

Giving voice to Asylum seekers:

An evidence-based review of
community asylum experiences
in NSW and the ACT

Giving voice to Asylum seekers: an evidence-based review of community asylum experiences in NSW and the ACT.

“When every other safeguard fails, asylum in a foreign country becomes the ultimate human right.”

Atle Grahl-Madsen

Anti-Slavery Australia at the University of Technology, Sydney was commissioned by UnitingCare NSW.ACT to undertake research and present an evidence-based review of community asylum seeker experiences in New South Wales (NSW) and the Australian Capital Territory (ACT). The Paper was written by Angela Cranston at Anti-Slavery Australia with Jennifer Burn.

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This paper is based on events up to and including 30 June 2015

About the image:

Karen Fabric Collage. The Social Outfit invited a number of Karen (Burmese) women to collaborate with Australian artist Eloise Rapp to create a digital print design that honoured their cultural traditions. The digital design process began with this selection of textiles from their personal collections. Image by Eloise Rapp.

The Social Outfit believes that tapping into the rich creativity of our refugee and new migrant communities can lead to empowerment and social inclusion. As a trading social enterprise, we provide education, training and employment opportunities in the fashion industry to refugee and new migrant communities in clothing production, retail, design and marketing. We run a clothing retail store, onsite manufacturing and sewing school. from our Newtown site.

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1 SUMMARY

UnitingCare NSW.ACT commissioned Anti-Slavery Australia (ASA) to undertake an evidenced-based review of community asylum seeker experiences in NSW and the ACT to identify practical projects that could better support asylum seekers.

This paper documents a broad range of community asylum seeker experiences and identifies funding and support gaps. The paper considers asylum seeker vulnerability to labour exploitation and recommends the adoption of initiatives to reduce vulnerability.

Practical projects include recommendations about funding existing initiatives and service opportunities as well developing partnerships with government and non-government funded organisations including culturally and linguistically diverse groups (CALD). A number of Uniting Church congregations have developed important initiatives and this paper recommends UnitingCare NSW.ACT work with Uniting Church congregations and service institutions to encourage broader participation in service delivery and social engagement.

Asylum seekers' needs are complex, and there are many views about their nature and remedies. They also need to be reassessed in the light of factors such as continuing dialogue, new legislation and policy developments and the initiatives of others.

The needs of asylum seekers could have been dealt with in several ways. However, we decided the best way forward was to look at asylum seekers in terms of those who worked or could work, those who were accessing government financial assistance and those who were not.

This paper was envisaged in late February 2014 at a time when thousands of asylum seekers who arrived in Australia after 12 August 2012 and without a visa had been subject to ongoing delays in the commencement of the processing of their protection visa claims. As of May 2015, such asylum seekers began receiving letters inviting them to lodge protection visa applications for temporary protection visas. In responding to these invitations to make an application for protection, most asylum seekers will have to either fund their own immigration advice or rely on already stretched pro bono services.

While there are many opportunities to improve the lives of asylum seekers, there is an immediate need for the provision of legal services to assist asylum seekers make comprehensive visa applications. At the same time, the majority of asylum seekers have or will soon have the no work condition removed from their bridging visas. While this is a significant development, granting the right to work does not necessarily mean asylum seekers will be able to find appropriate work. In addition, there appears to be a real lack of training initiatives for asylum seekers about the Australian workplace, Australian work standards and protections available to asylum seekers.

While little is known about the extent of labour exploitation in the asylum seeker community, the paper describes instances of labour exploitation and recommends strategies that could reduce asylum seeker vulnerability to labour exploitation. ASA also finds that there is a clear need for further detailed research focused on labour exploitation,

to understand the specific vulnerabilities of asylum seekers to labour exploitation and to identify effective practical and policy strategies.

1.1 Background

A Discovery workshop conducted by UnitingCare NSW.ACT and Anti-Slavery Australia on 21 February 2014 noted an absence of processes designed to identify or voice concerns about community asylum seeker experiences. Workshop participants noted that a lack of evidence could hinder or prevent front line service providers in their attempts to address the needs of asylum seekers.

Recent studies of community asylum seekers have identified significant levels of poverty¹ and homelessness.² They also contain anecdotal reports of asylum seekers experiencing exploitative working conditions.³

¹ A key finding of the Red Cross Inaugural Vulnerability Report was that people seeking asylum live a precarious existence and in the community they live in a state of poverty. See Australian Red Cross, *Inaugural Vulnerability Report* (6 June 2013), 11 <<http://www.redcross.org.au>> [Accessed 22 May 2015]. This is a condensed report of the research report prepared for the Australian Red Cross by Dr Alexandra Gartrell *The nature and extent of vulnerability among people seeking asylum in Australia*, (April 2013). For ease of reference, we have referred to the condensed version except where the condensed version does not contain the quoted material and then we have identified we have referred to Dr Alexandra Gartrell's report.

There are many ways to measure poverty. According to the Australian Council of Social Service (ACOSS), poverty lines provide one indicator of low income and are usually based on the disposable (after tax) income of households. The poverty line for a single adult is usually calculated as a proportion of the disposable income of a 'middle income' (median) household. There are different poverty lines to take account of the number of adults and children in a household. Housing costs are taken into account by deducting rent, mortgage payments and rates from income before calculating the median income on which the poverty lines are based. In this way, it compares different households' ability to meet their basic living costs apart from housing. Other commonly used indicators of hardship include whether people can afford essentials such as access to dental care and financial stress. Ultimately, ACOSS states the experience of living on a low income is personal and is best expressed through people's lived experience. One thing that unites people who do not have access to a decent standard of living is they aspire to a 'normal' life where income is secure, they are respected, and have a place in society. See Australian Council of Social Service, *Poverty in Australia 2012* (March 2012, 2nd ed) <http://www.acoss.org.au/.../ACOSS%20Poverty%20Report%202012_Final.pdf> [Accessed 22 April 2015].

² The Australian Red Cross Report documented asylum seekers sleeping rough, and there are many definitions of homelessness. See Australian Red Cross, above n 1, 16.

The Australian Bureau of Statistics (ABS) considers a person to be homeless if their living arrangement:

- is in a dwelling that is inadequate; or
- has no tenure, or if their initial tenure is short and not extendable; or
- does not allow them to have control of, and access to space for social relations.

Homelessness Australia uses the ABS statistical definition of homelessness. Other recognised definitions are Mackenzie and Chamberlain's definitions that includes three different categories of homelessness:

- Primary homelessness is experienced by people without conventional accommodation (e.g. sleeping rough or in improvised dwellings);
- Secondary homelessness is experienced by people who frequently move from one temporary shelter to another (e.g. emergency accommodation, youth refugees, "couch surfing");
- Tertiary homelessness is experienced by people staying in accommodation that falls below minimum community standards (e.g. boarding housing and caravan parks).

See Australian Bureau of Statistics, *4922.0 - Information Paper – A Statistical Definition of Homelessness, 2012* (4 September 2012)

<<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4922.0Main%20Features22012?opendocument&tabname=Summary&prodno=4922.0&issue=2012&num=&view>> [Accessed 22 June 2015].

These studies have surveyed Australia-wide data and have not focused on NSW and the ACT in depth. Such studies were also conducted before the following major changes took place:

- Parliament passed legislation on 5 December 2014 reintroducing Temporary Protection Visas (TPVs) and implementing the "fast-track" administrative review assessment for Illegal Maritime Arrivals (IMAs)⁴ who entered Australia on or after 13 August 2012. It was also announced that the recommencement of protection visa processing would begin.⁵
- Introduction of discretionary changes to the 'no work' condition for IMAs granted a bridging visa under s.195A of the *Migration Act 1958* (the Act).⁶ The government announced on 5 December 2014 that 25 000 community-based asylum seekers would be able to work;⁷
- The Immigration Advice and Application Scheme (IAAAS) for IMAs was defunded;⁸
- Asylum seeker government assistance was consolidated into the Status Resolution Support Services (SRSS);
- The 45 hours of English language for asylum seekers on bridging visas was reportedly defunded and replaced with English classes on a case by case basis for 20 hours only.
- The NSW State government announced that asylum seekers would be given travel concessions from 1 January 2016.

³ United Nations High Commissioner for Refugees, *Asylum-seekers on bridging visas in Australia: Protection Gaps UNHCR Consultation, 2013* (16 December 2013), 8 <<http://unhcr.org.au/unhcr/images/2013-12-16%20Asylum-seekers%20on%20bridging%20visas%20in%20Australia%20-%20.pdf>> [Accessed 22 June 2015].

⁴ Because this term is widely used by the Federal government to describe an asylum seeker who has arrived by boat without a visa and this term explains the legislative and policy differences between IMAs and non-IMAs, we have also used it.

⁵ Fast-track applicants will include IMAs who entered Australia on or after 13 August 2012 but before 1 January 2014 and who have not been taken to a regional processing country. They will have no access to the Refugee Review Tribunal. Instead, they will be classed as "fast track applicants" whose only appeal is to the Immigration Assessment Authority, but they are unlikely to get a hearing, only a paper review. See Commonwealth, *Parliamentary Debates, Senate*, 4 December 2014, 10258-10367.

⁶ Migration Amendment (Subclass 050. Visas) Regulation 2014. Select Legislative Instrument No. 162, 2014. On 1 May 2015 the Minister for Immigration signed legislation that specified that those given a bridging visa pursuant to s.195A of the Act were a class of persons that condition 8101 did not apply to.

⁷ The then Minister for Immigration, Scott Morrison said,

"Anyone who is in on a bridging visa now and is in a position to work should ring and be in contact with the Immigration department and that will be facilitated. You can imagine: there are 25,000 people on bridging visas, and to go through all of that process is significant. But if there are people who are ready to work today and able to work today and have a job that they believe they can go to, they should get in contact with the department and we will facilitate that process."

Scott Morrison, 'The Hon Scott Morrison MP' (Press Conference, 5 December 2014) <<http://parlview.aph.gov.au/mediaPlayer.php?videoID=245609#>> [Accessed 20 April 2015].

⁸ Oliver Laughland, 'Legal aid denied to asylum seekers who arrive through unauthorised channels', *The Guardian* (online), 31 March 2014 <<http://www.theguardian.com/world/2014/mar/31/legal-aid-denied-asylum-seekers-arrive-boat>> [Accessed 29 May 2015].

About Anti-Slavery Australia

Anti-Slavery Australia is the only specialist legal research and policy centre in Australia dedicated to the abolition of slavery, servitude, slavery-like practices such as forced labour and forced marriage, human trafficking and extreme labour exploitation. The Centre provides access to a specialist pro bono legal service for people who have experienced human trafficking, slavery and slavery like practices and advocates for changes to laws and policies to improve the protection of the rights of people who have been trafficked. The Centre has represented hundreds of men, women and children who have been trafficked and enslaved in Australia. Anti-Slavery Australia networks with other organisations through the Sydney Trafficking Response group and has strong collaborative ties with many organisations engaged in anti-trafficking initiatives in Australia. The prevention of human trafficking, slavery and slavery-like practices including forced labour and labour exploitation is central to the mission of Anti-Slavery Australia.

About UnitingCare NSW.ACT

UnitingCare NSW.ACT is a Board of the NSW and ACT Synod of the Uniting Church responsible for the work of community services, chaplaincy and social justice advocacy. All work is inspired and guided by the principles of justice and compassion.

UnitingCare NSW.ACT services include aged care and disability programs, services for vulnerable families, children and young people and quality preschool education and care. As well as the provision of these services, UnitingCare NSW.ACT demonstrates a strong commitment to social justice and advocacy by speaking out on issues that affect the people they serve.

2 FINDINGS AND RECOMMENDATIONS

2.1 What we found and how we decided what to recommend

We made findings based on asylum seeker responses to questions about their economic, social and emotional well-being together with interviews conducted with service providers and by researching the academic and policy literature.

We then used the findings to make recommendations about building support networks and targeting specific areas of need.

Many recommendations link to current initiatives since we believe that the government's imminent processing of protection claims⁹ may make it difficult to commit to any medium or long term planning. While we make recommendations in relation to government and non-government funded service providers, information about non-government funded service providers suggests that such providers have a more holistic response to the needs of asylum seekers, in that they:

- tend to be dynamic and flexible;¹⁰ and
- have a track record of responding to new and emerging needs.

An organisation's ability to respond to a changing situation may lead to the adoption of innovative strategies and this is another hall-mark of non-government funded services.¹¹ Such strategies may address ways to increase the capacity of specific ethnic groups to respond to emerging needs. This responsive approach will be particularly important if large numbers of asylum seekers are approved and given temporary protection visas or Safe Haven Enterprise Visas (SHEVs).

Best practice approaches suggest that those involved or affected by services should have an involvement in the development of the service. To this end we believe it is important to ensure that service providers, CALD volunteer groups and asylum seekers themselves should own the projects and any decision-making should be based on a value management process conducted by UnitingCare NSW.ACT, service providers and asylum seekers as the recognised stakeholders.

⁹ Paul Farrell, 'Asylum seeker fast-track processing to begin with temporary protection visas', *The Guardian* (online), 28 May 2015 <<http://www.theguardian.com/australia-news/2015/may/28/asylum-seeker-fast-track-processing-to-begin-with-temporary-protection-visas>> [Accessed 17 June 2015].

¹⁰ In part because they are not restricted by contractual obligations linked to government funding.

¹¹ RCOA has put together a number of innovative ideas which can be found at <http://www.refugeecouncil.org.au/publications/bright-ideas/> [Accessed 22 May 2015].

2.2 How do asylum seekers find out about services?

Findings

Service providers

- The service providers that are linked to asylum seekers play a vital role in linking asylum seekers with other services, but their ability to do so depends on how well they themselves are informed about what services are available. The most up to date and comprehensive way we found for them to do that was to attend the bi-monthly Asylum Seeker Interagency (ASI) meeting which allows service providers to map changes, monitor services provided by others and respond to identified new needs on an ongoing basis.¹² While ASI is important and is frequented by all of the asylum seeker specific agencies, there are many service providers that do not attend including the CALD volunteer groups. Many of these service providers are however, linked to other service providers who do attend ASI.

CALD volunteer groups

- The CALD volunteer groups are fundamentally important in connecting asylum seekers to other asylum seekers from the same background. They provide practical assistance such as English language and life skills education. They also provide social opportunities and can raise awareness about services and support but they may need to be better supported.

Service hubs

- Auburn Council has facilitated a 'one-stop shop' for services for asylum seekers including legal and health services.¹³ Jesuit Refugee Services (JRS) is implementing a similar approach in Parramatta.

The Internet

- In addition to the national directory created by the Asylum Seeker Resource Centre (ASRC),¹⁴ Refugee Council of Australia (RCOA)¹⁵ has created a State service directory and House of Welcome has created multiple, detailed local Sydney resource

¹² The New South Wales Asylum Seeker Interagency provides a forum whereby various NSW refugee and asylum seeker related organisations can meet, share information and identify common concerns and resolve specific problems. See Refugee Council of Australia, *Interagency Networks Working on Refugee and Asylum Seeker Issues by State or Territory* (2012) <<https://www.refugeecouncil.org.au/doc/2012-Smt-Inter.pdf>> [Accessed 22 April 2015].

¹³ Auburn Council is a Refugee Welcome Zone which is an RCOA initiative. A Refugee Welcome Zone is a Local Government Area which has made a commitment in spirit to welcoming refugees into the community, upholding the human rights of refugees, demonstrating compassion for refugees and enhancing cultural and religious diversity in the community. Other Refugee Welcome Zones in NSW are Bankstown City Council, Coffs Harbour City Council, Fairfield City Council, Marrickville Council, North Sydney Council, Port Macquarie-Hastings Council, Sutherland Shire Council, City of Sydney, Warringah Council, Wollongong City Council, and Canterbury City Council. See Refugee Council of Australia, *Refugee Welcome Zones* <<http://www.refugeecouncil.org.au/get-involved/council-initiatives-rwz/>> [Accessed 14 May 2015].

¹⁴ See Asylum Seeker Resource Centre, *National Directory of Asylum Seeker and Refugee Service Providers* (August 2013) <<http://www.asrc.org.au/wp-content/uploads/2013/07/National-Directory-of-Asylum-Seeker-and-Refugee-Service-Providers-August-2013.pdf>> [Accessed 22 April 2015].

¹⁵ See Refugee Council of Australia, *Services New South Wales* <<http://www.refugeecouncil.org.au/resources/service-directories/asylum-seeker-services/new-south-wales/>> [Accessed 26 June 2015].

directories.¹⁶ However these are not currently translated into community languages. House of Welcome confirmed in mid June 2015 that they were attempting to have the directories translated by community members and expected that a Tamil translation for all service directories would be released in the next three weeks and that a Farsi translation might follow.

Mobile apps and strategically placed flyers

- There is a mobile app that reportedly allows men (including asylum seekers) to access mental health information (see section 5.6 of this paper). We also know that a number of services have prominently placed flyers in the offices of other service providers.

Recommendations

Recommendation 1

We recommend UnitingCare NSW.ACT should support current communication networks and pathways. This may involve UnitingCare NSW.ACT becoming involved in these networks. In Sydney, the ASI is a good way for service providers to learn about what other service providers are doing, to develop partnerships and to provide a coordinated response that prevents unnecessary duplication.

UnitingCare NSW.ACT could also consider developing links with local government and with non-government organisations, especially in Western Sydney. There, UnitingCare NSW.ACT could meet with councils in areas that have high numbers of IMAs, including Auburn Council.¹⁷

Recommendation 2

To help CALD volunteer groups to build their own networks by helping them become members of RCOA and offering to pay the RCOA yearly membership fee of \$66.00.¹⁸

¹⁶ We have only included one of the House of Welcome directories: See House of Welcome, *House of Welcome Service Directory Auburn – Parramatta* <<http://www.houseofwelcome.com.au/wp-content/uploads/2012/02/Auburn-Parramatta-Directory-20121.pdf>>.

¹⁷ Auburn Council has quarterly community sector networking forums that link service providers with CALD volunteer groups in the area. We attended on the of the Council's quarterly community sector networking forums in order to better understand the CALD volunteer groups in the area. See Auburn City Council, *Auburn LGA Interagency Calendar 2015* (2014) <<http://www.auburn.nsw.gov.au/Community/NetworksInteragencies/Networks%20%20Interagencies%20Documents/Auburn%20LGA%20Interagency%20Calendar%202015.pdf>> [Accessed 28 May 2015]. The CALD volunteer groups identified as partners in Auburn Council's Refugee Camp in my Neighbourhood are at <<http://refugeeweekauburn.com.au/partners/>> [Accessed 21 May 2015].

¹⁸ None of the CALD volunteer groups identified as part of Auburn Council's ASCON are members of RCOA: See Refugee Council of Australia, *Members* <<http://www.refugeecouncil.org.au/about-us-2/members/>> [Accessed 29 June 2015] and Auburn City Council, *Refugee Camp in My Neighbourhood Evaluation Report* November 2014 <<http://www.auburn.nsw.gov.au/Govern1/CouncilMeetings/Business%20Papers%202014/Attachment%20to%20Item%20359-14%20-%20Evaluation%20of%20the%202014%20Refugee%20Camp%20in%20My%20Neighbourhood%20Project.pdf>> [Accessed 28 July 2015]. For a fuller discussion, see section 6.6 'How Asylum Seekers Find Out About Services' of this paper on page 126.

Recommendation 3

To lift the public profile and perceived professionalism of CALD volunteer groups by funding business cards for their use.

Recommendation 4

To fund the translation of the House of Welcome service directories into Community languages.

2.3 Asylum seekers who work

Findings

- Legislative changes on 23 November 2014 made the 'no work' condition discretionary for all community asylum seekers granted bridging visas under s.195A of the Act¹⁹ and the government announced on 5 December 2014 that the 25 000 community asylum seekers would be given work rights.²⁰ In order to work, asylum seekers will need to obtain a bridging visa that is not subject to condition 8101, but it will take time for all asylum seekers to obtain this.
- Even with permission to work, previous research suggests only 15% of asylum seekers will find work.²¹ Identified barriers to employment include a lack of English, a lack of recognition of previous qualifications and experience and a lack of local experience. Asylum seekers may receive basic assistance from Job Services Australia (JSA) but Centrelink will only refer them if asked.²² Basic assistance from JSA means that asylum seekers may have access to a computer and newspaper to search for a job, they may receive assistance preparing their resume and they may be provided with information on jobs in their local area, but this is clearly insufficient. Without a targeted approach to employment, asylum seekers will find it hard to find work. Mentoring and work experience opportunities are limited. Programs that employ asylum seekers are also limited and face sustainability challenges.

Exploitation at work

- The number of asylum seekers facing labour exploitation is not known, however we did hear details of asylum seekers being poorly paid, working excessive hours and facing injury at work. While the Fair Work Ombudsman investigates workplace complaints and takes action for significant underpayments or other serious breaches of the *Fair Work Act 2009*, asylum seekers probably don't know that the FWO exists, may only work for short periods, may lack documentary evidence and may be unwilling to complain.

¹⁹ *Migration Amendment (Subclass 050 Visas) Regulation 2014* (Cth).

²⁰ See Louise Yaxley, Jane Norman and Jonathon Gul, 'Temporary protection visas: Senate votes to bring back temporary visas after deal to get children off Christmas Island', *ABC News* (online), 5 December 2014 <<http://www.abc.net.au/news/2014-12-05/senate-agrees-to-reintroduce-temporary-protection-visas/5945576>> [Accessed 27 June 2015]. Also see above n 6.

²¹ Australian Red Cross, above n 1, 11.

²² Email advice from Department of Human Services to the authors, 31 March 2015.

Recommendation 5

To fund training programs and develop a mobile app²³ that focuses on pay, work conditions and workplace health and safety and provide advisers who asylum seekers can talk to if they need help.²⁴

Recommendation 6

To fund an Employment Relations consultant who works with employers and prepares asylum seekers for work, and then links asylum seekers to jobs as part of a free employment matching service. UnitingCare NSW.ACT could potentially partner with the Asylum Seekers Centre (ASC), House of Welcome or JRS in this area. Potential employers could come from UnitingCare NSW.ACT or Church institutions and congregations.

Recommendation 7

To establish scholarships that encourage asylum seekers who already have work experience to complete courses so that they meet Australian standards.

Recommendation 8

To increase volunteering opportunities for asylum seekers within the UnitingCare NSW.ACT organisation.

Recommendation 9

To provide employment opportunities for asylum seekers by encouraging Uniting Church congregations to:

- Support the social enterprises or organisations known to employ asylum seekers by either buying their products, or volunteering with them. Some of these organisations are identified in this paper.
- Support the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) Refugee Enterprise Facilitation Project by using the services offered by one of their participants.²⁵
- Support the work initiatives of Bright Employment or ASC by using them to employ an asylum seeker to fill an employment vacancy.²⁶
- Engage tour guides (who are either refugees or asylum seekers) through Auburn Council who can then be educational speakers or tour guides during adapted versions of the

²³ Our observations were that asylum seekers are using mobile phones and many were smart phones. A mobile app could deliver information and offer a direct referral path to service providers for asylum seekers.

²⁴ We learnt in June 2015 that STARTTS has a training program that focuses on pay and work conditions and health and safety however more programs should be provided. Methods of information dissemination will need to take into account the importance of verbal interaction, accessibility of time and location and could involve a facilitator who will work with CALD volunteer groups to educate themselves. A good place to start when identifying content is the Fair Work Ombudsman's Community presentation package which can be used by anyone to tell asylum seekers about their rights at work. The training is at <<http://www.fairwork.gov.au/contact-us/language-help>>. Another way would be to present the information in a mobile app that could be translated into CALD languages and could also provide links to helpful services including employment services.

²⁵ STARTTS, *Enterprise Facilitation*, <<http://www.startts.org.au/community-services/enterprise-facilitation/>> [Accessed 29 May 2015].

²⁶ See Bright Employment, <<http://www.brightemployment.com.au/>> [Accessed 15 June 2015]. See Asylum Seekers Centre, *Employment Assistance Service* <<http://asylumseekerscentre.org.au/employment/>> [Accessed 23 June 2015].

Refugee Camp in My Neighbourhood model at Uniting Church schools and/or church groups.²⁷

Recommendation 10

To encourage Uniting Church congregations to volunteer in any current initiatives that provides training and support on how to look for work. Such opportunities may include:

- volunteering with JRS in Parramatta.²⁸

To encourage Uniting Church congregations to volunteer in any current English language initiatives that in turn will help asylum seekers access work. Examples of such opportunities include:

- The Bankstown District Uniting Church, which has free weekly conversational English classes during school terms.²⁹
- Volunteering in English class initiatives currently being run by CALD volunteer groups, especially in Auburn.³⁰ One was being run by a CALD volunteer group called Human Care Welfare who were looking for volunteers in the Auburn area.³¹ The University of Sydney also runs a refugee language program run by volunteers that includes university staff, students, alumni and local community members. Volunteers can also work as conversation partners after classes or as individual tutors.³²

2.4 Asylum seekers who receive government assistance

Findings

- Government assistance to asylum seekers has been consolidated into the Status Resolution Support Services (SRSS) which brings the Asylum Seekers Assistance Scheme (Band 6) and Community Assistance Support (CAS) (Band 5) together in a system paid through Centrelink. Asylum seekers who are single receive 89% of the Centrelink Special Benefit (\$462.00 per fortnight) and may also be eligible for 89% of

²⁷ RCOA also has a program where a representative from RCOA and a speaker of refugee background present to students, teachers and other interested groups about the refugee experience. See Refugee Council of Australia, *Schools Program* <<http://www.refugeecouncil.org.au/get-involved/schools-program/>> [Accessed 21 May 2015].

²⁸ JRS confirmed in June 2015 that they were looking for skilled volunteers to help asylum seekers with employment. Jesuit Refugee Service Australia, *Work with JRS* <<http://www.jrs.org.au/get-involved/work-with-jrs/>> [Accessed 29 May 2015].

²⁹ We spoke to Bankstown District Uniting Church in June 2015 and they said asylum seekers were still attending their classes and they were always looking for volunteers. We were not aware of any other ESL classes being run by the Uniting Church. See Bankstown District Uniting Church, *English as a Second Language* (Uniting Church of Australia) <<http://bankstownuca.com.au/english-as-a-second-language/>> [Accessed 14 May 2015].

³⁰ A description of one of these classes is in this article. See Elizabeth Schaffer, 'A Journey through English' (2009) 22 *Refugee Transitions* 37.

³¹ See Human Care Welfare, <<https://www.facebook.com/HumanCareWelfareSydney>> [Accessed 18 May 2015].

³² See University of Sydney, *Refugee Language Program* <http://sydney.edu.au/arts/peace_conflict/rlp/index.shtml> [Accessed 11 November 2014].

Centrelink Rent Assistance. Those single and aged between 18 and 21 receive 100% of the Youth Allowance (\$426.80 per fortnight).³³

- Practical assistance offered to asylum seekers on Band 6 including casework support has been described as minimal.
- There is no clear pathway for non-IMA asylum seekers onto government assistance which is reportedly increasingly difficult to access.

Accessing accommodation

- Housing is a major concern for asylum seekers on government assistance. The majority on government assistance are tenants in the private rental market. This means that single men live in houses with excessive numbers of people and families live in two-bedroom units. Housing-related expenses such as furniture and appliances, bonds and utility bills remain difficult to fund.

Accessing funds for out of pocket expenses

- Out of pocket expenses include pharmaceuticals, food and transport. Organisations that still provide food have reported a significant increase in asylum seekers accessing their services.
- The cost of social activities and the cost of transport often limits individual and family participation. Transport and the cost of pharmaceuticals and dental care were consistently highlighted as a major service gap.

Accessing English and education

- We were told the 45 hours of English language training previously available has been defunded but SRSS service providers for IMAs released after 1 June 2015 or for those who had not previously accessed English language lessons can submit applications on a case by case basis for 20 hours of English language training. Current voluntary English courses can have variable results because language acquisition capability and language proficiency varies.
- Asylum seekers have a strong desire to access education either for themselves or for their children. Asylum seekers can be enrolled in senior colleges up until the age of 20. However, after that, it was extremely difficult but not impossible. Asylum seekers can also study at university and TAFE, but this requires upfront payment of full fees as charged to international students.

Social and Emotional Well-being

- Issues of well-being have arisen out of long processing delays and an uncertain future, tensions arising from crowded, unnatural living conditions, separation from family and isolation due to transport costs, unemployment and lack of English language proficiency.
- Reducing isolation and building community connectedness has been identified as a priority concern by many service providers. Successful programs to overcome individual and family isolation do not come about randomly, but are based on a deep cultural understanding of what will and will not work and on implementing programs

³³ These calculations are based on Centrelink payments as at June 2015 when maximum Newstart payments were \$519.20 per fortnight and for Youth Allowance was \$426.80. See Department of Human Services, *Youth Allowance* <<http://www.humanservices.gov.au/customer/services/centrelink/youth-allowance>> [Accessed 23 June 2015]; Department of Human Services, *Newstart Allowance* <<http://www.humanservices.gov.au/customer/services/centrelink/newstart-allowance>> [Accessed 23 June 2015].

in consultation with asylum seekers. In general, programs that were being run by service providers (as opposed to CALD volunteer groups) and focused on communal dining or skills were well received whereas the activities that were culturally based needed to be either initiated by asylum seekers or run by the CALD volunteer groups themselves.

Legal

- An overriding concern for IMA asylum seekers is the recommencement of protection visa processing since the majority of asylum seekers will either have to fund their own immigration advice or rely on pro bono services.

Recommendation 11

To meet with any government funded service providers³⁴ and explore areas where UnitingCare NSW.ACT can contribute additional assistance, especially to those released from detention since December 2014.³⁵ Additional assistance previously provided for those on government assistance included furnishing houses, bonds (for those on SRSS Band 6) and utility bills.

Recommendation 12

To liaise with the Parramatta Mission and Wesley Mission regarding current programs that are accessed by asylum seekers. We understand that the food programs of both organisations cater to asylum seekers on a regular basis. There may be scope to learn from these existing programs and consider a broader application of successful programs.

Recommendation 13

To liaise with Uniting Church congregations about any current programs that are being accessed by asylum seekers and document these initiatives. A useful example of such documentation is provided by Anglicare.³⁶ Congregations providing assistance to asylum seekers may be in need of capacity building, volunteers or financial support.

Recommendation 14

To provide funds for local travel. This may mean providing Travel10 cards or Opal cards (for those who frequently travel). Alternatives ways of funding travel would be to cover the travel costs for asylum seekers who seek to attend a particular event and/or organisation or to establish a fund for a bike program.

³⁴ The current government service providers are Red Cross, SSI and most recently, Life Without Barriers and Marist Youth Care.

³⁵ The government indicated on 5 December 2014 that 1500 people would be coming out of detention. See AFP, 'Australia toughens up immigration but lets in more refugees,' *Daily Mail Australia* (online), 5 December 2014 <<http://www.dailymail.co.uk/wires/afp/article-2861648/Australia-toughens-immigration-lets-refugees.html>> [Accessed 27 June 2015].

³⁶ See Anglicare, *Asylum seekers: reaching out with Christian care* <https://www.anglicare.org.au/sites/default/files/public/asylum-resource-web1_0.pdf> [Accessed 3 June 2015]. A summary of Uniting Church congregational support to asylum seekers mentioned in this paper is at Annexure 8.4 of this paper.

Recommendation 15

To fund youth and adult asylum seeker scholarships for secondary or tertiary studies. For example, the Friends of Zainab scholarship is overseen by the Public Education Foundation and provides financial assistance to refugee students in year 11 and 12 and for the first two years of a student's full-time university study.³⁷

Recommendation 16

To provide a fund for medical costs not covered by Medicare or NSW Health. These may include prescription medicine and dental procedures.

Recommendation 17

To provide a fund for activities for asylum seekers linked to government funded service providers and CALD volunteer groups. It was repeatedly put to us that activities should be initiated by asylum seekers but could also be suggested to them. Providing funds may mean funding excursions or individuals and/or teams for participation in competitive games, or buying equipment. The activity that we repeatedly heard about that would appeal to young men was football (soccer).³⁸ However, cricket was also suggested.

Other opportunities may include finding someone to give a talk to asylum seekers linked to CALD volunteer groups on a particular topic or initiating an excursion.

Recommendation 18

To support community immigration legal services by:

- funding a legal officer position or project;
- providing funding for specific litigation;
- providing funding for translating/interpreting; and/or
- providing accommodation for the conduct of immigration and general legal outreach programs in Western Sydney. (It was put to us that the best thing that could be done was to provide more space for outreach programs in areas with high asylum seeker numbers).

Recommendation 19

To meet with government funded service providers and CALD volunteer groups to explore any areas where they consider asylum seekers may need additional training including:

- Money management, healthy eating and cooking classes or vocational training. One CALD volunteer group identified training in cleaning or aged care. Again, accessibility of time and location would need to be considered and could involve a bi-cultural facilitator working with their own communities.

³⁷ For a description of this scholarship, see Public Education Foundation, 'Scholarships for Refugee and Asylum Seeker Students Open Nationally' (Media Release, 31 July 2014) <<http://www.publiceducationfoundation.org.au/wp-content/uploads/2014/07/FOZ-Scholarship-Media-Release-31-July-2014.pdf>> [Accessed 22 May 2015].

³⁸ Media reports state Synapse Medical Equipment sponsored a soccer team in 2014 and their newsletter suggests they did so again in 2015. See Synapse Medical Equipment, 'Newsletter, April 2015' (Newsletter, 21 April 2015) <http://www.synapsemedical.com.au/blog/Latest_News/post/newsletter-april-2015/> [Accessed 20 May 2015].

Recommendation 20

To liaise with CALD volunteer groups on education-related issues, especially those who represent women about providing homework assistance for asylum seeker children. An example of an education related program is Auburn Council's volunteer reading program that provides one-on-one reading assistance to school aged children.³⁹

Recommendation 21

To better utilise UnitingCare NSW.ACT programs that already exist for asylum seekers. For example, programs that work with parents on parenting skills, programs around supported playgroups (aimed at getting children school-ready) or the family referral service could be considered.

Recommendation 22

To identify any current Parramatta Mission or Wesley Mission services that could be provided to asylum seekers, for example, home visits.

Recommendation 23

To identify any current Uniting Church programs and any Uniting Church schools former pupils associations that could link young asylum seekers with young Australians through joint activities such as sport or mentoring programs.

Recommendation 24

To Encourage Uniting Church congregations to host a dinner through the Welcome dinner project. This is an initiative of *joiningthedots*, a non-profit organisation, enabling Australians to either host or participate in a dinner in which they meet new arrivals in Australia, including asylum seekers. Everyone brings a dish. In addition, two trained facilitators will assist in organizing the dinner and support everyone on the night.⁴⁰

Recommendation 25

To encourage Uniting Church congregations to participate in Flavours of Auburn which is hosted by the Auburn Small Community Organisation Network (ASCON)⁴¹ and House of Welcome in partnership with Auburn City Council. Groups of about 10 are led by asylum seekers and refugees to help cook and then eat a meal. The class includes all ingredients and drinks.⁴²

³⁹ See Auburn Council, *Volunteer Roles* <<http://www.auburn.nsw.gov.au/Community/Volunteering/Pages/Volunteer-Roles.aspx>> [Accessed 26 June 2015].

⁴⁰ Joiningthedots, *The Welcome Dinner Project* <<http://www.joiningthedots.org/initiatives/dsp-initiative.cfm?loadref=103&id=101>> [Accessed 25 March 2015].

⁴¹ Auburn Council has a number of capacity building programs to support community organisations from small and emerging communities, including convening of the Auburn Small Community Organisation Network (ASCON) which is a group of small, volunteer run, not-for-profit community organisations who do not receive regular funding.

⁴² See Auburn Small Community Organisation Network, *Flavours of Auburn – From Africa to Asia to Auburn* <<http://flavoursofauburn.com.au/>> [Accessed 25 May 2015].

2.5 Asylum seekers without government assistance

Findings

- We were told that the following asylum seekers do not receive government assistance. However, the situation remains unclear given recent policy changes. In brief, those not receiving assistance are those:
 - who are on a substantive visa such as a tourist visa or a student visa; or
 - who are pursuing legal avenues after administrative review; or
 - whose case was remitted back to the Department for reconsideration as a result of *MIAC v SZQRB* (2013) FCAFC 33.
- Asylum seekers who are not receiving government funding often present to the main non-government funded service providers as homeless. Most organisations will not support asylum seekers beyond the stage of administrative review; however, some mainstream welfare organisations do.

Recommendation 26

To meet with the three main non-government funded service providers (ASC, JRS and the House of Welcome) and explore any areas they consider that UnitingCare NSW.ACT can contribute to their financial assistance programs. Specific positions or projects could also be funded (for example, ASC's no interest loan scheme for those transitioning into employment). We understand that Bridge for Asylum Seekers (BASF) financially assisted community asylum seekers by providing supplementary living assistance and that they continue to meet with ASC from time to time to budget how much ASC needs each month.

Recommendation 27

To meet with any non-government funded service providers and explore any areas where UnitingCare NSW.ACT can contribute services to those providers' programs, including being part of the proposed home stay project. The other way that asylum seekers not on government assistance could be supported is to encourage Uniting Church congregations to respond to call-outs from non-government funded service providers for donations of specific items such as non-perishable food, furniture, bedding, clothing or bicycles. Call-outs have been made from House of Welcome, JRS and Blue Mountains Refugee Support Group (BMRSNG).⁴³ As an example, House of Welcome and JRS recently called for good quality winter clothing.⁴⁴

Besides food and furniture, House of Welcome has requested mobile phones and chargers. Fitted for Work also accepts donations of women's clothing.⁴⁵

⁴³ The BMRSNG is a registered charity. When BMRSNG identify required items they post a request in the Weekly Update and on their Facebook page. Similarly, JRS Parramatta orally requested good quality winter clothing in June 2015. House of Welcome also made similar requests. See Blue Mountains Refugee Support Group, <<https://www.facebook.com/BlueMountainsRefugeeSupportGroup>> [Accessed 2 June 2015]; House of Welcome, *Material Aid* <<http://www.houseofwelcome.com.au/donations/material-aid/>> [Accessed 11 June 2015].

