

Written evidence from NACCOM

Introduction

NACCOM is the No Accommodation Network made up of 125+ member organisations and individuals across the UK, working to end destitution amongst people who have been refused asylum, other people with no recourse to public funds (NRPF) and people with refugee status. Members are predominantly grassroots charitable organisations accommodating people who would otherwise be street homeless. In 2019-20, 3,373 people were accommodated by our members, of whom at least 46% (1,547) had NRPF. But there are many more who cannot access support, and last year members reported an estimated 1,849 destitute people had to be turned away due to lack of available accommodation.

People with NRPF often have complex immigration cases and free, quality, independent immigration advice and legal support is essential to resolve their status so they can move on with their lives. Our definition of ‘NRPF’ includes people on visas that are subject to NRPF conditions, EEA nationals who cannot access public funds whilst they are unemployed and people without Leave to Remain (LTR). Members predominantly work with people without LTR, last year supporting 1,270 people who have been refused asylum alongside 277 people with NRPF for other reasons. **We are committed to seeing more and better legal advice for people who need it and want to see an end to the barriers that cause injustice and destitution.**

How LASPO has impacted access to justice

Changes to the legal aid system in the last decade have left many people unable to access the legal assistance they need. The key barriers we are aware of are:

a) **Lack of availability of quality immigration advice providers in many parts of the UK**, including areas that receive people in the asylum system via dispersal. [Research commissioned by Paul Hamlyn Foundation in 2019](#) reveals some areas of the UK with no ‘Provider offices in immigration and asylum’ at all, and others with very few indeed. In a separate report published the same year ([Droughts and Deserts](#)) author Jo Wilding explains that the problem is not just limited to immigration advice ‘deserts’, ‘*where there is no legal aid provision at all for a particular area of law*’, but includes immigration advice ‘droughts’, ‘*where there appears to be provision, but this is not accessible because providers have no (or limited) capacity to open new cases*’. **The consequence of either is that people cannot access the legal advice and representation that they need to engage with the immigration system effectively and/or to unpick their complex cases, resulting in them falling needlessly into destitution.**

b) **Unaffordability of immigration advice- including that which falls outside the scope of Legal Aid.** There are funding issues across the legal advice sector and even advice that is within the scope of legal aid is limited, as authors of the recently commissioned report for the Welsh Government on [‘Providing Accommodation for Refused Asylum Seekers’](#) (by Heather Petch and Tasmin Stirling) point out; ‘*Even if the case qualifies for legal aid, this is a limited sum which does not resource solicitors to help people collate their evidence and not all solicitors are proactive in making sure people know this*’.

Yet for those whose needs fall outside the scope of legal aid, the barriers to justice are greater still. [Paul Hamlyn's research](#) reports there could be up to 1.2 million undocumented people in the UK, many of whose immigration needs will not be covered by legal aid. People in this situation are either priced out completely or at risk of exploitation to cover the costs, thus perpetuating a cycle of poverty and destitution. Such costs sit on top of [Home Office fees](#) for immigration applications, the high rates of which have been campaigned against for years by groups such as ['We Belong'](#) and recently [echoed in a Parliamentary debate on NRPF](#).

The impact of costs for immigration advice is wide-ranging and complex, affecting providers as well as applicants. In ['Tipping the Scales'](#), a report produced by Refugee Action and NACCOM in 2018 on access to justice amongst people in the asylum system, the authors explain that *'the removal of other types of immigration from the scope of legal aid has had an impact on the provision of legal aid for asylum cases – despite the fact that asylum has remained under the scope of legal aid. This is particularly a problem for cases that are more complicated, as there is little incentive for representatives to take them on when they know that they will not receive payment commensurate with the time spent working'*. **The unaffordability of the system creates problems for both those who need legal advice but cannot afford it, and those who are entitled to legal aid but cannot access it.**

c) **The chaos, stress and costs wrought by wrongful decision-making by the Home Office with asylum applications.** In the year ending June 2020, [a record 45% of government decisions on asylum cases were overturned at appeal](#). The consequence of these errors are felt both by individuals who have to then fight to see their rights recognised, and by organisations and communities who support people through such a process. There is also a cost to the taxpayer which would be unnecessary if the Home Office got it right first time more often. If people are unsuccessful at appeal, there is further support required to support informed choices for their next steps. **The culture of disbelief and hostile environment policies within the Home Office must be addressed if the system is to be truly made fair and humane for all.**

Recent findings

In 2018-19 [NACCOM conducted a survey](#) in which 46 members gave details about their provision of, and experience in referring people onto, legal advice. Of the respondents, 6 (13%) said that they were always able to refer people who had been refused asylum to legal aid solicitors in order to make a fresh claim, whilst 16 (34%) reported that it was 'very difficult' or 'not very easy' to make successful referrals for legal advice.

