

A further submission from the Refugee Council to the JCHR inquiry into violence against women and girls.

This additional written evidence provides greater detail on the extent to which the UK is complying with article 60 of the Istanbul Convention.

Articles 60.1 and 60.2 require parties to recognise gender based violence as a form of persecution and to interpret the refugee convention in a gender-sensitive way. The UK complies with these articles through its guidance and policies, most notably through its asylum instruction on gender issues in the asylum claim, more commonly known as the gender guidelines.¹

The Home Office has made notable efforts in recent years to improve decision making on asylum claims, including on women's claims. This work has not only involved updating relevant guidance but has also included developing training for decision-makers on women's issues.

It is interesting to note that there has been a significant increase in the percentage of women granted asylum by the Home Office, doubling from 19% in 2010 to 38% in 2013. Similarly the percentage of decisions on women's claims overturned by the courts has also decreased from 37% in 2009 to 28% in 2013. However, women are still more likely to get their decision overturned by the courts than men² leading the Home Affairs Select Committee to conclude that the Home Office is more likely to get decisions on women's claims wrong.³

On-going problems with decision-making on women's claims may in part be explained by problems with implementation, and practice not reflecting updated guidance and policy. They may also in part be explained by the fact that Home Office efforts to make the asylum system more gender sensitive have tended to focus on the asylum determination system in isolation. Certainly there is a lack of recognition of how the wider asylum system may impact on a woman's ability to present her case.

The most extreme example of reception procedures that obstruct the ability of women (and men) to present their case for protection is the Detained Fast Track. The Refugee Council is fundamentally opposed to the use of Detained Fast Track (DFT). The use of detention combined with an accelerated process puts men and women at considerable disadvantage. This is clear from the statistics: Only 5% of claims decided via the DFT in 2013 resulted in a grant of refugee status, humanitarian protection or discretionary leave to remain. This compares to 37% for all asylum claims. Similarly the success rate at appeal in DFT was also significantly lower than appeals in asylum claims as a whole: 11% compared to 25%. Given

¹ UK Border Agency. 2010. *Asylum Instruction on Gender Issues in the Asylum Claim*. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257386/gender-issue-in-the-asylum.pdf

² 24% of appeals by men were allowed in 2013. See Home Office quarterly immigration statistics: <https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2014/immigration-statistics-april-to-june-2014#asylum-1>

³ House of Commons Home Affairs Committee. October 2013. *Asylum*. Seventh report of session 2013. Para 46.

that the main criterion for DFT is that the case can be decided quickly, it is reasonable to expect similar levels of grants and refusals.

The Refugee Council is particularly concerned to see an increase in the number of asylum claimants placed in DFT: In 2013, 4,286 people were placed into the DFT, representing over 18% of all asylum claims. The statistics were not disaggregated but in previous years (2010-2012) 20 to 25% of cases placed in DFT were women. Just seven countries accounted for nearly 77% of all asylum applicants put into DFT last year. These were Pakistan, Bangladesh, India, Nigeria, Sri Lanka, Albania and Afghanistan, countries with known poor women's rights records. Refugee Council has concerns about whether there is sufficiently specialist expertise amongst all the legal aid providers contracted to work in DFT.

DFT is particularly inappropriate for women whose claims are based on gender based violence given the difficulties they may have in disclosing details of the violence they have experienced to an immigration official. Available evidence suggests a high percentage of women seeking asylum have been affected by gender based violence. A study by the London School of Hygiene and Tropical Medicine and Scottish Refugee Council found that nearly half of women seeking asylum interviewed in Scotland, Belgium and Italy had been affected by sexual violence. The same study found that 70% of participants had been affected by violence at some point during their lifetimes.⁴

UKVI policy identifies certain people as being unsuitable for entry to DFT including women who are more than 24 weeks pregnant, people for whom a decision has been made by a competent authority that they are, or potentially are, a victim of trafficking and people for whom there is independent evidence of torture. Whilst the DFT exists, the Refugee Council believes that the exclusion criteria should be extended to include women at any stage of pregnancy and women who disclose that they have been affected by gender based violence. A rapid process, intended to take only 3-4 days, which takes place in detention where women are unlikely to feel safe, is patently inappropriate for women expected to disclose difficult details of the violence they have experienced.