⁴⁴ House of Welcome, *Donations Needed for Clothing Drive* <<http://www.houseofwelcome.com.au/2015/03/17/donations-needed-for-clothing-drive/>> [Accessed 22 May 2015].

⁴⁵ Fitted for Work (a not-for-profit organisation) *Fitted for Work, Donate Clothing* <http://www.fittedforwork.org/index.php?option=com_content&view=article&id=125&Itemid=91> [Accessed 9 June 2015].

Recommendation 28

To encourage Uniting Church congregations to be part of Simple Love, an organisation that assists churches to provide material aid for asylum seekers not on government assistance. Each month, churches across Sydney collect groceries and deliver them to the ASC or House of Welcome. The Simple Love website nominates food, transport (Travel10 tickets), and toiletries as those items most needed and also provides a non-perishable and culturally sensitive food list.⁴⁶

2.6 Further projects that target need

Recommendation 29

To encourage Uniting Church congregations to approach Local Councils, particularly in those areas with high asylum seeker numbers,⁴⁷ asking them to make a commitment to welcoming refugees by becoming Refugee Welcome Zones, an RCOA initiative.⁴⁸

⁴⁶ We rang Simple Love on 9 March 2015 and asked why they ask for specific groceries and travel ten bus passes. They said that the ASC had specifically asked for the itemised food and travel ten passes. She also stated whereas both ASC and HoW were previously buying food, now the centres could use that money for other things. She stated crucially, the purpose of Simple Love was to connect with churches to get donations happening across the whole year. Crows Nest Uniting Church and Grantham Heights Uniting Church are part of Simple Love. Simple Love, <<http://www.simplelove.com.au/>> [Accessed 15 May 2015].

⁴⁷ See section 3.1 'Who are the Community asylum seekers' of this paper on page 21.

⁴⁸ Refugee Council of Australia, *Refugee Welcome Zones* <<http://www.refugeecouncil.org.au/get-involved/refugee-welcome-zones/>> [Accessed 14 May 2015].

3 WHO ARE COMMUNITY ASYLUM SEEKERS?

The Department of Immigration and Border Protection (DIBP) recently released statistics about IMA community asylum seekers in Australia. As at 31 March 2015 27 216 community based IMA asylum seekers were on bridging visas.⁴⁹ They are culturally diverse and include individuals and families. The overwhelming majority of IMAs are male and aged between 18 and 35.⁵⁰

New South Wales

As at 31 March 2015 the number of IMA asylum seekers on bridging visas in NSW was 9 211.⁵¹ Sydney's south western suburbs have a sizeable IMA asylum seeker population. As at 31 March 2015, the suburbs in which IMA asylum seekers on bridging visas primarily live are:

AUBURN	1 278
MERRYLANDS	833
LAKEMBA	659
GRANVILLE	348
GUILDFORD	337
PARRAMATTA	289
LIVERPOOL	288
TOONGABBIE	277
PENDLE HILL	268
FAIRFIELD	256 ⁵²

They are primarily from Iran (2 667), Sri Lanka (2 058), Afghanistan (1 077), and Iraq (928).⁵³

The smaller number of asylum seekers who have arrived with a visa by plane do not necessarily reflect the same CALD groups as the IMAs. According to the *DIBP's Annual Report 2013-2014*, 9 646 protection visa applications from non-IMAs were lodged.⁵⁴ Because of their lower profile and diversity of circumstance once they arrive in Australia, less is known about them, however the *Asylum Seekers Centre's Annual Report 2013-2014*

⁴⁹ Department of Immigration and Border Protection, *Illegal Maritime Arrivals on Bridging E Visa* (March 2015), 4 <<http://www.immi.gov.au/pub-res/Documents/statistics/ima-bve-april-15.pdf>>.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid 6.

⁵³ Ibid 8.

⁵⁴ Department of Immigration and Border Protection, *Annual Report 2013-14*, 111 <<http://www.immi.gov.au/about/reports/annual/2013-14/pdf/2013-14-annual-report.pdf>>.

profiles their new non-IMA caseload as coming from Bangladesh, Pakistan, Iran, Sri Lanka and Fiji.⁵⁵

ACT

In the ACT, as at 31 March 2015 the number of IMAs was 157. The suburbs where asylum seekers lived were Turner (18), Watson (14) and Gungahlin (11). Other suburbs had less than 10.

The IMAs in the ACT are primarily from Sri Lanka (48), Iran (38), and Afghanistan (24).⁵⁶

3.1 Methodology Phase 1:

We examined recent asylum seeker history to place this paper in context. Much of the policy and legislation current in September 2014 became dated by June 2015 and was included as background.

3.2 Methodology Phase 2:

We looked at Australian academic literature about the right to work and an adequate standard of living. We then looked at original research by Australian academics and non-government agencies that assessed community based asylum seeker experiences after November 2011.⁵⁷

Australia has enacted legislation to criminalise slavery and forced labour. However, no Australian studies have explored working conditions or the possibility of forced labour amongst asylum seekers. Because of this, we included a United Kingdom study that had explored working conditions for asylum seekers.

⁵⁵ Asylum Seekers Centre, *Asylum Seekers Centre Annual Report 2013-2014* <<http://asylumseekerscentre.org.au/wp-content/uploads/2014/11/ASC-Annual-Report-2013-14.pdf>>.

⁵⁶ Ibid.

⁵⁷ Recommendation 22 of the Expert Panel on Asylum Seekers recommended the incomplete evidence base on asylum issues be addressed through a well-managed and adequately funded research program engaging government and non-government expertise. DIBP manages a variety of research projects on immigration. At the Budget Estimates Hearing on 27-28 May 2013 the Department was asked about any research done on the likely impacts of releasing families into the community on the bridging visa, particularly the predicted day to day living expenses of families and the likelihood of homelessness. The Department said no research had been undertaken on the likely impact of releasing families into the community on a bridging visa, that all IMA families on a bridging visa are provided with support and services under ASAS or CAS and where vulnerabilities were identified, families would be assessed for the CAS program by a departmental case manager. See Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Budget Estimates 2013-2014 – Immigration and Citizenship Portfolio – Question on notice: BE13/0553* (27-28 May 2013) <http://www.aph.gov.au/~media/Estimates/Live/legcon_ctte/estimates/bud_1314/diac/BE13-0553.ashx>.

3.3 Study participants

3.3.1 Asylum seekers

We held three group discussions between December 2014 and June 2015 and spoke to 27 Afghan, Sri Lankan and Iranian asylum seekers on government assistance. We also held a training session in February 2015 and 41 Afghan asylum seekers attended.

While new themes emerged after the government's foreshadowed processing of protection claims in December 2014, we conducted sufficient interviews both before and after that date to ensure that no new major themes were likely to emerge irrespective of how many more interviews we held.

3.3.2 Service providers

We approached organisations through umbrella organisations such as RCOA, the ASI and established networks. Most organisations had been working with asylum seekers for many years. Some had tendered for Federal government funding whereas others had not. Many relied on volunteers including the CALD volunteer groups. Other organisations that did not exclusively work with asylum seekers included mainstream welfare agencies and church groups.

The research was advertised in the Uniting Church magazine *Insights* and through the Settlement Council of Australia newsletter. We also distributed flyers.

We held personal interviews with 30 people, all of whom were employed by or directly linked with 19 service providers. We also spoke by phone to a further 12 people, all of whom were employed by or directly linked with 11 service providers. We also received a written response from two service providers.

3.4 Additional actions undertaken

3.4.1 Freedom of Information requests (FOI)

We requested FOI access to all Migration Review Tribunal (MRT) bridging visa E cancellation decisions between 1 June 2012 and 31 December 2014 where the applicant was found to be working in breach of their 'no work' condition and where the bridging visa was held on the basis they had applied for a protection visa. Two decision records were provided.

3.4.2 Attendance at conferences, training sessions and events

We attended "The Role of the Fair Work Ombudsman in Australian Workplaces" by the Fair Work Ombudsman on 23 March 2015, "Working with the Volunteer Community Sector Auburn Networking Forum" hosted by the Auburn Council on 27 May 2015, "Creating Sustainable Employment for Refugees" hosted by the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) on 23 April 2015 and "Refugee Camp in my Neighbourhood" conducted by Auburn Council on 9 June 2015. We also attended the ASI between December 2014 and June 2015.

3.4.3 Ethical Considerations

We were concerned the paper might make asylum seekers anxious. Participants were given an explanation of the research and assured full anonymity before seeking their consent to be interviewed. The only information attributed to a specific person or organisation is where that information was publicly available. Interviews were conducted at places convenient to participants and, where relevant, experienced interpreters were used. All interviews were recorded either orally or in writing and the recording then destroyed. Interviewees' names were not recorded.

UTS Human Research Ethics Committee approved this research on 11 November 2014.

3.5 What barriers we faced

We faced the following barriers in completing this study:

- We wrote this paper during a time of largely unpredictable changes to asylum seekers work and social assistance entitlements. Parliament passed major legislative changes in December 2014 and the government also announced processing of protection visa claims would recommence. The impact of these changes remains difficult to determine.
- Written information about asylum seekers on bridging visas was scarce and even though the DIBP website was recently updated to include helpful information,⁵⁸ the Centrelink website remains sparse and unhelpful. While DIBP released statistics in relation to where asylum seekers live in NSW/ACT,⁵⁹ most organisations we spoke to were not aware these had been publicly released.
- Beyond DIBP's website, 'asylum seekers' are not normally recognised as a group or recorded in national data. For example, although the Australian Bureau of Statistics (ABS) keeps statistics that identifies visas held by persons in Australia, it does not identify asylum seekers or persons who hold bridging visas.⁶⁰

⁵⁸ The archived version of the relevant department's webpage for asylum seekers (<http://www.immi.gov.au/About/Pages/ima/info.aspx>) on the Internet Archive Wayback machine shows that it was substantially modified between 22 January 2015 and 19 March 2015. See Internet Archive, *Wayback Machine* <<http://web.archive.org/web/20150122014145/https://www.immi.gov.au/About/Pages/ima/info.aspx>> [Accessed 10 June 2015].

⁵⁹ The earliest statistics we could find that were released in 2014 were dated 30 June 2014. Department of Immigration and Border Protection, *Illegal Maritime Arrivals on Bridging E Visa* (June 2014) <<http://www.immi.gov.au/publications/Documents/statistics/ima-bve-30-june-14.pdf>>.

⁶⁰ Beyond the Department of Immigration's website, 'asylum seekers' are not normally recognised as a group or recorded in national data. For example, although the Australian Bureau of Statistics (ABS) keeps statistics that identifies visas held by persons in Australia, the information does not identify asylum seekers or persons who hold bridging visas. In November 2013, the ABS undertook a 'characteristics of recent migrants survey' that identified a group of migrants as 'status not determined.' Given the other groups in this survey were 'Australian citizen', 'permanent visa', 'temporary visa', it could be concluded this group consisted of bridging visa holders, although it is unclear whether or not they applied for asylum. See Australian Bureau of Statistics, *4159.0 – General Social Survey: Summary Results, Australia, 2010* (30 September 2011) <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/8C6308CA4D50EF34CA25791A0082C378?opendocument>> [Accessed 18 February 2015]; Australian Bureau of Statistics, *6250.0 – Characteristics of Recent Migrants, Australia, Nov 2013* (30 June 2014) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6250.0>> [Accessed 18 February 2015]; Australian Bureau of Statistics, *3412.0 – Migration, Australia, 2010-11* (15 August 2012) <<http://www.abs.gov.au/ausstats/abs@.nsf/Products/07C4285C66219C10CA257A5A00120A94?opendocument>> [Accessed 8 October 2014].

- While DIBP uses the term service provider to refer to its contracted service providers, we have used the term to include anyone who renders a service to an asylum seeker. Talking to service providers required us to understand their funding since this dictated the kind of asylum seekers they attracted. Service providers who held the Asylum Seeker Assistance Scheme contract (ASAS) and then the Status Resolution Support Services (SRSS) contract attracted asylum seekers on government assistance whereas other service providers attracted asylum seekers who were not on government assistance. A new tender also meant some service providers that were helping asylum seekers in 2014 stopped doing so in early 2015 and some new service providers started. Other service providers we spoke to included mainstream emergency relief services who were not necessarily keeping records. There were also service providers that were not funded and relied almost exclusively or exclusively on volunteers, including the small based CALD volunteer groups.
- Talking to asylum seekers was difficult. The original research methodology anticipated conducting individual asylum seekers interviews. For the most part, this was not possible since there may have been a lack of trust. In the end, most of the interviews with asylum seekers were done through group discussion with asylum seekers from the same CALD background and because of the trust built up between them and service providers. A training session was also held on 24 February 2015 whereby 41 Afghans on government assistance were given training by migration agents about bridging visa processing, obtaining permission to work and what to expect in the Australian work place. The training was followed by a question/answer session. This proved a good way to connect with asylum seekers about issues relevant to them and also identified a need for information about changes to migration law and training about the Australian workplace.
- There were barriers when we spoke to asylum seekers, although these were not always obvious. There was the language barrier and interpreters were used. It was also suggested the Code of Behaviour (the Code) may have made asylum seekers cautious about speaking to others because they were fearful of potentially breaching the Code.
- When in doubt, we sought to confirm the veracity of what we were told by approaching the media units of the Department of Human Services (in relation to government assistance to asylum seekers), the Department of Employment (in relation to asylum seeker access to Job Services Australia) and the NSW Department of Education and Communities (in relation to asylum seekers attending high school) and have included the replies we received.

Homelessness Australia (HA) which is the national peak body for homelessness in Australia surveyed specialist homelessness services across the country about their new migrant client load. Their survey identified boat people on bridging visas living in the community. Beyond that, asylum seekers may be incorporated into a broader group of vulnerable or disadvantaged people however this means their particular circumstances are not identified or addressed. See Homelessness Australia, *'New migrants' and specialist homelessness services* <<http://www.homelessnessaustralia.org.au/index.php/research-resources/policy-subs/new-migrants-and-specialist-homelessness-services>> [Accessed 10 October 2014].

The notion of need

- Asylum seekers' needs are complex, and there are many views about their nature and remedies. They also need to be reassessed in light of factors such as continuing dialogue, new legislation and policy developments and the initiatives of others. While we have made recommendations in some areas, further inquiry with service providers and CALD volunteer groups is recommended for other areas.
- In this paper, we concentrate on current need. While we have noted concerns about alleged changes to the Telephone Interpreting Service (TIS) that mean asylum seekers and the organisations they speak to will be charged for the service in late 2015, we have not addressed that since the change has not been implemented. Currently, free interpreting services help service providers communicate with non-English speaking asylum seekers.⁶¹ One service provider told us in January 2015 that paying for TIS would make everything unsustainable since a 2 minute call would cost \$40 and a fifteen minute call would cost \$75.
- We concentrate on where asylum seekers are concentrated in large numbers rather than cover all of NSW/ACT. This means we have not covered some of the impressive work currently been done by many Local Councils such as the City of Sydney Council whose initiatives are similar to Auburn Council.⁶²

Research Limitations

- We gave less time to the ACT because it has fewer asylum seekers. The ACT is important however because it has implemented a number of policies seen to have a positive impact upon asylum seekers.
- It is beyond the scope of this study to articulate a vision which may prioritise needs-based decision-making.
- We do not comment on what kind of model should be used to deliver support. We note that there is a view that there is a need to shift away from the current service delivery model to a community empowerment model which focuses on developing the capacity of the community and addresses the needs of specific ethnic groups in a way which is economically viable.
- We did not update earlier guides on asylum seekers services in NSW since such guides quickly become out of date. However, we have provided links to the earlier guides including those from RCOA, ASCR and HoW (which provides six separate guides for the Inner West, Blacktown/Penrith, Fairfield and Liverpool, Campbelltown and one for Bankstown and Canterbury and one for Auburn and Parramatta ASRC).⁶³
- The sheer number of asylum seekers and service providers means we will not have outlined all service activities.

⁶¹ Although there have also been recent media reports that at least some service providers have had to already deal with this issue. See Mike Seccombe, 'Stalling the lawyers who aid asylum seekers', *The Saturday Paper* (online), 20 June 2015, 3 <<https://www.thesaturdaypaper.com.au/news/politics/2015/06/20/stalling-the-lawyers-who-aid-asylum-seekers/14347224002028>> [Accessed 26 June 2015].

⁶² See Refugee Council of Australia, *City of Sydney* <<http://www.refugeecouncil.org.au/portfolio-item/city-of-sydney/>> [Accessed 14 May 2015].

⁶³ The House of Welcome, above n 16.

4 BACKGROUND:legislative and policy environment

4.1 How we got to now

Historically, most community asylum seekers have arrived in Australia on a visitor or student visa and most have been able to work or if not, have been able to apply for work rights.

In contrast, asylum seekers who arrived without valid visas by air or by boat have, since 1992 been subject to mandatory immigration detention.⁶⁴ While the majority were detained during processing of their protection claims, the *Migration Regulations 1994* did provide for some to be released, but in reality, this rarely occurred.⁶⁵

What follows is a discussion of the changes that saw large numbers of IMA asylum seekers who arrived without valid visas released into the community since November 2011. They remain the majority of community asylum seekers and tend to dominate discussion.

The history is important because it explains how changes in law and policy have led to the current situation and why non-government funded service providers are seeing higher demands for material support. It also explains why the community sector infrastructure which has traditionally dealt with those asylum seekers who arrived by air (the non-IMA caseload) has been overwhelmed and is unable to extensively deal with the IMA caseload.

4.1.1 Before 13 August 2012

While successive governments had been feeling their way towards alternative detention models since 2005,⁶⁶ it was not until November 2011 that large numbers of asylum seekers who arrived by boat were allowed to live in the community while their protection visa applications were processed.⁶⁷ Following initial health and security checks most asylum

⁶⁴ Janet Phillips and Harriet Spinks, 'Immigration detention in Australia' (Background Note 20 March, Parliamentary Library, 2013) <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/Detention> [Accessed 23 June 2015].

⁶⁵ Those who had not turned 18, or had turned 75 or had a special need relating to mental or physical health or previous experience of torture or trauma and could prove there were adequate arrangements for their support in the community could, if they also met other criteria, be released. See *Migration Regulations 1994* (Cth) sub-regs 2.20(7)-(11).

⁶⁶ Children and their caregivers were released from immigration detention in August 2005. See International Detention Coalition, *Detention reform and alternatives in Australia: Case management in the community as an alternative to detention* <<http://www.refworld.org/pdfid/4f3cc2562.pdf>> [Accessed 19 June 2015].

⁶⁷ Elsa Koleth, 'Asylum seekers: an update' (Briefing Paper No 1, NSW Parliamentary Library, NSW Parliament, 2012) 64. This followed the expansion of the community detention program on 1 March 2011. The paper identified the increase in the number of asylum seekers arriving by boat, the pressures on the immigration detention network as well as legal rulings by the High Court as significant developments influencing the dramatic policy changes: at 4, 39.

seekers who were in detention were either placed into community detention⁶⁸ or onto a bridging visa E with no prohibition on their working.⁶⁹

By that time, there was already a new flexibility in the approach to community detention, whereby asylum seekers lived and moved about the community but were still regarded as being in detention and the number of asylum seekers approved for community detention soared from about 30 on 30 June 2010 to 1203 by 30 June 2011.⁷⁰

Community detention was noted as ‘one of the most significant and least publicised policy achievements of Prime Minister Julia Gillard and (Immigration Minister) Bowen.’⁷¹ However the decision to release asylum seekers on bridging visas was also notable. It followed the rather exceptional comments made on 17 October 2012 by the then Secretary of the Department of Immigration and Citizenship (DIAC) to the Senate’s Legal and Constitutional Affairs Legislation Committee. The Secretary stated that there was an acceptance that people could not be detained forever.⁷²

It was initially envisaged that bridging visa decisions would be made on a case-by-case basis and that at least 100 visas would be granted per month, with priority given to people who had spent the greatest time in detention,⁷³ although the numbers released per month were actually much higher.⁷⁴

⁶⁸ Community detention was introduced in 2005 to enable asylum seeker children and people with particular vulnerabilities to live in the community rather than in an immigration detention facility and was subsequently substantially expanded by later governments.

⁶⁹ Unaccompanied minors were not eligible for bridging visas and generally remained in community detention until they reach 18, when they could be considered for a bridging visa or else remain in community detention until their immigration status was resolved.

⁷⁰ Ilan Katz, Geraldine Doney and Effie Mitchell, *Evaluation of the Expansion of the Community Detention Program: Final Report, SPRC Report 12/13, to the Department of Immigration and Citizenship (DIAC)* (Sydney, Social Policy Research Centre, University of New South Wales, 2013) <<https://www.sprc.unsw.edu.au/media/SPRCFile/evaluationexpansioncommunitydetentionprogramFinal.pdf>>.

⁷¹ Russell Skelton, ‘Thinking outside the boxes’, *The Sydney Morning Herald* (online), 16 September 2011 <<http://www.smh.com.au/national/thinking-outside-the-boxes-20110915-1kbqq.html>>.

⁷² The then Secretary, Mr Metcalfe said,

“Essentially, it is an acceptance that we cannot keep people detained forever and that ultimately management of them in the community is a better arrangement for a whole range of reasons. These are usually people who are refusing to help; they are not volunteering and there can be quite complex issues of identity, or nationality or they are simply completely unhelpful. The intention is that we keep working with that person and with that country to secure the return of that person. But it is simply not sustainable, as governments have found over many years, to detain people for extremely long periods of time.”

Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Supplementary Budget Estimates 2011-2012 - Immigration and Citizenship Portfolio* (27 October 2011) 108 (Andrew Metcalfe) <<http://www.aph.gov.au/~media/Estimates/Live/committee/s376.ashx>>.

⁷³ Kolet, above n 67, 41.

⁷⁴ The numbers released per month were: November 2011, 27; December 2011, 80; January 2012, 150; February 2012, 238; March, 596; April, 459; May, 442; June, 749; July, 611; August, 1,036; September, 1,073; October, 1,946; November, 1,113; December, 1,836; January 2013, 1,178; February, 948; March, 756; April, 796; and May, up until 24 May, 2,443. See Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Supplementary Budget Estimates 2013-2014 - Immigration and Citizenship Portfolio* (28 May 2013) 99 (Kate Pope) <http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0f70343a-b92d-45d8-b692-58b9623ba9cd/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2013_05_28_1971>.

Those released on bridging visas were typically adult males⁷⁵ on their own. In contrast, unaccompanied minors, women, families and more vulnerable men were placed into the Community Detention program. It was also reported that the first bridging visas were for 27 men, mostly Afghans and Sri Lankans who were expected to move in with family and friends.⁷⁶ However, at least one of those men moved in with a Sri Lankan refugee advocate who he had never met before.⁷⁷

Many if not all of the asylum seekers released were granted a bridging visa by the Minister personally under s.195A of the Act. Unlike other bridging visas, the Minister could also grant a bridging visa under s.195A whether or not an asylum seeker had applied for that visa. In addition, and unlike most other bridging visas which were issued for the duration of administrative review, visas issued under s.195A were only initially granted for a number of months.⁷⁸ Asylum seekers were also required to advise DIAC of their current address and any change to that address. While the government attempted to delegate the Minister's power to allow departmental officers to issue subsequent bridging visas to those already granted a visa under s. 195A, the legislation was disallowed on 21 November 2012.⁷⁹

Those released were able to work and were also eligible for the national health insurance system, Medicare (which did not cover torture or trauma or access to emergency (services ambulances)).⁸⁰ However they were not eligible for Centrelink benefits, public housing or mainstream emergency accommodation.

To deal with the influx, the Federal government's Asylum Seeker Assistance Scheme (ASAS) which Red Cross had been contracted to administer since 4 January 1993 rapidly expanded and the Red Cross, as the lead agency, took on sub-contracted partner agencies. In NSW, DIAC subsequently also contracted with Settlement Services International (SSI) in 2012.⁸¹

ASAS was designed to financially assist asylum seekers who were unable to meet basic needs such as food and accommodation. They were offered 89% of Centrelink Special

[Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/Of70343a-b92d-45d8-b692-58b9623ba9cd/0000%22>.](#)

⁷⁵ United Nations High Commissioner for Refugees, above n 3, 2.

⁷⁶ 'Asylum seekers to join community', *The Sydney Morning Herald* (online), 25 November 2011 <<http://www.smh.com.au/national/asylum-seekers-to-join-community-20111125-1nyvm.html>> [Accessed 30 September 2014].

⁷⁷ ABC Radio National, 'The full story... Concerns over bridging visas for asylum seekers', *The World Today*, 29 November 2011 (Michael Atkin) <<http://www.abc.net.au/worldtoday/content/2011/s3378838.htm>> [Accessed 22 October 2014]

⁷⁸ United Nations High Commissioner for Refugees, above n 3, 5.

⁷⁹ While the government subsequently attempted to implement legislation whereby the power to issue subsequent bridging visas to applicants already granted bridging visas by the minister under s.195A would be delegated, this legislation was disallowed on 21 November 2012. See Minister for Immigration and Citizenship, *Select Legislative Instrument 2012 No.237* (Explanatory Statement, 2012) <<https://www.comlaw.gov.au/Details/F2012L02021/Explanatory%20Statement/Text>> [Accessed 15 May 2015].

⁸⁰ Refugee Council of Australia, and Settlement Council of Australia, *Asylum seekers in the community: Policy and practice implications for settlement services* (September 2012) <<http://www.refugeecouncil.org.au/r/spn/120829-SPN.pdf>> [Accessed 16 April 2015].

⁸¹ Department of Immigration and Citizenship, *Annual Report 2012-13* (2013), 156 <<http://www.immi.gov.au/about/reports/annual/2012-13/pdf/2012-13-diac-annual-report.pdf>> [Accessed 12 June 2015].

Benefit payment and could also be eligible for rent assistance (89% of Centrelink Rent Assistance), and general health care. Approval from DIAC was required before payments could commence.

The Community Assistance Support (CAS) program was launched on 1 July 2009 to provide additional casework support to more vulnerable clients. This could include arranging healthcare appointments and referrals to counseling referrals, financial assistance for general and emergency health and pharmaceutical care, and material aid such as clothing and furniture, education, social activities and legal services.⁸² Unlike ASAS, CAS was solely administered by the Red Cross.

The programs were policy based and there was no legislation covering its administration. Although administered by non-government agencies, decisions about who was eligible for ASAS and CAS remained with DIAC.

Most if not all asylum seekers released from detention received support under the CAS Transitional Support program (CAS TS) for six weeks. CAS TS was important because although it provided asylum seekers with emergency accommodation and orientation in the community, it primarily focused on assisting asylum seekers to find private rental accommodation. Ongoing support under CAS was only available after six weeks if asylum seekers had particularly high vulnerabilities. Most asylum seekers were transitioned onto ASAS after six weeks which then meant they then only had access to income support.⁸³

While few have questioned why asylum seekers were only entitled to 89% of the Centrelink Special Benefit, this was not always the case. Up until mid-1991, asylum seekers were eligible for special benefit payments under the *Social Security Act 1991* if they met the requirements and resided in Australia even though they were not legally an Australian resident.⁸⁴ That provision was subsequently amended so that the Special Benefit was no longer available to asylum seekers or applicants who had applied for the then PRC (temporary) entry permit.⁸⁵

At the time it was reported a UN Agency advised restricting asylum seekers access to welfare assistance violated the Convention Relating to the Status of Refugees.⁸⁶

Savitri Taylor argued that the effect of restricting asylum seekers access to welfare assistance was the immediate overburdening of various emergency housing and relief

⁸² Parliament of Australia, *Australian Government assistance to refugees: fact v fiction – Asylum Seeker Assistance (ASA) Scheme* <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/AustGovAssistRefugees#_Toc336609248> [Accessed 1 May 2015].

⁸³ Refugee Council of Australia, Submission No 207 to Senate Economics References Committee, *Inquiry into Affordable Housing* <<http://www.aph.gov.au/DocumentStore.ashx?id=63da2ca9-dc87-442f-a977-8e834d25d63d&subId=206029>> [Accessed 24 June 2015].

⁸⁴ See *Social Security Act 1991* (Cth) s 729(2)(f) (as at 24 April 1991).

⁸⁵ See *Social Security Legislation Amendment Act (No.2) 1991* (Cth) s 10.

⁸⁶ In 1989 with around 20 000 Chinese students in Australia, the pro- democracy movement in China was crushed. Margaret Piper, 'Lack of charity in our treatment of refugees', *The Canberra Times*, 11 November 1992, 13 <<http://nla.gov.au/nla.news-article126954831>> [Accessed 24 June 2015].

agencies which ultimately resulted in the introduction of the policy as opposed to legislatively based ASAS and at a reduced rate.⁸⁷ However, ASAS was also introduced however because it was acknowledged it was consistent with Australia's international obligations under the 1951 Refugee Convention to provide subsistence support for asylum seekers who were in financial hardship.⁸⁸

At the time of the release into the community of asylum seekers in 2011/2012, the NSW Minister for Community Services reportedly expressed concerns that the asylum seekers would place pressure on affordable housing in tight rental markets.⁸⁹

The 'Snapshot of responses to NSW asylum seeker homelessness as at late 2011/early 2012' shows limited designated housing for asylum seekers at that stage. The main providers in Sydney were JRS which had 4 properties that housed 35 asylum seekers and the House of Welcome which had 16 properties that housed 14 families and 11 singles.⁹⁰

This meant that those released from detention were expected to find accommodation in the private rental market or through friends and family, although they could also source accommodation through the Australian Homestay Network (the Homestay Network). In theory, if an asylum seeker had a link to a particular state or territory, this was where they would go, however the next option was the Homestay Network and if an offer was made they would go to that State/Territory.⁹¹

The Homestay Network was a short term transitional scheme in which Australian families would be paid between \$220 and \$300 a week to temporarily house asylum seekers for six weeks in order to deal with the increasing numbers.⁹² The program was described as 'an innovative way of housing people coming out of detention in an environment where Australia does not have an established housing stock designated to this group.'⁹³

⁸⁷ Savitri Taylor, 'Do On-Shore Asylum Seekers have Economic and Social Rights? Dealing with the Moral Contradiction of Liberal Democracy' (2000) 1 *Melbourne Journal of International Law* 4 <<http://www.austlii.edu.au/au/journals/MelbJIL/2000/4.html>>.

⁸⁸ See for example DIAC's Budget Statements 2013-2014. Department of Immigration and Citizenship, *Immigration and Citizenship Portfolio Budget Statements 2013-14 – Budget Related Paper No. 1.11* (2013), 35 <<http://www.immi.gov.au/about/reports/budget/budget13/pbs/2013-14-pbs-full.pdf>> [Accessed 16 October 2014].

⁸⁹ Koeth, above n 67, 48.

⁹⁰ Asylum Seekers Centre, *An overview of NSW's Hidden Homelessness - Issues surrounding asylum seeker homelessness* (21 March 2012) <http://www.homelessnessnsw.org.au/uploads/50463/ufiles/Resources/ASC_Asylum_Seeker_Homelessness_Paper_final_21032012.pdf> [Accessed 12 June 2015].

⁹¹ See Refugee Council of Australia, above n 80.

⁹² It was reported on 12 February 2013 that under the program, 600 asylum seekers were placed, but the program came to a near halt after just 34 placements in 2013 and that at the time of writing, only four people are staying in family homes. See 'Government asks Aussie residents to take in refugees', *news.com.au* (online), 3 May 2012 <<http://www.news.com.au/national/aussies-asked-to-take-in-refugees/story-e6frfkvr-1226345214230>>; 'Asylum homestay scheme 'on hiatus'', *news.com.au* (online), 12 February 2013, <<http://www.news.com.au/national/asylum-homestay-scheme-on-hiatus/story-fncynjr2-1226575712265>>.

⁹³ Caz Coleman, 'Hosting asylum seekers isn't a money spinner', *The Drum* (online), 3 May 2012 <<http://www.abc.net.au/news/2012-05-03/coleman---hosting-asylum-seekers-isn27t-a-money-spinner/3987872>> [Accessed 11 November 2014].

Supporters of the program argued that it was a successful method of introducing asylum seekers safely into the community with a long term mentor, friend, networker and supporter – their Australian “Homestay host.” They argued that the Homestay host program avoided long-term, unacceptable living conditions and the alternative was an ‘assembly line’ approach with poorer integration options, an increased chance of homelessness or placement in overcrowded or inappropriate accommodation.⁹⁴

Few asylum seekers were housed under the Homestay program. Claims were made that people were released from detention in such an ad hoc manner that the program came to a halt because it was beyond the service providers to manage. This was because it was easier to place 50 people in a cheap motel or in an abandoned age care home than to put people in individual homes.⁹⁵

While the Homestay Network’s chief executive was concerned that not enough was done to promote homestays, convincing asylum seekers to take up the option may have also been an issue, as it was reported ‘that in many cases they don't actually have much idea about what the suburbs are that we're talking about, and often when they arrive, they want to be able to stay with the friends or people that they've met in detention.’⁹⁶

DIAC also noted that while asylum seekers were entitled to stay 42 days, the average length of stay nationwide was 25 days. Also, some asylum seekers were moving to share accommodation and some were renewing their homestay status with hosts outside of CPN arrangements.⁹⁷

At approximately the same time as the drop off in homestays was reported in February 2013, it was also reported that many of the 9 000 community asylum seekers had been found sleeping in garages, on couches and in boarding houses.⁹⁸ While it was also reported asylum seekers were also staying on University campus (and one such case attracted adverse attention because of an alleged assault on a female student). However, their numbers apparently fell as students began arriving for the academic year.⁹⁹

⁹⁴ Homestay Helping Hand, *Media Release 1 July 2013* <<http://mystay.com.au/2013/07/01/media-release/>> [Accessed 11 November 2014].

⁹⁵ Bush Telegraph, ‘Refugee homestay initiative fails’, *Workers Bush Telegraph* (16 February 2013) <<http://workersbushtelegraph.com.au/2013/02/16/refugee-homestay-initiative-fails/>> [Accessed 11 November 2014].

⁹⁶ When interviewed on 12 February 2013, Catherine Scarth was the CEO of Melbourne organisation Adult Multicultural Education Services. See ABC Radio National, ‘Numbers dwindle in asylum seeker homestay program’, *ABC News*, 12 February 2013 (Samantha Donovan) <<http://www.abc.net.au/news/2013-02-12/numbers-dwindle-in-asylum-seeker-homestay-program/4515144>> [Accessed 11 November 2014].

⁹⁷ Refugee Council of Australia, above n 80, 4.

⁹⁸ Gemma Jones and Clementine Cuneo, ‘Asylum seekers’ secret homes in community’, *The Daily Telegraph* (online), 26 February 2013 <<http://www.dailytelegraph.com.au/asylum-seekers-secret-homes-in-community/story-e6freuy9-1226585436764>> [Accessed 7 October 2014].

⁹⁹ Ibid.

In June 2013, Red Cross released their 'strongly-worded'¹⁰⁰ Vulnerability Report that disclosed community asylum seekers were among Australia's most destitute and impoverished. The Report noted that, in July 2012, 44% of asylum seekers on ASAS did not have access to quality long term housing. Of those, 13% of all single individuals and 9% of single parents lived in short term, emergency accommodation or were sleeping rough. The range of accommodation included share houses, hotels and hostels, garages, homeless accommodation, with asylum-seekers being paying or non-paying lodgers or as guests with family/friends.¹⁰¹

The case studies in the Red Cross report were telling:

"After paying the rent, we have \$35 left for two weeks...we are eating noodles and eggs ... normally one sometimes two meals a day..."¹⁰²

The research report upon which the Vulnerability Report was based specifically found female arrivals by air awaiting the outcome of asylum claims while living in the community without government support. Those who had been rejected after merits review assessment who were also living without government support were the most vulnerable and the most likely to present in crisis and require intensive support.¹⁰³

This was a rare report from an organisation not known for its public comments on the issue.

4.1.2 13 August 2012-19 July 2013

As a result of the Report of the Expert Panel on Asylum Seekers in August 2012 and the government's interpretation of its recommended 'no advantage' principle, asylum seekers who arrived after 13 August 2012 had condition 8101 attached to their bridging visa prohibiting them from working.¹⁰⁴ Paris Aristotle, a member of the Expert panel, described the no work restriction as punitive and inconsistent with the 'no advantage' test. He also said it was in breach of Australia's international treaty obligations. The then Minister subsequently stated the work prohibition was not linked to the no-advantage test but was more about the surge in asylum seeker numbers from Sri Lanka, coupled with the belief that many were economic migrants rather than refugees.¹⁰⁵

¹⁰⁰ This term comes from the article: 'Red Cross 'pleads' with MPs on asylum limbo', *SBS News* (online), 25 June 2013 <<http://www.sbs.com.au/news/article/2013/06/25/red-cross-pleads-mps-asylum-limbo>> [Accessed 5 December 2014].

¹⁰¹ Australian Red Cross, above n 1.

¹⁰² Ibid 17.

¹⁰³ Dr Alexandra Gartrell, above n 1, 6

¹⁰⁴ This policy was implemented on 20 November 2012 through IMMI 12/114 which removed the exemption from the 'no work condition' for all bridging E visas granted to asylum seekers released from detention on or after 13 August 2012. See *Migration Regulations 1994 – Specification of Classes of Person IMMI 12/114* <<https://www.comlaw.gov.au/Details/F2012L02201>>.

¹⁰⁵ Michael Gordon, 'Backlash forces retreat on refugee work rights', *The Sydney Morning Herald* (online), 27 November 2012 <<http://www.smh.com.au/federal-politics/political-news/backlash-forces-retreat-on-refugee-work-rights-20121126-2a3wq.html>> [Accessed 24 October 2014].