In August 2020, NACCOM conducted another survey, asking for feedback on availability of immigration support in their localities. We heard that:

- There are not enough OISC Level 2 or 3 practitioners in many parts of the UK including the West Midlands, Kirklees, London, Southampton, Cardiff, Edinburgh and Aberdeen.
- Whilst voluntary sector organisations are often willing to make the transition towards registering as immigration advisors, it takes a long time and extra management support to do this, often with no extra funding.

- It is very difficult to get legal representation, including because of the waiting list for ‘exceptional case funding’ for cases that are usually outside the remit of legal aid.
- Immigration application fees that are outside the scope of legal aid are unaffordable. Fees run into £1.5 - £2,000 total for example for most family cases.
- There is a lack of legal representatives who are experts in cases based on sexuality/gender identity grounds.
- Practitioners are overwhelmed and burnt-out.
- Some agencies were no longer available due to the Covid-19 pandemic.
- There is a lack of initial advice for many people going through the system.

The impact of Covid-19 on legal aid services and clients

During an acute public health crisis, it is more vital than ever that government policies work for everyone, because no one is safe until everyone is safe. To this end, the evidence from [Public Health England](#) on the disproportionate impact of Covid-19 on people from black and other minoritized (BAME) communities, alongside research by [Citizens Advice Bureau](#) that showed the high proportion of ‘people of colour’ with NRPF requiring support with benefits are extremely important. Also significant are the various reports published by the [Migration Exchange C19 Impact Assessment](#), [Doctors of the World](#) and [University of Wolverhampton](#) that all portray the seriousness of Covid for people who are homeless and destitute.

Against this backdrop, the measures introduced by the Ministry for Housing, Communities and Local Government in March 2020 to support and accommodate people with an insecure immigration status in Local Authorities across the UK, and the decision by the Home Office to halt evictions from asylum accommodation from March-Sept, were welcomed. Yet in recent weeks we have seen a return to ‘business as usual’ which shows a clear commitment to the hostile environment over public health. This is extremely alarming. **As [asylum evictions recommenced from the 15th Sept](#) for people who have been refused asylum, and ‘Everyone In’ funding ends so many Local Authorities can no longer afford to accommodate people with NRPF, a new crisis looms for those who have not secured status, both with regards shelter and legal advice.**

Those who are being evicted from asylum accommodation due to having their decision refused will face an uphill battle to reengage with the asylum process, including needing to find a legal aid solicitor within 21 days before eviction if they are to lodge an appeal. This, as outlined already in this report, is difficult in normal circumstances but is now expected to be expediently harder. This is partly due to changes in dispersal accommodation during the pandemic, including a move towards using [hotels and Ministry of Defence barracks in areas which are lacking in legal provision](#). It is also difficult because of the reduction in legal aid provision in areas where asylum accommodation normally exists, due of Covid-related changes such as fewer face to face services and fewer staff/volunteers in services, alongside barriers around technology facing people in the asylum system.

Within our network, over the last 6 months members have routinely reported a reduction in their capacity alongside uncertainty about how services can open safely in the future. **These factors make it extremely difficult for local organisations to respond and adapt to the needs of people that may require emergency support and legal advice in the months ahead.**

People with NRPF who have been supported by Local Authorities are in some areas facing the enormous challenge of evictions into homelessness, at a time when the Covid alert level has returned to 'Level 4'. Whilst there have been moves by some Local Authorities to continue to support people with NRPF (for instance through the [Next Steps Accommodation Programme](#)), it is not clear how much funding is available for people with NRPF or what the conditions of any such support may be. Indeed, we have heard of areas of the UK where in order to receive funding for legal advice for people with NRPF, Local Authorities have been told they must not fund advice that challenges Home Office decisions. **This is a major concern as legal advice is essential to any successful accommodation support for people with NRPF but must be impartial if it is to be effective.**

What the challenges are for legal aid over the next decade, what reforms are needed and what can be learnt from elsewhere

Challenges

There is a clear and urgent need for reform within both the scope and provision of legal aid if people are to access the justice they deserve. Numerous challenges lie ahead including:

- a) the impact of Covid-19 on both the availability and capacity of voluntary and public services, including those offering legal advice.
- b) the UK's Withdrawal from the EU which could plunge [tens of thousands more people into destitution](#).

Reforms

Based on the recommendations made to the government in [NACCOM and Refugee Action's report 'Tipping the Scales'](#), as well as learning and reflections from our members since 2018, the below reforms are advised:

- Ensure that every person in the asylum system who is eligible for legal aid representation is able to access it.
- Ensure that legal aid provision takes into account the population of people seeking asylum who have been dispersed across the UK, ensure that there is appropriate provision for every person in each area.
- Bring all immigration advice within the scope of legal aid, and reduce fees to ensure there is no financial barrier to accessing justice.
- Provide free training for voluntary organisations working with people with NRPF to embed immigration advice in their services.
- Funding should be made available to Local Authorities and charities to both accommodate people with NRPF, and provide good quality, impartial legal advice to help people resolve their immigration status.

