

# NACCOM

THE NO ACCOMMODATION NETWORK



## REFUSED?

Experiences following  
a negative asylum  
decision

July 2023

# EXECUTIVE SUMMARY

The process for claiming asylum in the UK is more complex and open to injustices than many realise. Although more than half of asylum applications made in the UK in recent years have resulted in the granting of refugee status, not everybody is given the protection they are entitled to on first attempt.<sup>1</sup> In 2022, more than half (53%) of appeals on initial negative decisions on asylum claims were successful and resulted in the Home Office overturning the decision.<sup>2</sup> Beyond the First-Tier Tribunal, many more are forced to rely on the Upper Tribunal court to be granted refugee status, either as part of further appeals or a judicial review into the way a negative decision on their claim has been made.

Adding to voluntary sector criticism of the quality of asylum decision-making in the UK,<sup>3</sup> an inspection of asylum casework carried out by the Independent Chief Inspector of Borders and Immigration (ICIBI) in 2021 revealed concerns stemming from within the Home Office, with many decision-makers sharing the perception that senior management was "most concerned about quantity, rather than the quality of decisions."<sup>4</sup>

Amidst these ongoing concerns over the quality of asylum decision making, and based on research designed, led and delivered by people with lived experience of destitution and

immigration control, this report reveals the devastating impact that receiving a negative decision can have on people seeking sanctuary in the UK. This often includes homelessness and destitution, declining physical and mental health, being locked out of legal services, and struggling to access statutory and voluntary support.

Before receiving a decision on their claim, participants described their experiences of an asylum process which is inefficient, complex, and permeated by a culture of hostility and disbelief. Despite the number of refugees forced to rely on the court to be granted the protection they are entitled to, our report reveals how following an initial negative decision or a refusal on appeal, people seeking asylum are often unaware of their legal options and entitlements, and how best to explore them. Meanwhile, many of those who are aware of their legal options are unable to progress their case due to the shortage of free representation for asylum and immigration matters.<sup>5</sup>

Drawing on 27 in-depth interviews with service-users from organisations across the NACCOM network, our research also reveals the vital role that voluntary services play in empowering people to assess their options post-negative decision, including the available routes out of homelessness and towards settling in the UK.

<sup>1</sup> Georgina Sturge, Asylum Statistics (House Of Commons Library, March 2023) <https://researchbriefings.files.parliament.uk/documents/SN01403/SN01403.pdf>

<sup>2</sup> Home Office, How many people do we grant protection to? (May 2023), <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-march-2023/how-many-people-do-we-grant-protection-to#:~:text=For%20further%20information%20on%20ACRS.permission%20following%20an%20asylum%20application>

<sup>3</sup> Freedom from Torture, Lessons not Learned: The failures of asylum decision-making in the UK (2019), [https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT\\_LessonsNotLearned\\_Report\\_A4\\_FINAL\\_LOWRES\\_0.pdf](https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT_LessonsNotLearned_Report_A4_FINAL_LOWRES_0.pdf)

<sup>4</sup> David Neal, An inspection of asylum casework (August 2020 – May 2021) (November 2021), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1034012/An\\_inspection\\_of\\_asylum\\_casework\\_August\\_2020\\_to\\_May\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034012/An_inspection_of_asylum_casework_August_2020_to_May_2021.pdf)

<sup>5</sup> Jo Wilding, No Access to Justice: How Legal Advice Deserts Fail Refugees, Migrants and Our Communities (Refugee Action, 2022), [https://assets.website-files.com/5eb86d8dfb1f1e1609be988b/628f50a1917c740a7f1539c1\\_No%20access%20to%20justice-%20how%20legal%20advice%20deserts%20fail%20refugees%2C%20migrants%20and%20our%20communities.pdf](https://assets.website-files.com/5eb86d8dfb1f1e1609be988b/628f50a1917c740a7f1539c1_No%20access%20to%20justice-%20how%20legal%20advice%20deserts%20fail%20refugees%2C%20migrants%20and%20our%20communities.pdf)

Reflecting on the support they had received, participants identified the importance of stability, shelter, and access to free legal representation, and emphasised that these are most effective when delivered as part of a holistic support offer.

