

# BRIEFING

23 April 2025

## REFUGEE AND MIGRANT RIGHTS

### Home Office backlogs: lessons to be learnt

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Home Office backlogs cause misery to people stuck in them, are costly, lead to wider inefficiency, and generally undermine confidence. This briefing identifies how to avoid backlogs. It focuses on the asylum system.

#### Home Office asylum backlogs

The Home Office has experienced backlogs over many years in various of its decision-making and related processes, including in the asylum system. For much of the last 30 years, backlogs have been the subject of repeated concern about the department.

For example, shortly after the last Labour administration took office in 1997, it published a White Paper that identified backlogs of asylum claims awaiting a decision and of asylum appeals.<sup>i</sup> Seven years later, it claimed to have got on top of these backlogs,<sup>ii</sup> only to announce a huge ‘legacy’ of unresolved asylum cases the following year.<sup>iii</sup> The last Conservative administration took office in 2010. Three years later, it announced it would take years to clear backlogs at the department.<sup>iv</sup> However, when it left office in 2024, the asylum system had broken down under the weight of a backlog of undecided claims,<sup>v</sup> even after deciding an exceptional number of claims in a one-off exercise in 2023.<sup>vi</sup>

The current Labour administration has declared it will clear the present backlog.<sup>vii</sup> Since governments have repeatedly made similar promises, it is particularly important to consider what is necessary to achieve this aim. This requires understanding what a backlog is.

#### What constitutes a backlog?

A backlog is more than just outstanding work. It is a volume of such work that has grown out of proper proportion to the amount of new work being received or the system’s capacity to manage that work.

The immediate impact of a backlog is to overwhelm a system. The people stuck in the backlog are left in limbo, waiting for their individual cases to be addressed. The system is no longer able to address their cases fairly and efficiently. The longer this continues, the larger the backlog and the more difficult it becomes to repair the system and resolve the backlog.

The impact is likely to go far further than the backlog and the people stuck in it. Backlogs require extra resources – human and financial. They can require these even just to prevent the backlog growing, let alone to reduce or resolve it. Those extra resources must come from somewhere. In this way, backlogs can cause other inefficiencies including other backlogs.

## The need to understand the entire system

In 2013, the then Home Secretary made several criticisms of her department, including its habit of focusing on one crisis and losing sight of other work.<sup>viii</sup> This is relevant to backlogs. There are good and bad ways to resolve a backlog. One bad way is to move the backlog somewhere else – resolving an immediate crisis in one part of the system by creating a new crisis in another part of it.

The asylum system is responsible for people who seek asylum in the UK. It has many parts:

1. **Registration and screening:** To claim asylum, someone must make their claim at a designated place in the UK where the claim will be registered.<sup>ix</sup> The Home Office will conduct a screening process, taking information from the person to identify them and assess any relevant needs or concerns.<sup>x</sup> This may include deciding where to allocate accommodation for someone,<sup>xi</sup> whether to detain them, or whether the person may be a child who must be referred to social services.<sup>xii</sup>
2. **Decision-making:** The Home Office is responsible for deciding asylum claims. It will usually interview the person who makes a claim. It may receive further information and representations from the person's lawyer. It should consider all this information, together with information it obtains or produces, to decide whether the person is entitled to asylum or should be permitted to stay for some other reason. It may then grant or refuse the person permission to stay. In some cases, it may treat the person's claim as withdrawn – e.g., if the Home Office has lost contact with the person.<sup>xiii</sup>
3. **Appeals:** If someone is refused asylum, they may have a right to appeal.<sup>xiv</sup> The First-tier Tribunal is responsible for deciding the appeal. The person may be legally represented at the appeal. The Home Office may participate in the appeal too. The tribunal may receive information, including statements and evidence, from the person refused asylum and from the Home Office. It may hold a hearing at which the person refused asylum may give oral evidence and answer questions. That person or their lawyer, and the Home Office, may make oral submissions as to whether the appeal should be allowed or dismissed. If the tribunal allows the appeal, the Home Office may either accept that decision or apply for permission to appeal against it. If it dismisses the appeal, the person refused asylum may either accept that decision or apply for permission to appeal against it. Permission to appeal should only be given if it is arguable that the tribunal made an error of law.<sup>xv</sup> If someone is successful with their appeal, the Home Office should give effect to that by then permitting the person to stay.
4. **Further applications:** If someone is permitted to stay, Home Office policy is to grant permission for a limited period (usually 5 years).<sup>xvi</sup> The person will then need to make a further application before that permission expires.<sup>xvii</sup> If someone is refused permission to stay, they may make a further application (called a fresh claim) if there is new evidence or circumstances have changed.<sup>xviii</sup> The Home Office is responsible for deciding these further applications.
5. **Returns:** Someone refused permission to stay may be required to return to their home country or, in some cases, to another country – e.g., somewhere they made an asylum claim before coming to the UK.<sup>xix</sup> If someone is unwilling to return, the Home Office has powers to forcibly remove them from the UK. Normally, it should not attempt to remove someone while they have an outstanding claim, appeal or further application. However, it may do so in some cases – e.g., if it says the person's claim is clearly unfounded (i.e., has no prospect at all of success).<sup>xx</sup>

