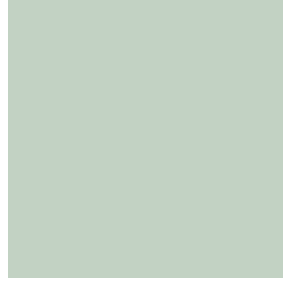


2023 UPDATE

UNITED
KINGDOM



COUNTRY REPORT

Acknowledgements & Methodology

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The information in this report is up to date as of 31 December 2023 unless otherwise stated.

All conversions from pounds to EUR on based on the exchange rate of the European Commission as of April 2024.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), partially funded by the European Union's Asylum, Migration and Integration Fund (AMIF) and ECRE. The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



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Glossary

Country guidance case	Decision by the Upper Tribunal (Immigration and Asylum Chamber) on a specific country, with binding effect on other cases
Discretionary leave to enter/remain	Residence granted on humanitarian grounds
Humanitarian Protection	Subsidiary protection in the meaning of the Qualification Directive 2011/95/EU .
Immigration Bail	An alternative to detention granted to people who are in the UK without permission, i.e. who do not hold leave to remain, including people seeking asylum. It replaced the previous term of 'temporary admission' as well as Immigration Bail which was previously only applied to those people who had been detained.
Judicial Review	A specific legal challenge to the legality of a decision, act or failure to act made by a statutory authority. This process is separate from the appeal process. Judicial review proceedings do not consider the merits of a decision, but only whether the decision maker has approached the matter in the correct way. A request to have a decision judicially reviewed will be made to the High Court (England and Wales), the Court of Session (Scotland) and High Court (Northern Ireland). If the decision challenged was immigration related the case may be heard in the Tribunal but the process is the same as if it were heard in the High Court or Court of Session.
Leave to remain	A temporary grant of permission to stay in the UK, for recognised refugees this is granted for five years.
Legal representative	Legal representative in this report means a lawyer or another person who is providing legal assistance.
Rule 35 report	Relevant to Detention . Rule 35 of the Detention Centre Rules provides that, where there is evidence that a detainee has been tortured, or for any other reason their health would be injuriously affected by detention, a report should be made to the caseworker for release to be considered.
Section 4 support	Relevant to Reception Conditions . Section 4 of the Immigration and Asylum Act 1999 provides support to a former asylum seeker, now appeal rights exhausted, on the basis that the individual (and their dependants) have a temporary legal or medical reason for being unable to return to their country of origin. Conditions are set out in regulations (secondary legislation).
Section 95 support	Relevant to Reception Conditions . Section 95 of the Immigration and Asylum Act 1999 provides that support is given to adults and their dependants with an outstanding asylum claim or appeal and who are accepted to be destitute or will be destitute within the next 14 days.

Section 98 support

Relevant to [Reception Conditions](#). Section 98 of the Immigration and Asylum Act 1999 provides mainly for non-cash assistance to applicants during the asylum procedure.

List of Abbreviations

ACRS	Afghan Citizens Resettlement Scheme
APPG	All Party Parliamentary Group/s
ARAP	Afghan Relocations and Assistance Policy
ARE	Appeal Rights Exhausted
ASAP	Asylum Support Appeals Project
AIU	Asylum Intake Unit
ASU	Asylum Screening Unit
AVID	Association of Visitors to Immigration Detainees
BID	Bail for Immigration Detainees
BRP	Biometric Residence Permit
CIO	Chief Immigration Officer
CJEU	Court of Justice of the European Union
DFT	Detained Fast Track System
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EWCA	England and Wales Court of Appeal
EWHC	England and Wales High Court
FOI	Freedom of Information
FFT	Freedom From Torture
FTT (IAC)	First-Tier Tribunal Immigration and Asylum Chamber
HMIP	His Majesty's Inspectorate of Prisons
ICIBI	Independent Chief Inspector of Borders and Immigration
IMB	Independent Monitoring Board
ILR	Indefinite Leave to Remain
IRC	Immigration Removal Centre
MEDP	Migration and Economic Development Partnership (Rwanda agreement)
NAAU	National Asylum Allocation Unit
NGO	Non-Governmental Organisation
NHS	National Health Service
NSA	Non-Suspensive Appeal
NTS	National Transfer Scheme (for unaccompanied children)
OSS	One Stop Services
STHF	Short-Term Holding Facility
UKBF	United Kingdom Border Force
UKCISA	United Kingdom Council for International Student Affairs
UKHL	United Kingdom House of Lords (highest appellate court, now UKSC)
UKSC	United Kingdom Supreme Court
UKVI	United Kingdom Visas and Immigration
UT (IAC)	Upper Tribunal Immigration and Asylum Chamber

VPR/VPRS

Vulnerable Person Resettlement Scheme (previously known as Vulnerable Persons Relocation Scheme)

Statistics

Overview of statistical practice (1)

Statistics on asylum are published as part of a package of immigration statistics on a quarterly basis by the National Statistics authority,¹ using Home Office administrative sources. Where statistics are not made available, they are requested directly from the Home Office using a Parliamentary Question.² Difficulties have also been encountered with regard to Home Office responses to freedom of information (FOI) requests.³ The numbers include dependants.

Applications and granting of protection status at first instance: figures for 2023

	Applicants in 2023 (2)	Pending at end of 2023	Total decisions in 2023 (3)	Total rejection (4)	Refugee status	Subsidiary protection (5)	Humanitarian protection (6)
Total	84,425 ⁴	95,252 ⁵	93,303 ⁶	30,967	57,398	1,367	3,571
Breakdown by countries of origin of the total numbers							
Afghanistan	9,307	N/A	9,593	86	9,491	10	6
Iran	7,397	N/A	11,836	1,683	10,057	62	34
India	5,253	N/A	1,661	1,519	85	49	8
Pakistan	5,273	N/A	3,231	1,448	1,721	61	1
Türkiye	4,255	N/A	1,805	224	1,558	19	4
Eritrea	3,870	N/A	6,277	36	6,236	0	5
Bangladesh	4,258	N/A	3,050	2,153	808	87	2
Albania	3,898	N/A	7,616	6,631	785	195	5
Syria	3,772	N/A	6,282	49	6,225	3	5
Sudan	3,452	N/A	4,548	106	3,784	4	654

Source: Home Office, *Immigration Statistics*, available at: <https://tinyurl.com/bdhnwfk> and <https://tinyurl.com/6dnb7mfe>. Number of decisions excludes withdrawn claims and resettlement.

- ¹ National Statistics Authority, available at: <https://www.statisticsauthority.gov.uk/>. See also Home Office, *Immigration Statistics*, available at: <https://tinyurl.com/bdhnwfk>.
- ² Parliament, *Parliamentary Questions*, available at: <http://bit.ly/2kL0oIB>.
- ³ See e.g. Information Commissioner's Office, *Decision notices where a complaint has been upheld against the Home Office*, available at: <https://tinyurl.com/yc8j7pzs>.
- ⁴ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D01, 29 February 2024, available at: <https://tinyurl.com/bdhnwfk>.
- ⁵ Home Office, *Immigration system statistics data tables, Asylum and resettlement summary tables, year ending December 2023*, table Asy_10a, 29 February 2024, available at: <https://tinyurl.com/bdhnwfk>. This data is not broken down by nationality.
- ⁶ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, 29 February 2024, available at: <https://tinyurl.com/bdhnwfk>.

Note 1: statistics on applicants and pending concern people, including children and dependents. The rest of the columns concern number of decisions as that is usually the (only) data available.

Note 2: "Applicants in year" refers to the total number of applicants, and not only to first-time applicants.

Note 3: Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

Note 4: "Rejection" includes both inadmissibility and in-merit decisions together, as there was only one inadmissibility decision in 2023.

Note 5: The figures here are described as "other grants" in the Home Office statistics and include grants made under family and private rules where there would be a breach of Article 8 ECHR, as well as where there are other exceptional and compassionate circumstances.

Note 6: As noted in the glossary, this is referred to as humanitarian protection at the national level, and is equivalent to subsidiary protection under EU law.

Applications and granting of protection status at first instance: rates for 2023

	Overall rejection rate	Overall protection rate	Refugee rate	Subsidiary protection rate	Humanitarian protection rate
Total	33%	67%	62%	1%	4%
Breakdown by countries of origin of the total numbers					
Afghanistan	1%	99%	0%	0%	0%
Iran	14%	86%	85%	1%	0%
India	91%	9%	5%	3%	0%
Pakistan	45%	55%	53%	2%	0%
Türkiye	12%	87%	86%	1%	0%
Eritrea	1%	99%	99%	0%	0%
Bangladesh	71%	29%	26%	3%	0%
Albania	87%	13%	10%	3%	0%
Syria	1%	99%	99%	0%	0%
Sudan	2%	98%	83%	0%	14%

Source of the percentages: calculated by the author using data in the table above, as a percentage of decisions that have been made.

Note: given that there was only 1 inadmissibility decision in 2023, these rates are calculated based on total decisions.

Gender/age breakdown of the total number of applicants: 2023

	Men	Women
Number	60,800	23,457
Percentage	72%	28%

	Adults	Children	
		Accompanied	Unaccompanied
Number	67,963	13,074	3,386
Percentage	81%	15%	4%

Source: Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D01, available at: <https://tinyurl.com/bdhnwfr>.

Note: The gender breakdown (Men/Women) applies to all applicants, not only adults.

First instance and appeal decision rates: 2023

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not concern the same applicants.

	First instance		Appeal (Jan-March 2023)	
	Number	Percentage	Number	Percentage
Total number of decisions	93,303		1,220 (1)	
Positive decisions	62,336	67%	603	49%
Negative decisions	30,967	33%	495	41%

Source: Home Office, *Immigration system statistics data tables, Asylum appeals lodged and determined detailed datasets, year ending March 2023*, table AsyD_07, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

Note 1: 122 appeals were withdrawn.

Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Abbreviation	Web Link
Immigration Act 1971	IA 1971	http://bit.ly/1JKaigx
Immigration and Asylum Act 1999	IAA 1999	http://bit.ly/1C2MkVQ
Nationality Immigration and Asylum Act 2002	NIAA 2002	http://bit.ly/1Sat0PR
Asylum and Immigration (Treatment of Claimants etc.) Act 2004	AITOCA 2004	http://bit.ly/1Sat3Lt
Borders Citizenship and Immigration Act 2009	BCIA 2009	http://bit.ly/1L4XIOC
Immigration Act 2014	IA 2014	http://bit.ly/1cPORMc
Immigration Act 2016	IA 2016	http://bit.ly/2jqhiEv
Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020		https://bit.ly/2M7jiFO
Nationality and Borders Act 2022	NABA 2022	https://bit.ly/3tzLljl
Illegal Migration Act 2023	IMA 2023	https://bit.ly/3uK4T8Y

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Abbreviation	Web Link
Immigration Rules HC 395 Part 11	Immigration Rules	http://bit.ly/1FY1JYi
Immigration Rules HC 395 Part 11B	Immigration Rules	http://bit.ly/1KKr1zi
Immigration Rules HC 395 Part 12	Immigration Rules	http://bit.ly/1MOpgjX
Asylum Seekers (Reception Conditions) Regulations 2005 SI 7	Reception Conditions Regs 2005	http://bit.ly/1L52LsU
Asylum Support Regulations 2000 SI 704	Asylum Support Regs 2000	http://bit.ly/1C2R7GQ
Asylum Support (Amendment) Regulations 2005 SI 11	Asylum Support Regs 2005	http://bit.ly/1Fd2wUj
Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017	Dublin Retention Regs 2017	http://bit.ly/2jTZ6lr
The Detention Centre Rules 2001 SI 238	Detention Centre Rules	http://bit.ly/1GBXGY2
Detention Service Orders	DSOs	http://bit.ly/1MOpyr7
Asylum Process Guidance and Asylum Policy Instructions	APG/API	http://bit.ly/1BaVlvv

The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum) Asylum Chamber) Rules 2014 (S.I. 2014 No.2604 (L.31))	Procedural Rules	http://bit.ly/1eawcw7
Statement of changes to the Immigration Rules 2018	Immigration Rules	https://bit.ly/2weGIYf
Statement of changes to the Immigration Rules 2019	Immigration Rules	https://bit.ly/2tkZNQL
Statement of changes to the Immigration Rules October 2020	Immigration Rules	https://bit.ly/3iCSM2P
Statement of changes to the Immigration Rules December 2020	Immigration Rules	https://bit.ly/2LVidRp
Statement of changes to the Immigration Rules September 2021	Immigration Rules	https://bit.ly/33KzyF2
Statement of changes to the Immigration Rules December 2021	Immigration Rules	https://bit.ly/3tBK1NX
Asylum Support (Amendment) Regulations 2022	Regulations	https://bit.ly/3LSiFd5
Statement of changes to the Immigration Rules	Immigration Rules (shortage occupation list)	https://bit.ly/3h4sFSw
Statement of changes to the Immigration Rules	Immigration Rules (settlement protection)	https://bit.ly/3viR5jk
Statement of changes to the Immigration Rules March 2022	Immigration Rules (including 3 Ukraine schemes)	https://bit.ly/3EiVCWZ
Statement of changes to the Immigration Rules May 2022	Immigration Rules (including implementation of NAB Act and amendments to Ukraine sponsor scheme)	https://bit.ly/3Gkx5T3
Statement of changes to the Immigration Rules July 2022	Immigration Rules (extension of Ukraine sponsor scheme to unaccompanied children)	https://bit.ly/3UIhVLU
Statement of changes to the Immigration Rules October 2022	Immigration Rules (including amendments to Afghan relocation scheme eligibility and amendment to Ukraine extension scheme eligibility)	https://bit.ly/3hFh2ox
Statement of changes to the Immigration Rules: HC 1160, 9 March 2023	Immigration Rules (including changes to interviews for child asylum seekers and refugee family reunion)	https://bit.ly/4bIDC7p
Statement of changes to the Immigration Rules: HC 1496, 17 July 2023	Immigration Rules (including the end of differentiation treatment in grants of leave for asylum seekers, and expansion of grounds for withdrawal of asylum claims)	https://bit.ly/4bPfc2n
Statement of changes to the Immigration Rules: HC 1715, 19 July 2023	Immigration Rules (including addition of Honduras and Namibia to the list of countries whose nationals must apply for a visa in advance of coming to the UK due to the number of asylum claims from these countries)	https://bit.ly/4bL8Avw
Statement of changes to the Immigration Rules: HC 246, 7 December 2023	Immigration Rules (including changes to statelessness applications)	https://bit.ly/3wqDSYu
The Illegal Migration Act 2023 (Commencement No. 1) Regulations 2023	Regulations	https://bit.ly/49DwS9D
The Asylum Support (Amendment) Regulations 2023	Regulations	https://bit.ly/42O27fg

Overview of the main changes since the previous update

The report was previously updated in **May 2023**.

International protection

Asylum procedure

- ❖ **Key asylum statistics:** 84,425 people applied for asylum in the UK in 2023, including 9,307 from Afghanistan and 7,397 from Iran. 19% of applicants were children (both accompanied and unaccompanied) and 72% were men and boys. Recognition rate at first instance was 67%. Applications still pending at the end of 2023 were down from the end of 2022, to 95,252. The Home Office served 12,581 'notices of intent' in 2023 advising applicants that their claim may be deemed inadmissible, although only one case was actually been deemed inadmissible (see [Statistics](#)).
- ❖ **Almost 30,000 people arrived by small boat across the Channel:** In 2023 there were 29,437 people who arrived in the UK by small boat across the Channel. This was 36% lower than in 2022 and the reduction is explained partly by poor weather conditions as well as a 93% reduction in Albanians arriving via this route⁷ (see [Access to the territory](#)).
- ❖ **Access to the procedure:** UNHCR published a report in May 2023 of an audit they carried out on the UK's asylum intake, registration and screening procedures. Concerns were raised about the use of informal barriers to asylum claims⁸ (see [Access to the territory](#)).
- ❖ **Resettlement for Afghans:** The Afghan Relocation and Assistance Policy resettled 2,904 people to the UK in 2023. An Afghan resettlement scheme (ACRS) was also announced, firstly in August 2021 but with details in January 2022. Of the three identified pathways only one grants refugee status (pathway 2), taking referrals from UNHCR in line with the usual resettlement pathway. In 2023, 104 people had been resettled through this pathway and 688 under pathway 3.⁹ Others who were evacuated in 2021 or are to be brought directly with the assistance of the Foreign, Commonwealth and Development Office, were given indefinite leave to remain outside of the Immigration Rules.¹⁰ This makes applying for family reunion more difficult.¹¹ Despite being entitled to access public funds, many Afghan families have had difficulties in moving to long term accommodation¹² (see [Legal access to the territory](#)).
- ❖ **Supreme Court finds that Rwanda is not a safe country to send asylum seekers to:** On 15 November 2023, the Supreme Court handed down its decision in the litigation challenging the UK's agreement with Rwanda under a Memorandum of Understanding to send asylum seekers from the UK to Rwanda.¹³ The Supreme Court held that there were substantial grounds for

⁷ Home Office, *Official Statistics: Irregular migration to the UK, year endings December 2023*, 29 February 2024, available at: <https://tinyurl.com/26ut7y5f>.

⁸ UNHCR, *Asylum screening in the UK*, 26 May 2023, available at: <https://bit.ly/3SGBFQ0>.

⁹ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

¹⁰ Home Office, 'Afghan Resettlement Programme: operational data, January 2022', available at: <https://bit.ly/3VkiW8Z>.

¹¹ As the applicable Immigration Rules are at Appendix FM <https://bit.ly/3uzaP4B>, not Appendix Family Reunion <https://bit.ly/3T8uiT0>.

¹² Immigration Rules, Appendix Family Reunion..

¹³ Supreme Court, *R (on the application of AAA (Syria) and others) v Secretary of State for the Home Department* [2023] UKSC 42, available at: <https://tinyurl.com/y6sr5ukw>.

believing that those sent to Rwanda would be subject to refoulement and a real risk of ill treatment. In making the decision, the Supreme Court said that the High Court, which had initially dismissed the claim, was wrong to have attached little weight to the evidence of UNHCR. As at the date of this report (April 2024), no one has been sent to Rwanda.

- ❖ **Safety of Rwanda (Asylum and Immigration) Act 2024:** In response to the Supreme Court's decision, the UK government brought forward legislation to say that Rwanda was a safe country.¹⁴ This was approved by Parliament on 22 April 2024 and is expected to receive Royal Assent imminently.
- ❖ **Illegal Migration Act 2023:** On 20 July 2023 the Illegal Migration Act 2023 received Royal Assent however most of it has not been brought into force at this time. If and when this provision is brought in, the Act imposes a duty to make arrangements for removal from the UK of everyone to whom the four relevant conditions apply. Those conditions are that a person has arrived on or after 20 July 2023, has entered unlawfully, did not travel directly to the UK and does not have permission to be in the UK.¹⁵
Where a person has arrived on or after 7 March 2023 and the rest of the conditions apply the Act states that they 'must not' be given leave to remain in the UK, and this provision is currently in force. There are limited exceptions to this for children, victims of trafficking, where the Secretary of State considers that failure to do would be in breach of the UK's international obligations, including the ECHR, or where there are other exceptional circumstances.¹⁶ Because of these provisions and the lack of clarity about how they will work, there is an increasing backlog of cases with uncertain futures¹⁷ (see [Admissibility procedure](#)).

Reception conditions

- ❖ **Use of alternative accommodation sites:** There has been an increase in the use of institutional accommodation including repurposed military barracks, which has resulted in media attention.¹⁸ The former Ministry of Defence sites are Napier barracks, Wethersfield¹⁹, Scampton²⁰, and then at Portland Port there is the Bibby Stockholm which is a barge.²¹ A man who was being accommodated on the barge died in December 2023.²² The guidance issued in relation to the barge states that if people refuse to move to the barge, their asylum support can be stopped, leaving them without financial support or accommodation²³ (see [Housing](#)).

¹⁴ Home Office, *Policy paper: Safety of Rwanda (Asylum and Immigration) Bill: factsheet*, 26 January 2024, available at: <https://tinyurl.com/m5649ae8>.

¹⁵ Section 2, *Illegal Migration Act 2023*, available at: <https://bit.ly/3OQmtPa>.

¹⁶ available at: <https://bit.ly/3uFiVbV>.

¹⁷ See e.g. Public Accounts Committee, *Asylum Accommodation and UK-Rwanda partnership*, 15 April 2024, available at: <https://tinyurl.com/2p9h8mzt>.

¹⁸ The Guardian, 'Asylum seeker housing conditions under scrutiny at third ex-military site', 14 January 2021, available at: <https://bit.ly/39n1f7m>. This report includes links to others and summarises concerns.

¹⁹ Home Office, 'Promotional material: Wethersfield: factsheet', updated 29 February 2024, available at: <https://tinyurl.com/4cjsbms>.

²⁰ Home Office, 'Promotional material: Scampton factsheet', updated 1 March 2024, available at: <https://tinyurl.com/4bn4k8rc>.

²¹ Home Office, 'Promotional material: Portland Port: factsheet', updated 29 December 2023, available at: <https://tinyurl.com/336kyz97>.

²² Diane Taylor, 'Bibby Stockholm asylum seeker who died in suspected suicide is named', *The Guardian*, 18 December 2023, available at: <https://bit.ly/3wru2G1>.

²³ Home Office, *Failure to travel to Bibby Stockholm vessel: caseworker guidance*, 13 March 2024, available at: <https://bit.ly/3OShy09>.

Detention of asylum seekers

- ❖ **Number of people detained continues to rise:** In 2023, 15,864 people were detained under immigration powers, an increase from 14,227 in 2022. These were not all people who were claiming or had previously claimed asylum (see [Detention](#)).
- ❖ **Changes to detention powers made by the Illegal Migration Act:** The Illegal Migration Act 2023 amended the detention powers with effect from 28 September 2023. The main changes are that it is now for the Secretary of State to decide what a reasonable period of detention is for a person and where release is deemed appropriate the person can be detained as long as reasonable necessary while arrangements for release are made.²⁴ The latter change was made in response to the Secretary of State losing a judicial review challenging delays in arranging asylum accommodation for people in detention²⁵ (see [Grounds for detention](#)).
- ❖ **Alternatives to detention:** A report was published by UNHCR UK in 2023 looking at a pilot scheme of alternatives to detention. Of the 84 people who participated, six were granted leave to remain and 52 others were advised that they may have grounds to stay in the UK. These are not necessarily asylum cases. One of the main issues highlighted in the report was the inaccessibility of legal aid and the problems this caused people in accessing rights they may be entitled to²⁶ (see [Alternatives to detention](#)).

Content of international protection

- ❖ **Reversal of the use of differentiated treatment:** the Nationality and Borders Act 2022 introduced a two-tier system for refugees, where those who had travelled via a safe third country and had not claimed asylum without delay would be penalised with a shorter grant of leave and more difficult provisions around family reunion. This process was dropped in 2023 and anyone affected had their leave upgraded to normal refugee leave.²⁷

UK Ukraine visa support

The information given hereafter constitute a short summary of the 2023 Report on UK Ukraine visa support, for further information, see Annex on [UK Ukraine visa support](#).

Eligibility and procedure

- ❖ **Ukraine Family Scheme:** persons eligible under this scheme had to be joining a family member or an extended family member who had to be a UK citizen or have settled, EEA pre-settled status or beneficiary of refugee status/humanitarian protection. Non-Ukrainians could only benefit from this scheme insofar as they were immediate family members for another applicant who is Ukrainian. There was no fee for the visa. The scheme was closed without advance notice on 19 February 2024.
- ❖ **Homes for Ukraine:** this programme aims to match Ukrainian applicants and their immediate family (who may be Ukrainian or of another nationality) with UK based individual sponsors who,

²⁴ Illegal Migration Act 2023, s 12, available at: <https://bit.ly/48uU0W6>.

²⁵ *Humnyntskyi & Ors, R (On the Application Of) v Secretary of State for the Home Department* [2020] EWHC 1912 (Admin), available at: <https://bit.ly/4bH5toB>.

²⁶ UNHCR, *Evaluation of the Refugee and Migrant Advice Service's Alternative to detention pilot*, 2023, available at: <https://bit.ly/49KNkEp>.

²⁷ Immigration Minister, *Illegal migration update Statement UIN HCWS837*, 8 June 2023, available at: <https://bit.ly/3OQ7d4Q>.

since 19 February 2024, must be British citizens or have permanent residence in the UK. The visa does not entail a fee. People have to apply from outside the UK.

- ❖ **Ukraine Extension Scheme:** This scheme is available to Ukrainians who previously held permission to be in the UK and that permission expired on or after 1 January 2022 or who held permission to be in the UK on or between 18 March 2022 and 16 November 2023 – the permission does not need to cover the whole period. Applications to the scheme must be made before 16 May 2024.

Rights associated with status

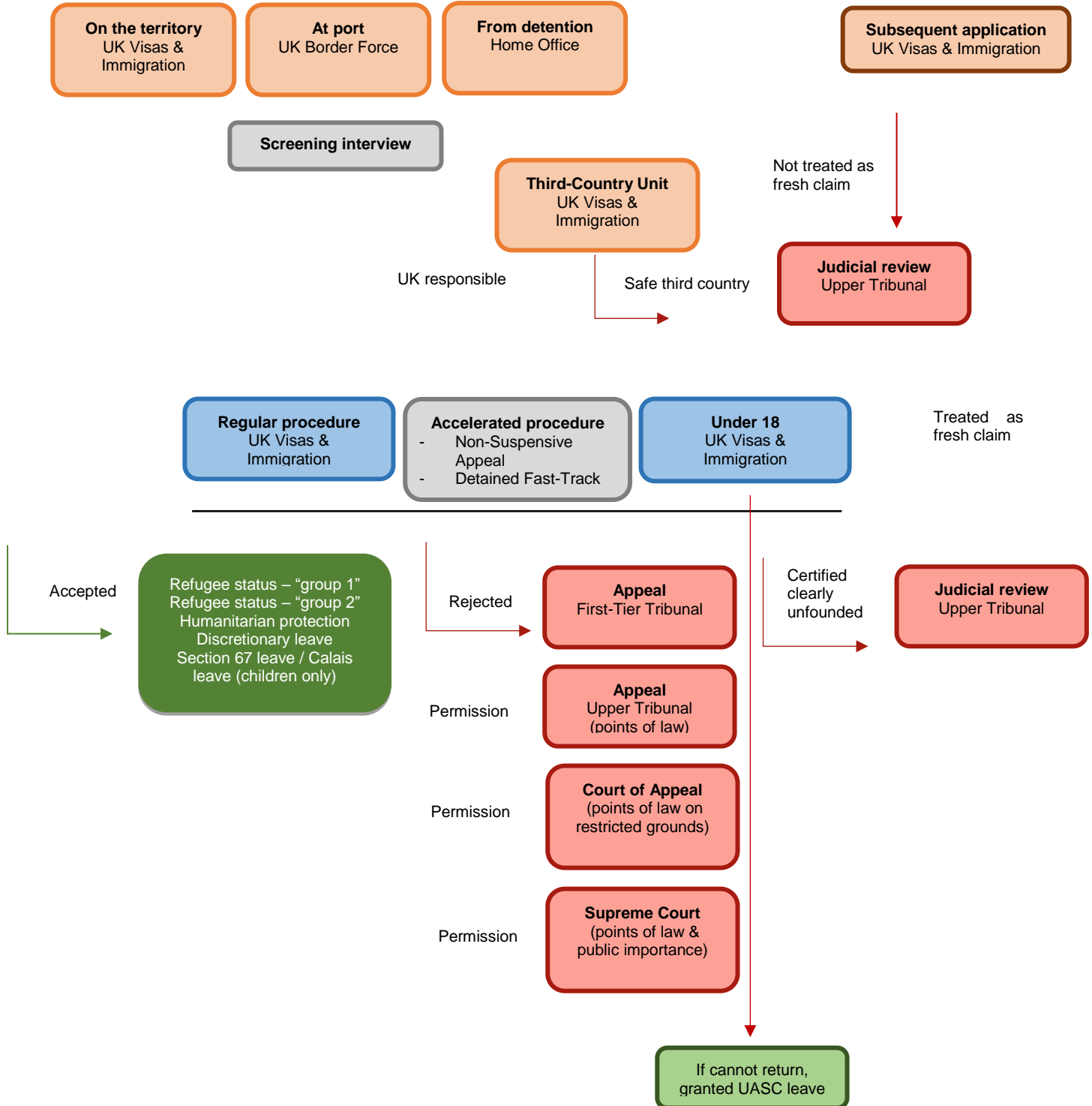
- ❖ **Residence permit:** upon arrival in the UK, persons receive a biometric residence permit. All schemes offer three-year visas. As of 19 February 2024 this was reduced to 18 months for successful applicants to the Homes for Ukraine scheme.
- ❖ **Labour market, social welfare and health care:** all beneficiaries have access to work and all public funds, as they are exempt from the habitual residence test which usually restricts access in the first months after arrival. They are not required to pay the surcharge usually applied to visa beneficiaries to access healthcare via the NHS.
- ❖ **Housing:** The government surveyed sponsors in August 2023 and published experimental statistics which showed that around half (48%) of hosts had provided accommodation for 12 months or more. Almost all (99%) believed that their guests needed help to access private rental accommodation or to make other independent living arrangements. 31% of hosts reported bias or discrimination against Ukrainians by landlord or estate agencies.²⁸
- ❖ **Financial support for hosts:** There is no financial support available to the hosting family under the Ukraine Family Scheme. Hosts in the Homes for Ukraine receive £350 per week as a ‘thank you’ payment for the first 12 months, increased to £500 after the first year, up to a maximum of two years. The local authority also receives funding for each arrival.

²⁸ Office for National Statistics, ‘Experiences of Homes for Ukraine scheme sponsors, UK: 10 to 21 August 2023’, 4 October 2023, available at: <https://tinyurl.com/27v2ax7n>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|--|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ²⁹ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ▪ Fast-track processing: ³⁰ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ³¹ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Are any of the procedures that are foreseen in the law, not being applied in practice? Yes No

3. List of authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)
Application at the border ❖ At the border ❖ On the territory	Home Office UK Border Force (UKBF) Home Office UK Visas and Immigration (UKVI)
Safe third country (responsibility assessment under inadmissibility policy)	Home Office UK Visas and Immigration (UKVI), Third Country Unit
Refugee status determination	Home Office UK Visas and Immigration (UKVI)
Appeal procedures ❖ First appeal ❖ Second (onward) appeal	First Tier Tribunal, Immigration and Asylum Chamber (FTT (IAC)) Upper Tribunal, Immigration and Asylum Chamber (UKUT (IAC))
Subsequent application (admissibility)	Home Office UK Visas and Immigration (UKVI)

4. Number of staff and nature of the determining authority

Name	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
Home Office Visas and Immigration (UKVI), Asylum Casework Directorate	2,405	Home Office	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Responsibility for the asylum process rests with the Secretary of State for the Home Department, who is a government minister (the Home Secretary). Within the Home Office, asylum decision-making is allocated to a department called UK Visas and Immigration (UKVI) and within this to the Asylum and Protection Directorate, with 2,405 staff in 2023.³² The Home Office is responsible for all aspects of

²⁹ For applications likely to be well-founded or made by vulnerable applicants.

³⁰ Accelerating the processing of specific caseloads as part of the regular procedure.

³¹ Labelled as “accelerated procedure” in national law.

³² UK Government, *Statistics relating to the Illegal Migration Act: data tables to December 2023*, last updated 2 January 2024, available at: <https://bit.ly/3uLuyht>, table IMB_06.

immigration and asylum: entry, in-country applications for leave to remain, monitoring compliance with immigration conditions, and enforcement including detention and removal.

Within the Home Office, entry is managed by Border Force³³, registration of asylum claims is done by the Asylum Intake Unit³⁴, the inadmissibility process is handled within the Third Country Unit³⁵, and the asylum decision making process is dealt with by Asylum Operations³⁶.

The operational guidance of the UKVI is available online. It includes *inter alia* asylum instructions on the decision-making process, on screening asylum seekers and routing them to regional asylum teams; as well as on asylum applications involving children or how to make decisions about detention of asylum seekers. Moreover, country of origin information (COI) reports are also made available online³⁷ and are frequently quoted by other countries' authorities.³⁸

Quality monitoring in the form of checks carried out by specially trained decision makers (referred to as 'Second Pair of Eyes' or SPOE) is carried out for certain kinds of decisions, for example where a medico-legal report is provided as supporting evidence.³⁹ This process was previously in place in relation to claims that are certified as bound to fail under section 94 of the NIAA 2002, but these checks were stopped in April 2023.⁴⁰ There is no public data on how many decisions are overturned at the SPOE stage.

5. Short overview of the asylum procedure

A first application for asylum in the UK can be made either on arrival at the border, or at the Asylum Screening Unit (ASU) in **Croydon** (South of London), or, where a person is already detained it may be made from the detention centre. The ASU has been renamed the Asylum Intake Unit (AIU), but this name is not yet used in all guidance. In certain circumstances,⁴¹ usually due to inability to travel, arrangements can be made to register a claim at a regional centre. Claims made at the port of Dover result in screening at a short-term holding facility at former military site Manston unless the person is identified as an unaccompanied minor in which case the process takes place within the port.

First instance procedure

In most cases the application is first screened, which involves an interview in which biometric data is taken, health and family information, details of the route of travel, and the broad outline of the reasons for claiming asylum. Children making a claim in their own right are not screened; if they are already in the care of the local authority their claim is registered with the Home Office at a scheduled interview. If the Home Office encounters them first, the child will be subject to a 'welfare interview'.

On the basis of the screening interview the National Asylum Allocation Unit (NAAU) of the Home Office decides which route the application will follow. The alternatives are:

- ❖ unaccompanied children – referred to a specially trained decision maker;

³³ Border Force, 'About us', accessed 24 March 2024, available at: <https://bit.ly/49pMwVG>.

³⁴ UK government, 'Asylum intake unit', accessed 24 March 2024, available at: <https://bit.ly/3UQgbmO>.

³⁵ Home Office, *Inadmissibility – third country cases: caseworker guidance*, 14 February 2024, available at: <https://bit.ly/48sPcki>.

³⁶ Independent Chief Inspector of Borders and Immigration, *Inspection of asylum casework (August 2020 – May 2021)*, 18 November 2021, available at: <https://bit.ly/49EAjFA>.

³⁷ Home Office, *Country policy and information notes*, 19 March 2024, available at: <https://bit.ly/3ORnF4W>.

³⁸ Practice based observation by the expert, January 2024.

³⁹ Home Office, *Medical evidence in asylum claims version 2*, 26 August 2022, available at: <https://tinyurl.com/mtrd52mc>.

⁴⁰ Immigration Minister, *Reforms to the Process of Certifying Claims as Clearly Unfounded statement UIN HCWS716*, 17 April 2023, available at: <https://tinyurl.com/2dph4bxd>.

⁴¹ Home Office, *Asylum Screening and routing – Version 8.0*, 3 February 2023, available at: <https://bit.ly/3GoCPew>.

- ❖ accelerated procedure (Detained Fast Track⁴² or clearly unfounded with Non-Suspensive Appeal);
- ❖ safe third country procedure (inadmissibility)
- ❖ general casework, which is the regular procedure.

In all cases the procedure deals with both refugee status and subsidiary protection.

Potential safe third country cases are referred to the third country unit of the Home Office, which decides whether to refuse to consider the claim on the basis that the person can be removed to another country, including EU Member states⁴³ (this policy does not apply to claims made from EEA nationals; separate guidance applies to such claims).⁴⁴ Such inadmissibility decisions may be certified in which case there is no right of appeal. The decisions to declare an asylum claim as inadmissible, to remove an appeal right (in the case of asylum inadmissibility decision certificates) or to certify the substantive claim as clearly unfounded may be challenged in the UK only through judicial review. An application made to the Upper Tribunal can only be made with permission of that tribunal.⁴⁵ Judicial review proceedings do not consider the merits of a decision, but only whether the decision maker approached the matter in the correct way.

The UK operated Detained Fast Track (DFT) procedures where Home Office officials considered that the case could be decided quickly. Following a series of legal challenges, the DFT policy was suspended.⁴⁶ The current guidance for applications considered whilst the applicant is detained was revised in March 2019.⁴⁷ The main change is to separate the casework on the asylum claim from the management of the decision to continue detention; decisions in each are handled by different sections of the Home Office.

In the regular procedure, decisions are made by a regional office of the Home Office. There is no time limit for making a first decision and a previous policy to apply service standards in terms of specific lengths of time has now been abandoned.⁴⁸ A replacement standard has not been announced. Information for applicants still states that decisions will usually be made within six months.⁴⁹ Reasoned decisions are normally sent by post, although they may be delivered to the asylum seeker in person when they attend the Home Office reporting centre. Removal notices are not usually issued at the same time as refusals.

Section 12 of the Nationality and Borders Act 2022 permits differential treatment of recognised refugees, depending upon the mode of arrival. The test applied to distinguish is whether or not the refugee is considered to have 'come directly' to the UK; this includes those resettled and those who came by an authorised route and claimed asylum as soon as they were able. Refugees were designated 'group 1' (arrived directly) or 'group 2' status (everyone else). On 8 June 2023 the government announced that they would no longer be using this differentiated treatment process and anyone who had been granted 'group 2' status would have their status upgraded.⁵⁰

⁴² Currently suspended but remains in the description of the procedure.

⁴³ UK Government, 'Inadmissibility -; third country cases: caseworker guidance', last updated 28 June 2022, available at: <https://bit.ly/3tH6VDM>.

⁴⁴ UK government, 'EEA and EU asylum claims: caseworker guidance', last updated 28 June 2022, available at: <https://bit.ly/34XL2WI>.

⁴⁵ Section 16 Tribunals Courts and Enforcement Act 2007.

⁴⁶ House of Commons, Written Statement made by The Minister of State for Immigration (James Brokenshire), HCWS83, 2 July 2015.

⁴⁷ Home Office, *Detained Asylum Casework- asylum casework*, March 2019, available at: <https://bit.ly/36UrFtv>.

⁴⁸ Clarified in parliament in response to a Parliamentary Question, 'Asylum: Applications', 18 February 2019, available at: <https://bit.ly/2NvXkJU>.

⁴⁹ UK Government, 'Claim asylum in the UK', available at: <https://bit.ly/2FTbxMO>.

⁵⁰ Immigration Minister, *Illegal migration update Statement UIN HCWS837*, 8 June 2023, available at: <https://bit.ly/3OQ7d4Q>.

Appeal

Appeal is to the First Tier Tribunal (Immigration and Asylum Chamber), an independent judicial body which is part of the unified tribunal structure in the Ministry of Justice. The appeal is suspensive unless certified otherwise and must be lodged within 14 days of the date of the asylum refusal letter.⁵¹ The tribunal proceedings are broadly adversarial, with the Home Office represented by a presenting officer.

A further appeal on a point of law may be made to the Upper Tribunal with permission of the First Tier Tribunal, or, if refused, of the Upper Tribunal. Application for permission to appeal must be made within 14 days of deemed receipt of the First Tier Tribunal decision. Asylum appeals before the First Tier and Upper Tribunals are heard by a specialist Immigration and Asylum Chamber.

Appeal from the Upper Tribunal to the Court of Appeal on a point of law may only be made with permission of the Upper Tribunal or the Court of Appeal. Where permission to appeal is refused by the Upper Tribunal, it is possible to apply for judicial review of that decision.⁵² This has since been heavily restricted through the introduction of the Judicial Review and Courts Act 2022.⁵³ A legal challenge to this restriction was unsuccessful.⁵⁴

A final appeal to the Supreme Court may only be made on a point of law of public importance, certified by the Court of Appeal or Supreme Court. The Court of Appeal and Supreme Court are superior courts with a general jurisdiction.

Rules and guidance

Immigration Rules⁵⁵ and guidance govern the day-to-day operation of immigration and asylum decision-making. Immigration Rules are made by the Home Secretary and are laid before Parliament in a procedure that does not routinely involve scrutiny. In relation to asylum most of the rules are concerned with the process rather than the substance of the decision, but they do include, for instance, factors relevant to credibility. Interpretation of the Refugee Convention including a two-stage process for establishing that someone is a refugee, is now in primary legislation through implementation of the Nationality and Borders Act 2022.

The Home Office also issues detailed practical guidance⁵⁶ for asylum decision-making. Guidance deals with a wide range of issues including how to conduct interviews, how to apply some legal rules, country of origin information, and detailed procedural and administrative matters. Guidance is not directly binding, but should be followed, and failure to do so can be grounds for an application for [judicial review](#).

⁵¹ UK government, 'Appeal a decision by the immigration and asylum tribunal', accessed 24 March 2024, available at: <https://bit.ly/48rHg2J>.

⁵² Supreme Court, *R (on the application of Cart) (Appellant) v The Upper Tribunal (Respondent)* [2011] UKSC 28, available at: <https://bit.ly/49BcyoY>.