However, voluntary services delivering this support are already overstretched, and face an increasingly difficult and hostile context to work in. Recent proposals to address the asylum backlog – such as the Streamlined Asylum Process – have raised widespread concern over the Government’s ability to deliver compassionate, quality asylum decision-making at pace. Meanwhile, the Illegal Migration Bill, described by the UN refugee agency (UNHCR) as amounting to an “asylum ban”, will put tens of thousands of people at risk of homelessness and destitution, with unclear routes towards settling in the UK.<sup>6</sup>

The report builds on evidence and experience of service users, and the organisations that support them, to provide recommendations on how the voluntary sector can develop more inclusive and effective services for people with restricted or no recourse to public funds, including those who have received a negative decision on their asylum claim.

Although the current Government’s proposals look set to drastically reform the workings of the asylum system, learnings and reflections from our research will be relevant to meeting the new, additional pressure on statutory and non-statutory services produced by the changes and also give clear indications for what any compassionate and competent asylum system needs.<sup>7</sup>

The report includes recommendations for how Government can prevent and relieve homelessness amongst people leaving the asylum system, as well as others who are

experiencing homelessness and destitution as a result of harmful Home Office policies, whilst better equipping statutory and non-statutory services to meet their needs.

While NACCOM membership covers all four nations in the UK, the research was conducted through English member organisations. However, the evidence from the research chimes with experiences shared by all NACCOM members, particularly around the impacts of the hostile environment, a lack of knowledge and agency that people have to progress their asylum case, and inadequate support available for people facing homelessness and destitution within the asylum and immigration system.

Immigration policy is not devolved, but sits very closely alongside housing and homelessness policy, which is devolved. While some of the contexts might differ, we believe the evidence and principles behind the findings and recommendations in this report will be relevant for all voluntary and statutory organisations across the UK looking to understand how to improve the asylum system, and design out homelessness and destitution.



<sup>6</sup> UNHCR, UK Asylum and Policy and the Illegal Migration Bill (2023), <https://www.unhcr.org/uk/what-we-do/uk-asylum-and-policy/uk-asylum-and-policy-and-illegal-migration-bill>

<sup>7</sup> NACCOM and Praxis, Impact of the Illegal Migration Bill on Homelessness and Destitution (2023), <https://nacom.org.uk/wp-content/uploads/2023/05/Joint-Briefing-for-Lords-Destitution-Section-Branded.pdf>

## KEY FINDINGS

### 1. People generally did not understand the system when they first claimed asylum, and did not know what to do after a negative decision.

“ I never really knew what is asylum. I never had, I didn't know anything about it. ”

The lack of accessible and reliable information for people who are seeking asylum in the UK, and the complexity of the asylum system, means that most people have a very limited understanding of the legal process they are going through. This lack of knowledge of the asylum system means that people are unequipped to make informed decisions about their case, and undermines the fairness of the asylum process. The confusion is often compounded by misleading technical language used by the Home Office in communications with people in the asylum system. For example, people are often informed that they are 'appeal rights exhausted' (ARE) after an unsuccessful appeal, when in fact there may be several options for pursuing their claim further through appeals, fresh claims or judicial review. The research found that this lack of understanding of the process was a key factor in pushing people into homelessness or destitution, as they were often unaware of their options after a refusal.

### 2. People generally did not know that there are charities providing support after a negative decision, and often spent months or years sofa surfing or sleeping rough before finding charity accommodation.

“ At that time, no idea there were organisation in UK who were helping people. ”

The primary barrier to accessing support following a negative decision was a lack of knowledge of services that exist to help people in that situation. While all of our participants eventually accessed formal support from a charity, most were homeless for a significant period following their refusal. During this time, many relied on informal networks of friends, family, and wider community to survive. Such informal support included striking examples of personal generosity, which often offered a vital lifeline to those who had nowhere else to turn. However, relying on informal support comes with significant limitations and risks, including a lack of consistency, feelings of indebtedness or guilt, and vulnerability to exploitation.

