum problem there?” If they find that there is not a problem in India, they need to tell the person that.

Alison Harvey: I think that generally happens. In the case of asylum, it is mostly done on legal aid where if you have less than 50% prospects of success you get no funding. You have to start with that. I think countries are often deceptive because you are at the most risk when the country is broadly okay and your case is atypical. People are more likely to notice that you might be a refugee from Syria than that you might be a refugee from India where, in fact, your individual circumstances may put you at risk. Yes, I think a lawyer has a big responsibility to be as realistic as possible at the outset. As I say, that is shored up by legal aid, but even a private client you have a responsibility to tell them what their chances are and advise them.

Q272 Chair: Is there a view that after you have told them and they still want to go ahead are you actually—

Alison Harvey: Some will and it is your professional duty as a lawyer to represent them. As long as you are not misleading the court or falling foul of your duties to the court, your job is to put your client's case. If you say to your client, "You have a snowflake's chance in hell" and your client says, "I will take it", your job is to put that case, not to exaggerate it but to put their claim as it is spoken. If the Border Agency could deal with those I would put the claim as it is and they would say, "Thank you, you are not a refugee".

Q273 Chair: Ms Harvey, you recognise the argument that the Government puts across on asylum, which is after every single legal avenue has been exhausted, when they are on their way to the plane, an immigration lawyer, probably a member of ILPA, then sends in a judicial review application to try to delay departure and actually the lawyers are making it more difficult for the genuine cases to be dealt with. You recognise that argument?

Alison Harvey: I recognise that is stated and I think it is inaccurate. You will see last minute judicial reviews. They will very often be from people who are not represented. A lawyer cannot put in a judicial review without falling short of their duties to the court. If you are suggesting that it is routine for lawyers to fall short of their duties to the court, then I do not think there is any evidence that that is accurate.

Chair: Since I am married to one, perhaps I am the wrong person.

Alison Harvey: Yes, I was going to say be a little bit careful.

Chair: We will go to another lawyer before we go to Nicola Blackwood. You had a quick question.

Q274 Mr Clappison: I am pleased you mentioned Syria. Are you seeing many applications from people in Syria?

Alison Harvey: We are seeing some. It started very early when what we saw were applications from investors, business people, people moving. Before the conflict blew up we saw movement as an early warning, and now the asylum cases are starting to come. They are not huge numbers but they are building slowly.

Q275 Mr Clappison: It is undoubted that there is terrible strife and persecution in Syria. Just take us through how somebody who, say, flees their village because they are at risk of being killed because of their ethnic or religious identity would claim asylum.

Alison Harvey: How do you mean, how would they put their case?

Mr Clappison: Yes, how would they get to the UK? What happens?

Alison Harvey: Different people have different routes out of the country. You tend to get to the UK if you have some sort of family backing or means because you are going to have to get on a plane, which will probably involve having false documents. We know from the news reports today that the borders all round the country are closing. I think only the Lebanese border is now open, so fleeing across the land is becoming impossible.

Q276 Mr Clappison: Just to take you back to the plane, if they try to get on the plane they come up against the Carriers Liability Act and the obligations—

Alison Harvey: They will be doing it on false documents and they will be knocked back if the carrier detects them. It is when they get through the detection that they will get on the plane.

Q277 Nicola Blackwood: I just want to take you back to the comments you made about the asylum operating model. You mentioned the problems being that it would be difficult to identify trafficking and torture in time. I just wondered what your assessment was

of the trafficking identifying system, but also the Rule 35 implementation and also this country of origin information, which I understand you have been quite critical of.

Alison Harvey: I am critical of the way it is used, less critical of the information itself. I think we have some good information. The trafficking is getting much harder because now you do not get legal aid unless there has been a decision that there are reasonable grounds for thinking that you have been trafficked. You do not get legal aid until that point and those decisions, which are meant to take place in a matter of days, take weeks and weeks and often months and months to happen. Now trafficked people do not have the assistance that they previously had at that initial stage, and I think that is a problem.

Trafficking has always been harder than torture in one respect in that if you went into the detained fast track, if you were a person who had an appointment with the Medical Foundation for the Care of Victims of Torture or the Helen Bamber Foundation, then your case would be lifted out, whereas in trafficking you had to have a report from the UK.

Q278 Nicola Blackwood: But isn't it supposed to go into the national referral mechanism?

