

THE IMPACT OF POLICY ON ASYLUM DESTITUTION: A BRIEFING FOR THE UK GOVERNMENT BASED ON EVALUATION DATA OF HOPE PROJECTS LEGAL SERVICES PROVISION



Nottingham Trent University

Vickers, T., O’Nions, H., Kellezi, B., Acha, E., Alici, N., Sacchetti, I., Durdiyeva, S., and Ekow Ocran, B. Pickford, R.

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INTRODUCTION

This briefing paper addresses the urgent needs experienced by destitute asylum seekers and puts forward proposals for urgently needed policy reform by the new UK Government. This is informed by a four-year longitudinal evaluation of the Hope Projects (West Midlands) Ltd, conducted by Nottingham Trent University.

RECOMMENDATIONS DEVELOPED FOLLOW THE EVALUATION

- Explore the feasibility of scaling the Hope Projects model to support destitute asylum seekers in the UK
- Ensure legal malpractice is challenged as recommendations by the Solicitors Regulation Authority are actioned
- Provide adequate funding for legal advice to asylum seekers
- Clarify immigration rules to reduce unnecessary complexity
- Ensure the Home Office speeds up the asylum process
- Create adequate support to ensure destitution of asylum seekers does not occur

CONTEXT

The provision of legal advice to refused asylum seekers has significant challenges, both in terms of the complex needs of the clients and the legal process itself. The Solicitors Regulation Authority has previously identified worrying examples of legal practice including irregular and inadequate training, poor legal knowledge, lack of suitably competent interpreters and poor interview technique. They also reported evidence of some solicitors deliberately overcharging or confusing fee-paying clients. These external challenges have increased over the course of this evaluation, requiring Hope Projects to be highly adaptive in its provision, and even greater changes are expected in coming years.

Austerity policies have inevitably resulted in a significant reduction in free legal services offered by not-for-profit organisations. Changes to legal aid following the Legal Aid Sentencing and Punishment of Offenders Act 2012 have left many vulnerable clients unable to access high quality advice. In 2020, when Hope commenced this phase of its legal advice provision, it was already extremely difficult for refused asylum seekers to access high quality immigration advice, and all the evidence in this evaluation points to this having become even more challenging since then.

At the same time, the immigration rules are incredibly complex and inaccessible without this specialist, professional advice. Even experienced judges report that they are struggling to interpret and apply the provisions.¹

Refusals based on credibility are particularly difficult for clients to accept. Official transcripts of interviews can be far from accurate as they have been subject to repeat edit and summary by interpreters, transcribers, and caseworkers. Legal providers need to have the time and resources to unpick the case, including any previous legal advice, and explain it for the client. There may also have been new developments that have implications for a client, such as changes to country guidance, legislation or case law, and which need to be considered for any new submission. Clients need to know what documents they need and why before they attend a solicitor’s appointment. Most further submissions depend on this evidence.

Lengthy delays in the asylum process contribute to destitution and susceptibility to exploitation. Refused asylum seekers are vulnerable to exploitation as they may have no income or accommodation and are often fearful of asserting their rights. Delays also prevent recovery and can impact on the ability to recall events accurately and consistently, which can in turn undermine credibility. There is a severe lack of appropriate mental health provision. These factors represent challenges for legal advisors who will first need to build trust, potentially following a client’s experience of previous legal advice which might have been poor, so that they can provide the best possible service. When refused asylum seekers seek advice they are likely to have experienced lengthy delays, with their cases potentially refused on more than one occasion. Disempowerment characterises the asylum process and clients often become disengaged from their own case. They may not have access to relevant information, such as the refusal letter or case notes, and are unlikely to have a current solicitor.

It is within this context that Hope Projects developed an offer for destitute asylum seekers to enhance support for this at-risk group.

THE HOPE PROJECTS MODEL

Hope understands asylum seekers’ housing and access to the legal process as interdependent - people cannot pursue their legal case effectively unless their basic needs are met, and likewise cannot improve their housing situation in a sustainable way without progressing their legal case:

“when we meet clients, their first needs normally are not their [legal] case. The first needs are always food and shelter; those issues come first. And those needs to be met first before we can even continue... So, we do have to use other resources and services that Hope have. So, we have a Hope destitution fund for housing. That is an essential part of it. When someone’s needs are met, they’re in a place to talk about legal services.” – Hope staff

¹ McKinney, CJ Tribunal judge publicly criticises Home Office presenting officers, 8th Nov 2017 Free Movement



Hope responds to these material needs through a combination of direct provision of housing and financial support, liaison with charitable partners, and support with applications for clients to access statutory provision, alongside specialist legal advice to help clients progress their asylum claim, with a strong focus on helping clients to understand and take ownership over their case.