### 3. People generally faced issues having their evidence believed, and faced new challenges when asked to present new evidence for a fresh claim.

“ You know, I saw something in immigration people, they are fault finders, they are not thinking for the people below them. Clearly, they are fault finder. ”

Participants described what they perceived as a widespread culture of disbelief at the Home Office, in which a presumption of dishonesty prevents the fair presentation and assessment of asylum claims. Many participants felt that the Home Office's expectations of their ability to have arrived in the UK with evidence of their experiences in their home countries, or to gather evidence retrospectively, were unrealistic. This frustration was often compounded by a feeling that when they did present evidence, it was disbelieved or dismissed.



**4. People generally were locked out of good-quality legal support after an initial negative decision, and many mentioned having bad experiences of free legal aid when launching an appeal or fresh claim.**

*“ [There should be] more funding for legal aid solicitor, because ... there is massive shortage of solicitors to represent people going through the asylum process. And that's why most of them get refusal. ”*

Other research has comprehensively demonstrated the existence of significant legal aid deficits across all regions of the UK.<sup>8</sup> The impact of this shortfall in legal aid provision is evident in this research, as many participants found themselves locked out of legal support after a refusal. Faced with an insurmountable financial barrier to accessing legal services, many ended up representing themselves without the knowledge or experience to do so effectively, and were rarely successful. People also expressed frustration with legal aid services that are stretched ever more thinly and unable to provide the quality of service that people need. However, when supported by a charity that could advocate for them, participants reported much more positive experiences with lawyers.

**5. People generally reported worsening physical and mental health due to long periods of homelessness and having no recourse to public funds (NRPF), which were barriers to making the most of the support available.**

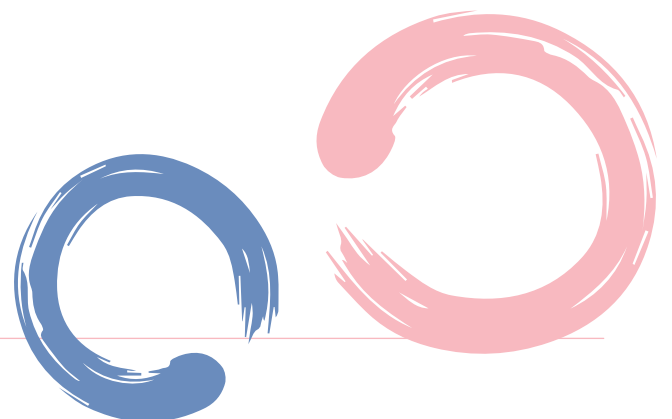
*“ Honestly your life is zero. Zero. After a negative decision. You have no future. Every night is nightmare. Every day is bad for you. Because you are still in that dark room. There is no shine, no light. ”*

A combination of the practical impacts of a negative decision, such as destitution, homelessness and the threat of deportation, and the feelings of alienation and isolation that result from a deliberately hostile asylum process, can have a devastating impact on the health of people in the asylum system. Ten out of 27 participants – 37% – reported contemplating or attempting suicide following a refusal, with many more reporting other mental or physical health problems, that required medication. This also acted as a barrier to getting help and progressing an asylum case, as people often felt isolated, anxious, and hesitant to access support.

**6. People generally accessed accommodation first, but wrap-around services, which also offer legal support and destitution payments, appear to be most effective for helping people to proceed their case.**

*“ From [the organisation supporting me] the big help is financial support, accommodation support and even legal support. So, all support we have. And this is the first organisation I have seen that not only help you in accommodation, also help you to get out from this situation. ”*

Participants emphasised the transformative impact of the support they received from charities. As well as describing the importance of meeting basic needs, such as shelter and food, people explained that services which were able to offer holistic support in one place were particularly effective for helping people to resolve their situation.



<sup>8</sup> Jo Wilding, No Access to Justice, p. 44.

# RECOMMENDATIONS

## Recommendations for the Government, policy-makers and the Home Office

- ✓ **Introduce a process to help people understand the asylum system at the point at which they claim asylum.**

Our research shows that a lack of understanding of the asylum system is a fundamental barrier to a fair and just process, as people are not equipped with the knowledge to make informed decisions in their own best interests.