Learning

There are many benefits that arise when voluntary sector organisations combine accommodation and quality legal advice. As [Gina Clayton's Models of Immigration Advice report](#) from 2015 illustrates, immigration advice provided within an system of person-centred or holistic accommodation and support can break the destitution cycle, and there have been good practice examples of this within our own network for well over a decade.

In recent years, there has been a notable increase in legal advice provision across the NACCOM network which is very encouraging. This [year's survey](#) revealed that at least 22 organisations in the network provide in-house advice (OISC Level 1 and upwards) and/or are working in partnership with legal providers. Of the 22, 13 provide at least OISC Level 1 advice or above (last year this was 12) and 8 provide either OISC Level 3 advice or an in-house solicitor (last year this was 6). Meanwhile, 12 members are working with registered legal providers (last year this was 6). Yet, organisations have only been able to grow this capacity with funds from trusts and foundations. **If the voluntary sector is to continue to meet this growing gap in provision, they urgently need sustainable sources of income to develop high-quality legal services that can adapt with population need.**

Case study- Caritas Salford, GMIAU and GMLC

In 2018, Caritas Salford, in partnership with Greater Manchester Immigration Aid Unit (GMIAU) and Greater Manchester Law Centre, established a programme to reduce and prevent homelessness and destitution in Greater Manchester through the provision of specialist legal advice and support. 60 people benefitted from the year-long pilot, with 43 people advised through approximately 53 client sessions, and over 36 people taken on as full legal cases of which 12 are funded by legal aid. Project outcomes include:

- *Improved wellbeing for clients.*
- *Improved access to high quality legal advice – for larger numbers of people, and to reliable, expert solicitors.*
- *Increased identification of complex, or misunderstood, issues underlying homelessness.*
- *Moved people on to better accommodation as well as meeting other basic needs.*
- *More knowledge transfer to the homeless support staff who were then more equipped to provide reassurance of the process to clients and help clients with gathering evidence.*

Josef's Journey (Case study from Caritas Salford)

Josef, originally from West Africa, came to the service with no recourse to public funding in 2018 following a problem that he had with immigration officials. He had a valid visa for the UK but his passport had expired and he was deemed by the system to have no right to homeless assistance.

Josef was welcomed at Cornerstone Day Centre and offered accommodation with access to the facilities and hospitality of the Centre that included meals, advice and one to one support. He was also able to make new friends and this peer-support was important to him.

Josef was invited to access the Destitution Project legal advice pilot project, where GMIAU solicitors supported his rights to residency and appealed the Home Office original decision. From this success Josef went onto support with the destitution worker to establish a NI number, seek employment and secure housing.

Key to Josef's success was the knowledge and experience of the solicitor, the encouragement of the Caritas destitution support worker and Josef's determination to hold faith with the process. Without accommodation and access to basic facilities he might not

have had the ability to keep going so our conclusion is that specialist advice and advocacy combined with support of a compassionate nature that offered moral and physical help attributed to the successful outcome.

Other examples of how grassroots organisations can provide or signpost to immigration advice include Refugee Action's [Frontline Immigration Advice Project](#), which since 2016 has enabled 146 charities UK wide to help people access effective legal routes, and [Asylum Guides](#), which operates across nine around the UK (including Newcastle, Liverpool, Huddersfield, Wigan, Manchester, Birmingham, London, Cardiff and Plymouth) and supports people to approach the asylum system with confidence. A further good practice example is the [Right to Remain Toolkit](#). **These tools which 'front load' advice are crucial in shifting power back to people who are about to enter, or re-enter, the asylum system.**

The impact of legal advice on people whose lives have been left in limbo due to systemic injustice in the immigration system could not be overstated and this is why we believe such support should always be imbedded in, or available to, people accessing accommodation who have NRPF. This includes the voluntary sector, including but not limited to our members, and Local Authorities, where it is within their scope to provide such support.

With legal advice, people can exit the cycle of destitution and move on with their lives. Figures released [from the NRPF Network](#) this year show that most households with NRPF who exited council support (77%) did so due to a grant of leave to remain. Likewise, within the NACCOM Network, [53% of people who had been refused asylum and were known to leave members' services this year went on to access statutory support, asylum accommodation or some form of leave to remain.](#)

In summary, our members and people with direct experience of destitution across the UK bear witness to the fact that good quality legal advice is essential for anyone who has been locked out of the immigration system. Where it is made available, people can find ways out of destitution. Where it is not made available, people's lives suffer enormously and needlessly. **More can and must be done to ensure access to justice for all.**

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