Backlogs can develop in any part of the system. To effectively tackle a backlog, the impact on other parts of the system must be considered. The experience of the last nearly 30 years is that backlogs have often just been moved about the system – e.g., a backlog in decision-making moved to appeals, or backlogs in these parts of the system moved to further applications and returns.<sup>xxi</sup>

## An effective strategy for avoiding backlogs

Avoiding backlogs requires that sufficient resources are available to manage the workload. In principle, there can be three aspects to this. These aspects relate to volume of resources, volume of workload, and efficient use of resources. These aspects must be considered separately and realistically:

- **Volume of resources:** No matter how efficient their use, insufficient resources will lead to backlogs. The number, training and quality of Home Office decision-makers, presenting officers, and other staff are especially important.<sup>xxii</sup> However, staff and other resources are not unlimited.
- **Volume of workload:** Less workload requires fewer resources. The number of people seeking asylum may go up or down. However, several reasons for that are beyond the system's influence (e.g., whether more people need to flee from conflict and oppression) and attempts to influence how many people come to the UK can have opposite effects (e.g., deterring other countries from providing asylum may cause more people to come; maintaining conditions in which people must rely on people smugglers may enable smugglers to thrive bringing more people).
- **Efficient use of resources:** Efficiency requires that resources are used in the best way to achieve the aims that are set. However, this is insufficient. If the aims that are set are impractical, no amount of resource will achieve them efficiently.

An effective strategy would, therefore, make a priority of [deciding asylum claims fairly and efficiently](#). It would ensure that people entitled to asylum receive it and are enabled to get on with their lives as quickly as possible. It would ensure returns resources are used only where it is proper and practical to do so. It would not waste resources trying to do things it should not attempt or cannot achieve. In this way, it would be more efficient in all it did and, because of that, more effective. Insofar as it could deter anyone seeking asylum, it would do so by demonstrating its effectiveness so people without good claims might know there was no advantage to doing so.

Labour and Conservative administrations have pursued bad and ineffective strategies. They have sought to deter people seeking asylum by arbitrarily setting out to grant fewer people asylum – determining their claims poorly or not at all.<sup>xxiii</sup> Their strategies have caused backlogs and not deterred people. By refusing asylum to more people than was fair or safe, the system has been made ineffective – attempting to remove more people than it can or should. It has given people reason not to trust it. People wrongly refused asylum have needed to resist it. People fearful of being wrongly refused, have been encouraged to avoid it. People, who may not have good claims, have been encouraged to believe any refusal of their claim is unfair or that the system's inefficiency may nonetheless enable them to stay.

The system should focus on working well, deciding claims fairly and efficiently. The Government could then encourage other countries to do likewise, including by offering to [share responsibility](#) with them. This would reduce people's dependence on people smugglers (making life harder for smuggling gangs), improve other countries' asylum systems, and ensure refugees find asylum quickly and safely. This would help manage the number of people seeking asylum in the UK and how their claims are received.

## Conclusion

Backlogs have recurred in the asylum system for decades because successive administrations have pursued bad policies. They have tried to avoid responsibilities rather than take them. Their efforts at deterring and preventing people seeking asylum have broken the system and had other bad effects. This has generally been because they have set aims for the system that are impractical, even illegitimate.<sup>xxiv</sup> Asylum responsibilities cannot be avoided. They can, however, be managed badly or managed well. Fair and efficient decision-making is critical to managing well and avoiding backlogs.