⁵³ Section 2, Judicial Review and Courts Act 2022, available at: <https://bit.ly/4bKdclM>.

⁵⁴ *Mary Jane Baluden Oceana, R (on the application of) v Upper Tribunal (Immigration and Asylum Chamber)* [2023] EWHC 791 (Admin), available at: <https://bit.ly/3SWmUsO>.

⁵⁵ Immigration Rules.

⁵⁶ Home Office, *Asylum decision making guidance (asylum instructions)*, 2 October 2023, available at: <https://bit.ly/4359KhP>.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? Yes No
2. Is there a border monitoring system in place? Yes No
3. Who is responsible for border monitoring? National authorities NGOs Other
4. How often is border monitoring carried out? Frequently Rarely Never

Juxtaposed border controls in France and Belgium allow the UK to limit access to the territory. On 18 January 2018 the two governments reiterated their commitment to juxtaposed controls in the Sandhurst Agreement, although no new measures were introduced relating to the operation of those controls.⁵⁷ A report by the Independent Chief Inspector of Borders and Immigration into the juxtaposed controls has little mention of asylum claimants, although it does mention ‘ethical decision making’ through the use of discretion for Ukrainians without visas.⁵⁸

The Equality Act 2010 permits immigration officers to discriminate on grounds of nationality if they do so in accordance with the authorisation of a minister.⁵⁹ This discrimination may include subjecting certain groups of passengers to a more rigorous examination. Ministerial authorisations are made on the basis of statistical information of a higher number of breaches of immigration law or of adverse decisions in relation to people of that nationality. The statistical basis is not published.

Immigration officers have the power to refuse entry at the border unless the passenger has a valid entry clearance or claims asylum. It is not known whether, and if so, how many people sent back from the border wished to claim asylum but did not say so to immigration officers or were *de facto* not given an opportunity to do so. UNHCR published a report in May 2023 of an audit they carried out on the UK’s asylum intake, registration and screening procedures.⁶⁰ Concerns were raised about the use of informal barriers to asylum claims, one airport was described as having a senior manager who advocated for his staff to try to persuade asylum seekers to withdraw their claims and noted particular success in this with young people.⁶¹

In 2023, 24,781 people were refused entry at the UK port of whom 8,200 were at the juxtaposed controls (see below) and were denied access to the UK.⁶² The information states that these are non-asylum cases, although it is not known how many wished to claim asylum. The information also states that a proportion of those initially refused and detained at the border may subsequently be admitted although no figures are given for this category.

⁵⁷ Secretary of State for the Home Department, ‘Update on the Levelling Up Bill - Statement made on 6 December 2022’, HCWS415, 19 January 2018, available at: <http://bit.ly/2DokzPb>.

⁵⁸ ICIBI, *An inspection of juxtaposed controls – April-May 2022*, October 2022, available at: <https://bit.ly/3tXuEON>.

⁵⁹ Section 29 and Schedule 3, Part 4 Equality Act 2010.

⁶⁰ UNHCR, *Asylum screening in the UK*, 26 May 2023, available at: <https://bit.ly/3SGBFQ0>.

⁶¹ UNHCR, *Asylum screening in the UK*, 26 May 2023, available at: <https://bit.ly/3SGBFQ0>, 26.

⁶² Home Office, *Immigration system statistics data tables, Passengers refused entry at the border detailed datasets, year ending December 2023*, table Stp_D01, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr..>

In the control zones in France and Belgium, no asylum claim can be made to UK authorities,⁶³ and the acknowledged purpose of these agreements with France and Belgium was to stop people travelling to the UK to claim asylum.⁶⁴ This was reiterated by the statement from the Home Secretary following talks between the leaders of France and the UK on 18 January 2018.⁶⁵ Of the 6,199 people turned back in control zones in the first nine months of 2023,⁶⁶ it is not known how many wished to claim asylum. There is little or no information about any attempted claims, and whether those who attempt to claim are referred to the authorities of the state of departure, as the regulations require.

During an investigation by the Children's Commissioner for England in 2012, Home Office officials disclosed the 'Gentleman's Agreement'.⁶⁷ This operates in relation to people intercepted on landing in the UK who are considered to have made an illegal entry and who do not say that they wish to claim asylum. The agreement is between the UK and France and obliges France to accept the return of such passengers if this can be effected within 24 hours. Returns under the Gentleman's Agreement are carried out without a formal refusal of leave to enter. Following the Commissioner's discovery that this was being applied to young people, the practice was stopped in relation to acknowledged children. This agreement still applies to adults and those who appear to be adults. The 2003 Le Touquet Treaty, which is still applicable, states that anyone claiming asylum at the juxtaposed controls will be dealt with by the French authorities.⁶⁸

The ministerial authorisation to discriminate in refusing leave to enter also takes effect in control zones.⁶⁹

Therefore, although there is little or no substantiated evidence of *refoulement* taking place at the border, current UK policy and practice creates a risk of this occurring. Reports of Albanians held in the short-term holding facility at Manston and quickly removed to Albania raised questions about the lack of access to legal advice to allow people held there to realistically consider making an asylum claim.⁷⁰

A new joint statement between the two countries related to Channel crossings was signed in November 2022.⁷¹ Between 2014 and 2022, the UK committed approx. £232 million to border security in northern France and is expected to commit more than £476 million just over the next three years.⁷² Following a new declaration in March 2023, the UK will notably fund 500 additional officers in France, new infrastructure and surveillance equipment (such as drones, helicopters) and a new French immigration detention centre.⁷³ There is however no readmission agreement between the two countries.⁷⁴

Discussions have taken place between the two states regarding responsibility for search and rescue as well as preventative measures. In January 2022 the UK government announced that the military would play a role in what appeared to be pushbacks, not search and rescue. During an urgent parliamentary

⁶³ In the case of France, this is stated in Article 4 of the Additional Protocol CM 5015 to the Protocol between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning Frontier Controls and Policing, Co-operation in Criminal Justice, Public Safety and Mutual Assistance relating to the Channel Fixed Link, Cm 2366, signed at Sangatte on 25 November 1991. It is not explicit in the Belgian agreement.

⁶⁴ ICIBI, *An Inspection of Juxtaposed Controls*, 2013, available at: <http://bit.ly/1ImrYsF>.

⁶⁵ Secretary of State for the Home Department, 'Statement to Parliament', 19 January 2018, available at: <http://bit.ly/2DokzPb>.

⁶⁶ Home Office, *Immigration Statistics*, Passengers refused entry at the border, year ending September 2023, available at: <https://bit.ly/3uLwuqf>.

⁶⁷ Article 9 Le Touquet Treaty, available at: <https://bit.ly/3T5LYic>.

⁶⁸ Article 9 Le Touquet Treaty, available at: <https://bit.ly/3T5LYic>.

⁶⁹ Para 17(4)(A) Ministerial Authorisation, para 4; Schedule 3, Part 4 Equality Act 2010.

⁷⁰ Diane Taylor, 'Concerns raised over due process in case of 11 Albanians flown out of UK', *The Guardian*, 18 October 2022, available at: <https://bit.ly/3tRqNmD>.

⁷¹ Al Jazeera, 'France, UK sign deal to stop asylum seekers crossing Channel', 14 November 2022, available at: <https://bit.ly/3uzwgvB>.

⁷² Melanie Gower for the House of Commons Library, *Irregular migration: a timeline of UK-French cooperation*, 22 March 2023, available at: <https://bit.ly/47MyRqL>.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

debate, the Defence Minister stated that the Royal Navy would play a deterrent rather than a pushbacks role (including the use of Sonic booms) but was not speaking on behalf of the entire government.⁷⁵ A challenge to the policy and practice of pushbacks resulted in a consent order whereby all relevant policies were withdrawn.⁷⁶

The UK government continues to blame 'criminal smuggling gangs' and individuals themselves for the danger to life - condemning the actions of both and pledging both to return those who travel from France and promising to treat such people in the criminal justice system as well as making agreements with the French government to prevent people from leaving in this manner. The Home Secretary appointed a Clandestine Channel Threat Commander in August 2020.⁷⁷ In September 2020 a parliamentary committee opened a new inquiry on the issue of Channel crossings and asylum-seeking routes throughout the EU and following written and oral evidence published its report in July 2022.⁷⁸ The government responded in October 2022. The response indicated that its recent reforms (including the 2022 NABA and Rwanda plan) were aimed at deterrence and shortly afterwards a new announcement was made outlining cooperation with the French authorities including monitoring the French coastline, investment in reception and removal centres in France and more funding for surveillance and detection technology.⁷⁹

In 2022 there were 1,381 attempted Channel crossings that were prevented, carrying 33,788 people.⁸⁰ In 2023 there were 29,437 people who arrived in the UK by small boat across the Channel. This was 36% lower than in 2022 and the reduction is explained partly by poor weather conditions as well as a 93% reduction in Albanians arriving via this route.⁸¹ In 2021 it is estimated that 41 people died while trying to cross the Channel, in 2022 this was 13 people. In 2023 it is estimated that 19 people died trying to make the crossing of the Channel to the UK.⁸²

In one incident on 24 November 2021 it is estimated that at least 27 people died trying to cross the Channel. The Marine Accident Investigation Branch published an Accident Investigation Report on 8 November 2023.⁸³ Documents disclosed under a Freedom of Information request showed that just prior to this incident the UK coastguard downgraded emergency calls from as many as four boats, meaning that they were treated as not in need of urgent rescue.⁸⁴ On 9 November 2023 the government announced an independent, non-statutory inquiry into the incident.⁸⁵

⁷⁵ Hansard parliamentary record 'Migrant Crossings: Role of the Military', 18 January 2022, available at: <https://bit.ly/3fArrhc>.

⁷⁶ High Court, *R (on the application of (1) PUBLIC AND COMMERCIAL SERVICES UNION (2) CARE 4 CALAIS and Secretary of State for the Home Department, Consent Order*, CO/4338/2021, 25 April 2022, available at: <https://bit.ly/3gplkQl>.

⁷⁷ Government, 'Home Secretary appoints small boats commander', August 2020, available at: <https://bit.ly/2Nr9F50>.

⁷⁸ Home Affairs Select Committee, at: <https://bit.ly/3iMHjhu>, including first report and government response. Case note and link to judgment Da and Ors, available at: <https://bit.ly/3iRG1BF>.

⁷⁹ UK Government, 'UK-France joint statement: enhancing co-operation against illegal migration', 14 November 2022, available at: <https://bit.ly/3qfpUpo>.

⁸⁰ Home Office, *Policy paper: UK-France Joint Leaders' Declaration*, 10 March 2023, available at: <https://bit.ly/3UOZEiX>.

⁸¹ Home Office, *Official Statistics: Irregular migration to the UK, year endings December 2023*, 29 February 2024, available at: <https://tinyurl.com/26ut7y5f>.

⁸² Missing Migrants Project, accessed 24 March 2024, available at: <https://bit.ly/48zB5d6>.

⁸³ Marine Accident Investigation Branch, 'Flooding and partial sinking of an inflatable migrant boat with at least 27 lives lost', 8 November 2023, available at: <https://bit.ly/3US6LqG>.

⁸⁴ Aaron Walawalkar, Harriet Clugston and Mark Townsend, 'Revealed: UK coastguard downgraded 999 calls from refugees in days before mass drowning', *The Observer*, 4 November 2023, available at: <https://bit.ly/3OSDs3l>.

⁸⁵ Department for Transport and Marine Accident Investigation Branch, 'Inquiry into Channel incident of 24 November 2021', 9 November 2023, available at: <https://bit.ly/3ul1aZr>.

An interim report was published by the Marine Accident Investigation Branch in December 2023 in relation to another incident on 14 December 2022 where at least 8 people died.⁸⁶

1.1 Border monitoring

The only land border in the UK is between Ireland and Northern Ireland, and passport checks are not in routine operation.⁸⁷

1.2 Legal access to the territory

For information about family reunification, please see the specific [Family reunification](#) section.

There is no humanitarian visa available for people to apply for outside the UK, so that they can enter to claim asylum. Resettlement schemes are available, these are the UK Resettlement Scheme, Community Sponsorship Scheme and Mandate Resettlement Scheme, all of these schemes take refugees identified by UNHCR.⁸⁸ People arriving under these resettlement schemes are granted the standard five years' refugee leave once they arrive in the UK.

The UK Resettlement Scheme brought 485 people to the UK in the first half of 2023, 132 people came via the Community Sponsorship Scheme and 15 via the Mandate Scheme.⁸⁹

The first specific resettlement programme was announced in January 2014; this had no specific quota. In September 2015 the government committed to resettle 20,000 Syrians by the end of the parliament in 2020. This quota had been reached by the end of February 2021; the delay largely being caused by the global Covid-19 pandemic. In June 2019 the then Home Secretary committed to resettling 5,000 refugees in the year following the end of the current programme (from April 2020).⁹⁰ However, this was not met and there is currently no annual commitment for the resettlement of refugees.

Since 1 July 2017, people who have been resettled are granted Refugee Status and those already here under a resettlement programme were allowed to convert their status to recognise them as refugees.⁹¹

The government launched a Community Sponsorship scheme as part of the VPRS programme in 2022. There are strict criteria for becoming a sponsor, including the type of organisation that can apply and the need to be approved by the local authority before applying to the Home Office. Guidance was issued at the same time as the scheme was launched.⁹²

In 2017 the government also committed to resettling an additional 3,000 individuals under a 'children at risk' programme.⁹³ In partnership with UNHCR, the UK brought children from the Middle East and North Africa (MENA) region; a minority of whom are expected to be unaccompanied. The government

⁸⁶ Marine Accident Investigation Branch, *Interim report on the investigation of the foundering of an inflatable migrant boat, resulting in the loss of at least 8 lives in the English Channel on 14 December 2022*, December 2023, available at: <https://tinyurl.com/3fs3fp3s>.

⁸⁷ House of Commons Library, *Research briefing: The Common Travel Area and the special status of Irish citizens in UK law*, 16 August 2023, available at: <https://bit.ly/3OV8BDA>.

⁸⁸ Home Office, *UK Refugee Resettlement: Policy Guidance*, August 2021, available at: <https://bit.ly/3ux2HSc>.

⁸⁹ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D01, available at: <https://tinyurl.com/bdhnwfkf>.

⁹⁰ UK government, 'New global resettlement scheme for refugees announced', June 2019, available at: <https://bit.ly/2lhUGoe>.

⁹¹ Secretary of State for the Home Department, 'Statement to Parliament', 22 March 2017, available at: <http://bit.ly/2DL04QG>.

⁹² Home Office, *Community sponsorship*, September 2022, available at: <http://bit.ly/29VQxZI>.

⁹³ Home Office, 'Fact sheet: government support for vulnerable children', available at: <https://bit.ly/42MRGJ2>.

announced the programme in response to calls to bring children from Europe. The scheme was closed at the end of February 2021 when all the quota had been resettled.⁹⁴

Separate schemes are in place for a very limited number of Afghans, it is not possible to apply and the most recent request for expressions of interest closed in 2022.⁹⁵ The Afghan Relocation and Assistance Policy resettled 2,904 people to the UK in 2023. An Afghan resettlement scheme (ACRS) was also announced, firstly in August 2021 but with details in January 2022. Of the three identified pathways only one grants refugee status (pathway 2), taking referrals from UNHCR in line with the usual resettlement pathway. In 2023, 104 people had been resettled through this pathway and 688 under pathway 3.⁹⁶ Others who were evacuated in 2021 or are to be brought directly with the assistance of the Foreign, Commonwealth and Development Office, were to be given indefinite leave to remain outside of the Immigration Rules.⁹⁷ This makes applying for family reunion more difficult.⁹⁸ Despite being entitled to access public funds, many Afghan families have had difficulties in moving to long term accommodation.⁹⁹

Information about the funding to local authorities to enable them to support resettled refugees is publicly available.¹⁰⁰ However, at the end of 2022 9,483 people, around half of whom were children, were still being housed in hotels or similar accommodation.¹⁰¹

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? Yes No
 ❖ If so, what is the time limit for making an application?
2. Are specific time limits laid down in law for lodging an application? Yes No
 ❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? Yes No
4. Is the authority with which the application is lodged also the authority responsible for its examination? Yes No
5. Can an application be lodged at embassies, consulates or other external representations? Yes No

The Secretary of State for the Home Department is responsible in law for registering asylum applications.¹⁰² This responsibility is carried out by civil servants in the UK Visas and Immigration section

⁹⁴ Home Office, 'Vulnerable Persons and Vulnerable Childrens Resettlement Schemes Factsheet, March 2021', available at: <https://bit.ly/48oyxOF>.

⁹⁵ UK government, *Afghan Citizens Resettlement Scheme Pathway 3: eligibility for British Council and GardaWorld contractors and Chevening Alumni*, 17 October 2023, available at: <https://bit.ly/3I7NNEY>.

⁹⁶ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

⁹⁷ Home Office, 'Afghan Resettlement Programme: operational data, January 2022, available at: <https://bit.ly/3VkiW8Z>.

⁹⁸ As the applicable Immigration Rules are at Appendix FM <https://bit.ly/3uzaP4B>, not Appendix Family Reunion <https://bit.ly/3T8uiT0>.

⁹⁹ Immigration Rules, Appendix Family Reunion..

¹⁰⁰ UK Visas and Immigration, 'Guidance – Funding Instruction for local authorities in the support of the Afghan Citizens Resettlement Scheme and Afghan relocation and Assistance Policy', last updated 10 January 2023, available at: <https://bit.ly/3EWcBz3>.

¹⁰¹ Home Office, 'Transparency data – Afghan Resettlement Programme: operational data', 23 February 2023, available at: <https://bit.ly/427f1Dn>.

¹⁰² Section 113 Nationality, Immigration and Asylum Act (NIAA) 2002.

(UKVI) of the Home Office. If a person claims asylum on entry to the UK, immigration officers at the port have no power to take a decision on the claim and must refer it to UKVI.¹⁰³

Where a couple or family claim asylum, the children normally apply as dependants on the claim of one of their parents. Also, one partner may apply as the dependant of the other. This means that the outcome of their claim will depend upon that of the main applicant. It is policy to inform women separately that they may claim separately from their partner,¹⁰⁴ although there is no recent research or regular auditing to check that this is routinely done.

Following a judgment in the Supreme Court, known as 'G v G'¹⁰⁵ which found that a child named as a dependant on an asylum claim should generally be considered to have made a claim in their own right, policy guidance¹⁰⁶ was introduced to comply; namely that children's protection needs must be considered and if necessary, determined separately from the parents, where they are different. The questionnaire given to adult applicants has been amended to reflect the need to identify any protection needs specific to the child.¹⁰⁷ Where the child has protection needs that are the same as the main claimant, all the claims will be dealt with together under the Family Asylum Claim process.¹⁰⁸ This does not apply where the child has no protection needs, and new guidance has been issued for those in this situation.¹⁰⁹

There is no specific time limit for asylum seekers to lodge their application. A claim may be refused if the applicant 'fails, without reasonable explanation, to make a prompt and full disclosure of material facts.'¹¹⁰ However, 'applications for asylum shall be neither rejected nor excluded from examination on the sole ground that they have not been made as soon as possible'.¹¹¹ In practice, where someone is present in the UK in another capacity, e.g. as a student or worker, and then claims asylum after some years, whether or not they have overstayed their immigration leave, this may be treated as evidence that they are not in fear. Financial support and accommodation can be refused if the person did not claim 'as soon as reasonably practicable',¹¹² but not if this would entail a breach of human rights (see [Reception Conditions](#)).¹¹³

First applications made from inside the UK must be registered by appointment at the Asylum Intake Unit (AIU) – formerly Asylum Screening Unit (ASU) – in **Croydon** in the South East of England unless the asylum seeker is in detention or unless an applicant successfully argues that they cannot be expected to travel to the AIU.¹¹⁴ This includes all applications not made at the port of entry, even if only hours after arrival and where the asylum seeker has left the port. The Nationality and Borders Act 2022 enshrines in law the requirement to make an asylum claim at a 'designated place'. It has been explained that this is to

¹⁰³ Para 328 Immigration Rules, Part 11.

¹⁰⁴ Home Office, *Gender issues in the asylum claim*, September 2010, available at: <http://bit.ly/1CbiHBK>, para 7.1; Home Office, *Dependants and former Dependants*, May 2014, available at: <http://bit.ly/2Bjz5G8>.

¹⁰⁵ Supreme Court, *G (Appellant) v G (Respondent)*, Judgment, [2021] UKSC 9, 19 March 2021, available at: <https://bit.ly/3ru4iT7>.

¹⁰⁶ Home Office, 'Operational note: considering children's protection needs', July 2021, available at: <https://bit.ly/32dleDH>.

¹⁰⁷ Home Office, 'Preliminary information questionnaire for asylum claims', last updated 2 August 2021, available at: <https://bit.ly/3qQJaHL>.

¹⁰⁸ Home Office, *Operational note: considering children's individual protection needs*, 30 July 2021, available at: <https://bit.ly/3wya8sE>.

¹⁰⁹ Home Office, *Dependants and former dependants: caseworker guidance*, 26 July 2023, available at: <https://bit.ly/49JvC47>.

¹¹⁰ Para 339M Immigration Rules, Part 11.

¹¹¹ Para 339MA Immigration Rules, Part 11.

¹¹² Section 55 NIAA 2002.

¹¹³ House of Lords, *Limbuela v Secretary of State for the Home Department* [2005] UKHL 66, available at: <https://bit.ly/48sMOtC>.

¹¹⁴ Home Office, *Asylum Process Guidance: Registering an asylum application in the UK*, available at: <http://bit.ly/1BkfXXq>, para 7.1.

make clear that claims cannot be made in territorial waters and that anyone attempting to do so will be brought to the UK to make their claim.¹¹⁵

There is no government funding for fares to the AIU. Particularly where asylum seekers are newly arrived in the UK, and may be confused, disoriented and understanding little English, making this journey successfully is very problematic.

Applicants are required to telephone the AIU before they can apply in person, and give some basic personal details over the phone, but not details of their asylum claim. They are then given an appointment to attend and register their claim. In the meantime, they are unable to access financial support or government-provided accommodation. In exceptional circumstances – destitution or extreme vulnerability – the Home Office can accept walk-in applications or offer a same or next-day appointment. In practice, it is hard to prove that the applicant is destitute or sufficiently vulnerable and applicants are advised that they may need to advocate for their need to be seen without an appointment.¹¹⁶

There is no rule laying down a maximum period within which an asylum claim must be registered, after the authority has first been notified of the claim. Anecdotal evidence of long delays to obtain appointments was confirmed in a response to a Freedom of Information Act request¹¹⁷ showing that the average waiting time in the first quarter of 2022 was 67 days, up from an average of 20 for the same period in 2021.¹¹⁸

A person who claims asylum on being arrested or detained or during detention is not taken to the AIU but may be screened in detention or at a regional office or even in a police station. The screening interview in such a case is carried out by an immigration official, not a police officer, but information disclosed during a police interview under caution may be disclosed to the asylum authorities.

At the screening interview, fingerprints are taken and the route of travel is inquired into. The asylum seeker is asked basic details of their claim. Although confidential space is now provided for interviewing at the **Croydon** screening unit, there is no supervised childcare for this first stage of the process.¹¹⁹ The lack of childcare provision at the AIU remains an obstacle to disclosure of sensitive information such as an experience of torture or rape since children may be in the same room as the parent while information on the basis of the claim is taken.

The government published new guidance relating to this stage of the process in 2018 which has been revised on several occasions to reflect current law and policy.¹²⁰ Although details of the asylum claim should not be required at this stage, a decision will be made as to which kind of procedure the application will be routed through, including inadmissibility (on [Safe Third Country](#) grounds) and suitability for detention.

There is no provision for publicly funded legal assistance to attend the screening interview except for unaccompanied children. Applicants who have applied from within the UK may have had legal advice prior to screening, but those applying at a port will not have had that opportunity. The Screening Unit does not have direct access to appointments for legal representatives, but officers can use a public access part of the government website called '[Find a Legal Adviser](#)' which enables a search for contact details of legal representatives listed by subject matter and by region. The officer can search in the region where the

¹¹⁵ Statement of changes to Immigration rules December 2020, available at: <https://bit.ly/3cclw00>

¹¹⁶ Right to Remain, Toolkit (information for people making an asylum claim), available at: <https://bit.ly/2tnulfld>.

¹¹⁷ Home Office, *Freedom of Information request (our ref: 68213): internal review*, 8 July 2022, <https://bit.ly/3V9zS5X>.

¹¹⁸ In February 2024 the Home Office refused a Freedom of Information request for updated data on the grounds that it is no longer held on a central database, in a reportable format.

¹¹⁹ See Joint Committee on Human Rights, *Violence against Women and Girls Sixth report of session 2014-15*, HL Paper 106 HC 594, recommendation 37, available at: <https://bit.ly/3wry7K6>.

¹²⁰ Home Office, *Asylum Screening and Routing*, June 2022 available at: <https://bit.ly/2sAbGC4>.

asylum seeker is going to be sent for initial accommodation (see [Reception Conditions](#)). There is no obligation on screening officers to help in finding legal representation and in practice this is unlikely to happen.

Registration of unaccompanied children

The policy is to treat unaccompanied children differently and this system is now the norm.¹²¹ The policy guidance, first issued in July 2016 and updated most recently in June 2022 reflects the practice that had emerged following a report by the Office of the Children’s Commissioner for England,¹²² and a judgment of the Court of Appeal.¹²³

When a child claims asylum the Home Office will consider whether there are any immediate safeguarding concerns, for example if the child may have been a victim of trafficking, and action those as needed. After that a welfare form is completed and a copy will be given to the social worker. The case is then transferred to the asylum decision making team for processing. The child will also be given a statement of evidence form to be completed within 60 days of the welfare form. The Home Office will then consider whether an interview is needed in order to decide the claim.¹²⁴

Where a person has claimed asylum and there is uncertainty about whether or not they are a child following an initial age assessment, they will be given the benefit of the doubt. Where a full age assessment has been carried out, or two Home Office staff have assessed the applicant as significantly over 18 or there is clear and credible documentary evidence that they are over 18, the person will be treated as an adult.¹²⁵ For children arriving across the Channel, there have been reports of poor practice in carrying out initial age assessments on arrival.¹²⁶ Research by the Refugee Council published in 2022 including its own statistics shows that many of these decisions made at the border are later overturned.¹²⁷

For those accepted to be a child or where the benefit of the doubt has been given, if they are encountered before being cared for by a local authority are interviewed by an immigration officer in a ‘welfare interview’ which is designed to elicit information about the safety of the child and enable a referral to be made. If the child is already in the care of the local authority the appointment with an immigration officer is to register the claim. At both types of interview the child’s biometrics are taken. If under 16, the process requires a responsible adult (independent of the Home Office) to be present for the biometrics. There is no requirement for a responsible adult to be present at the welfare interview, however if one is available, including a legal representative, then they may attend.¹²⁸

¹²¹ Home Office, *Processing children’s asylum claims*, June 2022, available at: <http://bit.ly/2jz4uUD>.

¹²² Adrian Matthews, Office of the Children’s Commissioner, *Landing in Dover: The Immigration process undergone by unaccompanied children arriving in Kent*, 2012, available at: <https://bit.ly/49EsO97>.

¹²³ Court of Appeal, *R (AN and FA) v Secretary of State for the Home Department* [2012] EWCA Civ 1636.

¹²⁴ Home Office, *Processing children’s asylum claims*, 31 December 2020, available at: <http://bit.ly/2iO8XKe>.

¹²⁵ Home Office, *Assessing age for asylum applicants: caseworker guidance*, 31 March 2023, available at: <https://bit.ly/3ulaM6t>.

¹²⁶ Independent Chief Inspector of Borders and Immigration, *An inspection of the initial processing of migrants arriving via small boats at Tug Haven and Western Jet Foil December 2021 – January 2022*, 21 July 2022, paragraph 6.31 <https://bit.ly/4bY8YqS>.

¹²⁷ Refugee Council, *Identity Crisis: How the age dispute process puts refugee children at risk*, September 2022, available at: <https://bit.ly/3tQa1UZ>.

¹²⁸ Home Office, *Processing children’s asylum claims: caseworker guidance*, 28 June 2022, available at: <https://bit.ly/49IKiXF>.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | None |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 18 December 2023: | 128,786 ¹²⁹ |

The legal provisions that regulate the asylum procedure are set out in primary legislation and the Immigration Rules (set out in full in the [Overview of the legal framework](#)), with guidance explaining how these should be implemented.

As mentioned in [Number of staff and nature of the determining authority](#), the Home Office has responsibility for all aspects of immigration, and is directly responsible for policy development. The department dealing with the processing of asylum claims is the UK Visas and Immigration (UKVI). Within the UKVI the directorate dealing with asylum claims is known as the Immigration and Protection Directorate; Asylum Intake and Casework is within that directorate. Responsibility for border control lies with the UK Border Force, an executive agency of the Home Office which combines immigration, policing and customs functions. Subjects covered by the publicly available guidance for case workers include making an asylum decision.¹³⁰

A 2019 report entitled 'Lessons not Learned: the failures of asylum decision-making in the UK' documents flawed credibility assessments and finds that the current system places an unrealistic and unlawful evidential burden on asylum applicants. It compiles findings from over 50 publications issued over the last fifteen years on the quality of decision-making processes in the UK Home Office. Built on an analysis of over 1,800 asylum cases and 140 interviews, the report charts the consistent failure of the Home Office to implement recommendations to improve procedures.¹³¹

There is no enforceable time limit for deciding asylum applications, but the immigration rules say that the decision must be taken 'as soon as possible'.¹³² The target to deal with 'straightforward' applications was six months, or 182 days, although in February 2019 the government announced that this strict target had been abandoned,¹³³ no replacement has yet been agreed, although discussions between UKVI colleagues and NGOs took place in early 2019.

If a decision is not taken within six months, a caseworker should inform the applicant of the delay. This is common in cases designated as 'non-straightforward'. Most legal challenges relating to delays, even of

¹²⁹ Home Office, *Immigration system statistics data tables, Asylum applications awaiting a decision detailed datasets, year ending December 2023*, table Asy_D03, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr..>

¹³⁰ Home Office, *Asylum decision making guidance (asylum instructions)*, available at: <http://bit.ly/1Q7pK5Z>.

¹³¹ FFT, *Lessons not Learned; The failures of asylum decision-making in the UK*, September 2019, available at: <https://bit.ly/36ee2UH>.

¹³² Para 333A Immigration Rules Part 11.

¹³³ Immigration Minister, 'Reply to Asylum: Applications: Written question – 220305', 18 February 2019, available at: <https://bit.ly/2VBYXre>.

unaccompanied minors,¹³⁴ do not succeed unless it can be shown that the delay was deliberate, which was the case in one case, *TM v Secretary of State for Home Department*, during 2018 where it was found that the case was unlawfully put on hold.¹³⁵

The Refugee Council released statistics obtained from a Freedom of Information Act request detailing the length of delays longer than 6 months, as data is not routinely published. A breakdown of lengths of waiting times for initial decision show an increase, amongst other statistics: at the end of December 2020, 2,284 people had been waiting 3 years or more for an initial decision, of whom, 253 people had been waiting for 5 years or more, 55 of whom were children.¹³⁶ Updated statistics were released for 2023 showing the backlog for initial decisions was 128,786 and 83,254 of those had been waiting for over six months.¹³⁷

An inspection by the ICIBI identified and detailed challenges to the UKVI casework progression and looked at the length of time taken to make a decision, on average for each quarter between January 2017 and May 2021. The first quarter of 2021 was found to be the longest, at an average of 473 days.¹³⁸ Statistics have been regularly published as to the performance of the UKVI against the six-month target and how many cases were pending after being in the system for more than six months.

At the end of December 2022, the backlog of applications made before part of the Nationality and Borders Act 2022 came into force on 28 June 2022 had reached 90,704 cases. There were 45,255 pending claims that had been made since 28 June 2022, making the total backlog at 31 December 2022 135,959 applications.¹³⁹ In response to this, the Prime Minister made a commitment to clear the backlog of claims that pre-dated 28 June 2022 by the end of 2023.¹⁴⁰

Statistics published to the period 28 December 2023 showed that the pre-28 June 2022 applications had been reduced to 4,537 and that pending applications made since then were 94,062.¹⁴¹ Many of these cases are not being processed as they are currently in the inadmissibility process.

Of the 124,586 decisions made in 2023, 25,583 of these were withdrawn claims. The large majority of those were “implicit” withdrawals which is when the Home Office has withdrawn the claim and not the applicant.¹⁴² Concerns about claims being wrongfully withdrawn in order to meet the target for clearing

¹³⁴ Including in December 2019, see for example: England and Wales High Court (Administrative Court) Decisions, [2019] EWHC 3573 (Admin), Case No: CO/3942/2018, 20 December 2019 available at: <https://bit.ly/2FUcxR9>.

¹³⁵ Upper Tribunal, *TM v Secretary of State for Home Department* [2018] UKUT 299 (IAC), 23 August 2018, available at <https://bit.ly/2SUhU6R>.

¹³⁶ Refugee Council, *Living in Limbo; a decade of delays in the asylum system*, July 2021, available at: <https://bit.ly/3fEa1Ad>

¹³⁷ Refugee Council, 'New figures reveal scale of asylum backlog crisis', November 2022, available at: <https://bit.ly/3OvaEg4>.

¹³⁸ ICIBI, *An inspection of asylum casework (August 2020 – May 2021)*, November 2021, available at: <https://bit.ly/3ldOQkA>.

¹³⁹ Home Office, *Additional statistics relating to Illegal Migration (December 2023)*, 2 January 2024, available at: <https://bit.ly/42QWCwu>.

¹⁴⁰ Oral statement to Parliament, 'PM statement on illegal migration', 13 December 2022, available at: <https://bit.ly/3UQ1rR6>.

¹⁴¹ Home Office, *Additional statistics relating to Illegal Migration (December 2023)*, 2 January 2024, available at: <https://bit.ly/42QWCwu>.

¹⁴² Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, available at: <https://tinyurl.com/bdhnwfrk>.

the backlog have been raised by the Public Accounts Committee¹⁴³ and the Home Affairs Select Committee.¹⁴⁴ Data on the reasons for the claim being withdrawn is not disclosed by the Home Office.¹⁴⁵

1.2. Prioritised examination and fast-track processing

There is no established system in the UK for prioritising the cases of people who are particularly vulnerable or whose case appears at first sight well-founded, although since the abandonment of the six-month target the Home Office claims that vulnerable clients (undefined publicly) are prioritised.¹⁴⁶ The only system for expediting decisions was the **Detained Fast Track**, which has been suspended since 2015.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? Yes No
3. Are interviews conducted through video conferencing? Frequently Rarely Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? Yes No
 - ❖ If so, is this applied in practice, for interviews? Yes No

Applicants are entitled to a personal interview,¹⁴⁷ and this is standard practice. There is an initial screening interview before the substantive interview.

Interviews may be dispensed with in defined circumstances including where:

- ❖ a positive decision can be taken on the basis of the evidence available;
- ❖ the facts given in the application only raise issues of minimal relevance or which are clearly improbable or insufficient or designed to frustrate removal;
- ❖ or the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his control.

As part of the asylum backlog clearance process announced in December 2022 a ‘streamlined asylum process’ was introduced in February 2023. Specific nationalities were targeted for fast decisions, potentially without the need for a substantive interview. This was applied to nationals of high grant countries, namely Afghanistan, Eritrea, Libya, Sudan, Syria and Yemen.¹⁴⁸ A streamlined process for children was also introduced in March 2023.¹⁴⁹ A questionnaire process was introduced for Iranians and Iraqis although as this group has a lower grant rate it is not expected that as many decisions would be taken without an interview as the first cohort.¹⁵⁰

¹⁴³ Public Accounts Committee, *Asylum system: Doubts and concerns raised around Government’s approach to backlogs*, 27 October 2023, available at: <https://bit.ly/3SGOTfC>.

¹⁴⁴ Home Affairs Committee, *Oral evidence: Work of the Home Office, HC 356*, 29 November 2023, available at: <https://bit.ly/3T847Mg>.

¹⁴⁵ Letter from the Permanent Secretary at the Home Office to the Public Accounts Committee, 9 January 2024, available at: <https://bit.ly/3T48qrT>.

¹⁴⁶ UK Parliament, ‘Answer to written parliamentary question’, February 2019, available at: <https://bit.ly/2VBYXre>.

¹⁴⁷ Para 339NA Immigration Rules Part 11.

¹⁴⁸ Home Office, *Streamlined asylum processing*, available at: <https://bit.ly/42QZlAp>.

¹⁴⁹ Home Office, *Streamlined asylum processing for children*, available at: <https://bit.ly/4bLvmna>.

¹⁵⁰ Home Office, *Asylum decision making prioritisation: caseworker guidance*, 2 October 2023, available at: <https://bit.ly/3UTcxZ9>.

It was previously very rare for an asylum applicant over 12 years of age on their first application in the regular procedure not to have an interview. However, following the introduction of the streamlined process there appears to have been a large increase in decisions being taken without a substantive interview.¹⁵¹

Personal interviews are usually conducted by the authority responsible for taking the decisions, i.e. by the Home Office caseworkers, although it will not always be the same individual. Asylum seekers are entitled to have a legal representative with them at the personal interview, but there is no public funding for this for adult claimants, save in the case of lack of mental capacity,¹⁵² and so few are able to do so in practice as they are unlikely to be able to pay for their legal representative's attendance themselves. Where there is a legal representative present, their role is not to put the asylum seeker's case, but to ensure that their client is able to participate fully and properly in the interview. New guidance on interviewing applicants was published in 2021;¹⁵³ changes include up to date information on childcare, specific guidance on interviewing unaccompanied children now over 18, videoconferencing, advice on inadmissibility and the recording of interviews.

Where a refused asylum seeker returns to the UK and wishes to claim asylum again, guidance to Home Office officers is that this should be treated as a further submission (a 'fresh' or 'subsequent' claim for asylum).¹⁵⁴ In this case they may be refused an interview. Applicants under 12 years old are not normally interviewed, though they can be if they are willing and it is deemed appropriate.¹⁵⁵

The guidelines on asylum interviews require provision of childcare so that parents do not have to have their children present while being interviewed about possibly traumatic experiences.¹⁵⁶ This is now formally in place in every location (other than offices with no interview facility) although different arrangements are in place at each venue.¹⁵⁷

Videoconferencing

Increasingly, substantive interviews may take place through video conferencing facilities, to accommodate an interviewing officer or interpreter being located in a different area from the applicant. The guidance has been revised to reflect this.¹⁵⁸ Substantive interviews were paused between mid-March and the end of June 2020. Since they resumed they mainly take place via video link; the asylum seeker is invited to the usual Home Office premises but the interviewing officer may be working from home or in a different office. The interpreter may also join by video, although the guidance also provides for them to join by audio only. Some face-to-face interviews have resumed,¹⁵⁹ although they are likely to remain an exception rather than the rule, particularly in light of new casework specialisms meaning it is increasingly likely that the interviewing officer and decision maker will be located in a different region from the applicant. Concerns have been raised about the use of video conferencing interviews, these include IT issues, inconsistent information about how the remote interviews work, issues with safeguarding procedures and a lack of transparency.¹⁶⁰

¹⁵¹ Home Office statistics, available at: <https://bit.ly/49KdC9T>.

¹⁵² The Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012, available at: <http://bit.ly/2BbxjH6>.

¹⁵³ Home Office, *Asylum Interviews*, June 2022, available at: <https://bit.ly/49lr18w>.

¹⁵⁴ Home Office, *Asylum Screening and Routing version 10.0*, December 2023, available at <https://bit.ly/3UPtvHJ>, 25.

¹⁵⁵ Home Office, *Children's Asylum Claims*, December 2020, available at: <http://bit.ly/2Bcs1Le>.

¹⁵⁶ Home Office, *Asylum Interviews*, June 2022, available at: <https://bit.ly/49lr18w>, 17.

¹⁵⁷ Home Office, *Asylum Interviews*, June 2022, available at: <https://bit.ly/49lr18w>, 17.

¹⁵⁸ Home Office, *Asylum Interviews*, 2022, available at: <https://bit.ly/3ImU0e7>.

¹⁵⁹ Home Office, *The resumption of substantive asylum interviews*, August 2020, available at: <https://bit.ly/3cfexVf>.

¹⁶⁰ Helen Bamber Foundation, *Remote Home Office Substantive Asylum Interviews*, 14 April 2022, available at: <https://bit.ly/3SRKFSI>.