Reception conditions for asylum seekers whose claims are processed outside of DFT will also impact on the ability of a woman to fully present her case for international protection and it appears that very little thought has been given to making the wider asylum system more gender sensitive. There is on-going work to develop sign-posting and referral to specialist services to women who disclose they have been affected by violence⁵. Refugee Council, along with Scottish Refugee Council and UNHCR have been working closely with the Home Office to support the development of this work. Progress has been slow, largely because of some of the complexities involved and because of a lack of resource, but the commitment from the Home Office to see this work through despite the challenges has been notable.

⁴ Scottish Refugee Council and London School of Hygiene and Tropical Medicine. 2009. *Asylum seeking women, violence and health*. Available at:

http://www.scottishrefugeecouncil.org.uk/policy_and_research/information_and_resources

⁵ Action point 46 of the 2013 cross-government action plan to combat Violence Against Women and Girls, relates to women seeking asylum: *Work with key stakeholders to improve the processes for referring asylum seekers who are victims of sexual violence to the appropriate services and signpost women and girls to available information and advice*. This was rolled over into the 2014 action where it became action point 79.

While these efforts are welcome, the difficulty arises because such efforts tend to be siloed, taking place in a wider system that prioritises border enforcement and deterrence over protection. The system must feel both confusing and hostile to women who will face a barrage of questions at every turn. In addition to the very real threat of detention that hangs over applicants (figures suggest that roughly half of those who claim asylum will be detained at some point)⁶ women are likely to enter an asylum support system where little consideration is placed on women's safety and security.

Women seeking asylum are not allowed to work and not entitled benefits. So their ability to access asylum support is critical for their safety. Yet problems with the asylum support system leave women destitute and forced to rely on unsafe survival strategies that put them at risk of violence.⁷ Destitution is often caused by gaps in support. This is more likely to happen at the beginning and at the end of the asylum process as well as when women move from one form of support to another. At the beginning of the process applicants are refused support because of a failure to identify someone as destitute. Whilst it is reasonable to require someone to state that they are destitute it should be recognised that there will be limited evidence of their situation. In our experience, applicants are frequently asked for information that they are unable to provide, causing further hardship and increasing the gaps in support.

People are also at risk of destitution at the end of the process, upon being granted refugee or other leave. They will have their asylum support terminated and will have to leave the accommodation 28 days after receiving the decision, often before an alternative form of support has been secured usually because they have not received the necessary documents to show evidence of leave and/or the lack of a National Insurance number.⁸ It is not acceptable to provide international protection to an individual and leave them without the means to survive. Whilst the local authority is usually able to provide interim support under the Children Act 1989 for families with dependent children, this helps a limited number of people. Even with the right paperwork, a single woman may find herself destitute after being recognised as a refugee. Single women are not eligible for priority housing by statutory housing providers or social landlords and may encounter significant difficulties in accessing housing in the private sector.

Those refused asylum are required to leave the house within 21 days and will have very few options of support available to them. A minority may be entitled to what is known as section 4 support, a cashless support system. An analysis of a sample of 197 of our records suggests that women applying for section 4 support are likely to wait longer than men for a decision on their section 4 applications. Women in the sample waited on average 25 days while men in the sample waited 20 days.

⁶ Refugee Council. September 2014. *Policy Briefing: Detention in the asylum system*. Available at: http://www.refugeecouncil.org.uk/policy_research/policy_work

⁷ Oxfam. 2009. *Coping with Destitution: Survival and livelihood strategies of refused asylum seekers living in the UK*. p. 52. Available at <http://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

⁸ Refugee Council. 2014. *28 days later: experiences of new refugees in the UK*. Available at: http://www.refugeecouncil.org.uk/policy_research/research

This additional delay may be explained in part by the fact that 29% of men in the sample were asked for further information regarding their section 4 application – compared to 46% of women. Further Information Requests (FIRs) can significantly delay the process of decision-making on the application. This recent data analysis supports an earlier analysis of Refugee Council records which found that pregnant women and new mothers were more likely than couples to face delays in decision-making on their section 4 applications.⁹ These findings suggest that women may face additional barriers to men in accessing asylum support.