- This process should be developed in collaboration with people with lived experience of claiming asylum in the UK.
- Many good resources providing information about the process for people seeking asylum exist. The Home Office should have a responsibility to make this information accessible to people when they first claim asylum.
- This information must be delivered in the native language of the person claiming asylum.
- It should be delivered in a variety of accessible formats, including a written guide, videos, audio, and an app.

- ✓ **At every stage of the asylum process, clearly spell out in any communication from the Home Office the options available to people as they move through the system.**

- Legal language such as 'appeal rights exhausted' can be misleading and should be changed.

- Where such language is used, there should also be plain language information about options available to the person seeking asylum.

- ✓ **Extend the period following an asylum decision before asylum support is stopped to 56 days.**

- Currently, people are given only 21 or 28 days after receiving a decision on their asylum claim before their asylum support is stopped and they are evicted from their accommodation. This pushes many people into homelessness and destitution.
- This period must be extended to at least 56 days. This would be in line with the Homelessness Reduction Act 2017 in England and would create a central and consistent minimum standard across asylum support in the UK.

- ✓ **Introduce an obligation on the Home Office to refer people who have received a refusal to Local Authority homelessness teams (a duty to refer).**

- The Homelessness Reduction Act 2017 introduced a duty on several public authorities to refer service users at risk of homelessness to Local Authority homelessness teams, but the Home Office was not one of the public authorities included.
- The Home Office and any relevant contractors such as accommodation providers, should have a statutory duty to refer people to homelessness services if they are made to leave their asylum accommodation and are at risk of homelessness.

- > These referrals should be in line with relevant devolved administration processes for preventing and ending homelessness.
- > Home Office accommodation providers must ensure that information given to people seeking asylum on services and support they may need, particularly provided by local voluntary and statutory services, is up-to-date.
- > This should include alternative temporary accommodation, legal advice and advocacy, destitution payments and well-being support.
- > This should be provided both to people who have an ongoing asylum claim and those who have had their claim refused.

**✓ Recognise local voluntary and statutory services as key stakeholders in delivering support to people facing homelessness and destitution and looking to regularise their immigration status, and fund them accordingly.**

- > Local voluntary organisations are doing vital work to support people who are facing homelessness and destitution, but they are often limited by a lack of capacity and resources.
- > Local services should be sufficiently resourced by central and local government to meet service demand and address support issues and requirements that are not adequately met by Government and contracted agencies.

**✓ Ensure that all people seeking asylum in the UK obtain good quality legal help and representation and can uphold their rights and access justice.**

- > There should be no advice deserts in the UK. Legal aid should be accessible for all, regardless of where a person is

geographically. Providers must be properly funded so that they are able to meet the capacity needs of each area.

- > The legal aid sector must be financially sustainable. Fees for legal aid work should be increased, to retain expertise and to allow for investment in the development and expansion of the sector.
- > Investment is needed to recruit and train new advisers, particularly in the voluntary sector. Fee waiver or discounts should be introduced for OISC and Law Society accreditations, as well as more accessible information on how to qualify as immigration advisers.
- > People must be aware of their rights to lodge complaints about asylum and immigration advice they have received. Clear and accessible guidance should be published which outlines how and when a complaint can be made, taking into account the barriers – i.e. practical, cultural, and language - that may prevent someone from lodging a complaint.
- > To make lodging complaints simpler, a single complaints pathway should be introduced to allow both those receiving advice and those delivering advice to raise complaints about an adviser or firm (whether regulated by OISC, the Legal Aid Agency, or other).
- > People must be aware of their right to free advice. Lawyers and advisers should be required to advise on the availability of legal aid, and the Tribunal should notify anybody lodging an appeal on the availability of legal aid and how to find providers in their area.
- > There should be more safeguards for unrepresented applicants and appellants, including clearer guidance on the importance of legal representation at the Tribunal and when an adjournment may be appropriate if a person lacks representation.
- > These recommendations support calls by the Legal Aid Crisis Group for reform to the Legal Aid sector.