All staff who deal with asylum claims from children must have completed training on keeping children safe and interviewers must have received training in interviewing children. The guidance to decision makers covers trafficking and the 1989 Convention on the Rights of the Child in addition to the Refugee Convention and the ECHR, as well as child specific provisions in domestic legislation.¹⁶¹

Decision makers are told that they must refer to the guidance on victims of trafficking (which sets out indicators of trafficking) as well as the country information on the role, status and treatment of women before conducting an asylum interview. Applicants should be asked if they have a preferred gender of their interviewer, and this request should be accommodated. Applicants are generally interviewed alone. Parents are not expected to give an account of their persecution in front of their child, and interviews should be rescheduled as necessary so that childcare can be arranged, including at Home Office premises where available.¹⁶²

1.3.1. Interpretation

Interpreters are required by the Immigration Rules and are provided by the Home Office. There is a code of conduct for these interpreters, which was revised in 2020,¹⁶³ but in practice asylum seekers are unaware of it and of what to expect from their interpreter unless they have a legal adviser who has informed them about this beforehand. Since inconsistencies on matters of detail in the asylum interview are a common reason for refusing asylum, problems with interpreting can have a significant impact.

If the asylum seeker has a representative present, in the case of interpreting problems best practice and guidance issued to Home Office caseworkers suggests that the representative is permitted to interrupt the interview to raise the problem.¹⁶⁴ Home Office caseworkers are not always familiar with this, and it can be difficult for problems of interpretation to be raised and rectified at the time they occur. Asylum seekers are allowed to take an interpreter of their own choosing to the interview, but there is no public funding for this in most adult cases, so taking one's own interpreter is unusual.

The Independent Chief Inspector of Borders and Immigration published its report into the use of language services, including interpreters, in 2020.¹⁶⁵ It recommended that the Home Office should:

- ❖ Appoint a Borders, Immigration and Citizenship System (BICS) 'owner' for language services, with accountability across BICS for the formulation and implementation of policies and processes, collection of data and performance monitoring, planning and delivery of the required resources and capabilities, risk management, internal and external communications, monitoring and management of contracted out services, and stakeholder engagement.
- ❖ Create, publish and resource a comprehensive programme of improvements to the provision and use of language services, with clear timelines and deliverables. This should include the identification of urgent tasks and 'easy wins' as well as longer-term projects.
- ❖ Ensure that the risks and issues in relation to language services are fully and accurately reflected in the Risk Registers, and that mitigations and actions are regularly reviewed.¹⁶⁶

All three of the recommendations were accepted by the Home Office but has given no update on implementation of them or any other progress or changes made since 2020.¹⁶⁷

¹⁶¹ Home Office, *Processing children's asylum claims*, available at: <https://bit.ly/49IKiXF>.

¹⁶² Home Office, *Gender issues in asylum claims: caseworker guidance*, 13 April 2018, <https://bit.ly/3OS7HHS>.

¹⁶³ Home Office, *Asylum Interviews*, available at: <https://bit.ly/36dLJps>.

¹⁶⁴ Home Office, *Interpreters' code of conduct*, available at: <https://bit.ly/3tOvYig>.

¹⁶⁵ ICIBI, *An inspection of the Home Office's use of language services in the asylum process*, November 2020, available at: <https://bit.ly/2LY8zh2>.

¹⁶⁶ ICIBI, *An inspection of the Home Office's use of language services in the asylum process*, November 2020, available at: <https://bit.ly/2LY8zh2>.

¹⁶⁷ Home Office, *Response to the ICIBI Inspection on the use of language services in the asylum process*, 2020, available at: <https://bit.ly/33SBV97>.

Normal good practice is that asylum seekers are asked at the screening interview whether they wish to be interviewed by a man or a woman, and the policy and practice is to respect this preference, subject to availability of staff.¹⁶⁸ This policy also applies to interpreters although no monitoring is conducted relating to adherence to this policy.

1.3.2. Recording and transcript

Audio-recording of interviews is permitted and should be arranged as a matter of routine where the equipment is available, unless a request has been made in advance by the asylum seeker for the interview not to be recorded. The recording must be provided to the applicant after the interview. This will be done via the use of an online portal called MOVEit where the person has a legal representative with access to the portal. Otherwise it will be sent by email or post.

In 2020 the NGO Freedom From Torture published research based on interview transcripts and testimonies from survivors of torture and their experiences of being interviewed in relation to their asylum claim. The criticisms and recommendations have wider applicability than the subject of the research.¹⁶⁹ These include the use of poor questioning techniques, failure to identify experiences of torture and people being prevented from giving a full account of their experiences.

The ICIBI inspection of asylum casework details inconsistencies in caseworker’s preparation for interview, the level to which they probe material issues, the use of video conference for interviews and quality assurance measures.¹⁷⁰ The government’s response was to accept the recommendations, although one relating to quality assurance was accepted only in part. However, it remains to be seen what improvements are made in practice, given the government’s wholesale reform of the system.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No

2. Average processing time for the appeal body to make a decision in 2023: 44 weeks¹⁷¹

1.4.1. Appeal to the First Tier Tribunal

There is a right to appeal against an initial asylum decision under the regular procedure. Appeals are made to the Immigration and Asylum Chamber of the First Tier Tribunal (FTT (IAC)) on both facts and law. This is a judicial body, composed of immigration judges and sometimes non-legal members. The Tribunal can assess and make findings of fact on the basis of the evidence presented including evidence, which was not before the Home Office decision-maker. The time limit for appealing is 14 days from the date of the Home Office decision.¹⁷² Lodging an appeal suspends removal from the UK, unless the case

¹⁶⁸ Home Office, *Gender issues in the asylum claim*, available at: <http://bit.ly/1CbiHBK>, para 7.1.

¹⁶⁹ Freedom from Torture, *Beyond Belief; How the Home Office fails survivors of torture at the asylum interview*, 16 June 2020, available at: <https://bit.ly/3tGxJRk>.

¹⁷⁰ Home Office, ‘The Home Office response to the ICIBI’s report: An inspection of asylum casework (August 2020 to May 2021)’, 18 November 2021, available at: <https://bit.ly/3nEsb9r>.

¹⁷¹ Ministry of Justice, ‘Tribunal Statistics Quarterly: October to December 2023’, 14 March 2024, available at: <https://tinyurl.com/2j7vrxtc>.

¹⁷² The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014, rule 19.

is certified as 'clearly unfounded'. Cases certified as 'clearly unfounded' on or after 28 June do not have a right of appeal at all, due to the implementation of the NABA.

Given the limited availability of publicly funded representation in practice (see [Legal assistance](#)), these time limits are short and asylum seekers may resort to sending in the appeal forms without legal representation. Administrative mistakes made by an unrepresented asylum seeker in lodging an appeal can result in the appeal not being accepted by the Tribunal office.

A fee of £140 (€ 163) is required for an oral hearing of an asylum appeal in the regular procedure. Applicants do not need to pay if they are receiving asylum support (see [Reception Conditions](#)) or if they have public funding to be represented.¹⁷³ It is also possible to apply to have the fee waived, and destitute asylum seekers without asylum support would qualify for this, but may not have the advice or information to make the application. In practice most asylum seekers are not liable to pay the fee because most are receiving asylum support and/or public funding for their legal representation at this stage of the process.

The complexity of the law and procedure and the barrier of language make it extremely difficult for asylum seekers to represent themselves. Several research reports refer to the variance in quality and availability of legal advice and this area.¹⁷⁴ Tribunal rules require all evidence to be translated into English where relevant and sent to all parties in advance of the hearing.¹⁷⁵ It is difficult for an unrepresented asylum seeker to know what is required, or to get access to resources and advice to prepare papers for a hearing.

In 2020 a report was published following a research project involving observations and interviews with appellants, representatives and staff. It concluded that asylum seekers at their appeal hearings are hampered by six factors; confusion, anxiety, mistrust, disrespect, communication difficulties and distraction and 34 recommendations are made.¹⁷⁶

Asylum seekers give evidence in person at the appeal hearing, and the Tribunal provides interpreters on request. Hearings are public. Decisions are in theory public documents, but decisions of the FTT (IAC) are not usually published.

1.4.2. Onward appeal to the Upper Tribunal

There is an onward appeal to the Immigration and Asylum Chamber of the Upper Tribunal (UT) (IAC) on a point of law. This is with permission of the FTT (IAC). Application must be made within 14 days of receiving the refusal.¹⁷⁷ If the FTT (IAC) refuses permission, an application for permission may be made to the UT (IAC) within 14 days of the notice of the FTT (IAC)'s decision being sent to the applicant.¹⁷⁸ If this is refused, there is no appeal, but application may be made to the High Court, or in Scotland the Court of Session, for permission to apply for [judicial review](#) within a specially shortened time limit of 16 calendar days (as compared with three months for a usual judicial review application). The ability to use this process has since been heavily restricted through the introduction of the Judicial Review and Courts Act 2022.¹⁷⁹ A legal challenge to this restriction was unsuccessful.¹⁸⁰

¹⁷³ HM Courts and Tribunals Service, 'Immigration and Appeals Tribunal Fees Guidance', available at: <http://bit.ly/1d19Fk0>.

¹⁷⁴ Refugee Action and NACCOM, *Tipping the Scales*, 2018, available at: <https://bit.ly/30LaMiM>; Dr Jo Wilding, *Droughts and Deserts*, 2019, available at: <https://bit.ly/42cgurZ>.

¹⁷⁵ Rule 12 The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

¹⁷⁶ Experiencing Asylum Appeal Hearings: 34 ways to improve access to justice at the First Tier Tribunal, *University of Exeter and Public Law Project 2020*, available at: <https://bit.ly/3T904iT>.

¹⁷⁷ Rule 33 Procedure Rules.

¹⁷⁸ Rule 21 The Tribunal Procedure (Upper Tribunal) Rules 2008, available at: <https://bit.ly/3T9IxH2>.

¹⁷⁹ Section 2, Judicial Review and Courts Act 2022, available at: <https://bit.ly/4bKdclM>.

¹⁸⁰ *Mary Jane Baluden Oceana, R (on the application of) v Upper Tribunal (Immigration and Asylum Chamber)* [2023] EWHC 791 (Admin), available at: <https://bit.ly/3PRHDgy>.

An application for judicial review of a refusal by the UT (IAC) to grant permission to appeal can now only be made except whether the question is:

- a. whether the application for permission to appeal was validly made to the Upper Tribunal;
- b. whether the Upper Tribunal when refusing permission to appeal was properly constituted; or
- c. whether the Upper Tribunal is acting or has acted in bad faith or in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.

Lodging an appeal or an application for permission to appeal against an asylum refusal suspends removal from the UK, unless the case has been certified under Section 94 Nationality, Immigration and Asylum Act (NIAA) as clearly unfounded.¹⁸¹

If permission is granted to appeal to the UT (IAC), the UT (IAC)'s decision may be appealed again with permission on the same limited grounds on a point of law only to the Court of Appeal. In rare cases permission may be given for a final appeal to the Supreme Court where the Court of Appeal or Supreme Court certifies that the case concerns a question of law, which is of public importance.

Although the asylum decision is appealable in the regular procedure, there are many decisions affecting asylum seekers against which there is no right of appeal: e.g. a decision to detain, or giving directions for removal, or the refusal to treat further submissions as a fresh claim (subsequent asylum application), or a decision to remove to a safe third country. Where there is no right to appeal the only recourse is to [judicial review](#). This is a procedure which does not examine the merits of the complaint, but only whether the decision maker has acted correctly, for instance by taking into account relevant considerations and not being influenced by irrelevant considerations.

Where the only remedy is judicial review, this is only available with the permission of the reviewing court. judicial review is now in the Upper Tribunal's jurisdiction.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 Representation in courts
 Legal advice

First instance

Free legal assistance is available to asylum seekers as part of the state funded scheme of free legal aid in certain, restricted areas of legal practice for people who do not have sufficient resources. Although the Immigration Rules provide that asylum seekers shall be allowed 'an effective opportunity' to obtain legal advice,¹⁸² access to this is not guaranteed.

¹⁸¹ Home Office, *Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims)*, 12 December 2023, available at: <https://bit.ly/49scDvs>.

¹⁸² Para 333B Immigration Rules Part 11.

Statistics on applications for legal aid at first instance were not made available by the Home Office in response to parliamentary questions.¹⁸³ A noted academic who has reported on this issue for several years revealed statistics obtained through a Freedom of Information Act request, that showed over half of the main applicants (excluding dependants) who claimed asylum in the year to 31 August 2023 living in England and Wales, did not have a legal aid representative.¹⁸⁴

Few asylum seekers obtain advice before their screening interview.

Legal aid is available for appeals, subject to a means test and in England and Wales a merits test, and availability of a representative. This means some appellants appear unrepresented.¹⁸⁵

In **England and Wales**, legal aid for legal advice and representation for the initial stage of an asylum case is called “Legal Help”. The work from claim, through interview up to decision, is paid as a fixed fee of £413 (€ 481).¹⁸⁶ Exceptions include unaccompanied child applicants, and where the representative can evidence that they have undertaken work that equates to over 2 times the value of the fixed fee. An hourly rate can then be paid if the Legal Aid Agency, which assesses the claim for costs, accepts that 2 times the level of work was done and warranted.¹⁸⁷ Note that before April 2023 work at 3 times the value of the fixed fee was required in order to be paid at hourly rates.

The low fixed fee and the significant jump to achieve an hourly rate both put pressure on conscientious representatives. The low fixed fee at these pre-appeal stages also makes it difficult to conduct a thorough examination of a complex case. The grant of legal aid for appeal depends on this assessment by the lawyer, and the award of legal aid contracts by the Legal Aid Agency depends on performance indicators including success at appeals. The system makes it difficult for representatives to stay in business.¹⁸⁸ Delays in decision making have also made claiming fees more difficult, although guidance was issued in 2022 aimed at easing this pressure.¹⁸⁹

Legal assistance is not provided at the AIU or at the port of entry. Free legal assistance (funded as described above) is limited to advising the asylum seeker before and immediately after their asylum interview. This may include making additional written representations to the Home Office, which as a matter of usual policy are only allowed within five days after the interview. With some exceptions (including unaccompanied children and people who lack capacity), there is no public funding for a legal representative to attend the asylum interview.¹⁹⁰

Appeal

The legal aid fixed fee for appeals was changed in 2020 following the rolling out of a new online appeals process.¹⁹¹ The new process required lawyers to conduct more work and the new fee structure meant

¹⁸³ James Cartlidge, ‘Answer to written question on Legal Aid Scheme’, 10 February 2022, available at: <https://bit.ly/35ptoeP>.

¹⁸⁴ Dr Jo Wilding, <https://bit.ly/4bJ8VyR>.

¹⁸⁵ UK government, ‘Guidance Unrepresented appellants - Immigration and Asylum Tribunal’, available at: <https://bit.ly/38sKSTE>.

¹⁸⁶ Schedule 1, Table 4(a) Civil Legal Aid (Remuneration) Regulations 2013, available at: <http://bit.ly/1fiODPA>.

¹⁸⁷ Paragraph 8.98 Immigration Specification to the 2013 Standard Civil Contract, available at: <http://bit.ly/1QFm9jO>.

¹⁸⁸ Law Society, ‘A decade of cuts: Legal aid in tatters’, 31 March 2023, available at: <https://bit.ly/42Riyr9>.

¹⁸⁹ UK Government, ‘Civil news: early billing for asylum matters’, 1 September 2022, available at: <https://bit.ly/3i5RzF4>.

¹⁹⁰ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1 Part 1 (30), available at: <http://bit.ly/1J5vmy0>.

¹⁹¹ Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) regulations 2020, available at: <https://bit.ly/36ehce7>.

that in fact lawyers would be worse off.¹⁹² Following a successful challenge,¹⁹³ the new regulations were revoked and the rates were amended pending further consultation.¹⁹⁴

New legal procedures arising from the Nationality and Borders Act prompted another consultation on remuneration for legal advice and representation under the Act; these include Priority Removal Notices (a truncated system of appealing removal) and appeals against decisions made by the National Age Assessment Board. Neither of these processes are in force yet.

Following these consultations, new increased fixed fees were introduced for online appeals lodged after 1 April 2023.¹⁹⁵ Also in April 2023 a change was made meaning that once the value of the work on a case reached twice the value of the fixed fee, the work would all be paid at hourly rates.¹⁹⁶ In December 2023, changes were made to payment for work that will be done in relation to removal notices issued under the Illegal Migration Act 2023, although those provisions are not yet in force.¹⁹⁷ Another change was made allowing legal aid to be provided to someone in receipt of a removal notice under the Illegal Migration Act 2023 without the need for an assessment of that person's finances to determine eligibility.¹⁹⁸

The pressures described above do not apply in **Scotland**, where fees are not fixed, and there is no merits test for representing at a first appeal. For an appeal to the UT (IAC) where the FTT (IAC) has not given permission to appeal, a lawyer in Scotland must assess the merits of the case, and payment may be disallowed if the Scottish Legal Aid Board takes a different view.

The amount that is payable per case in **England and Wales** was reduced in 2012 and has not been increased since. The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 took immigration advice out of scope for all except asylum and trafficking. A legal challenge in regulation to children in immigration proceedings was settled before it reached the court and the law in relation to this was changed as a consequence; the Immigration Rules were changed to this effect on 25th October 2019.¹⁹⁹ The difficulties and constrictions applied by the system of contracted providers by region, based on historical data, result there being insufficient supply to meet the demand. The 'market' approach to the provision of legally aided immigration advice has been criticised in a key academic study.²⁰⁰

Judicial review

In 2014 legal aid was abolished for civil court cases where the merits are assessed as 'borderline', i.e. over 50% but not more than 60%.²⁰¹

Further cuts to legal aid in 2014 meant that legal aid would not be granted for **judicial review** applications unless the court granted permission for the judicial review to go ahead. This meant that solicitors must do

¹⁹² Monidipa Fouzder, 'Government criticised over new fixed fee', *Law Society Gazette*, May 2020, available at: <https://bit.ly/2YhLesU>.

¹⁹³ Statement by legal team following consent order between the parties.

¹⁹⁴ Government, 'Changes to fee payments for immigration work', 7 October 2020, available at: <https://bit.ly/3beIFzn>.

¹⁹⁵ Civil Legal Aid (Immigration Interviews (Exceptions) and Remuneration) (Amendment) Regulations 2022, available at: <https://bit.ly/3OScb1h>.

¹⁹⁶ Paragraph 8.98 Immigration Specification to the 2013 Standard Civil Contract, available at: <http://bit.ly/1QFm9jO>.

¹⁹⁷ The Civil Legal Aid (Remuneration) (Amendment) Regulations 2023, available at: <https://bit.ly/42MXhiw>.

¹⁹⁸ The Civil Legal Aid (Financial Resources and Payment for Services and Remuneration) (Amendment) Regulations 2023, available at: <https://bit.ly/3UOStqY>.

¹⁹⁹ UK Government, 'Separated children given better access to legal aid', 25 October 2019, available at: <https://bit.ly/2sJlrN3>.

²⁰⁰ Dr Jo Wilding, *Droughts and deserts; a report on the immigration legal aid market*, June 2019, available at: <https://bit.ly/42cgurZ>.

²⁰¹ The Civil Legal Aid (Merits Criteria), (Amendment) Regulations 2014 No. 131, available at: <http://bit.ly/1epJg0S>.

the preparatory work including the application at their own financial risk. Following a post-implementation review published in 2019, the government considers that this change has reached its policy aim of reducing unmeritorious judicial reviews, although acknowledges that this change was not the only factor.²⁰²

However, the government announced further reform/ limitations on judicial review in 2021 and introduced a new Bill which became the Judicial Review and Courts Act 2022.²⁰³ The reforms include restrictions on judicial reviews for decisions made by the Immigration and Asylum Chamber of the Upper Tribunal and wider options for courts regarding remedies for successful appellants. Critics point out that whilst the government's focus is on the low success rate of some types of judicial review, the impact on the people affected should not be minimised.²⁰⁴

2. Dublin

The UK left the EU on 31 January 2020 but remained subject to the Dublin Regulation during the transition period, i.e. for requests made until 23h00 on 31 December 2020 (UK time). For information about the Dublin procedure in the UK while it was still subject to the Dublin regulation, see [previous updates to this country report](#).

Cases introduced after the transition period can be treated under the new inadmissibility rules on safe third countries. "The rules allow an inadmissibility decision to be taken on the basis of a person's earlier presence in or connection to a safe third country, even if that particular country will not immediately agree to the persons return." The guidance on inadmissibility of asylum claims explains that: "the safe countries most likely to be identified in asylum claims will be the UK's near neighbours in the EU. Other EU member states, the wider EEA countries (**Iceland, Liechtenstein and Norway**) and **Switzerland** may also be identified, as may country such as the **United States of America, Canada, Australia and New Zealand**" (see further under [Admissibility procedure](#)).

The UK has indicated it would attempt to negotiate returns agreements with individual EU member states,²⁰⁵ as of the time of this update, without success.

During the passage of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, the government agreed to publish the existing routes for family reunification in the UK. This was fulfilled on 31 December with a document outlining existing routes to family reunification in the UK (most not specific to refugee or people seeking asylum).²⁰⁶ This document was archived as out of date in 2023, by which time legislation had changed the validity of the contents. The government also committed to a review of safe and legal routes to the UK and in February 2021 it fulfilled its obligation to update parliament with routes available to reunite families, which was a reiteration of the December 2020 document.²⁰⁷

Section 61 of the Illegal Migration Act 2023 required the government to publish a report on safe and legal routes to the UK, to include details of any proposed additional safe and legal routes which were not yet operational.²⁰⁸ The only proposed change in the published report was to place a cap on the number of refugees accepted by the UK.²⁰⁹

²⁰² Ministry of Justice, *Post-implementation review of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)*, February 2019, available at: <https://bit.ly/2UoIK8v>.

²⁰³ See the Judicial Review and Courts Act 2022 here: <https://bit.ly/3VhcF2d>.

²⁰⁴ ILPA's response to the government's consultation on judicial review reform, available at: <https://bit.ly/49LSaL4>.
²⁰⁵ Hansard, *House of Lords: Immigration, Nationality and Asylum (EU Exit) Regulations 2019*, 18 March 2019, available at: <https://tinyurl.com/5dm3kp4s>.

²⁰⁶ Overview of family reunion options in the Immigration Rules: see: <https://bit.ly/36fdReH>.

²⁰⁷ Home Office, 'Statement in relation to legal routes from the EU for protection claimants including family reunion of unaccompanied children (accessible version)', 8 February 2021, available at: <https://bit.ly/3qqmp9P>.

²⁰⁸ Section 61 of the Illegal Migration Act 2023, available at: <https://bit.ly/3SMCdUQ>.

²⁰⁹ Safe and legal routes, available at: <https://bit.ly/49tMtZ5>.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The inadmissibility grounds in the UK revolve around the question of safe countries, namely whether the person is from a safe country they can be returned to, or whether a person could have claimed asylum in a safe third country on the way to the UK, and then whether it is possible to send them to a safe third country (this does not need to be the one they passed through).

In December 2020 Immigration Rules were changed so that from 1 January 2021 the applicant, if there is evidence that they have a connection with or travelled through another 'safe' country prior to their claim in the UK, may be transferred to any 'safe' country that will accept the applicant. This was removed from the Immigration Rules on 28 June 2022,²¹⁰ when it was replaced by similar provisions by section 16 of the Nationality and Borders Act 2022 which inserted new sections 80B and 80C to the NIAA 2002.

This inadmissibility process at section 80B of NIAA 2002 applies to claims made on or after 28 June 2022. This says that the Secretary of State 'may' declare an asylum claim inadmissible where a person has a connection to a safe third country. Safe third country is defined as a state where the person's life and liberty would not be threatened for a Refugee Convention reason and where their Article 3 rights would not be breached, and where the person may apply for and receive refugee status.

A decision that a claim is inadmissible is not an appealable decision. If a case is deemed inadmissible it can still be considered and decided where the Secretary of State considers that there are exceptional circumstances, or as may be provided in the Immigration Rules (but is not at present).²¹¹ Connection is defined at section 80C of the NIAA as where the applicant:

- ❖ has been recognised as a refugee in the safe third country and is still able to access that protection
- ❖ has been granted another form of protection in the safe third state which means they would not be sent from there in breach of the Refugee Convention or Article 3 and is still able to access that protection
- ❖ has made a protection claim in the safe third country that has not been determined or has been refused
- ❖ was previously present in a safe third country where it was reasonable for them to make a protection claim but they did not do so
- ❖ due to their personal circumstances would have been reasonably expected to make a relevant claim in the safe third country.²¹²

The inadmissibility process is set out in the guidance.²¹³ The first stage is that the Home Office will make a preliminary assessment of whether it appears the case is suitable for the inadmissibility process (i.e. where a person has travelled through Europe to get to the UK). Enquiries as to the route of travel are also a routine part of the screening process in all cases. The asylum seeker's account of their route of travel and other evidence of the person having lived in or travelled through a country will influence whether the application is referred to the Third Country Unit.²¹⁴ If it is deemed suitable, then the case will be sent to

²¹⁰ Statement of changes to the Immigration Rules: HC17, 11 May 2022, available at: <https://bit.ly/3SMQnoJ>.

²¹¹ Section 80B Nationality, Immigration and Asylum Act 2002, as amended by the Nationality and Borders Act 2023, available at: <https://bit.ly/49mYvUc>.

²¹² Section 80C Nationality, Immigration and Asylum Act 2002, as amended by the Nationality and Borders Act 2023, available at: <https://bit.ly/49LqM6s>.

²¹³ Home Office, *Inadmissibility – third country cases: caseworker guidance*, 14 February 2024, available at: <https://tinyurl.com/bdffz3bj>.

²¹⁴ Home Office, *Inadmissibility: safe third country cases – Version 7.0*, June 2022, available at: <https://bit.ly/3qUdPki>

the Third Country Unit. If it is not deemed suitable by that Unit, they will return the case to the asylum team.

If the Third Country Unit does consider that the claim may be considered inadmissible, they will issue a 'notice of intent' which states the country of possible return. The final stage is a decision on whether or not the claim will be admitted to the asylum system in the UK.

On 14 February 2024 the government announced a pause on inadmissibility decision making for people who arrived in the UK on or after 1 January 2022 and who received a notice of intent before 29 June 2023 stating that they may be removed to Rwanda.²¹⁵

On 20 July 2023, the Illegal Migration Act 2023 introduced a new section 8AA to the Immigration Act 1971. This says that where a person has ever met the four conditions set out at section 2 of the Illegal Migration Act 2023, then they 'must not' be given leave to remain in the UK. This prohibition on a grant of leave will apply where a person has arrived on or after 7 March 2023, has entered unlawfully, did not travel directly to the UK and does not have permission to be in the UK.²¹⁶ There are limited exceptions to this for children, victims of trafficking, where the Secretary of State considers that failure to do would be in breach of the UK's international obligations, including the ECHR, or where there are other exceptional circumstances.²¹⁷ This is a decision on a grant of leave, and is separate to the inadmissibility decision. It is currently unclear what happens to a person whose claim is deemed admissible, given this prohibition on a grant of leave.

UNHCR has recommended that provision is made in the Immigration Rules for grants of leave to be made to those in the inadmissibility process.²¹⁸

The MEPD (Rwanda agreement) remained the government's preferred option for transferring responsibility for asylum processing to a 'safe third country'. Guidance to caseworkers states that 'If a case assessed as suitable for inadmissibility action appears to stand a greater chance of being promptly removed if referred to Rwanda, a country with which the UK has a Migration and Economic Development partnership (MEDP), rather than to the country to which they have a connection, TCU should consider referring the case to Rwanda.'²¹⁹

Following the Supreme Court's decision that Rwanda is not a safe country,²²⁰ there are no functioning returns agreements with a safe third country. The government has introduced the Safety of Rwanda (Asylum and Immigration) Bill and is also in the process of ratifying a treaty with Rwanda which it says will address the Supreme Court's concerns.²²¹

In March 2024, the High Court in Ireland found that the decision to add the UK to the list of safe third countries to return asylum seekers to was unlawful.²²²

When an inadmissibility or removal decision is made and it is proposed to send the person to one of 31 European countries (all EU countries plus Iceland, Norway, Switzerland and Liechtenstein), the decision

²¹⁵ Home Office, *Policy paper: Consideration of inadmissibility claims under the Migration and Economic Development Partnership*, 14 February 2024, available at: <https://tinyurl.com/5569pb49>.

²¹⁶ Section 2, Illegal Migration Act 2023, available at: <https://bit.ly/3OQmtPa>.

²¹⁷ available at: <https://bit.ly/3uFiVbV>.

²¹⁸ Section 8AA, Immigration Act 1971, available at: <https://bit.ly/3T5OpRR>.

²¹⁹ Home Office, *Inadmissibility: safe third country cases – Version 7.0*, June 2022, available at: <https://bit.ly/3qUdPki>.

²²⁰ Supreme Court, *AAA v Secretary of State for the Home Department* [2023] UKSC 42, 15 November 2023, available at: <https://bit.ly/3l8J9GJ>.

²²¹ Home Office, *Policy paper: Safety of Rwanda (Asylum and Immigration) Bill: factsheet*, 26 January 2024, available at: <https://tinyurl.com/m5649ae8>.

²²² *A & anor v The Minister for Justice, Ireland and the Attorney General & anor* [2024] IEHC 164, available at: <https://tinyurl.com/mheazz7b>.

will be certified to remove any right of appeal based on a claim that removal to that country would be in breach of the Refugee Convention.²²³ In practice, very few of these decisions are made.

The Home Office made 83 inadmissibility decisions in 2021 and 2022, having served 'notices of intent' to 21,532 claimants. By the end of 2022, 23 people had subsequently been removed. In 2022, 68 claimants were refused on safe third country grounds following full examination of their claims. In 2023, 31,537 cases were identified for consideration of inadmissibility, 12,581 notices of intent were issued, and one claim was deemed inadmissible. There were two removals so a total of 25 removals have now taken place under the process since 1 January 2021.²²⁴ Those were to Belgium, Bulgaria, Denmark, France, Germany, Ireland, Italy, Slovenia, Spain, Sweden and Switzerland.²²⁵ It is understood that the few applicants returned were beneficiaries of international protection in Dublin states to which they were returned.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure? Yes No

There is no provision for a specific, separate personal interview in safe third country cases; information is taken from the screening interview.

Applicants for whom the UKVI is considering inadmissibility are issued with a 'Notice of Intent' of this fact and can make written representations within strict time limits as to why they should not be considered for removal to a safe third country at all or to a specific country or countries which are named in the Notice of Intent. If UKVI later identifies a different country of possible return, then a further Notice of Intent should be issued inviting representations regarding that country. This is considered before the inadmissibility decision is made and issued.²²⁶

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the admissibility procedure? Yes No

When an inadmissibility decision is made that the person can be returned to a safe third country, a certificate is issued to that effect, and the decision can only be challenged by [judicial review](#). The scope of judicial review is described above in relation to the regular procedure, but in the case of a judicial review based on human rights, the court looks more closely at the substance of the decision.²²⁷

²²³ Schedule 3 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, available at: <https://bit.ly/49nioKR> and <https://bit.ly/3JRUin6>.

²²⁴ Home Office, *Immigration system statistics data tables, Asylum and resettlement summary, year ending December 2023*, table Asy_09a, available at: <https://tinyurl.com/bdhnwfr>.

²²⁵ Home Office, *National statistics: How many people do we Grant protection to?*, 29 February 2024, available at: <https://tinyurl.com/bdcs2dv8>.

²²⁶ Home Office guidance, *Inadmissibility: safe third country cases*, available at: <https://bit.ly/48sPcki>.

²²⁷ House of Lords, *R v Secretary of State for the Home Department ex p Daly* [2001] UKHL 26, available at: <http://bit.ly/1lbyKpJ>.

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 Representation in courts
 Legal advice

There are no special rules or restrictions applying to legal assistance in the safe third country procedure. In principle an asylum seeker subject to a third country decision has the same opportunity as any other asylum seeker to obtain access to free legal representation (see [Normal procedure – legal assistance](#)).

Judicial review is funded by legal aid, subject to the means of the asylum seeker and the merits of the case. However, as in all judicial reviews, this is broadly speaking only if the court grants permission for the judicial review.

4. Border procedure (border and transit zones)

In the UK there is no provision for asylum decisions to be taken at the border. An application for asylum may be made at the border, and immigration officers from the UK Border Force may carry out the screening interview, but then always refer the claim to UKVI (see [Regular Procedure](#)).²²⁸ The substance of the claim is not examined at the border.

If a person claims asylum, immigration officers grant immigration bail,²²⁹ to enable the applicant to live in the community, subject to conditions, whilst the claim is considered. It is not an immigration status and therefore there are no rights attached to the admission. It is analogous to release from detention on licence. Detention at a port is limited to relatively short periods (less than 24 hours). Short-term holding facilities (STHF) at ports are not subject to the usual rules which govern immigration detention, but are inspected by the government's Prison Inspectorate.²³⁰

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

There are two kinds of accelerated procedures: the non-suspensive appeal procedure (NSA) which concerns claims certified as clearly unfounded, and the detained fast-track procedure (DFT). The Detained Fast Track Procedure is currently suspended rather than ceased. Where claims are certified as clearly unfounded the decision making is not accelerated, it is just that the overall process may be shorter because of the lack of appeal.

²²⁸ UK government, 'Claim asylum in the UK', accessed 24 March 2024, available at: <https://bit.ly/3T9vDsX>.

²²⁹ Immigration Bail replaced temporary admission on 15 January 2018 (see Home Office guidance document, available at: <http://bit.ly/2FTmf50>). Many guidance and policy documents still refer to Temporary Admission.

²³⁰ See reports from the HM Inspectorate of Prisons on the Ministry of Justice, available at: <http://bit.ly/1Blx77p>.

Non-Suspensive Appeal (NSA)

Firstly, where the claim is certified by the Home Office as clearly unfounded, there is no in-country appeal. These are called Non-Suspensive Appeal (NSA) cases. The majority of cases certified in this way are of applicants from a deemed safe country of origin, but cases are also certified as clearly unfounded on an individual basis. The applicant may often be detained, though not always, and guidance to Home Office decision makers refers to the procedure as a Detained Non-Suspensive Appeal (DNSA). 5,223 claims,²³¹ about 2% of the total, were certified clearly unfounded in 2022.²³² **Albania** accounted for almost 75% of these, with 3,893 decisions.²³³

A list of safe third countries is used in relation to certification of claims by the nationals of those countries. Under section 94(1) of the Nationality, Immigration and Asylum Act 2002, the Secretary of State has the power to certify an asylum, humanitarian protection, or other human rights claim as 'clearly unfounded'. When this is done, the person may not appeal the refusal of their claim. Under section 94(3), claims from certain countries **will** be certified unless the Secretary of State agrees that the claim is not 'clearly unfounded'.²³⁴

As a result of the Nationality and Borders Act, cases certified as clearly unfounded on or after 28 June 2022 have no right of appeal at all.

The Home Office is responsible for making the certification decision and this decision is made after a decision has been made to refuse the claim, it is a two stage process. The policy is that all decisions on a potential NSA case must be made by a caseworker who is trained to make NSA decisions.²³⁵ There was previously a requirement that such decisions must be checked by a second caseworker, but this process was dropped in April 2023.²³⁶

Guidance to decision makers advises that where the claim is for asylum and human rights protection, both or neither should be certified as unfounded, since any appeals of the two issues must be heard together. The guidance also states that when the asylum seeker comes from a designated state the refusal should not normally be based on the credibility of the individual applicant.²³⁷ This is general practice and is unlike the regular procedure where no such guidance is given and refusal is commonly based on credibility.

The guidance on certification of claims under Section 94 NIAA has been amended and reissued to reflect the necessity to distinguish the decision to certify from the decision to refuse and to underline the need to explain both decisions. This was done following a case in the Upper Tribunal known as *FR and KL*.²³⁸ In

²³¹ Including dependants.

²³² Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, 29 February 2024, available at: <https://tinyurl.com/bdhnwfkfr>.

²³³ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D02, 29 February 2024, available at: <https://tinyurl.com/bdhnwfkfr>.

²³⁴ Section 94, Nationality and Immigration Act 2002, available at: <https://bit.ly/4a2Ai5B>.

²³⁵ Home Office, *Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims)*, November 2023, available at: <https://bit.ly/49scDvs>.

²³⁶ Ministerial statement, 'Reforms to the Process of Certifying Claims as Clearly Unfounded Statement UIN HCWS716', 17 April 2023, available at: <https://bit.ly/4bKrcrm>.

²³⁷ Home Office, *Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims)*, November 2023, available at: <https://bit.ly/49scDvs>.

²³⁸ Court of Appeal, *FR and KL v Secretary of State for the Home Department* [2016] EWCA Civ 605, 26 June 2016, available at: <http://bit.ly/2mRtYs6>.

2018 the Tribunal determined that individualised decisions must be made as to the necessity in out of country appeal hearings of hearing directly from the applicant.²³⁹

A claim may also be certified clearly unfounded and routed through the NSA on an assessment of the individual merits of the case, not only on the basis of a deemed safe country of origin. This should only be done where the caseworker considers that the claim is so clearly without substance that it is bound to fail,²⁴⁰ if any reasonable doubt exists as to whether it may succeed then it should not be certified.²⁴¹ On that basis, 157 cases were individually certified in 2023.²⁴²

Detained-Fast Track (DFT) – currently suspended

The DFT procedure was suspended in July 2015, following a series of successful legal challenges relating to the safety and fairness of the procedure, but hasn't been formally abandoned.²⁴³ The Detained Fast Track procedure (DFT) applied where the Home Office considered that the claim could be decided quickly. In theory the two procedures are very different in that NSA implies that there is no merit, whereas DFT is based on speed. However, informally the DFT also appeared to operate as an 'unfounded' procedure.

The defining characteristics of the DFT procedure were speed and detention throughout the decision process. The criteria for being routed into the DFT only required that the case was considered after the screening interview to be capable of being decided quickly and that the asylum seeker was not excluded from the DFT.

The DFT has not been reinstated nor abandoned. The final 'nail in the coffin' leading to the suspension was the appeals part of the process.²⁴⁴ The Ministry of Justice consulted on the Tribunal Procedure Rules for the DFT in autumn 2016 proposing that new rules be laid to enable these expedited appeals to comply with the law.²⁴⁵ Plans were then outlined in April 2017,²⁴⁶ but the new procedure has not yet been approved by the Tribunal Procedure Committee. For further information about this procedure, see [previous updates to this Country report](#).

There are provisions in the Nationality and Borders Act 2022 for "accelerated detained appeals" but these are not in force.²⁴⁷

²³⁹ Upper Tribunal, *AJ (s. 94B Kiarie and Byndloss questions) v Secretary of State for the Home Department* [2018] UKUT 115 (IAC), 28 February 2018, available at: <https://bit.ly/2HiNEQV>.

²⁴⁰ House of Lords *Thangarasa and Yogathas v Secretary of State for the Home Department* [2002] UKHL 36, available at: <https://bit.ly/3UOT5gg> and Court of Appeal *ZL and VL v Secretary of State for the Home Department* [2003] EWCA Civ 25 available at: <https://bit.ly/42P6g2E>.

²⁴¹ House of Lords, *ZT (Kosovo) v Secretary of State for the Home Department* [2009] UKHL 6, available at: <https://bit.ly/3wtJZLO>.

²⁴² Home Office, *Immigration system statistics data tables, Asylum claims certified under Section 94 detailed datasets, year ending December 2023*, table Asy_D08, 29 February 2024, available at: <https://tinyurl.com/bdhnwfk..>

²⁴³ Home Office, *House of Commons, Written Statement (HCWS83)*, 2 July 2015, available at: <http://bit.ly/1H3ig0l>.

²⁴⁴ Detention Action, 'The Fast Track is dead', available at: <https://bit.ly/4bOCLBY>.

²⁴⁵ Ministry of Justice, *Expedited immigration and asylum appeals for detained appellants*, 18 April 2017, available at: <http://bit.ly/2l7kEBS>.

²⁴⁶ *Ibid.*

²⁴⁷ Nationality and Borders Act 2022, s 27, available at: <https://bit.ly/3wAoTLx>.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? Yes No
 - ❖ If so, are questions limited to nationality, identity, travel route? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

There are no grounds in the accelerated procedure to omit a personal interview.

Non-Suspensive Appeal Procedure

The same immigration rules apply to the interview as in the regular procedure (see [Regular Procedure: Personal Interview](#)) but they must be conducted by NSA trained caseworkers in the NSA procedure. The practice is also the same, including the long delays in invitations to the substantive interview.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
 - Yes No
 - ❖ If yes, is it Judicial Administrative
 - ❖ If yes, is it suspensive NSA Yes No

Non-Suspensive Appeal Procedure

The Nationality and Borders Act 2022 removed the right of appeal for NASA cases certified on or after 28 June 2022. The procedure below still applies for any cases certified before that date.

In the NSA the appeal is non-suspensive, i.e. it may not be made from within the UK. Appeals must be made within 28 calendar days of leaving the UK.²⁴⁸ The scope of the appeal is the same as for in-country appeals, but in practice it is very difficult to appeal from outside the UK as people will not have ready access to their legal representative and obviously would not be able to participate in proceedings so easily, depending on their circumstance.