The explanatory report to the Istanbul Convention states that article 60.3 includes the obligation on Parties to develop gender-sensitive reception procedures that take into account women's and men's differences in terms of experiences and specific protection needs to ensure their right to safety. The Refugee Council believes that the asylum support system in the UK fails to do this principally because of a lack of attention to women's safety in Home Office guidance and rules on asylum support, the guidance that determines how and if a woman will be housed and supported while she is waiting for a decision on her asylum claim. Appropriate safeguards must be developed to ensure that women are not forced into circumstances that make them more vulnerable to sexual violence and exploitation.

The explanatory report provides examples of gender sensitive reception procedures and support services. One example is the separate accommodation of single men and women. When women first apply for asylum support they are usually housed in initial accommodation centres under section 98 of the Immigration and Asylum Act 1999. There are seven such centres in the UK and they are usually large full board hostels where shared living and social areas are dominated by men. Some do not have women-only corridors. The Refugee Council believes that it should be a requirement that all initial accommodation centres have women and children only corridors and a women and children only social area.

Applicants are expected to spend on average 19 days in initial accommodation but in practice may find they stay there for much longer, until they are provided with longer term 'dispersal accommodation'. This is a particular problem at the moment with providers resorting to the use of alternative accommodation because of pressure on the system. It is important that safeguards are in place to ensure that any accommodation used when there are pressures on the system meets the same standards.

Dispersal accommodation is usually a house or flat but single applicants will be expected to share, including single parents. Women frequently tell us they feel unsafe or uncomfortable because they are sharing their accommodation with strangers. Surprisingly, the Home Office's 'statement of requirements' for accommodation providers specifies not only that in certain circumstances single parent families may share the same accommodation unit but that they are then defined as one 'family' for the purposes of the contract. Furthermore, it states that in addition to single parents sharing accommodation and being treated as a family unit as a result, the Home Office may authorise other forms of sharing, including

⁹ Refugee Council. December 2012. *The Refugee Council submission to the inquiry into asylum support for children and young people*. Available at: http://www.refugeecouncil.org.uk/policy_research/policy_work/p3

couples or single people with or without children. Under these circumstances, some Refugee Council clients have been required to share their longer term dispersal accommodation with men they do not know. The Refugee Council believes that women should be provided with safe and secure housing and should not be obliged to share with men they do not know.

Another example given in the explanatory note is a formal arrangement for intervention and protection in instances of gender based violence. There is one piece of guidance in the UK asylum support system which would meet this description, Policy Bulletin 70, which is in fact the only asylum support policy guidance which specifically addresses the issue of women's safety. As detailed in our previous submission, it provides guidance on responding to reports of DV in Home Office accommodation. While this guidance is welcome, the Refugee Council is concerned that several important aspects of this guidance are currently not implemented. In particular, initial accommodation centres are being used as temporary accommodation for women who report DV.

However of still greater concern is the fact that the guidance excludes many women in the asylum support system as it only applies to those in Home Office contracted accommodation. For those receiving subsistence only support or not receiving asylum support at all, there is almost nothing in place for them if they experience gender based violence after arrival in the UK. Furthermore, as women without access to mainstream benefits, they may struggle to find a place in a refuge. If they have not applied for support while waiting for a decision on their asylum claim, it is a reasonable assumption that many will be financially dependant on partners. If that relationship is violent and they want to leave, they can apply for asylum support but may be forced to choose between street homelessness or returning to a violent home while they wait for a decision on their asylum support application. The Refugee Council believes that the Home Office should guarantee funding refuge for places for women seeking asylum who have been affected by domestic violence until they are found safe and secure 'dispersal accommodation, through the asylum support system.