Alison Harvey: It goes through the national referral mechanism but the asylum claim—although there is a 40-day reflection period built into the referral mechanism—as far as the Home Office is concerned that does not cause everything to stop. The asylum claim trundles on underneath that. I think that is extremely problematic where the trafficked person has an asylum claim, which not all of them do.

Q279 Nicola Blackwood: How will this operating model make that worse?

Alison Harvey: I think its aspirations are unrealistic. It is trying to work out if someone is trafficked when it routes them down a particular decision-making route, but it is doing that before the reasonable grounds decision has happened, sometimes before the evidence has been collected for the reasonable grounds decision maker to make their decision on. The risk is that you get a rough and ready, “You are not trafficked, into the detained fast track you go”, at which point when you are in detention you lose confidence—your trafficker has probably told you, “If you run away and tell on me you will just get thrown into prison and no one will help you” and, lo and behold, it is true.

Q280 Nicola Blackwood: Yes. What about with the Rule 35—

Alison Harvey: We set out in our written evidence the concern that the Rule 35 reports can be very perfunctory. People often do not realise they are being interviewed to find out if they have problems stemming from torture when they have been through it. They do not know that has happened. They did not necessarily have an opportunity. When you do get a report that says, “This person reports a period of torture and imprisonment” all too often the attitude to that is that that is, “Well, that is simply reporting what the individual told the doctor”.

Q281 Steve McCabe: I would just like to briefly return to the question of immigration lawyers. I just wondered if ILPA was doing anything or had any plans to do anything about these immigration lawyers who actually charge asylum seekers money, write a few perfunctory letters, the kind the average assistant clerk or apprentice could write, and then suggest they go to see their MP when there is no result—or, indeed, the ones who actually write a letter to the MP, which obviously means they are just acting as a post box. Isn't that giving your profession a bad name and isn't it giving a lousy service to people who are entitled to expect more?

Alison Harvey: If we break that down into various things, there will be people, even people who are entitled to legal aid, who will pay because they cannot find anyone or cannot

find anyone near them. Obviously there are some people who claim asylum who are too rich to qualify for legal aid so they will have to pay.

Steve McCabe: No, I am talking about paying for a lousy service.

Alison Harvey: Yes, I am getting to that. I am just trying to break the elements down. When you come to the service, of course you should get what you pay for and you should know in a client care letter what you get and those who are giving a lousy service are a disgrace. Lawyers tend to see them if the client reaches them at a later stage. We urge them as hard as we can to support that client to lodge a complaint against the representative to the regulators.

Q282 Steve McCabe: Should I refer these lawyers to your organisation when I come across them? Because, frankly, I am fed up seeing these people.

Alison Harvey: You can. All I would be able to do if they were members of ILPA, and I hope they are not, is throw them out of ILPA because I am not a regulator. Your best bet would be to send them directly to the Solicitors Regulation Authority or the Office of the Immigration Service Commissioner, who have power to take away their ability to practise. You can also direct them to the Legal Ombudsman, who again could actually stop them in their tracks.

As to sending to the MP, because I think it is an important point, there are many good lawyers who will also send people to their MP. MPs are hotwired into the system with the MPs' hotline and so on. With delays, sometimes sensible advice to a client is to see their MP.

Steve McCabe: I am objecting to the lawyer who gets the fee for acting as a post box, that is my point. I am not objecting to anyone coming to see me as their MP, but I am wondering why a lawyer is entitled to a fee for doing that.

Q283 Chair: I think what Mr McCabe is lamenting is that so many lawyers send their clients to MPs and really it is the job of the lawyers to try to work their way through the system. You are saying if there are a lot of delays the MPs need to know about it because that is the only way that something can be done. I can assure you whenever Home Office officials come before us, including Ministers, we all hammer away at correspondence issues because we are the last resort. When everything else fails, they are then sent to us. That is right, isn't it?

Alison Harvey: Yes, but I think it is a fact about the immigration system as it works that you get to the point where everything else fails more frequently. I train MPs' case workers and I say to them, "Notice you are wired into this system in a way that in other systems you are not."

Chair: Indeed. We are very short of time today, but I am going to take Mr Winnick and then finally Chris Ruane.

Q284 Mr Winnick: On lawyers, and perhaps yours is not the appropriate organisation to ask, but be that as it may I can understand lawyers contacting MPs when there is a long delay. In fact, without giving secrets away, the Committee will be discussing this in the very near future, one way or another. Regarding payments, if solicitors contact a Member of Parliament sometimes without that long delay, should the client pay the solicitor?