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## Notes

- <sup>i</sup> *Fairer, Faster and Firmer: a modern approach to immigration and asylum*, [Cm 4018](#), July 1998, e.g., paragraphs 3.2-3.6 and 8.27-8.32
- <sup>ii</sup> *Controlling our borders: making migration work for Britain. Five year strategy for asylum and immigration*, [CM 6472](#), February 2005, pp5 & 35
- <sup>iii</sup> *Fair, effective, transparent and trusted: rebuilding confidence in our immigration system*, Home Office, [Ref 275921](#), July 2006 identified the legacy of unresolved asylum cases as a key priority. In Parliament, the Home Secretary identified that legacy to constitute around 400,000-500,000 cases, though he indicated the figure included some duplication: *Hansard HC, 25 July 2006 : Col 747*, per Rt Hon John Reid (now Lord Reid of Cardowan).
- <sup>iv</sup> *Hansard HC, 26 March 2013 : Col 1501* per Rt Hon Theresa May, Home Secretary (now Baroness May of Maidenhead)
- <sup>v</sup> [Immigration quarterly statistics](#), published 22 August 2024, show there to have been 85,839 asylum claims, relating to 118,882 people, awaiting a decision at the end of June 2024.
- <sup>vi</sup> In the last quarter of 2023, the Home Office decided in three months close to the same number of claims it had decided in 2 years during 2021-2022. The impact of this within the asylum system is briefly discussed in Amnesty's briefing, [Gambling with lives: how a bad policy wrecked the UK's asylum system](#), February 2024. A full impact assessment would, however, need to consider the impact on other Home Office systems and beyond the Home Office (such as on local authorities).
- <sup>vii</sup> *Hansard HC, 22 July 2024 : Col 386* per Rt Hon Yvette Cooper, Home Secretary
- <sup>viii</sup> *Hansard HC, 26 March 2013 : Col 1500* per Rt Hon Theresa May, Home Secretary (now Baroness May of Maidenhead)
- <sup>ix</sup> Section 14, Nationality and Borders Act 2022 (though this was required as a matter of policy before the Act)
- <sup>x</sup> The screening process includes taking photographs and fingerprints of the person seeking asylum, making background checks, and taking relevant information and documentation (including a passport if the person has one).
- <sup>xi</sup> People seeking asylum are generally excluded from mainstream benefits and housing support, and not permitted to work. The Home Office is responsible for accommodating and maintaining people who cannot otherwise support themselves.
- <sup>xii</sup> Unaccompanied children are looked after by local authorities. However, the Home Office sometimes wrongly treats a child as an adult including where it disputes the child's age. This can put children at serious risk of harm and exploitation.
- <sup>xiii</sup> A person may expressly withdraw their claim, or they may do so by leaving the UK. If, however, the Home Office treats a claim as withdrawn even though the person has not expressly withdrawn it or left the UK, it risks creating more work as the person will need to have their claim re-instated or re-make it.
- <sup>xiv</sup> Section 82, Nationality, Immigration and Asylum Act 2002
- <sup>xv</sup> Section 11, Tribunal, Courts and Enforcement Act 2007; and see relevant procedure rules and practice directions of the Immigration and Asylum Chambers of the First-tier Tribunal and Upper Tribunal
- <sup>xvi</sup> This has been the policy for several years. It is currently reflected in paragraphs 339QA and 339QB of Statement of Changes in Immigration Rules, HC 395 (as amended), generally referred to as the immigration rules.
- <sup>xvii</sup> Failing to apply to extend permission (called leave to enter or remain) causes someone to become an overstayer unless they have left the UK before the expiry of that permission. This is a breach of immigration law, may require the person to make an entirely new asylum or other claim, and may put them at risk of detention, destitution, homelessness or exploitation.
- <sup>xviii</sup> Paragraph 353 of the immigration rules applies.
- <sup>xix</sup> This is a key focus of the Dublin Regulations, which allocates responsibility, among EU Member States, for asylum claims made within EU territory. Before withdrawing from the EU, the UK was a party to these regulations.
- <sup>xx</sup> The primary relevant legislative provisions are sections 77-79 and 92, Nationality, Immigration and Asylum Act 2002.
- <sup>xxi</sup> The last Labour administration (1997-2010) achieved this by introducing policies and legislation to reduce the number of people granted asylum – including to fast track decision-making, detain people while deciding their claim, changing the basis on which to permit people to stay, issuing country information and guidance that changed the assessment of the safety of countries, restricting appeal rights, and directing decision-makers to treat people as unbelievable. These all made it harder for refugees to prove their right to asylum. Many people were refused when they should not have been. The system created a large number of people formally required to return but who could not do so safely and whom the system could not remove.
- <sup>xxii</sup> Home Office staff include caseworkers, who make decisions; and presenting officers, who represent it before the tribunal.
- <sup>xxiii</sup> See endnote <sup>xxi</sup> for examples of pursuing such a strategy. More recent examples include legislation of the last Conservative administration, which is the focus of Amnesty's October 2024 briefing on [asylum legislation in need of repeal](#).
- <sup>xxiv</sup> Legitimacy and practicality often go hand in hand, as explained in Amnesty's October 2024 briefing on [fair and efficient process for making asylum decisions](#).

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