It is possible to challenge the decision to certify the claim as clearly unfounded by judicial review.²⁴⁹ If successful, it will then be possible to appeal against the decision to refuse the claim.

²⁴⁸ The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 SI 2604 rule 19.
²⁴⁹ See e.g. in a recent Albanian case *H, R (On the Application Of) v Secretary of State for the Home Department* [2023] EWHC 2758 (Admin), available at: <https://bit.ly/3SRKIDz>.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview (in the DFT only)
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in courts
 Legal advice

The detained fast track has been suspended since 2015. For information on the legal assistance under this scheme, see the previous updates of this report available [here](#). Access to legal assistance for anyone subject to the NSA process is identical to the regular procedure.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?
 Yes For certain categories No
❖ If for certain categories, specify which: Unaccompanied children
2. Does the law provide for an identification mechanism for unaccompanied children?
 Yes No

1.1. Screening of vulnerability

There is no specific mechanism to identify adult asylum seekers who need specific procedural guarantees. The screening interview process is inadequate in identifying such vulnerabilities [due to a lack of training and guidance for staff](#).²⁵⁰ The standard questions include only basic questions about health, such as whether the person has any medical conditions or medication that they are or should be taking.

The concern remains regarding the use of detention, albeit not in an accelerated procedure, and the lack of safeguards. The Adults at Risk policy was amended in May 2021 to bring victims of modern slavery into the remit of immigration detention policy.

The guidance was further amended in November 2021²⁵¹ to include the new Competent Authority – the Immigration Enforcement Competent Authority. The creation of a second Competent Authority was criticised by a group of NGOs²⁵² and concerns raised by the Independent Anti-Slavery Commissioner.²⁵³ In the first nine months of 2023, only 32% of cases decided by the Immigration Enforcement Competent

²⁵⁰ At e.g. paragraph 100, <https://bit.ly/3l8JjOI>.

²⁵¹ Home Office, *Adults at Risk; the detention of potential or confirmed victims of modern slavery*, 2021 <https://bit.ly/33BbsNp>.

²⁵² Statement from The Detention Taskforce: <https://bit.ly/42QoH79>.

²⁵³ Correspondence to the Home Secretary from the Independent Anti-Slavery Commissioner <https://bit.ly/3qMEaE0>.

Authority were confirmed as victims of trafficking, as opposed to over 79% of cases considered by the Single Competent Authority.²⁵⁴

1.2. Age assessment of unaccompanied children

The procedure for identifying unaccompanied children is governed by guidance and case law. At the screening stage, where a person appears to an Immigration Officer or the Home Office caseworker to be under 18, policy guidance is that they are to be treated as a child. Details of this process are set out at Registration of the asylum application: [Registration of unaccompanied children](#).

In case of doubt, the person should be treated as though they are under 18 until there is sufficient evidence to the contrary.²⁵⁵ Where their appearance strongly suggests to the officer that they are significantly over 18, the asylum seeker is treated as an adult. In this case, an age assessment can be triggered by the young person or any third party referring to the local authority for an age assessment. However, the result of immediate treatment as an adult while this process is ongoing means that people who are in fact under 18 will be treated as adult in the asylum and support processes.

The guidance has been amended several times in recent years to reflect various judicial challenges, including to the practice of the social work age assessments at the Kent Intake Unit on the grounds that the procedural safeguards required of social work assessments applied equally to the Home Office employed social workers.²⁵⁶ This followed a series of challenges to the interpretation of the 'significantly over 18' policy, ultimately in favour of the Home Office, retaining the right to make those decisions at the border. In addition to the criticism by the Refugee Council, a report from the Independent Chief Inspector of Borders and Immigration drew attention to the practice of making these initial decisions, including the lack of interpreters used.²⁵⁷ Charities drew attention to the risks of this policy resulting in children being sent to Rwanda under the MEPD agreement, mistakenly judged to be adult.²⁵⁸

If the Home Office has referred to a local authority because they felt there was doubt about the claimed age, the social worker responsible for an assessment must assure the Home Office that they have considered the age and this would usually be communicated to a child through an agreed template.²⁵⁹ A stand-alone assessment is not necessary but the Home Office must be satisfied that the areas listed on the template have been considered by the social worker. The Home Office must also be satisfied that any assessment complies with case law – often referred to as 'Merton compliant' as *Merton* was the first piece of case law dealing with the lawful procedure for age assessments. It would then be usual for the Home Office to adopt the age decided by the social worker but more detail is given in guidance.²⁶⁰

Social workers conducting age assessments must comply with all case law which includes the need to be registered social workers, trained in conducting age assessments, adhere to correct procedures including taking into account all relevant information. Assessments must be conducted in the presence of an 'appropriate adult' and a written record made. Guidance issued by the Association of Directors of

²⁵⁴ Home Office statistics, available at: <https://bit.ly/3SQtErX>.

²⁵⁵ Home Office, *Processing children's asylum claims*, 31 December 2020, available at: <http://bit.ly/2iO8XKe>.

²⁵⁶ *MA & Anor, R (On the Application Of) v Coventry City Council & Anor* [2022] EWHC 98 (Admin) (19 January 2022): <https://bit.ly/3FFLwxf>.

²⁵⁷ ICIBI, *An inspection of the initial processing of migrants arriving via small boats at Tug Haven and Western Jet Foil, December 2021 – January 2022*, July 2022, available at: <https://bit.ly/3goXVz7>.

²⁵⁸ Refugee and Migrant Children's Consortium, *Briefing on government plans to send people seeking asylum to Rwanda*, June 2022, available at: <https://bit.ly/3GFfmG5>.

²⁵⁹ ADCS, *Age assessment guidance and information sharing guidance*, available at: <http://bit.ly/2kpC77s>.

²⁶⁰ Home Office and ADCS, *Age assessment: Joint working guidance*, June 2015, available at: <http://bit.ly/2k7FIHt>.

Children's Services (ADCS) in October 2015 gives more detail about lawful procedure and good practice.²⁶¹

As of 10 January 2024, the use of scientific tests in the age assessment process has become law, this provides for the use of x-rays and magnetic resonance imaging.²⁶²

It remains the case that judicial review is the sole remedy to resolve a complaint that the age assessment was conducted unlawfully or failed to reach the correct conclusion.²⁶³ The Nationality and Borders Act 2022 contains provisions for these decisions to be appealed instead, but this has not yet been brought into force.²⁶⁴ The quality of age assessments has been heavily criticised for several years.²⁶⁵ It is not easy to determine whether or not practice is improving although judicial reviews still take place and result in some social work decisions being overturned.²⁶⁶ Many such decisions are not reported and many do not have a bearing on other cases, as they are finding of fact cases.

In **Scotland** an unaccompanied asylum seeking child will be appointed an independent guardian to support them through the asylum process.²⁶⁷ A similar system is available in **Northern Ireland** where the child has or is suspected to have been trafficked and for migrant children and young people arriving in Northern Ireland who are separated from an adult who has parental responsibility for them.²⁶⁸ This is not available in **England** and **Wales**.

Greater Manchester Immigration Aid Unit assisted some young people affected by age assessments to issue guidance to social workers undertaking the process and young people affected.²⁶⁹

The government in **Wales** has published its own age assessment guidance.²⁷⁰ In **Scotland**, guidance is published by the Scottish government on behalf of a multi-agency collaboration.²⁷¹

A tribunal is also entitled to decide a person's age as a question of fact in the context of an asylum claim, where age is relevant to the claim, for instance because it has a bearing on other findings such as the credibility of the asylum seeker. A Supreme Court decision held that a finding of fact from the court on age will also be binding on the local authority.²⁷² This is important because previously a young person could be in the position where the tribunal, and thus the Home Office, accepted that they were under 18, but the local authority did not. This judicial review power transferred to the Upper Tribunal.²⁷³

²⁶¹ ADCS, *Age assessment guidance*, October 2015, available at: <http://bit.ly/1MUduDi>.

²⁶² The Immigration (Age Assessment) Regulations 2024, available at: <https://bit.ly/48umOxY>.

²⁶³ Supreme Court, *R (on the application of A) v London Borough of Croydon* and *R (on the application of M) v London Borough of Lambeth* [2009] UKSC 8, 26 November 2009, available at: <https://bit.ly/3OV2wqx>.

²⁶⁴ Section 54 Nationality and Borders Act 2022, available at: <https://bit.ly/3leDCyg>.

²⁶⁵ Peter Young, *Wrongly Classifying Child Asylum-Seekers As Adults Has Cost UK Millions Of Pounds*, 18 January 2017, available at: <http://bzfd.it/2jcSct3>; Refugee Council, *Forced Adulthood: the Home Office's incorrect determination of age and how this puts child asylum seekers at risk*, January 2024, available at: <https://bit.ly/3uI9HLR>.

²⁶⁶ Peter Yeung, 'Wrongly Classifying Child Asylum-Seekers as Adults Has Cost UK Millions of Pounds', 18 January 2017, available at: <http://bzfd.it/2jcSct3>.

²⁶⁷ Scottish government, 'Refugees and asylum seekers', accessed 24 March 2024, available at: <https://bit.ly/4bMHVOT>.

²⁶⁸ Department of Health, *IGS Guidance – Section 21 of Modern Trafficking and Exploitation Act 2015*, 16 August 2023, available at: <https://tinyurl.com/2d23f93f>.

²⁶⁹ Age Assessments, GMAIU 2020, available at: <https://bit.ly/36h1Wxb>.

²⁷⁰ Welsh government, *Age assessment toolkit*, available at: <https://bit.ly/3txMsvg>.

²⁷¹ Scottish government, 'Age assessment: practice guidance', 22 March 2018, available at: <https://bit.ly/3fHJ9PL>.

²⁷² Supreme Court, *R (on the application of A) v London Borough of Croydon* and *R (on the application of M) v London Borough of Lambeth* [2009] UKSC 8, 26 November 2009, available at: <https://bit.ly/3OV2wqx>.

²⁷³ First Tier Tribunal and Upper Tribunal (Chambers) Order 2010, section 11, available at: <https://bit.ly/3T8BmPw>.

Statistics are available for age assessments ordered by the Home Office, which do not include age assessments ordered by local authorities. In 2022 there were 2,999 of these and in 2023 to the end of September there were 1,614.²⁷⁴ In 2022 the initial decisions (including some from the previous year) from local authorities (1,693) were that 1,042 were children and 651 adults. In 2023 there were 1,672 decisions that the applicant was a child and 887 that they were an adult. Some of these decisions will be subject to challenge and no information is given on the final resolution of these.

The Nationality and Borders Act 2022 is to reform the system, in changes not yet fully implemented. The definition of an age disputed applicant is now in legislation and includes anyone that a public body such as the Home Office or local authority cannot be sure of their age. This definition is in force; the remainder of the changes under the NABA have yet to be enacted but will allow scientific methods to be used in an age assessment, introduces a National Age Assessment Board, part of the Home Office, to conduct age assessments that will be binding on local authorities, and an appeal mechanism to replace the Judicial Review currently in the process.

UASC leave

Unaccompanied children seeking asylum whose claims are refused are very rarely returned to their country of origin unless they are believed to be over 18. It is standard practice to grant periods of limited leave. This leave is referred to as 'UASC leave' – this is granted for 30 months or until the age of 17.5, whichever is shorter.²⁷⁵ Leave can be renewed up to age 17.5, but if a further application is made at this stage, then there must be an active review in which their need for protection is considered again, and if this is turned down they may be faced with removal.

Discretionary leave

Where asylum claims fail, sometimes a family is given discretionary leave on the basis of Article 8 ECHR. The High Court has held that the practice of giving children this limited leave (3 years was the normal policy at the time of the case) conflicts with the duty in Section 55 of the Borders Citizenship and Immigration Act 2009 to have regard to the welfare of children.²⁷⁶ This does not have a direct impact on the normal practice in the case of unaccompanied children, which is to grant leave until they are 17.5 years, but is an important statement of the impact on children of insecurity of status.

Two new forms of leave were introduced in 2018 relating solely to specific groups of unaccompanied children transferred to the UK from elsewhere in Europe. Those children transferred under section 67 (Dubs' amendment)²⁷⁷ who did not qualify for leave as a refugee or subsidiary protection were granted 'section 67 leave',²⁷⁸ initially for five years. A change to the Immigration Rules was made in October 2019 so that these children were granted section 67 leave automatically although they are able to apply for asylum in the usual way.²⁷⁹ The guidance associated with this change was updated in February 2020. It is described as non-protection based leave but envisaged that a beneficiary will be entitled to settlement after five years. All of the children the government agreed to transfer arrived in the UK by the end of 2020.

²⁷⁴ Home Office, *Immigration system statistics data tables, Age disputes detailed datasets, year ending September 2023*, table Asy_D05, 29 February 2024, available at: <https://tinyurl.com/bdhnwfkrr>.

²⁷⁵ Para 352ZE Immigration Rules.

²⁷⁶ *R (SM, TM JD and others) v Secretary of State for the Home Department* [2013] EWHC 1144 (Admin), 8 May 2013, available at: <http://bit.ly/2kQ6lgW>.

²⁷⁷ Section 67 of the Immigration Act 2016 introduced obligations on the Secretary of State for the Home Department to make arrangements to relocate a specified number of unaccompanied children to the UK from other European countries. Named after a peer, Lord Dubs, who first introduced the amendment to the then Immigration Bill.

²⁷⁸ Home Office, *Section 67 of the Immigration Act 2016 leave*, July 2018, available at: <https://bit.ly/2u3v5bL>.

²⁷⁹ *Statement of change of Immigration Rules*, September 2019, available at: <https://bit.ly/2tkZNQL>.

Children transferred to the UK from **Calais** to join family members under the Dublin III Regulation, if the transfer took place between 17 October 2016 and 13 July 2017, have similarly been provided with non-protection-based leave if they did not qualify for leave as a refugee or for subsidiary protection. Beneficiaries will be entitled to apply for settlement after ten years.²⁸⁰ Most of the guidance relating to unaccompanied children's claims was revised in December 2020 to reflect the change in relationship between the UK and EU as the transition period ended.²⁸¹ References to EU law, including processes relating to Eurodac and Dublin III were removed but no other material changes made.

Policy allows for children's claims to be certified so it is possible that a child's appeal is non-suspensive; however, the general policy applies regarding removal of children, so that a certified claim will only result in a non-suspensive appeal if adequate reception arrangements are in place in the child's country of origin.²⁸²

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

Yes For certain categories No

❖ If for certain categories, specify which: People for whom detention is accepted to be damaging; unaccompanied children, torture survivors

The Home Office has introduced the notion of "safeguarding leads", supervised by a senior official as head of the "safeguarding hub". There is limited information on the work of these hubs, however, as the safeguarding policy is an internal document, although limited detail is available through the funding document.²⁸³ More information about the safeguarding hubs and the Home Office's approach to vulnerable adults can be found in the 2019 inspection report from the Independent Chief Inspector of Borders and Immigration.²⁸⁴

Guidance on gender issues in the asylum claim sets out good practice in recognising gender-specific forms of persecution and the difficulties that women may face in accessing protection.²⁸⁵ The guidance recognises that discrimination may amount to persecution in countries where serious legal, cultural or social restrictions are placed upon women, and the need to be rigorous in understanding country of origin information when deciding women's claims.

Guidance on the substantive interview was revised in 2022 and addresses issues of disclosure, gender-based violence as well as experiences of torture.²⁸⁶ For victims of gender based persecution the guidance states that it would be inappropriate for the interviewer to question the applicant about the act itself, but that information about the events leading up to and after the act should be obtained. On disclosure, the guidance states that this may not happen during the interview and that applicants may be more comfortable with disclosing highly sensitive information to their legal representative, clinician or support worker. Applicants may also specify the gender of their interviewing officer in advance, or request that the interview is omitted. For victims of torture, the guidance provides a list of questions that may be used, and instructs those interviewing that they should stop this line of questioning as soon as they think it is likely that the torture has taken place, to avoid unnecessary distress.

²⁸⁰ Home Office, *Calais Leave*, November 2018, available at: <https://bit.ly/2Ulczag>.

²⁸¹ Children (asylum policy guidance), available at: <https://bit.ly/3t4u00C>.

²⁸² Home Office, *Processing children's asylum claims*, December 2020, available at: <http://bit.ly/2Bcs1Le>.

²⁸³ Home Office, *Asylum, Migration and Integration Fund: List of Actions allocated funding*, July 2018, available at: <https://bit.ly/2C5Yq9y>.

²⁸⁴ ICIBI, *An inspection of the Home Office's approach to the identification and safeguarding of vulnerable adults*, January 2019, available at: <https://bit.ly/2NN8fOC>.

²⁸⁵ Home Office, *Gender Issues in the Asylum Claim: process*, 2018, available at: <https://bit.ly/2NPSqYr>.

²⁸⁶ Home Office, *Asylum interviews*, 28 June 2022, available at: <https://bit.ly/3Kt6tPt>.

There are limited concessions to the requirement to make an asylum claim in person. Discretion is afforded to UKVI staff to allow someone to register a claim more locally if they are unable to travel to the Asylum Intake Unit due to severe health or disability issues or, with the agreement of an NGO in Scotland. Previous guidance to this effect appears to have been withdrawn.

People with mental illness severe enough to affect their mental capacity may have a publicly funded representative at their asylum interview.²⁸⁷

Exemption from detention and special procedures

There are no other procedural guarantees in law for vulnerable adult applicants relating to decision-making or application process, except that they should not, according to policy, be detained. See Detention of vulnerable applicants.

However, the detention of people with mental illness remains a major source of concern and is covered further in the section on [Detention of Vulnerable Applicants](#). A case in 2019 confirmed that the Home Office need not introduce a process equivalent to Rule 35 for immigration detainees held in prisons²⁸⁸ The Court of Appeal ruled in 2021 that this constituted an irrational failure on behalf of the Home Office.²⁸⁹ and an action plan was published in 2022 indicating that the development of this was under way.²⁹⁰

There are no other published criteria which would prevent someone who had suffered torture or other extreme violence from being routed into the NSA procedure. The policies about vulnerable applicants, although they are unevenly applied, concern suitability for detention, not for a non-suspensive appeal.

Guidance to officers making a decision after the screening interview also advises that where a person through illness has a need for care and attention over and above destitution, they should be referred to a Local Authority for a needs assessment.²⁹¹ In practice, local authority support is difficult to obtain, and policies vary in different local authority areas.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
 Yes In some cases No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?
 Yes No

Medical evidence may be submitted but the initiative for obtaining a report comes from the applicant or their lawyer. There is no legal provision which requires the provision of a report for the purposes of the asylum claim.

Asylum Policy Guidance on medical evidence provides for the possibility of delaying an asylum decision pending receipt of a medical report from the NGOs Helen Bamber Foundation (HBF) or Freedom from

²⁸⁷ The Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012, available at: <https://bit.ly/3wryuEv>.
²⁸⁸ *MR (Pakistan) and AO (Nigeria)*, EWHC 3567 (Admin), 20 December 2019, available at: <https://bit.ly/39k30PM>.

²⁸⁹ *MR (Pakistan) & Anor v Secretary of State for Justice & Ors* [2021] EWCA Civ 541, 14 April 2021, available at: <https://tinyurl.com/bddp8y9y>.

²⁹⁰ HM Prisons and Probation Service, Action plan – A Response to: Thematic Report: The experience of immigration detainees in prisons, 13 October 2022, available at: <https://bit.ly/3gsbNs8>.

²⁹¹ Home Office, *Guidance: Asylum seekers with care needs*, August 2018, available at: <http://bit.ly/2n6BzU7>.

Torture (FTT) or other reputable provider using rigorous methodology in preparation of its reports.²⁹² FFT and the Helen Bamber Foundation are the most established organisations which prepare medico-legal reports, and their work is widely respected. Referral to obtain an appointment for a Medico-Legal report from specialist providers can normally only be made by a lawyer, and referrals may be accepted if the providers consider that a medico-legal report has the potential to make a material difference to the outcome of the claim.²⁹³ If a report is received after a refusal of asylum the case must be reviewed.

Home Office caseworkers make this decision and should act reasonably. They are required to take into account whether the applicant declared a medical condition at the screening interview, whether there is written evidence of an appointment with a medical professional, and the length of time the applicant has been in the country and so had the opportunity to consult a medical practitioner. The guidance advises on timescales for delaying interviews and/or decisions following consideration of the relevance of a report e.g. decision makers are not required to delay if the person is to be granted protection anyway, or the medical evidence is not considered material to the claim. All such decisions must be discussed with another decision maker (second pair of eyes process).

Where a solicitor is funded by legal aid they can request authority from the Legal Aid Agency for payment for medical reports, and this may be granted depending on the relevance and importance of the report to the claim. The solicitor has authority to spend £400 (approx. €466) on an expert report without involving the Legal Aid Agency, but this is often not adequate to fund a full expert report.²⁹⁴

The Detention Centre rules require that a medical examination should be conducted within 24 hours of arrival in a detention centre, but this must not be used in determining the asylum claim; its purpose is to ascertain fitness for detention.²⁹⁵

Medical reports may be prepared based on the Istanbul Protocol, and this is regarded as best practice and is standard for experienced practitioners.²⁹⁶ The NGO Freedom From Torture has addressed the issue of decision making for torture survivors in several reports; a specific one that focused on decision making involving Medico Legal Reports,²⁹⁷ an issue also raised in a critique of the standard of proof applied in asylum decisions,²⁹⁸ and an analysis of the way torture is dealt with in asylum interviews²⁹⁹.

The long running case of *KV (Sri Lanka)* progressed to the Supreme Court and judgment was handed down in March 2019.³⁰⁰ The case concerned the question of the extent to which a medical expert could comment on the likelihood of torture being self-inflicted by proxy, that is, by another person at their invitation. The Supreme Court said that very considerable weight should be given to the fact that injuries which are self-inflicted by proxy are likely to be extremely rare.

²⁹² Home Office, *Medical evidence in asylum claims*, 2022, available at: <https://bit.ly/3ApX7zu>.

²⁹³ Freedom from Torture, 'Make a referral for therapy and practical help (Referrals to The Medical Foundation Medico Legal Report Service)', available at: <https://bit.ly/37gvzMA>.

²⁹⁴ Helen Bamber Foundation, 'Medico-Legal Reports' accessed 24 March 2024, available at: <https://bit.ly/3uMcd3N>.

²⁹⁵ Rule 34 Detention Centre Rules.

²⁹⁶ Office of the United Nations High Commissioner for Human Rights, *Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, 'Istanbul Protocol'*, 2004, available at: <http://bit.ly/1DVAApu>.

²⁹⁷ Freedom from Torture, *Proving torture: Demanding the Impossible*, November 2016, available at: <https://bit.ly/3OUUp36O>.

²⁹⁸ Freedom from Torture, *Lessons not Learned; The failures of asylum decision-making in the UK*, September 2019, available at: <https://bit.ly/36ee2UH>.

²⁹⁹ Freedom from Torture, *Beyond Belief; how the Home Office fails survivors of torture at the asylum interview*, 16 June 2020, available at: <https://bit.ly/3FN3Uer>.

³⁰⁰ Supreme Court, *KB (Sri Lanka) v Secretary of State for the Home Department* [2019] UKSC 10, 6 March 2019, available at: <https://bit.ly/2SOVG6a>.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?
 Yes No
2. Does the law provide for the appointment of a representative to all unaccompanied children?
 Yes No

In addition to the social work duty, the Immigration Rules require that the Home Office caseworker takes steps to ensure that an unaccompanied child has a legal representative.³⁰¹ The Refugee Council should be notified within 24 hours.

This duty applies to a person who is under 18 or who is being given the benefit of the doubt for the time being. There is no stated exception, and the duty accrues as soon as an asylum application has been made.

Unlike the case of adults, the legal representative is a lawyer who is publicly funded to be present in the asylum interview, and the asylum interview of a child may not take place without a responsible adult present who is not representing the Home Office.

The Home Office has a statutory duty to safeguard and promote the welfare of children in the UK who are subject to its procedures.³⁰² The duty of a representative of a child includes ensuring that this duty is complied with at all stages of the asylum process and to challenge where it is not. The code of practice for implementing Section 55 of the Borders Citizenship and Immigration Act 2009, 'Every Child Matters', which is binding on Home Office officers, requires that the voice of the child is heard in the proceedings, and this was reiterated by the Supreme Court, affirming that the wishes and feelings of the child must be taken properly into account by decision makers.³⁰³ The representative accordingly has a duty to ensure that they take the child's own independent instructions and that these form the basis of their representations.

In order to receive public funding for representing a refugee child, a solicitor must be accredited at Level 2 of the Immigration and Asylum Accreditation Scheme. The Legal Aid Agency framework for authorising legal aid payment requires that work with refugee children is carried out by a senior caseworker at level 2 or above, who has had an Enhanced Disclosure and Barring Service (often referred to as DBS) check in the previous two years. A publicly funded immigration adviser of a child asylum seeker is under an obligation to refer the child for public law advice where the child has difficulties with the local authority carrying out its duties towards them under the Children Act 1989.³⁰⁴ A child is entitled to have a publicly funded legal representative at their initial asylum interview, but only where the Home Office does not dispute that the claimant is a child.³⁰⁵

Difficulties obtaining good quality legal advice (see [Regular Procedure: Legal Assistance](#)) also apply to unaccompanied children.

³⁰¹ Para 352ZA Immigration Rules, Part 11.

³⁰² Section 55 BCIA 2009, available at: <http://bit.ly/1L4XIOC>.

³⁰³ Supreme Court, *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4, 1 February 2011, available at: <http://bit.ly/2juhDe8>.

³⁰⁴ The Civil Specification 2010, section 8, Immigration, paragraph 8.

³⁰⁵ The Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012 SI No. 2683, available at: <http://bit.ly/1Bs5dX3>.

In **Scotland** an unaccompanied asylum seeking child will be appointed an independent guardian to support them through the asylum process.³⁰⁶ A similar system is available in **Northern Ireland** where the child has or is suspected to have been trafficked and for migrant children and young people arriving in Northern Ireland who are separated from an adult who has parental responsibility for them.³⁰⁷ This is not available in **England** and **Wales**. These guardians are not legal representatives as the term is understood in the UK, i.e. they do not provide legal representation and/or advice to the children in their care.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? Yes No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No

Provision for a subsequent claim is made in the Immigration Rules.³⁰⁸ Where an asylum seeker makes further representations that are sufficiently different from previous submissions in that the content has not previously been considered, and which, taken together with previously submitted material create a realistic prospect of success, these submissions can be treated as a ‘fresh claim’. If they are treated as a fresh claim then a refusal attracts a right of appeal to the FTT (IAC), and all provisions are the same as for an appeal regarding a first asylum application (see section on [Regular Procedure: Appeal](#)).

Case law provides that the threshold to be passed for submissions to be treated as a fresh claim is a ‘relatively modest’ one.³⁰⁹ In practice, lawyers and NGOs say that the threshold employed is very high.

There is no opportunity to appeal. [Judicial review](#) is the only means to challenge refusal to treat submissions as a fresh claim, and it is only available with the permission of the tribunal. In such a challenge the Court must consider whether the Home Office considered the right question, namely, not whether the caseworker thinks it is a strong case, but whether there is a realistic prospect of an immigration judge, applying ‘anxious scrutiny’ (i.e. a “heightened degree” of scrutiny),³¹⁰ thinking that the applicant will be exposed to a real risk of persecution or serious harm on return. In so doing, Home Office caseworkers themselves must also use ‘anxious scrutiny’. Whether this has been done is a question the court can consider for itself on the basis of the evidence that the Home Office caseworker had.³¹¹

In practice, the shortage of publicly funded legal advice³¹² means that poorly reasoned refusals may go unchallenged, with the asylum seeker often resorting instead to making another set of further submissions. The Home Office does not publish the number of fresh claims but in answer to a

³⁰⁶ Scottish government, ‘Refugees and asylum seekers’, accessed 24 March 2024, available at: <https://bit.ly/4bMHVOT>.

³⁰⁷ Department of Health, *IGS Guidance – Section 21 of Modern Trafficking and Exploitation Act 2015*, 16 August 2023, available at: <https://tinyurl.com/2d23f93f>.

³⁰⁸ Para 353 Immigration Rules Part 12.

³⁰⁹ Court of Appeal, *WM (DRC) v Secretary of State for the Home Department* [2006] EWCA Civ 1495, 9 November 2006, available at: <http://bit.ly/2jVIRJ5>.

³¹⁰ Court of Appeal, *Sivakumar v Secretary Of State For Home Department* [2001] EWCA Civ 1196 at paragraph 30, available at: <https://bit.ly/3T8Qxbq>.

³¹¹ Court of Appeal, *R (on the application of YH) v Secretary of State for the Home Department* [2010] EWCA Civ 116, available at: <https://bit.ly/4bM10IF>.

³¹² <https://bit.ly/4bJ8VyR>.

parliamentary question the Minister stated that in 2021, 6,760 further submissions were made in support of fresh claims.³¹³ Statistics are not routinely published as to what proportion of further submissions are considered to amount to a fresh claim, although a response to a Freedom of Information Request highlights that a significant number of those making further submissions are granted a form of leave.³¹⁴

Further representations must be made to the Home Office in **Liverpool or Glasgow**. Where the claimant is over 18, this must be done in person unless there are exceptional circumstances such as disability or severe illness or the best interests of a child require an exception to be made.³¹⁵ There is no fixed limit to the number of further submissions that can be made. The response to further submissions is decided on the basis of written submissions and without an interview, but the submissions must be delivered in person at an appointment.

Once they have an appointment (usually 3 to 10 days after it is arranged by calling the booking line³¹⁶), applicants need to have the means to travel to lodge their further submissions. This is problematic as the Home Office will not pay travel expenses, and most refused asylum seekers who have further submissions to make are destitute. **Liverpool** is more than a day's round trip by cheapest transport methods (usually bus) from many parts of the UK. Although destitute applicants should be eligible for Section 4 support (see section on [Reception Conditions: Criteria and Restrictions](#)) as soon as they have alerted the Home Office to the existence of further submissions,³¹⁷ in practice, it is extremely difficult to access support while waiting for an appointment, and any support is unlikely to materialise before the appointment. It may also be difficult to access Section 4 support while waiting for a decision on whether those further submissions constitute a fresh claim.³¹⁸ In effect, this means that people with further submissions may be left destitute.

A person may not be removed before a decision is taken on any submissions they have outstanding.³¹⁹ Removal directions (the order to a carrier to take the person on a particular flight or crossing) may remain in place while further submissions are being considered, only to be cancelled if the claimant is successful or if the Home Office decides they need more time to decide. Further submissions may be allowed or refused at any time until the asylum seeker is actually removed. A last-minute refusal may leave no time for any further legal challenge, and there is no obligation for the Home Office to respond in time for the asylum seeker to take advice or challenge a refusal.

Preparation of further submissions is funded under Legal Help in the same way as initial claims are (see [Legal Assistance](#)). Again this puts pressure on lawyers, challenging conscientious representatives to maintain quality work. Funding for expert reports can be obtained from the Legal Aid Agency, though the agency is generally reluctant to grant any additional funding and it is normal for legal representatives to have to argue for this.

The procedure for further submissions is different for unaccompanied children who are still under the age of 18 when any leave they have expires. The decision maker must make enquiries as to the situation of the child to ascertain if it has changed since the original grant of leave and conduct a best interest assessment.³²⁰

³¹³ Kevin Foster, 'Response to written question', answered 28 February 2022, available at: <https://bit.ly/3McUmHj>.

³¹⁴ Home Office, Response to FOI request made on 2 October 2023, 27 February 2024, available at: <https://tinyurl.com/3vkxymmv>.

³¹⁵ Home Office, *Further Submissions*, June 2022, available at: <http://bit.ly/2jweaZ5>.

³¹⁶ <https://bit.ly/4bOcMLe>.

³¹⁷ High Court, *MK and AH v Secretary of State for the Home Department* [2012] EWHC 1896 (Admin), available at: <https://bit.ly/3UOxLr0>.

³¹⁸ ASAP, Section 4 Support – Factsheet 2 (Breach of Human Rights), October 2018, available at: <https://bit.ly/2GbZAA4>.

³¹⁹ Para 353A Immigration Rules.

³²⁰ Home Office, *Processing children's asylum claims*, June 2022, available at: <http://bit.ly/2jzf4uD>.

F. The safe country concepts

Indicators: Safe Country Concepts

- | | | |
|--|---|-----------------------------|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

1. Safe country of origin

Legislation allows for a safe country of origin concept.³²¹ States are designated safe by order of the Secretary of State for the Home Office. The Secretary of State may make such an order where they are satisfied that ‘there is in general in that State or part no serious risk of persecution of persons entitled to reside’ there, and that removal there ‘will not in general contravene’ the European Convention on Human Rights. In making the order, the statute requires the Home Secretary to have regard to information ‘from any appropriate source (including other member states and international organisations.’

Orders are in force in relation to: Albania, Macedonia, Moldova, Bolivia, Brazil, Ecuador, South Africa, Ukraine, Kosovo, India, Mongolia, Bosnia-Herzegovina, Mauritius, Montenegro, Peru, South Korea and Serbia. The section also allows partial designation, and countries currently designated as safe for men are: Ghana, Nigeria, Gambia, Kenya, Liberia, Malawi, Mali and Sierra Leone.³²² There is no appeal against designations. Designation may be challenged by [judicial review](#).³²³ Designation is not reviewed routinely and there is no automatic review in response to changes in country conditions.

Where an asylum claimant comes from a designated country, the UKVI caseworker is obliged to certify the case as clearly unfounded unless satisfied that the individual case is not clearly unfounded. The consequence of the certificate is that an appeal against refusal may only be made from outside the UK (see [Accelerated Procedure: Appeal](#)).

Challenges by judicial review to safe country of origin decisions are also difficult to establish on a case by case basis, but some do succeed. For instance, in a case in which the Court of Appeal held that it was not irrational to treat Gambia as safe in general, the court still held that the applicant’s asylum claim was not bound to fail. He had already been ill-treated in detention because of his politics, and faced a possible trial for sedition.³²⁴ The general designation as safe is often perceived to be very risky for particular groups who have not been taken into account in the assessment of the country as safe, as illustrated in the Supreme Court case of *Brown* mentioned above.³²⁵ LGBTQI+ people, trafficked women, single women who are outside the accepted family structure may all be at risk in some countries designated as safe. Designation is also not reviewed routinely and there is no automatic review in response to changes in country conditions.

³²¹ Section 94 NIAA.

³²² Section 94 NIAA.

³²³ Supreme Court, *Brown (Jamaica), R (on the applications of) v Secretary of State for the Home Department* [2015] UKSC 8, available at: <https://bit.ly/42SBt5c>.

³²⁴ Court of Appeal, *MD (Gambia) v Secretary of State for the Home Department* [2011] EWCA Civ 121, available at: <https://bit.ly/3OSgAB3>.

³²⁵ Supreme Court, *Brown (Jamaica), R (on the applications of) v Secretary of State for the Home Department* [2015] UKSC 8, available at: <https://bit.ly/42SBt5c>.

Asylum applicants in 2023 from countries designated as safe were as follows:³²⁶

Country of origin	Asylum applicants
Albania	3,898
India	5,253
Brazil	1,857
Nigeria (men)	627
Ukraine	136
Ghana (men)	147
Peru	77
Mauritius	142
Sierra Leone (men)	63
Gambia (men)	67
Bolivia	78
Kenya (men)	65
Kosovo	56
South Africa	73
Mali (men)	9
Ecuador	42
Mongolia	40
South Korea	1
Malawi (men)	7
Liberia (men)	10

No applications were received in respect of Bosnia-Herzegovina or Serbia.

It appears from this that there is no consistent pattern in terms of the relevance of designation to the numbers of asylum seekers coming from these countries to the UK.

2. Safe third country

The Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (AITOCA) provided for the use of a safe third country concept, i.e. that a person could be removed from the UK to a country they are not a national of. All EU Member states (except Croatia) as well as Norway, Iceland and Switzerland are listed in the AITOCA. There is a power to add further countries by order of the Secretary of State.³²⁷ The only one to have been added is Switzerland. There is no obligation to review the lists, and there is no appeal against the inclusion of a country on the list.

Section 59 of the Illegal Migration 2023 is not currently in force, but if it is brought into force then it provides for asylum and human rights claims made by people from certain countries to be deemed inadmissible. The list includes EU Member states, Norway, Iceland and Switzerland, and Albania has been added. Draft regulations have been laid to add India and Georgia to the list.³²⁸

³²⁶ Home Office, *Immigration system statistics data tables, Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023*, table Asy_D01, available at: <https://tinyurl.com/bdhnwfrk>.

³²⁷ Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (AITOCA).

³²⁸ The Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States) Regulations 2024.

Where the Third Country Unit has decided that a person has a connection to a safe third country then the claim may be deemed inadmissible. For detailed explanations on the different kinds of safe third country decisions, and for challenges to them by judicial review see section on [Admissibility Procedure](#). The concept is used widely in practice.

Safe third country removals may take place on an individual basis to other countries.

2.1. Safety criteria

States listed as safe third countries are treated as a place where a person's life and liberty are not threatened for a Convention reason and where they will not be subject to refoulement.³²⁹ As regards the required level of protection available in a third country, the High Court assessed the ratification of the 1951 Refugee Convention in *Ibrahimi and Abasi*, although the case concerned a Dublin transfer to Hungary. The applicants complained that their transfer to Hungary would subject them to "chain refoulement" as the applicants would risk removal to Iran along a chain of unsafe States, including Serbia, Macedonia, Greece and Türkiye. The Court found that Türkiye 'is considered to be an unsafe country', *inter alia* since it retains discretion to provide asylum seekers with 'limited residence but with a status short of refugee status.'³³⁰

2.2. Requirement for a connection

Since the change in rules at the end of 2020 it is clear that a case may be considered under the inadmissibility policy if there is evidence that an applicant has spent time in or travelled through a country where it is deemed they could have made a protection claim and benefitted from the principle of non-refoulement. However, the instruction goes on to state that removal can be to any country that will accept them.

The introduction into policy of the MEPD (Rwanda agreement) to inadmissibility procedures means that it is intended to remove people to a country that is willing to take them, regardless of the lack of connection to Rwanda. This is despite the government's own evidence indicating that the impact on people with protected characteristics under the Equality Act 2010 could be adversely affected by the policy³³¹ and strong criticism from the UNHCR.³³²

3. First country of asylum

The "first country of asylum" concept, as expanded by the Nationality and Borders Act 2022 is defined as a country where

- (a) the claimant's life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
- (b) the State is one from which a person will not be sent to another State—
 - (i) otherwise than in accordance with the Refugee Convention, or
 - (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment), and

³²⁹ Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (AITOCA), sch 3 part 1 s 13 (2).

³³⁰ High Court, *Ibrahimi and Abasi v Secretary of State for the Home Department* [2016] EWHC 2049 (Admin), paras 136-137 and 176, available at: <https://bit.ly/48t6opQ>.

³³¹ UK government, 'MEPD Equality Impact Assessment', last updated 4 July 2022, available at: <https://bit.ly/3EAJSyt>.

³³² UNHCR, *UNHCR Analysis of the Legality and Appropriateness of the Transfer of Asylum- Seekers under the UK-Rwanda arrangement*, 8 June 2022, available at: <https://bit.ly/3EvP7iU>.

- (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.³³³

The guidance reflects the change in rules and advises decision makers to consider of any relevant criteria that apply:

- (i) the applicant has been recognised as a refugee in a safe third country and can still avail themselves of that protection; or
- (ii) the applicant otherwise enjoys sufficient protection in a safe third country, including benefiting from the principle of non-refoulement; or
- (iii) the applicant could enjoy sufficient protection in a safe third country, including benefiting from the principle of non-refoulement because: (a) they have already made an application for protection in that country; or (b) they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made; or (c) they have a connection to that country, such that it would be reasonable for them to go there to obtain protection.³³⁴

For more see: [Admissibility procedure](#).

G. Information for asylum seekers and access to NGOs and UNHCR

Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? Yes With difficulty No
 - ❖ Is tailored information provided to unaccompanied children? Yes No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No

The Immigration Rules provide that asylum applicants should be informed ‘in a language they may reasonably be supposed to understand and within a reasonable time after their claim for asylum has been recorded of the procedure to be followed, their rights and obligations during the procedure, and the possible consequences of non-compliance and non-co-operation. They shall be informed of the likely timeframe for consideration of the application and the means at their disposal for submitting all relevant information’.³³⁵

Further, they shall be informed in writing and in a language they may reasonably be supposed to understand ‘within a reasonable time not exceeding fifteen days after their claim for asylum has been recorded of the benefits and services that they may be eligible to receive and of the rules and procedures with which they must comply relating to them.’

³³³ Section 80 of the Nationality, Immigration and Asylum Act 2002 as amended by section 16 of the Nationality and Borders Act 2022.

³³⁴ Home Office, *Inadmissibility: safe third country cases – Version 7.0*, June 2022, available at: <https://bit.ly/3qUdPki>.

³³⁵ Para 357A Immigration Rules Part 11B.