This has produced important results:

- *Progressing the legal case:* 57% of survey respondents said Hope had helped them secure legal representation and we project 265 clients being assisted to do so between 2020 and 2025. 50% said they had made further submissions since coming to Hope and we project 233 clients doing so between 2020 and 2025. 18% said they now have leave to remain in the UK, a proportion confirmed by Hope's own monitoring data. This allows us to project 83 clients making this full transition to leave to remain between 2020 and 2025.
- *Promoting clients' understanding of their legal case:* 71% of clients who were asked in 2023 if Hope Projects had helped them to understand their case better answered in the affirmative, allowing us to project 330 people with self-assessed improved understanding over the 5 years of the project.
- *Improving clients' material circumstances:* 62% of survey respondents reported an improvement to their housing situation since coming into contact with Hope, enabling us to project an estimated 288 people with improved housing situations over the first five years of the legal service. 49% said their income had improved. According to Hope's own monitoring figures, 35% of clients had moved on to some form of statutory housing and welfare entitlement.
- *Clients' experiences:* A large majority of survey respondents (87%) reported being Very Happy or Happy about their experience with the Hope legal service, with 9% saying they were Neither Happy nor Unhappy, 3% (3 clients) Unhappy, and 1% (1 client) Very Unhappy. This was consistent with interviews. Frequent themes in clients' positive comments about Hope included being listened to or having somebody check in with them and show they cared, increased confidence about the outcome of their case (and in some cases the successful conclusion of the case and award of leave to remain), and the responsiveness of Hope to their needs, which sometimes included services that went far beyond legal advice and housing.

FINDINGS FROM THE EVALUATION

- » This evaluation has documented the **severe impact that destitution has in preventing refugees from exercising their legal right to asylum effectively**. Furthermore, the numbers of people successfully resolving their asylum claim and securing leave to remain following support from Hope demonstrates that without Hope's charitable services the UK asylum system would be failing even more people. Correct asylum judgements should not be dependent on charities ameliorating problems created by the British state itself. Furthermore, because the capacity of Hope and other charities falls far short of demand it is reasonable to expect that there are many more people whose asylum claims would

be upheld if they received the proper support that is needed to enable them to present their case effectively. On that basis we recommend that the British government take urgent steps to end asylum destitution, most significantly by: allowing all asylum applicants to take paid employment; extending access to housing, statutory benefits and other forms of state support on equal terms irrespective of immigration status; increase the level of financial support for asylum applicants to the same level as British citizens.

- » The findings gathered for this evaluation make clear the **important difference quality legal advice can make for individuals' lives and for their engagement with formal immigration processes**. It also identifies significant gaps in provision, which have worsened in recent years. There is therefore an urgent need for increased funding for legal aid.
- » This evaluation adds to the growing body of evidence that shows **memory and the representation of past events to be highly complex and shifting**. This should be recognised by the Home Office when interpreting the accounts given by asylum claimants during interview, and changes in an individual's account should not be treated as inconsistencies that undermine credibility.
- » Given the long waits many clients interviewed for this evaluation have had, during which they have severely limited access to state support, there is an urgent need **to increase resourcing for decision making to reduce delays** at first instance.
- » Given the significant proportion of clients who this evaluation found to be granted leave to remain following a fresh application, and the high rates of success for asylum appeals, there is a need to **investigate why so many initial decisions are incorrect**.
- » **Maintain the right to make further submissions**, taking into account the evidence of frequent misunderstandings in earlier representations and the high numbers of further submissions that have led to a grant of asylum or other leave to remain.
- » **Repeal aspects of the Illegal Migration Act**. Many of the clients interviewed for this evaluation, who were successful with the right support in proving their well-founded fear of persecution, would have their claims rendered inadmissible under the Illegal Migration Act 2023 – this demonstrates that this legislation prevents a serious barrier to the proper exercise of the right to asylum..



DOWNLOAD THE FULL EVALUATION AND OTHER OUTPUTS

www.ntu.ac.uk/hope-project

Contact the evaluation team with any questions or for further discussion: tom.vickers@ntu.ac.uk

Contact Hope Projects Director Phil Davis:
phil@hope-projects.org.uk

THE EVALUATION PROCESS

The evaluation undertook a review of the academic literature, views of clients gathered through a satisfaction survey (92 responses), 90 in-depth qualitative interviews and a focus group, a documentary case review of 20 client care letters, 18 in-depth interviews with Hope staff, volunteers, trustees and partners, and Hope's own monitoring data on client outcomes. The evaluation was funded by the Oak Foundation as part of its support for Hope.