Concerns were expressed that the policy could lead to long-term welfare needs arising from unemployment and that the burden would fall on charitable and not-for-profit organisations, which were already overstretched.¹⁰⁶

Marion Le stated as follows on 1 March 2013:

People may have been living in a poor situation, but they are not used to living in squalor," "You are going to see overcrowding, people being exploited and obviously - if people have no right to work and they can't find assistance in the community - it's very apparent they will begin to work illegally.¹⁰⁷

On 20 May 2013 and as a further part of the no advantage policy, those who arrived by boat after 13 August 2012 were also excluded by s. 46A of the Act from making a protection application unless the bar was lifted by the Minister personally.¹⁰⁸ They were also subject to Australia's offshore processing regime and could be transferred to a regional processing country under s.198AD of the Act. This meant asylum seekers who arrived by boat after 13 August 2012 were generally barred by statute from making a valid application for any kind of a visa, including a protection visa without the Minister for Immigration's personal approval.¹⁰⁹

4.1.3 19 July 2013-5 December 2014

Asylum seekers arriving by boat without a valid visa have been subject to regional processing arrangements in either Papua New Guinea or Nauru since 19 July 2013. In September 2014, the then Immigration Minister signed a new resettlement agreement with the Cambodian government, under which asylum seekers found to be genuine refugees

¹⁰⁶ See, eg, Law Institute of Victoria, *Issues Paper – Implementation of Regional Process of Asylum Seekers* (19 December 2012), 10 <<http://www.liv.asn.au/getattachment/b968638f-5a26-425a-87d7-1b0807f33e74/Issues-Paper-%E2%80%93-Implementation-of-Regional-Processi.aspx>>.

Alison Gerard, Discipline Coordinator and Senior Lecturer, Justice Studies of Charles Sturt University stated that: International evidence shows that moving asylum seekers out of detention and into the community without adequate access to rights and entitlements merely fosters destitution. It is an underlying cause of sharply deteriorating health among asylum seekers. It creates a supply of illegal labourers and exposes asylum seekers to exploitation and harm in workplaces. It outsources basic government services to charities and creates a tiered system of welfare, undermining the legitimacy of the international right to asylum. See 'Asylum seeker bridging visas: experts respond', *The Conversation* (online), 22 November 2012, <<http://theconversation.com/asylum-seeker-bridging-visas-experts-respond-10935>>; see also, ABC, 'The Government rejects accusations its asylum seeker policy has failed', *Lateline*, 22 November 2012 (Hamish Fitzsimmons) <<http://www.abc.net.au/lateline/content/2012/s3639097.htm>>.

¹⁰⁷ Dan Box and Paul Maley, 'New start for asylum-seekers as bad as where they came from', *The Australian* (online), 1 March 2013 <<http://www.theaustralian.com.au/national-affairs/immigration/new-start-for-asylum-seekers-as-bad-as-where-they-came-from/story-fn9hm1gu-1226588023309>> [Accessed 28 November 2014].

¹⁰⁸ *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013* <http://www.comlaw.gov.au/Details/C2013A00035/Html/Text#_Toc356901685> [Accessed 17 June 2015]: A person who has been validly granted a temporary safe haven visa and then a bridging visa was also barred by s.91K from making an application for a protection visa.

¹⁰⁹ *Ibid.*

could be transferred from offshore processing centres to Cambodia for permanent resettlement.¹¹⁰

On 31 March 2014 the publicly funded legal assistance program known as the Immigration Advice and Assistance Scheme (IAAAS) for IMAs was defunded.¹¹¹ This effectively meant that community asylum seekers had to either fund their own immigration advice or rely on pro bono services.

In addition, significant numbers of asylum seekers on pre 13 August 2012 bridging visas which did not have work restrictions had their visas lapse in 2013. This meant that they were unlawful and could be detained, reportedly leading to a lapse in work rights and access to Medicare.¹¹²

In response to questions on notice, DIBP revealed that, at 31 May 2014, of the 24 486 IMAs in the community who had been granted a bridging visa, 10 954 had visas which had expired. Of the 5 470 who did not have work restrictions, 1 413 had visas that had expired.¹¹³ As at 31 May 2014, DIBP also revealed the average time for IMAs awaiting the grant of a further Bridging E visa (and the time they had been unlawful) was 238 days.¹¹⁴

DIBP indicated the grant of a further bridging visa was suspended pending implementation of a Code of Behaviour. Since April 2014, the Department stated that visa processing had recommenced, subject to each applicant aged 18 and above signing the Code which came into effect on 14 December 2013, which warned against “anti-social” behaviour including “spitting or swearing in public.”¹¹⁵

DIBP advised the Commonwealth Ombudsman that where an asylum seeker's bridging visa ceased because of processing delays they would be eligible for government assistance if they met all other criteria. That advice was also given in response to a question on notice in May 2014.¹¹⁶

¹¹⁰ Samantha Hawley, ‘Cambodia refugee deal: Protests outside Australian embassy in Phnom Penh as Scott Morrison signs agreement’, *ABC News* (online), 27 September 2014 <<http://www.abc.net.au/news/2014-09-26/immigration-minister-to-sign-cambodia-refugee-deal/5770468>> [Accessed 17 June 2015].

¹¹¹ Laughland, above n 8.

¹¹² Asylum Seeker Resource Centre, *Changes to Refugee Law in Australia: What it means for asylum seekers and refugees* (December 2014) <http://www.asrc.org.au/wp-content/uploads/2014/12/Migration-Bill-Impact-Info-Sheet_December-2014.pdf> [Accessed 1 June 2015].

¹¹³ Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Budget Estimates 2014-2015 – Immigration and Citizenship Portfolio – Question on notice: BE14/084* (26-27 May 2014) <http://www.aph.gov.au/~media/Committees/legcon_ctte/estimates/bud_1415/DIBP/BE14-084.pdf> [Accessed 3 November 2014].

¹¹⁴ Ibid.

¹¹⁵ Breaches of the Code may lead to the cancellation of a visa and return to detention.

¹¹⁶ Legal and Constitutional Affairs Legislation Committee, above n 113. For the Ombudsman’s comments, see Commonwealth Ombudsman, (e-newsletter, 2010) <<http://ombudsman.e-newsletter.com.au/link/id/zzzz53d9ae0464d21954/page.html#zzzz53d9adfbe76d9688>>.

One such case was resolved by the Ombudsman's Office who achieved access to ASAS and Medicare for an asylum seeker and recorded the case as a 'good outcome', which perhaps underestimated the importance of work rights:

Mr M's Bridging Visa expired in September 2013, and as a result, his employer ceased his employment. Mr M found himself in the community without access to financial or medical support. Mr M approached the department to seek information about whether he could continue to work after his Bridging Visa had expired, and sought information about whether he would be granted a new Bridging Visa. As Mr M remained without a visa, and therefore had no work rights, the department did not provide written confirmation to Mr M's employer. The department referred Mr M to the Red Cross to seek support, but the Red Cross advised him that they could only provide support once the department provided it with advice about his status. Mr M complained to our office, and we investigated his complaint. The department advised that Mr M had been found eligible for the Asylum Seeker Assistance Scheme (ASAS) and the financial support for Mr M under the ASAS would be backdated to the date that he applied for support. The department also advised our office that Mr M would receive medical support under the ASAS in line with the Medical Benefits Scheme (MBS).¹¹⁷

Processing delays reportedly led to a loss of employment which in turn led to precarious housing situations.¹¹⁸ RCOA documented a number of instances where asylum seekers were affected; one where five asylum seekers were offered work at a meat works but could not commence, one where an asylum seeker was offered factory process work and a cleaning role but could not accept, one who had work in the building industry as a builder's assistant but was unable to continue and one where a job offer was withdrawn.¹¹⁹

The Victorian Refugee and Health Network also reported processing delays affected health service access due to confusion among State health providers about entitlements.¹²⁰

Meanwhile, RCOA wrote to the then Departmental Secretary in late December 2013 stating that instead of receiving 89% of the Special Benefit (approximately \$440 per fortnight), young asylum seekers said they were now receiving 89% of the Youth Allowance (around \$362 per fortnight)¹²¹ which was a difference of some \$78 per fortnight.

¹¹⁷ Ibid.

¹¹⁸ See Victorian Refugee Health Network, *Humanitarian program related policy change - 18 month snapshot* (28 April 2014), 3 <<http://refugeehealthnetwork.org.au/wp-content/uploads/Refugee-and-asylum-seeker-policy-changes-and-statistics-snapshot-v4.61.pdf>> [Accessed 17 June 2015].

¹¹⁹ Refugee Council of Australia, *Briefing: Impacts of the Non-Renewal of Bridging Visas* (23 October 2013) <<http://www.refugeecouncil.org.au/doc/131023-BV-expiry.pdf>> [Accessed 16 December 2014].

¹²⁰ Victorian Refugee Health Network, above n 117.

¹²¹ See Letter from RCOA to Mr Martin Bowles, Secretary, Department of Immigration and Border Protection <http://www.refugeecouncil.org.au/rs&/131231_Bowles-payments.pdf> [Accessed 27 June 2015].

Reports in December 2013 indicated this affected about 4 000 asylum seekers aged 18 to 22 years old. Newspapers also reported they had already signed rental agreements based on the earlier support payment and could not now afford their homes.¹²²

On 11 December 2013, newspapers reported that new applications for CAS had been rejected in every case in the past two months and about 90% of the time in the past six months.¹²³ The government denied there had been any crackdown on either CAS or ASAS and said the redirection of Red Cross resources reflected a downturn in the number of people released from detention since September 2013.¹²⁴ In Parliament, the Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women, Senator Michaelia Cash, stated that as at 31 October 2013, 24 346 asylum seekers were supported under ASAS and the approval rate was over 90%.¹²⁵

Further evidence before a Senate inquiry on 5 September 2014 suggested unprecedented numbers of people were being refused ASAS.¹²⁶ The ASCs CEO's Annual Review dated 31 October 2014 suggested over 30% of their clients were denied any form of Government funded financial assistance.¹²⁷ The JRS Annual Report 2013 issued on 16 October 2014 also stated demand for their accommodation services grew as waiting periods for financial

¹²² Rick Morton, 'Boatpeople funds cut', *The Australian* (online), 15 December 2013

<<http://www.theaustralian.com.au/national-affairs/immigration/boatpeople-funds-cut/story-fn9hm1gu-1226783601740>> [Accessed 6 November 2014].

¹²³ Rick Morton, 'Abbott puts pressure on asylum-seekers', *The Australian* (online), 11 December 2013

<<http://www.theaustralian.com.au/national-affairs/immigration/abbott-puts-pressure-on-asylum-seekers/story-fn9hm1gu-1226780143322>> [Accessed 4 November 2014].

¹²⁴ jonjayray, 'Abbott puts pressure on asylum-seekers', *Australian Politics* (12 December 2013) <<http://australian-politics.blogspot.com.au/2013/12/abbott-puts-pressure-on-asylum-seekers.html>> [Accessed 21 May 2015].

¹²⁵ Senator Michaelia Cash said:

"I advise the Senate that I am aware that there was an article in The Australian newspaper today making certain allegations in relation to the CAS and ASAS payments, and I advise that the article is factually incorrect. In relation to Senator Madigan's questions, I advise as follows. As at 31 October 2013 24,346 asylum seekers were supported under the Asylum Seeker Assistance Scheme, otherwise known ASAS. As at 31 October 2013, the average processing time of the ASAS applications was 22 working days, not over three months as has been alleged. The approval rate is over 90%. The eligibility criteria for both ASAS and CAS have remained unchanged since the change of government. The government continues to provide asylum seekers living in the community on bridging visas with appropriate care and support through the ASAS system and the CAS program. For the benefit of the Senate, I advise that this support includes up to 6 weeks intensive transitional support, including provided accommodation upon release from immigration detention. Both CAS and ASAS provide income support and rent assistance at 89% of the equivalent special benefit rate. Eligible asylum seekers can also access rent in advance, bond loans and cultural and community orientation.

See Commonwealth, *Parliamentary Debates*, Senate, 11 December 2013, 1457 (Michaelia Cash).

¹²⁶ Evidence to Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, Canberra, 5 September 2014, 21 (Jessica Williamson) <http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/b9ece747-7fe3-4cbd-8e88-597813775279/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2014_09_05_2836_Official.pdf;fileType=application%2Fpdf#search=%22committees/commsen/b9ece747-7fe3-4cbd-8e88-597813775279/0000%22> [Accessed 29 June 2015].

¹²⁷ Melanie Noden, *CEO Annual Review* (31 October 2014, Asylum Seekers Centre) <<http://asylumseekerscentre.org.au/ceos-annual-review-2013-2014/>> [Accessed 26 June 2015].

assistance from the government increased, eligibility criteria tightened and employment barriers made finding affordable and sustainable housing very difficult.¹²⁸

Meanwhile, changes were made to funding whereby government assistance was consolidated into a single program known as the Status Resolution Support Service (SRSS) under which ASAS became known as 'Band 6', CAS 'Band 5' and CAS TS 'Band 4'. Although service providers were contracted to deliver the SRSS program, responsibility for SRSS payments was transferred to Centrelink in late 2014. It was also reported that funding to Red Cross had been slashed. The Government responded by saying it had put in place a new team of service providers to get better value for money.¹²⁹

In response to a question about the negative impacts that Red Cross job losses would have on services to community asylum seekers, Michaelia Cash stated:

There is no diminution of services. The government has put in place a new team of service providers, including the Australian Red Cross, to ensure that we are getting better value for money. Some IMAs have been allocated to new service providers, which has meant a change to the number of IMAs being supported by the Red Cross. To imply that there will be a negative impact on the welfare and health services available to refugee and asylum seeker families that are living in the community is a slur on the reputation of these service providers.¹³⁰

In August 2014 the Government announced further bridging visa arrangements whereby more than 150 children under 10 in detention centres and hundreds more in community detention were released onto bridging visas.¹³¹ While the arrangements were announced as new, there were also claims there was no discernible difference between these and previous arrangements in which families moved from community detention onto bridging visas. At the time, Sophie Peer from ChilOut stated as follows:

What we have today are around 20 000 people living on bridging visas in our community who are virtually destitute. They are reliant on the support of charities, of not for profits, or church groups. They live with very little and if

¹²⁸ JRS Australia, *JRS Report 2013* (2013) <<http://www.jrs.org.au/wp-content/uploads/2014/10/JRS-Annual-Report-2013.pdf>> [Accessed 17 November 2014].

¹²⁹ Alex McDonald, 'Red Cross to axe 500 jobs as Government makes cuts to asylum seeker support service', *ABC News* (online), 2 September 2014 <<http://www.abc.net.au/news/2014-09-02/red-cross-asylum-seeker-support-service-to-be-slashed/5713504>> [Accessed 21 May 2015].

¹³⁰ Commonwealth, *Parliamentary Debates*, Senate, 3 September 2014, 6372 (Michaelia Cash) <<http://www.openaustralia.org.au/senate/?id=2014-09-03.101.1&s=%22red+cross%22#g102.4>> [Accessed 15 May 2015].

¹³¹ Emma Griffiths, 'Asylum seeker children held in residential detention to be released into community: Federal Government', *ABC News* (online), 19 August 2014 <<http://www.abc.net.au/news/2014-08-19/detained-children-set-for-release/5679994>> [Accessed 22 October 2014].

*we are now going to put families in that position as well, were going to have serious issues and the Minister's office has talked about some level of support but it's very unclear to us at the moment what level of support and for how long because people could be in this situation for years whilst the backlog of refugee applications is cleared.*¹³²

4.1.4 Since 5 December 2014

4.1.4.1 Permission to work

On 3 December 2014 it was reported that in an attempt to secure support for the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 (the Bill), the then Minister announced that work rights would be provided to the 25 000 asylum seekers on bridging visas.¹³³ The Bill introduced a 'fast track' paper review of departmental decisions for IMAs who arrived by boat from 13 August 2012 that removed access to the Refugee Review Tribunal and any subsequent request for Ministerial intervention. It also re-introduced temporary protection visas for asylum seekers found to be refugees as well as a new visa known as the Safe Haven Enterprise Visa (SHEV).¹³⁴ The Bill was passed by both houses on 5 December 2014 and came into force on 15 December 2014. At the time the then Minister was quoted as saying: 'if there are people who are ready to work today and have a job they believe they can go to, they should get in contact with the department and we will facilitate that process.'¹³⁵

Following this announcement, service providers indicated their understanding was DIBP was keen to prioritise those who 'were work ready', but administrative delays would mean asylum seekers could not work until notified.

Somewhat curiously however, as Select Legislative Instrument SR No 162 2014 *Migration Amendment (Subclass 050 Visas) Regulation 2014* had already commenced on 23 November 2014,¹³⁶ the possibility of not having a 'no work' condition attached to the bridging visa was not dependent on passage of the Bill for at least those asylum seekers who were granted a bridging visa under s.195A of the Act. That Select Legislative Instrument acted to amend clause 050.616A of the Migration Regulations to make the no work condition discretionary, rather than mandatory, for asylum seekers who were in detention and who had been granted bridging visas under s.195A of the Act, whether they arrived before or after 13 August 2012.

¹³² Ibid.

¹³³ Jane McAdam, 'One step forwards, many steps back for refugees', *The Drum* (online) <<http://www.abc.net.au/news/2014-12-03/mcadam-one-step-forward-many-steps-back-for-refugees/5936960>> [Accessed 3 December 2014].

¹³⁴ The Safe Haven Enterprise Visa (SHEV) is a 5 year temporary visa that will then allow an applicant to apply for a number of permanent visas if satisfy employment, educational or social security benefit requirements prescribed in relation to the safe haven enterprise visa. See *Migration Act 1958* (Cth) ss 46A(1)-(1A).

¹³⁵ Yaxley, Norman and Gul, above n 20.

¹³⁶ Select Legislative Instrument No. 162, 2014 *Migration Amendment (Subclass 050 Visas) Regulation 2014* (Cth).

This meant that if the Minister favourably exercised his discretion, asylum seekers who arrived on or after 13 August 2012 were no longer subject to the ‘no work’ condition. The Statement of Compatibility with Human Rights accompanying the provision suggested that the amendment positively engaged Article 6(1) of the ICESCR insofar as it provided the Minister with an opportunity not to impose condition 8101 when he would otherwise have been required to do so. It also argued that Article 4 of the ICESCR provided that State Parties could limit rights where lawful and that condition 8101 was lawful since it existed in the regulations and was necessary for the welfare of democratic society. This was because it protected the migration program’s integrity which was for the general welfare of Australian society.¹³⁷ The statement also said permission to work would be dependent upon an asylum seekers circumstances and would be given in *exceptional cases*.¹³⁸

4.1.4.2 The new fast track process

The passage of the *Resolving the Asylum Legacy Caseload Act 2014*¹³⁹ means that the hiatus on the lodging and processing of protection claims for those IMAs who arrived after 13 August 2012 but before 1 January 2014 and who had not been taken to a regional processing centre would shortly end and that asylum seekers should therefore start receiving letters offering them the opportunity to apply for temporary protection visas.¹⁴⁰

Under the new process, cases that have been rejected by DIBP will be referred to the Immigration Assessment Authority (IAA) by the DIBP¹⁴¹ but the following categories of asylum seekers will be excluded from merits review:

- Those who are nationals of 2 or more countries¹⁴² or covered by an agreement, relating to persons seeking asylum, between Australia and a country that is a safe third country in relation to the non-citizen¹⁴³ or
- Those whose applications who, in the opinion of the Minister, have made “manifestly unfounded” claims (e.g. claims that have no plausible or credible basis, cannot be substantiated by objective evidence or are made for the sole purpose of delaying or frustrating removal from Australia), or
- Those who provided a false document in support of their application without a reasonable explanation, or
- Those who previously had their protection claims rejected in Australia, by another country or by UNHCR.¹⁴⁴

¹³⁷ See Minister for Immigration and Border Protection, *Select Legislative Instrument 2014 No.162* (Explanatory Statement, 2014), Attachment B, 5 <<http://www.comlaw.gov.au/Details/F2014L01460/b5f1efbe-0479-44a6-ac07-0a5ec13199b6>>.

¹³⁸ Ibid 6.

¹³⁹ The Act came into force on 15 December 2014.

¹⁴⁰ See Farrell, above n 9. Newspaper reports indicate that asylum seekers began receiving letters in May 2015 inviting them to apply for a temporary protection visa. As earlier noted in this paper, Sections 46A and 91K of the Act prevent persons who are IMAs who arrived after 13 August 2012 from even making a valid application for a visa, including a protection visa unless the Minister exercised his power.

¹⁴¹ See *Migration Act 1958* (Cth) ss 473BC-473CA. The Minister must refer a ‘fast track reviewable decision’ to the Immigration Assessment Authority but that will excluded an ‘excluded fast track review applicant’

¹⁴² Ibid s 91N.

¹⁴³ Ibid s 91C.

¹⁴⁴ Ibid s 5(1) (definition of ‘excluded fast track review applicant’).

The IAA does not hold hearings and is required to review decisions on the basis of documents provided to it. However, in exceptional circumstances it may consider new material and may invite asylum seekers to provide information or comment at an interview or in writing.¹⁴⁵

4.1.4.3 *What does this mean for asylum seekers in the foreseeable future?*

While the bridging visa regime may become less significant, and while the DIBP has indicated it is hopeful that there would be a 7 week turnaround time for 75% of IMA cases between interview and DIBP decision,¹⁴⁶ the latest public estimates suggest a DIBP decision could still take anywhere up to 3 years not including any administrative or judicial review that might also occur.¹⁴⁷

Notwithstanding these changes, the bridging visa regime will probably continue to define most asylum seeker experiences into the foreseeable future.

For those who work, there are issues about the work they do, how long it lasts and whether they will be vulnerable to exploitation. For those who do not work, there are issues about whether the government assistance will be able to fund basic needs or continue to provide casework assistance.

The bridging visa regime will also continue to put pressure on the non-government funded agencies which may include asylum seeker specific organisations, mainstream welfare agencies, CALD volunteer groups and other volunteer groups and religious groups.

¹⁴⁵ Ibid s 473BA.

¹⁴⁶ Department of Immigration and Border Protection, *Refugee or Humanitarian Program Visa Processing Times* <<https://www.immi.gov.au/about/charters/client-services-charter/visas/7.0.htm>> [Accessed 17 June 2015].

¹⁴⁷ In Senate Estimates on 27 May 2014, First Assistant Secretary Ms Larkins stated she thought the Department would have the primary processing finished for the group of 24 000 within three years. It was reported on 4 May 2015 that the Minister said that more thorough ASIO assessments in the wake of the siege would push the processing of refugee claims of 24,600 asylum seekers beyond 2018 however Ms Larkin's prior estimate of three years did not include administrative review. See Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Budget Estimates 2014-2015 - Immigration and Citizenship Portfolio* (27 May 2014) 78 (Alison Larkins, First Assistant Secretary) <http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/bbd004ca-276f-4af2-8f0a-6e5157029844/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2014_05_27_2515_Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/bbd004ca-276f-4af2-8f0a-6e5157029844/0000%22>; Simon Benson, 'Asylum seekers: Government to reveal Budget saving from detention centre closures', *The Daily Telegraph* (online), 4 May 2015 <<http://www.dailytelegraph.com.au/news/nsw/asylum-seekers-government-to-reveal-budget-saving-from-detention-centre-closures/story-fni0cx12-1227333486734>> [Accessed 15 May 2015].

5 WHAT ELSE HAS BEEN WRITTEN ABOUT COMMUNITY ASYLUM SEEKERS?

This review is in two parts. Part 1 looks at the literature dealing with Conventions that establish minimum standards for the treatment of asylum seekers. Part 2 looks at literature dealing with asylum seekers on bridging visas after November 2011.

5.1 Literature dealing with Conventions that establish minimum standards for the treatment of asylum seekers

5.1.1 The right to work

The right to work is in a range of international human rights instruments, however comparatively little international or Australian scholarship has examined this right.

The Michigan Guidelines

The University of Michigan Guidelines on the right to work (the Michigan Guidelines, hereafter referred to as 'The Guidelines') sets out in detail the human rights legal framework relevant to work rights for asylum seekers.¹⁴⁸ The Guidelines state that the right to work is declared in complementary and mutually reinforcing instruments. Article 23 of the Universal Declaration of Human Rights and Articles 6, 7 and 8 of the Covenant on Economic, Social and Cultural Rights (ICESCR) recognise the right to work and rights at work. Article 8(3)(a) of the International Covenant on Civil and Political Rights (ICCPR) protects against slavery and forced labour, while Article 32 of the Convention on the Rights of the Child protects against child labour. The Right to work is also enshrined in Article 5(e)(i) of the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 11(1)(a) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 27 of the Convention on the Rights of Persons with Disabilities (Disability Convention) and various provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, particularly Articles 52 to 55.

The Convention Relating to the Status of Refugees (Refugee Convention) also recognises the right to work in Articles 17 (wage earning employment), 18 (self-employment) and 19 (participation in the liberal professions). Article 17(3) requires State parties to give sympathetic consideration to granting the right to engage in wage earning employment on the same basis as nationals and Articles 18 and 19 provide for treatment as favourable as possible and not less favourable than that accorded to other aliens in the same circumstances. Under Article 17(2), a refugee with three years' residence in the country of refuge (commencing upon entry) or who has a spouse or child possessing the nationality of

¹⁴⁸ Penelope Matthew et al., 'The Michigan Guidelines on the Right to Work' (2010) 31 *Michigan Journal of International Law* 293
<https://www.law.umich.edu/centersandprograms/refugeeandasylumlaw/Documents/Michigan_Guidelines_on_the_Right_to_Work.pdf> [Accessed 3 June 2015].

the country of refuge cannot be subjected to restrictive measures on aliens to protect the national labour market.

The Guidelines stipulate that covenant rights, including the right to work, cannot be denied or limited solely on the basis of refugee status because they apply to everyone, regardless of legal status. This is echoed in the Committee on the Elimination of Racial Discrimination's Recommendation No XXX and the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No 20. These state that differential treatment based on a prohibited ground (such as nationality) will be discriminatory unless the distinction is reasonable and objective. Similar analysis is required under Article 26 of the ICCPR and under Article 6 of the ICESCR. This requires an assessment as to whether the aim and effects of the measures or omissions are legitimate, and whether they are compatible with the Covenant and solely for the purpose of promoting the general welfare. There must also be a clear and reasonable relationship of proportionality between the aim sought and the measures or omissions and their effects.¹⁴⁹

The Guidelines also state that refugees who are unable to work may be compelled by economic desperation to return to a place of persecution, resulting in a violation of the non-refoulement principle.¹⁵⁰ Failure to allow refugees to work may render them destitute. It may also result in refugees engaging in unauthorised work in dangerous and degrading conditions, and can expose them to exploitative conditions in the informal sector.¹⁵¹

The Guidelines declare that the right to work is a means to ensure asylum seekers survival, self-reliance and dignity. That right also promotes durable settlement solutions, and alleviates pressure on national welfare systems.

5.1.2 The right to social security

The Guidelines state that Article 24 of the Refugee Convention guarantees social security to 'lawfully staying' refugees while Article 9 of the ICESCR declares a universal entitlement to social assistance and is interdependent with Article 11 – a universal entitlement to an adequate standard of living, as well as other rights including the right to life.¹⁵²

The Guidelines point to the Refugee Convention, which refers to obligations owing to 'refugees lawfully staying.' The Guidelines argue refugee status is declaratory. While domestic law is the first point of reference, 'lawful' must refer to international law. The Guidelines also argue that if a refugee's presence is known and the State is unable or unwilling to remove him or her, then his/her presence is lawful. 'Stay' distinguishes refugees who are present in the State on an ongoing basis from those visiting or in transit. It includes

¹⁴⁹ Ibid 300.

¹⁵⁰ Ibid 295.

¹⁵¹ Ibid.

¹⁵² Ibid 301.

asylum seekers who are in a State that fails to determine, or to comply with, a refugee status determination system, or where the procedure is unduly prolonged.¹⁵³

According to the Guidelines, human rights treaties require a liberal interpretation that best protects the individual rights-bearer and the State must justify any limitations in accordance with necessity, legality and proportionality. Where States assert a legitimate objective in restricting the right to work, the means taken to achieve that objective must be the least restrictive.¹⁵⁴

Reworking the Relationship between Asylum and Employment

While *Reworking the Relationship between Asylum and Employment* is written from an international perspective, Penelope Mathew includes Australia in her analysis.¹⁵⁵ She argues that refugees do not migrate in order to work, but that they need and have the right to work once they reach safety. She notes that while Australia has impressive resettlement services, the position on asylum seekers is heavily influenced by the felt need for deterrence and the influential view that permission to work encourages bogus asylum claims.

Mathew suggests that the likely explanations for not granting work rights to asylum seekers are: a fear that access to work promotes integration, a fear that work is a pull factor and a fear that asylum seekers will displace nationals from the labour market. She argues that integration should be welcomed as it establishes genuine asylum seekers; that in any event, there is no economic benefit flowing from an unemployed underclass; that there is no evidence that economic migration occurs because of the Refugee Convention and that any abuse is more likely to flow from inadequacies in asylum procedure rather than from the principle of asylum itself. She also argues that it is unproven that asylum seekers take jobs from resident nationals.

Mathew also argues the right to work is entrenched in international law and that citizenship is not a precondition for its enjoyment. Mathew endorses the Michigan Guidelines assertions regarding when a refugee's presence may be regarded as lawful and that the right to wage-earning employment accrues on 'lawful stay.' That right extends to asylum seekers in a State that fails to determine or to comply with a refugee status determination or where the procedure is unduly prolonged.

Mathew also raises the concept of 'constructive refoulement', i.e the adoption of deterrence-based policies which result in socio-economic deprivations severe enough to encourage return to a place of persecution should be regarded as violations of the prohibition on refoulement.

¹⁵³ Ibid 297.

¹⁵⁴ Ibid.

¹⁵⁵ Penelope Mathew, *Reworking the Relationship between Asylum and Employment* (Routledge, 2012).

5.1.3 The right to an adequate standard of living

Again, comparatively little Australian scholarship has examined the right to social security payments.

Taylor notes Article 6 ICESCR provides that State Parties recognise the right to work, Article 9 provides for the right to social security and Article 12 provides for the right to the enjoyment of the highest attainable standard of physical and mental health. She also argues a right to an adequate standard of living implies a right to the necessary means of achieving it.¹⁵⁶

Taylor also notes that distinctions between nationals and non-nationals in the application of social assistance and employment laws does not violate the principle of non-discrimination if there is an 'objective and reasonable justification for it.' However, there is no justification for denying non-nationals the minimum ICESCR rights necessary for survival.¹⁵⁷

Turning to Australian legislation, Taylor argues as follows:

- Australian citizens are free to work and have access to publicly funded social assistance if they cannot support themselves. However, the social assistance available is arguably insufficient to assure them of an adequate standard of living. If so, the lesser social assistance available to asylum seekers must also be insufficient and may breach ICESCR Article 11.¹⁵⁸
- Asylum seekers are being treated differently from Australian citizens. While restrictions on work and publicly funded social assistance may be justifiable on a basis of resources, bona fide asylum seekers cannot return to their home country and it is unreasonable to subject them to the same restrictions as other non-nationals. If it is accepted that deterrence of abusive applications is a legitimate policy aim, the means employed must be proportionate to that aim, as such measures can hurt *bona fide* asylum seekers. Taylor argues the Committee on Economic, Social and Cultural Rights has yet to be convinced that refusal to meet asylum-seekers' basic needs is proportionate to achieving that objective and that Australia is therefore in breach of the non-discrimination obligation under ICESCR Article 2(2).¹⁵⁹
- Community is an abstract concept. In the face of political or economic difficulty, Australia's sense of community narrows and the outer reaches of community are defined outside the deserving group. Taylor argues that asylum seekers under the ICCPR and ICESCR are accorded work and social security rights not because of their visa status but because they are human.¹⁶⁰

¹⁵⁶ Taylor, above n 87.

¹⁵⁷ Ibid 86.

¹⁵⁸ Ibid 87.

¹⁵⁹ Ibid 88-91.

¹⁶⁰ Ibid 95-97.

5.1.4 Slavery and forced labour in Australian law

Human trafficking, slavery and forced labour are recognised as serious human rights abuses in international law and Australia is a signatory to the International Convention to Suppress the Slave Trade and Slavery (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956), the Forced or Compulsory Labour Convention (1930) and the United Nations Convention Against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000). Australia has enacted domestic legislation contained in the *Criminal Code Act 1995* (Cth) criminalising human trafficking, slavery, servitude and forced labour. There have been no Australian studies that have specifically explored serious labour exploitation in the community asylum seekers in Australia, and we drew on research conducted in the United Kingdom.¹⁶¹

Precarious Lives: Experiences of Forced Labour Among Refugees and Asylum Seekers in England found that refugees and asylum seekers are susceptible to exploitation and in some cases, forced labour as defined by the International Labour Organisation's Forced Labour Convention. The report found that forced labour is experienced by three particular groups, asylum seekers at entry, trafficked migrants and undocumented migrants. All find themselves either on the margins of the labour market or in transactional exchange in a range of jobs in catering and hospitality, care, domestic work, food packing or processing, cleaning, manufacturing, retail, construction, security and other sectors. The most common experiences were of employers and/or intermediaries withholding promised wages, excessive overtime and abusive working and living conditions. Payment below the National Minimum Wage was also normal and included those with permission to work.

The report found that the experience of severely exploitative labour, including forced labour, was often unavoidable if basic needs were to be met. Asylum seekers and refugees often resisted their situations, but their status repeatedly pulled them back into precarious work. The report also found that specialist support services had the potential to offer invaluable help to allow refugees and asylum seekers understand their experience and build routes out of insecurity, however this was often hampered by a lack of awareness of what constituted forced labour and the necessary responses to it. The report also found that forced labour among refugees and asylum seekers required a major overhaul of government policy to ensure universal access to basic employment rights irrespective of immigration status.¹⁶²

¹⁶¹ Hannah Lewis, Peter Dwyer, Stuart Hodgkinson and Louise Waite, *Precarious Lives: Experiences of forced labour among refugees and asylum seekers in England* (University of Leeds, 2013)
<http://eprints.whiterose.ac.uk/75949/1/Precarious_Lives_Main_Report_2-7-13.pdf> [Accessed 4 June 2015].

¹⁶² Ibid 3.

5.2 Australian literature on community based asylum seeker experiences after November 2011

While a range of papers exist,¹⁶³ we have focused on studies that have holistically looked at community based asylum seeker experiences after November 2011, since the studies before then do not consider large numbers of asylum seekers released from detention. That said, these studies remain important since they document many of the same issues which affect community asylum seekers after November 2011 and have argued that a lack of income and denial of work rights contribute to a series of health and welfare crises including homelessness, poor access to health care, the exacerbation of existing health conditions, family breakdown, social isolation, psychological distress and cumulative debt.¹⁶⁴

Reports evaluating services that may affect only one aspect of an asylum seeker's experience are also excluded. These too remain important and where relevant, have been incorporated elsewhere in this paper. We made an exception for a study by Fleay, Hartley and Kenny (2013)¹⁶⁵ which examined asylum seeker work experiences. That study looked at eleven asylum seekers released from detention, three of whom were in community detention without work rights and eight of whom were on a bridging visa and not excluded from working. Eight were from Afghanistan, two from Sri Lanka and one from Iran and they were living in Adelaide, Brisbane, Canberra, Sydney, Perth between June and September 2012. The biggest challenge for those on a bridging visa was finding paid employment.¹⁶⁶ All expressed a desire to work to alleviate loneliness, isolation and boredom. Of the eight who could work, four found full-time and one part-time employment. The remaining three were searching for work. The report noted the temporary nature of bridging visas was a significant barrier to finding employment and it had been largely left to the asylum seekers themselves to find employment and cope as best they can despite their limited English.

The study noted research suggesting that people who accessed work early integrated to a greater extent than those who did not and that exclusion from work may force asylum seekers to engage in the informal labour sector, or to become dependent upon state welfare or community sector support.¹⁶⁷

We also made one other exception for a study by UnitingCare Victoria and Tasmania into UnitingCare's emergency relief and crisis support for asylum seekers in the community in

¹⁶³ RCOA has an impressive range of papers and submissions including: *The Home Stretch: Challenges and Alternatives in Sustainable Housing for Refugees and Asylum Seekers* (November 2014) <<http://www.refugeecouncil.org.au/r/rpt/HomeStretch.pdf>>, and *The Strength Within: The Role of Refugee Community Organisations in Settlement* (May 2014) <http://www.refugeecouncil.org.au/r/rpt/1405_StrengthWithin.pdf> [Accessed 21 May 2015].

¹⁶⁴ See for example, Anne McNevin and Ignacio Correa-Velez, 'Asylum Seekers living in the community on bridging visa E: Community sector's response to detrimental policies' (2006) 41(1) *Australian Journal of Social Issues* 125.

¹⁶⁵ Caroline Fleay, Lisa Hartley and Mary Anne Kenny, 'Refugees and Asylum Seekers Living in the Australian Community: The Importance of Work Rights and Employment Support' (2013) 48(4) *Australian Journal of Social Issues* 473.

¹⁶⁶ Ibid 481.

¹⁶⁷ Ibid 488.

March 2014.¹⁶⁸ That study documents the range of responses to asylum seeker needs that UnitingCare service-providers were undertaking when interviewed between November 2013 and January 2014. The study provides the following recommendations:

1. Provide adequate funding for emergency relief and material aid;
2. Provide adequate funding for meaningful engagement programs;
3. Provide additional funding for specialist staff;
4. Address communication, language and cultural barriers;
5. Provide opportunities for education, training and volunteering;
6. Grant all asylum seekers in the community the right to work and assist agencies to help with job search;
7. Build and strengthen local networks to effectively respond to emerging needs;
8. Provide more support to find and maintain adequate and affordable housing.¹⁶⁹

The study focused upon eight agencies in Melbourne and one in regional Victoria, finding that:

- six agencies worked with the wider community including asylum seekers and did not distinguish between asylum seekers on government assistance or not;
- two agencies worked exclusively with asylum seekers, one worked with those on government assistance and one worked with those who were not; and
- The regional agency was contracted to DIBP to deliver ASAS and CAS and did not provide other assistance.