✓ **Introduce an obligation on Home Office accommodation providers to release regular and timely data about the number of evictions by Local Authority area, on at least a quarterly basis.**

→ This would give support organisations a better sense of the scale of need and enable them to better evaluate their reach and improve their services.

## Good practice recommendations for support organisations

✓ **Organisations should aim to support people to understand the asylum process and ensure they are able to make fully informed decisions.**

- Organisations in the same area, city or region should deliver regular introductory sessions, clearly outlining what each local organisation does and how to access their services. Every event should have an interpreter or be delivered in the relevant language. Information should be provided in as many formats as possible (e.g. writing, verbal, video, pictures) to ensure accessibility.
- Where relevant, organisations should ensure that any local statutory service or Home Office contractor also has up-to-date information about their services.
- Taking the time to inform people as comprehensively as possible on the asylum process, where they are in the process, their rights and local services available to them is powerful in counteracting the negative mental health impacts that often result from people not understanding the asylum system. Providing information in a manner that takes into consideration the fact that

some people are likely to be traumatised, distressed or anxious, as well as accounting for power dynamics is more effective and impactful than just signposting or referring to resources. In practice this means sitting down with people and having a one-to-one conversation, being patient and taking the time necessary for the person to understand the information you are providing and showing how to access such information.

- Organisations should make maximum use of existing resources and opportunities to inform people about the asylum process and their options at each stage, such as the Right to Remain toolkit, Asylum Support Appeals Project (ASAP) and Refugee Action's Asylum Guides programme, ensuring that people are supported to understand and use them.

✓ **Organisations should aim to have OISC advisors in-house, have a strong partnership with a legal aid provider, or both.**

- This can be difficult to implement and fund but our research showed that having accommodation and legal support provided by the same organisation is incredibly powerful in enabling people to feel more in control of their own asylum case.
- In the context of increasingly reduced access to legal aid, becoming OISC accredited is the most straightforward way of increasing access to qualified legal advice.
- Ideally, we would like to see a strong and well-funded legal aid sector, as this would have a more significant and far-reaching impact – as outlined in our recommendations for Government, policy-makers, and the Home Office.



✓ **Organisations should build closer ties with 'mainstream' homelessness and anti-poverty charities, community groups and Local Authority outreach teams.**

- > Building closer ties with 'mainstream' homelessness organisations and Local Authority outreach teams will help identify people in need of support and ensure they are referred or signposted to specialist support organisations.
- > Our research shows that many people rely on informal community support for long periods before accessing formal help from charities. Organisations building closer relationships with faith groups, foodbanks, and community groups would help people to access formal support more quickly.
- > Local organisations, including 'mainstream' homelessness and poverty alleviation organisations such as foodbanks, should work together to produce a comprehensive information resource for services that are available to people facing destitution after their asylum claim has been refused. Keeping the resource up-to-date is essential and a regular meeting/forum of local organisations can help to achieve this.

✓ **Organisations should work more closely with each other and share information.**

- > Our research suggests gaps in communication between charities caused problems for people seeking support. In some cases, participants were turned away from charities if they had accessed support from elsewhere, even where they were seeking different help.

- > Charities should work together to ensure that they are collectively meeting need, including accommodation, legal support and training or volunteering opportunities.
- > Such arrangements can be formalised through charters, service level agreements, memorandums of understanding, or through joint funding applications.
- > Where there are gaps in support available to people, e.g. mental health support, organisations should seek to build relationships with specialist organisations such as women's charities and mental health organisations, to widen reach and awareness of need.
- > Partnership building, both between voluntary organisations and with statutory services, takes time but builds more effective and comprehensive support in the long run.
- > In any partnership or joint working, organisations should continue to be aware of their responsibilities around data sharing, including ensuring that people accessing their services understand how their information will be used and in which situations it may be shared with other agencies
- > Organisations should work together to provide up-to-date information on all local services available to Home Office accommodation providers and statutory services. This should be coupled with a duty on Home Office accommodation providers to provide up-to-date information to people seeking asylum, as per our policy recommendations.



With thanks to Ada Jusic for  
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