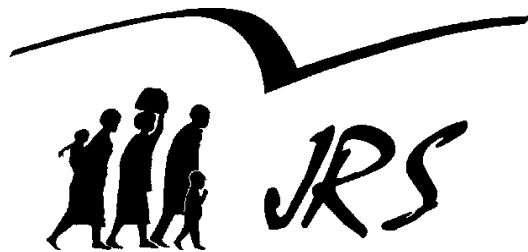


**Proposed Amendments to the National
Health Service (Charges to Overseas
Visitors) Regulations 1989: A Consultation**



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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.

JRS is only responding to this consultation in respect of the regulations affecting asylum seekers or "failed" asylum seekers, viz. Regulation 4 (b).

Regulation 4(b)

Paragraph 4.10 informs us that Regulation 4(b) exempts from charges for NHS hospital treatment any person who has spent the previous 12 months in the UK. There are no specified restrictions to the application of this exemption. The proposed amendment is to add restrictions to the application of the exemption, namely by excluding from the twelve month residency exemption any person whose primary purpose for being in the UK is to seek privately funded treatment, and anyone who is identified as being in the UK without proper authority.¹

JRS will confine its remarks to those identified as being in the UK without proper authority.

In our opinion it will be almost impossible to administer this exclusion and that it would cause undue hardship to failed asylum seekers.

- **Immigration and asylum cases are very complicated.** The asylum process is particularly difficult to understand. It is unreasonable to expect the NHS staff to be able to determine whether an asylum case has failed. As well as the possibilities for appeal and judicial review, we know of several cases which have been reopened due to new evidence and which have been ultimately successful. The offer of preparing guidance to

¹ Paragraph 4.12

hospitals in how to verify a patient's eligibility for free treatment in paragraph 4.13 does nothing to allay our concerns in this matter. It will be impossible to cover every aspect of the asylum process in a short written guidance or leaflet.

- **It will be very difficult to pursue failed asylum seekers for health care costs.** The consultation paper points out that only a few services including Accident and Emergency treatment given in an A&E department is free of charge to all regardless of status in the UK². Once admitted to hospital as an in-patient or given an out-patient appointment charges for the service will accrue. It is also noted³ that where a chargeable patient has received treatment but is unwilling or unable to pay, the trust must pursue the debt. This is likely to be unworkable in practice. Asylum seekers in the UK no longer have the right to work. They are also only eligible for financial assistance from the government if they are destitute and if they have lodged an asylum claim as soon as reasonably practicable.⁴ Even for those in receipt of the financial assistance only receive small amounts of money⁵ from which it is impossible to save any money. Only a minority of asylum seekers have independent means. Failed asylum seekers are for the generally in a very bad way financially. In addition we are coming across increasing numbers of failed asylum seekers who have been given temporary admission into the UK with no right to work and no right to financial assistance from the government. They are unwilling to leave the UK voluntarily due to fear or conditions in their home countries and the government is often unable to remove them because it acknowledges that their home countries are unsafe to forcibly remove someone to, e.g. Iraq or Democratic Republic of Congo. To pursue debts from such individuals will be costly, time consuming and in the end unsuccessful. In addition it failed asylum seekers who are removed from the UK are likely to have real fears about their treatment in their home countries and so could go underground making it impossible for debt agencies to find them or actually further endangering those who have been returned by attracting attention to them. The Department of Health would do well to consider whether pursuing such individuals is a good use of the time and resources of the NHS and of NHS staff.
- **Pursuing failed asylum seekers for debts will cause undue distress.** Not only will it be impossible to recover debts from failed asylum seekers, it will cause additional distress to individuals. Many asylum seekers live under constant great stress, worrying about their cases. Many suffer from health problems brought on by poor nutrition due to poverty in their own country and in the UK⁶. Many also arrive with health problems caused by torture. They are likely to need health care. Unfortunately, we know of many cases which have been unsuccessful due to bad administration or

² Paragraph 2.5

³ In paragraph 2.10. Paragraph 2.10 further notes that some trusts use debt collection agencies to recover debts after a person has left the UK.

⁴ S.55 of the Nationality, Immigration and Asylum Act 2003.

⁵ £38.26 for single person aged 25 and over or for a single parent aged 18 and over. A couple receives £60.03. A single person aged 18-24 receives £30.28. A young person aged 16-18 receives £32.90. And a child under 16 receives £38.50. These are weekly allowances for the financial year beginning the 7th April 2003.

⁶ *The Health and Well-Being of Asylum Seekers and Refugees*, an occasional paper published by the King's Fund in December 2000, details some of the health problems faced by asylum seekers and refugees in the UK, with particular reference to the effects of the voucher scheme and poverty.

poor decision making at the Home Office or due to poor legal advice from case workers and solicitors. Worrying about payment for medical treatment will only make their situation and health much worse, especially their mental health.

- **Asylum seekers may be afraid to seek medical treatment.** A failed asylum seeker, or indeed an asylum seeker whose case is still being processed, may fear to seek medical help due to concerns over being charged for health services or due to concerns over the possible involvement of immigration officials. This could have very serious consequences for his/her health and for the health of members of the general public in the case of serious infectious or contagious diseases.
- **It would be unacceptable to use healthcare services as a second-tier immigration service.** It is with considerable concern that we note the offer of preparation of "guidance on what hospital staff should do if they identify someone as being in the UK without proper authority, given the importance of patient confidentiality and the wider legal position". We trust this does not mean that immigration officials will be contacted every time an individual presents him or herself for medical treatment and the medical personnel either do not understand their status in the UK or suspect that the individual is an overstayer or has no authority to be in the UK. The fear of such action being taken will result in individuals not seeking treatment. In addition there could be considerable embarrassment or distress caused to those questioned on their status in the UK.

It is therefore our opinion that the proposed exclusion from the twelve month residency exemption of any person identified as being in the UK without proper authority be withdrawn from the new Regulation 4(b).

Louise Zanré, 24 October 2003