Alison Harvey: It depends on what is being done. No client should ever be forced to pay. You should always be told, "You can go and see your MP. They are free. You can walk in for free." I have equally seen cases, not necessarily asylum but immigration, where people have asked their solicitors to put together a substantial dossier of information in the hope that that would make the MP more willing to assist them. In that case, that is billable time.

I think the important thing is that the lawyer has explained to the client that the person is perfectly entitled to go to their MP, take every document the lawyer has produced to the MP, absolutely free of charge. If there is any question of asking the lawyer to do some paid work, that should be clear at the outset what you are getting.

Q285 Mr Winnick: But if a solicitor nevertheless has written to the MP and the case has been pursued by the solicitor would it not be appropriate to deduct payment if, in fact, the case is then being pursued by the Member of Parliament?

Alison Harvey: The lawyer should only be billing for the time they are spending. If the MP is spending the time, no lawyer should be billing for it.

Q286 Chris Ruane: Since the Government has dispensed with the voluntary discretion policy for LGBT asylum seekers, has there been a greater emphasis on the need for the applicant to prove their sexuality?

Alison Harvey: Absolutely, yes, very visible, yes.

Q287 Chair: What kind of additional information do they want?

Alison Harvey: It is difficult to know what would satisfy them.

Q288 Chair: Give us some examples of what lesbian and gay people are supposed to provide to the Home Office.

Alison Harvey: They are supposed to provide an account that convinces the Home Office. Good luck—how do you do that? The ability to doubt anything you are told or shown about what in the end is about the way someone is inside is infinite. You cannot. There is no standard where you could say you satisfied it, and I think it is a real problem.

Q289 Chair: What is ILPA doing about that?

Alison Harvey: Well, we have had training sessions on the topic for lawyers. We have raised it with the Home Office. We have written to them. We have expressed concerns. We have taken case studies and examples of cases that we think are wrongful refusals.

Q290 Chair: Would you send the Committee examples because we are very keen to pursue this?

Alison Harvey: I can certainly ask members if they have clients who will share them, yes.

Q291 Chair: Thank you for giving evidence today. We are very grateful. Thank you for the work that you do and your members do in helping this Committee and helping other Members of Parliament whenever the issue of immigration law comes before the House. We are most grateful.

Alison Harvey: Pleasure. Thank you.

Examination of Witnesses

Witnesses: **Tom Hamilton-Shaw**, British Red Cross, and **Maurice Wren**, Refugee Council, gave evidence.

Q292 Chair: Mr Hamilton-Shaw, Mr Wren, welcome to the Committee. This is the Select Committee's inquiry into asylum. I am going to start with a question about the Azure card system. When we have two witnesses, obviously there is a tendency for repetition so we

apologise if we repeat a question, but you are welcome to chip in. If we address a question to one of the witnesses and the other wants to chip in, you can. Mr Hamilton-Shaw, has the Azure card, introduced by the last Labour Government, been a success?

Tom Hamilton-Shaw: Frankly, no. The position that we take is very simple: that all support should be in cash and that parallel currencies do not work. What they do is basically close down the options for a very vulnerable group of people and take away choice and dignity for those groups. For example, you cannot use the Azure card on a bus or on travel. You cannot choose which supermarket you do your shopping at, so that excludes budget supermarkets and halal stores. We see a lot of people very frustrated and depressed as a result of that.

Q293 Chair: Mr Wren, are you and your organisation calling for an increase in resources for asylum seekers at a time of economic hardship or do you think the resources that they are given are enough at the moment?

Maurice Wren: Increasing support for people going through the system, we are calling for the relationship with income support levels to be maintained on a par with income support levels, with a discount reflecting the fact that accommodation is provided.

On the question of Azure cards, if I may, we think they are wrong on a number of counts: the inflexibility, the expense, the cost of administration. They are a demeaning factor in the asylum process and the very fact that you have them marks you out as something different. The point that we have made repeatedly to Government is the impact they have on women who are pregnant or new mothers in particular and the difficulties they encounter by not having access to cash at a very difficult period of their lives. We have cited a number of cases in our evidence to you of the problems.

Chair: Yes, you did. Thank you for that.

Q294 Mr Winnick: There is a problem that I have seen that the organisations concerned with refugees and asylum seekers have mentioned. It is those who have been granted leave to remain but are unable to access mainstream benefits. Is that an acute problem?

