



ILPA RESPONSE TO THE BORDER AND IMMIGRATION AGENCY CONSULTATION ON THE DRAFT IMMIGRATION AND ASYLUM (PROVISION OF SERVICES OR FACILITIES) REGULATIONS 2007

The Immigration Law Practitioners' Association (ILPA) is a professional association with around 1,000 members, who are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and others working in this field are also members. ILPA exists to promote and improve the giving of advice on immigration and asylum, through training, disseminating information and providing evidence-based research and opinion. ILPA is represented on numerous government and other stakeholder and advisory groups.

INTRODUCTION

ILPA is opposed to the provision of vouchers, rather than cash support to refused asylum-seekers because voucher provision is discriminatory, stigmatising and fails to meet all their basic needs. Many of those needs are still unmet by the draft regulations, for example the cost of a haircut.

The problems of voucher support are exacerbated where households are dependent on s4 vouchers for lengthy periods. Both the anecdotal evidence of our members who carry out asylum support work and evidence to the recent Joint Committee of Human Rights Inquiry into the Treatment of Asylum-seekers¹ confirm that refused asylum-seekers may be receiving support under s4 Immigration Asylum Act 1999 for lengthy periods. The Case Resolution programme aims to resolve cases within a 5-year period. In the meantime households are suffering due to an existence without cash. We consider that the Regulations have been drafted on the incorrect basis that s4 support is "short-term". **We would propose that the length of time people are in receipt of s4 support be published in the quarterly Asylum Statistics or alternatively disclosed under s1 Freedom of Information Act 2000.**

Against this background, ILPA welcomes any improvement in the level of s4 support. But the scheme proposed is so complex and bureaucratic that we fear many of our clients will not be able to apply for, or access, the support provided. For example, a pregnant woman who speaks no English and has no means to travel will have to complete a four-page form, provide photocopies and have it signed by her accommodation provider (who may only visit once a week) to get transport costs to a routine medical or antenatal appointment.

¹ Tenth report of session 2006-2007, HC 71 HL 60.

The most common complaints about the current support and s4 schemes are delays and administrative inefficiency (for example in a recent High Court case about s4 delays, Mr. Justice Hodge said 'The sparse evidence I have in this case suggests the system is not working properly and attention from the authorities is needed to sort that out'. See *R (Barhakomerwa Matembera) v Secretary of State for the Home Department* [2007] EWHC 2334 (Admin) and see JCHR report referred to above on s4 delays). In this case, there was evidence that 83% of s4 priority applications were not decided within the target timescale of 2 days. ILPA is concerned that applicants for extra services will face similar delays and administrative inefficiency.

CONCERNS RE SPECIFIC REGULATIONS

Regulation 2- definitions

Here 'voluntary sector partner' is defined as:

- (a) an organisation funded by the Secretary of State to deliver aspects of asylum support services; and
- (b) Citizens Advice Bureaux.

Voluntary sector partners are also referred to in regulation 5, as funded telephone calls may be made to these agencies. We believe that this definition should be widened to any 'independent advice centre or solicitor. **If there needs to be a standard of advice required by these centres then this should be the Legal Services Commission Quality Mark (General Help) standard.** This is firstly because there is not a Citizens Advice Bureau (CAB) with resources to deal with their queries in all of the areas where s4 applicants live; as a result many applicants rely on other advice centres or solicitors, particularly those specialising in asylum support matters. Secondly, applicants may already have been advised by an independent advice centre or solicitor and if so will not be able to seek advice on the same or a related matter from a different Legal Services Commission provider.

Regulation 3- Travel

Our members report that travel is one of the main areas of difficulty for people receiving s4 support. Given the difficulties described below, **we should propose that the approach in regulation 3 is reviewed and simplified so that a travel card or ticket to cover at least 2 journeys a week is provided to each s4 supported person.** The difficulties are:

1. A person in receipt of s4 support is not likely to know in advance when they will become ill and so in need of healthcare treatment. In many cases they may not have advance evidence that the journey is necessary.
2. Many s4 households are housed at some distance from the One Stop Service, accommodation provider or an advice agency. If they are unwell or in late pregnancy, they will not be able to travel there to fill in the form. They will have not funds to post of fax it themselves and may not read or write English. The same considerations apply to other services such as phone cards.

3. If they have a sick child or baby, the problem will be even more acute.

4. Travel to the supermarket -We are concerned that there does not appear to be a *specific* provision for people with mobility needs, pregnant women or parents of young children to have regular travel assistance to a supermarket. Our members' experience is that this is a problem for many clients who are housed too far from the local supermarket to carry heavy shopping. Many parents in receipt of S 4 support have no family or friends they can leave their young children with on a regular basis and so must take them with to the supermarket and carry them as well as the shopping. This is clearly a regular need and if a parent is travelling with one child or children then it is likely that there will have to be two trips a week to the supermarket, as a parent should not be expected to carry £70 of shopping in one go on public transport when pregnant or having to look after a child or children.

