



Response to Home Office
consultation on *Reforming
support for failed asylum seekers*

September 2015

Introduction

1 The Trades Union Congress (TUC) has 54 affiliated unions, representing almost six million members, who work in a wide variety of sectors and occupations.

2 The TUC has a long history of opposition to racism and xenophobia, and has consistently campaigned against discrimination in the British labour market.

3 The TUC welcomes the opportunity to respond to the government's consultation 'Reforming support for failed asylum seekers and other illegal immigrants' as we have serious concerns about the impact of closing off support currently available to failed asylum seekers via Section 4(1) and 4(2) of the 1999 Immigration and Asylum Act and for asylum seekers with children via Section 95 of the 1999 Act.¹

4 We wish to make clear that we reject the term 'illegal immigrant' used in the consultation as it suggests undocumented migrants and asylum seekers are criminals. Failed asylum seekers and undocumented workers should not be stigmatised because of their immigration status. They deserve to be treated with dignity, with the same rights as other workers.

5 The TUC is opposed the proposals under consultation. We believe they will not result in failed asylum seekers leaving the country but rather will increase destitution and discrimination, place additional costs on local authorities and compel more people into informal employment to survive.

6 The TUC believes failed asylum seekers and their children should continue to receive support. We believe asylum seekers should be allowed to work so that they are able to adequately provide for themselves and contribute to society.

7 The TUC believes the proposals under consultation must be considered in light of the current refugee crisis. The proposed restrictions to support for failed asylum seekers would mean the government is failing to fulfil a humanitarian responsibility to those in need of protection. We are concerned that this has also been the approach of the government in relation to the refugees currently fleeing persecution in the Middle East and Africa.

8 The TUC believes the government must support a coordinated EU-wide response to the refugee crisis and accept an adequate number of refugees from both the Middle East and other EU countries.² The UK government is indicating it will only accept an additional 5,000 refugees a year from Syria. As well as being far below an adequate number – Germany has already agreed to accept 35,000 refugees this year alone - such an approach does not deal with the large number

¹ <https://www.gov.uk/government/consultations/reform-of-support-for-failed-asylum-seekers-and-other-illegal-migrants>

² See the letter the TUC signed along with 350 experts to the Prime Minister and Home Secretary on the refugee crisis: <https://www.tuc.org.uk/welcomerefugees>

of refugees from countries such as Eritrea, Afghanistan and Iraq also in need of humanitarian protection. Furthermore, the government also needs to take in refugees not just from the Middle East but also from other EU countries such as Italy and Greece that have received over 200,000 refugees in the past year and cannot provide adequate support.

9 The TUC also endorses the consultation response of Still Human Still Here.

Increasing costs on local authorities

10 While the government has stated its aim in ending financial support to failed asylum seekers and their dependents is for asylum seekers to leave the country, there is a significant body of evidence gathered by Still Human, Still Here to indicate this is unlikely to happen. Their response to this consultation notes that the majority of asylum seekers whose applications have been turned down are so afraid of persecution in their home country, and the harm this would inflict on their children, that they are prepared to stay on in the UK, even without support.

11 While asylum seekers and their children remain in the country, local authorities have a duty of care towards them as stipulated in the Children's Act (1989) and the Human Rights Act (1998). The government's decision to withdraw support from asylum seekers will place additional costs on local authorities at a time when they are already spending £3.364bn on children in need of care and are suffering cuts dictated by the government's austerity programme.³

12 The TUC is concerned that these proposals will place local authorities in an invidious position of having to choose whether to honour their duties of care stipulated in the Children's Act (1989) and the Human Rights Act (1998) – and face additional costs - or deny financial support to failed asylum seekers and their children and face a potential legal challenge for failing to uphold these laws.

13 Indeed this was the outcome of a pilot run by the Home Office in 2004 – 2005 to investigate the impact of ending financial support provided to failed asylum seekers in Leeds, London and Manchester; provisions for which were laid out in Section 9 of the Asylum and Immigration Act (2004). The Home Office noted in this report that: 'Local Authorities indicated that they had difficulty in reconciling what they considered to be conflicting principles of child welfare and section 9.'⁴ Consequently local authorities had to use their own resources to provide for asylum seeker families.

14 The TUC believes the government must reverse austerity cuts to local authority budgets to provide support and services to failed asylum seekers, refugees and local residents. As discussed below, if failed asylum seekers were able to work

³ <https://www.unison.org.uk/news/general-secretary-blog/2015/08/children-2/>

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<http://webarchive.nationalarchives.gov.uk/20140110181512/http://www.ukba.homeoffice.gov.uk/sitcontent/documents/aboutus/workingwithasylumseekers/section9implementationproj.pdf>

legally in the UK, they would be able to contribute tax revenue to the economy which would help to pay for any services they use.

Increasing destitution

15 Research by Refugee Action in 2009 revealed that asylum seekers already experience high levels of poverty. A survey of their clients who were on Section 95 support found that 50% had experienced hunger; 70% were unable to buy toiletries; and 94% were unable to buy clothing. Rates of poverty for asylum seekers will increase due to the recent 20% cut the Home Office has made to support for asylum seekers which means a single parent with two children receives just £110.85 a week. We have serious concerns that depriving failed asylum seekers and their children of even this meagre support will leave them destitute.

16 We are concerned that these measures will increase child poverty and will have long-term repercussions on children's health.⁵

Increasing discrimination

17 The TUC is concerned that these proposals will increase discrimination against those with protected characteristics of pregnancy, maternity, race and disability.

18 These proposals will disproportionately affect black and ethnic minority groups as they form the majority of asylum seekers to the UK.

19 Denying pregnant asylum seekers and mothers of Section 4(2) or Section 95 support would mean pregnant women and mothers would face charges for antenatal sessions and giving birth in hospital. This may mean that pregnant asylum seekers will not seek such care seriously threatening their lives and that of their babies. Depriving pregnant women and mothers of financial support meanwhile would mean they cannot afford food or other items essential for the wellbeing of their babies.

20 These proposals will additionally cause harm to those with mental health conditions. The Asylum Support Appeals Project's detailed analysis of 55 cases of refused asylum seekers in 2011 found that 45% had mental or physical health problems, as did its follow-up research in 2012.⁶ Depriving asylum seekers of support and free treatment for mental health conditions will cause severe deterioration in their mental health.

⁵ For more information on the negative impact of benefit cuts on the children of failed asylum seekers, see the Compas report

https://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/PR-2015-No_Recourse_Public_Funds_LAs.pdf

⁶ Asylum Support Appeals Project, One Year On, Still No Credibility, December 2012. Research conducted July 2011 - Jan 2012.

Encouraging undocumented working

21 Ending financial support for failed asylum seekers is likely to compel them into undocumented employment. Here there is a high risk they will face exploitation and abuse.

22 The TUC believes current asylum seekers and those whose asylum claims have been rejected should have the legal right to work in the UK. This would mean they would be able to earn enough money to escape the poverty they currently suffer. This would also mean asylum seekers could report exploitation at work to the authorities without fear of being deported and bad employers could be identified and sanctioned accordingly.