Maurice Wren: It is a serious problem. It is a growing problem as well. At the point of handover, when you have been granted your status you are given 28 days if you are in supported accommodation. That clock starts ticking and it is relentless and pretty remorseless. We deal with a number of cases across all our offices of people who reach the 28 days without having income guaranteed to move on to.

What we need is more flexibility in that post-decision period. If you think of the number of people involved or the number of agencies involved, the Home Office is involved at the end of the 28 days. The accommodation provider; it might be G4S, it might be Serco. The DWP is involved, and maybe the local authority is involved. It is far too complicated—far too many requirements are visited on those people to demonstrate that they qualify for income support provided by the DWP. It is a real problem.

Q295 Mr Winnick: Recognising that asylum seekers are not necessarily the most popular group in the country and perhaps at times the refusal to recognise between the genuine and the not genuine, if you also link that issue with benefits it becomes even more unpopular—even though in many instances I am perfectly aware that asylum is fully justified, so initially benefits are as well. Do you accept that if people are allowed to stay here, assuming that they are off benefits and are actually in employment—if employment can be found—that would be much better for all concerned, including the people involved?

Maurice Wren: Absolutely, and we spend a lot of time at the Refugee Council helping people into employment. We have a project called “Refugees into Jobs” and we have a particular specialism in helping doctors obtain employment in the health service.

Tom Hamilton-Shaw: Yes, I think we would echo that. We certainly find that often the case is that people want to get involved as soon as they can in society and make a contribution. For example, a lot of our volunteers are refugees and asylum seekers who then go on, once they have refugee status, to become members of staff. That is a hugely positive story that we want to tell as much as we can.

Maurice Wren: If I may, it also opens up the issue of whether people seeking asylum should be given permission to work at some point.

Chair: Yes, we will be coming on to that at the end.

Q296 Dr Huppert: Can I just come back to this issue that you raised, Mr Wren, about pregnancy during asylum applications? In February, you published *When Maternity Doesn't Matter - Dispersing Pregnant Asylum-Seeking Women*, which had some pretty horrific case studies of two women being dispersed a day before they gave birth and then people having to walk very long distances. The Home Office has responded to that. Are you content with all of their responses, whether that has solved the problem?

Maurice Wren: I am very pleased to say that we have had a very productive meeting. The report was published by ourselves and Maternity Action and Maternity Action were able to use their contacts with the Royal Colleges of Midwives and Obstetrics and Gynaecology and some of the university hospitals to get some pretty high-ranking medical professionals along to meet senior officials. That meeting was very productive and there is an apparent willingness on the Home Office's part to further revise their guidance.

One issue came up that I particularly want to highlight. At the moment, the guidance allows for a protected period of eight weeks—four weeks before the birth, four weeks after—when there is an expectation that a woman would not be moved from her accommodation. We would argue, and certainly this was being proposed by the medical professionals, for the idea of protected status. The argument is that a woman at any stage of pregnancy—particularly asylum seekers where we know there is evidence of particularly negative and serious differential impacts on their health—need to be given an assurance they are not going to be moved into inappropriate or unsuitable accommodation and, picking up the earlier discussion, are going to be able to obtain cash support as and when they need it.

Q297 Dr Huppert: Thank you very much. I think we will want to look into this a bit further. Can I also just move on to another issue? There has been lots of discussion about people needing to speak English in this country. There were some changes to the amount of support for asylum seekers and other refugees in the broader sense looking for getting English language lessons. What is the position with that? Is there enough available language training for people who need it?

Maurice Wren: Certainly not. I am not sure if it is your constituency, but certainly in the services we provide out of Cambridge we are working with Student Action for Refugees, volunteers who are providing it, and that is a pattern repeated across the country in our destitution centres, in our offices. We are reliant on volunteers coming forward. It is absolutely crucial that people have access to English language tuition in my view, but they are not getting it.

Q298 Dr Huppert: Is working with volunteers doing enough to provide the language training or is it not supplying the need?

Maurice Wren: No, it is certainly not sufficient. It is meeting whatever needs we can but the very active recruiting and supporting of volunteers is resource intensive for NGOs like ourselves. It has to be provision either at local authority level or national Government level.

Q299 Steve McCabe: I just wanted to ask about the issue of the use of country of origin information. I think you have both been quite critical of that. I just wondered what your take on this is. Is this just further evidence of a culture of disbelief or do you think there is something specific about that that could be changed to make better use of that approach?