The services that catered for the wider community, including asylum seekers, offered varying levels of support to cover different needs. For example, Wesley Footscray Outreach Centre focused on emergency relief (food, Telstra bills) but did not provide material aid,¹⁷⁰ Lentara UnitingCare Broadmeadows provided emergency relief (food, public transport) and material aid (once a year),¹⁷¹ Lentara UnitingCare Sunshine Mission provided food parcels, material aid, and public transport assistance,¹⁷² Church of All Nations provided food, public transport cards, pharmacy expenses, Telstra phone bills, and advocacy and counselling¹⁷³ and UnitingCare Werribee Support and Housing provided food parcels, food vouchers and fresh fruit and vegetables and material aid was provided when available.¹⁷⁴ Kildonan UnitingCare offered information about using less energy in the home, budgeting, rebates, grants and concessions, and referrals to other support services.¹⁷⁵

¹⁶⁸ Robert Gruhn, "Can you please help me? How can we live?" (March 2014, UnitingCare Victoria and Tasmania) <http://apo.org.au/files/Resource/unitingcare_unitingcareemergencyreliefandcrisissupportforasylumseekerslivinginthecommunity_mar_2014.pdf> [Accessed 4 June 2015].

¹⁶⁹ Ibid 48-52.

¹⁷⁰ Ibid 21.

¹⁷¹ Ibid 23.

¹⁷² Ibid 25.

¹⁷³ Ibid 37.

¹⁷⁴ Ibid 34.

¹⁷⁵ Ibid 40.

Lentara UnitingCare Asylum Seeker Welcome Centre worked with asylum seekers who were receiving some government financial assistance, however their main objective was to provide a safe and welcoming space, and services included computer/internet/phone access, English language classes, art and computer classes, and monthly excursions.¹⁷⁶

Lentara UnitingCare Asylum Seeker Project was primarily working with asylum seekers who had little or no support and provided casework support, housing, basic living allowance payments, public transport payments, help with utilities, limited material aid, and support groups.¹⁷⁷

5.2.1 Australian studies addressing community asylum seeker experiences

Little has been written from a holistic perspective about community based asylum seeker experiences. Three studies based on original research were found, one by Hartley and Fleay in 2014,¹⁷⁸ one by the UNHCR in 2013¹⁷⁹ and one by the Red Cross in 2013.¹⁸⁰

Hartley and Fleay

Hartley and Fleay (2014) examined IMA community asylum seekers who arrived after 13 August 2012 with no work rights. Interviews were conducted during July-October 2013 with 29 adults, ten in Perth, nine in Sydney and ten in Melbourne. Ten participants were from Afghanistan (Hazara), seven from Sri Lanka (Tamil) and twelve from Iran and when interviewed, had been in the community on bridging visas from two weeks to nine and a half months.

UNHCR

The UNHCR study focused exclusively on asylum seekers released from detention who were excluded from working. Research was carried out over seven weeks (September – October 2013) in the ACT, NSW, QLD, SA, TAS and VIC. An initial survey was distributed in early September 2013 to asylum seeker agencies and 37 responses were received. Face-to-face interviews were then conducted with 79 caseworkers and ten asylum seekers from three states.¹⁸¹

Red Cross

The Red Cross study included asylum seekers released from detention and those who had arrived by air, some of whom were on bridging visas that did not exclude work. The Report's findings were based on interviews with asylum seekers and service providers in Western

¹⁷⁶ Ibid 31.

¹⁷⁷ Ibid 28.

¹⁷⁸ Lisa Hartley and Caroline Fleay, *Policy as punishment: asylum seekers in the community without the right to work* (Centre for Human Rights Education, Curtin University, 2014) <http://www.nwhn.net.au/admin/file/content101/c6/CHRE_PolicyAsPunishmentAsylumSeekersInTheCommunityWithOutTheRightToWork_Feb_2014.pdf> [Accessed 4 June 2015].

¹⁷⁹ United Nations High Commissioner for Refugees, above n 3.

¹⁸⁰ See Australian Red Cross, above n 1.

¹⁸¹ United Nations High Commissioner for Refugees, above n 3, 3.

Australia, South Australia and Victoria who arrived before July 2012 and had been living in the community for nine months or less. 80% of the interviewees had arrived by sea from Afghanistan, Iran and Sri Lanka, and were mainly men. The remaining 20% had arrived by air from Zimbabwe, Iraq, Europe and the Pacific. One person was Stateless. 26 individuals representing ethnic associations, humanitarian, advocacy and health services groups were also interviewed. The report also drew on an internal Red Cross Homelessness Census (2012).¹⁸²

What all the studies find

The studies by Hartley and Fleay, the UNHCR and the Red Cross provide 'snapshots' of the difficulties asylum seekers face in finding secure and affordable housing, food and employment or at least meaningful engagement or activity.

The poverty line

The UNHCR study identifies asylum seekers living below the poverty line (as used by the Australian Council for Social Services (ACOSS))¹⁸³ whereas the report by Hartley and Fleay calculates that the 89% Centrelink Special Benefit paid to asylum seekers was 55% of the amount calculated as the Henderson Poverty line.¹⁸⁴

Homelessness

The Red Cross Report does not define homelessness but details instances of homelessness and states that:

*Of 1007 people seeking asylum surveyed for an internal Red Cross Homelessness Census (2012), almost half of those in receipt of government support failed to have access to quality, long term housing. Of these, 13% of all single individuals and 9% of single parents in the survey lived in short term, emergency accommodation or were sleeping rough.*¹⁸⁵

Hartley and Fleay do not define homelessness but document asylum seekers staying temporarily in friend's houses on couches and on the floor. They also document the case of an asylum seeker who was homeless for one week when he lived in his brother's car.¹⁸⁶

Link between destitution and engagement in informal employment

The UNHCR study draws a link between destitution and engagement in informal employment. Participants discussed instances of asylum seekers being exploited, not being paid, working long hours for meagre wages and having no recourse to a remedy due to a fear of being found out.¹⁸⁷ The Red Cross report details an asylum seeker working in a butcher shop three days a week for nine months, being consistently underpaid, overworked and poorly treated.¹⁸⁸

¹⁸² Australian Red Cross, above n 1, 16.

¹⁸³ Ibid 6.

¹⁸⁴ United Nations High Commissioner for Refugees, above n 3, 7.

¹⁸⁵ Australian Red Cross, above n 1, 16.

¹⁸⁶ Hartley and Fleay, above n 178, 29.

¹⁸⁷ Ibid 6.

¹⁸⁸ Ibid.

Recurring themes

All three studies document recurring ‘themes’ relating to housing, financial stress, work rights, mental health and meaningful engagement. All studies find asylum seekers do not receive sufficient support. All studies make findings relating to inadequate housing, income, meaningful engagement and barriers to social integration. All studies discuss barriers to accessing accommodation and housing which leads to insecure tenancies, residing in properties that are in poor condition and overcrowded, and the risk of homelessness. All three studies report that many asylum seekers who access government assistance are unable to meet basic needs such as food, rent, utilities and essential furniture items and that community organisations were unable to meet their needs.

Other themes raised include problems associated with access to English courses, legal support, healthcare, affordable transport, childcare and schooling (for those with children) and the continuing isolation of asylum seekers. The UNHCR study also documents concerns about young people’s access to education once they turn 18.¹⁸⁹

Apart from its findings in relation to housing noted earlier, the Red Cross report also found that levels of government funding were inadequate and that asylum seekers were ‘arguably one of the most vulnerable groups in Australia.’¹⁹⁰

The report found many asylum seekers struggle to afford food after paying household bills and rent. An internal Red Cross census (2013) found almost 40% of people seeking asylum had experienced food insecurity in the previous year.¹⁹¹

The Red Cross report found only 15% of the asylum seekers who had work rights were employed. They worked in menial, casual and poorly paid jobs.¹⁹² Practical impediments to finding work included limited English skills, lack of a resume or police clearance, lack of access to childcare and poor health.

The report also noted government support ceases within 5 days after their protection visa application has been twice rejected (typically after a negative Refugee Review Tribunal (RRT) decision). Asylum seekers who attempt to exhaust legal appeal rights do so without funded support and are acutely vulnerable, yet often have limited access to emergency relief centres.¹⁹³

¹⁸⁹ United Nations High Commissioner for Refugees, above n 3. Our paper takes up whether this is still an issue.

¹⁹⁰ Australian Red Cross, above n 1, 11.

¹⁹¹ Ibid 17.

¹⁹² Ibid.

¹⁹³ Ibid, 18.

5.2.2 Previous recommendations

The previous research made the following recommendations:

Work

- Hartley and Fleay recommended work rights, Federal and State government funded pathways into education including subsidised TAFE and university places, access to English as a Second Language classes currently available under the Humanitarian Settlement Services (HSS). They also recommended that, consistent with Victoria and the ACT, other States and territories should offer concession cards and fares for public transport.¹⁹⁴
- The Red Cross also recommended that all asylum seekers have the right to work.¹⁹⁵

Living allowance

- The Red Cross recommended that basic living allowance payments and other support provided to asylum seekers be commensurate with their needs and no less than that provided to other people with similar needs in the Australian community.¹⁹⁶

Legal status

- Hartley and Fleay recommended processing refugee claims in a timely manner, providing asylum seekers with funded migration advice and renewing expired bridging visas without delay.¹⁹⁷

Access to Housing

- Hartley and Fleay recommended increasing the period housing is offered through the CAS TS from six weeks to up to one year in line with support offered through the humanitarian settlement services program (HSS) and that for those found to be particularly vulnerable, a housing safety net should exist beyond this period.¹⁹⁸ The Red Cross also recommended the Australian government, State and Territory governments work together with the community sector to improve community care arrangements for asylum seekers with a particular focus on resourcing community based housing.¹⁹⁹

¹⁹⁴ Hartley and Fleay, above n 178, 3. A summary of State Government support for asylum seekers throughout Australia is at Annexure 8.2 of this paper.

¹⁹⁵ Red Cross n 1, 4.

¹⁹⁶ Ibid.

¹⁹⁷ Hartley and Fleay, above n 178, 3.

¹⁹⁸ Ibid.

¹⁹⁹ Red Cross n 1, 4.

Access to health care

- Hartley and Fleay recommended all bridging visas holders be issued with a Medicare card without delay.²⁰⁰

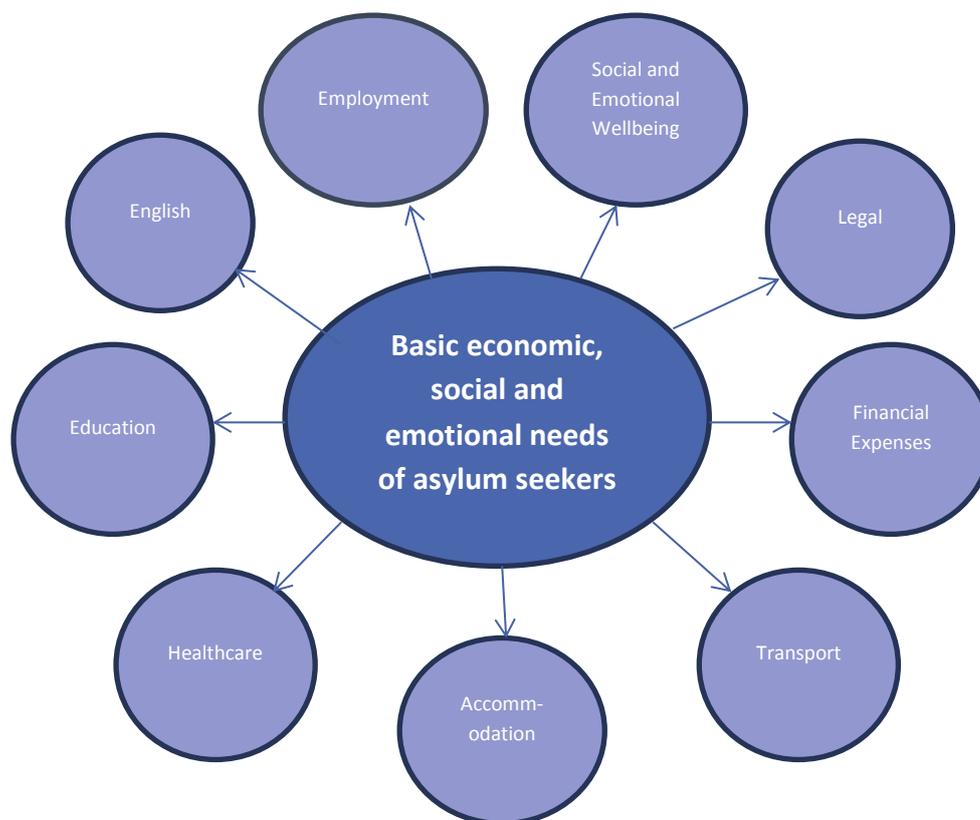
Access to support for families and schooling

- Hartley and Fleay recommended all children holding bridging visa have access to public education and that bridging visa holders be able to access the same entitlements as Australian citizens in relation to childcare and early childhood education.²⁰¹

²⁰⁰ Hartley and Fleay, above n 178, 3.

²⁰¹ Ibid.

6 ASYLUM SEEKER EXPERIENCES IN NSW



This section talks about what we were told are the basic economic, social and emotional needs of asylum seekers.

In exploring these areas, we are cognisant of the key recovery principles for resettling refugees that STARTTS has identified. These are to restore:

- a sense of safety and control,
- connections to others,
- meaning and purpose of life and
- dignity and value.²⁰²

Ideally these key recovery principles can inform approaches to meeting asylum seekers' economic, social, and emotional needs. However, asylum seekers face the additional uncertainty of their outstanding protection visa claims which means they may be unable to set medium or long term goals. STARTTS suggests that, because of this uncertainty, service provision should focus on assisting asylum seekers cope with their situation and contain their trauma related symptoms by meeting their basic needs, addressing their health issues, assessing the risk of suicide and self-harm, building their strengths and resilience and encouraging activities that may positively contribute to their future.²⁰³

²⁰² STARTTS Handout, *Working with people from refugee backgrounds* 2014, 10.

²⁰³ Ibid.

6.1 What are their basic economic needs?

An asylum seeker's economic needs can differ greatly depending on whether they:

- work and support themselves;
- can access government financial assistance or other assistance; or
- can do none of these things.

While the bridging visa legislation distinguishes between IMAs and non-IMAs, most of the established non-government funded service providers distinguish individuals based on need, specifically whether asylum seekers have a source of income or work or can access government financial assistance. Some service providers however and in particular the mainstream emergency relief services, are probably not identifying asylum seekers or distinguishing between them on this basis.

The other point about economic need is that there are stages in the process when asylum seekers are financially more vulnerable than at other times. It is at these stages they may need most assistance as they may face exploitation or homelessness. For IMAs, these stages can arise when:

- they change from one government assistance program to another, for example when they change to a lower level of support such as when they transition from CAS TS (Band 4) to ASAS (Band 6) or
- when the programs themselves are changing for example when ASAS and CAS transitioned to SRSS, or
- when asylum seekers are moving from one stage to another in the visa process for example when they receive a negative review decision and are no longer eligible for SRSS, or when their bridging visa has ceased and has not been renewed, or
- when there has been a change in personal circumstances for example, if young asylum seekers:
 - move from intensive English tuition to mainstream schooling;
 - move from school to further education or employment;
 - relocate for employment;
 - lose their job and have to reapply for government assistance; or
 - if their personal relationships or health situations break down, often because of past trauma, grief or loss.

For non-IMAs, there is an additional stage of vulnerability after they have applied for a protection visa but before they receive government assistance.

There are also stages when those service providers who support asylum seekers are financially more vulnerable than at other times, reducing their ability to help asylum seekers. For example, it was noted that if large numbers come out of detention at one time, there is an impact on already stretched community resources. In late December 2014 and as part of attempts to pass the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill, it was announced that asylum seeker children who arrived by boat and had been held on Christmas Island would be moved to the

mainland by early 2015. Depending on the numbers involved²⁰⁴ and on when asylum seekers transition from CAS TS (Band 4) to ASAS (Band 6), this development has the potential to affect the availability of community resources significantly.

While the following research primarily reflects upon some of the experiences of asylum seekers who are connected to either government or non-government funded service providers, previous research has noted that asylum seekers may also have a supportive cultural community that provides emotional, practical and limited legal assistance²⁰⁵ and we came across many examples.²⁰⁶

While we have included some information about the CALD volunteer groups that we came across, this is by no means intended to be comprehensive or final. For example, we became aware that Auburn Council commissioned Bernadette Harris to conduct research on the CALD volunteer groups linked to ASCON, most of whom would be working with asylum seekers. This research should be available from the Council's website before the end of the year.²⁰⁷

6.1.1 Accessing permission to work

Past studies have noted that not being able to work and financially support themselves is a profound issue for asylum seekers.²⁰⁸ Even though the government publically stated in December 2014 that asylum seekers will now be able to work, the sheer number of asylum seekers and their differing circumstances means it remains uncertain if and when most will be able to work.

While people talk about permission to work, what they mean is the absence of a condition prohibiting people from working since technically, asylum seekers who do not have the 'no work' condition (condition 8101) attached to their bridging visa can work.

S.195A appears to be the only mechanism which allows asylum seekers released from detention to be granted bridging visas that do not impose condition 8101. However, it

²⁰⁴ The government indicated on 5 December 2014 that 1500 people would be coming out of detention. See *Daily Mail Australia*, above n 35.

²⁰⁵ Dr Alexandra Gartrell, above n 1, 60. Dr Gartrell was talking about the Tamil community in Perth.

²⁰⁶ Small CALD groups were engaged in providing language, social and cultural activities for asylum seekers as well as assisting with their welfare. For example, the Human Care Welfare had established: Well attended English classes for male Hazaras (mainly from Afghanistan, Iran and Pakistan); Driving classes; Basic computer classes – internet, emails, Microsoft word; Music classes (dombra (traditional Hazaragi musical instrument)) piano and drum; and Kickboxing classes. See Human Care Welfare, *Our Vision* <http://www.hcwsyd.com/?page_id=2> [Accessed 22 June 2015].

They also held cultural events for community members. Another Afghan organisation, the Afghan Community Support Association of NSW which is also a non-profit community-based organisation, distributes EAPA and Sydney Water Payment Assistance scheme vouchers. See Australian Afghan Hussanian Youth Association, *Community Support* <<http://www.aahya.org.au/index.php/casework.html>> [Accessed 22 June 2015].

²⁰⁷ Ms Bernadette Harris spoke about her research at "Working with the Volunteer Community Sector Auburn Networking Forum" in May 2015.

²⁰⁸ Hartley and Fleay, above n 178, 11.

requires Ministerial discretion and is intended for those in detention. It therefore requires asylum seekers to be re-detained (administratively) and to be re-granted a bridging visa, so it remains a cumbersome process.

Service providers indicated in December 2014 their understanding was that DIBP was keen to prioritise those who 'were work ready' but there would be administrative delays and until they were notified, asylum seekers could not work. This was again confirmed by service providers in January 2015 who stated that while asylum seekers coming out of detention were being granted bridging visas not subject to condition 8101, they had not seen a case where an asylum seeker who was already in the community had successfully applied to have condition 8101 removed.

At the time, DIBP's website contained minimal information but did state that if an asylum seeker had a job offer, then they would endeavour to prioritise their request for work rights, but that:

- it would take time;
- that people could not be given permission to work without the Immigration Minister's personal intervention; and
- that if they had a job offer, they should email bvereporting@immi.gov.au with information about that job offer.

The department also indicated that current bridging visa conditions could not be changed and they would contact people if and when it was possible to grant a bridging visa with permission to work.²⁰⁹

Service providers indicated in February 2015 that DIBP had indicated that eventually all people who had arrived by boat before July 2013 would have the right to work, but that it would take time and they would start with those who had arrived before 13 August 2012 and then proceed in stages for those who arrived after 13 August 2012. The service provider also indicated they had asked about those who did not have work rights but had lined up an employer but DIBP had said it was not possible to give them work rights sooner than others.

The following quotes from three asylum seekers in February 2015 demonstrate the confusion that existed at that time around bridging visas and permission to work:

All I know was to send an email and I haven't heard back and the thing is my bridging visa was issued prior to the new law and is valid for a year so on this visa I cannot work.

My visa has been issued, there is no indication that I can work or cannot.

Q. If we don't receive a bridging visa we are able to get work permission?

²⁰⁹ Department of Immigration and Border Protection, *I am an Illegal Maritime Arrival on a Bridging Visa E and have a job offer. Can I get work rights?* (9 February 2015) <<http://www.immi.gov.au/FAQs/Pages/i-am-an-illegal-maritime-arrival-on-a-bridging-visa-e-and-have-a-job-offer-can-i-get-work-rights.aspx>> [Accessed 25 February 2015].

A. No, until you get a letter that doesn't have 8101, you should consider you can't work. If not sure get advice.

The actual process of granting bridging visas with work rights has been long and complicated. While DIBP initially suggested that asylum seekers who had a job lined up could contact them and they would see if they could process work rights, this has not happened. When asked in Parliament what was the status of granting working rights on 10 February 2015, Senator Michaelia Cash stated '5 400 IMAs have now been granted bridging visas with work rights.'²¹⁰ This was approximately the same number of asylum seekers identified in Parliament on 31 May 2014 as not having work restrictions on their bridging visa.²¹¹ While media reports in mid April 2015 suggested that some 10 000 asylum seekers had been granted bridging visas with work rights,²¹² and on 1 May 2015 the Minister signed legislation that specified that those given a bridging visa pursuant to s. 195A of the Act were a class of persons that condition 8101 did not apply to,²¹³ we were still meeting asylum seekers in June 2015 whose bridging visas did not allow them to work. Because they had been issued bridging visas in either September or November 2014 that were valid for one year, their understanding was that until their current bridging visa expired, they would not be able to work.

An unconfirmed estimate that we heard in late May 2015 was that it may take the rest of the year before all asylum seekers would have the right to work.

Those asylum seekers who have not had their bridging visas renewed

There is also the vexed issue of asylum seekers who remain in the community without formal documentation because their bridging visas have not been renewed. We knew of one asylum seeker in January 2015 who was waiting to hear from DIBP even though he had contacted them about his bridging visa which had expired in December 2014. The issue was again raised by asylum seekers at a training session on 24 February 2015. There we spoke with numerous asylum seekers who did not have their bridging visas renewed and were confused by letters from DIBP that stated their bridging visas were coming soon. Some asylum seekers at that session also had expired Immigration cards.²¹⁴ These cards are issued

²¹⁰ Commonwealth, *Parliamentary Debates*, Senate, 10 February 2015, 276 (Michaelia Cash) <<http://www.openaustralia.org.au/senate/?id=2015-02-10.85.1&s=speaker%3A10707#g90.1>> [Accessed 15 June 2015].

²¹¹ See Legal and Constitutional Affairs Legislation Committee, above n 113. That number was 5 470.

²¹² ABC Radio National, 'The full story... Thousands of asylum seekers still waiting for assessment', *PM with Mark Colvin*, 13 April 2015 (Bridget Brennan) <<http://www.abc.net.au/pm/content/2015/s4215592.htm>> [Accessed 17 June 2015].

²¹³ On 1 May 2015 the Minister signed IMMI 15/026 that revoked IMMI 12/114 and specified that those given a bridging visa pursuant to s. 195A were a class of persons that condition 8101 did not apply to. *Migration Regulations 1994 - Specification of Classes of Persons 2015 - IMMI 15/026* <<https://www.comlaw.gov.au/Details/F2015L00708>> [Accessed 23 June 2015].

²¹⁴ According to the Department, Immicards are generally issued to those visa holders who do not have or cannot have a passport recognized by the Australian government. Immicards contain personal information that is recorded in the department's visa and travel systems. Department of Immigration and Border Protection, *Frequently asked questions about ImmiCards* (16 April 2015) <<http://www.immi.gov.au/visas/humanitarian/immicards/immicard-facts.htm>> [Accessed 24 June 2015].

to asylum seekers who have been issued with a bridging visa but do not necessarily reflect whether an asylum seeker has a current bridging visa. As asylum seekers may lack any other formal documentation legitimising their status, not having this card may have practical consequences for them, not least for their employment.

The non-renewal of bridging visas means that even those who had a bridging visa that allowed them to work before the changes on 23 November 2014 may not have the right to work. We were repeatedly told about asylum seekers who had been employed but who had lost their employment because their bridging visas were not renewed. Departmental statistics as at 31 December 2014 state that 8 180 IMAs were awaiting grant of a further bridging visa.²¹⁵ As at 31 March 2015 Departmental statistics state that only 2 994 were awaiting grant of a further bridging visa.²¹⁶

We understand that this also included those asylum seekers who had not signed the Code of Behaviour which we understood numbered some 1 000 as at 2 April 2015. We also understand that they would not be granted a further bridging visa until the Code was signed since signing the Code was a condition of grant.

Asylum seekers who cannot work

Those asylum seekers who arrived by plane on a visa without work rights or those seeking Ministerial intervention or judicial review after a negative merits review may still be restricted from the right to work. In addition, under the new fast track system, IMAs cannot apply to the Immigration Assessment Authority (IAA) in their own right. This means that if DIBP assesses an asylum seeker to be an excluded fast track review applicant, they may be excluded from administrative review and may therefore be unable to work after a negative DIBP decision.

6.1.2 Asylum seekers at work

As previously noted, there have been no Australian studies about asylum seeker experiences in the workplace so the number of asylum seekers facing labour exploitation is simply not known.

We attempted to understand the issue by first searching public legal databases and the Australian media to find any documented cases. The results appear below:

Allegations of exploitation documented in legal cases and the media

The Fair Work Ombudsman

Workers in Australia are protected via the *Fair Work Act 2009*, Fair Work Australia and the Fair Work Ombudsman. While the Fair Work Ombudsman gives advice and information on workplace rights and responsibilities, investigates workplace complaints and take actions for significant underpayments or other serious breaches of the Fair Work Act, asylum seekers probably have no knowledge of its existence or role. Asylum seekers may also only be

²¹⁵ Department of Immigration and Border Protection, *Illegal Maritime Arrivals on Bridging E Visa* (December 2014), 4 <<http://www.immi.gov.au/pub-res/Documents/statistics/ima-bve-dec-14.pdf>> [Accessed 17 June 2015].

²¹⁶ Department of Immigration and Border Protection, above n 49, 4.

employed for short periods, may lack documentary evidence and may be unwilling to complain.

We were unable to find much evidence asylum seekers were accessing Australian complaint avenues including the Fair Work Ombudsman. However, asylum seekers may have inadvertently benefited from the Fair Work Ombudsman's proactive targeting of industries such as fruit picking who have been employing workers, including asylum seekers, who may not be fully aware of their rights.²¹⁷ Neither were we aware of any government funded education outreach program specifically targeting asylum seekers about Australian complaint mechanisms. We conducted one training session for asylum seekers on 24 February 2015 and workplace laws are part of the training by at least one of the non-government funded service providers,²¹⁸ but in general there appears to be a real lack of training initiatives for asylum seekers about the Australian workplace.

Cases before the Refugee Review Tribunal

A number of published Refugee Review Tribunal decisions indicate that asylum seekers before the Tribunal have alleged exploitation by employers. However, because of confidentiality provisions, the location and nature of the work was deleted from the published decisions.²¹⁹

We also requested under FOI all Migration Review Tribunal bridging visa E cancellation decisions where an asylum seeker on a bridging visa was found to be working in breach of condition 8101. In response, the Tribunal provided two cases, one of which only stated the asylum seeker had been working as a gyprock-fixer and was paid cash.²²⁰ The other case indicated that the asylum seeker was working at a business in NSW on 23 October 2014, had been at the business cleaning cars and campervans since December 2013 and admitted working for one to three days per week, earning approximately \$130 to \$180 per week, cash in hand.²²¹ While further details are not publicly available, it appears *prima facie* that the asylum seeker was significantly underpaid.

What is also of interest about these cases is that the jobs mentioned are consistent with the English study which found large numbers of asylum seekers were working and being exploited in construction, cleaning, car washing and car services.²²²

²¹⁷ Conditions for vulnerable foreign workers on farms was also investigated by Four Corners and as a result, the government announced it would soon audit the payslips of tens of thousands of 417 visa holders. See Dan Conifer, 'Federal Government to examine payslips of 417 visa holders to crack down on labour exploitation', *ABC News* (online), 7 May 2015 <<http://www.abc.net.au/news/2015-05-06/government-to-examine-417-visa-payslips-foreign-exploitation/6447836>>.

²¹⁸ See the Asylum Seekers Centre, *Information for Job Seekers* <<http://asylumseekerscentre.org.au/employment/information-for-job-seekers/>> [Accessed 27 June 2015]. We also came across another employment program in June 2015 that included training on work place laws. See 'Training about Australian working conditions' of this paper on page 69.

²¹⁹ 1113737 [2012] RRTA 958 (25 October 2012); 0802135 [2008] RRTA 159 (12 June 2008)

²²⁰ 1415672 [2014] MRT (26 September 2014).

²²¹ 1417749 [2014] MRT (4 November 2014).

²²² Lewis, Dwyer, Hodgkinson and Waite, above n 161, 3.

Allegations of exploitation documented in the media

There are few media reports of asylum seekers being exploited. The one reported case we found involved an asylum seeker who was subsequently deemed a refugee. He was approached by a man who offered him a job collecting trolleys for a supermarket and then told him he would need to pay \$300 of his weekly wage to the foreman. Not being aware of Australian law, he went along with it and the case was only reported to lawyers after he mentioned it to a caseworker. When lawyers wrote to his employer, he was sacked.²²³

We contacted lawyers who were involved in the case. They indicated that those coming in for advice included people from the construction industry and hair and beauty businesses and the normal procedure would be to make a complaint to the Fair Work Ombudsman.

Again, these jobs are broadly consistent with the industries identified in the English study as employing and exploiting asylum seekers.²²⁴

Details of work experiences described to us

We were told asylum seekers were working for cash in hand with little if any verbal agreement or assurances of conditions. We were also told that employers were asking them to work for free during probation periods. We heard from asylum seekers that they were being abused since they did not know the rules and did not know how to get properly paid. We heard asylum seekers were receiving \$8-\$10 per hour for washing cars and \$5-\$15 per hour for cleaning. We also heard of asylum seekers being offered \$6 per hour for agricultural work. We also heard that on one occasion an asylum seeker was threatened with the dismissal of his friends.

These conversations lead us to conclude that exploitation is an issue for asylum seekers but the extent to which it is happening is unclear. There is also some evidence that asylum seekers have no recourse to a remedy since they rarely, if at all, contact authorities about exploitation. First, they may not identify themselves as victims since they may come from countries where there are no formal workplace laws in relation to pay and working conditions. Secondly, they may be isolated or have limited English, which may inhibit their ability and confidence to voice employment concerns. Thirdly, they may also be reluctant to talk about exploitation since they may fear that their protection visa applications will be jeopardised.

These quotes dating from between November 2014 and April 2015 and coming from asylum seekers and/or their service providers in contact with asylum seekers illustrate the kinds of exploitation we heard about.

²²³ Malavika Santhebennur, 'Lawyers stand up for asylum seekers', *Lawyers Weekly* (online), 6 June 2014 <<http://www.lawyersweekly.com.au/folklaw/15439-lawyers-stand-up-for-asylum-seekers>> [Accessed 12 February 2015].

²²⁴ Lewis, Dwyer, Hodgkinson and Waite, above n 161, 3.

Asylum seekers not being paid

One asylum seeker finds work through his network. He gets paid \$10 hour when he finds work. He is doing casual work which is washing cars, polishing cars.

- Service provider talking about asylum seeker experiences November 2014

They pay \$8.00 in the car wash. The work is very hard, it's a hard job. They get \$8.00 per hour.

- Asylum seeker talking about other asylum seekers December 2014

We would get rumours that they were working in the car wash areas, they were working in packaging, there is a lot of cash in hand work and I think that a lot of people will still end up working in that grey sector, that grey labour sector and people say we will give you some work but we will pay you cash in hand, pay them below award rates.

- Non-government service provider talking about rumours they heard asylum seekers were working January 2015

I have an international life-saving certificate and I worked in heavy vessels and cargo vessels and on fishing vessels so I have a skill but here I've worked as a cleaner and I've been paid cash.

Have you been paid properly?

No.

- Asylum seeker on government assistance commenting on his work prospects February 2015

Most of the women want to work, most took out loans, they have family back home to support, what they get here is basic. (With house cleaning)...what happened at the beginning was they were exploited; they were paid \$5 an hour. Usually it is \$15.

- Service provider February 2015

We had a refugee working for \$3 an hour. He had no idea that there was a minimum wage.

- Service provider April 2015

Asylum seekers not being told about their rights

I have had some clients who had terrible accidents at work but did not seek compensation because they did not know they had a right to do this and the employers didn't tell them about it.

- Service provider February 2015

Excessive overtime

I have a client on a bridging visa who works in South Western Sydney. She does not get overtime on Saturdays, works 5 full days a week. She gets less than the minimum wage. She goes in on Saturday and does not feel she can say no because she fears losing her job. She applied for ASAS and did not get it, so she has to support herself.

- Service provider December 2014

I've heard they work 10 hours a day and they only get \$80 because they have no visa.

- Asylum seeker talking about the experiences of other asylum seekers December 2014

It happened to me, I worked for 17 hours. He paid me \$150. I had permission to work. I did not go back.

- Asylum seeker December 2014

Intimidation and threats

We had a young man who worked with heavy machinery and he had an accident, he was told to get out, to go to hospital, to say something else, not to come back or we will close down your friends.

- Service provider November 2014

Our investigations raise difficult issues about how to make Australian labour laws relevant for asylum seekers who may be the very persons who need these laws the most. This quote from a pro bono lawyer in February 2015 demonstrates the difficulties asylum seekers face when trying to do something about exploitative working conditions:

They need to know the avenue you need to take so the client we saw and if he hadn't been referred to us he would never have been able to enforce

his rights, he wouldn't have known the difference between the Fair Work Ombudsman and the Fair Work Commission, he would have never known there were bodies dealing with fair work at all...

There was no way our client would be able to navigate the process, the challenges are insurmountable, he has poor English, his ability to deal with authority given his history, he didn't even want to talk to me.

Our investigation also highlights the importance of increasing asylum seeker's awareness and understanding of their rights and complaints processes.

6.2 Accessing Employment Pathways

Barriers to employment

Even though asylum seekers who arrived before 12 August 2012 had permission to work before the government announcement of 5 December 2014, that does not mean they did. Past Red Cross (2013) research indicates only 15% of the 33 asylum seekers interviewed in 2013 were employed, and that of those, all were employed in casual positions and were being paid an hourly rate (two working as kitchen hands and three labouring).²²⁵

This quote from an asylum seeker in February 2015 explains the problems another asylum seeker encountered looking for work:

The job seeker organisations do not assist. He's had work permission for the last three years and has not been able to find a job. It shows you do not have permanent residency, you are just temporary, even those that are granted work permits are not prepared to work because what work is given to them is just physical work and after a short period of time they get injured or develop health issues and even going to that type of work they don't receive the proper salary.

RCOA noted research that found refugees require tailored assistance in order to overcome specific barriers to employment including limited English; lack of Australian work experience; limited access to transport and affordable housing close to employment; lack of knowledge of Australian workplace culture and systems; pressures of juggling employment and domestic responsibilities for women with caring responsibilities and limited social networks in Australia; the refugee and resettlement experience and its impact on job seeking; discrimination in employment; difficulties with a lack of recognition of skills, qualifications and experience; and lack of qualifications.²²⁶

²²⁵ Australian Red Cross, above n 1, 38.

²²⁶ One service provider also indicated asylum seekers may not have the supporting documentation required to prove their qualifications and may have trouble obtaining it because they do not wish to reveal their location to country of origin authorities.

Additional barriers include a lack of employment services, limited pathways into employment, and poor health. A service provider also told us that much work had to be done to get employers to understand about bridging visas and an asylum seeker told us in June 2015 that he had trouble proving to a potential employer that he could work. This quote from a service provider in January 2015 explains the multitude of issues they anticipate asylum seekers will face in seeking work:

One of the big needs that all agencies will bring up where people have work rights, the government has made it very clear that there will be no funding in assisting people into work. There is not going to be any funding for English language classes, there's not going to be any funding for something like Job Services Australia (JSA) job search assistance stuff so TPV holders will have access to that, but for asylum seekers, bridging visa work rights will not have access to any of that so it's like here's your right to get a job, but we are not going to provide any support to assist you to do that. So for a lot of the agencies it's looking at how can we potentially pool resources because most of any of that, whether its teaching business English or doing some resume preparing support, it's all going to have to be done on a volunteer basis until we can get into a funding cycle where people can start applying for that sort of funding so a big need is going to be helping or supporting people into work because it is an opportunity, there is so much negative around the legislative changes but the silver lining in it is and it's a thin silver lining is that people do at least have that opportunity to work now but jobs just aren't going to fall out of the sky, there need to be programs that equip people, that empower people and introduce them into the Australian workplace.

English

We met asylum seekers who had permission to work but who were not working because their English was not good enough. English was repeatedly mentioned as the biggest barrier to employment. As one asylum seeker observed in February 2015 'I went to a recruitment agency. They said go and learn English and then come back to us.' In the words of another asylum seeker: 'I studied computer science but my issue is the language and being isolated from the community.'

Lack of recognition of previous qualifications or prior experience

In reality low paid jobs or further education may be the only means asylum seekers have of initially entering the workplace since the lack of recognition of previous qualifications or prior experience are barriers to obtaining employment at a level commensurate with skills and experience. We met asylum seekers who were frustrated that they could not find work based on their skills and said they could only find cleaning or physical work which involved the possibility of injury and poor pay. When Iranian asylum seekers were asked what skills they had, one said he had studied computer science and another said he had worked with heavy cargo and fishing vessels but when asked what jobs they were likely to get, they

indicated painting, cleaning, building labour and demolition. Similarly, a service provider noted that amongst the Afghan caseload there were ‘welders, electricians, plumbers, tilers, we’ve got brick layers, we’ve got stone masons, we’ve got truck drivers’ but most of those occupations required a NSW trade licence which in turn required TAFE qualifications before they could work in those fields.

