



## **GUIDELINES FOR SELECTION OF BENEFICIARIES FOR IN-DEPTH LEGAL CASEWORK**

### **The need for guidelines**

We are often in a situation where we are unable to meet all of the requests for assistance that we are faced with. JRS is extremely limited, and the demand for our services is always far greater than the resources available. To try to meet all the needs we perceive or to take on more cases than we can realistically handle, will inevitably mean that we will end up compromising on the quality of service we provide. It is quite simply not possible to do everything and to do it well.

While it may be possible to provide basic information to large numbers of people, the same cannot be said of more in-depth casework, which can be provided only in a limited number of cases, in view of the very limited resources available.

In order to ensure that, as far as possible, we provide legal assistance to those who really need it, rather than to those who are most persistent or to those who happen to approach us first, we have devised the following guidelines for action, taking into account the aims of the project, the needs of asylum seekers in detention and the JRS mission and mandate.

### **JRS criteria for action**

JRS Malta is part of an international network, set up to accompany, serve and defend refugees and forcibly displaced people. JRS seeks to work with forgotten refugees and to go where the need is greatest – where no one else is working.

These criteria, which shape the activities and involvement of JRS worldwide, should also guide us as we seek to determine to whom and how we provide this service.

### **Guidelines for intervention**

1. The **goal** of this service is to provide information to asylum seekers about their rights and the procedures that will be followed for the determination of their applications for protection, as well as legal advice and assistance throughout the proceedings. This to ensure that all who need protection are recognized and granted the protection they need.

JRS personnel (staff and volunteers) will therefore provide:

- Legal assistance and information **within the context of procedures for the determination of applications for refugee status.**
- Assistance to immigrants who need **protection from forced repatriation**, if there is good reason to believe that they would face a serious violation of their human rights if they were to be returned to their country.

- Assistance to **vulnerable asylum seekers** to enable them to access the **protection they require**, including release from detention, in terms of law and government policy.

Requests for **other forms of assistance and/or intervention**, will be dealt with on a **case-by-case basis**. Each case must be discussed with the project co-ordinator, in order to determine whether or not the case should be handled directly by JRS personnel or possibly whether the case should be referred to another professional for intervention, if so required.

As a general rule complaints regarding **ill-treatment by detention centre staff** are investigated and followed-up by JRS as an NGO, rather than by the individual lawyer on behalf of his/her client.

2. In line with the JRS mandate to go **where the need is greatest and where no one else is working**, JRS Malta has decided to prioritize the following categories of asylum seekers:

**(i) Asylum seekers in detention**

JRS Malta has decided to prioritize asylum seekers in detention, as opposed to those in the community.

This choice was made in view of the fact that it is extremely difficult for asylum seekers in detention to avail themselves of their right to legal assistance, apart from the provision of state legal aid at appeal stage of the proceedings. Asylum seekers in detention are effectively almost totally isolated, and to date JRS is the only agency offering any sort of legal assistance on a consistent, albeit limited, basis in detention centres.

JRS will only assist asylum seekers in the community where they can be considered vulnerable or where they have a clear need for protection and in-depth follow-up, which they are unlikely to get from elsewhere.

**(ii) Vulnerable asylum seekers**

In view of the special needs of vulnerable asylum seekers, JRS personnel will give priority to this category of people. Included within this category are children, unaccompanied minors, pregnant women, women unaccompanied by any members of their immediate family, people suffering from mental health or psychological problems, people with serious medical conditions, victims of trauma and torture, etc.

**(iii) Asylum seekers with a protection-based claim**

Given the serious limitation of resources, priority will be given to **asylum seekers most in need of, or most likely to benefit from legal assistance**.

This implies that we should clearly not be providing a service to immigrants who have no claim to or need for protection in terms of national and international refugee and human rights law.

The only exception is where immigrants are vulnerable (see para (ii) above); in such cases JRS will intervene to ensure that they receive the protection they require as a result of their particular needs/vulnerability.

### **Implementation of the project**

In order to determine who comes within the above-mentioned categories it is necessary to have a **system that screens requests** for assistance.

We have therefore put in place a **two-tier system**, which will function as follows:

1. Teams of trained **outreach workers**, will be assigned to visit the different detention centres on a regular basis. They will be responsible for:
  - Providing basic information about asylum procedures and immigration rules affecting the status of their client/s to as many asylum seekers as possible, within the limitations of available resources;
  - Serving as a point of contact for asylum seekers and receiving requests for information and/or assistance;
  - Recording all such requests and passing them on to the JRS office for follow-up;
  - Working with clients to obtain documentation to substantiate their claims or to facilitate repatriation where the client wishes to return;
  - Identifying asylum seekers who could benefit from and would qualify for more in-depth legal assistance, in the light of the above-listed criteria, and collecting sufficient information to conduct a preliminary assessment of their protection needs, determine the extent of the service JRS can offer and formulate a case-plan;
  - Following up cases as necessary.
  
2. Where it is determined that JRS should provide intensive legal assistance, the cases will be referred to a specific **legal case-worker**, who is either members of JRS staff or a volunteer who has agreed to provide legal assistance to clients referred to them by JRS. These could be part of the outreach teams or volunteers who agree to provide only this specific service.

Caseworkers will:

- Take on cases according to availability;
- Visit detention centres regularly to provide legal assistance to their clients<sup>1</sup>. This could include help with preparing for an interview, preparing submissions, writing appeals, conducting the necessary research, etc.

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<sup>1</sup> The system will not work if volunteers/members of staff try to deal with all the requests for assistance that he/she will receive, or to take on cases being dealt with by others. It is imperative that all requests from people other than one's clients are referred to the JRS office for assessment and follow-up.

The **Project co-ordinator** will be responsible for the administration and co-ordination of this service.

3. Requests for **medical assistance** should always be referred to the JRS social worker.
4. **Issues to be discussed with one or more of the various authorities** responsible for the administration of the detention centres, the welfare of the asylum seekers/detainees, or the handling of their cases (i.e. the Refugee Commissioner, the Ministry or the Police, as the case may be) will **be assigned to one person** for follow-up to avoid confusion and duplication.