5. We understand that regulation 3 does not include travel to qualified persons and a One Stop Service, to ensure consistency with S 95 support. However, s95 support is paid in cash, so while there are not additional provisions for travelling to qualified persons or a One Stop Service, a person in receipt of this support can chose to use a very small part of their weekly cash support to travel to the above services. With vouchers only, someone in receipt of s4 support cannot do this, so the comparison is inappropriate.

Regulation 5

For reasons that are clear from this response, we would propose that **the Border and Immigration Agency (BIA) simply issues periodic phone cards to s4 households, all of whom will need to make a certain number of phone calls.**

Regulation 6

Regulation 6 provides for a one-off supply of vouchers for pregnant women and new mothers to the value of a £250 voucher. This figure is set too low to cover the items needed by a pregnant or nursing mother who has no other resources. A pregnant woman in receipt of Income Support or regular NASS support (s95) receives a grant of £500 or £300 respectively but also has a weekly cash income from which they can save. We welcome the recognition by the BIA that pregnant women and new mothers in receipt of s4 support have additional costs. However, we do not understand why the amount is lower than that of the s95 grant. The grant is principally for purchasing items connected with the unborn or newborn baby and by granting a lower amount this is penalising the child. Furthermore, this is inconsistent with the government's policy on reducing child poverty 'Every Child Matters'. **We oppose setting the grant at a lower level than the s95 grant.**

Regulations 6 and 8

We should also like to highlight the effect of limiting the support provided under the regulations to vouchers, particularly in the context of Regulations 6 and 8.

Designated high street shops will often have higher prices, so people in receipt of s4 support will not have the choice of purchasing items from a cheaper retailer, including markets or second-hand shops. This means that the real value of, for example, the maternity grant is even less than £250. **We therefore propose that the provisions for additional needs for children should be paid as cash, so that the greatest value can be gained.** If this is not the case, then value is clearly lost and the true amount proposed will not be realised. If the same system is used for these items as is currently used for the weekly s4 support, this will mean that no change will be provided by the retailer, exacerbating the above problem.

GENERAL POINTS

The Form/Practicalities

The requirement for the accommodation provider's signature should be removed. In some cases, voucher support is distributed by the accommodation provider on a weekly basis, but we are aware of instances where the vouchers are just left for a person and so there may not necessarily be direct contact between the person and the accommodation provider on a weekly basis.

It appears that to apply for the provisions outlined in the draft regulations, applicants will need to provide photocopies of relevant documents. Although regulation 5 provides for these costs to be covered, how will an applicant ask for the photocopy costs, as they may not have the cost of a telephone call and may not have regular contact with the accommodation provider? They may not wish to leave important documents with the accommodation provider to be photocopied without knowing that the original will be returned to them straight away. For example, if an applicant has a birth certificate for their child and needs a photocopy to send to the BIA for support for the child to commence, how will they actually ask the accommodation provider for the means to pay for the photocopy? Once they have the means, how will they notify the provider that the photocopy is ready? If the provider is the one making the copy, will they take the applicant with them to the office, make the copy and then return them home or, alternatively, just take the relevant document and return this immediately to the applicant? This procedure seems far too bureaucratic. **To reduce administrative costs, we reiterate the suggestion that a person in receipt of s4 support be given the option of having a telephone card on a weekly basis.**

School meal

One area of which is not covered by the provisions is free school meals. Schedule 14 (para 117) of the IAA 1999 amended s.512(3) of the Education Act 1996 so that local authorities must provide free school meals to asylum seekers receiving support under Part VI of the IAA 1999. However, support under s4 IAA 1999 is provided under Part I of the Act and therefore, failed asylum seekers supported under s.4 cannot benefit from the amendment to the Education Act 2000. **We should propose that the BIA amend the regulations to allow for the cost of school meals or that a separate order is issued to amend S512 (3) to include s4.**

Right of Appeal

In the absence of a right of appeal, we would propose that there is a system for dealing with individual problems. The BIA states that the process will be monitored and they will liaise with its stakeholders to address any concerns. We believe that liaising with stakeholders about concerns is desirable but that it is not an appropriate remedy for people with immediate needs. **We propose that, at the minimum, a review procedure, with a manager or reviewing officer within the s4 team, should be in place, together with a system for comments/ complaints for past problems.** As the BIA is concerned about administrative costs, then a review procedure would save time and money, rather than having a repeat application made with the assistance of an accommodation provider and assessed by BIA from the start.

ILPA

November 2007