Skills recognition remains difficult as it may involve further education and/or training before asylum seekers can work in their chosen fields. Such education or training requires upfront payment of full fees as charged to international students.

Strategies to help asylum seekers become work ready

Job Services Australia

We contacted Job Services Australia (JSA) to confirm whether asylum seekers on SRSS who had permission to work were eligible for assistance. JSA stated Centrelink determines a person's eligibility to assistance, such as referral to a JSA provider and that if a person was not eligible for Centrelink assistance, then they may be able to receive basic assistance from JSA providers known as Stream 1 (Limited). This means they may have access to a computer and newspapers to help search for a job, may receive assistance preparing their resume, and may be provided with information on job opportunities in their area, including those which may be suitable.²²⁷

We also contacted Centrelink to find out if they referred those on SRSS and who have permission to work to the Department of Employment for JSA. We were told by the Department of Human Services (DHS) on 31 March 2015 they did, however as the payment of SRSS was not activity tested there was no administrative requirement to do so. Should a customer request referral, DHS would refer them – however referral was not standard.²²⁸

A RCOA report indicated there are only a limited number of specialist JSA services targeting CALD groups²²⁹ and that Centrelink does not facilitate appropriate allocation of job seekers to specialist providers. The only specialist CALD provider funded through JSA in NSW in 2010 was identified as Community First Step in Fairfield.²³⁰

Other Strategies

The following examples demonstrate the different strategies we came across to help asylum seekers become work ready, although these examples do not necessarily highlight the complexities that need to be considered when dealing with diverse CALD groups and the additional issues faced by women, usually in relation to family responsibilities.

²²⁷ See Department of Employment, *Job Services Australia Eligibility and How to Register* <<https://employment.gov.au/job-services-australia-eligibility-and-how-register>> [Accessed 28 June 2015].

²²⁸ Email from the Department of Human Services to the authors, 31 March 2015.

²²⁹ Refugee Council of Australia, *What work: Employment strategies for refugee and humanitarian entrants* (June 2010), 4 <https://www.refugeecouncil.org.au/docs/resources/reports/What_Works.pdf>.

²³⁰ Ibid 29.

Basic assistance

Basic assistance includes preparing resumes and job applications and providing job searching facilities and/or information on jobs. Basic assistance will be of some assistance because asylum seekers will not be familiar with the job seeking system in Australia and terms such as 'selection criteria' will be hard for them to understand.

We heard of few organisations (other than JSA) running basic assistance programs. One based in Parramatta called APCO was running a program called 'Filling the gap project' that was designed to help asylum seekers with their resume, with looking for work, and with interview training as well as computer training, however, asylum seekers needed to first be proficient in English.

We were repeatedly told however that basic assistance was insufficient and would not result in asylum seekers finding work and that it was most important to establish supportive employment processes that enable asylum seekers to move into work.

Mentoring and work experience

We were told mentoring and work experience programs were good strategies as these developed networks and confidence and provided asylum seekers with local work experience.

We spoke to service providers who had facilitated work experience for asylum seekers in clothing stores and cafes in Newtown. The café focuses on the basics of running and working in a café by providing general hospitality training, barista skills, food preparation and food hygiene knowledge, and customer service. The clothing store has assisted asylum seekers to undertake Certificate III courses in conjunction with the Sydney Institute.

This quote from a service provider in January 2015 details some of those positive experiences:

We've been approached by a number of different organisations and different companies to get that work placement experience so working with a café in Newtown... it's been going for about a year they contacted us about a year ago about what they could do to welcome people into the community and we set up a six week training program just for general barista training, it gives people a bit of confidence in the Australian work place, to familiarise themselves with customer service practices, food and safety hygiene and so on and so yes it is continuing to do that this year. And there is social enterprise in Newtown – the social outfit is modeled on one in Melbourne called the social studio and it has been going for a number of years, it's both a shop and a training studio, they use recycled materials, and have two in house tailors, one is an Afghani man and the other is a Burmese lady and they work with designers and make one off beautiful outfits but the studio at the back offers classes 2 or 3 times a week, people work on industrial machines, it is a training opportunity, they have just spoken to TAFE about

being able to get people to do a certificate III for free, so sometimes opportunities like that have come up, we've just had people approach us.

We also heard about some limited work experience opportunities at schools and hospitals. We also spoke to a service provider about a program that included asylum seekers in a 12 week mentoring program working alongside staff at a hospital in non-patient areas including hospitality, IT, and administration.

Referral onto the program was by an independent service provider. The program included career counselling at the beginning where it was also made clear that the program would not lead to employment with the hospital as well as at the end of the program when participants were provided with a reference from their mentor as well as a program certificate.

The service provider indicated that asylum seekers gained an understanding of Australian culture, improved their English, met with other people, networked and started to make community connections. Asylum seekers on this program were able to continue seeking assistance from the independent service provider after mentoring and work experience programs finished.

We also talked to another organisation called Fitted for Work that helped women including asylum seekers with interview preparation, personal outfitting, mentoring and work experience.

We also learned that BMMSG had arranged for asylum seekers to obtain work experience in the Mamre House kitchen and garden.²³¹

While we continued to seek out information about more programs, the same programs were repeatedly mentioned to us, leading us to form the view that mentoring and work experience opportunities in NSW/ACT are limited.

Other issues

We heard about a number of schemes designed to provide funding for training related expenses. This quote from a service provider in January 2015 explains the importance of a no interest, micro loan for asylum seekers seeking employment and who are often unable to pay for work related expenses:

Micro loans... are for clients of the employment service to help them get into paid employment. There is very careful consideration about who and which clients are suitable, whether they are going to manage having a small loan and obviously it is interest free... so for example we have just arranged yesterday for a new employer who does traffic control work so they said

²³¹ See Blue Mountains Refugee Support Group, *Annual Reports* <<http://www.bmrsg.org.au/about-bmrsg/annual-reports/>> [Accessed 2 June 2015]. For information on Mamre House, see Mamre House, *About our Charity* <<http://www.mamre.com.au/about-our-charity>>. Mamre is a project of the Sisters of Mercy Parramatta that integrates social enterprise with program delivery.

they have a number of vacancies for our clients if they've got the blue and the white cards. So we have identified some suitable clients and we have provided them with micro loans to be able to get the blue and white cards. (health and safety cards and there are different ones for construction) ... its maybe one day course and some written component and it is often a condition of employment that people have got them. So we've been able to provide the micro loans and help the client register for that course so they will be able to do that, and once they are hired there will be an arrangement about how they can pay back the loan... And they tend to be for smaller amounts, maybe \$100 maybe someone wants to buy some work boots or someone needs equipment for work.

BMRSNG had also provided funding for work training up to \$500 for those on bridging visas for things such as forklift driving.²³²

Training about Australian working conditions

Training issues we identified include educating asylum seekers about Australian working conditions that may differ to those overseas. Training should include what asylum seekers should expect at work including work place culture, how they should expect to be treated and what they can do if treated poorly. Training about Australian working standards should also include information about minimum wages, hours and occupational health and safety standards or at least where to go to find such information.

The Fair Work Ombudsman has a community presentation package which can be used by anyone to tell asylum seekers about their rights at work.²³³

The other informative initiative we came across was from Legal Aid NSW who had designed simple messaging around how to 'spot employment problems' and when to seek employment law advice.²³⁴

We also heard in June 2015 about a STARTTS training employment program that not only looked at pre-employment (how to find a job) and post-employment issues (what are your rights, ABN, EEO, tax, occupational health and safety) but also held a review session four weeks after completion of the two earlier sessions.

Training about different working cultures

Asylum seekers may have to accustom themselves to a different working culture once in Australia. This quote from a CALD volunteer group in February 2015 explains how Australian working conditions may differ to those experienced overseas:

²³² Blue Mountains Refugee Support Group, above n 231.

²³³ The training is at <<http://www.fairwork.gov.au/contact-us/language-help>> and has been translated into a number of CALD languages including Dari and Farsi but not Tamil.

²³⁴ Legal Aid NSW, *Employment Problems* <<http://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/employment-problems>> [Accessed 28 June 2015].

Some of them need to know the working culture. Back home if you say 10.00 and you then turn up at 11.00 that's fine. You have to tell them to say if you are running late.

Helping asylum seekers find work

The discussion below records some of the programs we came across that have either employed or helped asylum seekers into work. Many of these programs emphasized securing sustainable employment opportunities and post placement mentoring. Challenges continue to remain around whether these programs are sustainable and whether there are full-time employment opportunities, as opposed to part time or casual work that potentially see asylum seekers fall back onto government assistance.

Tailored recruitment assistance

ASC has a tailored employment service for asylum seekers not on SRSS that allocates a job adviser to an asylum seeker who will then work with that asylum seeker to assist them find work, study placements, or volunteering roles as well as provide ongoing workplace support. They also employ an Employment Relations Consultant who liaises with potential employers to identify relevant job opportunities which are then referred to the Job Advisor team who put forward suitable candidates for the role.²³⁵ The service reported in April 2015 it had placed 100 people in work in the last 6 months in April 2015 and appears to be successful because of an established network of supportive employers in the City of Sydney area who are willing to offer employment and training places to asylum seekers as part of the service's free specialised employment matching services.

Bright Employment

Bright Employment is a for-profit business that has been operating since October 2013. It is an employment agency that has found employment in both agriculture and hospitality for refugees and more recently, for asylum seekers. While they have previously placed 150 refugees in Tasmania, they also indicated the rapid expansion of the working holiday visa meant refugees and asylum seekers were being blocked at the entry level. They also indicated a short term, hire and fire mentality had crept into hospitality and that more partnerships with businesses were necessary to ensure employment pathways.²³⁶

The BMRSRG noted in its Annual Report 2014 that Bright Employment would consider asylum seekers who were professionally trained in their countries of origin on a case by case basis.²³⁷

Bright Employment had also found employment for over 20 men by collecting resumes and letters for submission to prospective employers and had targeted hospitality, although

²³⁵ Asylum Seekers Centre, above n 26.

²³⁶ Bright Employment, above n 26.

²³⁷ Blue Mountains Refugee Support Group, above n 231.

reasonably good English and full time availability was required. They also noted two men were trained in forklift driving and there was the prospect of work in factories.²³⁸

Social enterprise projects

We came across a number of social enterprise projects, including Bright Employment, the Bread and Butter Project and The Social Outfit. All were driven by a desire to provide sustainable employment opportunities for asylum seekers but were limited by market forces and demand for their product. There was an emphasis on securing sustainable employment opportunities and post placement mentoring. The projects were new, the numbers of asylum seekers employed were small and none of the projects were without their challenges including how to create sustainable employment opportunities. We were also aware there had been problems sustaining social enterprises in both NSW and the ACT and that two such enterprises, one a café and the other a clothing outlet, had closed.²³⁹

The Social Outfit

The Social Outfit is a not for profit business that has employed some asylum seekers. It also works with volunteers (and in particular skilled volunteers) and has been operating since June 2014. At April 2015, it worked with three sewing technicians on site, three retail staff and also has nine asylum seekers attending sewing classes and six asylum seekers undertaking a Certificate III in Clothing Production in partnership with Sydney Institute.²⁴⁰

The Bread and Butter Project created by Bourke Street Bakery

The Bread and Butter project is a not for profit business which aims to teach asylum seekers and refugees baking. Some asylum seekers undertake a certificate 11 in food processing and the project aims to transition them into employment.²⁴¹

Auburn Council

Auburn Council also encourages employment initiatives. The Flavours of Auburn food festival has moved onto training for chefs. Food tours where asylum seekers host cooking

²³⁸ Ibid.

²³⁹ See Natasha Rudra, 'Canberra's No Sweat Fashions shuts up shop', *The Canberra Times* (online), 11 August 2014 <<http://www.canberratimes.com.au/act-news/canberras-no-sweat-fashions-shuts-up-shop-20140810-101fza.html>> [Accessed 28 June 2015].

²⁴⁰ Newtown Precinct, *The Social Outfit* <<http://www.newtownprecinct.com.au/article/social-outfit>> [Accessed 16 June 2015]. The Social Outfit provided the image for the front page of this paper.

²⁴¹ See Bread and Butter Project, <<http://thebreadandbutterproject.com/>>; Dominic Rolfe, 'Bread and butter', *The Sydney Morning Herald* (online), 27 September 2013 <<http://www.smh.com.au/lifestyle/bread-and-butter-20130926-2u91w.html>> [Accessed 16 June 2015].

classes have been held and training has been provided to expand the skills of refugee cooks.²⁴²

Auburn Council also ran Refugee Camp in My Neighbourhood, whereby 40 tour guides including asylum seekers were recruited and provided with accredited training.²⁴³

A number of tour guides have been subsequently engaged as speakers or tour guides during adapted versions of the camp model by schools, universities, community and church groups across Sydney.

STARTTS

STARTTS has the Refugee Enterprise Facility Project that aims to assist asylum seekers and refugees with their own business ideas in areas such as catering, fashion, and childcare.²⁴⁴ They also run families and cultural transition groups whereby they train bi-cultural facilitators and then pay them to run groups for their own communities in areas such as budgeting, where they can buy cheap food and bulk food and how families can come together to buy bulk food.²⁴⁵

One off initiatives

We also heard about instances where service providers had been approached and were then able to link asylum seekers with various organisations for work placement. This quote from a service provider in January 2015 explains positive outcomes for asylum seekers when they were linked with organisations for work placement:

We've had two placements last year, both fantastic, the school fund raises the money and says we now have enough money to pay somebody for a term, they get paid according to award wages and superannuation etc. and the school can tailor the placement, how they want it to be so it could be we had one guy who was in the IT department, then a woman who worked around a bit but wanted to be in the library and so she stayed there, so connections from school, a guy got his job with the it department and another lady who moved around a bit but then she really wanted to work in the library so that is where she stayed and it's a great opportunity again, just for that initial experience in the Australian workplace, but also the

²⁴² See Auburn Small Community Organisation Network, *Flavours of Auburn Event* <<http://flavoursofauburn.com.au/flavours-of-auburn-event/>> [Accessed 16 June 2015].

²⁴³ Refugee Camp in my Neighbourhood, <<http://refugeeweekauburn.com.au/about/>> [Accessed 24 June 2015].

²⁴⁴ STARTTS, above n 25.

²⁴⁵ Jasmina Bajraktarevic-Hayward, 'Intersections between STARTTS systemic approach and food security' (Speech delivered at Putting Food on the Table Conference, Sydney, 14 October 2014) <<https://www.youtube.com/watch?v=95lTKxqxDsA>> [Accessed 28 June 2015]. The talk was about social capital, refugees and food security and is well worth listening to in full.

connections you get from the teachers and the schools so one guy who was in IT got a job with DELL just after finishing up in January this year and the other lady started her diploma in library studies as a result of it so again that was just something whereby we were just approached.

Regional NSW

The December 2014 announcement which re-introduced TPVs and the new SHEV may see asylum seekers move to regional areas outside of Sydney, Newcastle, or Wollongong,²⁴⁶ since the changes have introduced a very limited opportunity of permanent residence for those moving to a designated regional area. Under the changes, IMAs will only be eligible for a three year TPV visa or a five year SHEV. A TPV holder would only ever be able to re-apply for a TPV whereas the SHEV will offer the very limited opportunity of permanency via another type of visa. It will permit holders to apply for other visas such as a skilled or partner visa where they have worked or studied in a designated regional area for a total of 3.5 years without accessing government financial assistance. The designated regional areas do not include Newcastle and Wollongong where many migrants have settled, so there may be issues. Asylum seekers recognised as refugees will be required to move to rural and regional areas which could be far from community support systems and others who speak their language and share their culture. In addition, the kind of work available in regional areas may end up being seasonal work, such as fruit picking or working in abattoirs, and may mean asylum seekers will not find work that will then enable them to successfully apply for a permanent visa on the basis of their work experience.

Some asylum seekers have gone to regional areas, particularly if they have had links there or if there have been employment opportunities.²⁴⁷ However, a service provider we spoke to in December 2014 noted that while some asylum seekers were looking at regional areas and some had picked fruit, few jobs existed.

In an attempt to understand the issues asylum seekers in regional areas face, we interviewed service providers about Wagga Wagga in April 2015. The DIBP's figures show that as at March 2015 there were 96 asylum seekers living in Wagga Wagga and the surrounding area.²⁴⁸ We were told that asylum seekers usually came to the area because

²⁴⁶ Under the legislation, the stated purpose of safe haven enterprise visas is to provide protection and to encourage enterprise through earning and learning while strengthening regional Australia. If a person satisfies the requirements for working, study and accessing social security prescribed for the purposes of paragraph 46A(1A)(c) of the Act, section 46A will not bar the person from making a valid application for any of the onshore visas prescribed for the purposes of paragraph 46A(1A)(b). This does not include permanent protection visas. It was reported on 31 May 2015 that the NSW government was the first State to sign up in principle to the SHEV scheme, which gives people assessed to be refugees the opportunity to gain five-year visas if they are prepared to work or study outside of cities – Sydney, Newcastle and Wollongong in NSW's case. See Helen Davidson, 'NSW signs up to place refugees in regional areas on five-year visas', *The Guardian* (online), 31 May 2015 <<http://www.theguardian.com/australia-news/2015/may/31/nsw-signs-up-to-place-refugees-in-regional-areas-on-five-year-visas>> [Accessed 10 June 2015].

²⁴⁷ Refugee Council of Australia, above n 80.

²⁴⁸ According to DIBP statistics as at 31 March 2015, the number of asylum seekers in Wagga Wagga is 50 and the surrounding areas of Forest Hill, Ashmont, Koorinal, and Junee is 46. Whereas the DIBP statistics released in December 2014 identified more than 10 IMAs living in Tollard, Tollard was not included in the March 2015 statistics. See Department of Immigration and Border Protection, above n 49.

they had a personal connection or because they had been lured by the promise of a job at the meat works (abattoirs). The service provider observed that they were only just starting to see bridging visas with work rights in the last three weeks, and that the available jobs were either working at the meat works at Leeton and Wagga Wagga or picking fruit in Griffith.

The service provider observed that asylum seekers were not entitled to any additional support outside of their SRSS payments. There was also no multi-cultural hub or free English classes available. Housing was also a big problem for asylum seekers who came from Sydney via recruitment agencies and that some had become virtually homeless. There were also stories of men arriving at the train station in the middle of the night with no idea of what to do or where to stay.

6.2.1 ASYLUM SEEKERS ON GOVERNMENT ASSISTANCE

Who is receiving government assistance?

When you hear someone is on ASAS, it's almost as good as hearing someone is in full time work in comparison to and I know that's not accurate, people on special benefit, and no one can live on special benefit really, but compared to someone who has no income, it's starting to sound like a good deal so I think that is what happens.

- Service provider January 2015

Knowing which community asylum seekers are on government assistance is an important step in ascertaining need, since asylum seekers who can access government support have at least some ability to pay rent, even if in shared accommodation.

Up until recently, government assistance to community asylum seekers was entirely administered by service providers. This meant that whereas CAS and CAS TS was administered by the Red Cross nationally, in NSW ASAS was largely administered by the Red Cross and SSI.

By December 2014 government assistance was consolidated into the new Status Resolution Support Services (SRSS) program which drew these programs together into a system of 6 Bands that offered varying levels of support based on need and vulnerability. While delivery of government assistance payments was transferred from service providers to DHS, the new service providers were responsible for casework assistance.

The SRSS program remains policy based and while some information has recently been released about the program,²⁴⁹ little information is publically available.²⁵⁰

²⁴⁹ See Department of Immigration and Border Protection, *SRSS programme* (17 April 2015) <<https://www.immi.gov.au/About/Pages/srss-programme.asp>> [Accessed 22 June 2015]. This is also repeated at Table A of the annexures to this paper.

²⁵⁰ The PAMS guidelines were updated and the DIBP website was also updated. The PAMS however refers DIBP staff to the SRSS PAM in Trim ADD2014/1334457 which is not publicly available. See Australian Department of Immigration and Ethnic Affairs, *Procedures Advice Manual 3: Migration Act – Compliance and Case Resolution* (at 232 – June 2015) [P A173.32].

The following table shows how the government assistance program has been consolidated into SRSS and the new service providers.²⁵¹

UMA,CD, CAS(TS),CAS ,ASAS	SRSS program	NSW Service provider
Unaccompanied minors in alternative places of detention	SRSS Band 1	*
Community detention program	SRSS Band 2 and Band 3	*
Community Assistance Support (Transitional Support) Program	SRSS Band 4	Red Cross, Life Without Barriers, Marist Youth Care, SSI
Community Assistance Support (CAS) program	SRSS Band 5	Red Cross, Life Without Barriers, Marist Youth Care, SSI
Asylum Seeker Assistance Scheme (ASAS) Program	SRSS Band 6	Red Cross, Life Without Barriers, Marist Youth Care, SSI

	Asylum seekers in community detention programs
	Asylum seekers on bridging visas

* We have not included these service providers since this paper does not deal with detention.

Current service providers

As noted in the table, four, as opposed to the previous two, service providers in NSW have been contracted to provide casework assistance for all bands relevant to asylum seekers on bridging visas. The other difference is that whereas previously, Red Cross was solely responsible for the delivery of CAS and CAS TS, now all four service providers are responsible for all Band 4-Band 6 programs. In addition, and unlike the previous model, referral to DIBP for SRSS applications from non-IMA asylum seekers are now handled by all four service providers instead of just the Red Cross. Under the new arrangements it is also anticipated that if and when asylum seekers transit through the various bands, they will remain with the same service provider.

This section looks at how much financial and casework assistance is available under the SRSS program. Reports that asylum seekers who are in financial hardship are being rejected for government assistance are dealt with in section 6.3.2 of this paper.

Financial assistance under SRSS

How much financial assistance is provided?

Government financial assistance is provided to asylum seekers who are assessed as experiencing financial hardship. According to the department, financial hardship means an

²⁵¹ Department of Immigration and Border Protection, above n 249.

income of less than 89% of Centrelink, no disposable assets or funds in Australia or overseas and no continuing and adequate support from family, friends or other people or organisations in the Australian community or overseas.²⁵²

For those who qualify, the level of assistance will depend upon personal circumstances and the level of need or vulnerability.²⁵³

Whereas the majority of asylum seekers initially released from detention were eligible for CAS TS for up to six weeks and then moved onto ASAS, families released after December 2014 with a child 10 or less were eligible for up to 12 weeks Band 4 and could potentially move onto Band 5 for another six weeks. All other cases were subject to the standard six weeks after which time most moved onto Band 6.²⁵⁴

Information about the payment structure for those on Band 5 and Band 6 is difficult to find,²⁵⁵ however based on the information released from DIBP in February 2015:

- a single asylum seeker is paid \$462.00 per fortnight or 89% of the special benefit,²⁵⁶
- a single asylum seeker aged between 18 and 21 is paid \$426.80 per fortnight or 100% of youth allowance.²⁵⁷

According to the Centrelink website, asylum seekers may also be eligible for rental assistance allowance and those with children may also be eligible for the dependent child allowance.²⁵⁸ Rental assistance varies depending on circumstances and special rules apply if an asylum seeker is a single sharer or pays board and lodging. Currently, the maximum rate

²⁵² Department of Immigration and Border Protection, *Form 1455: Application for Status Resolution Support Services (SRSS) – Band 6* <<https://www.immi.gov.au/forms/Documents/1455.pdf>> [Accessed 29 June 2015].

²⁵³ Department of Immigration and Border Protection, above n 249.

²⁵⁴ See Department of Immigration and Border Protection, *Summary of what IMAs awaiting processing may access under the community support programmes – February 2015* <<http://www.ruralaustraliansforrefugees.org.au/wp-content/uploads/2014/12/IMA-access-to-Cmty-Prog-Support-Summary-Table-Feb-2015.pdf>> [Accessed 28 June 2015]. This summary is also at section 8.1 of this paper.

²⁵⁵ The Centrelink website offers minimal information. It states DIBP will decide and that SRSS provides a living allowance. See Department of Human Services, *Status Resolution Support Services Payment* <<http://www.humanservices.gov.au/customer/services/centrelink/status-resolution-support-services-payment#a5>>.

The one valuable document that we found was the Summary of what IMAs awaiting processing may access under the community support programmes – February 2015 however it is hard to find and quickly dates. See Department of Immigration and Border Protection, above n 254.

When the then opposition Senator Cash asked for a breakdown of the payment structure by amount per week covering formulas for client circumstances e.g. single unaccompanied adult no dependents on 17 October 2011, she received comprehensive information. See Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Supplementary Budget Estimates 2011-2012 - Immigration and Citizenship Portfolio – Question on Notice: SE11/0252* (17 October 2011), <http://www.aph.gov.au/~media/Estimates/Live/legcon_ctte/estimates/sup_1112/diac/SE11-0252.ashx> [Accessed 28 May 2015].

²⁵⁶ Special Benefit is a maximum of \$519.20 per fortnight (as at June 2015).

²⁵⁷ The Youth Allowance is a maximum of \$426.80 per fortnight (as at 1 January 2015). DIBP indicates 100% of the youth allowance is payable (above n 254) whereas RCOA's earlier letter to the then Secretary of DIBP suggested only 89% of the youth allowance was being paid (RCOA above n 121).

²⁵⁸ Australian Government Department of Human Services, *Status Resolution Support Services Payment* <<http://www.humanservices.gov.au/customer/services/centrelink/status-resolution-support-services-payment>>.

of rental assistance for a single person with no children in shared accommodation is \$85.07 per fortnight. A single asylum seeker would receive no more than 89% of this amount (that is, up to \$75.71 per fortnight).²⁵⁹

Criticism of the amount of financial assistance provided

The amount of assistance provided to asylum seekers has received wide and protracted criticism because 89% is significantly below the poverty line which has been determined by ACOSS in 2012 to be 50% of median income or, for a single adult \$400 per week, or for a couple with two children \$841 per week.²⁶⁰ In addition, asylum seekers have and will be required to live on this reduced rate for years.

These two quotes from service providers in January 2015 illustrate what often cannot be covered by government assistance:

For a single they get \$530 including rent assistance a fortnight. After rent, food, transport they don't have much.

By the time you pay rent, there is not enough for food. We live in a society where most people have a phone. This is asylum seekers, young people, by the time you pay for phone and accommodation there is not much left, so the only variable in income is food, they can choose not to eat, or find other ways more cost effective. We find they come here.

It has also been argued that asylum seekers have the very same (if not more) financial needs as an Australian who is in a similar position, however it is assumed they can survive on 89% of the income available to an Australian on the Centrelink Special Benefit.

There appears to be no objective or reasonable justification for treating asylum seekers differently. A more basic argument however is if government assistance fails to assess the actual needs of community asylum seekers, then calculating payments on the present basis is not a rational way of calculating adequate support.

The other point is that the SRSS delivery arrangements are part of the Community Status Resolution Service (CSRS) which has been tasked with 'providing clear and personally relevant information about a person's situation and their visa or departure options, so people can make informed decisions sooner.'²⁶¹ The application for government assistance itself talks about the other options available to applicants and that they might be eligible for

²⁵⁹ Luke Buckmaster and Jonathon Guppy, 'Australian Government Assistance to refugees: fact versus fiction', (Research Paper Series 2014-2015, Parliamentary Library, Parliament of Australia, 2014) <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/AustGovAssist-refugees> accessed 1 May 2015. The Summary of what IMAs awaiting processing may access under the community support programs from DIBP in February 2015 did not detail whether asylum seekers are eligible for rent assistance.

²⁶⁰ Australian Council of Social Services, *Poverty in Australia 2014* (2014), 8 <http://www.acoss.org.au/images/uploads/ACOSS_Poverty_in_Australia_2014.pdf> [Accessed 27 January 2015].

²⁶¹ Department of Immigration and Border Protection, *Community Status Resolution Service fact sheet* <<http://www.immi.gov.au/managing-australias-borders/compliance/community-status-resolution/csrs-fact-sheet.htm>> [Accessed 11 November 2014].

assistance if they choose to return home voluntarily.²⁶² Observers have already stated that combining an underfunded support service with a regime that raises departure options before protection visa claims are finalized does not sit well with the notion of voluntary return if the results are so severe that they encourage return to a place of persecution (see section 5.1.2 of this paper).

Young asylum seekers

Young asylum seekers live on even less since their assistance was reduced to 100% of the youth allowance (as at 30 June 2015 this is a difference of some \$35 a fortnight).²⁶³ When asked why they were paid less, the then Minister stated the change would put young asylum seekers in the same category as Australians of the same age. Because of the younger age profile of asylum seekers in general, many have been affected by the decision to reduce their living allowance.²⁶⁴

RCOA has stated that unaccompanied minors under 18 years are of particular concern. While they initially receive more intensive support than adult refugee and humanitarian entrants, they are expected to quickly transit to independence as soon as they turn 18, despite the fact that they have no family in Australia, lack support and cannot access additional settlement services.²⁶⁵

It is difficult to understand why that is acceptable when asylum seekers have practical financial needs that young Australians do not. The sole consideration should be whether asylum seekers are being provided with adequate subsistence support. When questioning the change, RCOA stated that an independent young person seeking asylum has the same financial needs as asylum seekers over the age of 22.

RCOA's understanding was that Youth Allowance payments were lower in order to encourage young people to remain in their parental home and stay at school, training or employment. None of this applies to young asylum seekers who are mostly separated from family and without parental support.²⁶⁶

Neither is the comparison logical when asylum seekers do not have the same study opportunities as young Australians. They can only access higher study institutions if considered as overseas students. Of even more concern however is Homelessness NSW's

²⁶² Department of Immigration and Border Protection, above n 252.

²⁶³ Refugee Council of Australia, above n 121.

²⁶⁴ The publically available statistics do not detail how many IMA asylum seekers are aged between 18-21 however, they do show the proportion of IMA asylum seekers aged 18-25. As of 31 March 2015, 6705 out of 27 216 IMAs were aged 18-25 or 25%. See Department of Immigration and Border Protection, above n 49.

²⁶⁵ 'Welfare reform must include refugee employment – RCOA', *Pro bono Australia* (online), 15 August 2014 <<http://www.probonoaustralia.com.au/news/2014/08/welfare-reform-must-include-refugee-employment-rcoa#sthash.37xCw3lx.dpuf>> [Accessed 25 November 2014].

²⁶⁶ Refugee Council of Australia, above n 121.

observation that refugees and asylum seekers are very vulnerable to homelessness and young refugees are six times more likely to become homeless than other young people.²⁶⁷

6.3 The way financial assistance is provided

The transfer of payments from service providers to Centrelink

Delivery of government assistance payments were transferred from service providers to DHS²⁶⁸ towards the end of 2014 and was viewed by some as part of government efforts to move responsibility for settlement related services out of DIBP and into other government portfolios.

This quote from a service provider in January 2015 demonstrates the confusion that occurred when government assistance payments were transferred from service providers to DHS:

It's all changed and I'm still waiting to hear who is doing what..... I only know that because the caseworker from community detention and she said about SRSS, oh we're not even referring to it as ASAS, I knew there was a new structure but I didn't realise that it had a new name.

One service provider in December 2014 stated the income support payment changeover was 'a debacle, some clients haven't been paid, some have been paid a different amount.' According to the service provider, the reason why this was occurring had not been communicated but they thought it may have been because of changes in relation to when payments were made. Yet another service provider stated in December 2014 that asylum seekers were not paid correctly and there was not always a pattern or reason as to why this was happening.

This quote is from a service provider in January 2015 who said DHS would not talk to them when they tried to help asylum seekers talk to DHS:

When the payments were transferred to Centrelink they asked us not to assist them with dealing with Centrelink so initially when we transitioned them there were so many hiccups and we tried to help them but Centrelink would not talk to us and so we used to keep waiting on the phone getting someone to talk to them and then they wouldn't understand what they were saying.

²⁶⁷ Homelessness NSW, *Cultural diversity and homelessness* <<http://www.homelessnessnsw.org.au/resources/about-homelessness/101-cultural-diversity-homelessness>> [Accessed 25 November 2014].

²⁶⁸ The Department of Immigration and Border Protection states that under the SRSS, payments to those IMAs who are eligible for support under the programs will be administered by Centrelink on behalf of the department. The payments will not be Centrelink benefits, but will be made available through Centrelink service arrangements. See Department of Immigration and Border Protection, *Fact Sheet 65 – Bridging E Visas for Illegal Maritime Arrivals* <<http://www.immi.gov.au/About/Pages/media/fact-sheets/fact-sheet-65.aspx>> [Accessed 11 November 2014].

Casework support

While government assistance payments have been transferred to DHS, casework support has remained with service providers. We heard a number of concerns about casework support, which can be summarized as follows:

- Concerns about moving from one SRSS program to another
- Identifying vulnerability and
- Diminishing casework support

Moving from one SRSS program to another

We also heard concerns about the information available to asylum seekers when they move from programs that provided accommodation to programs where they needed to find their own accommodation or from programs where they had to move from one health service provider to another. This quote from a service provider in November 2014 refers to asylum seekers who have moved from community detention and onto a bridging visa:

Families in community detention are cushioned to a certain extent. When they leave community detention, they have to drop their standards, they can't afford a 2 or 3 bedroom place which is standard in community detention, they go for a one bedroom apartment or a granny flat. A single male adult with a male child will live in a house of up to 9.

This quote from a service provider in December 2014 talks about the confusion asylum seekers face when their health service provider changes when they move from community detention and onto a bridging visa:

It goes from IHMS²⁶⁹ to Medicare. IHMS involves a card, there were certain service providers you could go to, it completely changes. I don't know if that is well explained. They have a case worker at DIBP and then they don't with CAS. It's a lot of information when they change from program to program. Accommodation changes as well. With Community detention it's pre-arranged, rent is covered, with CAS they have to find their own accommodation.

We also heard concerns about the pace at which the majority of asylum seekers were expected to move from Band 4 to Band 6 and that government assistance was based on arbitrary time limits rather than need. These concerns may have been alleviated somewhat at least for some given that since December 2014, families with children 10 and under have been given an additional period on Band 4 before they move onto Band 5 or Band 6.²⁷⁰

²⁶⁹ International Health and Medical Services Pty Ltd (IHMS) is DIBPs contracted health service provider.

²⁷⁰ See Department of Immigration and Border Protection, above n 254.

Identifying vulnerability

Band 5

Approval for Band 5 means that asylum seekers are assigned a caseworker to help them address their health and wellbeing, vulnerability and other identified barriers. Previously, to be regarded as vulnerable for the purposes of the CAS program a person must have met at least one of the following criteria:

- have a diagnosed mental health condition
- have a significant disability or serious health issue
- be an elderly person
- be a minor at risk of harm, including an unaccompanied minor
- be suffering the effects of torture and trauma
- be suffering domestic abuse or violence
- be suffering impaired mental or physical ability.²⁷¹

The current Procedures Advice Manual (PAMS) guidelines (the guidelines) are presumably in response to DIBP's internal audit report into the community detention and bridging visas dated 28 February 2014. That report found that the main risks to granting a bridging visa was a failure to correctly identify and respond to vulnerable clients as well as inadequate preparation of people for release into the community.²⁷²

The guidelines provide instructions on how to identify and assess vulnerability and use eight 'domains' to identify vulnerability (the VIAT domains):

Domain 1 – Serious physical health problem, disability or condition

Domain 2 – Significant mental health problem

Domain 3 – Cognitive impairment

Domain 4 – Adverse psychological effects of trauma

Domain 5 – Risk of self-harm

Domain 6 – Destitution

Domain 7 – Adult at risk of harm

Domain 8 – Child at risk of harm.²⁷³

While the Guidelines specifically include adults and children at risk of harm, we did hear some concerns that it remains unclear as to how the eight VIAT domains include those with

²⁷¹ Buckmaster and Guppy, above n 259.

²⁷² DIBP requested an internal audit to assess whether adequate controls were in place to manage the risks involved in moving asylum seekers into community detention or onto a bridging visa E and to examine the DIBP's management of the community detention program. Part of the DIBP Internal Audit report was released under FOI. See Department of Immigration and Border Protection, *Internal Audit report – Community Detention & Bridging Visas for IMAs* (28 February 2014), 6 <<http://www.immi.gov.au/About/foi/Documents/FA140701182.PDF>> [Accessed 16 June 2015].

²⁷³ Australian Department of Immigration and Ethnic Affairs, *Procedures Advice Manual 3: Migration Act – Compliance and Case Resolution* (at 232 – June 2015) [P A174.43].

family difficulties including child abuse, domestic violence, serious relationship issues or child behavioral problems.

Diminishing casework support

Band 6

The majority of asylum seekers have been on Band 6 for an unprecedented and protracted period of time. While casework assistance for those on SRSS Band 5 is clearly envisaged, we heard concerns about diminished casework support available for asylum seekers on Band 6 and statements such as ‘there are now no more caseworkers because asylum seekers were now going directly to Centrelink’ were common.

Conversations with service providers in December 2014 suggested that caseworkers previously had 40 clients but were now seeing between 70-80 clients. This essentially meant most asylum seekers would only get a phone call every month. It was also reported in the media that operational changes meant service providers could not allocate a specific caseworker and that instead they would deal with rostered-on staff at a hub.²⁷⁴

Through our investigations we understood the hub system meant high needs clients estimated at 30-35% of all casework would be seen 3 days a week and that a ‘light touch’ two-day drop-in service catered for the rest. Unless there were exceptional circumstances, assistance for those on Band 6 was office based, whereas there was more of an expectation service providers would meet those clients on Band 5 in the community.

This quote from a service provider in December 2014 talks about their casework role and the difficulty asylum seekers have trying to find housing:

The caseworker does a little bit, we have to push back because of resources, you have to encourage clients to go and look for accommodation, there is no service provider helping, it's up to them. The best way to look is through their community links or through churches, we encourage them to talk to anyone they know. With ASAS, unless there are exceptional circumstances, its' all office based, with CAS there is more expectation that you will meet clients in the community.