The Home Office is also required to provide information on non-governmental organisations and persons that provide legal assistance to asylum applicants and which may be able to help or provide information on available benefits and services.³³⁶ The Home Office has contracted with charity Migrant Help to provide those services to everyone in the asylum system, mainly via a free telephone helpline, as well as some face to face services.³³⁷ This contract was renewed in January 2019, until 31 August 2029.³³⁸

Information on the asylum process is given by Migrant Help in the initial accommodation centres, both in person and by video presentation. Information is also available about the asylum process on the Migrant Help website.³³⁹ One-to-one appointments are offered in initial accommodation centres, and at some outreach locations, at which applications for support can be made, and asylum seekers can make appointments with legal representatives. However, these are limited;³⁴⁰ the service is resources to provide advice primarily through a phone line and web-chat and specifically mentions on its website that it is unable to provide legal advice but would provide a list of legal representatives on request.

At the AIU a Point of Claim leaflet is provided,³⁴¹ which explains the next steps if the case is put into the regular procedure, and what it means to be granted or refused asylum. This leaflet was updated in 2022. Unaccompanied children are also given a leaflet about the Refugee Council Independent Unaccompanied Asylum Seeking Children Support Service and a specific Point of Claim leaflet aimed at children is still being developed by the Home Office, in consultation with NGOs.³⁴² A letter prior to the screening appointment also gives information and the Home Office website explains what documents the asylum seeker needs to bring to the screening interview, and rights and responsibilities throughout the asylum process in English only.³⁴³ If the Third Country Unit considers that the claim may be considered inadmissible, the will issue the applicant with a 'notice of intent' which states the country of possible return.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? Yes No
 ❖ If yes, specify which:

2. Are applications from specific nationalities considered manifestly unfounded?³⁴⁴ Yes No
 ❖ If yes, specify which: Albania, India, Ukraine, South Africa, Mauritius, Mongolia, Brazil, Bolivia, Ecuador, Bosnia- Herzegovina, Macedonia, Moldova, Peru, Serbia, Montenegro.
 For men only: Ghana, Nigeria, Gambia, Kenya, Liberia, Malawi, Mali and Sierra Leone.

From time to time the Home Office announces that removals of refused asylum seekers to particular countries are suspended. This is rare and there are no such concessions currently in force. The only one in the last ten years was in relation to **Zimbabwe**,³⁴⁵ but this is no longer in force.³⁴⁶ When there is such

³³⁶ Para 358 Immigration Rules Part 11B.

³³⁷ Migrant Help, 'Asylum services', accessed 24 March 2024, available at: <https://bit.ly/31a48ZW>.

³³⁸ GOV.UK Contracts Finder, 6 February 2019, available at: <https://bit.ly/48rs1Xp>.

³³⁹ Migrant Help, 'Advice and guidance', see: <https://bit.ly/2GaXCC2>.

³⁴⁰ Practice based observation by the expert, January 2024.

³⁴¹ Point of claim leaflet, available at: <https://bit.ly/3T9NIXQ> (English Version; also available in 14 other languages).

³⁴² The leaflet is not available online but contains contact details, amongst other information.

³⁴³ Home Office, *How to claim asylum*, available at: <http://bit.ly/1G7rHtp>.

³⁴⁴ Section 94 NIAA.

³⁴⁵ Court of Appeal, *The Secretary of State for the Home Department v JM (Zimbabwe)* [2017] EWCA Civ 1669, available at: <https://bit.ly/48Ht45X>.

³⁴⁶ The Guardian 'Home Office criticised for accelerating removals to Zimbabwe', 12 February 2019, available at: <https://bit.ly/48oC0Nb>.

a concession in force, refused asylum seekers from that country become eligible to apply for a specific form of support, known as “Section 4 support” and which covers accommodation and non-cash support (see section on [Reception Conditions](#)).³⁴⁷

The response to a political / humanitarian crisis can also be through immigration routes. Immigration visa concessions have been authorised by Ministers on an annual basis; the latest one relating to Afghans was introduced in January 2022.³⁴⁸ The concession applies to those nationals already in the UK with valid visas who may be able to avoid the usual conditions when extending or switching to another category. In addition to visa schemes aimed at Ukrainians seeking to leave Ukraine for the UK, to join a family or sponsor, those living lawfully in the UK those who had a valid visa could apply to extend that for a period of three years under the Ukraine visa extension scheme.³⁴⁹

The Upper Tribunal (IAC) has the power to make findings of fact which constitute binding ‘country guidance’ regarding the risk of return for people seeking asylum. Depending on whether these issues are brought before the tribunal in a particular case, there may from time to time be binding country guidance about the impact of a crisis, for example Syria³⁵⁰ and Libya³⁵¹.

When considering the treatment of particular caseloads at first instance, it is worth noting that the countries with some of the highest success rates at appeal during the first three months of 2023 were:

Appeal success rates for key nationalities: January to March 2023		
Country of origin	Successful appeals	Success rate
El Salvador	25	60%
Sri Lanka	13	70%
Iran	114	68%
Ethiopia	21	75%
Vietnam	92	58%
Albania	20	51%

Source: Home Office. Withdrawn appeals not included.

Although data on disputed nationality are not published, we understand that a proportion of refused applicants from countries with very high refugee recognition rates will include those whose claimed nationality is disputed.³⁵² Revised guidance on this issue was published in 2017.³⁵³

³⁴⁷ Home Office, *Asylum support under section 4(2) policy: caseworker guidance*, available at: <https://bit.ly/49selHM>.

³⁴⁸ Home Office, *Concessions to the Immigration Rules for Afghan nationals for work and study routes*, January 2022, available at: <https://bit.ly/3AkoCua>.

³⁴⁹ UK Government, ‘Apply to stay in the UK under the Ukraine Extension Scheme’, last updated 18 May 2023, available at: <https://bit.ly/3ExyGT1>.

³⁵⁰ Upper Tribunal, *KB (Failed asylum seekers and forced returnees) Syria* CG [2012] UKUT 426 (IAC), available at: <https://bit.ly/3uHe8Xq>.

³⁵¹ Upper Tribunal, *ZMM (Article 15(c)) Libya* CG [2017] UKUT 263 (IAC), available at: <https://bit.ly/49seMY2>.

³⁵² Practice based observation by the expert, January 2024.

³⁵³ Home Office, *Nationality; disputed, unknown and other cases*, October 2017, available at: <http://bit.ly/2F8ky2f>.

Reception Conditions

Short overview of the reception system

First time applicants, that prove to be destitute, are entitled to accommodation and/or a weekly sum of money, the Home Office is responsible for providing this.

Most asylum seekers are provided with initial accommodation (reception centres) designed for two or three weeks, and then further accommodation, if assessed as eligible for longer term support – usually self-contained for families and shared housing for other adults.

This further accommodation consists of hotels, privately-owned flats and houses, managed by the companies contracted to the Home Office, or by their sub-contractors. Those on longer term support are also eligible for a weekly cash allowance. Asylum seekers choosing to live with friends or family are eligible for the cash support but not any contribution to the accommodation costs. Those refused asylum but supported to avoid a breach of their human rights can be moved to specific accommodation.

Those awaiting a decision on the longer-term support are not given any cash. As the use of full board accommodation for those on longer term support increased from 2020 (e.g. hotels, repurposed military barracks and the Bibby Stockholm barge) a small amount of cash is now given in addition to the full board.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow access to material reception conditions for asylum seekers in the following stages of the asylum procedure?

- | | | | |
|---------------------------|---|---|-----------------------------|
| ❖ Regular procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Dublin procedure: N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Admissibility procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Accelerated procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ First appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Onward appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? Yes No

In all procedures for determining a first claim, asylum seekers who can show that otherwise they would be destitute, are entitled to accommodation and/or a weekly sum of money.³⁵⁴ This is usually applied for when a person has their screening interview, and granted shortly after. It is also available to people who are in the inadmissibility process.

Most asylum seekers are provided with initial accommodation, and then further accommodation. This may be at a considerable distance from where they made their initial claim.

Following a tender process new contracts to provide accommodation were announced in January 2019.³⁵⁵ One of the previous providers did not receive a contract this time. In March 2019 the government

³⁵⁴ Section 95 Immigration and Asylum Act 1995, available at: <https://bit.ly/3uFkzu7>.

³⁵⁵ Home Office, 'New asylum accommodation contracts awarded', 8 January 2019, available at: <https://bit.ly/2SUJgdM>.

responded to the Parliamentary Committee's report about this process and its recommendations for smooth transition.³⁵⁶ The transition was heavily criticised as it resulted in delays in people being provided with housing and financial support, and the service provided under the new contracts continue to receive attention including in a joint report in July 2020.³⁵⁷

The accommodation and support contracts were also investigated by the National Audit Office which has a responsibility to audit the use of public funds.³⁵⁸ Its report, in July 2020, was then, as a matter of protocol, discussed by the parliamentary committee the Public Accounts Committee.³⁵⁹ The theme of all the criticism is that the contractors are not meeting the needs of people in the asylum system. By the time of the Public Accounts Committee inquiry the focus had moved to the increased use of 'contingency accommodation'; the use of which increased from the beginning of the Covid-19 pandemic although had begun before that time. The Home Affairs Select Committee conducted an inquiry specifically into the use of contingency institutional accommodation with a focus on the response the pandemic.³⁶⁰ Its key recommendation to the Home Office was to work on a strategy to end the use of this type of accommodation. The government's response largely repeated its position in the support and advice provided.³⁶¹ However it did publish a new safeguarding framework, signed by all the accommodation providers, in May 2022.³⁶² It also began a (non-public) consultation exercise with local authorities³⁶³ and published a grant funding agreement, with the aim of increasing the provision across the country.³⁶⁴

The assessment of destitution

In practice asylum seekers are required to prove that they are destitute³⁶⁵ and this is strictly enforced. All assets which are available to them are taken into account, whether in the UK or elsewhere, if they consist of cash, savings, investments, land, cars or other vehicles, and goods held for the purpose of a trade or other business.³⁶⁶ If relevant assets come to light which were not declared, support can be stopped and payments made can be recovered, although it appears that recovery happens infrequently in practice.³⁶⁷ Asylum seekers are expected to use the assets they have before being granted asylum support, but once they are assessed as destitute there is no requirement for contributions from them.

In order to assess destitution, the Home Office will consider whether the person is able to meet their essential living needs (if they are asking for financial support only) or whether they are able to secure adequate accommodation and also meet their essential living needs (if they are asking for accommodation).³⁶⁸ They are considered destitute if they meet this test at the time of applying or else they will be in this position within 14 calendar days.³⁶⁹

³⁵⁶ Government, 'Asylum accommodation: replacing COMPASS: Government Response to the Committee's Thirteenth Report of Session 2017–19', 8 March 2019, available at: <https://bit.ly/30M6Yhi>.

³⁵⁷ Asylum matters, Wake-up call; how government contracts fail people seeking asylum, July 2020, available at: <https://bit.ly/3uxjKna>.

³⁵⁸ National Audit Office, 'Asylum accommodation and support', July 2020, available at: <https://bit.ly/3a7T8L8>.

³⁵⁹ Public Accounts Committee, 'Asylum support and accommodation transition programme', November 2020, available at: <https://bit.ly/3acK2wN>.

³⁶⁰ Home Affairs Select Committee, 'Home Office preparedness for coronavirus (Covid 19) institutional accommodation', July 2020, available at: <https://bit.ly/3a6838B>.

³⁶¹ Ibid.

³⁶² Home Office, 'Asylum support contracts safeguarding framework', 9 May 2022, available at: <https://bit.ly/3gColaW>.

³⁶³ Local Government Chronicle, 'Councils withdraw legal action after Home Office meets asylum dispersal demands', 18 May 2022, available at: <https://bit.ly/3U3545Q>.

³⁶⁴ UK government, 'Guidance – Asylum Dispersal Grant: funding instruction, last updated 6 September 2022, available at: <https://bit.ly/3AFQUAI>.

³⁶⁵ Section 95 Immigration and Asylum Act 1995, available at: <https://bit.ly/3uFkzu7>.

³⁶⁶ Reg. 6 Asylum Support Regulations 2000, available at: <http://bit.ly/1C2R7GQ>.

³⁶⁷ Reg. 20 Asylum Support Regulations 2000; practice-based observation by the expert, January 2024.

³⁶⁸ Home Office guidance, 'Assessing destitution', available at: <https://bit.ly/49mdu0z>.

³⁶⁹ Section 95 Immigration and Asylum Act 1995, available at: <https://bit.ly/3uFkzu7>.

At the point at which an asylum support application is made, the applicant completes the form ASF1; they can get help from the voluntary sector to do this. Applicants have to state that they understand the following as part of the form:

“Failure to disclose all necessary information or to provide false information regarding myself or any of my dependants may lead to information being passed to the police or other agencies for investigation. Note that failure to supply the required information may result in your application for support being refused.”

Specific questions are asked about financial resources available to the applicant on this form.

Quality of decision making on support applications has been a significant obstacle, particularly in relation to the destitution test. Between 1 April 2020 and 31 March 2021 the Asylum Support Tribunal allowed 66% of the appeal cases where the client was represented by lawyers from the Asylum Support Appeals Project (ASAP) and remitted a further 2% back to the Home Office to retake the decision.³⁷⁰

1.1. Emergency support: Section 98 Support

During the assessment of a person’s eligibility for Section 95 support (the main form of support), asylum seekers may receive support on a temporary basis (“Section 98 support”).³⁷¹ This is mainly non-cash assistance. People seeking to claim section 98 support will usually request this at their screening interview where they are asked about their accommodation,³⁷² but outside of this should contact Migrant Help to help them apply. The Home Office will make the decision based on whether it appears that the person ‘may’ be destitute. This is a lower test than for full support provided under section 95.

There was previously a policy that a destitute asylum seeker should have their screening interview the same day they first contact the Home Office so that they can register their asylum claim and claim Section 98 support at that interview. However due to delays in screening interviews taking place provision was made for people to access asylum support before they had formally registered their claim at the screening interview.³⁷³ Support is granted first on an emergency basis, pending a decision on whether to grant full support, which must be applied for.³⁷⁴ There is no maximum amount of time a person can be in receipt of this support, although after delays had reached several months, a recent case indicated that a decision on section 95 support should be taken within 10 days.³⁷⁵

Home Office guidance provides that asylum seekers may stay in initial accommodation for a short time after their initial support under Section 98 has ended.³⁷⁶ Where further support has been refused this can be up to 7 days. If support under Section 95 is granted then the person will start receiving that and will be moved to their new accommodation if applicable. Where leave has been granted people can stay in initial accommodation for up to 28 days and where leave has been refused this is 21 days. If there are children, support can continue.³⁷⁷

³⁷⁰ Not available online - personal communication with Asylum Support Appeals Project.

³⁷¹ Section 98 IAA 1999.

³⁷² Home Office guidance, ‘Asylum screening and routing’, available at: <https://bit.ly/3UPtvHJ>.

³⁷³ UNHCR, ‘Asylum screening in the UK’, available at: <https://bit.ly/3PPHZ7e>, para. 75.

³⁷⁴ Section 98 Immigration and Asylum Act 1999, available at: <https://bit.ly/3TKW6fo>.

³⁷⁵ *HA & Ors v Secretary of State for the Home Department* [2023] EWHC 1876 (Admin), available at: <https://bit.ly/4bEYBYG>.

³⁷⁶ Para 1.1.2, Asylum Support Policy Bulletins Instructions, available at: <http://bit.ly/1LjSzbh>.

³⁷⁷ Home Office, *Asylum Support Bulletin 73: Access to Support*.

1.2. Section 95 Support

Once the destitution assessment is complete, an asylum seeker who is accepted to be destitute receives what is commonly referred to as Section 95 support. They are considered destitute if they do not have adequate accommodation or any means of obtaining it, or else they do have adequate accommodation but no means of meeting their other essential needs, or else they will be in this position within 14 calendar days.³⁷⁸ The entitlement to Section 95 support covers the asylum procedure and continues until 28 calendar days after a form of leave is granted or, if the claim is refused, until 21 calendar days after a non-appealable decision or the expiry of the time allowed to appeal the most recent decision (this is called Appeal Rights Exhausted, ARE). Support is provided using a card (ASPEN) which works on the visa platform; it can be used as a debit card or to withdraw cash from an ATM (cash is available for s95 beneficiaries only).

Once an asylum claim is refused and appeal rights exhausted, Section 95 support stops, except for families with children.³⁷⁹ Asylum seekers then become absolutely destitute, with no entitlement to accommodation or money. People in this position may be reliant on friends, who may themselves be in asylum support accommodation which prohibits guests, and who thus risk losing their support by hosting a friend. Many destitute refused asylum seekers rely on charities for food vouchers, food parcels, sometimes accommodation (mainly through voluntary hosting schemes) or small amounts of money.

Obstacles to claiming support include that the application form is 33 pages long,³⁸⁰ is in English only and is only available online. A 17-page guidance document gives advice on how to complete it. Telephone advice is also available from the charity Migrant Help under a government contract. The Migrant Help website also has multilingual guides to claiming asylum support, amongst other issues. Any supporting documentation is also handled by Migrant Help; documents can be scanned and communicated to the Home Office via Migrant Help, avoiding the need to submit original documents. Asylum seekers in initial accommodation centres are assisted to make this application and face to face advice is available there. However, since the increased use of contingency accommodation as mentioned in the section on [Criteria and Restrictions to Access Reception Conditions](#), face-to-face advice is not available to many and Migrant Help has acknowledged that there are shortcomings in its ability to respond to all queries.³⁸¹

Where asylum claimants have been in the UK for some time without government assistance, it may be difficult for them, especially without advice, to gather the right evidence for support claims. They may need to get letters from friends / acquaintances they have lost touch with for example, to show what support they have and why this is no longer available to them. Information on Migrant Help's website informs applicants that all information and supporting documents must be provided before the application is submitted to the Home Office. If applicants do not have this information they will experience a delay in their application for support being processed.³⁸²

The policy of dispersing asylum seekers round the UK³⁸³ as discussed in [Freedom of movement](#), and usually away from south east England may also provide a disincentive to ask for accommodation from the Home Office. Where a person has family and friends with whom they can live they can still claim cash support. There are reports that some asylum seekers take only cash support and continue to 'sofa-hop' i.e. move from one person to another, staying on floors and in shelters, because they do not want to leave **London**. The Home Office may consider a request to be accommodated in **London** or south east England

³⁷⁸ Section 95 IAA 1999.

³⁷⁹ Home Office guidance, 'Ceasing Section 95 Support instruction' July 2023, available at: <https://bit.ly/4bNQFEz>, 13.

³⁸⁰ Home Office, *Application for asylum support: form ASF1*, updated 2022, available at: <http://bit.ly/1RfS1qt>.

³⁸¹ Migrant Help, 'Asylum services update', November 2022, available at: <https://bit.ly/3tSHaz5>.

³⁸² Migrant Help advice, see: <https://bit.ly/2Gg1Qsc>.

³⁸³ House of Commons Library, Policy on the dispersal of asylum seekers, April 2016, available at: <https://bit.ly/3uJKUak>.

if the applicant is in receipt of therapeutic services from the Helen Bamber Foundation or the NGO Freedom from Torture.

Support may be available (accommodation and subsistence payments, the level determined by need) from local authorities where the person is destitute and in need of care and attention because of physical or mental ill health, but recognition of this statutory provision is very uneven around the country and some local authorities simply do not assess refused asylum seekers, or delay for lengthy periods, despite the statutory duty to do so.³⁸⁴ Recent litigation may have resolved this matter, confirming that local authorities have a duty to provide asylum accommodation where a person has accommodation related care needs.³⁸⁵

Where ill health results from destitution, and not from another condition, local authority support is not available. Thus, it does not present any solution for the people whose health is ruined by years in destitution. Revised guidance was published in 2018 reflecting the provisions in the Care Act (applying to England) and similar provisions in devolved administrations and the relationship between local authority duties and Home Office asylum support provision.³⁸⁶

There is a provision for support to be refused if asylum has not been claimed as soon as reasonably practicable, unless to do so would breach the person's human rights.³⁸⁷ This is rarely used for claims made soon after arriving in the UK, but may be used where a person claims asylum after a period of residence in the UK. Human rights protection, following the House of Lords case of *Limbuela*,³⁸⁸ means that a person will not be made street homeless as a result of this provision, but may be denied cash support if they have somewhere to stay.

The levels of asylum support are reviewed on an annual basis. At the beginning of the national lockdown in March 2020 and subsequent to the government's announcement that recipients of the main welfare benefit would receive an increased level of support during the pandemic, NGOs wrote to the Immigration Minister to ask for a similar measure to be taken with regard to asylum support. Instead, the usual review was undertaken; the rate increased to £39.63. In January 2024 the rate was raised to £49.18 (€ 57).³⁸⁹ Following litigation,³⁹⁰ the rates for pregnant women and children under 4 were increased and they receive an additional weekly amount of £5.25 (€ 6.12) and babies under one year receive an additional weekly payment of £9.50 (€ 11.07). These rates also apply to those on section 4 support.

Those asylum seekers supported in full board accommodation under section 95 and section 4 receive £8.86 (€ 10.32) in cash per week to allow them to pay for essential toiletries and travel.³⁹¹ The levels of support are regularly criticised by NGOs following research with their beneficiaries.³⁹²

1.3. Additional support: Section 96(2) Support

There is also provision for additional support to be provided on an exceptional basis where deemed necessary by the Home Office to ensure that applicants and/or their dependants in particular

³⁸⁴ Section 9 Care Act 2014.

³⁸⁵ High Court, *TMX, R (On the Application Of) v London Borough of Croydon & Anor* [2024] EWHC 129 (Admin), available at: <https://bit.ly/49MZfBR>.

³⁸⁶ Home Office, *Asylum Seekers with Care Needs*, August 2018, available at: <https://bit.ly/2DcZBFa>.

³⁸⁷ Section 55 NIAA 2002; House of Lords, *Limbuela v Secretary of State for the Home Department* [2005] UKHL 66.

³⁸⁸ House of Lords, *Limbuela* [2005] UKHL 66.

³⁸⁹ The Asylum Support (Amendment) Regulations 2023, available at: <https://bit.ly/4bJbeSx>.

³⁹⁰ High Court, *HA & Ors v Secretary of State for the Home Department* [2023] EWHC 1876 (Admin), available at: <https://bit.ly/4bEYBYG>.

³⁹¹ Home Office, 'Asylum support', available at: <https://bit.ly/4bMJ1dt>.

³⁹² Asylum Matters, *Surviving in Poverty: a report documenting life on asylum support*, 2023, available at: <https://bit.ly/3SNg48D>.

circumstances would have their needs met. In 2017 the Home Office published guidance on how to make applications under Section 96(2) Immigration and Asylum Act 1999.³⁹³ Examples of such circumstances given in the guidance include a person whose medical needs result in higher costs or has their belongings destroyed in a fire.

1.4. Section 4 Support for rejected asylum seekers

A minority of refused asylum seekers qualify for no-choice accommodation and a form of non-cash support from the Home Office (“Section 4 support”) if they meet one of the qualifying conditions set out in the next paragraph.³⁹⁴ During 2017 the delivery of Section 4 support changed to the ASPEN card; whilst cash may not be withdrawn recipients of Section 4 support may now use the card as a debit card at any retailer accepting Visa. In 2020 the rate was made equivalent to that received by people on section 95 support. In January 2024 the rate was raised to £49.18 (€ 57).³⁹⁵ Pregnant women and children under 4 receive an additional weekly amount of £5.25 (€ 6.12) and babies under one year receive an additional weekly payment of £9.50 (€ 11.07). Those in full board accommodation receive £8.86 (€ 10.32) in cash per week to allow them to pay for essential toiletries and travel.³⁹⁶

Section 4 support is available only if refused asylum seekers can show either that they are not fit to travel, that they have a pending judicial review, that there is no safe and viable route of return, that they are taking all reasonable steps to return to their home country, or that it would be a breach of their human rights not to give this support.³⁹⁷ In practice this latter category is used mostly where the asylum seeker has further representations outstanding. The principle underlying this is that if a person does not meet one of the other conditions, and does not have further representations outstanding, it is not considered a breach of their human rights to leave them destitute; because it is considered that they can return to their home country. The period of Section 4 support is tied to meeting the condition. So people may submit further representations; obtain Section 4 support, move, and a few weeks later receive a refusal of their further representations and so return to destitution. This process may be repeated.

The absence of a safe and viable route of return is rarely accepted unless there is a Home Office policy of non-return in relation to the country in question. Attempting to prove that they have taken all reasonable steps to return is problematic for those who come from countries with which diplomatic relations are suspended, or whose embassies have complex requirements which are difficult to fulfil, or who belong to a group which is denied documents by their country of origin. There are also practical problems, given that they are destitute, in obtaining the fare to visit their embassy, the resources to send faxes, make phone calls, and so on.

Applications for Section 4 support for refused asylum seekers must be made through the online and telephone service,³⁹⁸ except for vulnerable applicants who can have a face to face appointment at the initial accommodation centres or at an outreach centre where these exist.

For all refused asylum seekers who cannot fulfil the conditions for Section 4 support, with the exception of families who have retained Section 95 support, (see below) there is no support available. If, for whatever reason, they are unable to return to their country of origin, these asylum seekers are left destitute and homeless.

The numbers of refused asylum seekers who are absolutely destitute in the UK is unknown.

³⁹³ Home Office, *Applications for additional support*, March 2017, available at: <http://bit.ly/2G9AD94>.

³⁹⁴ The numbers of refused asylum seekers in the UK are unknown, but the proportion on Section 4 is small.

³⁹⁵ The Asylum Support (Amendment) Regulations 2023, available at: <https://bit.ly/4bJbeSx>.

³⁹⁶ Home Office, ‘Asylum support’, available at: <https://bit.ly/4bMJ1dt>.

³⁹⁷ Immigration and Asylum (Provision of Accommodation to Failed Asylum Seekers) Regulations 2005.

³⁹⁸ UK government, ‘Apply for asylum support: form ASF1’, 16 October 2023, available at: <https://bit.ly/3la8S1u>.

1. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 January 2024 (in £ and in €):
 - ❖ Section 95 support per person: £213.11. / € 248.25
 - ❖ Section 4 (non-cash) support per person: £213.11 / € 248.25
 - ❖ An additional £8.66 (€ 10.09) is paid to those in full board accommodation, if supported under section 95 or section 4.

Section 95 cash support amounts to £213.11 (€ 248.25) per calendar month per person. There are no different rates, depending on the claimants' ages and household compositions.

The amounts of Section 95 support are set by regulations, while Section 4 rates are a matter of policy, but they are the same amount.³⁹⁹ Small additional payments are available for pregnant women (£5.25 or € 6.12 per week) if they claim this. They may also claim a maternity allowance of £300 (€ 349). Home Office guidance makes it explicit that pregnant women can be provided with the cost of a taxi journey when they are or may be in labour.⁴⁰⁰ Parents may claim an additional £9.50 (€ 11.07) on the card per week for children under 12 months, £5.25 (€ 6.12) per week for children from 1 up to and including 3 years, and a clothing allowance for children under 16. In practice, families who have dependent children before they have exhausted all appeal rights normally stay on cash support (Section 95) after their claim has been refused for as long as they remain in the UK or until the youngest child turns 18, although this can be removed if they do not abide by conditions.⁴⁰¹

The amount of support is not adequate to meet basic living needs. Asylum support is now 58% of the rate of welfare benefit for a UK national aged 25 or over.⁴⁰² Children of families on asylum support receive free school meals.⁴⁰³

Further problems come from faults in the operation of the system, particularly when changes occur, such as moving from Section 95 to Section 4, or getting refugee status (see [Housing](#) for more information on those granted protection).

2. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
 Yes No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
 Yes No

Legislation does not permit the amount received to be reduced, but support (including accommodation) can be withdrawn if the Home Office has reasonable grounds to believe that the supported person or their dependant has:

- a. Committed a serious breach of the rules of their collective accommodation;
- b. Committed an act of seriously violent behaviour whether at the accommodation provided or elsewhere;
- c. Committed an offence relating to obtaining support;

³⁹⁹ The Asylum Support (Amendment) Regulations 2023, available at: <https://bit.ly/4bJbeSx>.

⁴⁰⁰ Home Office, *Asylum Process Guidance – additional services or facilities under the 2007 Regulations*.

⁴⁰¹ Home Office guidance, 'Ceasing Section 95 Support instruction' July 2023, page 13, available at: <https://bit.ly/4bNQFEz>.

⁴⁰² UK government, 'Universal Credit', accessed 24 March 2024, available at: <https://bit.ly/3ItLWux>.

⁴⁰³ For more information, see: <https://bit.ly/48q0beb>.

- d. Abandoned the authorised address without first informing the Home Office;
- e. Not complied with requests for information relating to their eligibility for asylum support;
- f. Failed, without reasonable excuse, to attend an interview relating to their eligibility for asylum support;
- g. Not complied within a reasonable period, (no less than 10 working days) with a request for information relating to their claim for asylum;
- h. Concealed financial resources and therefore unduly benefited from the receipt of asylum support;
- i. Not complied with a reporting requirement;
- j. Made or sought to make a further different claim for asylum before their first claim is determined, in the same or a different name; or
- k. Failed without reasonable excuse to comply with a relevant condition of support.⁴⁰⁴

The credit checks and requirement to show documentary evidence of any other possible forms of financial or in-kind support prior to receiving asylum support means it is not common for support to be withdrawn in practice. Where it does happen, the most common reason is as a sanction for breach of conditions of support, for instance being absent from the accommodation or allowing others to stay in it.⁴⁰⁵ Revised guidance for caseworkers on assessing destitution was published in 2021.⁴⁰⁶

Asylum seekers can appeal to the First Tier Tribunal (Asylum Support) in **London** against a decision to withdraw their support.⁴⁰⁷ On application the Home Office sends travel tickets to attend the hearing.⁴⁰⁸

No emergency measures have been applied in reception centres due to large numbers of arrivals, though as mentioned in the section on [Types of Accommodation](#), there has been some overcrowding and use of hotels to deal with the oversubscription.

3. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? Yes No
2. Does the law provide for restrictions on freedom of movement? Yes No

Movement is not restricted to defined areas, but temporary admission or bail, which is the usual status of asylum seekers, is usually conditional on residence at a particular address, and there is a requirement to keep the Home Office informed of any change of address.

Asylum seekers accommodated by the Home Office are not permitted to stay away from their accommodation, and the Home Office will cease providing accommodation in practice if an asylum seeker stays elsewhere for more than a few days.⁴⁰⁹

Allocation to accommodation is done by the private company, which manages property in the relevant region on the basis of the availability of housing.⁴¹⁰ The initial allocation to a region and to an initial accommodation centre is arranged after the screening interview. The availability of housing in a region depends on procurement by the private company, which is affected by local housing markets, and local

⁴⁰⁴ Reg. 20 Asylum Support Regulations 2000, available at: <http://bit.ly/1C2R7GQ>.

⁴⁰⁵ ASAP, *Factsheet 1: Section 95*, available at: <http://bit.ly/2hpwv9s>.

⁴⁰⁶ Home Office Assessing Destitution, November 2019, available at: <https://bit.ly/37mQILg>.

⁴⁰⁷ Section 103 IAA 1999.

⁴⁰⁸ ASAP, *Factsheet 3: Appealing to the Support Tribunal*, available at: <https://bit.ly/49Jihc7>.

⁴⁰⁹ Practice based observation by the expert, January 2024.

⁴¹⁰ Home Office, *Living in dispersal accommodation*, 25 May 2023, available at: <https://bit.ly/4bPXm9o>.

authority policy. There has been an increase in the use of institutional accommodation including repurposed military barracks, which has resulted in media attention.⁴¹¹

Asylum seekers are provided with accommodation on a no choice basis and this may be at a considerable distance from where they made their initial claim.⁴¹² If a person can establish that there are exceptional circumstances then they may be able to request a specific location.⁴¹³ There is no appeal against the location allocated but decisions can be challenged by judicial review.⁴¹⁴

Asylum seekers live among the rest of the population and have no restrictions on their freedom of movement except that imposed by lack of resources and the requirement to stay at the allocated address. That they stay at the address is monitored by routine visits by the housing providers, and for some by the requirement to report regularly (anything from twice weekly to every six months) at a regional Home Office reporting centre although the requirement for most new asylum applicants, if recently arrived in the country, has been reduced as a matter of policy (the powers remain unchanged).⁴¹⁵ Privacy International has worked on the issue of surveillance using the ASPEN payment card and reported on its campaigning correspondence in May 2021.⁴¹⁶

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

- | | |
|--|------------------|
| 1. Number of reception centres: | 8 ⁴¹⁷ |
| 2. Total number of places in the reception centres in 2022: ⁴¹⁸ | 49,493 |
| 3. Total number of persons in dispersed accommodation in 2022: | 51,168 |
| 4. Type of accommodation most frequently used in a regular procedure: | |
| <input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other | |
| 5. Type of accommodation most frequently used in an accelerated procedure: | |
| <input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other | |

1.1. Initial accommodation centres

Reception centres, called initial accommodation, each accommodate around 200 people – fewer in **Glasgow** and **Northern Ireland**. These centres are the usual first accommodation for any asylum seeker who asks for support and is not immediately detained, apart from unaccompanied children. If a place cannot be found on the first night after claim, asylum seekers may be accommodated in an interim hostel in **Croydon** while accommodation is found, or in hotels in any region where the initial accommodation is full. Accommodation in the initial accommodation centres is usually full board with limited cash provided.

⁴¹¹ The Guardian, 'Asylum seeker housing conditions under scrutiny at third ex-military site', 14 January 2021, available at: <https://bit.ly/39n1f7m>. This report includes links to others and summarises concerns.

⁴¹² Section 97, Immigration and Asylum Act 1999, available at: <https://bit.ly/4bOEc3k>.

⁴¹³ Home Office guidance, 'Allocation of accommodation', available at: <https://bit.ly/4bOEile>.

⁴¹⁴ See e.g. Garden Court Chambers, 'Permission granted for judicial review in relation to student asylum seeker's forced relocation', 13 March 2024, available at: <https://tinyurl.com/2xjtkhet>.

⁴¹⁵ Home Office, *Reporting and offender management – Version 6.0*, 19 January 2023, available at: <https://bit.ly/3ijwY0d>.

⁴¹⁶ Privacy International, 'the UK Home Office still has questions to answer about the Aspen Card', 12 May 2021, available at: <https://bit.ly/3VA4Vrw>.

⁴¹⁷ No number is provided by the government and it changes frequently. The growing backlog has also resulted in tens of thousands of people being accommodated in hotels, but there is no official data on how many hotels are in use.

⁴¹⁸ This number is those on the temporary support section 98; some reception centres house people on section 95 support are housed in reception or contingency accommodation.

The use of hotels as asylum accommodation has increased considerably in the past few years. The Home Office is not transparent about the number of hotels in use,⁴¹⁹ but it was reported in March 2023 that there were 395 hotels in use.⁴²⁰ The government is trying to reduce the number of hotels in use.⁴²¹

People accommodated in a hotel, even if only for one or two nights, have limited or no access to many of the reception-related rights granted to asylum seekers (e.g. legal advice, healthcare, etc), with reported cases of persons having only restricted access to accommodation. The consequence of such temporary 'emergency' accommodation is that it additionally delays their access to the support system and other welfare services to which they are entitled, as it may take a couple of days before they access advice and complete an application for asylum support.⁴²²

Asylum seekers should not stay in initial accommodation for any longer than 3-4 weeks⁴²³ but there can be dispersal backlogs and it is common to find asylum seekers stuck in initial accommodation for many months due to a lack of dispersal accommodation.⁴²⁴ There was a huge increase in the use of hotel and other full-board accommodation during 2020 and 2021, this has continued since. The Home Office issued a statement about the use of hotels and other temporary accommodation.⁴²⁵ The use of hotels for anything other than a very short period continues to be criticised, including in a report from the Refugee Council in July 2022.⁴²⁶

If the asylum seeker qualifies for Section 95 support they are moved into smaller units, mainly flats and shared houses, in the same region, but as regions are large this may not be within travelling distance of their legal representative if they have one. Dispersal Accommodation is in the **North, Midlands and South West** of England and in **Wales and Scotland**, very limited numbers are housed in the South of England or in **London**. Asylum seekers have no choice of location. If asylum seekers are not detained after screening there is no distinction in the initial accommodation based on the claim or its route.

Initial accommodation centres, hotels and former military barracks are used to accommodate people receiving section 98 support and some receiving section 95 support. The number of people supported under section 98 at the end of 2023 was 49,1763 (almost twice as many than at the end of 2021).⁴²⁷

A court ruled that the provision from local authorities to house people otherwise at risk of street homelessness can include those with no recourse to public funds, including people refused asylum and appeal rights exhausted.⁴²⁸

⁴¹⁹ Written response, 'Asylum: Hotels Question for Home Office UIN 10598', 24 January 2024, available at: <https://bit.ly/49qbTGZ>.

⁴²⁰ BBC News, 'Where are asylum seekers being housed in hotels in the UK?', 25 October 2023, <https://bit.ly/3woWpV8>.

⁴²¹ Home Office, *Asylum hotel summary and FAQ*, 7 March 2024, available at: <https://bit.ly/49pan7U>.

⁴²² Information provided by Refugee Action.

⁴²³ Home Office, A guide to living in asylum accommodation, available at: <https://bit.ly/42MjAVB>.

⁴²⁴ Home Affairs Select Committee, *Asylum Accommodation*, January 2017, available at: <http://bit.ly/2n0KUWl>.

⁴²⁵ Home Office media blog, 'The use of temporary hotels to house asylum seekers during Covid-19 ', 8 August 2020, available at: <https://bit.ly/30rr0OJ>.

⁴²⁶ Refugee Council, *Lives on Hold: Experiences of people living in hotel asylum accommodation*, July 2022, available at: <https://bit.ly/3VcF1KX>.

⁴²⁷ Home Office, *Immigration system statistics data tables, Asylum seekers in receipt of support detailed datasets, year ending December 2023*, table Asy_D09, 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

⁴²⁸ Shelter, 'High Court rules councils can lawfully accommodate street homeless people with 'No Recourse to Public Funds' – will the government now provide proper guidance?', 10 March 2021, available at: <https://bit.ly/3qJUEfY>.

1.2. Dispersed accommodation

All accommodation for asylum seekers is managed by three large private companies under contract to the Home Office, much of which is provided through sub-contracts to smaller companies.⁴²⁹ The assessment process for eligibility for the accommodation remains with the Home Office, which is ultimately responsible in law for the provision of accommodation. The companies remain responsible to the Home Office under the terms of their contracts to provide and manage the accommodation. New contracts were approved in January 2019 for a ten-year period.⁴³⁰

A UK charity has written a guide to the 2019 contracts and has details about all types of accommodation and services covered.⁴³¹

The contract between the Home Office and the private companies requires that families shall be housed in self-contained accommodation.⁴³² In practice there is some use of hostel-type accommodation for families with small children, and some lone parent families are housed with unrelated families, though nuclear families are normally kept together.⁴³³ Accommodation frequently fails to meet the needs of supported persons, particularly those with children or mobility and health needs. Asylum accommodation has been repeatedly criticised for failing to provide security, respect for privacy and basic levels of hygiene and safety, particularly for women; in the media and in the House of Commons Home Affairs Select Committee report published in December 2018.⁴³⁴ The same committee looked at the government's Covid-19 preparedness with a focus on Institutional Accommodation in 2020.⁴³⁵

The most common form of accommodation after the initial period in the initial accommodation centres is in privately owned flats and houses, managed by the companies contracted to the Home Office, or by their sub-contractors.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? Yes No
2. What is the average length of stay of asylum seekers in the reception centres? Not available
3. Are unaccompanied children ever accommodated with adults in practice?⁴³⁶ Yes No
4. Are single women and men accommodated separately? Yes No

The most common form of accommodation is the initial accommodation centres and then privately owned flats and houses.

⁴²⁹ Home Office, *Living in dispersal accommodation*, 25 May 2023, available at: <https://bit.ly/3woiP98>.

⁴³⁰ Home Office, 'New asylum accommodation contracts awarded', 8 January 2019, available at: <https://bit.ly/2SUJgdM>.

⁴³¹ Asylum Matters; The Asylum Accommodation and Support Contracts – a guide, 2019, <https://bit.ly/49n0Ka4>.

⁴³² Home Office, *Compass Project: Schedule 2, Accommodation and Transport, Statement of Requirements*, B.8.

⁴³³ Evidence given to the Parliamentary Enquiry on Asylum Support for Children and Young People.

⁴³⁴ House of Commons, *Asylum accommodation: Replacing COMPASS*, December 2018, available at: <https://bit.ly/2A164kM>.

⁴³⁵ Home Affairs Select Committee; Home Office preparedness for Covid-19; Institutional accommodation, 28 July 2020, available at: <https://bit.ly/3MEGCW0>.

