

Caroline Slocock

Caroline Slocock was until recently the Chief Executive of Refugee and Migrant Justice – the largest specialist provider of legal services to asylum seekers and other vulnerable migrants. She was Chief Executive of the Equal Opportunities Commission (EOC), between 2002 and 2007 and helped highlight the underlying causes of the low pay of women, advocating more family-friendly policies and seeking better pensions for women. Before joining the EOC, she was in charge of the national childcare strategy at the Department for Education and Skills, greatly expanding the amount of childcare and nursery education. She worked for many years in the Treasury, including as a senior adviser on public expenditure, where she reformed the public expenditure system. In her early career, Caroline was the first woman private secretary at No 10, working directly to Margaret Thatcher and then John Major.



An Asylum System Fit for the 21st Century

Few people would disagree that the asylum system is dysfunctional. It is a system which lacks credibility with both asylum seekers and the general public. It is also hugely expensive, a fact which will not escape the attention of the new government under unprecedented pressure to reduce cost. Rather than look to short-term savings which will only make matters worse, we believe the government has a unique opportunity to design a new system which can deliver fair decisions quickly and cost effectively. The need for asylum will be no less in this century than the last. If the government makes the most of the opportunity for reform, we could have an asylum system fit for the demands of the 21st century.

At the heart of the asylum problem is poor Home Office decision making. It is characterised by what the Independent Asylum Commission called ‘a culture of disbelief’. Almost a quarter of appeals against refusal of asylum are successful, a shocking fact when one considers that these decisions involve matters of life and death. Many asylum seekers are denied any form of status, but cannot be removed, because they come from dangerous countries such as Iraq, or Somalia, further undermining the credibility of the system.

Rather than tackle the root causes of the asylum problem, government policy has been to erect barriers to protection. It is virtually impossible for an asylum seeker to come legally to the UK to claim asylum. Border control has been progressively pushed back to the EU borders and beyond. Government policy has sought to discourage people coming to the UK by introducing a series of ‘get tough’ measures. In addition to imprisonment for immigration offences, increasing numbers of asylum seekers are locked up in detention centres. The right to work has been withdrawn and a policy of forced destitution of failed asylum seekers has left 25,000 reliant on Red Cross food parcels and many others on support from friends and their community groups. At the same time, judicial safeguards have been eroded without any effort to improve the quality of decision making.

None of these measures has had any impact on the return of failed asylum seekers. This is not surprising. Asylum seekers left at the end of the process feel they have not had a fair hearing and refuse to leave voluntarily. The cost of forced removal is huge.

It is little wonder that a huge backlog of a quarter of a million cases built up, largely involving asylum seekers at the end of the process. As a result of political pressure, the Home Office hived these cases off and poured resources into resolving them. But it did so without addressing the underlying problem of poor decision making. It is not surprising that a new and growing backlog of over 35,000 cases has emerged.

Asylum seekers are caught in the middle of these problems and experience the inhumanity of the system first hand. Patrice's case is typical. He fled Cameroon having been tortured severely for his political beliefs. The Home Office refused to accept anything he said and denied him asylum. It wasn't until the Independent Appeals Tribunal took a proper look at his case and allowed his appeal that he was granted asylum. Patrice was lucky because he managed to find good legal representation. Many other asylum seekers are not so lucky.

Detention policy is particularly inhumane. It is difficult to explain detention policy to a detainee whose only crime was to claim asylum. Incidents of self-harm of immigration detainees have increased steadily over the years. In December 2007, there were 157 such incidents. The Royal College of Paediatricians has recently called for an end to the detention of children, highlighting the unnecessary harm it does to their physical and mental health. The policy to force refused asylum seekers into destitution is inhumane. But what makes it worse is that this inhumanity is pointless: it ensures the Home Office loses contact with failed asylum seekers so they cannot be removed.

Sorting out all the problems of the asylum system will be a challenge for any government at a time of economic pressure, but here there is a real possibility of a 'win, win.' It should be possible both to save money and build a fairer, more humane asylum system of which the UK could be proud in ten years time – provided the government avoids the temptation of pursuing efficiency at the expense of effectiveness.

If the system were re-focused on getting decisions right first time, then much waste further down the line in terms of delay and the cost of unnecessary appeals could be avoided, backlogs could be reduced and trust in the system could be restored. A fundamental requirement of such a system is that asylum seekers should have access to good quality representation from the outset of the process and that decision making is based on evidence, not prejudice.

This isn't wishful, futuristic thinking. It has been tested and it worked. The Home Office and Legal Services Commission (LSC), piloted just such a system with the 'early legal access pilot' in Solihull in which every asylum seeker had access to a lawyer from the beginning and were represented at their legal interview with the Home Office. Refugee and Migrant Justice took part in the pilot and we saw at

first hand the benefit of a process which delivered good decisions quickly. Although more money was spent upfront on legal representation, an independent evaluation of the pilot demonstrated the potential for significant whole-life savings in costs up to completion of the first appeal stage. Ministers have agreed to roll out the new process to the Home Office's Midlands region from October 2010 for further evaluation.

There's a general lesson here for public services. The New Economics Foundation, an independent think-tank, has developed an innovative approach to analysing the effectiveness of public expenditure which it calls the 'Social Return On Investment' (SROI). This model emphasises the need to look at cost and value for money in the longer term. It understands 'value' in a broader sense than merely cost and price and incorporates factors such as individual well-being.

However, the trend in public service reforms since the late 1980s is to drive down costs and introduce greater competition. Value for money is often assessed through the measurement of units of outputs, rather than what matters most: public services achieving the outcomes they were set up in the first place to achieve.

The result can be some nasty unintended consequences. The LSC has recently sought to control costs in legal aid by introducing a new funding system which pays for a case by a fixed fee, rather than at an hourly rate. Research undertaken by Refugee and Migrant Justice has shown that the fixed fee runs the danger of transferring money from the most cost-effective suppliers, who spend more time but resolve a case, to the least cost-effective ones who cut out essential work in order to make the most profit and leave work for other legal professionals to do. The danger is greatly intensified because the LSC has effectively abandoned any attempt to measure and enforce effective quality standards.

On top of this, the LSC has passed on the cost of financing government debt to not-for-profit organisations by introducing payments months, even years in arrears once cases are closed.

So, looking to the future, what is needed is more sustainable funding of legal services, which recognises the value of the not-for-profit sector and does not seek to overburden it with debt.

There are two other essential ingredients to a fairer, more humane asylum system that would also save money:

- Ending detention, particularly for children. This is costly, inhumane and unnecessary.
- Allowing asylum seekers to work while they await a decision. They don't want to depend on benefits.

Add all this together and you would start to have an asylum system fit for the 21st century. There are also some good lessons here to apply to public services as a whole.