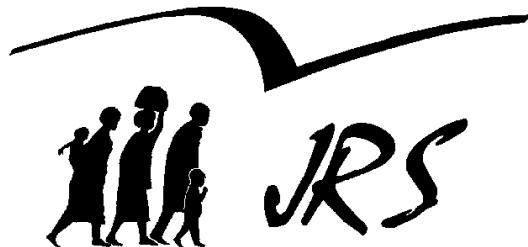


Home Office Consultation

Linking Section 4 Support with Community Activities: Draft Regulations The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005



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Mission Statement of Jesuit Refugee Service UK

The Jesuit Refugee Service (JRS) is an international Catholic non-governmental organisation, at work in over 50 countries, with a mission to accompany, serve and defend the rights of refugees and forcibly displaced people.

The purpose of JRS UK is to accompany, to serve and to advocate on behalf of all asylum seekers from their first arrival until they are satisfactorily settled. This work is carried out in collaboration with other JRS offices round the world, other Church and secular organisations, voluntary and governmental, which are active in the same field.

Values Statement

JRS is grounded in Catholic social teaching and draws on the principles of Ignatian spirituality in discerning with whom we work. All Members share a common set of values and principles concerned with justice, the dignity of the person and a responsibility to carry out the social mission of the Church.

With a priority to working wherever the needs of displaced people are urgent and unattended by others, JRS offers a human and pastoral service to refugees and the communities who host them through a wide range of rehabilitation and relief activities. Services — pastoral care, education for children and adults, social services, counselling, and health care—are tailored to meet local needs according to available resources.

JRS UK's work

The main focus of JRS UK's work is with asylum seekers in detention through visits, phone calls and letters. We produce news sheets to keep them in touch with events in their country. When they are released we keep in touch with them and offer practical support. We also provide a befriending service to asylum seekers on temporary admission.

JRS UK neither carries out any casework nor offers immigration advice to asylum seekers. JRS UK "signposts" the services offered by other NGOs and by legal practitioners in this area.

Our comments in this response are based on our experiences of working with refugees and asylum seekers.

Linking Section 4 Support with Community Activities

JRS UK has several grave concerns over section 10 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 which allowed the Secretary of State to further regulate the provision of section 4 (so called "Hard Case") support by linking it to carrying out community activities. These draft regulations implementing section 10 do nothing to allay any of our concerns.

- **The concept of "failed" asylum seekers.** It is unfortunate that in the title of these regulations the phrase "failed asylum seekers" is used. In reality and in our experience, many of the individuals to whom these regulations would apply have not yet exhausted all their asylum appeals, mainly because, due to the recent changes in the legal aid rules, they are unable to secure the services of a solicitor to take the appeals forward. In addition this category also includes individuals who have a judicial review active in their claims, so again their claims have not been finally exhausted.

- **Employment.** While acknowledging the government's concern that asylum seekers be seen to be giving something back to the communities in which they are living, and while acknowledging that asylum seekers themselves want to actively work for the community, it has to be said that it is to our deep shame as a nation that we do not allow asylum seekers to work in paid employment. Having permission to work contributes to the dignity of an individual and to his or her levels of self-confidence. It may not be politically expedient for the government to reinstate permission to work for asylum seekers, but it has to be acknowledged that allowing asylum seekers to engage in paid employment would reduce the cost of the whole system to the British public and would allow asylum seekers to privately secure the services of solicitors to continue their asylum claims.
- **Contributing to Communities.** Linking section 4 support to community activities may encourage some members of the public to view asylum seekers with more sympathy, as they would be seen to be contributing to British society. However the only similar scheme we know of is the Community Punishment Order. While we note that the government has stated that the measure is not intended to be punitive, it is equally likely that this measure will encourage members of the public to link the community activities with criminal behaviour. This can only further add to the negative image of asylum seekers, which is prevalent.
- **Logistical problems.** It is very difficult to see how these regulations will operate. As a nonprofit organisation, JRS UK relies on the support of our donors and of volunteers to help us carry out our work. However we require a time commitment from our volunteers, who undertake to work on our behalf, in a voluntary capacity, for a certain amount of time each week. They are given discreet areas of work, which are continuous. It is difficult to see how those having to carry out community activities can commit to a certain number of hours over a fixed number of weeks, when they are unsure of when they will receive their removal orders. It would be extremely difficult for small charities and community organisations such as ourselves to be able to deal with this uncertainty. This may make it difficult for the Secretary of State to find willing community partners. And if it could be guaranteed that an individual would not be removed before a certain date, surely it would be much better for that individual to be engaged in paid employment as he/she would not be reliant on section 4 support, very likely would be paying taxes and would be able to save a little money and some new skills with which to return to his/her country of origin.

Another logistical problem to be considered is that of monitoring whether the community activities have been carried out. If the section 4 support is dependent on the community activities being fulfilled to a certain standard and over a fixed number of hours then there will have to be effective monitoring of this. However, we have real concerns over who should be carrying out this monitoring. It is unacceptable to use community organisations to monitor the level and standard of activities, as this may identify them too closely with the immigration service. In a sense they will be used then as a second tier immigration service on support issues. It is essential to realise that the effective monitoring will have a monetary cost, which could be avoided if community activities were not linked to section 4 support.

- **Possible human rights abuses.** JRS UK shares the concerns stated by the Joint Committee on Human Rights who believe that there is real risk that linking community activities with section 4 activities contravenes articles 3 and 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1951, as threatening to take away food and accommodation if the community activities are not performed may amount to forced labour and withdrawing food and accommodation may amount to inhuman and degrading treatment.

We therefore encourage the Secretary of State to reconsider the implementation of section of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

Louise Zanré, 6 January 2005