⁴³⁶ If the Home Office makes an initial assessment that the unaccompanied child is an adult.

2.1. Conditions in initial accommodation centres

The vast majority of initial accommodation is provided as “contingency accommodation” in hotels throughout the UK.⁴³⁷ The locations and quality of these varies. At the end of January there were around 340 hotels in use after the Home Office stopped using around 60 hotels.⁴³⁸ A room sharing policy means that people have to share a room and concerns have been raised about the effect on children⁴³⁹ and LGBT+ people⁴⁴⁰ in particular. Rooms are generally lockable, but the fact of sharing with a stranger removes some of the benefit and practicality of this.⁴⁴¹

There is no guarantee that single people will be accommodated on single sex corridors; this is the practice in some centres but not in others. The Home Affairs Select Committee received several reports of women feeling unsafe and made strong recommendations in this regard. It was also critical of the conditions for pregnant women and new-born babies.⁴⁴²

The initial accommodation is supposed to be for a short stay (government advice is that it should usually be for 3-4 weeks) but in practice is for much longer than this. Asylum seekers staying at hotels are able to go outside at any time. If they are absent from their accommodation for 7 nights then their support may be stopped.⁴⁴³

There has been an increase in the use of institutional accommodation including repurposed military barracks, which has resulted in media attention.⁴⁴⁴ The former Ministry of Defence sites are Napier barracks, Wethersfield⁴⁴⁵, Scampton⁴⁴⁶, and then at Portland Port there is the Bibby Stockholm which is a barge.⁴⁴⁷

The Independent Chief Inspector of Borders and Immigration published its final report into the use of contingency accommodation in July 2021, with the assistance of Her Majesty’s Inspectorate of Prisons.⁴⁴⁸ The Inspector raised four main issues: Failure to adequately consult local stakeholders, the inadequate health screening of those to be placed in the accommodation, communication with residents of the camps and poor employment and data protection practice. The government’s response⁴⁴⁹ focused mainly on the need to set up the accommodation in haste and the improvements made since the sites were established.

⁴³⁷ Home Office, *Immigration system statistics data tables, Asylum seekers in receipt of support detailed datasets, year ending December 2023*, table Asy_D09, 29 February 2024, available at: <https://tinyurl.com/bdhnwfrk>.

⁴³⁸ National Audit Office, *Investigation into asylum accommodation*, 20 March 2024, available at: <https://tinyurl.com/h6hwt7du>.

⁴³⁹ Amelia Gentleman, The Guardian, ‘Child asylum seekers in UK forced to share hotel rooms with adults’, 30 October 2023, available at: <https://tinyurl.com/35wumakm>.

⁴⁴⁰ Diane Taylor, The Guardian, ‘Fears rise for LGBTQ asylum seekers over Home Office hotel room-sharing push’, 1 December 2023, available at: <https://tinyurl.com/bdrjunbc>.

⁴⁴¹ Practice based observation by the expert, January 2024.

⁴⁴² Home Affairs Select Committee, *Asylum Accommodation*, January 2017, available at: <http://bit.ly/2n0KUWl>.

⁴⁴³ Home Office, *Conditions of support*, 7 March 2023, available at: <https://tinyurl.com/mwdd6bbx>.

⁴⁴⁴ The Guardian, ‘Asylum seeker housing conditions under scrutiny at third ex-military site’, 14 January 2021, available at: <https://bit.ly/39n1f7m>. This report includes links to others and summarises concerns.

⁴⁴⁵ Home Office, ‘Promotional material: Wethersfield: factsheet’, updated 29 February 2024, available at: <https://tinyurl.com/4cjshbms>.

⁴⁴⁶ Home Office, ‘Promotional material: Scampton factsheet’, updated 1 March 2024, available at: <https://tinyurl.com/4bn4k8rc>.

⁴⁴⁷ Home Office, ‘Promotional material: Portland Port: factsheet’, updated 29 December 2023, available at: <https://tinyurl.com/336kyz97>.

⁴⁴⁸ ICIBI and HMIP, *An inspection of contingency accommodation*, July 2021, available at: <https://bit.ly/368YJST>.

⁴⁴⁹ Home Office, ‘The Home Office response to the ICIBI report on contingency accommodation and HMIP inspection of Penally and Napier barracks’, available at: <https://bit.ly/3fMeiS4>.

Criticism of large-scale contingency accommodation continued, including from the NGO sector⁴⁵⁰ and with the publicising of a visit by parliamentarians comprising the All-Party Parliamentary Group on detention.⁴⁵¹

The Bibby Stockholm has capacity for around 500 people and the maximum length of stay is expected to be 9 months. The rooms have ensuite bathrooms, communal spaces, a canteen and a laundry.⁴⁵² The use of the Bibby Stockholm barge has led to concerns being raised about the conditions the men are living in, as up to six people would be sharing a small, cramped cabin, often they did not know each other or speak the same language. A GP is on board one day a week and there is limited access to mental health support.⁴⁵³ A man who was being accommodated on the barge died in December 2023.⁴⁵⁴ The guidance issued in relation to the barge states that if people refuse to move to the barge their asylum support can be stopped.⁴⁵⁵

Scampton is not yet in use, when it is the capacity will be 800.⁴⁵⁶ Wethersfield will be able to accommodate 1,700 for between six and nine months when fully operational.⁴⁵⁷ Concerns have been raised about the isolated location, detention-like setting, lack of privacy and shared facilities, and inadequate healthcare.⁴⁵⁸ In January 2024 Médecins Sans Frontières / Doctors without Borders reported that they had started providing primary healthcare to men being accommodated at the RAF Wethersfield site, as there were concerns that the existing provision was inadequate.⁴⁵⁹

No information is provided by the government about the length of time people stay in accommodation centres.

2.2. Conditions in dispersed accommodation

Dispersed accommodation, in flats and houses among the general population, is where asylum seekers stay for most of the time while their claim is being decided. Basic furniture and cooking equipment is provided.⁴⁶⁰ The BBC and Refugee Action worked together to bring attention to the poor housing conditions in dispersed accommodation, culminating in a piece released in January 2022. As highlighted in the article, this issue extends across all asylum accommodation providers, and properties are being kept in a poor state of repair.⁴⁶¹

The impact of living on Section 4 support is discussed in the section [Forms and Levels of Material Reception Conditions](#).

⁴⁵⁰ In a place like prison, Asylum Matters and partners 2021, available at: <https://bit.ly/49n0MPe>.

⁴⁵¹ APPG on Immigration Detention, *Report of Visit to Napier Barracks on 2 February 2022*, 7 April 2022, available at: <https://bit.ly/3GPMew3>.

⁴⁵² Home Office, 'Promotional material: Portland Port: factsheet', updated 29 December 2023, available at: <https://tinyurl.com/336kyz97>.

⁴⁵³ Home Affairs Select Committee, 'Questions for Home Office on conditions at Bibby Stockholm', 2 February 2024, available at: <https://bit.ly/3T9okjN>.

⁴⁵⁴ Diane Taylor, 'Bibby Stockholm asylum seeker who died in suspected suicide is named', *The Guardian*, 18 December 2023, available at: <https://bit.ly/3wru2G1>.

⁴⁵⁵ Home Office, *Failure to travel to Bibby Stockholm vessel: caseworker guidance*, 13 March 2024, available at: <https://bit.ly/3OShy09>.

⁴⁵⁶ BBC News, 'Scampton asylum seekers to be capped by Home Office', 18 March 2024, available at: <https://tinyurl.com/3de5edzj>.

⁴⁵⁷ Home Office, 'Promotional material: Wethersfield: factsheet', updated 29 February 2024, available at: <https://tinyurl.com/4cjshbms>.

⁴⁵⁸ Helen Bamber Foundation, *Ghettoised and traumatised: the experiences of men held in quasi-detention in Wethersfield*, 15 December 2023, available at: <https://tinyurl.com/4smz9k6a>.

⁴⁵⁹ Médecins Sans Frontières, 'MSF launches UK operations to treat people seeking asylum', 9 January 2024, available at: <https://bit.ly/3OTykMm>.

⁴⁶⁰ Practice based observation by the expert, January 2024.

⁴⁶¹ BBC, 'Asylum accommodation; the homes where ceilings have fallen in', 9 January 2022, available at: <https://bbc.in/3nKEgtT>.

No data is available on how long individuals spend in dispersal accommodation. Any issues are generally reported to Migrant Help in the first instance.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market	
1. Does the law allow for access to the labour market for asylum seekers? ❖ If yes, when do asylum seekers have access the labour market?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 1 year
2. Does the law allow access to employment only following a labour market test?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Does the law only allow asylum seekers to work in specific sectors? ❖ If yes, specify which sectors: listed shortage occupations	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4. Does the law limit asylum seekers' employment to a maximum working time? ❖ If yes, specify the number of days per year	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Are there restrictions to accessing employment in practice?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Asylum seekers are not generally allowed to do paid work. The limited exception is that they may apply to the Home Office to be given permission to enter employment when their asylum claim has been outstanding for a year since the date the claim was lodged.⁴⁶² The same applies when further submissions have been outstanding for a year, whether or not they have been recognised as a fresh claim.⁴⁶³ Applications are very straightforward, they must be made in writing giving the applicant's personal and contact details and a statement requesting permission to work.⁴⁶⁴ There is no time limit for the Home Office to make a decision and this can take months.

If permission is granted it is limited to applying for vacancies in listed shortage occupations. These are specialist trades and professions which are in short supply in the UK and are defined very specifically although many medical and teaching occupations have recently been included.⁴⁶⁵ Self-employment is prohibited.⁴⁶⁶ The lack of discretion in the policy allowing the Home Office to grant permission to take up employment not on the shortage occupation list was challenged successfully at the end of 2020. Two cases, one specifically relating to a refugee who was also a victim of trafficking⁴⁶⁷ and a refugee who was not⁴⁶⁸ successfully challenged the fact that discretion to grant such permission had never been used; therefore, the policy was declared unlawful. Revised policy guidance was published and includes provision for the application of discretion to be used, although it states that these grants are expected to be 'rare'.⁴⁶⁹

A campaign was launched in 2018 to Lift the Ban⁴⁷⁰ which refers to the above policy; the main campaign aims are for the government to reduce the waiting time to get permission to work to six months and to

⁴⁶² Para 360 Immigration Rules Part 11 B.

⁴⁶³ Supreme Court, *ZO (Somalia) v Secretary of State for the Home Department* [2010] UKSC 36.

⁴⁶⁴ Home Office, *Permission to work: caseworker guidance*, 26 January 2024, available at: <https://bit.ly/49GYw50>.

⁴⁶⁵ Immigration Rules, Appendix Shortage Occupation List, available at: <https://bit.ly/49KhJTn>.

⁴⁶⁶ Para 360D Immigration Rules Part 11 B.

⁴⁶⁷ High Court, *LJ (Kosovo), R (On the Application Of) v Secretary of State for the Home Department* [2020] EWHC 3487 (Admin) (18 December 2020), available at: <https://bit.ly/3eo5dPV>.

⁴⁶⁸ Upper Tribunal, *R(C6) v Secretary of State for the Home Department (asylum seekers' permission to work)* [2021] UKUT 94 (13 January 2021), available at: <https://bit.ly/3GRCnTt>.

⁴⁶⁹ Home Office, *Permission to work and volunteering for asylum seekers*, October 2022, available at: <https://bit.ly/3fMmlZH>.

⁴⁷⁰ See: Refugee Action website, available at: <https://bit.ly/3GP7y1Z>.

allow access to all vacancies, not those on the shortage occupation list. The campaign has many members from refugee and other sectors and has some parliamentary support, leading to debates, a short Bill and an amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill during 2019.⁴⁷¹ At the end of 2021 the Migration Advisory Committee, in its annual report, questioned the need for the policy restricting asylum seekers to the Shortage Occupation list.⁴⁷² No changes have been made to that, although the Shortage Occupation List is to be replaced in 2024, and this is likely to reduce the number of roles that asylum seekers are permitted to work in.⁴⁷³

The main obstacle is that since these occupations are so narrowly defined, the chances that an asylum seeker will qualify are quite low, although the government has now added care workers to the list.⁴⁷⁴ The asylum seeker's residence status does not change as a result of obtaining permission to work. They remain on bail and subject to conditions which may include residing at an address that they give. There is no special access to re-training to enable access to the labour market. Any vocational training is subject to the conditions for education set out in the section on [Access to Education](#).

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Education is compulsory for children from 5 to 16. This includes children seeking asylum, who attend mainstream schools local to where they live under the same conditions, formally, as other children in their area. However, destitution may affect their access to education. For instance, children on Section 4 support are not entitled to free school meals or other benefits and yet have no cash to pay for school meals. There are not generally preparatory classes to facilitate access. If children seeking asylum have special educational needs these may be assessed and met as for other children.

The first major national research into the educational outcomes of children who are asylum seekers was published in 2021; one of its findings was that unaccompanied children lag about 3 years on average behind their UK counterparts.⁴⁷⁵

There is no bar on asylum seekers entering into education.⁴⁷⁶ In 2019 the Home Office conceded a judicial challenge establishing that there should not be a general bar on refused asylum seekers accessing education.⁴⁷⁷ The guidance was updated to reflect this, and provides for a condition prohibiting study to be placed on a refused asylum seeker only where considered necessary in an individual case.⁴⁷⁸

There are no accelerated education programmes for out of school youth. In **England** 15 hours per week of free childcare are available for children aged from two to four, where the parent is in receipt of asylum

⁴⁷¹ Lift the ban coalition website: <https://bit.ly/3qNu3hZ>.

⁴⁷² Migration Advisory Committee, *Second annual report*, December 2021, available at: <https://bit.ly/3Am6VKT>.

⁴⁷³ <https://bit.ly/3UOzsVo>.

⁴⁷⁴ Government, 'Biggest visa boost for social care as Health and Care Visa scheme expanded' December 2021, available at: <https://bit.ly/3Is91eG>.

⁴⁷⁵ Education Policy Institute, *The educational outcomes of refugee and asylum-seeking children in England*, 2 December 2021, available at: <https://bit.ly/3FO3duo>.

⁴⁷⁶ Home Office, *Immigration Bail*, November 2023, available at: <https://bit.ly/2xxxta19>.

⁴⁷⁷ Duncan Lewis Solicitors, 'Home Office concedes unlawful imposition of study restriction as a bail condition on individuals who are 'appeals rights exhausted'', November 2019, available at: <https://bit.ly/36qhFr3>.

⁴⁷⁸ Home Office, *Immigration Bail*, November 2023, available at: <https://bit.ly/2xxxta19>.

support.⁴⁷⁹ **Scotland** offers 30 hours per week early learning and childcare for two to four year olds.⁴⁸⁰ **Wales** offers 12.5 hours per week of childcare to two and three year olds who live in disadvantaged areas.⁴⁸¹ In **Northern Ireland** there is some practical support available to children under four living in disadvantaged areas and 12.5 hours weekly free childcare for three and four year olds.⁴⁸²

Higher and further education

Whilst children are entitled to access free school education, the barriers for adults in further and higher education are financial since (other than in **Scotland**) in addition to the high fees and lack of access to loans they also have no access to mainstream benefits or work. Indeed, the UK maintains different provisions for 'home' students and 'overseas' students for further and higher education. Regulations permit universities to charge higher fees to overseas students than to home students.⁴⁸³ The regulations do not compel universities to charge these higher fees, but a government subsidy is only paid for home students, and so for economic reasons universities charge the higher fees. Asylum seekers are routinely classed as overseas students, and are thus liable to pay overseas student fees for university education of £8,500 to £29,000 per year (approx. between € 9,900 - € 33,780). This is prohibitive generally for someone seeking asylum.

In **Scotland**, the child of an asylum seeker or a young asylum seeker (under 25) is treated as a home student if they meet a set of residence conditions including 3 years residence in Scotland.⁴⁸⁴

In **England, Wales** and **Northern Ireland** some universities have agreed to treat asylum seekers (generally on a limited individual basis) as home students. If a person is eligible under the regulations to pay 'home' fees, it is worth checking the relevant student support regulations. Student support is governed by ordinary residence in the country where they have been living, not where the educational institution is. So someone could be a 'home' fee payer if studying in Wales, Northern Ireland or Scotland, but if ordinarily resident in England before moving to undertake their course, they would not be eligible for any student support at all when they claim it (from Student Finance England) in England.⁴⁸⁵ Even where a university agrees to treat an asylum seeker as a home student, that person may still need finances to pay the fees. The United Kingdom Council for International Student Affairs (UKCISA) gives advice and information on student finance and fee status.⁴⁸⁶

Under certain conditions asylum seekers are treated as home students for the purposes of further education. In **England**, this is the case for those aged 16 to 18, or who have been waiting for a Home Office decision for more than six months, or who are on Section 4 support or other statutory assistance.⁴⁸⁷ In **Wales** those on asylum support are treated as home students. In **Northern Ireland** asylum seekers

⁴⁷⁹ Maternity Action, 'No recourse to public funds – money for parents and babies, August 2023, available at: <https://bit.ly/48uecYl>.

⁴⁸⁰ Working Families, 'Scotland – Free childcare for childcare aged 2, 3 & 4', accessed 24 March 2024, available at: <https://bit.ly/48rZDEJ>.

⁴⁸¹ Welsh government, 'Get help from Flying Start', accessed 24 March 2024, available at: <https://bit.ly/42RNdoc>.

⁴⁸² Day Nurseries, 'A guide to free childcare in Northern Ireland for 2, 3 and 4-year-olds', 9 January 2024, available at: <https://bit.ly/3OQoPxu>.

⁴⁸³ Reg. 4 Education (Fees and Awards) (England) Regulations 2007 SI 779; Reg. 4 Education (Fees and Awards) (Wales) Regulations 2007 SI 2310. The residence requirements in England are mitigated by Supreme Court judgment in *R (on the application of Tigere) v Secretary of State for Business, Innovation and Skills* UKSC [2015] 57 which held that the English requirement for the applicant to be settled (i.e. have indefinite leave to remain) was discriminatory and unlawful. Other residence requirements remain in place.

⁴⁸⁴ Reg. 4 Schedule 1 Higher Education (Fees) (Scotland) Regulations 2011 SI 389.

⁴⁸⁵ The residence requirements for access to student loans in England are mitigated by Supreme Court judgment in *R (on the application of Tigere) v Secretary of State for Business, Innovation and Skills* [2015] UKSC 57 which held that the English requirement for the applicant to be settled (i.e. have indefinite leave to remain) was discriminatory and unlawful. Other residence requirements remain in place.

⁴⁸⁶ UKCISA, Home or overseas fees: the basics, last modified 13 May 2022, available at: <http://bit.ly/1xWsqix>.

⁴⁸⁷ UKCISA, 'England: HE fee status', 20 February 2024, available at: <https://tinyurl.com/bdfzcs5z>.

and their families are treated as home students.⁴⁸⁸ In **Scotland**, the conditions are as for higher education,⁴⁸⁹ and in addition full-time English courses for speakers of other languages (ESOL) and other part-time courses may be taken by asylum seekers as home students. One effect is that in England there is a six month wait for eligibility for free English classes. Research conducted in 2019 reported upon the practical barriers and provides a summary of the changes in ESOL (English for speakers of other languages) provision in recent years.⁴⁹⁰

As explained in **Identification**, young people whose asylum claim is refused are commonly given ‘UASC leave’ which is not refugee status. They may apply to extend this before their 18th birthday, and so may be applying to higher education while still on UASC leave. Young people in this position are also treated as overseas students. This can impose obstacles on young people who have sought asylum and are leaving local authority care.

Some financial support is provided to those who are over 18 but were formerly an unaccompanied asylum seeking child until they are 21 or 25 if still in education.⁴⁹¹

In addition to financial difficulties, language, interrupted education due to experiences as a refugee, and incompatibility of educational systems and qualifications may all be barriers to access to further and higher education.⁴⁹²

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
 Yes No
2. Do asylum seekers have adequate access to health care in practice?
 Yes Limited No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
 Yes Limited No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
 Yes Limited No

In **England**, there is free hospital treatment to asylum seekers with a current claim on Section 95 or Section 4 support, those refused asylum seekers who are receiving Section 95 or Section 4 support and unaccompanied children in the care of the local authority.⁴⁹³ Free hospital treatment is not generally available to asylum seekers who are not on Section 95 or Section 4 support. Hospital doctors should not refuse treatment that is urgently needed for refused asylum seekers who are not receiving Section 95 or Section 4 support, but the hospital is required to charge for it. The hospital also has discretion to write off the charges. Any course of treatment should be continued if it is under way at the time when asylum is refused, and thus when Section 95 support stops for single people.⁴⁹⁴ Accident and emergency services (but not follow-up in-patient care) and treatment for listed diseases are free to all including refused asylum seekers who are not on asylum support.

⁴⁸⁸ Circular FE 15/12 of the Department of Employment and Learning.

⁴⁸⁹ Scottish government, ‘Further and higher education – residency criteria for access to financial support: consultation analysis’, 12 May 2023, available at: <https://bit.ly/48qDvun>.

⁴⁹⁰ Refugee Action, *Turning words into action*, June 2019, available at: <https://bit.ly/2RiDynC>.

⁴⁹¹ Home Office, *Leaving care funding instructions to local authorities 2023 to 2024*, 22 September 2023, available at: <https://bit.ly/3uT73Tw>.

⁴⁹² Refugee Support Network, *“I just want to study”: Access to Higher Education for Young Refugees and Asylum Seekers*, February 2012, available at: <https://tinyurl.com/yc6s6rpw>.

⁴⁹³ Part 4 HM Government National Health Service (Charges to Overseas Visitors) Regulations 2015 No. 238.

⁴⁹⁴ Department for Health, *Guidance on implementing the Hospital Charging Regulations 2015*, para 7.51.

Moreover, current asylum seekers, regardless of the support they receive, are entitled to register with a general doctor although in practice many face barriers in registering. General doctors (GPs) have the same discretion to register refused and unsupported asylum seekers that they have for any person living in their area.⁴⁹⁵ Resources to assist people to register with a GP remain an important practical and advocacy tool as, for example, GPs will often ask for ID documents that asylum seekers will not have, even though this is not a legal requirement. Doctors of the World have produced a card that can be used to successfully challenge those requests.⁴⁹⁶

In **Scotland** all asylum seekers are entitled to full free health care (including GP practices, mental health treatment, hospitals, emergency services, eye examinations, dental examinations⁴⁹⁷), including those refused asylum seekers not on Section 4 support and including the spouse/civil partner and any dependent children of any of these people.⁴⁹⁸

In **Northern Ireland**, exemptions for refugees and asylum seekers are similar to those in England except that refused asylum seekers are able to obtain free health care (including GP practices, mental health treatment, hospitals, emergency services, eye examinations, some dental services⁴⁹⁹) while they remain in Northern Ireland.⁵⁰⁰

Access to mental health services is not guaranteed anywhere in the UK, and is often lacking.⁵⁰¹

Specialised treatment for victims of torture and traumatised asylum seekers is available, but is in short supply. It is provided by a number of independent charities, the largest being Freedom from Torture, the Helen Bamber Foundation, and the Refugee Therapy Centre. Specialist trauma practitioners, including psychiatrists, psychologists and trauma counsellors and therapists, also work in health authorities and trusts around the country, but they are few and access is extremely limited.⁵⁰² Language and cultural barriers also hinder appropriate referrals from workers with initial contact and impede asylum seekers' own awareness of what is available.⁵⁰³ Smaller NGOs also specialise in counselling for refugees.⁵⁰⁴

In practice, inadequate levels of financial asylum support, destitution and the charging regime impede and discourage access to healthcare.⁵⁰⁵

Mothers on asylum support who are required to move during pregnancy usually lose continuity of antenatal care. Moves during pregnancy may take place including at very late stages of pregnancy, even when doctors and midwives advise against a move, and are thought to contribute to the far higher infant and mother mortality rate which there is among asylum seekers.⁵⁰⁶ Moves sometimes entail a break of several weeks in antenatal care including monitoring and treatment of conditions such as diabetes or hepatitis,

⁴⁹⁵ British Medical Association, *Refugees and asylum seekers' entitlement to NHS care*, 4 September 2023, available at: <https://bit.ly/49oXKtl>.

⁴⁹⁶ Doctors of the World GP access cards available at: <https://bit.ly/3H1AnrK>; Refugee Council guides to therapeutic services and maternity care, see: <https://bit.ly/3fluSCj>.

⁴⁹⁷ NHS inform, 'Accessing and using the NHS in Scotland', accessed 24 March 2024, available at: <https://bit.ly/3UKr2hX>.

⁴⁹⁸ NHS inform, 'Healthcare for refugees and asylum', accessed 24 March 2024, available at: <https://bit.ly/3wu8sk3>.

⁴⁹⁹ NI Direct, 'Help with health costs', accessed 24 March 2024, available at: <https://tinyurl.com/588x2v4f>.

⁵⁰⁰ Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 SI No. 27 reg. 9, available at: <https://bit.ly/49oWarO>.

⁵⁰¹ Yohannes Fassil and Angela Burnett, *Commissioning mental health services for vulnerable adult migrants* August, 2014, available at: <https://bit.ly/3TaOl3n>.

⁵⁰² Practice based observation by the expert, January 2024.

⁵⁰³ Practice based observation by the expert, January 2024.

⁵⁰⁴ Some, such as Nasfiyat intercultural Therapy centre, are long established <https://www.nasfiyat.org.uk/> and some specialise in particular groups e.g. Vietnamese Mental Health Service vmhs.org.uk.

⁵⁰⁵ Practice based observation by the expert, January 2024.

⁵⁰⁶ Refugee Council and Maternity Action, *When Maternity Doesn't Matter*, 2013 available at: <https://bit.ly/3SHoXAw>, and <https://bit.ly/42ObN9E>.

which need to be sustained during pregnancy.⁵⁰⁷ Moves are not frequent once accommodation is allocated, but can happen for instance when an asylum seeker is allocated Section 95 or Section 4 housing away from the area where they had been previously living.

Charges for those with no leave to remain in the UK and who are not entitled to healthcare as described above were introduced in April 2015.⁵⁰⁸ Guidance was issued by the Government (Department of Health) in April 2016.⁵⁰⁹ A report from the National Audit office in 2016 reported that the policy has unintended consequences and that some people are wrongly charged.⁵¹⁰ Similar findings were revealed in a report and review of evidence published by the Equality and Human Rights Commission in 2018.⁵¹¹

In 2017 the government announced its intention to extend charging for many more frontline services (except GPs) and to introduce a duty for health services in **England** to check a person's immigration status before treating. To enable this to happen regulations were introduced to Parliament; some changes were made in August 2017 and others in October 2017.⁵¹² During a parliamentary debate the government agreed to review the impact of the regulations. There has been a lot of lobbying on the issue.⁵¹³ A report by Doctors of the World in 2017 concluded that people were being deterred from seeking medical care as a result of the charges.⁵¹⁴ A scoping study of the impact on maternity services conducted in 2017 showed similar findings.⁵¹⁵ A 2023 paper also suggested that fears of charging can deter people from accessing healthcare, although it noted that the quality of the evidence was 'poor'.⁵¹⁶

The Refugee Council developed a range of health-related guides for refugees, asylum seekers and health practitioners including guides to maternity rights and therapeutic services.⁵¹⁷

Notably the government made those arriving on the new Ukraine visa schemes exempt from NHS charges as soon as March 2022⁵¹⁸ (see [Ukraine Visa Support](#)).

⁵⁰⁷ *Ibid.*

⁵⁰⁸ Section 38 Immigration Act 2014 and National Health Service (Charges to Overseas Visitors) Regulations 2015 No. 238.

⁵⁰⁹ Department of Health, *Guidance on overseas visitors hospital charging regulations*, 6 April 2016, available at: <http://bit.ly/1mU47FG>.

⁵¹⁰ National Audit Office, *Recovering the cost of NHS treatment for overseas visitors*, October 2016, available at: <http://bit.ly/2e4ri6z>.

⁵¹¹ Equality and Human Rights Commission, 'Asylum seekers in Britain unable to access healthcare', 29 November 2018, available at: <https://bit.ly/3OVVXs6>.

⁵¹² The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017, available at: <http://bit.ly/2tFXxxz>.

⁵¹³ See e.g. Health Stream of Sanctuary, 'Changes to Accessing Healthcare – Impact on Refugees & Asylum-Seekers – Take Action Now!', 31 August 2017, available at: <http://bit.ly/2wrObsh>.

⁵¹⁴ Doctors of the World, *Deterrence, delay and distress*, 2017, available at: <https://bit.ly/42SmYhO>.

⁵¹⁵ Maternity Action et al, *The impact on health inequalities of charging migrant women for maternity care*, 2017, available at: <https://bit.ly/2GuxCSi>.

⁵¹⁶ BMC Public Health, 'The impact of NHS charging regulations on healthcare access and utilisation among migrants in England: a systematic review', 28 February 2023, available at: <https://bit.ly/42OH8sM>.

⁵¹⁷ Refugee Council, 'Guides for refugees and practitioners', accessed 24 March 2023, available at: <https://bit.ly/3Mnn5ZK>.

⁵¹⁸ Response to a parliamentary question, 'Outcome of the review of the NHS Charging Regulations exemption for Ukrainians', 24 October 2022, available at: <https://bit.ly/3AOwd5J>.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
 Yes No

There is no mechanism laid down by law to identify vulnerable groups or persons with special reception needs, although there is policy that instructs caseworkers to assess whether the asylum seekers have any special medical needs that will affect dispersal.⁵¹⁹ This policy was revised in 2016, adding specific instructions to safeguard the continuity of care for pregnant women. A separate policy on allocating asylum accommodation says that “regard” should be had to the particular vulnerabilities of people with disabilities or serious health problems. There is no guarantee that any requests will be accommodated.⁵²⁰ Even where disabilities have been identified, there are reports of inadequate accommodation being provided.⁵²¹ Challenges to the suitability of accommodation can be made by judicial review.⁵²²

If the asylum seeker has e.g. a medical report, which already shows that they are vulnerable, or has some other individual assessment showing this, the accommodation provider is required to take their vulnerability into account in providing accommodation.⁵²³ Aside from this the law provides no specific measures to address the reception needs of vulnerable groups. In 2023 a challenge to the use of hotel accommodation for families unless exceptional circumstances could be established was dismissed.⁵²⁴ However individual challenges to the suitability of hotel accommodation for families can still succeed.⁵²⁵

If an asylum seeker discloses a health need during screening (i.e. before dispersal) the Home Office must provide sufficient information to the accommodation provider to ensure that necessary arrangements for dispersal are put in place i.e. appropriate travel, accommodation and location. The accommodation provider is contractually obliged to take an asylum seeker to a General Practitioner within 5 days of dispersal if they have a pre-existing condition or are in need of an urgent General Practitioner review.⁵²⁶

Whether needs are addressed in fact is variable according to local practice. Initial accommodation centres are run by private companies under contract to the Home Office. The Initial Accommodation includes a healthcare team who offer a basic screening of the health needs of all residents. There have previously been issues with the health screening not taking place (at Penally barracks, since closed).⁵²⁷ In practice, unless vulnerability is identified at one of the initial accommodation centres by a healthcare provider, it is unlikely to be identified until the asylum seeker discloses a problem to a voluntary, community or community advice organisation. The provision of suitable accommodation to people with disabilities, in particular the delays in providing such accommodation was found to be unlawful in a case in December 2020.⁵²⁸

⁵¹⁹ Home Office, *Healthcare needs and pregnancy dispersal policy*, available at: <http://bit.ly/1Vgcw9H>.

⁵²⁰ Home Office, *Allocation of asylum accommodation policy version 11.0*, 12 February 2024, available at: <https://bit.ly/3ULqiZW>.

⁵²¹ Diane Taylor, ‘Asylum seekers with disabilities ‘abandoned’ in former Essex care home’, *The Guardian*, 23 June 2023, available at: <https://bit.ly/3UPMa6z>.

⁵²² see e.g. High Court, *NS, R (on the application of) v Secretary of State for the Home Department* [2023] EWHC 2675 (Admin), available at: <https://tinyurl.com/ytw7evvk>.

⁵²³ Asylum Seeker (Reception Conditions) Regulations SI 2005/7.

⁵²⁴ High Court, *R (MQ) v The Secretary of State for the Home Department* [2023] EWHC 205 (Admin), available at: <https://bit.ly/3OSr1ES>.

⁵²⁵ High Court, *R (SA) v Secretary of State for the Home Department* [2023] EWHC 1787 (Admin), available at: <https://bit.ly/3uxQCMA>.

⁵²⁶ *Ibid*, Home Office Asylum Process Guidance.

⁵²⁷ Doctors of the World, ‘*They just left me*’ *Asylum seekers health and access to healthcare in initial and contingency accommodation*, April 2022, available at: <https://bit.ly/3UM9qSV>.

⁵²⁸ *AA v Home Office* [2020] EWHC 3416 (Admin), 14 December 2020, available at: <https://bit.ly/3buURvU>.

Room sharing is same sex only, but accommodation (e.g. the hotel) will be mixed.⁵²⁹ Self-contained accommodation is usually only for families and is a flat or house with their own kitchen and bathroom. Share houses must have at least one bathroom and kitchen per five people.⁵³⁰ There is a lack of safeguarding in hotels which has resulted in children going missing⁵³¹ and being sexually assaulted.⁵³² Access to assistance such as interpreters is through calling Migrant Help. Access to services such as police and social workers is not on site. There is a safeguarding framework but this does not go into detail about measures put in place to protect women and children.⁵³³ In practice, raising and escalating issues is difficult due to the lack of transparency about how to make complaints and who is responsible for resolving them.

The Home Office has a 'protected period' of eight weeks for women not to be moved for four weeks before and after giving birth.⁵³⁴ However, the accommodation allocated during this time is in initial accommodation centres, in which conditions are often not conducive to the care of a new baby.⁵³⁵ The particular difficulties for pregnant women and new mothers were highlighted in both the 2018 Home Affairs Committee report,⁵³⁶ and the Independent Chief Inspector's report on the same subject. The government issued an assurance action plan with its response to the latter report.⁵³⁷ Research from the Asylum Support Appeals Project, Scottish Refugee Council and Refugee Council revealed the lack of attention to women's safety in asylum support accommodation.⁵³⁸ The government issued revised guidance to caseworkers in 2019 which included provision for refuge spaces to be funded in cases where that is deemed necessary.⁵³⁹

If it comes to light that an asylum seeker has been trafficked, they may be referred to special accommodation run by the Salvation Army where specific support is given and the trafficking case considered. If they are not in receipt of asylum support, they will be entitled to a weekly payment of £49.18 (€ 57.29) per week, or £15.30 (€ 17.82) if they are also being provided with accommodation. The same is payable for child dependents where asylum support is not being paid, as well as an additional payment of £9.50 (€ 11.07) per week for a baby under one, and then £5.25 (€ 6.12) per week from one until they turn four. If the person receives a positive reasonable grounds decision (the first decision in a two stage process) then they will receive an additional payment of £26.17 (€ 30.48) per week in addition to their asylum support or trafficking support payments.⁵⁴⁰

Reception and care of unaccompanied children

Where a person has claimed asylum and there is uncertainty about whether or not they are a child following an initial age assessment, they will be given the benefit of the doubt. They, and those who are

⁵²⁹ Home Office, *Asylum hotel summary and FAQ*, 7 March 2024, available at: <https://bit.ly/49pan7U>.

⁵³⁰ Home Office, *Living in dispersal accommodation*, 25 May 2023, available at: <https://bit.ly/3T7LoQZ>.

⁵³¹ Rajeev Syal and Diane Taylor, 'UK minister admits 200 asylum-seeking children have gone missing', 24 January 2024, available at: <https://bit.ly/49n6LDr>.

⁵³² BBC News, 'Two children sexually assaulted at migrant hotel', 3 November 2022, available at: <https://bit.ly/3wptTCO>.

⁵³³ Home Office, *Asylum support contracts safeguarding framework*, 9 May 2022, available at: <https://bit.ly/49pc7OK>.

⁵³⁴ Home Office, *Healthcare needs and pregnancy dispersal policy*, available at: <http://bit.ly/1Vgcw9H>.

⁵³⁵ Home Affairs Select Committee, *Asylum accommodation*, January 2017.

⁵³⁶ Home Affairs Select Committee, 'Government failing asylum seekers housed in "degrading" accommodation', 17 December 2018, available at: <https://bit.ly/2XBNvOh>.

⁵³⁷ Home Office, *Asylum support – Assurance Action Plan*, available at: <https://bit.ly/2NMOTJt>.

⁵³⁸ Helen Baillot and Elaine Connelly, *Women seeking asylum: safe from violence in the UK?*, 2018, available at: <https://bit.ly/2lWFbFi>.

⁵³⁹ Home Office, *Responding to reports of domestic abuse from asylum seekers*, 24 January 2022, available at: <https://bit.ly/36ggBpj>.

⁵⁴⁰ Home Office, *Modern Slavery: statutory guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and non-statutory guidance for Scotland and Northern Ireland*, 22 February 2024, available at: <https://bit.ly/3wo5RYR>.

accepted as being under the age of 18 will be referred to a local authority social services department which becomes responsible for their care. If it is later determined that they are an adult, they will be moved to adult accommodation, and if a child has been wrongly assessed as adult, when this decision is overturned they will be moved out of adult accommodation.⁵⁴¹ Provisions of the Illegal Migration Act 2023 that are not yet in force will make the Secretary of State for the Home Department responsible for the children instead, with the power to transfer this responsibility to the local authority.⁵⁴² They should be looked after according to the same standards as other young people in the care of local authorities.⁵⁴³ There is little practical guidance for social workers on the specific needs of these children, although statutory guidance for England and Wales was reissued in 2017 and contains more practical guidance.⁵⁴⁴ The joint safeguarding strategy published in November 2017 identified future work such as resources for professionals, guidance and training.⁵⁴⁵ An update of this work in 2019 shows that much is still to be completed.⁵⁴⁶ No update has been issued since then.

A mix of accommodation is used, data is provided for those who are aged 16 to 17. 42% of unaccompanied asylum seeking children were living independently and 45% in semi-independent accommodation, compared to the average of 23%.⁵⁴⁷

In practice the experience of these children varies; some make good relationships with their carer and feel fully supported. Some are very confused and frightened, are not treated well, and do not have a named social worker responsible for them. The named social worker is responsible for the implementation of the care plan which details how the child should be looked after through the process. This includes helping them to find a legal representative. Many discharge this function through referral to the Refugee Council's Independent Unaccompanied Asylum-Seeking Children Support Service (formerly named the Panel of Advisers); funded by the Home Office since 1994 to assist unaccompanied children through the asylum process including finding legal representatives for the children.⁵⁴⁸

Some local authorities, such as those with a port of entry and immigration control within their boundary, have become responsible for a disproportionate number of unaccompanied children, as the responsibility lies with the local authority where the child is first identified. When numbers started to rise in 2015-2016, particularly around the port of **Dover**, some local authorities, particularly **Kent**, reported that they were finding it difficult to look after them appropriately and asked other local authorities to offer placements for them. The Immigration Act 2016 included provision for the legal transfer of responsibility from the initial local authority to a second local authority that has volunteered to take over the care. Initially possible only in **England**; in 2018 the government extended it to **Scotland, Wales and Northern Ireland**.⁵⁴⁹ Funding is provided to local authorities for the care of unaccompanied children and those who have left care but are still the responsibility of the local authority.⁵⁵⁰

The Refugee Children's Consortium produced a briefing note outlining some of its members' concerns about the operation of the transfer scheme, particularly focusing on the difficulties children face when their

⁵⁴¹ Home Office, *Assessing age*, March 2023, available at: <https://bit.ly/3ulaM6t>.

⁵⁴² Illegal Migration Act 2023, available at: <https://bit.ly/3lgBuWN>.

⁵⁴³ Department of Education, *The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review*, July 2021, available at: <https://bit.ly/3OSMgGI>.

⁵⁴⁴ Department of Education, *Statutory guidance for unaccompanied migrant children and victims of modern slavery*, November 2017, available at: <http://bit.ly/1tZSXZv>.

⁵⁴⁵ Government, *Joint Safeguarding Strategy*, November 2017, available at: <http://bit.ly/2mXriMd>.

⁵⁴⁶ Letter to the Chair of the Education Select Committee, June 2019, available at: <https://bit.ly/37Aj8wg>.

⁵⁴⁷ <https://bit.ly/4bKZ3EW>.

⁵⁴⁸ Refugee Council, 'Independent Unaccompanied Asylum-Seeking Children Support Service (IUSS)', available at: <https://bit.ly/3UhqmwL>.

⁵⁴⁹ The Transfer of Responsibility for Relevant Children (Extension to Wales, Scotland and Northern Ireland) Regulations 2018, available at: <https://bit.ly/2Ry84vl>.