While we understood that asylum seekers were still being contacted once a month and were being asked routine questions, these quotes from an asylum seeker and non-government service provider were also typical of what we heard:

I took the letter from the hospital and went to Immigration and then I approached (the government service provider) and told him the situation. He said he would chase it up but nothing happened. I talked to Immigration and

²⁷⁴ ‘500 Asylum Seeker Support Staff to go’, SBS (online), 2 September 2014, <<http://www.sbs.com.au/news/article/2014/09/02/500-asylum-seeker-support-staff-go>> [Accessed 17 November 2014].

they said go to (the government service provider). My eyes have cataracts, the left one is worse than the other one.

- An asylum seeker in February 2015 talking about his attempts to renew his expired Medicare card. When asked for further details, the asylum seeker indicated he had been told a couple of weeks ago by Medicare that because his visa status had not been confirmed, a Medicare card would not be re-issued.

If they are offering services where does it say that? It's not advertised. And asylum seekers won't ask. They are so scarred.

- Non-government community service provider commenting on services by government funded service providers February 2015

We were left with the overall impression that casework for the majority of asylum seekers on SRSS Band 6 involves referring asylum seekers to non-government funded service providers. This has had the unfortunate result that asylum seekers are either left to rely upon themselves or the initiatives of the already overstretched CALD volunteer groups or other non-government funded organisations including church and other groups. We were also left with the overall impression that the current casework role overwhelmingly relies upon the good will of individual caseworkers and/or service providers and/or the community without considering the sustainability of that good will over a protracted period.

Mutual Obligation Program

The government has announced a 'mutual obligation program' whereby asylum seekers would be in work for the dole arrangements which eventually would extend to temporary protection visa holders. It was also announced that up to 400 asylum seekers would participate in a pilot program covering so-called Mutual Obligations Community Engagement Activities.²⁷⁵

While the government couched the program in terms of 'volunteering,' the legal definition of work under r.1.03 of the Migration Regulations is 'an activity that, in Australia, normally attracts remuneration' which means that any activity that normally attracts payment, irrespective of whether money or some other kind of reward is given is still work. It also means that volunteering must not amount to unpaid work, or job substitution.

Given the restrictive legislative meaning of work, if asylum seekers are not allowed to work, then 'work for the dole' arrangements are impossible and it seems inevitable the 'no work'

²⁷⁵ 'The Budget and asylum seekers on bridging visas', SBS (online), 16 May 2014 <<http://www.sbs.com.au/news/article/2014/05/16/budget-and-asylum-seekers-bridging-visas>> [Accessed 20 January 2015].

condition would need to have been re-examined in order to make the proposed mutual obligation program work.

It remains to be seen if the mutual obligation program will apply to asylum seekers. Paul Power from the Refugee Council of Australia was cautiously optimistic when the program was announced in May 2014 and said it could be good news for asylum seekers when he stated:

I actually had a meeting with a number (of asylum seekers) talking about how useless they feel and how desperate they are to contribute to Australian society so in that environment oddly an appropriate form of mutual obligation program could actually be welcomed by quite a number of people because they've been frozen out of any opportunity to work. It very much depends on the quality of the program. If it's to punish asylum seekers further then it will just add to the burden.²⁷⁶

This quote from a service provider in January 2015 talks about the potential problems of placing asylum seekers on a work for the dole scheme:

I haven't heard whether it is going to be rolled out and enforced for asylum seekers and how that will be managed because there are so many considerations about suitability about training being given to people, about spoken or written English, about health.

In addition, if asylum seekers are in the program because of a risk of income support sanctioning, it needs to be considered whether that situation may lead to asylum seekers being vulnerable to exploitative work.

6.3.1 Living on government assistance

We attempted to understand whether the government assistance is adequate, and if not, then how asylum seekers are covering their housing and out of pocket expenses. The other expenses we have looked at relate to services, including legal, health, education and recreation.

We would make the following observations:

Since the government funded service providers are largely governed by their contractual obligations if government assistance is inadequate, then asylum seekers are relying upon the non-government funded service providers including the CALD volunteer groups and mainstream welfare agencies to assist them. The three main non-government funded service providers who specifically work with community asylum seekers primarily work with those who are not receiving financial assistance. However, the House of Welcome and the JRS in Parramatta (which opened in January 2015) provide some services to asylum seekers on government assistance but their needs are identified as low rather than high.

This quote explains why one service provider limits their services:

²⁷⁶ Ibid.

In the past we were able to provide services to people who were receiving ASAS so for example English classes and lunches however even though those services have been growing there are a large number of asylum seekers in the community so we did look at review and said who were the people most in need who were not having their needs met by any other services and we have changed some of our eligibility criteria in the past few years to make sure that we are focusing on people who don't have any other options. So we don't distinguish by method of arrival we have people who have arrived by plane as well as people who have arrived by boat as clients but we do look at what services people are accessing when they first come to our centre and ask for help and so if people are receiving ASAS or are in community detention when they first request our help then we are not able to take them on as a client.

While the non-government funded service providers who specifically work with asylum seekers understand the difference between those asylum seekers on government assistance and those who are not, the mainstream welfare agencies may not be distinguishing on this basis and may be experiencing a higher demand for their welfare services from all asylum seekers.

Asylum seekers on government assistance are dependent on the CALD volunteer groups for things such as English lessons and recreation where these exist.

The other observation we would make is that the precarious nature of the day to day existence for asylum seekers presents considerable challenges when it comes to one off payments such as utility bills or mishap since there is no buffer for them to rely on. This quote from an asylum seeker in February 2015 illustrates the point:

I've lost my wallet and I haven't been able to eat since 2 days ago. I haven't had any money to purchase anything at all. I have family back home and I send money for them and one of the children I have is intellectually disabled.

6.3.1.1 Accessing Housing

Finding accommodation

While affordable housing is an issue for many, it has a major impact upon asylum seekers. Most asylum seekers who are released from detention are provided with accommodation for the first six weeks, but after that, they or their caseworker must find other accommodation.

A recent RCOA report that looked at the challenges and alternatives in sustainable housing for asylum seekers suggested the pressure to move out within six weeks can place people in extremely vulnerable positions.²⁷⁷ As already noted, a recent exception to this transition period was made for families with a child aged 10 and under released from detention after late 2014 who are given 12 weeks accommodation before an assessment of ongoing need.

Housing set aside for asylum seekers by the three main non-government funded service providers is not available to those on government assistance, although one of these service

²⁷⁷ Refugee Council of Australia (November 2014), above n 163, 26.

providers makes an exception for those who may have obtained government assistance after they have moved into their housing at which time they may end up contributing subsidised rent. Few asylum seekers on government assistance however, are housed under this program.

Asylum seekers are ineligible for public housing and the majority of those on government assistance must become tenants in the private rental market that is short on affordable rental housing. Statistics suggest Sydney's southwestern suburbs have a sizeable IMA asylum seeker population, notably in Auburn²⁷⁸ and its surrounding suburbs however there have also been substantial rent increases in these areas (discussed below).

A recent report from the NSW Select Committee on Social, Public and Affordable Housing dated 8 September 2014 recommended the Department of Family and Community Services develop, as a priority, a strategy for improving access to social, public and affordable housing for vulnerable groups, including asylum seekers.²⁷⁹ The report noted that limited income, high housing costs and poor access to the labour market, discrimination by landlords, and a lack of rental history make it difficult for asylum seekers to compete in the private rental market. It further noted that they do not have family support or other networks and they are turning to charity and religious organisations for assistance. In some cases, they are forced to live in overcrowded conditions.²⁸⁰

It is unclear whether asylum seekers are accessing specialist homelessness services. These are diverse and vary in size and function, are faith based (or not), provide services for a particular group (or don't) and receive substantial government funding (or don't). Most asylum seeker homelessness concerns are around those who are not receiving government assistance. However the national peak body for homelessness in Australia, Homelessness Australia surveyed specialist homelessness services across the country about their 'new migrant' client load and identified an increase in October 2013 compared with 2012 of asylum seeker pre and post August 2012 caseloads,²⁸¹ the same caseload that is presumably accessing government assistance. The same report also identified an increase of 18% of Iranian and Afghan clients over the past year compared with the previous year.²⁸² Further research may be required to ascertain whether this survey is accurate and does include asylum seekers who are receiving government assistance.

We were told that most specialist homelessness services require some income to be eligible to access accommodation support. We were also told that while some asylum seekers may present at day services to meet their basic needs such as showers and food, they may not

²⁷⁸ Department of Immigration and Border Protection, above n 49, 6.

²⁷⁹ Select Committee on Social, Public and Affordable Housing, Parliament of New South Wales, *Social, Public and Affordable Housing* (2014) xix, Recommendation 7
<[http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/12b4da4578015782ca257d4d00120ffe/\\$FILE/Report%20on%20Social,%20public%20and%20affordable%20housing%20-%20September%202014.pdf](http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/12b4da4578015782ca257d4d00120ffe/$FILE/Report%20on%20Social,%20public%20and%20affordable%20housing%20-%20September%202014.pdf)> [Accessed 9 October 2014].

²⁸⁰ Ibid 89.

²⁸¹ Homelessness Australia, above n 60.

²⁸² Ibid.

disclose their immigration status. The recent RCOA report also noted some service providers cited specific difficulties in sourcing support for homeless asylum seekers and there appeared to be considerable confusion regarding whether or not asylum seekers were eligible for homelessness services.²⁸³

We attempted to ascertain whether asylum seekers were sleeping rough, however we were told local government councils that engage with rough sleepers do not ask such direct questions.

We were also told if asylum seekers were staying with family and friends they may be charged rent equivalent to their government assistance payments. We were also told asylum seekers couch-surfed which led to unstable living situations and meant they may not have access to amenities such as kitchens.

What sort of accommodation?

The fact that asylum seekers are on government assistance does not mean accommodation is affordable. The November 2014 report from RCOA stated that many service providers expressed concern that clients were spending an unsustainable proportion of their income on rent.²⁸⁴ RCOA also noted a service provider in NSW stated the minimum rent for a two-bedroom unit in accessed suburbs was \$320 or \$350 for a two-bedroom unit.²⁸⁵ A recent *Weekend Australian* story in March 2015 however reported the median asking weekly rent for an apartment in Auburn at that stage was \$420.²⁸⁶

The following quotes from asylum seekers and service providers between November 2014 and March 2015 are about asylum seeker accommodation experiences. While many single men live in group houses with a lot of people in order to save costs, families are living in two bedroom units. Concerns were also expressed in February 2015 that those currently being released from detention are in unsustainable hotel/motel accommodation.

The other concern raised was that asylum seekers can easily fall into homelessness if their accommodation arrangements fall apart and their limited social networks break down. We were also told that in such situations, there was no obligation for the government funded service provider to assist in finding alternative accommodation.

I have seen asylum seekers exploited in very poor quality accommodation with high rents eg one had a half of a garage to live in, had to cook in the open, go into the house for use of bathroom and was charged \$140pw.

- Service provider November 2014

²⁸³ Refugee Council of Australia, above n 163, 20.

²⁸⁴ Ibid 11.

²⁸⁵ Ibid.

²⁸⁶ 'Australia's top 50 Suburbs: Apartments for the year to November 2014', *The Weekend Australian*, 14-15 March 2015.

If they are staying with family and friends and they know how much they get, they may take it. You are staying at my house that is the rent we will need.

- Service provider March 2015

The only solution on the Government funded income is to find 5, 6, 7 or 8 asylum seekers in overcrowded accommodation with only one bathroom, then if it doesn't work, then they find themselves in a precarious situation, whether they knew each other from the same village or same boat. But if they have nothing to do and there is an argument over something petty or if they clash or if it doesn't work out, they can find themselves in an extremely precarious situation, and once they start moving, then they don't know where they will land.

- Service provider November 2014

He was in a group home, in a group of 6. They combined the money. Then it all fell apart. The lease comes up every 6 months. Mostly to do with mental problems. That's what happened to him.

- Service provider who took an asylum seeker on ASAS into their home after group accommodation fell apart November 2014

Trying to find places to rent is really difficult on bridging visas. A lot of real estate agents refuse them when they see their income is related to being on visas. They therefore have to take what they can get which is pretty awful at times. I have now been in 3 homes in which the stove and oven don't work. In one the stove was replaced by a plug in double burner...the guys can't use it because it makes their electricity bills too high.

- Service provider March 2015

They now try to live around Auburn because most of the services and support they get are there and they don't have transport to live further away. However, the rents in Auburn are escalating as the demand goes up, making life even harder for them.

- Service provider March 2015

I have to share a room with 3 people and I pay \$100 (per week).

- Asylum seeker on ASAS December 2014

They share houses. It depends normally they pay up to \$150 p/w. Most pay \$100. Around that. If its \$500, 5 or 6 share.

- Service provider January 2015

They share two bedrooms, there might be 8 in it. The rent is \$70-\$80 that way.

- Service provider February 2015

I had a family before. She got a 2 bedroom unit in Carramar. \$310 rent a week. Even this was too much for them. The family had 2 kids. They couldn't find a cheaper one.

- Service provider talking about the housing situation for families January 2015

6.3.1.2 Accessing funding for housing related expenses

Concerns were also raised about the affordability of housing related expenses associated with accessing private rental accommodation including up-front costs such as bonds and furnishing houses, and ongoing expenses such as utility bills.

Bonds and utility bills

We were told that community asylum seekers on Band 6 do not get assistance with rental bonds. While the SRSS debt agreement envisages the possibility of an advance SRSS payment for a rental bond loan,²⁸⁷ a recent RCOA report noted that those who were able to access bond loans and who remained on a low income could face difficulties in repaying the loan and that it could take two years for some clients to repay bond loans due to their very low incomes.²⁸⁸

We were told welfare agencies in the past had provided rent and bond money to asylum seekers on a one-off or a non-ongoing basis. We also heard about service providers successfully negotiating bills with electricity companies and asylum seekers accessing EAPA²⁸⁹ crisis vouchers on a non-ongoing basis.

²⁸⁷ Department of Immigration and Border Protection, *Form 1448: Status Resolution Support Services Programme*

Debt Agreement <<http://www.immi.gov.au/forms/Documents/1448.pdf>> [Accessed 1 June 2015].

²⁸⁸ See Refugee Council of Australia, Submission No 80 to NSW Select Committee on Social, Public and Affordable Housing, *Inquiry into Social, Public and Affordable Housing*, 28 February 2014, 4 <[http://www.parliament.nsw.gov.au/Prod/Parliament/committee.nsf/0/0d275a39cf9210b9ca257c9200196b8d/\\$FILE/0080%20Refugee%20Council%20of%20Australia.pdf](http://www.parliament.nsw.gov.au/Prod/Parliament/committee.nsf/0/0d275a39cf9210b9ca257c9200196b8d/$FILE/0080%20Refugee%20Council%20of%20Australia.pdf)> [Accessed 1 June 2015].

²⁸⁹ Funded by the NSW Department of Energy, Utilities and Sustainability, EAPA crisis vouchers are designed to assist people who are financially disadvantaged and are having difficulty paying their home gas and/or electricity bill because of crisis. It is not intended as ongoing income support.

These quotes from service providers between December 2014 and January 2015 explain the difficulties:

Probably the biggest things are the bills. People scrape by with rent and food each week, but they don't have the skills to deal with in 3 months you are going to get a big bill.

Some groups can survive on a lot less, so they seem to be able to get by, whereas others are constantly struggling. One thing would be to introduce specific budgeting classes right at the start.

The MRC at Parramatta used to do free budgeting classes but at the moment I haven't seen them anywhere. I wish that is something we could educate our clients about.

For bills there are EAPA vouchers for utilities through Salvation Army, St Vincent de Paul and Marrickville MRC..It is supposed to be emergency...and they can only access it once every six months from the same place. We are told don't let the clients rely on this, it is no guarantee. A better solution would be basic education.

A lot of asylum seekers came from interstate because they may have heard rumours that their applications would be processed quicker, but they had subsequently returned because life in Sydney was so hard.

I think the issue with ASAS is they don't get bond money so that's a bit of an issue, we do some bonds for people.

Furnishing houses

Furnishing houses will almost certainly be an issue for those asylum seekers released since December 2014, however we also came across instances where it was a continuing issue for asylum seekers who had been released earlier. The following quote from a service provider in January 2015 talks about the housing situation for asylum seekers on band 6:

Many of our clients sleep on the floor, they don't have beds.

It is difficult to estimate how often or to what extent asylum seekers are being given furniture as it is often on an *ad hoc* basis. For example, one service provider we spoke to partnered with another service provider on a single occasion in Winter August/September 2013 when large numbers of asylum seekers came out of community detention and provided about 240 hampers across Australia with basic kitchen items, blankets, pillow and pots and pans. The mainstream welfare agencies also provide assistance. However often this is on a once only or once per 12 months basis. One such service we spoke to said that a funding cut in March 2015 meant they were now referring asylum seekers back to government funded service providers and that while *'asylum seekers have definitely been accessing our services... I don't know how they will survive.'*²⁹⁰

The following quote from a service provider in January 2015 talks about how they are contacted to help with furniture, food or home visits:

(We) will do home visits for people whether they are on ASAS or not because we don't distinguish, we just work with the broader community and in fact my understanding is that some of the centres do work more closely with the people on ASAS because there is a process that they use where there is a referral from (government funded service providers) to try to get some furniture or food or home visits so that's the broader regional welfare centre.

We also knew of another organisation that had a visitors program that they then used to determine need and then arranged for those needs to be met. According to the BMRSG's annual report:

*Our visitors find out what is needed and arrange for those needs to be met. We have supplied white goods, TVs, furniture, small electrical and kitchen items, clothing and shoes, standard packs of food staples and, from time to time, small cash allowances. We have supported children of asylum seekers with basic school items, school clothing and shoes.*²⁹¹

This quote from a service provider in November 2014 talks about their experiences helping asylum seekers with furniture:

We set up a couple of homes. We got a phone call, these people needed beds, that sort of thing and they had a little baby, a couple of months old; a couple of other children and they had to find a place to rent. They found a house, no furniture, we furnished it. We lost contact after that.

²⁹⁰ The service provider was previously helping an individual once per 12 months for food and once ever for blankets/baby.

²⁹¹ Blue Mountains Refugee Support Group, above n 231.

6.3.1.3 Out of pocket expenses

We were told that asylum seekers on government assistance were not able to afford basic needs, so asylum seekers were either going without things such as pharmaceuticals, food and transport or finding other ways to fund them, although we only came across initiatives that covered food and transport. Interestingly, service providers said phones had become an essential item since they helped asylum seekers communicate.

The following quote is from an asylum seeker in response to a question about what their needs are:

Bonds, if we are issued with vouchers for shopping, concession cards for medication.

Food

Most of the mainstream welfare agencies are not distinguishing between asylum seekers and refugees. The ones we spoke to reported significant increases in asylum seekers accessing their services.

The following quotes in January and February 2015 are from service providers who do not distinguish between asylum seekers that attend their meals program:

We would have a number of asylum seekers/refugees who come to lunch. Sometimes it could be up to one dozen, mostly Iraqi, Iranian. Tamil asylum seekers get great support, the Iranians are not sufficiently strong enough.

When I'm feeding 60 people and I'm getting 10 asylum seekers, that's a lot.

We capture those ones that get left to their own resources they come here trying to build their resources.

We were also told about a number of community lunches in Western Sydney that asylum seekers on government assistance could access including the well-attended lunch at Auburn that is alternatively run by House of Welcome and SSI and is seen as a good way to provide food as well as a social network for asylum seekers. We also were aware of a number of churches in Auburn offering lunches including the Salvation Army who provided lunches daily except Monday. They had previously partnered with Bright Employment in a training program that had seen students spend 4 weeks practicing their culinary skills by producing up to 150 meals per day for the broader Auburn community.²⁹²

²⁹² 'Soul Food', *New Frontier Chronicle* (online), 19 October 2014 <<http://www.newfrontierchronicle.org/soul-food/>> [Accessed 28 May 2015].

Other issues around food

We were told single men may not be able to cook.

Transport

We were repeatedly told that transport costs were an obstacle to asylum seekers getting around and/or accessing families with children. We also heard stories about service providers having to meet the cost of travel into the city on days that asylum seekers needed to access services.

This quote from an asylum seeker in December 2014 is about the cost of travelling from Auburn and into the city. He indicated that the prices increased when the new Opal cards were introduced. When asked why he did not use the new Opal cards, he stated 'Opal is for those who are going all the time.'

Before it was \$4 to go to Auburn and back, now its \$7.60. If I want to go to the city, I pay \$10.80.

We also heard that travel costs were particularly difficult for families with young children who were obliged to travel with their children to school. We were also told that location and transport costs needed to be considered if social activities were arranged. This quote is from a service provider in January 2015:

They don't have much for transport, so if there is a social activity, we have to pay for that.

We heard about some novel ways that asylum seekers were being helped with transport. This quote from a service provider in March 2015 talks about a bike refurbishment scheme (although the service provider had bought Mr M's bike):

Many of the guys would be able to get around more if they had pushbikes (with locks and helmets). You saw Mr M with his yesterday and it enables him to travel from Lidcombe to Auburn. Salvos gave second hand bikes but they were very old and not very strong (one of their guys finds them at throw outs and repairs them).

While the NSW State government announced on 26 June 2015 that asylum seekers will be able to receive a \$2.50 ticket for all day travel across state transport systems, this will not be available until 1 January 2016.²⁹³

²⁹³ Gabrielle Chan, 'NSW Gives Asylum Seekers Travel Concessions 'To Help the Vulnerable'', *The Guardian* (online), 26 June 2015 <<http://www.theguardian.com/australia-news/2015/jun/26/nsw-gives-asylum-seekers-travel-concessions-to-help-the-vulnerable>>[Accessed 28 June 2015]. The article also suggested that to be eligible, asylum seekers must be receiving aid from a designated agency which may suggest that the travel concessions will not be available for all asylum seekers.

6.3.1.4 Services

Understanding the law

There are many reasons why asylum seekers may need legal assistance and various pro bono legal services help. Justice Connect's MOSAIC is a generalist outreach service that provides pro bono advice, information and community education to asylum seekers about different legal issues including transport fines and consumer issues such as mobile phone agreements whereas RACS and the Immigration Advice and Rights Centre (IARC) offer migration advice.

Beyond administrative review, Balmain for Refugees assist failed asylum seekers to have their adverse decisions assessed for legal error by pro bono lawyers and to apply for review in the Federal courts. Where the avenue is available, they also write ministerial intervention requests so that the Minister can reconsider new evidence which was not available previously and which meets the ministerial intervention guidelines.²⁹⁴

The legal areas that may be continuing problems for asylum seekers are detailed below:

Fines

We heard asylum seekers had difficulty understanding the transport system and as a result, had received transport fines for travelling without a ticket. This quote from a service provider in January 2015 talks about difficulties asylum seekers have navigating new systems:

They just jump on the train without a ticket. They need some education about the law on transport, tenancy. It's a new country for them. We do orientation but not many people can have this knowledge with one week, they need ongoing orientation. Some of it is experience.

MOSAIC recorded a powerful way in which the 'no work' condition had unforeseen consequences for asylum seekers who had been fined for travelling without a concession card. An Iranian man who was on government assistance received a fine for \$200 for travelling on a train with a concession ticket without a concession pass. He was unable to afford the cost of a full-price ticket but even less able to pay the fine. MOSAIC lawyers suggested that he arrange a 'work and development' order (allowing him to pay off the fine by doing voluntary work at a charitable organisation) but because he was on a bridging visa with no work rights, he may not be able to undertake such an order. MOSAIC saw a number of clients in a similar predicament and was working with the NSW State Debt Recovery Office to seek confirmation from the DIBP that he could work off the fine.²⁹⁵

²⁹⁴ Balmain for Refugees <http://balmainchurch.org.au/balmain-for-refugees/> [Accessed 30 June 2015]. Asylum seekers rejected by the IAA will not be able to request Ministerial intervention.

²⁹⁵ Law and Justice Foundation of NSW, *Final Grant Report: Pro Bono Legal Assistance to Recently Arrived Migrants – A Pilot Study* (March 2014), 5
<[http://www.lawfoundation.net.au/ljf/site/templates/Grants_Reports/\\$file/JusticeConnect_MOSAIC_2014.pdf](http://www.lawfoundation.net.au/ljf/site/templates/Grants_Reports/$file/JusticeConnect_MOSAIC_2014.pdf)>] [Accessed 22 May 2015].

Contracts

We heard instances of asylum seekers having limited understanding of legal agreements including rental agreements and mobile phone contracts. Justice connect also indicated a key element of the MOSAIC team's work in 2015 would involve educating new migrants in the fundamentals of entering into contracts.²⁹⁶

A MOSAIC story told of an illiterate asylum seeker with negligible English skills on a bridging visa who had entered into a 24-month mobile phone contract with a telecommunications provider, only to receive, six months later, a bill for thousands of dollars. MOSAIC wrote to the provider requesting that the fee be waived and the contract be terminated on the basis that the asylum seeker did not understand the contract he entered into.²⁹⁷

This quote from a service provider in December 2014 is about a family on government assistance who did not understand that they would be breaking a lease if they moved:

I had a family who wanted to move interstate, they did it quickly, they lost 2 weeks rent, the bond and they broke the lease, they didn't realise what had happened. They had no knowledge of how the lease worked. The client was illiterate and her kids were pretty good with English but they didn't understand the fine detail. It happened really fast, if I had been aware I could have helped. One of the son's teacher rang the real estate agent to try to understand. It comes back to education and not being able to understand. It's sad, it could have been avoided.

Accessing migration advice

50-60 people are turning up for legal advice...it's a good indicator of how panicked they are.

- Service provider June 2015

Previously IMAs were entitled to government funded legal advice under IAAAS, but this is no longer the case.²⁹⁸ Under the IAAAS scheme, application assistance which involved preparing, lodging and presenting applications for visas and for merits review assessment was available to all protection visa applicants in detention including those released from detention, as well as asylum seekers residing in the community with meritorious cases who were experiencing financial hardship or were suffering the after effects of torture and trauma. Immigration advice (as opposed to assistance) was also available to people wanting to prepare and lodge their own visa applications.

²⁹⁶ Justice Connect, *A common challenge facing new migrants*, (23 January 2015) <<http://www.justiceconnect.org.au/get-help/mosaic/common-challenge-facing-new-migrants>> [Accessed 29 June 2015].

²⁹⁷ Ibid.

²⁹⁸ Laughland, above n 8.

While a new limited legal service known as the Primary Application Assistance Scheme (PAAS) has been introduced, we understand this is only for unaccompanied children and people determined by DIBP to be vulnerable. We understand this will be interpreted to include only those asylum seekers who are unable, due to an exceptional vulnerability, to actively participate in the protection visa process without expert assistance. In addition, assistance will only be available at the primary departmental stage, however asylum seeker who are still under 18 when a negative DIBP decision is received will also receive assistance for review.²⁹⁹

We understand that an estimated 20% of the post 13 August 2012 IMAs may be eligible for legal assistance under the new scheme. This means the majority of IMAs (or according to one estimate some 20 000) will remain without legal assistance.³⁰⁰

It was also reported in late May 2015 that IMA asylum seekers who had arrived after August 2012 began receiving letters offering them the opportunity to apply for temporary protection visas. Previously, they had been prohibited from lodging a valid application.³⁰¹

This means that asylum seekers are progressively being contacted to lodge protection visa applications within 28 days³⁰² and the majority of those contacted will either have to fund their own immigration advice or rely on pro bono services. Providing migration advice is no simple task since it necessitates an understanding of what needs to be done in every case. In some instances, it may mean discussing available options and encouraging asylum seekers to think about their claims and gather documents. In other instances, it may require labour intensive assistance such as completing application forms and taking detailed written statements. It may also involve some sort of participation in the decision-making process including submission writing and/or appearances before decision-makers. It may also involve paying for interpreters and translations.

Changes to the way asylum seekers are being assisted

Organisations that help asylum seekers have had to become innovative in the way they provide help. RACS has been running two clinics, one at Parramatta (Friday) and the other at Auburn (Wednesday) where they offer face to face advice. They have also had clinics where lawyers help asylum seekers write statements and are working with CALD volunteer groups to help asylum seekers complete application forms. They have also been conducting legal education sessions.

Given that large numbers of asylum seekers have begun receiving letters offering them the opportunity to apply for temporary protection visas, they have also had to prioritise these cases.

²⁹⁹ Seccombe, above n 61.

³⁰⁰ Ibid.

³⁰¹ See Farrell, above n 9.

³⁰² Seccombe, above n 61.

We went to the legal clinic at Auburn in May 2015 which was well attended and we heard from other service providers that other legal clinics were also well attended.

Interacting with government agencies

We heard about difficulties asylum seekers face when trying to access information about government programs and trying to understand things such as the difference between services offered by the Federal government and State government. These quotes from service providers in January to March 2015 talk about these difficulties as well as the difficulty asylum seekers have of deciphering documentation:

Sometimes they get letters, from government, from the bank, they don't know what is in the letter.

You can't go to Immigration for information about access and there is rivalry between the Commonwealth and State and they keep saying no, no you are not entitled to State based services.

Debt

One service provider we spoke to suggested asylum seekers may benefit from budgeting education. While another service provider did not think this was a priority, it should be considered that asylum seekers may have (and continue to accumulate) debt for many reasons including the need to support family overseas.

6.3.1.5 Accessing Healthcare

An overview of the general health and wellbeing needs of asylum seekers was canvassed by St Vincent's Health Australia in 2012.³⁰³ The paper divided health concerns into primary health, mental health and specialist services. The paper noted although asylum seekers with Medicare can access primary care, this will depend upon a general practitioner's awareness of asylum seekers and willingness to bulk bill. The NSW Refugee Health Service, mostly staffed by refugee health nurses and funded by the NSW Department of Health, also operates in 10 locations across Sydney which community asylum seekers can access.³⁰⁴

The paper noted although there was a specialist torture and trauma service in each state, they and pro bono mental health services had limited capacity. Mainstream community mental health services were generally unaware of the unique needs of asylum seekers. Asylum seekers rely on STARTTS to access support for mental health problems. However the waiting list is long and it is challenging to refer patients elsewhere.

We heard in June 2015 that the mental health services in Auburn were dealing with significant numbers and did not have enough support since Auburn was a centralised place for so many migrant communities.

An observation was also made in June 2015 that there would need to be more mental health assistance needed if the processing of claims were to recommence since 'there are going to be more incidents.'

One innovative change we did hear about was a new app that had been developed to help asylum seekers navigate mental health facilities.³⁰⁵

Pharmaceuticals and dental care

While asylum seekers on government assistance can access Medicare we were told that the additional cost of pharmaceuticals could be a large burden, and some asylum seekers may choose to cease medication if they cannot afford it. We were also told that many asylum seekers have very poor oral health and access to dental care was a major service gap.

These quotes from asylum seekers and service providers between December 2014 and March 2015 talk about these issues:

I've got a problem with teeth, at the moment its bleeding and they want \$1 200.

- Asylum seeker on government assistance December 2014

³⁰³ Emily Hadgkiss, et al., *Asylum Seeker Health and Wellbeing – Scoping Study* (September 2012, St Vincent's Health Australia) <https://svha.org.au/wps/wcm/connect/cb7b96fc-6653-42ea-9683-749a184d3aed/Asylum_Seeker_Health_and_Wellbeing_Scoping_Study.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=cb7b96fc-6653-42ea-9683-749a184d3aed> [Accessed 16 June 2015].

³⁰⁴ Ibid 61.

³⁰⁵ SSI, *New project will save lives of Australian men*, 29 June 2015 <http://www.ssi.org.au/news/ssi-news-blog/425-new-project-will-save-lives-of-australian-men>

There are lots of stories about people not being able to afford medication even as simple as blood pressure tablets.

- Service provider March 2015

Other issues are medical support, even if they were on Medicare it doesn't cover prescriptions and people with conditions such as diabetes are not managing their conditions.

- Service provider December 2014

We heard of some instances where groups had been able to arrange for sympathetic doctors and dentists to assist where there was a significant need. BMMSG for example documented a case where the estimated value of dental work, which was donated by the dental practice, was \$10 000.³⁰⁶

Medicare for asylum seekers whose bridging visas were not renewed

We were told asylum seekers whose bridging visas were not renewed had problems accessing Medicare. There was also confusion around whether asylum seekers would continue to access Medicare after 31 December 2014 when the Health Minister's access to Medicare order expired.

These quotes from asylum seekers and service providers in December 2014 and in February 2015 talk about the difficulties asylum seekers face when Medicare renewal is an issue.³⁰⁷

If a bridging visa is not renewed or you don't have one, Medicare stops immediately. Health services refuse to service you. It can be later rectified but it is inconvenient.

Most of them have bridging visas that have expired and when they go to the doctor, Medicare has expired as well. One fellow went to (the service provider) and they said you have to have your bridging visa renewed before you get Medicare.

We are still seeing a lot of Medicare issues, Medicare renewal is an ongoing battle for clients we know are eligible, probably a communication problem, it's not filtering through, we've got escalations points, but DIPB is not writing letters anymore and Medicare is still requiring them. Their response is Medicare needs to look the clients up.

³⁰⁶ Blue Mountains Refugee Support Group, above n 231.

³⁰⁷ This is the order under the Health Insurance Act whereby the Health Minister can allow non-citizens to access Medicare. It was subsequently renewed.

6.3.1.6 Accessing Educational Pathways

We were told that asylum seekers have a strong desire to learn and access education either for themselves or their children. For those who have not completed year 12, their desire is to do so. It was previously reported asylum seekers lost their right to attend school at the end of the school term during which they turn 18 meaning some were prevented from finishing high school.³⁰⁸ We were told however that asylum seekers could be enrolled in senior colleges up until they turned 20, however after age 20 it was extremely difficult, although not impossible.

The following quotes from service providers in March 2015 talk about the importance of school for asylum seekers, including their additional needs:

The demand for school is so great for people over 20. Up to 20, they will let them into senior colleges, after 20 you are begging.

The guys who get into school need financial and coaching/tutoring support. They also probably need a space in which they can have a homework centre rather than space at the library.

The other major concern for adults is that although they can study, they must meet the expenses themselves and for the majority of university and TAFE courses, this requires upfront payment of full international student fees. While we heard that fee waivers could still be negotiated, it was hard work to advocate on a case by case basis and that since March 2015 there had been a tightening of eligibility criteria and that asylum seekers were told they needed to pay full fees.

Children

School makes his life important to him he can't bear to not be at school.

- Service provider in March 2015 talking about a school aged asylum seeker

We were told that school aged asylum seekers need assistance with homework and a number of programs exist. One such program in Sydney is SPARK which is run by the St Vincent de Paul Society and works in partnership with public and Catholic primary schools across Western Sydney. It includes Bright Sparks which is an after-school activity club where volunteers work one on one with children to provide language, homework, communication and other support.³⁰⁹

³⁰⁸ See, eg., Jane Lee and Benjamin Preiss, 'Immigration Ordered Asylum Seeker Children out of Victorian Schools at 18', *Sydney Morning Herald* (online), 19 March 2014 <<http://www.smh.com.au/federal-politics/political-news/immigration-ordered-asylum-seeker-children-out-of-victorian-schools-at-18-20140318-350er.html>> [Accessed 29 May 2015].

³⁰⁹ St Vincent de Paul, *Spark* <https://www.vinnies.org.au/page/Find_Help/NSW/Resettling_in_Australia/SPARK/> [Accessed 29 June 2015].

Accessing English

Up until April 2015, asylum seekers on bridging visa E were eligible for 45 hours of English language lessons. We were told in April 2015 the government had indicated this would no longer be funded and that instead, a much smaller program would be delivered on a case by case basis. We subsequently heard that the SRSS service providers for IMAs released after 1 June 2015 or those IMA asylum seekers who had not previously accessed English language lessons could submit applications for English classes on a case by case basis. However, asylum seekers would only be eligible for 20 hours of English.

Our overall observations were that while some asylum seekers were making good English progress, many were not. Of the 11 asylum seekers we spoke to in June 2015, none were attending English classes even though the majority had poor English. Service providers also indicated to us they were in contact with asylum seekers whose English was not improving. The following quote from a service provider in February 2015 explains his interaction with a group of asylum seekers:

They don't seem to be learning English that quickly. Some of these guys have been coming here for 12 months and still don't speak that much English.

An asylum seeker from that group readily told us that 'one of the best things you can do is improve our English.'

The following quotes from service providers in November 2014 and February 2015 explains the enormity of the problem when asylum seekers do not learn English:

I don't know how anyone who has no Australian help finds out anything. We are trying to find out how to get teeth cleaned, no one knows. How does someone do that with limited English?

Current English language initiatives

We came across many English language initiatives including mainstream English classes run for people from varying backgrounds.³¹⁰ However, we were repeatedly told that mainstream community classes were problematic for asylum seekers because mental trauma, age and previous levels of education all impacted upon language proficiency and acquisition capability. We were also told that while some asylum seekers had been to school, others had *madrassa* schooling only and some were illiterate. We were also told that those who had had no schooling tended to drop out of classes.

The following quotes from service providers in January to May 2015 explain some of the problems faced by asylum seekers when they attend traditional English classes:

English courses provided by others were not helping them because they were illiterate and most didn't know a single word of English. When they went to traditional classes, they don't understand because the teacher speaks in English. We started bi-lingual classes from our community.

³¹⁰ The English programs that we came across in areas where asylum seekers primarily live are included at Table C of this paper.

These people are hesitant to join other groups. They want to study in this group. I suggested Fairfield or Merrylands, Liverpool as well. It's very hard for them; they are talking about different things. They feel uncomfortable. This is what a client told me. They feel comfortable to talk about their journey, living in limbo without a visa, in another class they don't have a chance to talk. Our English class becomes a socialised group. They study English together and make friends.

Service providers indicated that for some asylum seekers, intensive English programs were required whereas others required less. We were also told that English language programs provided by teachers from the same language background as asylum seekers were important, however one asylum seeker thought it was more important to learn from a native English speaker since that way, he was not being taught 'mixed Tamil and English.' A similar conclusion was reached by an Afghan group who had begun with teachers from the same language background, but had, after a year or so also accessed native English speakers in order to improve skills.

