

**Proposals to Exclude Overseas Visitors from
Eligibility to Free NHS Primary Medical
Services: A Consultation**



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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 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.

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.

Proposals to Exclude Overseas Visitors from Eligibility to Free NHS Primary Medical Services

These proposals are intended to apply to overseas visitors so that the eligibility for free primary NHS medical services better match the rules regarding the eligibility of overseas visitors to receive free NHS secondary care as set out in the *National Health Service (Charges to Overseas Visitors) Regulations 1989, as amended*.¹

JRS is only responding to this consultation in respect of the regulations affecting asylum seekers, refugees or "failed" asylum seekers (i.e. those at the end of their asylum claim having a negative decision in their case and still in the UK). This is consistent with our client group and with our response to the consultation regarding free access to secondary NHS health care².

The proposals envisage that "refugees and formal asylum seekers whose applications have not yet been determined" will be fully exempt from any charges.³ However the proposals also envisage that emergency or immediately necessary treatment will continue to be given free of charge regardless of whether the individual in question is

¹ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, page 5, para. 2.3.i.

² See our response of 24th October 2003 to the document, *Proposed Amendments to the National Health Service (Charges to Overseas Visitors) regulations 1989: A Consultation*.

³ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, Annex B.

eligible for free primary NHS medical services⁴. There will also be an option for the Secretary of State to “designate an individual exempt from charges on exceptional humanitarian grounds as long as certain criteria are met”⁵. And finally a list of 34 diseases is given for which no charges can be made.⁶

In our response of 24th October 2003 to the document, *Proposed Amendments to the National Health Service (Charges to Overseas Visitors) regulations 1989: A Consultation*, we identified several reasons why “failed” asylum seekers should not be charged for secondary health care in NHS hospitals. Many of those arguments hold true in our response to this consultation.

JRS cannot agree with the proposals to limit eligibility for free NHS primary medical services as they will cause undue hardship and distress to our clients and particularly to “failed” asylum seekers.

- **Emergency and immediately necessary treatment.** We understand and welcome the inclusion in the proposals that emergency and immediately necessary primary treatment will remain free of charge to all⁷. However we feel that this will be impossible to operate with regard particularly to those “failed” asylum seekers. A practice will “have no discretion to register ineligible people as patients”⁸. If this is the case it is more likely that these individuals will present themselves at a hospital casualty department as they will no longer be eligible to be registered with a local NHS GP practice. Any treatment they receive will likely be of a lower standard as there will be nowhere centrally where their medical records are kept so that treatment can be given taking account of pre-existing conditions and a diagnosis also be given taking account of any other symptoms.
- **Many asylum seekers are destitute or on a low income.** There have been many studies showing that those on a low income are more likely to have health problems due to poor diet and poor housing. Given that so many asylum seekers and “failed” asylum seekers are homeless their health problems will be compounded by stress over their living situations (relying on charity and friends for accommodation and food) and possibly rough sleeping. To give the added stress of worrying about being charged for primary health care is to our mind cruel. They are more likely to wait longer before going to see a doctor and thus what may have been a minor health problem will need either immediately necessary or emergency treatment. In the meantime there may be repercussions for public health if the individual is suffering from a communicable disease. It will also be impossible to pursue them for costs of treatment if it is determined later that they were ineligible for free treatment, as they will have no or little money. But any attempt to obtain any such fee would cause distress.

⁴ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, page 6, para. 2.4.

⁵ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, page 5, Annex B

⁶ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, page 5, Annex D

⁷ see footnote 4, above

⁸ see footnote 4, above

- **Many refugees and asylum seekers find it difficult to register with a local practice.** In our experience many refugee communities regularly cite frustration and difficulties caused by their members being unable to be registered with local GP practices. Often they reside in areas where there are fewer practices and these often are full. In addition in our experience of working with detained asylum seekers it is not unusual for an asylum seeker on release from detention and their return to the address or the area where they had previously been resident to not be able to re-register with the same GP they had previously been with. This is particularly distressing to those who have been tortured and were being treated for the effects of that torture on their mental and physical health. It is very difficult for them to have to retell their experiences and very stressful. It is as stressful for them to have to worry about having to find another GP.
- **It is unfair to expect the refugee or asylum seeker to provide proof of eligibility for free NHS primary medical services.** Many refugees and asylum seekers do not fully understand their status or whether they have a current asylum claim still being determined or not. Many are also not native English speakers and so will find it difficult or impossible to explain that they are an asylum seeker. We are also concerned for those who are granted refugee status, humanitarian protection or discretionary leave to remain in the UK. In our experience, many people experience delays in getting the official documents from the Home Office detailing their new status. This already causes significant problems in accessing benefits, accommodation and the labour market. It is not inconceivable that similar problems could arise in accessing free NHS primary medical services.
- **Asylum cases are complicated.** It is unfair to expect practice staff to understand the status of refugees and asylum seekers, particularly if the asylum seeker has had one refusal already. It is not easy to understand if an asylum claim is still being processed, especially if the asylum seeker is unclear about this.
- **It would be unacceptable to use health care services as a second-tier immigration service.** It is with some concern that we note that although the proposals “do not depend on the introduction of identity cards, [they] are intended to dovetail with the proposed new card”⁹. We sincerely hope that immigration officials will not be contacted if the individual does not present appropriate identity documents or if the practice staff do not understand the documents. The fear of such action being taken may result in individuals not seeking treatment, with consequences for their own health and possibly also for public health. Additionally there could be considerable embarrassment or distress caused to those questioned on their status in the UK.
- **Race and community relations.** In our opinion these proposals will worsen local community and race relations. Local communities will be fragmented if people are turned away from GP surgeries because they do not have the correct papers. It will also further the opinion held by some people that overseas visitors to the UK – and particularly asylum seekers, due to the consistent bad press this group gets in some sectors of the media – come

⁹ Proposals to Exclude Overseas Visitors to Free NHS Primary Medical Services: A Consultation, page 3, para. 1.8

here to take benefits or scrounge from the UK.

- **Exemption from charges on exceptional humanitarian grounds¹⁰.** We welcome the recognition that some individuals will require free NHS primary medical services on humanitarian grounds. However, requiring the humanitarian grounds to be “exceptional” seems unfair. This proposal recognises the importance to access to primary medical care. It would surely be more humanitarian to allow everyone in need to have this access as is currently the case.

We also feel that the proposal as it is worded would be difficult to administer. The wording of the proposal suggests that each individual needs to apply to the Secretary of State for the exemption and to show the exceptional humanitarian grounds for the application. We would argue that “failed” asylum seekers would be in such a position of exceptional need. Many are left in a position where they are unable to claim benefits and accommodation for a protracted period of time. They are not allowed to work. And they are not removed from the UK – normally either because of travel documentation problems or because the UK government recognises that some countries are too unsafe to forcibly remove people to. It seems unfair that such individuals having made asylum applications and having been refused (often after a long process) should then be expected to apply for an exemption from paying for NHS primary medical services. It is also unclear if there is any appeal against a refusal of the grant of such an exemption – or would these individuals who in our experience are in great need and often are extremely distressed have to have recourse to a judicial review process?

We suggest that NHS primary medical services remain free.

Louise Zanré, 5 August 2004

¹⁰ See footnote 5, above