⁵⁵⁰ Home Office, *Unaccompanied asylum seeking children and leaving care: funding instructions*, 22 September 2023, available at: <https://bit.ly/42TRDen>.

transfer is uncertain or delayed.⁵⁵¹ There had been a drop in the overall numbers transferred since the scheme began; however, the numbers rose in 2020, largely due to the declaration in August that **Kent** County Council (responsible for children arriving at the port of Dover) had reached their capacity and would not be taking children into its care. Children were transferred directly from the port to local authorities around the country. A report by the Children’s Commissioner for **England** was critical of the time some children spent at the port awaiting transfer.⁵⁵²

The situation continued in 2021, during which time the Refugee Council and others wrote to the Children’s Minister expressing concerns and urging action to resolve the issue.⁵⁵³ Kent once again announced that it was no longer prepared to take unaccompanied children into its care. The government announced changes to the way the scheme would be run in July 2021⁵⁵⁴ but children were housed in hotels, outside of the local authority care system⁵⁵⁵ and the scheme was made mandatory at the end of the year.⁵⁵⁶ Further changes were made to the National Transfer Scheme in 2022 relating to the allocation and timings of transfers.⁵⁵⁷ However, the use of hotels continued and was the subject of scrutiny by NGOs,⁵⁵⁸ parliamentarians⁵⁵⁹ and the Independent Chief Inspector of Borders and Immigration, whose inspection between March and May 2022 was assisted by Ofsted, which has responsibility for inspection and scrutiny of statutory services for children. The ICIBI report was damning of the principle of this arrangement and of the standard of care provided. Issues included a lack of security checks carried out on staff, lack of access to full education, only one hotel with an operational kitchen, nurses unable to prescribe basic medication.⁵⁶⁰ The Chief Inspector of Ofsted mentioned this issue in her annual speech to Children’s Services professionals.⁵⁶¹

The Home Office’s systematic and routine use of hotels as accommodation for unaccompanied asylum seeking children was successfully challenged.⁵⁶² As of January 2024 the government reported that there were no unaccompanied children in hotels.⁵⁶³

The total number of unaccompanied children seeking asylum cared for by local authorities in England is published regularly. At the end of March 2023 this figure was 7,290 which is almost 9% of the total population of children cared for by local authorities in **England**.⁵⁶⁴ An additional 110 are in the care of local authorities in Wales. The governments of **Scotland** and **Northern Ireland** do not publish statistics of this kind.

⁵⁵¹ Refugee Children’s Consortium, Briefing on the National Transfer Scheme, August 2017, available at: <http://bit.ly/2DBT2Nv>.

⁵⁵² Children’s Commissioner, ‘Detention of unaccompanied children arriving in Kent during 2020’, 5 February 2021, available at: <https://bit.ly/2OQIPnS>.

⁵⁵³ Refugee Council and others to the Children’s Minister, ‘Refugee Council and seven national charities call on Children’s Minister Vicky Ford to protect every unaccompanied child’, 28 January 2021, available at: <https://bit.ly/3FN3KNm>.

⁵⁵⁴ Government, Changes to the National Transfer Scheme, 10 June 2021, available at: <https://bit.ly/3KwFT3>.

⁵⁵⁵ Correspondence between the Home Affairs Select Committee and the Home Office on unaccompanied children in hotels, available at: <https://bit.ly/3ltWJTn>.

⁵⁵⁶ Department for Education and Home Office, *National Transfer Scheme Protocol for Unaccompanied Asylum Seeking Children – Version 6.0*, 17 August 2023, available at: <https://bit.ly/3VDxK6K>.

⁵⁵⁷ Ibid.

⁵⁵⁸ ECPAT UK, *Outside the frame: Unaccompanied children denied care and protection*, available at: <https://bit.ly/3N3SQcZ>.

⁵⁵⁹ Response to a parliamentary question, ‘Asylum: Children’, answered 21 June 2022, available at: <https://bit.ly/3GRdH0p> and length of stay October 2022.

⁵⁶⁰ ICIBI, *An inspection of the use of hotels for housing unaccompanied asylum-seeking children (UASC) – March-May 2022*, October 2022, available at: <https://bit.ly/3XE9vHb>.

⁵⁶¹ Transcript available at: <https://bit.ly/3VCzCfK>.

⁵⁶² High Court, *R (on the application of ECPAT UK) v Kent County Council and another*, [2023] EWHC 1953 (Admin), available at: <https://bit.ly/49pan7U> and

⁵⁶³ Written response, *Asylum: Children Question for Home Office UIN 11353*, 29 January 2024, available at: <https://bit.ly/3SLI6I7>.

⁵⁶⁴ Department for Education, ‘Children looked after in England including adoptions’, available at: <https://bit.ly/3FakqkE>.

Once a claim has been refused and asylum appeal rights have been exhausted the care of young people over 18 is often limited to those for whom a withdrawal of support would breach their human rights. This tends to be a more minimal provision than that provided to other young people. Provisions of the Immigration Act 2016 will restrict further the support that local authorities can provide to those over 18 who are appeal rights exhausted but this has not yet been enacted still in 2023. Those who have leave, as a refugee or otherwise, will receive assistance from the local authority in line with British citizens in the same situation, under the Children (Leaving Care) Act⁵⁶⁵ which will include help with accessing housing.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

Paragraph 358 of the Immigration Rules is the only provision in law on information concerning reception conditions. It says that asylum applicants should be informed no later than 15 days after their claim is registered of the benefits and services that they are entitled to. They should also be told of the rules and procedures they must comply with, and be provided with information on non-governmental organisations that can provide legal or other assistance. Where possible this should be provided in a language understood by the applicant. Paragraph 344C requires a person who is granted asylum to be provided with access to information, as soon as possible, in a language that they may reasonably be supposed to understand which sets out the rights and obligations relating to refugee status.⁵⁶⁶

The charity Migrant Help has been providing the Asylum Support Applications UK and Asylum Advice and Guidance services since 2013. In 2019 they retained the contract under a new tender, called Advice, Issue Reporting and Eligibility. They provide general information, advice and guidance through a Telephone Advice Centre, or face-to-face appointments at the initial accommodation centres or outreach sessions. In the first few months of the new contract the organisation was heavily criticised for failing to respond to the number of calls they were receiving. A number of NGOs wrote to the government to highlight their concerns in this regard.⁵⁶⁷ Migrant Help's regular newsletters have sought to address concerns with regular updates about what action they are taking to improve the access to the service.⁵⁶⁸ Multilingual information is given via Migrant Help's website in different forms: web/video presentations, audio briefings and written briefings. These are in 15 languages and may be downloaded.

Asylum seekers are asked at the screening interview if they wish to apply for support. Apart from the difficulties in claiming (see section on [Criteria and Restrictions to Access Reception Conditions](#)), there are no other significant reported problems in obtaining access to initial support including s.95. Initial information appears to be adequate.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
 Yes With limitations No

Contract terms between the Home Office and the private companies provide that there shall be access and facilities in initial accommodation for nominated third parties, including NGOs, UNHCR and legal advisers. Advice and guidance on the asylum process, asylum support applications, welfare and life in

⁵⁶⁵ Children (Leaving Care) Act 2000. Devolved governments have similar provisions.

⁵⁶⁶ Para 344C Immigration Rules Part 11.

⁵⁶⁷ Letter to Minister of State, 30 October 2019, available at: <https://bit.ly/3UPMKkL>.

⁵⁶⁸ Migrant Help, AIRE newsletters, available at: <https://bit.ly/2O7m4ZB>.

the UK is delivered free by the charity Migrant Help, funded by the Home Office. Advice is generally available in person at the initial accommodation centres. There is usually access to an initial health screening, often provided by a local enhanced primary care service, homeless health service or a General Practitioner. In at least some regions the obligation to give access to legal advisers is met by an electronic appointments system in the initial accommodation centre. Through this, appointments are made with local solicitors or legal representatives who have the legal aid contract and facilities to be able to offer advice in an office that is close enough to the centre to be accessible for the asylum seeker to find their own way there. In 2023 a charity, Care4Calais, was reportedly banned from attending a reception centre at Napier barracks for encouraging people in there to talk to the media.⁵⁶⁹ Reception centres are generally not permitted to have social visitors.⁵⁷⁰

G. Differential treatment of specific nationalities in reception

There is no differential treatment relating to nationality.

⁵⁶⁹ Peter Walker, 'Home Office barred charity over claims it encouraged asylum seeker 'complaints'', *The Guardian*, 10 November 2023, available at: <https://bit.ly/42OcJea>.

⁵⁷⁰ ICIBI, *A re-inspection of Napier Barracks*, March 2022, paragraph 4.60, available at: <https://bit.ly/3l8si6Y>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of people entering detention in 2023:	15,864 ⁵⁷¹
2. Number of people in detention at the end of 2023: ⁵⁷²	1,782
3. Number of detention centres: ⁵⁷³	10
4. Total capacity of detention centres: ⁵⁷⁴	2,286

When asylum seekers are detained, they are detained in immigration removal centres (IRC), usually under the same legal regime and in the same premises as other people subject to immigration detention. The centres consist of 7 IRC and 3 short-term holding facilities (STHF). The published statistics now include immigration detainees held in prisons; there were 3,311 immigration detainees held in prison at some point during 2022, but it is not known how many of these claimed asylum either prior to being detained or whilst in detention.

Detention during the asylum decision-making process is not usual although those who have arrived via the Channel are likely to be detained on arrival at Manston asylum processing centre while their asylum claim is registered and accommodation found for them.⁵⁷⁵ People were supposed to be held there for a maximum of five days but in 2022 were spending considerably longer there, with the ICIBI finding one family who had been there for 32 days.⁵⁷⁶

Most asylum seekers whose claim has not yet been decided are at liberty on a status known as [immigration bail](#). The main exception is in accelerated procedures. In [non-suspensive appeal cases](#), although the individual is not always detained, detention is more common than in the regular procedure.

If the person is already in immigration detention when they claim asylum, whether they are then released will be determined by whether criteria for detention continue to exist after the asylum claim has been made. These are the criteria set out in the section on [Grounds for Detention](#). Making an asylum claim does not of itself secure release.

Former asylum seekers may also be detained after their claim has been refused, in preparation for removal. Most of the content of this chapter therefore refers to former asylum seekers who are detained in preparation for removal, after final refusal of their claim.

The number of people who had sought asylum at some point during their time in the UK and have been detained in recent years is as shown in the table below. Many detainees were released during the period of the Covid-19 restrictions on travel, as the law allows for detention when removal will be possible in a specific time period.

⁵⁷¹ Home Office, *National statistics: How many people are detained or returned?*, 29 February 2024, available at: <https://tinyurl.com/yc3rw9px>. This number relates to the number of incidents of people entering detention, as some people are detained more than once it is not possible to say how many different individuals were detained in any specific period.

⁵⁷² At the time of writing, the number of people who were detained and who had applied for asylum was not available.

⁵⁷³ Including three of the short-term holding facilities, available at: <https://bit.ly/3UNxAwc>.

⁵⁷⁴ Source; Refugee Council, *Illegal Migration Bill - Assessment of impact of inadmissibility, removals, detention, accommodation and safe route*, March 2023, available at: <https://bit.ly/3qftkIK>. There is an agreement for an additional 600 immigration detention places in prisons.

⁵⁷⁵ UK government, 'New secure site for processing illegal migrants', 15 December 2021, available at: <https://bit.ly/3Tcx3mw>.

⁵⁷⁶ ICIBI, *A reinspection of the initial processing of migrants arriving via small boats, including at Western Jet Foil and Manston*, June 2023, available at: <https://bit.ly/3OVIMV0>.

"Asylum detainees" in the United Kingdom: 2017-2023		
	Detentions throughout the year	Detained at the end of the year
2017	12,921	1,508
2018	13,168	1,085
2019	14,465	994
2020	9,806	438
2021	20,166	622
2022	14,227	1,159
2023	15,864	1,782

Source: Home Office, *Immigration statistics, Detention summary tables Det_01*. Note that this does not necessarily mean detention of asylum seekers during the course of the procedure.

Guidance was published in 2017 relating to asylum claims made from detention.⁵⁷⁷ It is aimed at those considering asylum claims from people detained at the point of making their claim, as well as considering the detention of people during their claim. It does not replace or replicate other guidance on consideration of asylum claims; it is complementary to other guidance. UNHCR carried out an audit of these processes and published a report in 2023 and found that improvement was required in order to ensure that international standards were being met. They made several recommendations including the improvement of training, ensuring that country of origin information is used correctly, and that full justifications are recorded in support of a decision to detain.⁵⁷⁸

B. Legal framework of detention

1. Grounds of detention

Indicators: Grounds for Detention

- In practice, are most asylum seekers detained
 - ❖ on the territory: Yes No
 - ❖ at the border: Yes No
- Are asylum seekers detained in practice during the Dublin procedure? N/A
- Are asylum seekers detained during a regular procedure in practice?
 - Frequently Rarely Never

There are no special grounds in legislation for the detention of asylum seekers. They may be detained on the same legal basis as others who are subject to immigration control. There is a power to detain pending examination and a decision as to whether to grant leave to enter or remain; pending a decision as to whether to remove; and pending removal. People who arrive irregularly will often be detained pending initial examination, for example at Manston processing centre for those who arrive via the Channel. The latter two powers are usually used for people who have been unsuccessful in their asylum claim and no longer have permission to be in the UK.

⁵⁷⁷ Home Office, *Detained Asylum Casework (DAC) – asylum process*, March 2019, available at: <http://bit.ly/2rwD2HN>.

⁵⁷⁸ UNHCR, *A review of decision-making in the Detained Asylum Casework Procedure*, 2023, available at: <https://bit.ly/48mKpRm>.

This power may only be exercised if there is a policy reason to detain this person. The Illegal Migration Act 2023 amended the detention powers with effect from 28 September 2023, the main changes are that it is now for the Secretary of State to decide what a reasonable period of detention is for a person and where release is deemed appropriate the person can be detained as long as reasonable necessary while arrangements for release are made.⁵⁷⁹ The latter change was made in response to the Secretary of State losing a judicial review challenging delays in arranging asylum accommodation for people in detention.⁵⁸⁰

The five reasons a person can be detained are that:

- ❖ The person is likely to abscond if granted immigration bail;
- ❖ There is currently insufficient reliable information to decide whether to release them (for instance their identity cannot be verified);
- ❖ Removal from the United Kingdom is imminent;
- ❖ The person needs to be detained whilst alternative arrangements are made for their care;
- ❖ Release is not considered conducive to the public good;
- ❖ The application may be decided quickly using the fast track procedures.⁵⁸¹

Whether a person is likely to abscond is decided on the basis of such factors as whether they have absconded before, whether they have a criminal record, whether they have significant relationships in the UK, whether they have reported regularly to the Home Office if required to do so.

Most asylum seekers are not detained for long periods before their claim is decided, although the introduction of a non-residential short-term holding facility at the former military facility in Manston, Kent, resulted in many people being held for longer than allowed in law. The rapid deterioration in the system is illustrated in the difference between the report of the Prison’s Inspectorate visit in August 2022⁵⁸² and the evidence given to a parliamentary committee by the Borders Inspectorate in October 2022.⁵⁸³

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 - Reporting duties
 - Surrendering documents
 - Financial guarantee
 - Residence restrictions
 - Other: Tagging

2. Are alternatives to detention used in practice?
 - Yes No

Alternatives to detention are permitted by legislation but not required. Permitted are:

- (a) Electronic tagging;⁵⁸⁴
- (b) Regular reporting;⁵⁸⁵
- (c) Bail with sureties;⁵⁸⁶
- (d) Residence restrictions.⁵⁸⁷

⁵⁷⁹ Illegal Migration Act 2023, s 12, available at: <https://bit.ly/48uU0W6>.

⁵⁸⁰ *Humnyntskyi & Ors, R (On the Application Of) v Secretary of State for the Home Department* [2020] EWHC 1912 (Admin), available at: <https://bit.ly/4bH5toB>.

⁵⁸¹ Home Office, *Detention: General Instructions*, September 2023, available at: <http://bit.ly/2t3RRCs>.

⁵⁸² HMIP, *Report on an unannounced inspection of the short-term holding facilities at Western Jetfoil, Lydd Airport and Manston*, April 2022, available at: <https://bit.ly/3EPK2BQ>.

⁵⁸³ Evidence to the Home Affairs Select Committee October 2022, available at: <https://bit.ly/3OHGLcB>.

⁵⁸⁴ Section 36 AITOCA.

⁵⁸⁵ Para 21(2) Schedule 2 Immigration Act 1971.

⁵⁸⁶ Section 61 Schedule 10 Immigration Act 2016.

⁵⁸⁷ Para 21(2) Schedule 2 Immigration Act 1971.

Guidelines say that detention should only be used as a last resort. However, no proof is required that alternatives are not effective. Residence restrictions is routinely applied to all asylum seekers, and bail will always include residence restrictions and for some, regular reporting. Breach of these conditions may result in detention. Electronic tagging is in frequent use mainly for ex-offenders and may be a bail condition. Numbers of asylum seekers tagged are not available. The guidance on Immigration Bail includes the process for referring detainees for automatic bail consideration, in most cases, four months after the person was first detained and every four months thereafter.⁵⁸⁸

An inquiry by the parliamentary Joint Committee on Human Rights carried out an inquiry into immigration detention and published evidence as it was submitted (oral and written), including evidence from the government.⁵⁸⁹ In evidence to the Committee the Immigration Minister stated that in the 10 months since the automatic bail policy was introduced 10% of automatic bail hearings resulted in the detainee being granted bail.⁵⁹⁰

The Committee published its report on 7 February 2019 and made five main recommendations:⁵⁹¹

1. The decision to detain should not be made by the Home Office but should be made independently.
2. Introduce a 28-day time limit to end the trauma of indefinite detention.
3. Detainees should have better and more consistent access to legal aid to challenge their detention.
4. More needs to be done to identify vulnerable individuals and treat them appropriately.
5. The Home Office should improve the oversight and assurance mechanism in the immigration detention estate to ensure that any ill-treatment or abuse is found out immediately and action is taken. Concerns over the distressing effect of indeterminate detention.

The government responded in July 2019.⁵⁹² The response highlighted progress in the areas of transparency of data, vulnerable people in detention and the introduction of a two-month auto referral for bail in February 2019. In 2021 the All Party Parliamentary Group on Detention published a report into 'quasi detention which included those held in an Immigration Removal Centre as well as the former military barracks.'⁵⁹³

In September 2016, Detention Action published a report on community-based alternatives to detention, exploring their potential use in the immigration control context and calling for their further development.⁵⁹⁴ The Detention Forum has produced a guide to alternatives to detention.⁵⁹⁵

In response to the second report by Stephen Shaw, former Prisons and Probation Ombudsman, on the detention of vulnerable people,⁵⁹⁶ the government announced that some specific projects (alternatives)

⁵⁸⁸ Home Office, *Immigration bail*, November 2023, available at: <https://bit.ly/2xxta19>.

⁵⁸⁹ Minister of State for Immigration, 'Use of immigration detention: The Government's strategic approach', 3 December 2018, available at: <https://bit.ly/2DdzNc0>.

⁵⁹⁰ Joint Committee on Human Rights, Oral evidence session, HC 1484, 5 December 2018, available at: <https://bit.ly/2TjsfON>.

⁵⁹¹ Joint Committee on Human Rights, *Immigration Detention Inquiry*, 7 February 2019, available at: <https://bit.ly/2HVfZyF>.

⁵⁹² *Letter from the Minister of state for Immigration to the chair of the Joint Committee on Human Rights*, 23 July 2019, available at: <https://bit.ly/2O7PA1a>.

⁵⁹³ APPG, *Report of the Inquiry into Quasi-Detention*, December 2021, available at: <https://bit.ly/33E4F5E>.

⁵⁹⁴ Detention Action, *Without detention: Opportunities for alternatives*, September 2016, available at: <https://bit.ly/48rmVdK>.

⁵⁹⁵ Detention Forum, *Alternatives to detention: Frequently asked questions*, July 2018, available at <https://bit.ly/2pDYpmF>.

⁵⁹⁶ Stephen Shaw, *Welfare in detention of vulnerable people review: progress report*, July 2018, available at: <https://bit.ly/2JQVvmb>.

would be developed in partnership with the voluntary sector.⁵⁹⁷ Details of the first of these was announced in December 2018.⁵⁹⁸ UNHCR is evaluating the pilots⁵⁹⁹ and published the first one in January 2022, looking at a project to avoid detaining women.⁶⁰⁰ The second and final report was published in 2023 and of the 84 people who participated, six were granted leave to remain and 52 others were advised that they may have grounds to stay in the UK. These are not necessarily asylum cases. One of the main issues highlighted in the report was the inaccessibility of legal aid and the problems this caused people in accessing rights they may be entitled to.⁶⁰¹

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
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 - ❖ If frequently or rarely, are they only detained in border/transit zones? Yes No
2. Are asylum seeking children in families detained in practice?

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
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Domestic policy is that vulnerable people are unsuitable for detention, and that they should only be detained exceptionally, or when their care can be satisfactorily managed. The relevant guidance is the ‘Adults at Risk in immigration detention’ and it permits the detention of vulnerable people in certain circumstances as identification as an adult at risk does not automatically result in release. A person will be considered an adult at risk if they say or if medical or other evidence is provided that they are suffering from a health condition or have experienced trauma (such as torture) that would mean they are particularly vulnerable to harm in detention. Alternatively, observations from members of staff that lead to a belief that the person is at risk could also lead to them being classed as an adult at risk under the policy.⁶⁰²

Rule 35 of the Detention Centre Rules provides that where there is evidence that a detainee has been tortured, or for any other reason their health would be injuriously affected by detention, a report should be made to the caseworker for release to be considered. Rule 35 guidance was updated in 2019.⁶⁰³

Following a review of the treatment of vulnerable people in detention (“the Shaw Review”) in January 2016,⁶⁰⁴ NGOs expected that guidance would follow the main message of the report – that fewer people should be detained and that better systems need to be designed to reduce the number of vulnerable people detained. However, the Adults at Risk policy guidance issued in response the report, which also fulfilled the requirements of section 59 of the Immigration Act 2016, makes it more difficult to secure release based for example on their experiences of torture or of their deteriorating mental health, as the

⁵⁹⁷ Home Office, ‘Home Secretary statement on immigration detention and Shaw report’, 24 July 2018, available at: <https://bit.ly/2uVZdGQ>.

⁵⁹⁸ Home Office, ‘New pilot schemes to support migrants at risk of detention’, 3 December 2018, available at: <https://bit.ly/2QQEj3X>.

⁵⁹⁹ UNHCR, *Terms of reference: Evaluation of UK Home Office Alternatives to Detention Community Engagement Pilot Series*, October 2019, available at: <https://bit.ly/36Dtvhp>.

⁶⁰⁰ UNHCR, *Evaluation of ‘Action Access’; an alternatives to detention pilot*, 2022, available at: <https://bit.ly/3BEmfDb>.

⁶⁰¹ UNHCR, *Evaluation of the Refugee and Migrant Advice Service’s Alternative to detention pilot*, 2023, available at: <https://bit.ly/49KNkEp>.

⁶⁰² Home Office, *Adults at risk in immigration detention*, 16 March 2022, available at: <https://bit.ly/3OPJrGn> and Home Office, *Offender management: caseworker guidance*, 18 March 2024, available at: <https://bit.ly/4bOhBE5>.

⁶⁰³ Home Office, Detention services order 09/2016 Detention centre rule 35 and Short term Holding Facility rule 32, March 2019, available at: <https://bit.ly/2RLvoDw>.

⁶⁰⁴ Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons*, Cm 9186, January 2016, available at: <http://bit.ly/2kqYkln>.

policy expects a heavy evidential burden to be met.⁶⁰⁵ As a result, vulnerable people continue to be unlawfully detained.⁶⁰⁶

The definition in the Adults at Risk policy was more limited than that provided in the UN Convention against Torture (UNCAT). In a case brought by Medical Justice the definition in this new policy was challenged; the case was heard in March 2017 and judgment delivered in October 2017.⁶⁰⁷ At an early stage of the case the Home Office was ordered to revert to the more generous UNCAT definition, which as the case was successful, remains the policy.

Stephen Shaw, former Prisons and Probation Ombudsman, was asked to review the extent to which his recommendations have been met; this review began in autumn 2017 and was published in July 2018,⁶⁰⁸ alongside a response from the Home Secretary.⁶⁰⁹ The government has since then increased its use of detention, including of vulnerable people as a new policy on detaining victims of trafficking was published in November 2021.⁶¹⁰ Oversight of the Adults at Risk Policy forms part of the work of the Independent Chief Inspector of Borders and Immigration.⁶¹¹ The ICIBI's second report into Adults at Risk⁶¹² concluded that the policy and practice improvements were moving at 'an unacceptably slow pace' even taking into account the difficulties posed by the Covid-19 pandemic. As with other ICIBI reports, the government response is published simultaneously⁶¹³ and only accepted the recommendations in part, including not wholly accepting that previous recommendations be implemented. The ICIBI's third annual inspection found that the Rule 35 report process, which is supposed to identify people who will be harmed by detention, was not working as it should, and that there were delays as well as unfounded suspicions of abuse of the system by detention centre staff.⁶¹⁴

3.1. Detention of women

Pregnant women may only be detained where (a) they will shortly be removed from the UK; and (b) there are exceptional circumstances justifying detention.⁶¹⁵

During the passage of the Immigration Act 2016, the government announced a time limit for the detention of pregnant women.⁶¹⁶ This was in response to amendments proposed to the Bill by various parliamentarians calling for a complete prohibition, a recommendation that had been made in the "Shaw

⁶⁰⁵ Medical Justice, *Putting Adults at Risk*, 2018, available at: <https://bit.ly/4bKzrlh>.

⁶⁰⁶ See e.g. Duncan Lewis, 'Home Office Admits Unlawfully Detaining Person with Severe Mental Illness After Legal Claim', 6 February 2024, available at: <https://tinyurl.com/3czh9e9a>.

⁶⁰⁷ Medical Justice and Others v Secretary of State for the Home Department Equality and Human Rights Commission (Intervener) [2017] EWHC 2461 (Admin), available at: <https://bit.ly/3uPGs9W>.

⁶⁰⁸ Stephen Shaw, *Welfare in detention of vulnerable people review: progress report*, July 2018, available at: <https://bit.ly/2JQVvmb>.

⁶⁰⁹ Home Office, 'Home Secretary statement on immigration detention and Shaw report', 24 July 2018, available at: <https://bit.ly/2uVZdGQ>.

⁶¹⁰ Home Office, *Offender management: caseworker guidance*, 18 March 2024, available at: <https://bit.ly/4bOhBE5>.

⁶¹¹ Independent Chief Inspector of Borders and Immigration, *Call for evidence: 'Adults at Risk' in immigration detention*, 25 January 2019, available at: <https://bit.ly/2ETM5XY>.

⁶¹² ICIBI, *Second annual report into Adults at Risk in Immigration Detention*, 21 October 2021, available at: <https://bit.ly/33Viz30>.

⁶¹³ Government response to the second ICIBI report on Adults at Risk in Immigration detention <https://bit.ly/3SRNLWE>.

⁶¹⁴ ICIBI, *Third annual inspection of Adults at Risk Immigration Detention June to September 2022*, 12 January 2023, available at: <https://bit.ly/3UP6ZPg>.

⁶¹⁵ Section 60 Immigration Act 2016.

⁶¹⁶ Government, 'New time limit planned for pregnant women in detention', 18 April 2016, available at: <http://bit.ly/2lcjhBE>.

review”, published in January 2016. The Home Office published specific guidance concerning the detention of pregnant women in November 2016.⁶¹⁷

Although there were no official reports of the numbers of pregnant women detained the practice continues, as described in a media article.⁶¹⁸ The only immigration removal centre exclusively for women was Derwentside immigration removal centre which opened in December 2021, and in November 2023 the government announced that in 2024 it would be repurposed and become an all-male facility.⁶¹⁹ Yarl’s Wood immigration removal centre was previously for women only but was converted to mixed sex in January 2021, holding mainly male detainees. A 2022 inspection found it “not safe enough”.⁶²⁰

3.2. Detention of children

Where a person is treated after screening as under 18 they are not detained. The published policy of the Home Office is that children may be detained for short periods pending removal if other steps in the family removal procedure do not result in their leaving the UK,⁶²¹ and this is the purpose of the family ‘Pre Departure Accommodation’, which has been located at Tinsley House Removal Centre since May 2017. 31 children entered detention in 2022.

It is not known how many age disputed children are detained, the guidance states that the threshold for anyone claiming to a child is high and that caution must be exercised against detention.⁶²²

3.3. Detention of seriously ill persons

The High Court has found a number of breaches of Article 3 ECHR in relation to the detention of severely mentally ill people and such detention has also repeatedly been found unlawful under domestic law and in the Court of Appeal.⁶²³ Torture survivors continue to be detained even after Rule 35⁶²⁴ reports (see section on [Special Procedural Guarantees](#)).⁶²⁵ Members of Parliament who conducted an inquiry into immigration detention found that people suffering from mental health conditions were detained for prolonged periods and that it was not possible to treat mental health conditions in IRC. They recommended that at the very least the policy around mental health should be changed to that which was in place before August 2010, which stated that individuals with a mental health condition should only be detained under exceptional circumstances.⁶²⁶ There have been numerous reports on the damage caused

⁶¹⁷ Home Office, *Detention Services Order – Pregnant women in detention*, 1 November 2016, available at: <https://bit.ly/3OT0QOg>.

⁶¹⁸ The Guardian, ‘Unlawfully detained woman who miscarried receives £50k payout’, 19 August 2019, available at: <https://bit.ly/31N8dx3>.

⁶¹⁹ Home Office, ‘Promotional material: Derwentside immigration removal centre: factsheet’, 15 January 2024, available at: <https://bit.ly/3uKhitq>.

⁶²⁰ HMIP, ‘Yarl’s Wood – worrying decline in safety for detainees held in prison-like conditions’, 3 October 2023, available at: <https://bit.ly/3SPTh5>.

⁶²¹ Home Office, *Family Returns Process operational Guidance*, available at: November 2023, <https://bit.ly/3uPGA9q>.

⁶²² Home Office, *Assessing age for asylum applicants: caseworker guidance*, 31 March 2023, available at: <https://bit.ly/48q3iTy>.

⁶²³ For example, High Court, *R (on the application of Lamari) v Secretary of State for the Home Department* [2012] EWHC 1630, available at: <https://bit.ly/3SHqLti>, and Court of Appeal, *R (on the application of Das) v Secretary of State for the Home Department* [2014] EWCA Civ 45, available at: <https://bit.ly/48nBuPr>, High Court, *R (on the application of MD) v Secretary of State for the Home Department* [2014] EWHC 2249 (Admin), available at: <https://bit.ly/49pJ5OP>.

⁶²⁴ Rule 35 Detention Centre Rules, available at: <https://bit.ly/3T5VMbQ>.

⁶²⁵ ICIBI, *Third annual inspection of Adults at Risk Immigration Detention June to September 2022*, 12 January 2023, available at: <https://bit.ly/3UP6ZPg>.

⁶²⁶ APPG on Refugees & APPG on Migration, *The Report of the Inquiry into the Use of Immigration Detention in the United Kingdom*, 2015, available at: <http://bit.ly/1GLjtbG>.

to detainees' mental health, including suicidal ideation, self-harm, depression and post-traumatic stress disorders.⁶²⁷

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	
❖ Pregnant women and children	72 hours, or 7 days
❖ Other groups	None
2. In practice, how long in average are asylum seekers detained?	Not available

The Home Office is responsible for ordering detention of asylum seekers. There is no maximum period set in law, with the exception of detention of pregnant women and children which cannot exceed 72 hours, or 7 days with Ministerial approval.

While data on length of immigration detention is now available for the last six years, the figures do not distinguish between asylum seekers and other immigration detainees. Periods of immigration detention including asylum seekers and other foreign nationals vary enormously from a few days to several years. During 2023, 15,354 left immigration detention.⁶²⁸ Of these:

Duration of stay in detention 2018 - 2022						
	2018	2019	2020	2021	2022	2023
Less than 29 days	17,655	18,076	11,968	21,074	14,150	9,346
From 29 days to 2 months	3,489	3,622	1,770	1,428	2,862	3,007
From 2 to 4 months	2,401	1,869	1,023	1,061	1,610	1,910
From 4 months to 12 months	1,752	849	641	710	735	942
From 1 to 2 years	188	122	100	79	72	110
At least 2 years	14	6	8	10	18	39

Source: Home Office, *Immigration Statistics, Detention*.

The longest periods of detention are usually of people awaiting deportation after having served a criminal sentence.

⁶²⁷ Helen Bamber Foundation, *The impact of immigration detention on mental health*, September 2022, available at: <https://bit.ly/3T8v3LK>.

⁶²⁸ Home Office, *Immigration system statistics data tables, Immigration detention detailed datasets, year ending December 2023*, table Det_03, available at: <https://tinyurl.com/bdhnwfk>.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? Yes No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?⁶²⁹ Yes No

1.1. Immigration Removal Centres (IRC)

There were 7 Immigration Removal Centres (IRC) during 2022 where immigration detention was implemented:⁶³⁰

Immigration Removal Centres					
IRC	Population detained	Capacity	Occupancy end 2021	Occupancy end 2022	Occupancy end 2023
Brook House	Men	450 ⁶³¹	146	161	314
Colnbrook	Men; women (limit 18)	330 ⁶³²	129	185	256
Derwentside	Women	84 ⁶³³	9	29	40
Dungavel House	Men; women	125 ⁶³⁴	13	38	87
Harmondsworth	Men	635	193	72	507
Tinsley House	Men; families	162	0	39	107
Yarl's Wood	Men; women	410 ⁶³⁵	16	235	351
Total		2,196	506	759	1,662

Source: Home Office

1.2. Short-Term Holding Facilities (STHF)

There are currently 4 residential Short-Term Holding Facilities (STHF), which can hold detainees for up to seven days, in addition to a small facility in Yarl's Wood, where some people are detained for screening. Many airports or reporting centres have short-term holding facilities where people are held under detention powers for up to 24 hours. An inspection of the facilities receiving those arriving at the port of Dover, drew attention to the poor conditions in which new arrivals were held.⁶³⁶

⁶²⁹ If a person claims asylum from prison, they will be kept there.

⁶³⁰ Home Office, *Immigration system statistics data tables, Immigration detention detailed datasets, year ending December 2023*, table Det_02, available at: <https://tinyurl.com/bdhnwfkkr>.

⁶³¹ HMIP, *Report on an unannounced inspection of Brook House Immigration Removal Centre*, September 2022, available at: <https://bit.ly/3WG706Z>.

⁶³² HMIP, *Report on an unannounced inspection of Colnbrook Immigration Removal Centre*, June 2022, available at: <https://bit.ly/3MDxod9>.

⁶³³ HMIP, *Report on an unannounced inspection of Derwentside Immigration Removal Centre*, December 2022, available at: <https://bit.ly/3N1leew>.

⁶³⁴ HMIP, *Report on an unannounced inspection of Dungavel Immigration Removal Centre*, November 2021, available at: <https://bit.ly/42cPXL1>.

⁶³⁵ Independent Monitoring Board, *Annual Report*, June 2022, available at: <https://bit.ly/3OSygni>.

⁶³⁶ HMIP, *Report on an unannounced inspection of Tug Haven, Kent Intake Unit and Frontier House*, October 2021, available at: <https://bit.ly/340UQPpa>.

Short-Term Holding Facilities						
STHF	Capacity	Occupancy end 2019	Occupancy end 2020	Occupancy end 2021	Occupancy end 2022	Occupancy end 2023
Colnbrook	8	6	6	2	3	0
Larne House	19	5	0	0	0	1
Manchester	32	13	0	6		4
Swinderby	39	-	-	-	3	9
Total	59	24	6	8	6	14

Source: Home Office, *Immigration system statistics data tables, Immigration detention detailed datasets, year ending December 2023*, table Det_02, available at: <https://tinyurl.com/bdhnwfrk>.

Manston short term holding facility was opened in early 2022 and concerns were raised about overcrowded accommodation, inadequate sanitation, spread of infectious diseases, inadequate access to healthcare and safeguarding failures, as a result of which there has been litigation seeking a public inquiry into the use of the site.⁶³⁷ The Council of Europe⁶³⁸ and the Independent Monitoring Board raised similar concerns.⁶³⁹ In November 2022 a man died from suspected diphtheria.⁶⁴⁰ Following an inspection from January to February 2023, the Independent Chief Inspector of Borders and Immigration found that conditions had improved but concerns remained about the site's ability to handle large numbers of arrivals.⁶⁴¹ He also reported that the capacity had been increased from 1,600 to 3,200 as at October 2022.

In 2023 the Manston processing centre was designated as new type of short term holding facility with more restrictive provisions than the other STHFs in areas including visitors, access to the internet and correspondence. It also provided for people to be held there for four days, which can be extended.⁶⁴² Concerns were raised by the House of Lords' Secondary Legislation Scrutiny Committee⁶⁴³ but the changes were passed without amendment.⁶⁴⁴

1.3. Prisons

During 2023, 3,449 individuals were detained under Immigration Act powers in prisons in **England** and **Wales**.⁶⁴⁵ At the end of 2023 there were 106 people detained in prisons on this basis.⁶⁴⁶ It is not recorded whether any and if so how many of these people had at any point claimed asylum. People who have unsuccessfully claimed asylum are normally detained in immigration removal centres (IRC) in preparation for removal together with other third-country nationals who are there for immigration reasons. They are

⁶³⁷ Wilsons LLP, 'High Court grants permission in Manston Article 3 inquiry judicial review', December 2023, available at: <https://tinyurl.com/bdzcnhd>.

⁶³⁸ Council of Europe, 'Council of Europe anti-torture Committee (CPT) published report on its 2022 ad hoc visit to the United Kingdom', 29 June 2023, available at: <https://tinyurl.com/ykv9wt45>.

⁶³⁹ Kent Coast Short Term Holding Facilities (STHF) 2022 annual report published, 23 October 2023, available at: <https://tinyurl.com/4b93uuv3>.

⁶⁴⁰ The Guardian, 'Manston asylum centre death may have been caused by diphtheria', 26 November 2022, available at: <https://tinyurl.com/4v64m98a>.

⁶⁴¹ Independent Chief Inspector of Borders and Immigration, 'Inspection report published: An inspection of the initial processing of migrants arriving via small boats, including at Western Jet Foil and Manston (January – February 2023)', 15 June 2023, available at: <https://tinyurl.com/2s84rrau>.

⁶⁴² The Short-term Holding Facility (Amendment) Rules 2022, available at: <https://bit.ly/3l83dcr>.

⁶⁴³ Secondary Legislation Scrutiny Committee, *Twenty Fifth Report*, 19 January 2023, available at: <https://bit.ly/3SOfmZ0>.

⁶⁴⁴ Hansard House of Lords, 'Short-term Holding Facility (Amendment) Rules 2022 Volume 829', 18 April 2023, available at: <https://bit.ly/4bOpTvN>.

⁶⁴⁵ Home Office, *Immigration system statistics data tables, Immigration detention detailed datasets, year ending December 2023*, table Det_01, available at: <https://tinyurl.com/bdhnwfrk>.

⁶⁴⁶ Home Office, *Immigration system statistics data tables, Immigration detention detailed datasets, year ending December 2023*, table Det_02, available at: <https://tinyurl.com/bdhnwfrk>.

not detained in prisons purely in order to process an asylum claim or to remove them after they have been refused asylum.

If someone who is serving a prison sentence claims asylum, including if they do so in response to a decision to deport them, they may continue to be detained in prison while their asylum claim is processed. There is no data presently available on the extent of this. The practice of holding immigration detainees in prison is problematic, as detainees in prison experience much greater barriers to accessing legal advice and basic information about their rights, particularly in isolated local prisons. There is no regular advice surgery as there is in the IRC, and detention of a person held under immigration powers in a prison is not governed by the Detention Centre Rules and Orders. This means that the detainee may have legal advice on their asylum claim if they can contact an adviser outside the prison, and if necessary obtain legal aid to fund the advice, but there is no on-site access to asylum advice.

There is an agreement between the National Offender Management Service and the Home Office for immigration detainees up to a specified limit (presently 600) to be held in the prison estate. Detention policy specifies the criteria for detaining a person in a prison for immigration reasons after they have served their criminal sentence, but the policy allows for people to be detained in prison ‘before’ consideration is given to transferring them to an IRC – thus allowing continued detention in prison without an obligation promptly to transfer to an IRC. It also expressly provides that, if prison beds available for immigration detention are not filled by those in the risk categories, those beds should be filled by immigration detainees who do not meet the criteria for detention in prison.⁶⁴⁷

A court case in 2019 established that it is not necessary for the safeguards for vulnerable immigration detainees in prisons to be equivalent to those in Immigration Removal Centres.⁶⁴⁸ This case was overturned (in respect of the safeguards) by the Court of Appeal.⁶⁴⁹

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

2.1. Overall conditions

The purpose-built IRC (**Colnbrook**, **Brook House** and the later wings at **Harmondsworth**) are built to ‘Category B’ (high security) prison designs, and are run by private security companies. While some efforts are made by contractors to distinguish regimes from those in prisons, in practice the physical environment means that most detainees experience these centres as prisons.⁶⁵⁰ The Council of Europe’s Committee for the Prevention of Torture raised concerns about the use of these prison-like facilities.⁶⁵¹ Brook House was built to the specification of a category B prison.⁶⁵² **Morton Hall** is a converted prison, albeit with lower security and was criticised for its prison-like physical environment.⁶⁵³

⁶⁴⁷ Home Office, *Enforcement Instructions and Guidance*, Chapter 55.10.1.