6.3.1.7 Accessing Social and Cultural Activities

While there were some social and cultural activities that were being offered by CALD volunteer groups in particular, we were repeatedly told that there was a need for more activities. One service provider in early January 2015 put it as follows:

People have been here for 1 year, now it's time for them to participate in social activities, some outing somewhere, even one day would be good, sports, music, art work. I can imagine they (the women) need it more than the men, a knitting group, makeup, cooking skills maybe.

There was also a fairly uniform acceptance that doing nothing had created a lot of mental health problems. For example, a service provider in early January 2015 stated as follows:

We're looking to revamp the food program so that it is open morning and through the day and provide a day centre, activities for people...someone living with mental illness, what do they do with time? I suspect what you will find is a whole lot of mental illness amongst asylum seekers.

Barriers to accessing social and cultural activities

Lack of opportunities and associated costs including transport costs were seen as primary reasons why asylum seekers were not engaging in more activities. The following quotes from asylum seekers on government assistance in December 2014 talk about their desire to participate in competitive sports but their inability to do so because of cost:

I'd love to do boxing but I don't have any activity money. If you get out of community detention, you lose the activity money.

We go to play indoor soccer, every week we pay \$10 to hire the court, we are 16 people so its \$10 each for every hour.

Last year we had a soccer team, we went to competitions, and we got the registration from the church. It was \$160 up to \$240. We got the money through that. The only way we can raise the money is through charity.

6.3.2 ASYLUM SEEKERS NOT IN RECEIPT OF GOVERNMENT ASSISTANCE

Government assistance is available for those asylum seekers who are assessed by the DIBP as experiencing financial hardship. While there may be many reasons why non-IMAs are not eligible for assistance, it was repeatedly put to us that the bar for non-IMAs to obtain government assistance for non-IMAs had been lifted higher and it was increasingly harder for them to access assistance.

This is consistent with evidence before a Senate inquiry on 5 September 2014 which suggests unprecedented levels of asylum seekers were being refused ASAS and the latest figures from the ASC state that, of the 1 400 clients seen in the last 12 months, over 30% were denied any form of government funded financial assistance.³¹¹ The JRS Annual Report 2013 issued on 16 October 2014 also stated the demand for accommodation grew as waiting periods for financial assistance from the government increased, eligibility criteria tightened and employment barriers made finding affordable and sustainable housing very difficult.³¹²

We attempted to understand who may not be accessing government assistance and the results appear below.

The latest DIBP Annual Reports indicate during 2012-2013 and 2013-2014 government assistance was provided as follows:

	2013-2014		2012-2013	
	IMA	Non-IMAs	IMA	Non-IMAs
ASAS	23 941 ³¹³	4 150 ³¹⁴	11 369 ³¹⁵	3 505 ³¹⁶
CAS TS	13 930 ³¹⁷	26 ³¹⁸	15 644 ³¹⁹	-
CAS	14 718 ³²⁰	591 ³²¹	1 045 ³²²	-

³¹¹ Noden, above n 127.

³¹² JRS Australia, above n 128, 3.

³¹³ Department of Immigration and Border Protection, above n 54, 196.

³¹⁴ Ibid 105.

³¹⁵ Department of Immigration and Border Protection, *Annual Report 2012-2013*, 201 <<http://www.immi.gov.au/about/reports/annual/2012-13/pdf/2012-13-diac-annual-report.pdf>> [Accessed 22 June 2015].

³¹⁶ Ibid 118.

³¹⁷ Department of Immigration and Border Protection, above n 54, 196.

³¹⁸ Ibid 174.

³¹⁹ Department of Immigration and Border Protection, above n 315, 201.

³²⁰ Department of Immigration and Border Protection, above n 54, 196.

³²¹ Ibid 174.

³²² Department of Immigration and Border Protection, above n 315, 201.

The DIBP Report also stated that assistance to non-IMAs under ASAS during 2013-2014 was about 18% above the non-IMAs assisted in 2012-2013.³²³

According to the DIBP Report, the number of non-IMA protection visa applications lodged in 2013-2014 was 9 646,³²⁴ 4 150 of which were provided with government assistance under ASAS (or 43% of the non-IMA protection visa applicants who lodged that year).³²⁵ This compared with 8 308 non-IMA protection visa applications lodged in 2012-2013,³²⁶ 3 505 of which were provided with government assistance under ASAS (or 42% of the non-IMA protection visa applicants who lodged that year).

The number of non-IMA protection visas lodged in 2012-13 was subsequently revised in the 2013-2014 Annual Report to be 8 480 (which means ASAS was provided to 41% of the non-IMA protection visa applicants who lodged that year).³²⁷

Accordingly, the number of non-IMAs on ASAS rose from 3 505 in 2012-13 or 41% to 4 150 in 2013-2014 or 43%.

The 2013-2014 Report indicated the increase in the number of non-IMAs on ASAS was because of an increase in protection visa applications and longer periods requiring support in the program,³²⁸ however if large numbers of non-IMAs who were already on the ASAS program prior to 2013-2014 continued to receive support during 2013-2014, then there would almost certainly have been minimal numbers of new non-IMA asylum seekers accessing ASAS as well.

Asylum seekers who are eligible for government assistance

Previously, asylum seekers living in the community were eligible for government assistance if they had a valid application for a protection visa lodged with DIBP and where:

- the date of lodgment of the protection visa application is more than six months old and the applicant is waiting for a decision
- the date of lodgment of the protection visa application is less than six months old, the applicant is waiting for a decision and meets one of the ASAS exemption criteria (these criteria are intended to ensure that the elderly, minors, young families, the ill and those who care for these groups can be assisted without delay)
- the protection visa application was refused by DIBP and the applicant has lodged an application for review by the Refugee Review Tribunal and continues to meet the ASAS exemption criteria
- the applicant is not in immigration detention

³²³ Department of Immigration and Border Protection, above n 54.

³²⁴ Ibid 111.

³²⁵ Ibid.

³²⁶ Department of Immigration and Border Protection, above n 315, 127.

³²⁷ Department of Immigration and Border Protection, above n 54, 111.

³²⁸ Ibid 105.

- the applicant holds a visa and
- the applicant is not eligible for either Australian or overseas government income support.³²⁹

Although unclear, it seems that asylum seekers also needed to be on a bridging visa which meant that all other asylum seekers including those on a tourist or student visa were excluded from government assistance.³³⁰

During our research, we were told by service providers that the following asylum seekers were ineligible for government assistance:

- if they were not on a bridging visa but were on a visa such as a tourist visa or a student visa
- if their case had been remitted back to DIBP for reconsideration as a result of *MIAC v SZQRB* (2013) 210 FCR 505 (in which the Full Federal Court held the real risk test element in the complementary protection criterion in s.36(2)(aa) imposes the same 'real chance test' applicable to the assessment of well-founded fear in the Refugee Convention definition)
- post administrative review.

Whereas the previous policy articulated who was eligible for government assistance, the current PAMS does not. The SRSS form indicates however, that to be eligible, asylum seekers must be seeking to engage Australia's protection obligations through the grant of a protection or humanitarian visa and assessed as experiencing financial hardship.³³¹

Because the updated PAMS neither lists when asylum seekers are eligible nor specifies that asylum seekers need to be on a bridging visa, it remains difficult to determine whether asylum seekers must be on a bridging visa. These quotes from service providers in June 2015 describe the current confusion surrounding whether asylum seekers on a student visa or a tourist visa are eligible for government assistance:

We've had someone turned away in the last month or two. They were still on a tourist visa and were told to wait.

It's changed, it used to be you have to wait, now you can apply so long as prove that no longer have access to funds. It's not blocked from applying anymore, it used to be like that, it has changed.

³²⁹ Buckmaster and Guppy, above n 259.

³³⁰ Ibid. Buckmaster and Guppy state all asylum seekers on bridging visas may be eligible for ASAS whereas the CAS program provides similar support to people on bridging visas.

³³¹ Department of Immigration and Border Protection, above n 252.

That has such a massive impact and we had no idea. We've all been working with people who can't apply without any support.

Applying for government assistance

Lodging government assistance applications

We were told that applying for government assistance had become much harder and that in NSW, 'it was a really tough approval process.' We were told non-IMA applicants were now being asked to provide financial documents such as bank statements that were often difficult if not dangerous to obtain and this meant there were long delays in completing applications before they were being lodged.

Once an application for government assistance is lodged

Assessing income and community support

The Application assistance form states that a person is eligible for government assistance if their or their family unit income is less than 89% of the Centrelink Special Benefit payment, and there are no disposable assets or funds in Australia or overseas that they or their family could draw upon and there is no continuing and adequate support for them from family, friends, other people or organisations in the Australian community or overseas.³³²

PAMS was also updated on 18 April 2015 to include information that should be sought by case managers to identify a person's capacity to self- support and self-fund any required services including return. The information sought relates to income, assets and debts and any community accommodation options.³³³

We were told that once an application was lodged, eligibility criteria was being applied more stringently to new applications from asylum seekers who had arrived by plane, there was a low success rate and that it was necessary to put in repeat applications for cases considered deserving. We were told one such application had only been accepted after it had been submitted for the eighth time. These quotes from service providers detail their experiences:

The problem is more people are being refused and we have to reapply.

- December 2014

We are seeing rejections on the basis that clients are getting some small support from the community. When they are getting some support, we are saying if it is time limited.

- December 2014

³³² Ibid.

³³³ Australian Department of Immigration and Ethnic Affairs, *Procedures Advice Manual 3: Migration Act – Compliance and Case Resolution* (at 232 – June 2015) [P A174.54].

The changes that we have noted for the last year was very low success rate of getting onto ASAS, so it used to be 80-90% of those referred for ASAS were receiving ASAS and these days were up to 50 but for a while it was 30 so we are seeing more at primary and review tribunal review stage not receiving any support...

There have been changes in how ASAS has been provided so we are seeing large numbers of people who in the past who would have been eligible for ASAS payments and now are not receiving it and that means there has been a greater need for our emergency financial relief and emergency accommodation and also the decision times for people to be approved for ASAS are very long so when I first started volunteering here it might be a few weeks for someone to be approved for ASAS now it can be months, it can be 6 to 8 months and during that time that person has no other source of income. That applies to people no matter what their personal circumstances are, it could apply to a single parent with children who being refused ASAS and for whatever reason are unable to work, it could be because they can't find child care so they are in a catch 22 of not being able to work because they have got to look after the children but they can't support themselves so, we do look at peoples situation when we are assessing their eligibility for our services and we do prioritise the people who are most in need.

- January 2015

We were told that asylum seekers were being asked about extended family and that their applications were rejected if it was considered they could live with them. A service provider also indicated asylum seekers were being rejected on the basis that they were receiving some community support even if that support was not ongoing and that service providers who were not funded by the government 'needed to provide basic information about what engaging with non-government funded service providers looked like and (explain) that long term, the support was not ongoing.'

Anecdotally, we were also told in December 2014 that SRSS approval rates had recently increased from 30% to about 50%, but we were also told that figure was distorted because many were repeat applications.

A service provider in December 2014 indicated CAS and CAS ongoing approvals rates were also very low, although the observation was also made that the CAS ongoing cases that were being approved were those where there was a willingness on the part of the applicant to engage with the International Organisation for Migration (IOM) to return to their country of origin.

Service providers in December 2014 also indicated that inconsistencies in approving CAS ongoing support existed, and that sometimes cases they saw as urgent were not approved. Observations were still being made in February 2015 that DIBP's processes were random.

After a negative primary assessment

We were told that in some cases, government assistance stopped after a negative primary decision, although we were also told government assistance did not stop after a negative primary decision so long as an application for administrative review was lodged within 28 days.

No longer on government assistance but recently unemployed

A further observation was made that if asylum seekers successfully found work but then lost their job, they might need emergency financial support until they were successful in having government assistance reinstated. This quote details such an experience:

She was working and doing very well and paying tax and doing the right thing and when she lost the bridging visa, the SSI and Red Cross didn't give her any money because she was no longer their client as she was working and she felt sick and had to have an operation and didn't have Medicare. When she was not getting money I rang Immigration and they said she was entitled to 89% so I told her. These people are so scared they don't want to rock the boat and she said no I was working and they will say you have savings you can live off. She had a horrible caseworker. She was so depressed. The counsellor rang the caseworker. She rang Red Cross and made an appointment and they gave her emergency money. I offered to go. She didn't get any money but a long time after she started getting 89%...

The lady on a bridging visa who was doing cleaning, she has a work visa but it is for one year. When she reapplied for the job they said it's only for one year and they didn't want her even though she had done that work before.

- Service provider February 2015

Cases remitted back to DIBP for reconsideration

We were told in November 2014 and again in December 2014 that asylum seekers whose cases had been sent back to DIBP for reconsideration as a result of the Full Federal Court case of *MIAC v SZQRB* were not eligible for government assistance even though they had a protection claim at the administrative stage. Asylum seekers in this position had been denied government assistance from approximately October 2014 onwards because it was understood DIBP considered that, since they had received two negative decisions, they were not eligible for government assistance. An unconfirmed estimate given in January 2015 suggested the number of asylum seekers involved was around 400.

Post administrative review

Service providers indicated on 29 January 2015 that government assistance finished 14 days after a negative Tribunal decision, although it was also noted that the cessation of payments could be simultaneous with a negative Tribunal decision. We were also told that Band 6

payments stopped the next pay cycle after a negative decision is received by the RRT. However for those on Band 5 there was a transitional period.

We were told even though asylum seekers may be seeking judicial review or Ministerial intervention, they were not eligible for government assistance.

This quote from a service provider in December 2014 explains what happens:

Those who are finally determined are given a six weeks bridging visa in order to return. Some are exited onto nothing, into a void.

Consideration of these concerns by DIBP

It was our understanding that some of these concerns were actively under consideration by DIBP.³³⁴

³³⁴ In particular concerns that suggested government assistance stopped between a negative primary decision and lodgment with the RRT and concerns that applications from those who had already been on the program were subject to the same initial application process.

6.3.3 Access to other forms of financial assistance if you are an asylum seeker not on government assistance

We spend a lot of time saying we can't help.

- Community service provider working for an organisation not funded by the Federal government December 2014

Asylum seekers who have no income, are not on government assistance and are not on Medicare face limited options when it comes to accommodation, health and low cost meals. Currently, the three major non-government asylum seeker service providers are the ASC in Newtown, the House of Welcome in Carramar and the JRS in Kings Cross and in Parramatta. All three primarily work with asylum seekers who are not receiving any financial assistance and provide more holistic, wrap around services that address multi-faceted needs including emergency relief and activities.

The 2013-2014 Annual reports for ASC³³⁵ and JRS³³⁶ indicate an increase in the number of asylum seekers presenting to these services in need of emergency accommodation. The ASC recent CEO's quarterly review stated 8 out of 10 people who they first see are or are about to be homeless.³³⁷

A trend that was also repeatedly mentioned to us was that whereas service providers had previously seen single men, more and more families were in need of emergency accommodation.

Accessing Accommodation

These quotes from service providers in January 2015 explain the circumstances of some of the asylum seekers who seek their assistance:

So as I explained a homeless lady has just arrived, first of all the main priority is to get her somewhere safe to sleep, to get her some money and some food and just get her settled in and she will then meet with our health team to have an assessment of her physical and mental health they will then arrange for care, the vast majority of our clients do have some kind of mental health issue and then it will be about her meeting with our legal service to get her support to help her apply for protection. Then after a while she might want to access some other services, she might want to come to English classes or a recreational activity, for example she may want to go swimming or join one of our community groups or do some dressmaking or sewing while she is getting

³³⁵ Asylum Seekers Centre, above n 55, 9. The report stated 'We served over 1,400 clients in the last 12 months, an increase of 40% from the previous year.'

³³⁶ JRS Australia, *JRS Annual Report 2014*, 3 <<http://www.jrs.org.au/wp-content/uploads/2015/05/JRS-Report-2014-web.pdf>> [Accessed 17 June 2015].

³³⁷ Melanie Noden, *CEO's Quarterly Review* (13 February 2015, Asylum Seekers Centre) <<http://asylumseekerscentre.org.au/ceos-quarterly-review/>> [Accessed 17 June 2015].

established and then hopefully once she is a bit more settled and stable she will be able to engage with the employment service. I think our clients can be with the centre for a number of years from before they have even applied for protection...

The lady from Surry Hills who was sleeping on the floor here when she first arrived? There are many stories. Homeless situations...

As I mention before about half of our clients when they first arrive are homeless or destitute, no source of income and we use the very extreme sense of homelessness where people are sleeping in the park or at the train station if someone is couch surfing or staying with friends or staying in overcrowded accommodation then they least have some kind of roof and somewhere semi safe to stay so we do try to assist people with emergency accommodation and help them transition into something that is more stable and longer term. And we do that in a variety of ways. We have an emergency funding budget and we regularly pay for beds in public boarding houses since we find that it is very difficult for us to access the NSW homelessness services, obviously they are hugely overcrowded, and there is a huge need for them but it is often that we get one night at a time and then keep moving which is very disruptive. Sometimes there is a preference given to people who have some sort of income or Centrelink benefit and that doesn't apply to our clients so we do try to accommodate people for a week at a time but that is relatively expensive to pay for a bed in a shared room in a boarding house, the cheapest rate is \$140 (a week) for a single person in a shared room with shared facilities so it's not ideal

We attempted to ascertain the housing options available to asylum seekers not on government assistance.

Properties available

We were told that the number of properties set aside fluctuated and remained tenuous since properties did not belong to service providers but were given for varying times and reasons (such as being in between leases).

The House of Welcome is the largest provider of temporary and transitional housing in NSW, however as at June 2015 they only had access to 9 properties.³³⁸ ASC had access to some emergency housing, JRS had one shelter in Kings Cross with 13 beds and St Vincent De Paul also had limited accommodation. Much of this accommodation was designated as short term or transitional. ASC also had a new property which was offering short term, transitional accommodation. However, at June 2015 it had not opened.

³³⁸ House of Welcome, *Donations* <<http://www.houseofwelcome.com.au/donations/>> [Accessed 30 June 2015].

ASC also indicated in April 2015 there was a proposed home stay project which was still in its infancy. A pilot had been conducted whereby five asylum seekers had stayed for a short term of up to three months with Australian families.

Given the limited accommodation available, few asylum seekers not on government assistance are housed pursuant to these arrangements. Most are provided assistance with accessing emergency accommodation, which could include paying for a bed in a youth hostel, guest house or cheap hotel.

Other options

It remains unclear as to whether asylum seekers not on government assistance are able to access specialist homeless services. According to the Australian Council of Social Services (ACOSS), emergency relief (ER) providers were providing support to asylum seekers but because Federal government funding for ER was allocated according to Centrelink data about the numbers of income support recipients in the service area and because asylum seekers are ineligible for mainstream income support payments, they were not captured in official data.

The Australian Community Sector Survey in 2013 found that refugees and asylum seekers accounted for 9% of ER clients, substantially more than any other service type reported on. Furthermore, services reported that 36% were living in insecure housing or homeless.³³⁹

Service providers indicated if asylum seekers were not on Centrelink benefits, then they would not be able to access the specialist homelessness services. However other service providers stated there had been instances when they had referred asylum seekers to *Link2Home* services,³⁴⁰ but had been told (incorrectly) that there were no spaces or alternately, if asylum seekers had been given emergency accommodation, they had been sent to the Department of Housing next day even though they were ineligible for assistance.

We also spoke to homelessness sector representatives who indicated that they could not see specialist homeless services turning asylum seekers away if they could accommodate them.

³³⁹ Australian Council of Social Service, *Australian Community Sector Survey 2013, National Report - ACOSS Paper 202*, 32 <http://www.acoss.org.au/images/uploads/Australian_Community_Sector_Survey_2013_ACOSS.pdf> [Accessed 25 November 2014]. The analysis is worth quoting in full:

“In the case of asylum seekers, continuing inadequacies in the policy framework have seen asylum seekers residing in the community without access to adequate housing, income or essential supports. In particular, large numbers of asylum seekers are released into the community without the right to work. ER providers are left to pick up the pieces, providing support that has become essential for many facing these circumstances. Yet Federal government funding for ER is allocated according to Centrelink data about the numbers of income support recipients in the service area. Because asylum seekers are ineligible for mainstream income support payments, they are not captured in this official data, leaving ER providers unfunded to meet their needs. The ACSS reflected this experience, with refugees and asylum seekers accounting for 9% of ER clients, substantially more than any other service type reported on. Furthermore, services reported that 36% were living in insecure housing or homeless.”

³⁴⁰ Link2Home is the 24/7 State-wide telephone line for people who are homeless or at risk of homelessness to seek accommodation and support has been opened by the NSW Department of Family and Community Services.

When service providers were asked what other options were available to asylum seekers, they said they could be couch surfing and in one instance they knew an asylum seeker had slept in a mosque. They also stated asylum seekers could be sleeping rough.³⁴¹

Accessing low cost food

While asylum seekers not on government assistance can access the mainstream welfare agencies, they are also dependent on the three major non-government asylum seeker specific service providers for low cost food. The following quotes from December 2014 to January 2015 talk about the way Simple Love has helped non-government funded service providers continue to provide food. The second quote is a powerful example of the way that a food bank program has helped a family of four:

We have the capacity. Donations from Simple Love look like it's going to stay open.

- Community service provider's advice to other service providers working in the sector about the current state of their food bank. December 2014

I think food bank has been very demonstrative of being able to actually be an intervention as opposed to just being a band aid in the sense that it has been a top up for some people because we have a threshold not just in terms of income, there was a family of almost seven that was living in a three bedroom house with another family of four and part of what we were able to sort them with was food to take back for all of them. And that enabled them to stay in the house so we were not able to provide them with accommodation or financial assistance but they came here regularly for food and kept everything a little easier with the tension in the home and the other family allowed them to stay for longer.

- Service provider commenting on how they helped asylum seekers who were not on government assistance January 2015

Additional Health issues

An overview of the general health and wellbeing needs of asylum seekers by St Vincent's Health Australia in 2012 noted that, in October 2009, the NSW Department of Health released a policy directive that required all NSW public hospitals to waive fees for community asylum seekers who were not eligible for Medicare. This relates to services including emergency care, some elective surgery, outpatient care for those with chronic

³⁴¹ Refugee Council of Australia, above n 163, 20. RCOA identified that consultation participants cited cases of both primary homelessness (people sleeping rough) and secondary homelessness (such as people "couch surfing" or living under informal arrangements with friends or relatives).

health conditions, maternity services and inpatient mental health services. Asylum seekers without Medicare may also be eligible for fee waivers for urgent/emergency dental services but this does not include basic dental care.³⁴²

The ASC also operates a nursing clinic with a visiting volunteer GP for asylum seekers without Medicare.³⁴³

Accessing School

We were told that asylum seekers with school aged children on visas such as tourist visas or student visas had issues accessing affordable education since their children were considered as overseas students and therefore subject to overseas student rates. This quote from a service provider in January 2015 details the circumstances of one such family:

Our biggest problem is that when children are here and they are not on bridging visas yet and so they are not eligible for free public education and I have just arranged to have a meeting with the education body in the next couple of weeks because before Christmas we had two primary education school children both in the care of a single parents, both in emergency accommodation and it really wasn't suitable and they were not able to go to school because they were on a tourist visa they had applied for a protection visa, they were asylum seekers but they were still on the tourist visa and we contacted the school, we went to the department of education, we asked them if we could place the children in the local school and were told we would have to pay the international rates which is just prohibitive but now the children will be able to start in February because they are on the bridging visa. The pressure is put on the single parent carers so that tends to be our biggest area, because we have younger children, younger families.

³⁴² Hadgkiss et al., above n 303, 61.

³⁴³ Ibid.

Accessing services post administrative review

It is at this stage that options are extremely limited as asylum seekers are eligible for few services. While service providers struggle to make decisions that mean people are cut from programs and essentially transitioned into nothing, most service providers will not currently assist them, although we understand this is subject to ongoing review depending on capacity and needs.

The following quote is from an individual in November 2014 who had given money to an asylum seeker who had been cut off from support programs:

I have had to give money to an asylum seeker because his permission to work was withdrawn and there are no 'govt' benefits for asylum seekers who have had a 'double negative' and then seek a judicial review. Even financial help from charities is very limited if available at all in these circumstances.

The following quote is from a service provider in January 2015 explaining why they do not assist asylum seekers beyond merits review:

if the advice has been given that they are not likely to succeed at judicial review because they don't meet the criteria then we will talk to them about exiting them from the service because when there is so much need and currently we are not assisting people at ministerial stage we have in the past and we may do in the future, but obviously if we have more capacity or we are able to assist people but under the current government we have found that the likelihood of getting ministerial intervention is very low and when we are deciding where to put our services we feel that people who have recently arrived and don't have any community support and don't understand anything about life in Australia are in a very vulnerable situation, obviously people can remain vulnerable throughout their time in Australia but often people who are at the later stages and have applied for Ministerial have got some contacts in the community or have been able to set up some kind of support network. And it is always a very difficult decision but it is a thing that we have with limited resources and how we can best meet the needs of asylum seekers.

One mainstream welfare agency indicated in January 2015 that most of the asylum seekers they saw were either seeking judicial review or ministerial intervention because support at that stage tended to stop with other services. They also indicated that whereas they were still seeing a lot of single men, they were also seeing more families.

The following quote is from a service provider in January 2015 explaining how difficult it is to make a decision to cut someone off from support programs:

But we still have someone who has been with us for 2 and a half years and I don't know what to do with her as such and she is incredibly vulnerable single woman from China with minimal English and the thought of exiting her into nothing. There are a lot of red flags with what she might potentially be doing to survive. To cut her off our books, I don't know how we can justify this one. Most are on our program for about 6-18 months... we did have to make a decision that we would not take a referral if it was beyond the first ministerial. We've had people on our books who have been reapplying but it's a dead end situation, we don't look at merit of case, we tend to base it on current living circumstances so risk of homelessness or homeless or destitute that is really our criteria and whether they are an asylum seeker.

6.4 Social networks, isolation and mental well-being

These quotes from asylum seekers and service providers from December 2014 to February 2015 describe the various reasons why isolation, boredom and associated impacts on mental well-being are major issues. We were also told by service providers that the Code of Behaviour was having a negative impact on asylum seekers since they were worried about consequences that may result from breaching the Code:

Long processing delays and an uncertain future

One of the main issues, they all suffer from fear of future. Mentally they need some sort of encouragement, it's good you have training but they are uncertain of future, it needs to be looked at from that point of view. It's obvious if one wants to get someone off his feet all you have to do is put him under pressure of fear of future and the person gets succumbed by it.

- Asylum seeker on government assistance and their observations about mental health February 2015

We have so much time on our hands, the time is being wasted.

- Asylum seeker on government assistance February 2015

The issue is so essential that I am one of the bridging visa holders suffering some hardships. I have tried my best to integrate into the society and contribute as well as feel part of it. I found life so challenging that the more I tried the more hope goes far and far. I never know when I will be embracing hope and start living as a human being with a future to stand up on.

- Asylum seeker January 2015

Tension caused from living conditions that arise out of necessity rather than naturally

They are together not because they are friends but because of necessity and because of this, there are problems and because of the drinking too.

- Service provider commenting on men who are housed together out of necessity and the ensuing problems February 2015

Separation from family

I can't do anything. I have to endure; it's really hard for me. I've got a family in Afghanistan, when I was there I was providing everything for them. Now I don't know how they are living.

- Asylum seeker December 2014

Confinement at home because of transport costs

For our clients 89% is not easy to manage and transport costs are appalling. That's why they are confined to their own accommodation, it exacerbates mental health issues. It's an evil circle they are in.

- Service Provider talking about asylum seekers on government assistance December 2014

Isolation because of no work or English

What do you do with your day?

Nothing. I have no job.

What would you like to do with your time?

I have no plans, I go home and sit down and listen to music. I have no wine to drink to forget. I need money.

What about work?

I have no work.

Do you know the government has said you can work?

I have permission to work but I can't find work.

Why can't you find work?

English.

Would you like to learn English?

I want to learn English but my mind is so occupied with problems I can't concentrate and learn the language.

- Asylum seeker on government assistance in February 2015 discussing their mental health, why they cannot work even though they have permission to work and why they can't learn English in order to work.

The situation is because of our status we are kept in, we are isolated from society, we feel we have not been integrated the way we have been kept. In

regards to functions, we would feel like its pity on us, in addition to information sessions, if we find jobs and are integrated that way.

- An asylum seeker's response in February 2015 when asked to comment on the services they would like to see.

6.5 Helping asylum seekers build social and emotional well-being

Reducing isolation and building community connectedness has been identified as a priority for many service providers and we came across many activities to address isolation, boredom and associated issues affecting mental well-being. The activities that were being run and how they were run depended in part on who was running the activity. Many we spoke to emphasized that successful programs do not come about randomly, but are based on a deep cultural understanding of what will and will not work and on implementing programs in consultation with asylum seekers.

This quote from a service provider in January 2015 describes the process they go through before they organise an activity:

We do consult the client group, so we have done needs assessments and based on those these were developed, now if things change and the focus is different, then we will go back to them and find out under the circumstances what are your requirements, what do you need, how would you like us to tailor future programs. And some of the ideas have come from the community groups, so from the ladies group that has been set up, one came from a lady who has excellent cooking and baking skills and she wanted to be able to share them with people and so she just asked us and we were able to facilitate a space and she essentially does the rest for 12 women who meet every week to share those skills. So sometimes it comes in that way and other times, we might be approached by a community group or a school to offer something for us and it's not something that we have thought of doing, so we had some teachers from school who said they could come out and run a first aid course for people and then when we talked to people and said would you be interested and there was a good response from people, because skills development and training opportunities are very popular with people.

What activities?

Service providers

Asylum seekers on government assistance can access the activities organised by either their service providers or the House of Welcome and JRS in Parramatta whereas those not on government assistance can access the activities of House of Welcome, the ASC and JRS. These organisations run English classes, provide community kitchens, cooking groups, sports, volunteer opportunities and community leader's forums. They also have women and family groups or men's groups.

STARTTS sometimes also runs group projects for asylum seekers.³⁴⁴

³⁴⁴ STARTTS, *Asylum Seekers* <<http://www.startts.org.au/services/asylum-seekers/>> [Accessed 29 June 2015].

This quote is from a service provider in January 2015 whose activities are open to all asylum seekers:

The activities have really expanded in the last two years or so, so there is anything from monthly social activities to classes that are run here, the English and computer classes, there is a men's group and ladies group that are community based, there are respite weekends, there is a mentoring program, there is work placement programs, community kitchen, community gardens, cooking classes that are run by clients themselves, we give them an opportunity to show case their food so cultural exchange for example...

We were also able to open it up as a volunteer program and if they volunteered they might help out in our material aid program picking up donations or in the garden, volunteer to cook, volunteer to come out and speak at events.

- Non-government service provider commenting on community based programs that are open to all asylum seekers including those on ASAS January 2015

The mainstream welfare agencies such as St Vincent De Paul offer home visits. Others offer lunch.

BMRSNG has made up a cricket team of Tamil asylum seekers.³⁴⁵ We also understand that in October 2014 asylum seekers, mainly from Sri Lanka and Pakistan but also from Burma and Afghanistan and linked to SSI, trained and played cricket with members of Knox Grammar School's Old Boys Association. One member of Knox Grammar Old Boys planned to return to his old school to talk to current students about his involvement with refugees and asylum seekers.³⁴⁶

As a generalization, service providers appeared well placed to provide food, service and skills development, and training opportunities. The following quote from a service provider in March 2015 demonstrates how a training opportunity was favourably received:

Two friends of mine paid for two guys to attend St Johns First Aid training - they loved it, passed it and got certificates. It will help them get jobs when they get work rights. It costs \$195 per person or cheaper if run for a group, I think.

We were also told women's groups were often better attended than men's groups, however it may be difficult to generalise. We were also told that it was important for men to have mentors. We were told active sports appealed to young men and that all asylum seekers

³⁴⁵ Jonathan Foye, 'Oceans 12 Cricket Team Gives Refugees Hope', *Blue Mountains News* (online), 12 January 2015 <<http://www.bluemts.com.au/news/oceans-12-cricket-team-gives-refugees-hope/>> [Accessed 2 June 2015].

³⁴⁶ Settlement Services International, above n 40.

would benefit from interacting with Australians their own age. Examples included linking young Australians with young hazara asylum seekers through conversation groups and soccer and linking older Australian men with older hazara asylum seeker men through English conversation groups and chess.

We were also told that the culturally based programs that reflect cultural identity and/or what they previously activities in their countries of origin needed to be either initiated by asylum seekers or run by the CALD volunteer groups.

CALD volunteer groups

The CALD volunteer groups we spoke to appeared well placed to know their own asylum seeker communities and assist with social isolation. A large part of their voluntary activities involved cultural and related activities or special events. According to Bernadette Harris' oral summary of her research in May 2015, the CALD volunteer groups are spending approximately 26% of the time on cultural and related activities and special events. They also spend additional and considerable time connecting asylum seekers to available services, visiting non-relatives, emotional support and linking community members to each other.³⁴⁷

The other thing that we noted was that while Auburn was a thriving centre of activity for asylum seekers which was in no small part due to Auburn Council, other areas of Western Sydney that had sizeable asylum seeker populations were not. We also came across an identified need for a place where asylum seekers could spend time in Parramatta. However JRS's opening of Arrupe Place in early 2015 may have helped alleviate some of that need.

6.5.1 Connecting with other asylum seekers

Clearly, the social programs run by service providers are a good way for asylum seekers to connect with each other. UNHCR research has also concluded that asylum seekers were largely reliant on the social inclusion programs of the organisations or services provider with whom they were linked.³⁴⁸

Little research has been done about the role the CALD volunteer groups play in connecting asylum seekers from the same background, particularly where English is a barrier.³⁴⁹ UNHCR research has stated, however that for those asylum seekers that did engage with their cultural community, they received significant support with housing, access to community activities, assisting with appointments and providing social support. However there were also concerns about the impact increasing numbers were having on the communities' ability to respond.³⁵⁰

³⁴⁷ Bernadette Harris above n 207.

³⁴⁸ United Nations High Commissioner for Refugees, above n 3, 12.

³⁴⁹ RCOA has produced a paper called "The Strength Within, the role of refugee community organisations in settlement" in 2014 that recommends further research be undertaken and that funding bodies consider ways to support refugee communities to build viable organisational structures. See Refugee Council of Australia (May 2014), above n 163.

³⁵⁰ United Nations High Commissioner for Refugees, above n 3, 16.

We came across a number of instances in which the CALD volunteer groups were playing a vital role in connecting asylum seekers with each other. This quote from a service provider in February 2015 is about the solidarity of the Tamil community when asylum seekers were coming out of detention:

At the end of 6 weeks every Tamil found a place with the help of the community and the others said can you find us a place too.

This quote is from a CALD volunteer group in February 2015 talks about their initiatives for female asylum seekers:

We started a buddy system to guide them even though they have caseworkers...

There are only 10 of us. We asked people outside if they were interested, we organised an afternoon tea and invited the community members. They formed meet and greet. There were about 20 to 30 people. MRC Parramatta helped. There was a lunch, 200 people came.

After a few events the women felt uncomfortable with 99% men. We concentrate on women. Our first function was in April 2013. We get together every 3 months, run a workshop. Depending on the topic they want to know how to settle in Australia. We have speakers. We had a dentist, doctors, nutritionist, medication, most have depression, their men have disappeared. We visit them at home, if they have medical appointments we go, we help with children's schooling. One of our ladies is a teacher, one of our children got into a selective school; they are all behind and need to catch up. Some of them are doing very well.

Another example of a CALD volunteer group is the Australian Afghan Hussanian Youth Association (AAHYA) in Auburn that had three staff and were delivering food packages, had a cook book, had a women's cooking group, provided EPEA and Telstra vouchers. They also held Kung Fu classes.³⁵¹

The CALD volunteer groups we came across were small and relied upon the good will of the individuals involved and it seemed apparent they would need more support if they were to continue providing opportunities for asylum seekers to build trust and relationships with each other.

³⁵¹ Jasmina Bajraktarevic-Hayward above n 245. Also see Australian Afghan Hussanian Youth Association, *Youth Group/Saturday School* <<http://www.aahya.org.au/index.php/yuth.html>> [Accessed 22 June 2015]

Asylum seekers who may not want to connect with other asylum seekers

It was put to us on multiple occasions that not all asylum seekers may want to engage with their local communities, so it was important for service providers not associated with these communities to provide services.

These quotes from service providers in November 2014 to January 2015 describe reasons why asylum seekers may not want to engage with their local communities:

Does he talk to people in the Sri Lankan community?

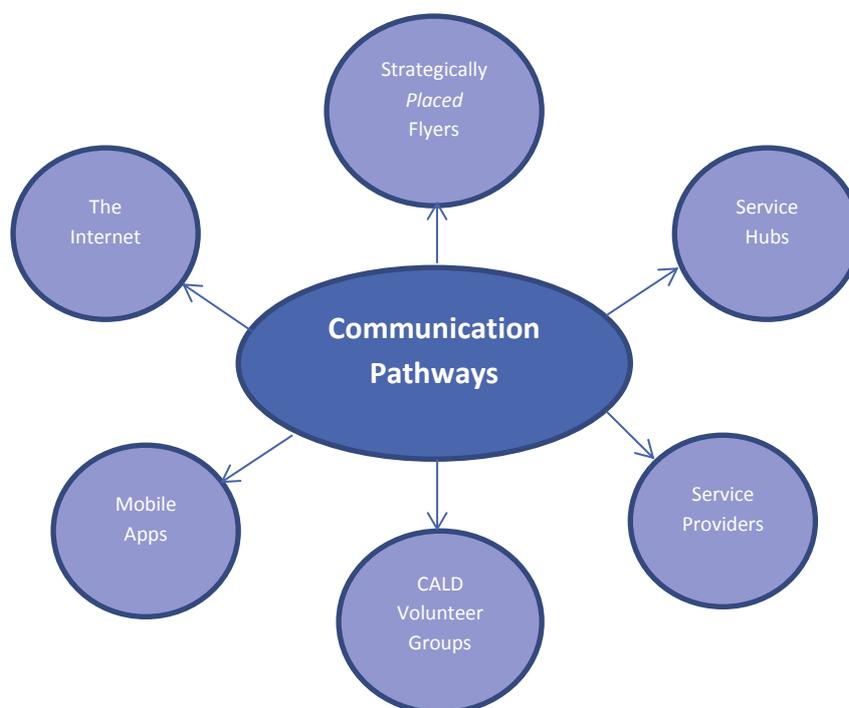
No, he doesn't know who he can trust.