Maurice Wren: Certainly in my previous job before I joined the Refugee Council, where I led an NGO called Asylum Aid, we were very critical of the lack of gender information contained in country information. I would agree with your previous witness, Alison Harvey. It is not the country information itself; it is the use to which it is put and the selective use occasionally of it supporting what we would regard as unsustainable decisions.

The collection of information, the information that is made available to decision makers, may be appropriate. It is how that is used in reaching a decision and drawing conclusions based on the evidence provided by the applicant. That is where the problem lies and that goes to the heart of the problems around quality of decision making in the asylum process.

Tom Hamilton-Shaw: From the British Red Cross perspective, we do not get involved in the asylum application itself. Our primary purpose in the UK, where we operate in 48 towns and cities, is to alleviate destitution and humanitarian suffering. We see around 10,000 clients every year and 6,000 of those people are destitute. We are much more involved with the initial food package, hygiene packs, that kind of thing. I am not sure if it is something that we would be able to comment on publicly, but as an aside we do anecdotally hear problems with inconsistencies across COI information and also that the Foreign Office may say one thing and then the Home Office says another.

Q300 Steve McCabe: Could I just ask very quickly about the suggestion that staff should be in country-specific teams? Would that make any significant difference?

Maurice Wren: We have discussed that with the Home Office. It is not a recommendation we would make. We can see some advantages to it, but we can see some disadvantages to it. I think, on balance, I favour mixed teams that are able to go for the core of the claim and are not getting hung up on arcane detail or minute detail about that country because inevitably you are going to have people sitting around twiddling their thumbs if there are shifts in patterns of migration flows or false migration flows. I think all-rounders, generalists, are what are needed. It is the quality of those people to make the kind of judgments and assessments that is important. Alison was raising some concerns about the asylum operating model that is being rolled out at the moment.

Chair: Alison Harvey?

Maurice Wren: Alison Harvey, I beg your pardon. I have described it in discussions with the Home Office previously as a backlog generator because that is what we see that they are putting in place. Not intentionally—they are doing it with the best reasons and on paper it works for them.

Q301 Chair: Nobody gets fed up, do they, when they are sitting in a backlog? Nobody has come to my surgery in 26 years and said, “I have been waiting in a backlog that has gone on for years and years. I have had enough. I am going back”. Do you have people like that in the Red Cross and at the Refugee Council? Do they say, “It has just been too much for me, I am going”?

Maurice Wren: Yes, certainly.

Q302 Chair: How many did you have last year, Mr Hamilton-Shaw? Who said they wanted to go back?

Tom Hamilton-Shaw: It is unusual to have that experience.

Q303 Chair: No? Mr Wren?

Maurice Wren: There was a programme on TV, Granada—

Chair: Well, we would rather rely on your evidence than Granada TV.

Maurice Wren: No, indeed, but it was interviewing people—

Chair: In your view, did people turn round—

Maurice Wren: A small number.

Chair: Five, 10?

Maurice Wren: I could not give you a figure. They are people who will have looked at their prospects in this country, living on support or perhaps not living on support because they have been moved off it so are living in the shadow economy and regard that as unsustainable, particularly if they are raising a family. There may be an assisted voluntary return package available to them, but it is not a huge problem.

Chair: On that point, Mr Ruane has a question about packages.

Q304 Chris Ruane: You make the recommendation that asylum seekers ought to be allowed entrance to the job market if their claims have not been resolved within six months. How would this benefit the UK?

Maurice Wren: Well, we would go further than saying an arbitrary six-month limit. We do not see a justification for any bar at all. How would it benefit the UK? Well, I would point to three areas in particular. Firstly, it would reduce the expenditure the Home Office has to make on providing welfare support and accommodation support for people going through the asylum process, which can last for a long time.

The second point is that we are depriving ourselves of some skills and talents that are much needed where there are job vacancies and a lack of experts, particularly in the medical profession—also in teaching and other professional areas. The third point is the fact that you are not allowed to work lawfully does not mean that some people do not find work in the shadow economy where because of their very nature, their uncertain immigration status, they are ripe for exploitation in a way that should not be allowed in any civilised society.

Tom Hamilton-Shaw: I would echo that and add that the numbers we are talking about are large. The last Chief Inspector's report puts it at 33,000 people. What a contribution they could make to British society if they are paying tax and off benefits. I think the experience that we have in terms of our volunteers is that these are people who are intelligent, who want to make as big a commitment as possible to the country that would give them refuge, and they are willing and able to make that difference.

Q305 Chair: I will put this proposition to you. In fact, because the amount of support they get is so low, the majority of asylum seekers probably work in the shadow economy because there is absolutely no way they can survive on the money that they receive. Perhaps the best way to deal with this is after a limited period of time, if their case is not dealt with, they should be allowed to work after, say, six months or even a year. Many of us will have had cases where people have been waiting for years and years. Do you think a time limit would help the Home Office deal with these cases in a more timely way, Mr Hamilton-Shaw?

Tom Hamilton-Shaw: I think six months is a realistic timeframe and we could certainly support people with right to work at six months. What I would say is that we have

supported people coming to our services, so people who are on section 4, which is a very low level of support, who essentially—

Chair: Tell us how much that is.

Tom Hamilton-Shaw: It is around £35 a week to live off, so the caricature of people who are seeking to arrive in the country for £35 a week—

Q306 Chair: What is the top amount they could get? £35 a week is basic.

Tom Hamilton-Shaw: They will be living in supported accommodation so they will have their accommodation needs met and other associated costs, but that will be cash spend on the Azure card.

Q307 Chair: £35 a week?

Tom Hamilton-Shaw: £35 a week.

Q308 Chair: Mr Wren, a time limit and then give them the right to work?

Maurice Wren: Well, a time limit might be acceptable to the Home Office. As I was saying—

Q309 Chair: No, what is acceptable to you? Forget about the Home Office, what would you like to see?

Maurice Wren: We would work with a time limit. We do not think there is a need for any limitation at all, as I have said.

Q310 Chair: You think people should arrive in this country, claim asylum and then be allowed to work immediately?

Maurice Wren: As was the case until four or five years ago. That was the position. There is no justification—

Q311 Chair: But do you think that would encourage more people to come here?

Maurice Wren: No. There is no evidence to show that the bar to employment acts as a disincentive to people applying or when people had permission that it was a pull factor into the country—no evidence whatever.

Q312 Dr Huppert: Certainly, having seen some of the destitution reports it does not look like we are doing very much pulling, given the way people are treated. Can I ask you, Mr Hamilton-Shaw, about a slightly different issue? In your written evidence you talked about cases of clients who are registered attending signing sessions at police stations, but their claims were still in a controlled archive because they could not be found. I think the Chief Inspector found this as well. Do you think this is still happening and do you have a sense of the scale?

Tom Hamilton-Shaw: We do not have a sense of scale in terms of hard numbers and it is something that we are looking to ascertain ourselves. I would point the Committee to the last Chief Inspector's report on the issue, which is where he found that the 2,000 clients who had been signing had been put into the controlled archive in the migration to CAAU.

The CAAU had found that actually these were 2,000 people who should have been easily put into the live case cohort who had not been. That is obviously a huge problem for those people who through no fault of their own are now back to the beginning. Essentially, this is emblematic in a sense of some of the administrative failures at the Home Office/UKBA where you have one part of the computer system that does not seem to speak to another, where through no fault of any individual there seems to be a complete systemic failure.

Q313 Dr Huppert: There is definitely an issue with people who have been waiting for a very long time and I have constituents like that. This Committee has previously suggested that where there has been an extremely long delay that is not the fault of the individual applying, they should be given the benefit of the doubt when it comes to things that are hard to prove because they were 10 years ago, that medical tests that could be done simply cannot be done 12 years ago. Would you agree that that is the right approach where somebody has just been kept waiting?

Tom Hamilton-Shaw: Certainly, in terms of evidence, if there has not been a fault of any individual asylum seeker, and these may be people who are destitute because of the fact that the claim has not been dealt with properly, then the idea of granting some form of leave to remain, as has been done in the past, is something that we would support.

Q314 Chair: Mr Hamilton-Shaw, Mr Wren, thank you very much for coming in to give evidence to us today. We appreciate it. Could you please, if you have any further information that you need to send the Committee, send us that further information? That also applies to any of your clients who wish to write into us about their personal experiences. We tried to take evidence from some clients last week unsuccessfully, but we are always very keen to have more information and we are extremely grateful. Thank you to both of you and your organisations for the very important and impressive work that you do to help these people.

Tom Hamilton-Shaw: Thank you. We would be happy to arrange visits for any Members of the Committee to meet some of our projects, to meet our clients.

Chair: Yes, I think we intend to do so. Thank you.