- Service Provider November 2014

We will work with clients, we will link clients in with local communities if that is what they want, if it is a church, we do find that sometimes clients are reluctant to engage with settled members of their community because they fear repercussions at home so often that is why people prefer to come to our centre because everyone is in the same position I guess but even so, some clients do worry and there is a fear and confidentiality is a big concern. So it does depend.

- Service provider January 2015

6.6 How Asylum seekers find out about services



Asylum seekers have many different communication pathways some of which are explored below.

We decided that the best way to explore communication pathways for asylum seekers to access services was to explore the ways in which asylum seekers already connect with services. In doing so, we were mindful that a lot of what asylum seekers learned was by word of mouth and that unfortunately, a lot was incorrect. As put to us by one service provider in November 2014 ‘everything is known to them, but half of it is misinformed. They clutch at straws.’

We came across the following communication pathways:

- Multiple services were accessed via a hub located in their area;
- Referral to services by the service providers that they were linked to;
- CALD volunteer groups were also instrumental in raising awareness amongst asylum seekers about services and support;
- Some asylum seekers referred themselves to services;
- Some may have accessed the internet;
- Some may have found out about services through strategically placed flyers.

Referral to services by the service providers that they were linked to

These quotes from service providers in January 2015 describe how asylum seekers find them:

Q. How do people find you?

A. Self-refer, sometimes through the sector, (other service providers) will refer after a negative RRT, ... we have always worked closely with (other service providers).

- Non- government funded service provider

We work closely with all government funded agencies and non-government funded agencies, I guess we have a much closer relationship with the non-government funded agencies and we are always looking at new and creative ways to be able to support people, so for example we have been providing case service support to clients who have been receiving financial support from (another service provider) because they had some financial support available but were not able to offer casework support to clients. So we were able to collaborate that way. We have also been able to partner with (another service provider) where they have had beds in accommodation but haven't had the services to provide casework support or haven't had the emergency relief money available to give to give the clients a financial payment, so we've been able to work together to try to share our resources. (a service provider) has been great and has closely worked with us for 10 or 15 years now and provide a huge amount of financial support directly to clients of the centre and that has been absolutely vital to give people some kind of living allowance.

- Non- government service provider Jan 2015

This quote from a service provider in January 2015 describes how service provider's partner with other organisations to provide casework and how they have received funds through other organisations:

We've partnered in regard to community development stuff, in terms of the casework we might work with (another service provider) so someone might be in emergency housing for a very short period of time and they help at that stage and then move into our transitional accommodation or they might be in our housing and go back to (another service provider) for their employment program and so on so there is certainly a lot of work done in the casework team.... We've done stuff around financial assistance and housing, previously with (another service provider), since their funding decreased, they

only really work with (another service provider) now, their funding helps assist their financial assistance programs.

So the Hazara group in Auburn, (a service provider) is doing some outreach work in Auburn with (a service provider) and we are going there every Wednesday to do some drop in and try to get people who are not accessing any services because we know that sometimes people are living in the community for a long time seeking asylum but didn't know that there was any support available and trying to cope with the support of friends and family members and then often but by the time they get to us they have hit rock bottom and if they had known to access the service six months previously, then we may have been able to stop that from happening.

In turn, we found a number of ways service providers themselves were finding out about available services. The most up to date and comprehensive way seemed to be to attend the bi-monthly ASI which provides a chance for service providers to share credible information, regularly update each other and collaboratively resolve issues. Most of the welfare agencies and many of the smaller CALD volunteer groups do not attend, however they may have links to service providers who do attend who may, in turn, informally update them.³⁵²

While there was also another forum in NSW called the Asylum Seekers Refugee Forum (NASRF) which DIBP attended, it was an invitation-only interagency and we were told in March 2015 the Forum had not met since April 2013.³⁵³

In the ACT the Refugee Asylum Seeker and Humanitarian (RASH) Coordination Committee meets every three months and DIBP attends.³⁵⁴

Service Hubs

This was a relatively new and increasingly effective way to directly connect with asylum seekers. Local councils with high asylum seeker populations and in particular Auburn Council had worked hard to identify and address needs and priorities. It was now providing a space for the integrated delivery of services. As part of that program RACS was delivering legal services one day a week, House of Welcome and SSI were providing a meal every alternate Wednesday. There was also a nurses' clinic and a hairdresser.

Auburn Council has also developed connections with CALD volunteer groups including convening ASCON, and providing them with community facilities and funding for local

³⁵² For example, none of the CALD volunteer groups that were identified as part of ASCON attend the ASI. See Auburn Council, above n 18.

³⁵³ Department of Immigration and Border Protection, *New South Wales Client Reference Group* <<http://www.immi.gov.au/about/stakeholder-engagement/state-territory/nsw/crg/>>, [Accessed 29 June 2015].

³⁵⁴ Community Services, *Refugee, Asylum Seeker and Humanitarian (RASH) Coordination Committee* (ACT Government) <http://www.communityservices.act.gov.au/multicultural/services/rash_committee> [Accessed 29 June 2015].

community development projects via the Community Grants Program. We were also told by CALD volunteer groups that they relied upon ASCON for information.

Our research identified that none of the CALD volunteer groups linked with ASCON were members of RCOA.³⁵⁵

The Internet

The other way we found services was through the Internet. In addition to the national database of major asylum seeker services developed by RCOA, House of Welcome had created a number of local and very detailed databases about resources asylum seekers could access in local Sydney areas.³⁵⁶ None were translated into community languages.

Apps

We heard about one app that allowed asylum seekers to access mental health information.³⁵⁷

Flyers

We found a number of services had placed flyers at the offices of other service providers. Some of these were translated but some were not.

³⁵⁵ None of the CALD volunteer groups that were part of Auburn Small Community Organisation Network (ASCON) participating in 'Refugee Camp in my Neighbourhood' were part of RCOA, even though RCOA was also part of the same initiative. See RCOA and Auburn Council, above n 18.

³⁵⁶ House of Welcome, above n 16.

³⁵⁷ SSI, above n 305.

7 ASYLUM SEEKER EXPERIENCES IN THE ACT

In comparison with NSW, the ACT receives a smaller number of asylum seekers who are more likely to be non-IMAs. While asylum seekers in the ACT share similar employment and housing experiences to those in NSW, there are also some important differences.

Similarities

Work

A lack of English continues to be a barrier to finding work. For example, persons on a construction site must complete work health and safety (WHS) Induction training and obtain the General Construction Induction (White Card Training) before they are permitted on a building site.

Housing

Asylum seekers in ACT are also ineligible for public housing and fully private rental has been described as a herculean challenge. Local communities may assist or asylum seekers may end up in group housing. A small number of properties were available to male asylum seekers at minimal rent through the Refugee Transitional Housing Program administered by Companion House and Housing ACT however it was reported in December 2014 the scheme was limited by the ability to source housing and the housing being offered was subject to demolition. It was also reported that service providers in the ACT needed to find accommodation for single women and/or families to deal with urgent accommodation needs.

Out of pocket expenses and services

There are also a small number of organisations that provide asylum seekers with significant support. One service provider provides a living allowance to those asylum seekers who do not have access to other funds and who can also provide evidence of a budget. They also offer scholarships (assuming funds are available) for asylum seekers who are already studying and are seeking to study at Canberra Institute of Technology (CIT) or at other institutions in Canberra.

Differences

A number of initiatives instigated by the ACT Government are beneficial to asylum seekers. One of these is the ACT Services Access card, which is available to those on bridging visas and awaiting a decision from DIBP.³⁵⁸ According to the ACT Government website, the card gives asylum seekers access to a range of ACT Government services, including transport,

³⁵⁸ Community Services, *ACT Services Access Card for Asylum Seekers* (ACT Government) <http://www.communityservices.act.gov.au/multicultural/services/access_card> [Accessed 29 June 2015].

education, English classes, legal help and healthcare. They are also eligible for transport concession fares.

The following quotes are from service providers talking about the benefits of the services access card:

Both the card and concession fares on transport are seen as significant since transport costs are seen as prohibitive and stops asylum seekers from interacting with services and others. The card is also seen as significant because it facilitates interaction between asylum seekers and services. By showing their ACT Services Access Card, asylum seekers can decrease the stress or trauma of retelling their story again and again.

Everyone raves about it...with the card, you don't have to say anything much at all, you just show the card and they say how can we help?

- Service provider commenting on the ACT Services Access Card for Asylum Seekers December 2014

We've had challenges of getting kids into schools. We've had that and now it is in the past and there are procedures and arrangements and now you just flash the cards and get concessions and it buys bus tickets. It deals with half a dozen other areas, what to expect if you go to hospital, if you show the card you will get free treatment, ditto with ambulance that has been going for a year now.

- Service provider December 2014

8 ANNEXURES

8.1 Table A: Department of Immigration and Border Protection summary of the community support programs for IMAs as at Feb 2015



Australian Government
Department of Immigration
and Border Protection

Summary of what IMAs awaiting processing may access under community support programmes — February 2015. To check for updates please email communityplacements@immi.gov.au

Please refer to the SRSS bands legend at the end of this document for more information.

	Community Detention	Bridging E Visa (BVE) holders	Comments
Accommodation	Must live at address specified by the Minister. Costs paid by the Department so income support is lower. Basic household goods are provided.	<p>If eligible for SRSS Band 4/Community Assistance Support (CAS) transitional support IMAs on bridging visas may receive up to six weeks initial accommodation while they secure their own ongoing accommodation.</p> <p>After this period they are assessed as eligible for ongoing SRSS Band 5/CAS or SRSS Band 6/Asylum Seeker Assistance Scheme (ASAS) support, which includes access to bond and rent in advance loans to assist them to find their own accommodation.</p> <p>Families with children 10 and under may be eligible for up to 12 weeks (from the date of visa grant) initial accommodation under CAS/Band 4. Where required, they may be eligible for a further 12 weeks Band 5 support before an assessment is made of ongoing need.</p> <p>SRSS Band 5/CAS may assist recipients to access some household goods.</p>	<p>IMA BVE holders to find their own longer-term accommodation and meet costs.</p> <p>Improved orientation programmes that help people adjust to life in the community and understand Australian laws and behavioural expectations. IMAs aged 18 years and older are required to sign a code of behaviour before BVE grant, which was introduced on 14 December 2013. The code outlines expected behaviour for BVE holders while living in the Australian community www.immi.gov.au/ima</p>
Utilities	A portion of the Living Allowance payment is retained by DIBP for payment of utility costs, including utility connection fees.	IMA on bridging visa pays.	Financial support and concession pricing for utility services is dependent on visa conditions and on a state by state basis.



<p>Living allowance (based on Special Benefit)</p>	<p>70 per cent if arrived pre 13/8/12 or if non-IMA, 60 per cent if arrived from 13/8/12</p> <p>89 per cent youth allowance for unaccompanied minors over the age of 13 regardless of arrival date. UAMs aged 13 and under receive a reduced allowance.</p>	<p>89 per cent if eligible for either SRSS Bands 5 or 6/CAS or ASAS.</p> <p>100 per cent youth allowance for BVE holders aged 18-21 years (inclusive) who are independent, not partnered and without dependents.</p>	
<p>Health care</p>	<p>International Health and Medical Services (department funded)</p>	<p>Medicare is available to eligible valid visa holders (no Health Concession Card)</p>	<p>SRSS/ CAS TS/ CAS/ASAS recipients who do not have access to Medicare will receive coverage for their health services under their current programme in line with the Medical Benefits Scheme. This will cover people who have expired Medicare eligibility (due to circumstances outside of their control, such as IMAs whose BVEs have expired due to next grant pending) or those who may currently be ineligible for Medicare. People in this situation should contact their service provider and request assistance.</p>
<p>Access to torture and trauma counselling</p>	<p>Specialist counselling services provided by a member of the Forum of Australian Services for Survivors of Torture and Trauma. Torture and trauma counselling services are in addition to other mental health services that can be accessed in CD by GP referral.</p>	<p>BVE holders are eligible to receive an initial assessment and up to 10 hours of torture and trauma counselling. Further sessions may be requested by service providers, and the SRSS/CAS/ASAS operations team in National Office assesses the request.</p>	
<p>Access to work and Job Services Australia (JSA) Stream 1 Limited</p>	<p>Not permitted as a condition of community detention</p>	<p>An IMA is allowed to work if their BVE does not have a 'no work' condition (condition 8101). IMAs should check their visa grant letter for visa conditions.</p> <p>IMAs who have a 'no-work' condition on their current BVE may be eligible for the grant of a further BVE with work rights while they are waiting to apply for a temporary Protection visa or are going through a protection process.</p>	<p>If a person is found to be working illegally, they risk having their BVE cancelled or CD placement revoked and may be taken back to held immigration detention. It is the employers' responsibility to check if a person is allowed to work. It is a criminal offence to knowingly or recklessly hire illegal workers in Australia and penalties apply.</p>



Access to tailored ESL programme	90 hours over 10 weeks	45 hours over six weeks (maximum of two three-week courses only)	CD and BVE ESL delivered by contracted providers (who are also AMEP providers). English programmes run by volunteers may also be available.
Vocational training	Not permitted as a condition of community detention	Possible for BVE holder to obtain vocational certificate through their own resources. Permission to study can vary dependant on visa conditions and according to the policies of the education provider. Each IMA BVE holder should check the conditions of their current visa for restrictions on study.	
Volunteering	Yes, if approved by the Department	BVE holders are able to volunteer under specific conditions.	IMAs can volunteer even if they have a work restriction on their visa. However, this is only if: <ul style="list-style-type: none"> ▪ the volunteer organisation is an agency in the not-for-profit sector or local government and has an established volunteer programme ▪ activity is genuinely voluntary and no remuneration in cash or kind is received in return for the activities ▪ activity would not otherwise be undertaken in return for wages by an Australian resident—a designated volunteer position ▪ it benefits the community ▪ there is no conflict of interest in the volunteering activity (for example, volunteering for their service provider). Note: in the case of CD, the activity must also be approved by the department.
School Education	Note state/territory laws prescribe school ages (usually 5–17 years).		
	DIBP pays for public education for IMAs in community detention	DIBP pays for public education for IMAs on a BVE. Council of Australian Governments (COAG) arrangements cover non-government education for those on BVEs.	
Reintegration Assistance (RA)	Reintegration Assistance (RA) is available to IMAs-only, located in the community on BVEs, in detention or in offshore processing centres. Services will be provided by the IOM under contract by the Australian Government.		Reintegration assistance packages contain cash and in-kind support for specified activities following the return journey home. The RA packages are designed to assist with any reintegration challenges that are present upon return. The primary aim of RA is to provide for income-generating opportunities.



<p>Assisted Voluntary Return (AVR)</p>	<p>Assisted Voluntary Return (AVR) is available to any Australian non-citizen in the community on certain bridging visas (normally Bridging E Visa) who would like to return home voluntarily but needs assistance to do so.</p> <p>AVR is also available to transferees who would like to return home voluntarily from offshore processing centres.</p> <p>AVR is not available to those located in Australian immigration detention. Reintegration assistance may be available (see below).</p> <p>AVR services are provided by the International Organization for Migration (IOM) under contract by the Australian Government. However in accordance with IOM’s current operating mandate, IOM does not liaise with unaccompanied minors (UAMs) residing in any form of detention including community detention and therefore all UAMs in detention need to contact DIPB if they would like to go home voluntarily.</p>	<p>Services available through the AVR programme include:</p> <ul style="list-style-type: none"> • return information and counselling • travel arrangements including obtaining travel documents and purchasing air tickets • local transportation to returnee’s final destination • a small cash allowance to meet immediate post-return needs.
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SRSS Bands

The type and level of assistance and support provided under the SRSS programme depends on the individual circumstances of the person. There are six bands within the SRSS that offer varying levels of services to people who meet the eligibility criteria.

BAND	DESCRIPTION
BAND 1	Unaccompanied minors in Alternative Places of Detention (APOD)
BAND 2	Unaccompanied minors in Community Detention arrangements
BAND 3	Families and adults in Community Detention arrangements
BAND 4	Transitional support for people leaving immigration detention on a visa (formerly CAS transitional support)
BAND 5	People in the community with medium to high levels of need (formerly CAS)
BAND 6	Asylum seekers in the community with low to medium levels of need (formerly ASAS)

8.2 Table B: Summary of State Government support for asylum seekers throughout Australia

STATE GOVERNMENT SUPPORT FOR ASYLUM SEEKERS LIVING IN THE COMMUNITY June 2015 ³⁵⁹				
	Accommodation	Medicare/health care	Education	Transport
NSW	No accommodation available	<p>The NSW Refugee Health Service provides statewide consultation, support, education and advocacy for refugees and asylum seekers.³⁶⁰ This includes the Refugee Health Nurse program which operates through a range of community health centres in Sydney.</p> <p>Medicare-ineligible asylum seekers have their fees waived in public hospitals for emergency care, some elective surgery, ambulatory and outpatient care for those with chronic health conditions, maternity services, and mental health services.³⁶¹ Urgent oral health treatment may be available through the public dental system if referred by an established agency.³⁶²</p>	'School age' (5 to 17) children are expected to attend school ³⁶³ and can enrol in government schools. ³⁶⁴	No transport concession however the NSW State government announced on 26 June 2015 that asylum seekers will be able to receive a \$2.50 ticket for all day travel across state transport systems from 1 January 2016.

³⁵⁹ This information has primarily been compiled by searching the websites of state government departments. Some states have the information in a central location:

- The ACT Government Community Services Directorate has a page on their website summarising access to services to asylum seekers. (available at http://www.communityservices.act.gov.au/multicultural/access_card)
- The Victorian Department of Health produced a document summarising asylum seeker access to health and community services in Victoria (available at <http://docs.health.vic.gov.au/docs/doc/Guide-to-asylum-seeker-access-to-health-and-community-services-in-Victoria>)

³⁶⁰ NSW Ministry of Health, *NSW Refugee Health Plan 2011-2016*, 18 <http://www0.health.nsw.gov.au/policies/pd/2011/pdf/PD2011_014.pdf > [Accessed 11 November 2014].

³⁶¹ NSW Ministry of Health, *Policy Directive: Asylum Seekers – Medicare Ineligible – Provision of Specified Public Health Services*, <http://www0.health.nsw.gov.au/policies/pd/2009/pdf/PD2009_068.pdf> [Accessed 11 November 2014].

³⁶² Ibid.

³⁶³ Department of Immigration and Border Protection, *Fact Sheet 65 – Bridging E Visas for Illegal Maritime Arrivals* <<http://www.immi.gov.au/About/Pages/media/fact-sheets/fact-sheet-65.aspx>> [Accessed 11 November 2014].

ACT	A small number of properties are available for asylum seekers through the Refugee Transitional Housing Program administered by Companion House and Housing ACT. ³⁶⁵ (The majority of places are reserved for humanitarian entrants).	Medicare-ineligible asylum seekers are to be provided full medical care including pathology, diagnostic, pharmaceutical and outpatient services in public hospitals. ³⁶⁶ Medicare ineligible asylum seekers are also given the same access as Health Care Card holders to public dental and community health services. ³⁶⁷	School age children can attend government schools.	Concession transport available to asylum seekers with the ACT Services Access Card, issued by Companion House on behalf of the ACT Government. ³⁶⁸ It requires a Protection Visa Acknowledgement letter from DIBP and is valid for three months.
VIC	Asylum seekers are eligible for the Housing Establishment Fund through the Department of Human Services, which provides limited rent in advance (for private rentals) and crisis accommodation for people who are homeless or at risk of homelessness. ³⁶⁹	The Victorian Government introduced a four year <i>Refugee and asylum seeker health action plan</i> in June 2014, pledging additional funding. ³⁷⁰ The Department of Health currently funds a range of specialist services including the Refugee Health Program, which operates in areas with high numbers of newly arrived refugees and asylum seekers. ³⁷¹ Medicare-ineligible asylum seekers are provided with full medical care including pathology,	School age children can attend government schools. Adult asylum seekers may be eligible to access Victorian Government subsidised vocational education and training places (asylum seeker status must be confirmed	Asylum Seeker Concession Cards are available to adults on bridging visas who are receiving case management from an approved asylum seeker assistance organisation. ³⁷⁷ Valid from 1 January 2014 until 30 June 2015.

³⁶⁴ Since January 1 2013, it has been DIAC/DIBP policy that asylum seekers must leave school when they turn 18, as “the Australian community does not expect adults to remain at school.” See Nick Olle, ‘18: The Legal Age to be Denied an Education’, *The Global Mail* (online), 16 July 2013 <<http://www.theglobalmail.org/feature/18-the-legal-age-to-be-denied-an-education/658/>>.

³⁶⁵ Ibid.

³⁶⁶ ACT Health, *Public Health Services to Medicare Ineligible Asylum Seekers policy* <<http://www.health.act.gov.au/c/health?a=dlpubpoldoc&document=891>> [Accessed 11 November 2014].

³⁶⁷ Ibid.

³⁶⁸ ACT Community Services, ACT Services, *Access Card for Asylum Seekers* <http://www.communityservices.act.gov.au/multicultural/access_card> [Accessed 11 November 2014].

³⁶⁹ Victorian Department of Human Services, *Housing Establishment Fund* <<http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/programs/housing-and-community-building/housing-establishment-fund>> [Accessed 11 November 2014].

³⁷⁰ Victorian Department of Health, *Victorian refugee and asylum seeker health action plan 2014-2018* <<http://docs.health.vic.gov.au/docs/doc/Victorian-refugee-and-asylum-seeker-health-action-plan-2014-2018>> [Accessed 11 November 2014].

³⁷¹ Ibid.

		<p>diagnostic, pharmaceutical and other services in public hospitals.³⁷²</p> <p>Fees may be charged for spectacles and hearing aids, surgical supplies, prostheses, and some pharmaceuticals. Emergency ambulance services will be billed, but will be written off if a letter is provided an approved organisation stating the individual's asylum seeker status and inability to pay.³⁷³</p> <p>Refugees and asylum seekers are priority clients for community health services. Asylum seekers are exempt from fees for dental treatment at their public community dental clinics.³⁷⁴</p> <p>The Department of Human Services Aids and Equipment Program for people with a permanent disability is available for people who hold a temporary protection visa and Medicare-ineligible asylum seekers.³⁷⁵</p>	<p>by ASRC).³⁷⁶</p>	
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³⁷⁷ Public Transport Victoria, *Asylum Seeker Concession Cards* <<http://ptv.vic.gov.au/tickets/concessions/asylum-seeker-concession-cards/>> [Accessed 11 November 2014].

³⁷² Victorian Department of Health, *Guide to asylum seeker access to health and community services in Victoria* <<http://docs.health.vic.gov.au/docs/doc/Guide-to-asylum-seeker-access-to-health-and-community-services-in-Victoria>> [Accessed 11 November 2014].

³⁷³ Ibid.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

³⁷⁶ RMIT University, *Enrolment: Asylum Seekers and Victims of Human Trafficking Initiative instruction* <<http://www.rmit.edu.au/browse/Staff%2FAdministration%2FPolicies%20and%20procedures%2FStudent%20administration%2FEnrolment%2FEnrolment%3A%20Asylum%20Seekers%20and%20Victims%20of%20Human%20Trafficking%20Initiative%20instruction/>> [Accessed 11 November 2014].

WA	No accommodation available	No formal policy for Medicare-ineligible asylum seekers.	Asylum seeker children are not permitted to attend government schools as a funding agreement has not been reached between DIBP and the WA Government but primary and secondary children on bridging visa are eligible to attend private schools through funding provided the Federal government. ³⁷⁸	No transport concession.
QLD	No accommodation available	Refugee Health Queensland is a statewide service for refugees and asylum seekers providing initial health assessments and referrals to existing services. ³⁷⁹ Medicare-ineligible asylum seekers are not charged for health care by Queensland Health services. ³⁸⁰	School age children can attend government schools.	No transport concession.
SA	No accommodation available	No formal policy for Medicare-ineligible asylum seekers.	School age children can attend government schools.	No transport concession.

³⁷⁸ These private school enrolments are either financed by the federal government or by the schools themselves. (<http://www.humanitarianresearchpartners.org/current-projects.html>)

³⁷⁹ Queensland Health, *Refugee Health Queensland* <http://www.health.qld.gov.au/multicultural/health_workers/refugee_hlth.asp> [Accessed 11 November 2014].

³⁸⁰ Queensland Health, *Health & Support services for specific groups, 9* <http://www.health.qld.gov.au/multicultural/public/QH_factsheets/english/9_english_col.pdf> [Accessed 11 November 2014].

8.3 Table C: Summary of English language support to asylum seekers through local libraries and community organisations in areas where asylum seekers primarily live – Nov 2014³⁸¹

LGA	English language support through local libraries	English language support through community organisations
Auburn	Free English conversation classes run by volunteers are available at Auburn, Lidcombe and Regents Park Libraries. ³⁸²	
Bankstown	Free English conversation classes are available at Bankstown Library and Knowledge Centre. ³⁸³	Bankstown District Uniting Church conducts free weekly conversational English classes during school terms. ³⁸⁴
Blacktown	Free English conversation classes are available at Max Webber Library.	
Fairfield	Free English conversation classes run during school terms at Cabramatta, Fairfield and Bonnyrigg Libraries. ³⁸⁵	House of Welcome in Carramar provides English classes.
Marrickville	Free English conversation classes are available at Marrickville Library. ³⁸⁶	The ASC in Newtown offers free English classes. ³⁸⁷ Newtown Neighbourhood Centre runs free weekly English classes. ³⁸⁸
Parramatta	Parramatta, Granville, Guildford and Dundas Libraries provide free English classes. ³⁸⁹	The Parramatta Salvos run a weekly English conversation group during school terms. ³⁹⁰ JRS also runs English language classes.

³⁸¹ Source: Department of Immigration and Border Protection, *Fact Sheets (Merged)* <http://www.servicetransaction.gov.au/sites/default/files/DIBP%20Fact%20Sheets_merged.pdf> [Accessed 22 September 2014].

³⁸² Auburn City Council, *English Conversation Classes* <<http://www.auburn.nsw.gov.au/Welcome/whatson/Whats%20on%20%20Library/English%20Conversation%20Class.pdf>> [Accessed 11 November 2014].

³⁸³ Bankstown City Council, *Learning at your library* <<http://www.bankstown.nsw.gov.au/index.aspx?NID=168>> [Accessed 11 November 2014].

³⁸⁴ Bankstown District Uniting Church, above n 29.

³⁸⁵ Fairfield City Council, *English Conversation Classes* <<http://www.fairfieldcity.nsw.gov.au/default.asp?iNavCatID=12&iSubCatID=121>> [Accessed 11 November 2014].

³⁸⁶ Marrickville Council, *English Conversation Classes* <<http://www.marrickville.nsw.gov.au/en/library/events-at-the-library/english-classes/>> [Accessed 11 November 2014].

³⁸⁷ Asylum Seekers Centre, *Education* <<http://asylumseekerscentre.org.au/education/>> [Accessed 11 November 2014].

³⁸⁸ Newtown Neighbourhood Centre, *English classes* <https://www.newtowncentre.org/english_classes.html> [Accessed 11 November 2014].

³⁸⁹ Parramatta City Council, *English language resources and classes* <http://www.parracity.nsw.gov.au/your_council/news/news/library_list/english_language_resources_and_classes> [Accessed 11 November 2014].

Sydney		<p>South Sydney Community Aid Co-op (Multicultural Neighbourhood Centre) offers free English classes open to all.³⁹¹</p> <p>Surry Hills Neighbourhood Centre offers free English classes (no visa required).³⁹²</p> <p>The University of Sydney's Refugee Language Program provides free intermediate and advanced classes for refugees and asylum seekers.³⁹³</p>
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³⁹⁰ The Salvation Army, *Conversation group* <<http://salvos.org.au/parramatta/our-activities/conversation-group/>> [Accessed 11 November 2014].

³⁹¹ South Sydney Community Aid, *Services* <<http://ssca.org.au/south-sydney-community-aid/services.html>> [Accessed 11 November 2014].

³⁹² Surry Hills Neighbourhood Centre, *English Language Classes* <http://www.shnc.org/English_conversation_classes.php> [Accessed 11 November 2014].

³⁹³ The University of Sydney, above n 32.

8.4 Table D: Summary of Uniting Church congregational support to asylum seekers mentioned in this paper

LGA	Uniting Church congregation	Support given
Balmain	Balmain Uniting Church	Balmain for Refugees (BFR) is a committee of Balmain Uniting Church and the wider community. BFR's two major roles are firstly, assisting failed asylum seekers apply to the courts for review of their adverse decisions, and secondly, writing requests to the Minister to intervene based on compelling new evidence and information that they face torture, imprisonment and/or death in their home countries. ³⁹⁴
Bankstown	Bankstown District Uniting Church	Bankstown District Uniting Church conducts free weekly conversational English classes during school terms. ³⁹⁵
Crows Nest Uniting Church	Crows Nest Uniting Church	Crows Nest Uniting Church is part of Simple Love an organisation that assists churches to provide material aid for asylum seekers not on government assistance. ³⁹⁶
Parramatta Mission	Leigh Memorial, Leigh Fijian, Westmead and Sydney Jo Eun	Parramatta Mission organizes a meals program which is accessed by asylum seekers
Seven Hills	Grantham Heights Uniting Church	Grantham Heights Uniting Church is part of Simple Love an organisation that assists churches to provide material aid for asylum seekers not on government assistance. ³⁹⁷
Wesley Mission	Sydney CBD	Wesley Mission organizes a meals program which is accessed by asylum seekers

³⁹⁴ Balmain Uniting Church, above n 294.

³⁹⁵ Bankstown District Uniting Church, above n 29.

³⁹⁶ Crows Nest Uniting Church http://cnu.org.au/mission/simple_love/simplelove.html [Accessed 24 July 2015 2014].

³⁹⁷ Grantham Heights Uniting Church <http://7hillschurch.org.au/tag/food/> [Accessed 24 July 2015 2014].

9 IMPORTANT TERMS

Administrative review: merits review assessment of a DIBP decision to refuse a protection visa by the Refugee Review Tribunal or in the case of IMAs, the new proposed fast track assessment process

(ASCON) Auburn Small Community Organisation Network: Auburn Council has a number of capacity building programs to support community organisations from small and emerging communities, including convening of the Auburn Small Community Organisation Network. ASCON is a group of small, volunteer run, not-for-profit community organisations who do not receive regular funding.

Asylum seeker: An asylum seeker is a person who has left their country of origin and has applied for protection as a refugee and whose claims for refugee status are yet to be determined. In Australia, an asylum seeker is someone whose protection visa claim has not been finally decided. Not every asylum seeker will be recognised as a refugee, but every refugee is an asylum seeker.

(ASAS) Asylum Seeker Assistance Scheme: Federal government scheme that provided assistance for basic food, shelter and health care. The scheme was incrementally replaced by the SRSS in 2014-2015.

(ASI) Asylum Seeker Interagency: The NSW Asylum Seeker Interagency meets every two months and provides a forum whereby various NSW refugee and asylum seeker related organisations can meet, share information and identify common concerns and resolve specific problems

Bridging visa: A bridging visa is a temporary visa that allows someone to remain lawfully in Australia while their immigration status is being resolved.

Code of Behaviour: Describes how people are expected to behave while in Australia. Grant of a bridging visa is conditional upon signing the Code.

(CAS) Community Assistance Support: Federal government scheme that provided additional casework support to more vulnerable clients than ASAS. The scheme was incrementally replaced by the SRSS in 2014-2015.

(CAS TS) Community Assistance Support (Transitional Support): Federal government scheme that provided transitional support to asylum seekers released from immigration detention. The scheme was incrementally replaced by the SRSS in 2014-2015.

Community asylum seekers: This term distinguishes asylum seekers in the community on a bridging visa (or in some cases a substantive visa such as a student visa or a tourist visa) from those held in detention facilities and community detention.

Community detention: The Minister for Immigration may exercise his ministerial power under s.197AB of the Migration Act to make a 'residence determination.' Such a determination permits people who are in immigration detention to reside at a specified place in the community, instead of being detained in detention facilities.

(CALD) Culturally and Linguistically Diverse Voluntary Groups: this is the name given to those voluntary groups that are largely made up of those from similar culturally and linguistically diverse backgrounds

(DIBP) Department of Immigration and Border Protection: The Department that administers the Migration Act. Between January 2007 and September 2013, it was known as the Department of Immigration and Citizenship (DIAC).

(DHS) Department of Human Services: The Department that delivers a range of welfare services including Centrelink and most recently, SRSS.

Forced labour: The definition of forced labour is found in s. 270.6 of the Criminal Code. It is defined as "the condition of a person (the victim) who provides labour or services if, because of the use of coercion, threat or deception, a reasonable person in the position of the victim would not consider himself or herself to be free: (a) to cease providing the labour or services; or (b) to leave the place or area where the victim provides the labour or services." The definition above is adapted from the 1930 International Labour Organisation Convention No. 29 concerning Forced or Compulsory Labour which came into force on 1 May 1932. Article 2(1) of the Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." (Note that Article 2 continues to exclude certain forms of work from the definition of forced labour, including compulsory military service). There is an important distinction to be made between forced labour and situations where people may be working in sub-standard employment. However, sometimes the difference may not be immediately clear. The ILO has explained that a person in a forced labour situation is determined by the nature of the relationship between a person and an 'employer' and not by the type of work performed, or the legality or illegality of the work.

(IMAs) Illegal Maritime Arrivals: the name the Department of Immigration and Border Protection gives to asylum seekers who enter Australia by boat without a prior visa.

(IOM) International Organisation for Migration: is the leading inter-governmental organisation in the field of migration and works closely with governmental, intergovernmental and non-governmental partners

(IAAAS) Immigration Advice and Application Scheme: Federal government funded legal assistance program that for IMAs was defunded in March 2014.

(IAA) Immigration Assessment Authority: the new merits review body that considers DIBP refusal decisions in relation to IMAs who entered Australia on or after 13 August 2012 but before 1 January 2014 and who have not been taken to a regional processing country.

Immigration detention: Australia's Migration Act requires people who are not Australian citizens and do not hold a valid visa to be detained, either in a detention facility or, if a residence determination is made, at a specified place in the community.

(JSA) Job Services Australia: the Australian Government employment services system that supports job seekers and employers.

Judicial review: a review by the court of a departmental or merits review decision

Ministerial intervention: Under the Migration Act, an asylum seeker can make a non-compellable request for ministerial intervention if they have received a decision by a Refugee Review Tribunal. Under the fast track process, asylum seekers may not be able to make the same request if they have received a decision by the Immigration Assessment Authority.

Non-IMAs: all other asylum seekers to distinguish them from IMAs but typically those who enter Australia by air with a pre-arranged temporary visa (e.g. tourist or student visa).

(PAM) Procedures Advice Manual: The Department of Immigration and Border Protection produces its own detailed policy material to assist delegates. The Procedures Advice Manual runs to several volumes and is regularly updated. The latest version is PAM3. In addition to PAM, the Migration Series Instructions (MSIs) provide commentary on specific aspects of the legislative scheme and are used by delegates in the decision-making process. Policy is not legally binding on the Minister, Department of Immigration and Border Protection decision makers or a tribunal member, but it is generally followed unless the policy itself is inconsistent with the Migration Act or the Migration Regulations 1994 or its application would cause an injustice in a particular case.

(PAAS) Primary Application Assistance Scheme: new government legally funded advice scheme only for unaccompanied children and people determined by the Department of Immigration and Border Protection to be vulnerable.

Refugee: A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international instruments and/or under national legislation. Australia is a signatory to the United Nations Convention Relating to the Status of Refugees, the key international instrument that regulates the obligations of states to protect refugees fleeing from persecution. The Convention defines a refugee as someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. While most references to the Convention have been removed from the Migration Act and replaced with a new statutory definition of refugee, the explanatory memorandum that accompanied the changes states that this will articulate Australia's interpretation of its protection obligations under the Convention.

(RACS) Refugee Advice and Casework Service: RACS is a not-for-profit refugee legal service, which provides expert advice and casework assistance to financially disadvantaged individuals seeking asylum both in the community and in immigration detention.

(RCOA) Refugee Council of Australia: is the national umbrella body for refugees and the organisations and individuals who support them. It has more than 200 organisational and over 900 individual members.

(RRT) Refugee Review Tribunal: the merits review body that considers DIBP refusal decisions in other than those made by IMAs who entered Australia on or after 13 August 2012 but before 1 January 2014 and who have not been taken to a regional processing country. From 1 July 2015 the Migration Review Tribunal and Refugee Review Tribunal will join the Administrative Appeals Tribunal and be known as the Migration & Refugee Division.

Service provider: we use this term in a broad sense to cover anyone who offers a service, resource or program to asylum seekers. It includes the following: government funded service providers, non- government funded service providers, CALD voluntary groups, mainstream welfare agencies, churches and other religious organisations, other volunteer groups not defined by background or religion and finally, some individuals.

(SHEV) Save Haven Enterprise Visa: a 5 year temporary visa that will allow an applicant to apply for a number of permanent visas if the applicant satisfies employment, educational or social security benefit requirements prescribed in relation to the safe haven enterprise visa.

(STARTTS) Service for the Treatment and Rehabilitation of Torture and Trauma Survivors: is a specialist, non-profit organisation that provides culturally appropriate and psychological treatment and support to help people heal the scars of torture and refugee trauma and rebuild their lives in Australia.

(SRSS) Status Resolution Support Services: The Status Resolution Support Services program provides support to asylum seekers who are living in the community until their status as a refugee has been assessed.

Unaccompanied Minors: Persons below the legal age of majority who are not in the company of an adult who by law or custom is responsible for that person.