⁶⁴⁸ *MR (Pakistan) and Ors*, EWHC 3567 (Admin), Case No: CO/2701/2018 & CO/4233/2018, 20 December 2020, available at: <https://bit.ly/2UTJPbP>.

⁶⁴⁹ *MR (Pakistan) & Anor v Secretary of State for Justice & Orse* [2021] EWCA Civ 541 [2021] EWCA Civ 541, 14 April 2021, available at: <https://tinyurl.com/bddp8y9y>.

⁶⁵⁰ See e.g. Brook House Inquiry Report, 2023, available at: <https://tinyurl.com/yhkjcy2f>.

⁶⁵¹ Council of Europe’s Committee for the Prevention of Torture, ‘Anti-torture committee highlights immigration issues in the UK’, 8 February 2024, available at: <https://tinyurl.com/mun226cm>.

⁶⁵² HM Inspector of Prisons, *Report on an unannounced inspection of Brook House Immigration Removal Centre*, September 2019, available at: <https://bit.ly/3OSsCKS>.

⁶⁵³ HM Inspector of Prisons, *Report of an unannounced inspection of Morton Hall*, March 2020, available at: <https://bit.ly/4bP2n1W>.

Women are detained separately from men⁶⁵⁴ except where they are a family. **Tinsley House** has accommodation for one family group at a time⁶⁵⁵ and Gatwick pre departure accommodation has capacity for two families.⁶⁵⁶ Other than the family units, there are no special facilities for vulnerable people.

In theory health care provided to detainees is not limited to emergency health care; however, in practice detainees have difficulty obtaining access to care. Inspection reports frequently mention issues concerning the care of vulnerable individuals.⁶⁵⁷ A report by the British Medical Association expressed concern at how health needs were met in detention, as well as commenting that some disabilities are not identified.⁶⁵⁸

Provision of showers, laundry facilities, etc. is usually to an adequate level so that detainees have access, but standards of cleanliness and repair are variable, with some detention centres having a much better maintained environment⁶⁵⁹ and others poor. In particular some of the older prison buildings can be poorly maintained and drab.

Detainees normally wear their own clothes.

IRC have made attempts through the provision of 'cultural kitchens' where detainees can occasionally cook food of their choice, but the general provision is still considered to be poor.⁶⁶⁰

In 2017 an employee of **Brook House** IRC worked with the BBC to report undercover, resulting in a documentary broadcast in September 2017.⁶⁶¹ The company that runs the IRC suspended staff and began an internal investigation.⁶⁶² The Home Affairs Select Committee opened an Inquiry and took evidence from key individuals.⁶⁶³ On 5 November 2019 the government announced the conversion of the Prisons and Probation Ombudsman (PPO) investigation of Brook House immigration removal centre to a statutory inquiry, in accordance with the Inquiries Act 2005. This conversion was needed so that the Inquiry would have the statutory powers to compel witnesses and establish the truth of what took place at Brook House.⁶⁶⁴ The government announced this conversion following the High Court findings that the Home Secretary's investigation into immigration detention at Brook House was inadequate.⁶⁶⁵ The Inquiry published its report in September 2023.⁶⁶⁶ Key findings included 19 credible breaches of article 3 during the five month period examined, and a toxic culture. The report made 33 recommendations, including a 28 day time limit on detention, a review of the use of force, and training for staff and reviews of policies.

⁶⁵⁴ Independent Monitoring Boards, 'The re-purposing of Yarl's Wood IRC leads to a challenging year', 7 July 2023, available at: <https://bit.ly/3OSsl5c>.

⁶⁵⁵ Independent Monitoring Boards, 'Tinsley House IRC 2020 annual report', 26 March 2021, available at: <https://bit.ly/3l8MYeX>.

⁶⁵⁶ Home Office, *Gatwick pre-departure accommodation information*, 26 June 2017, available at: <https://bit.ly/3T7MFYh>.

⁶⁵⁷ HM Inspector of Prisons, *Report on an unaccounted Inspection of Colnbrook Immigration Removal Centre*, 2019, available at: <https://bit.ly/3b0bi19>.

⁶⁵⁸ British Medical Association, *Locked up, locked out*, 2017, available at: <https://bit.ly/42MEUu1>.

⁶⁵⁹ Report on an unannounced inspection of Derwentside Immigration Removal Centre by HM Chief Inspector of Prisons, December 2022, available at: <https://bit.ly/3URfkSG>.

⁶⁶⁰ See e.g. HM Inspector of Prisons, *Report on the unannounced inspection of Yarl's Wood*, October 2023, available at: <https://bit.ly/3OU6n78>.

⁶⁶¹ BBC, 'What I saw when I went undercover', available at: <http://bbc.in/2wyzHsj>.

⁶⁶² The Guardian, 'G4S staff suspended from Brook House immigration centre over abuse claims', 1 September 2017, available at: <http://bit.ly/2n4x4sV>.

⁶⁶³ House of Commons, *Brook House Immigration Removal Centre inquiry*, available at: <http://bit.ly/2n4ifGO>.

⁶⁶⁴ Written statement Home Secretary to Parliament, 5th November 2019, available at: <https://bit.ly/3aY6zg7>.

⁶⁶⁵ EDAL, 'The United Kingdom: High Court finds Home Secretary's investigation into immigration detention inadequate', 14 June 2019, available at: <https://bit.ly/2OTYiR5>.

⁶⁶⁶ The Brook House Inquiry Report, 19 September 2023, available at: <https://bit.ly/3OQ48lq>.

In response, the government declined to implement a time limit on detention but said that it was carrying out reviews of policies.⁶⁶⁷

An inspection of Scotland's only IRC, **Dungavel**, was one of the more positive of recent inspections although the deteriorating physical environment was noted and concerns expressed about the decision to hold some men with a history of violence against women in a mixed sex centre.⁶⁶⁸

An inspection of the short-term holding facilities with residential capacity was more positive than is often the case, in relation to the facilities and the care shown to detainees.⁶⁶⁹

Given the prevalence of Covid-19 cases in detention and the lack of opportunity for the Home Office to remove people from the UK there were calls throughout 2020 to release everyone from immigration detention.⁶⁷⁰ Whilst this call was not heeded, the use of detention fell during 2020. However, this began to change in 2022, and an inspection of Brook House IRC found that the increased numbers were hindering any efforts to improve the experience for detainees.⁶⁷¹

2.2. Activities

The rules require that each detainee should have the opportunity of at least one hour in the open air every day. This can be withdrawn in exceptional circumstances for safety or security.⁶⁷² Most IRCs have a gym or fitness suite and outdoor exercise space. Access is variable, ranging from being generally accessible during daylight hours to restricted access.

Detainees have access to the detention centre library and to the internet. Facilities normally include a fax machine. New guidance was issued by the Home Office in 2016, aiming to make the access in detention centres more consistent and ensure that sites were not inappropriately blocked, although it does not apply to those held in prisons. This guidance was updated in 2019.⁶⁷³

2.3. Health care and special needs in detention

The Detention Centres Rules provide that there must be a medical team in each detention centre, and that each detainee must be medically examined within 24 hours of arrival.⁶⁷⁴ The only provision in the rules as to what access to the medical team a detainee can expect or request is that where a detainee asks a detention centre officer for medical attention, the officer must record the request and pass it to the medical team, and the medical practitioner must pay special attention to any detainee whose mental condition appears to require it.⁶⁷⁵ The charity Medical Justice has documented the denial of crucial medical care for those with HIV⁶⁷⁶ as well as more generally.⁶⁷⁷ A more recent legal challenge held that

⁶⁶⁷ Home Office and Immigration Enforcement, *Government response to the Brook House Inquiry report*, 19 March 2024, available at: <https://tinyurl.com/3c7fxz99>.

⁶⁶⁸ HMIP, *Report on an unannounced inspection of Dungavel Immigration Removal Centre*, November 2021, available at: <https://bit.ly/42cPXL1>.

⁶⁶⁹ HMIP inspection of STHF at Larnie House, Manchester airport and Yarl's Wood, <https://bit.ly/3rGst0u>.

⁶⁷⁰ See joint letter "Coronavirus: call to release all people from immigration detention", March 2020, available at: <https://bit.ly/3s4Pqte>.

⁶⁷¹ HMIP, *Report on an unannounced inspection of Brook House Immigration Removal Centre*, September 2022, available at: <https://bit.ly/3WG706Z>.

⁶⁷² The Detention Centre Rules 2001 SI No. 238, Rule 18, available at: <https://bit.ly/3T7YWF9>.

⁶⁷³ Home Office, *Detention Services Order January 2020*, available at: <https://bit.ly/2UbjB42>.

⁶⁷⁴ The Detention Centre Rules 2001 SI No. 238, available at: <http://bit.ly/1iFchXN>.

⁶⁷⁵ The Detention Centre Rules 2001 SI No. 238, Rules 33 and 35, available at: <https://bit.ly/3T6BCP6>.

⁶⁷⁶ Medical Justice, *Detained and Denied: the clinical care of detainees living with HIV/AIDS*, 2011, available at: <https://bit.ly/3wjBmTN>.

⁶⁷⁷ Medical Justice, 'Inadequate healthcare in detention', accessed 24 March 2024, available at: <https://bit.ly/49qE1tu>.

the Home Office was in breach of its legal duty towards detainees with HIV.⁶⁷⁸ In 2017 the British Medical Association published a report raising several concerns, including how doctors deal with the conflict of interest inherent in providing healthcare to people who are detained and made a number of recommendations.⁶⁷⁹ The guidance on 'Rule 35' reports was revised in 2019 although an ICIBI inspection published in 2023 found that the Rule 35 process was not meeting its aim and that safeguards were not working consistently or effectively.⁶⁸⁰

Whilst guidance has been produced for those needing to be taken to hospital from detention,⁶⁸¹ anecdotal reports of last-minute cancellations are common.⁶⁸² The follow up Shaw review, published in July 2018,⁶⁸³ includes a detailed analysis of healthcare provision and contains concerns as well as remarking on improvements. The report includes a description of healthcare in each centre and comments on the physical environment as well as discussing issues with staff, detainees and NGOs. Some improvement from the previous report was identified but concerns remain that healthcare in detention does not match the standards expected in the community.

Health care in **England** has been transferred to the National Health Service (NHS) commissioning provisions.⁶⁸⁴ This was a change which had been argued for by medical professionals, Parliamentarians and others.⁶⁸⁵ The Home Office does not collect data on the numbers of people with mental illness in immigration detention. NGOs regularly request the numbers of incidents of self-harm in immigration detention which required medical treatment. A Freedom of Information request showed that between January 2018 and September 2023 there were 1,743 self-harm and suicide attempts that were so serious that medical treatment was required. This was across four of the IRCs, Brook House and Tinsley House, Heathrow, and Yarl's Wood.⁶⁸⁶

Detention centres have a local group of approved visitors, who provide an external point of reference for detainees and the centre. Visitors increasingly report that detainees are experiencing high levels of anxiety and distress, are self-harming, have symptoms of depression or post-traumatic stress disorder (PTSD), or are suffering from severe and enduring mental illness.⁶⁸⁷

⁶⁷⁸ High Court, *CSM v Secretary of State for the Home Department* [2021] EWHC 2175 (Admin), available at: <https://tinyurl.com/3bhw57dn>.

⁶⁷⁹ British Medical Association, *Locked up, locked out*, 2017, available at: <https://bit.ly/4bYKjCy>.

⁶⁸⁰ ICIBI, Third annual inspection of Adults at Risk in Immigration Detention June to September 2022, January 2023, available at: <https://bit.ly/3UP6ZPg>.

⁶⁸¹ Detention Services Order – Medical Appointments outside of the detention estate, available at: <http://bit.ly/2DFbTYa>.

⁶⁸² E.g. Medical Justice, available at: <https://bit.ly/49qE1tu>.

⁶⁸³ Stephen Shaw, *Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons*, July 2018, available at: <https://bit.ly/2LIDG18>.

⁶⁸⁴ National partnership agreement for immigration removal centre (IRC) healthcare in England 2022-2025, available at: <https://bit.ly/4bR1INt>.

⁶⁸⁵ The Detention Forum, 'The national shame that is healthcare in UK immigration detention', 13 October 2014, available at: <https://bit.ly/42SoFfa>.

⁶⁸⁶ The Guardian, *Self-harm incident nearly every day in UK immigration detention, data shows*, 27 November 2023, available at: <https://bit.ly/3IaWmin>.

⁶⁸⁷ Ali McGinley and Adeline Trude, *Positive duty of care? The mental health crisis in immigration detention*, AVID and BID, 2012, available at: <https://bit.ly/3SO4DOa> and <https://bit.ly/3lbtfeY>.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to
- | | | | |
|-------------------|------------------------------|---|-----------------------------|
| ❖ Lawyers: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |

Detainees may have visits during visiting hours and there are no limits on the frequency of visits.⁶⁸⁸ As long as visitors provide the requested forms of identification there is no obstacle to their visiting.⁶⁸⁹ Individual visitors may be prohibited for reasons of security but this cannot be applied to a legal adviser.⁶⁹⁰ Media and politicians have no special access but may be treated like other visitors. Detainees are issued with a mobile phone that is not capable of taking photographs.⁶⁹¹ Although the signal may be poor in parts of some IRCs⁶⁹², it is usually possible for detainees to communicate with people outside.

There are NGOs who provide support to detainees. Each IRC has a visitors' group, which is an organisation of volunteer visitors (AVID) who provide support, practical help and friendship to detainees. Some visitors' groups such as Detention Action engage in policy and advocacy work and research. Bail for Immigration Detainees (BID) provides advice and information for detainees generally including self-help packs to make bail applications. The charity Medical Justice works for good medical care for immigration detainees and to obtain evidence of torture and the release of those who are ill. UNHCR does not have capacity to represent people in detention; in practice detainees rarely seek help from UNHCR.

BID has carried out surveys twice a year since 2010 and found that, in relation to immigration detainees held in IRC, usually between 43% and 69% of detainees had legal representatives. The latest figure, published following its survey in 2023,⁶⁹³ was 55%. Of those, 73% had a legal aid lawyer. The same charity published research in 2023 into the lack of legal advice to immigration detainees in prison and found that 75% of respondents did not have a lawyer.⁶⁹⁴

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? Yes No
2. If yes, at what interval is the detention order reviewed? 4 months

Detainees have a right to be informed of the reason for their detention. This is generally done by ticking a box on a standard list of reasons, and sometimes is inaccurate or omitted. The reasons for detention should be subject to regular monthly reviews by detention officers, and a breach of this requirement can

⁶⁸⁸ UK government, 'Find an immigration removal centre', accessed 24 March 2024, available at: <https://bit.ly/3OPK7LV>.

⁶⁸⁹ Government information on IRCs and information for visitors, available at: <http://bit.ly/2DA3s0W>.

⁶⁹⁰ Detention Centre Rule 37, available at: <https://bit.ly/3uALZRV>.

⁶⁹¹ Home Office, *Detention services order 05/2018 Mobile phones and cameras in immigration removal centres*, 17 December 2018, available at: <https://bit.ly/3SR0mHS>.

⁶⁹² Detention Action, 'PRESS RELEASE: Home Office Admits Mobile Phone Outage Affected Hundreds In Immigration Detention, Including Those Facing Jamaica Removal Flight', 7 February 2020, available at: <https://bit.ly/3SSR1ku>.

⁶⁹³ BID, *Legal Advice Survey*, available at: <https://bit.ly/3Ta6QVF>.

⁶⁹⁴ BID, *Legal Advice Survey*, available at: <https://bit.ly/3Ta6QVF>.

make the detention unlawful if the effect is that the continued legality of the detention has not been effectively considered.⁶⁹⁵

Applications to be released on bail

Bail applications can be made to the Chief Immigration Officer (CIO),⁶⁹⁶ who is part of the Home Office or to the FTT (IAC). Since the decision to detain was made by the Home Office, it is not common for bail to be granted by the CIO. A detainee can apply for bail at any time directly to the Home Office, and directly to the First-tier Tribunal only if they have been in the UK for more than 8 days.

A Tribunal is prevented from granting bail if removal directions are in force for a date less than 14 days from the application, unless the Secretary of State consents to bail. The Immigration Act 2014 also prohibits the Tribunal from granting bail at a hearing within 28 days of a previous refusal of bail unless there is a proven change of circumstances.⁶⁹⁷

A bail application to the Tribunal involves a hearing before an immigration judge. The Home Office is required to provide a summary before the hearing of the reasons for opposing bail. Studies of bail hearings show that in practice the summary may occasionally be late, or non-existent, but the most persistent problem is reliance on standard reasons without evidence that they apply to the particular applicant.⁶⁹⁸ First-Tier Tribunal judges hearing bail applications do not have the jurisdiction to consider the lawfulness of detention (see below), and there is no full reasoned decision given by the judge.

Bail hearing centres may be far removed from the detention centre, and the use of video conference systems has become routine. While this avoids long journeys for the detainee, the lack of personal contact with the judge, and problems in quality of sound and visual transmission are also experienced as obstacles to an effective hearing. Detainees in prisons may have video links cut off before the end of the bail hearing if it continues over 60 minutes. Technical problems may compound the difficulty of speaking through an interpreter.⁶⁹⁹ Research shows different outcomes for video hearings as opposed to in person hearings, with 50% refused remotely compared with 22% in person.⁷⁰⁰

Bail hearings are timetabled so that several can be heard in one day, and this creates pressure on the proceedings.

Friends or family can stand as sureties for the applicant, which means that they undertake to ensure that the person reports again when they are required to, and they forfeit a sum of money if this does not happen. Sureties are not essential, but having them makes an application more likely to succeed.⁷⁰¹ There is no concept of continuing surety, meaning sureties who wish to continue to stand are required to travel to each hearing, even if bail is refused many times, and even if bail is granted and then applied for again after a further detention without any breach of conditions by the asylum seeker. Repeat detentions can occur for asylum seekers when further submissions are refused, and they are detained with a view to removal, but without giving time for them to challenge the refusal of further submissions, or else when they are detained while further submissions are being prepared but have not yet been made. Removal cannot take place while a challenge or consideration of submissions are pending, and good legal

⁶⁹⁵ Supreme Court, *Kambadzi v Secretary of State for the Home Department* [2011] UKSC 23, available at: <https://bit.ly/3uKigpy>.

⁶⁹⁶ Application form available on the government's website at: <http://bit.ly/2n6OmpA>.

⁶⁹⁷ Schedule 10 Immigration Act 2016.

⁶⁹⁸ Practice based observation by the expert, January 2024.

⁶⁹⁹ Adeline Trude, *The Liberty Deficit*, Bail for Immigration Detainees, 2012, available at: <https://bit.ly/49mMNZF>; Bail Observation Project, Second report, 2013.

⁷⁰⁰ Jo Hynes, "Hello Dungavell!": observations on the use of video link technology in immigration bail hearings', Essex Constitutional and Administrative Justice Initiative, 6 May 2019, available at: '<https://bit.ly/3uLBJqs>.

⁷⁰¹ BID, 'How to get out of detention: The Self-help Guide for Detainees', 2018, available at: <https://bit.ly/48tnP9y>.

representation can mean that they are released while the challenge or consideration of new submissions takes place, only to be re-detained in the same circumstances if there is a further refusal.

Automatic bail referrals were introduced in 2018. Officials make referrals four months after initial detention started and every four months thereafter.

Challenging the lawfulness of the detention

The lawfulness of detention may be subject to judicial review in the High Court, with the permission of that court. The criteria for lawfulness are, as mentioned above, that it is for a statutory purpose, and for approved policy reasons, and the length of detention must not be unreasonable (see section on [Grounds for Detention](#)). The lack of a statutory limit on the length of detention has consequences for the potential for effective challenge. Case law states that the length of detention must be reasonable to achieve the purpose for which the person is detained.⁷⁰² The usual legal issue which affects the length of detention for refused asylum seekers is whether the Home Office can arrange the detainee's removal within a reasonable period. No clear and coherent case law on reasonable periods has emerged. However, the Home Office's own guidance on whether removal is 'imminent' is that 'removal could be said to be imminent where a travel document exists, removal directions are set, there are no outstanding legal barriers and removal is likely to take place in the next four weeks'.⁷⁰³ Revised guidance that was issued to Immigration Judges in March 2023 advises that it is generally accepted that detention for three months would be considered a substantial period and six months a long period.⁷⁰⁴

Challenges are also made to the lawfulness of detention in civil proceedings for unlawful imprisonment, when damages may be awarded.

The case law and the legal structure of challenge to immigration detention make no distinction between the detention of asylum seekers and the detention of other foreign nationals.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
 Yes No
2. Do asylum seekers have effective access to free legal assistance in practice?
 Yes No

Detention centres provide legal surgeries run by different legal aid providers who have exclusive contracts with the Legal Aid Agency to do immigration and asylum work in IRC. The appointment is for 30 minutes and no financial assessment of the detainee is needed for them to access this initial appointment, but if the legal representative takes their case on then a means assessment must be carried out as for all other legal aid work.⁷⁰⁵ Detainees cannot obtain legal aid to instruct a lawyer other than those with a contract for that centre. Delays in getting an appointment at a legal surgery mean that in practice they may face removal before they can obtain an appointment, although some centres operate a priority system for people who have removal directions. It is not unusual for it to take weeks to get an appointment.⁷⁰⁶ Notice of removal may be as short as 72 hours, and five days is common.

⁷⁰² High Court, *R (Hardial Singh) v Governor of Durham Prison* [1983] EWHC 1 (QB) and <https://bit.ly/3cEhuwe>.

⁷⁰³ Home Office, *Enforcement Instructions and Guidance – Chapter 55*, para 55.3.2.4.

⁷⁰⁴ Tribunals Judiciary, *Guidance on Immigration Bail for Judges of the First-Tier Tribunal*, March 2023, available at: <https://bit.ly/3wyNKiO>.

⁷⁰⁵ Legal Aid 2018 Standard Civil Contract Specification: Category Specific Rules Immigration and Asylum, paragraphs 8.157 and 8.160, available at: <https://bit.ly/4bKEUyJ>.

⁷⁰⁶ BID, *Summer Legal Advice Survey*, August 2023, available at: <https://bit.ly/48wyGQ6>.

Discussions with lawyers are held in private. Lawyers can contact their clients by mobile phone or fax, or they may also be able to speak to them on the IRC's phone, or leave a message for them. Interpreters are used where needed, usually via a telephone interpreting service.⁷⁰⁷

In 2020 it was confirmed by the court that detainees held in prisons should have the same access to legal advice as those held in IRCs.⁷⁰⁸ Provision for a half hour of free advice was put in place in November 2021⁷⁰⁹.

HMIP conducted a thematic report into the treatment and experience of immigration detainees held in prisons⁷¹⁰ finding disparities including access to legal advice, progression of the case, leading to prolonged periods of detention, and safeguarding.

E. Differential treatment of specific nationalities in detention

No differential treatment is reported.

⁷⁰⁷ Practice-based observation by the expert, January 2024.

⁷⁰⁸ High Court, *SM, R (On the Application Of) v Bail for Immigration Detainees* [2021] EWHC 418 (Admin), 25 February 2021, available at: <https://bit.ly/3rKlpig>.

⁷⁰⁹ UK government, 'Civil news: immigration and asylum advice in prisons', 1 November 2021, available at: <https://bit.ly/3woSAPU>.

⁷¹⁰ HMIP, 'The experience of immigration detainees in prisons', 13 October 2022, available at: <https://bit.ly/3ENH8O1>.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

- | | |
|--|---------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? | |
| ○ Refugee status | 5 years |
| ○ Subsidiary protection | 5 years |

Beneficiaries of refugee status and subsidiary protection (called “humanitarian protection” in the UK legal system) receive 5 years’ leave to remain. For most people, applying for settlement, also known as Indefinite Leave to Remain (ILR), after the end of the 5-year period of leave is a straightforward process.⁷¹¹ Difficulties encountered relate to the length of time it takes for the application to be processed, as all documents must be submitted to the authorities. Although legally the period of leave is extended by virtue of the new application,⁷¹² this is difficult to prove to employers and or providers of services who often want to see physical evidence of entitlement to work or rent, for example. This is becoming an increasing problem, as the government seeks to deny more services to those who cannot provide evidence of leave.⁷¹³

2. Civil registration

A child born to any person in the UK is expected to be registered in the same way as any other child and this must be done within 42 days of the child’s birth in **England, Wales** and **Northern Ireland** and within 21 days in **Scotland**.⁷¹⁴ A child born to a refugee who is settled can be registered as a British citizen. If the child is born during the five years limited leave as a refugee, they will be granted ‘leave in line’ to expire on the same date as the parent, and can be included in a subsequent application for settlement.

Beneficiaries are subject to the same rules as UK or EEA nationals if they wish to marry in a register office; notice of the intention to marry must be given at a designated register office.⁷¹⁵ This also applies to non-EEA nationals who wish to marry in a religious ceremony.

The only difficulties, if both parties are in the UK, would arise if one of the parties did not have a Biometric Residence Permit or who didn’t have documentary evidence of a previous divorce, for example.

3. Long-term residence

Indicators: Long-Term Residence

- | | |
|--|--------|
| 1. Number of indefinite leave to remain issued to beneficiaries in 2023: | 29,676 |
|--|--------|

In order to qualify for indefinite leave to remain, applicants must have held refugee or humanitarian protection leave for a continuous period of 5 years which must not have been revoked or not renewed. The Rules also enable the Home Office to delay granting settlement to those with a criminal history or where there is any evidence of extremist behaviours that run contrary to British values, either permanently

⁷¹¹ See Home Office, *Settlement for people on a protection route (refugee status / humanitarian protection)*, 6 October 2021, available at: <http://bit.ly/2kSFC3n>.

⁷¹² Section 3C Immigration Act 1971, available at: <https://bit.ly/3T5Xn1k>.

⁷¹³ RAMFEL, *The Hostile Environment remains in place: A study of how thousands of lawfully resident migrants are wrongly deprived of their rights each year*, 3 October 2022, available at: <https://bit.ly/4bQnl08>.

⁷¹⁴ Government website – applies to England, Wales and Northern Ireland, available at: <http://bit.ly/2Gcm12d>. For Scotland, available at: <http://bit.ly/2n8u3au>.

⁷¹⁵ A list of designated register offices in England and Wales is available at: <http://bit.ly/2BQUev7> and for Scotland at: <http://bit.ly/2ClgX9D>.

or for set periods of time depending on the severity of the crime or behaviour. In these cases, the application for settlement may be refused but if the applicant is still in need of international protection, additional periods of time limited leave may be granted.⁷¹⁶

The legal framework for withdrawal of indefinite leave is Section 76 of the NIAA 2002.⁷¹⁷ Indefinite leave (ILR) will be taken from a person or considered to have lapsed when that person:

- ❖ Is liable to deportation or administrative removal but cannot be deported or removed because of the UK's obligations under the Refugee Convention or the ECHR (ILR is revoked);
- ❖ Has obtained leave by deception (ILR is revoked);
- ❖ Is deported from the UK (ILR is invalidated);
- ❖ Ceases to be a refugee because of their own actions (ILR is revoked);
- ❖ Remains outside of the UK for more than two years (ILR lapses).

The guidance on revoking indefinite leave to remain was amended in 2023.⁷¹⁸

In 2023, 29,676 refugees obtained indefinite leave to remain.⁷¹⁹

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	6 years
2. Number of citizenship grants to beneficiaries in 2020:	Not available

Those with refugee status and subsidiary protection may not apply for naturalisation as a British citizen until they have been in receipt of Indefinite Leave to Remain (settlement leave) for 12 months.⁷²⁰ They are subject to the same test of 'good character' as other applicants and must pass a 'Life in the UK' test and meet the requirements for English language proficiency.⁷²¹ There is also a fee, which can be up to £1,580 (€ 1,840).⁷²²

The requirements that a person be of good character specifically refer to applicants who previously entered the UK unlawfully i.e. through evading immigration control.⁷²³ Where unlawful entry happened in the previous ten years, the application will normally be refused.⁷²⁴

Applications for naturalisation are made to the Home Office. There are no time limits for decisions to be made. The main obstacle is the fees.⁷²⁵

175,972 grants of UK citizenship were made in 2023 of which 130,430 were from non-EU nationals.

⁷¹⁶ See Home Office, *Settlement for people on a protection route (refugee status / humanitarian protection)*, 6 October 2021, available at: <http://bit.ly/2kSFC3n>, Section 7.

⁷¹⁷ Section 76, Nationality, Immigration and Asylum Act 2002, available at: <https://bit.ly/3l8NZDN>.

⁷¹⁸ Home Office, Revoking indefinite leave to remain in the UK, last updated October 2023, available at: <https://bit.ly/3lh3V5p>.

⁷¹⁹ Home Office, *Immigration system statistics data tables, Settlement detailed datasets, year ending December 2023*, table Se_D01, available at: <https://tinyurl.com/bdhnwfr>.

⁷²⁰ Schedule 1, paragraph 1(2)(c), British Nationality Act 1981, available at: <https://bit.ly/3SQSI1T>.

⁷²¹ UK government, 'Apply for citizenship if you have indefinite leave to remain or 'settled status'', accessed 24 March 2024, available at: <https://bit.ly/3uzRnol>.

⁷²² Home Office, Immigration and Nationality fees, available at: <https://bit.ly/2PS2Ub0>.

⁷²³ Home Office, Naturalisation as a British citizen: caseworker guidance, 23 August 2023, available at: <http://bit.ly/2jDXJbv>.

⁷²⁴ Home Office, Naturalisation as a British citizen: caseworker guidance, 23 August 2023, available at: <http://bit.ly/2jDXJbv>.

⁷²⁵ UK government, 'Apply for citizenship if you have indefinite leave to remain or 'settled status'', accessed 24 March 2024, available at: <https://bit.ly/3uzRnol>.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? Yes No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

The grounds of cessation for Refugee status are laid out in the Immigration Rules.⁷²⁶ These are where the Refugee Convention ceases to apply, for one of the following reasons:

- (i) they have voluntarily re-availed themselves of the protection of the country of nationality;
- (ii) having lost their nationality, they have voluntarily re-acquired it;
- (iii) they have acquired a new nationality, and enjoy the protection of the country of their new nationality;
- (iv) they have voluntarily re-established themselves in the country which they left or outside which they remained owing to a fear of persecution;
- (v) they can no longer, because the circumstances in connection with which they have been recognised as a refugee have ceased to exist, continue to refuse to avail themselves of the protection of the country of nationality; or
- (vi) being a stateless person with no nationality, they are able, because the circumstances in connection with which they have been recognised as a refugee have ceased to exist, to return to the country of former habitual residence

The grounds of cessation for Humanitarian protection are also set out in the Immigration Rules and this can be done where protection is no longer required due to a significant and non-temporary change in circumstances.⁷²⁷

The procedure is set out in Home Office guidance.⁷²⁸

The beginning of the procedure is not the same in all instances. There may be a different trigger, such as the individual travelling back to the country of origin or being convicted of a serious offence which has led to an investigation of the original grounds for asylum. In all cases the applicant sent a notice of intention to revoke refugee status by the Home Office and invited to submit their view to the caseworker in writing. Access to legal aid is available in the same way it is for initial asylum claims. UNHCR will also be consulted, usually after any submissions from the refugee have been received, and given 10 days to submit its view, which must be taken into consideration.⁷²⁹

The applicant would not usually be interviewed, unless there are specific reasons for doing so. It is possible to appeal against the decision to revoke leave if that is accompanied by a decision to remove protection status i.e. the appeal is against the refusal of protection status. Appeal rights are suspensive i.e. the refugee remains in the country whilst the appeal is heard, unless they are outside of the UK. Appeal rights and legal aid entitlement are identical to initial asylum claims.

⁷²⁶ Immigration Rules, paragraphs 339A to 339AB.

⁷²⁷ Immigration Rules, paragraph 339GA.

⁷²⁸ Home Office, *Revocation of protection status*, 28 June 2022, available at: <http://bit.ly/2kxPvi>.

⁷²⁹ Home Office, *Revocation of protection status*, 28 June 2022, available at: <http://bit.ly/2kxPvi>.

Review of status and consideration of cessation is not a routine consideration, save in criminal cases and those where the refugee has spent more than 2 years out of the UK or where there is evidence they have availed themselves of the protection of the country of asylum e.g. by obtaining a national passport.

It is not applied to specific groups as a matter of policy. In policy terms each case is dealt with on its own merit and there are no reported concerns about how it is applied, other than occasionally in individual cases.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? Yes No
2. Does the law provide for an appeal against the withdrawal decision? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

The grounds for withdrawal / revocation of international protection are set out in the Immigration Rules and include: (a) the grounds for exclusion in the Refugee Convention; (b) misrepresentation of facts to obtain refugee status; and (c) being a danger to the UK.⁷³⁰

The definition of someone being a danger to the UK includes where they are convicted of an offence where the sentence is at least twelve months, this is a change brought in by the Nationality and Borders Act 2022.⁷³¹ The same provisions are applied to those who have been granted humanitarian protection.⁷³² A case promulgated in 2021 confirmed that Humanitarian Protection (subsidiary protection) can be revoked in cases of serious criminality (correcting a First Tier Tribunal decision that a higher threshold must be reached).⁷³³

The procedure is the same as the one outlined in the section on [Cessation](#). A case in 2019 confirmed that revocation procedures could not apply to the dependants of refugees unless the dependant had been recognised in their own right.⁷³⁴

⁷³⁰ Rules 339A to 339AB Immigration Rules.

⁷³¹ Section 72 of the Nationality, Immigration and Asylum Act 2002, available at: <https://www.legislation.gov.uk/ukpga/2002/41/section/72>.

⁷³² Immigration Rules paragraph 339D to 339GD.

⁷³³ Upper Tribunal, *Kakarash (revocation of HP, respondent's policy) Iraq* [2021] UKUT 236 (IAC), available at: <https://bit.ly/3vfxEYP>.

⁷³⁴ Court of Appeal, *JS (Uganda) v Secretary of State for the Home Department* [2019] EWCA Civ 1670, available at: <https://bit.ly/2RVyFjm>.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?
 Yes No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?
 Yes No
 - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? Yes No

There is no waiting period for a beneficiary of refugee status or humanitarian protection to apply for family reunification. Nor is there a maximum time limit after which the beneficiaries are no longer entitled, as long as they do not become UK citizens. There is no charge for the application nor requirement for the sponsor to have an income to support their family members. There is no distinction between refugees and those with humanitarian protection.

Eligibility is restricted to the immediate family as it existed prior to the sponsor's flight and the only people automatically eligible to join the refugee in the UK are:

- ❖ Spouse / same sex partner; and
- ❖ Dependent children under the age of 18. Following the introduction of the definition of a 'group 2' refugee as one who is considered not to have 'come directly' to the UK, family reunion is not guaranteed even for these close family members and is subject to an examination of Article 8 rights.⁷³⁵

Refugee children are not eligible to sponsor their parents and or siblings. In 2016, a child successfully challenged the policy under Article 8 ECHR and his parent and sibling were brought to the UK to join him.⁷³⁶ Whilst the judge was critical of the policy, it has not led to a change. A number of NGOs are collaborating in campaigning for changes to the Immigration Rules on Refugee Family Reunion, including this issue.⁷³⁷ Two Private Members' Bills, introduced into Parliament ultimately did not proceed.⁷³⁸ A report published by Amnesty International UK, Refugee Council and Save the Children in 2019 summarised the criticisms made by external scrutineers and parliamentary Committees, as well as providing evidence of the impact of the current policy position.⁷³⁹ In 2023 a challenge to the refusal to allow refugee children to bring their family to the UK was rejected.⁷⁴⁰

Applications and decisions on family visa are published by the government. In 2023, 9,764 family reunion visas were issued; 4,992 of them to children.⁷⁴¹

⁷³⁵ Home Office, *Family reunion: for individuals with protection status in the UK – Version 9.0*, 12 April 2023, available at: <https://bit.ly/3EM0LGq>.

⁷³⁶ Upper Tribunal, *AT (Family Reunification: Eritrea)* [2016] UKUT 227 (IAC), 24 March 2016, available at: <http://bit.ly/2kvjm1S>.

⁷³⁷ Families Together, available at: <https://tinyurl.com/yh8m7acf>.

⁷³⁸ See previous updates to this report: AIDA, Country Report: United Kingdom, available at: <https://bit.ly/413H3QZ>.

⁷³⁹ Amnesty International, Refugee Council and Save the Children, *Without my Family; the impact of family separation on separated children in the UK*, 2019, available at: <https://bit.ly/2GFxM9m>.

⁷⁴⁰ High Court, *DM, R (On the Application Of) v Secretary of State for the Home Department* [2023] EWHC 740 (Admin), available at: <https://bit.ly/3UR5xfA>.

⁷⁴¹ Home Office, *Immigration system statistics data tables, Family reunion visa grants detailed datasets, year ending December 2023*, table Det_03, available at: <https://tinyurl.com/bdhnwfr..>

The requirements for a family reunion application are set out in the Immigration Rules.⁷⁴² In order to apply using this route, the UK based sponsor must currently have protection status and must not be a British Citizen. A valid application must be made, this is free of charge, and the overseas applicants must provide their biometric information. It may be possible to get the requirement to enrol biometrics waived in certain circumstances.⁷⁴³ The applicant must be the partner or child of the UK sponsor and they must have been part of a family unit before the sponsor left the country of origin. Children aged 18 or over will need to establish that there are exceptional circumstances in order to make a successful application. Factors that will be considered when deciding whether the circumstances are exceptional include whether the applicant is dependent on the UK sponsor, whether the applicant is leading an independent life, whether they have others to support them where they are and whether they would likely become destitute if not permitted to come to the UK.

Other family members may also be able to apply under these Immigration Rules if they can establish that a refusal would breach Article 8 ECHR. The guidance explains that in these cases the decision maker will consider whether family life exists between the applicant and UK sponsor, whether there is evidence of an unusual or exceptional level of dependency and how frequently they have contact with each other.⁷⁴⁴

There are not specific evidential requirements to establish family relationships and the guidance explicitly says that these applicants may not have documentary evidence due to fleeing conflict zones.⁷⁴⁵ The Home Office cannot insist that DNA evidence is provided in order to establish the family relationship.⁷⁴⁶

Legal aid is not automatically available, but can be applied for.⁷⁴⁷ Refusals can be appealed on human rights grounds.

The refugee family reunion process was inspected by the Independent Chief Inspector of Borders and Immigration (ICIBI) in 2016.⁷⁴⁸ The inspection was overall critical of the restrictiveness of the family reunification procedure, and noted that the possibility to examine applications outside the Immigration Rules in 'exceptional circumstances' or where 'compassionate factors' arise is very rarely applied. This was witnessed in none of the 181 applications inspected at the visa sections of the Home Office in Jordan, Türkiye and South Africa.⁷⁴⁹

A re-inspection of the handling of Refugee Family Reunion applications in Amman in 2018 concluded that not all of the previous recommendations had been resolved.⁷⁵⁰ Following this report, the decision making on refugee family reunion applications was largely moved to the UK although not entirely. The ICIBI further inspected the system, including progress against previous recommendations, the report of which was finally published by the Home Office in September 2020,⁷⁵¹ along with its response.⁷⁵² The Inspector had invited the government to explain and justify its position on the eligibility criteria in the light of the Private

⁷⁴² Immigration Rules, Appendix Family Reunion.

⁷⁴³ Home Office, *Unable to travel to a visa Application Centre to enrol biometrics (overseas applications) version 2.0*, 8 February 2024, available at: <https://tinyurl.com/yfymfjze>.

⁷⁴⁴ Home Office, *Family Reunion*, 17 July 2023, available at: <https://tinyurl.com/3h7xm4a5>.

⁷⁴⁵ Home Office, *Family Reunion*, 17 July 2023, available at: <https://tinyurl.com/3h7xm4a5>.

⁷⁴⁶ Home Office, *DNA policy guidance, version 4.0*, 19 March 2020, available at: <https://tinyurl.com/4nzbzyca>.

⁷⁴⁷ Dr Sasha Holden, 'Cuts that cost: The Impact of Legal Aid Cuts on Refugee Family Reunion', October 2020, available at: <https://tinyurl.com/2bx4x5nk>.

⁷⁴⁸ ICIBI, *An inspection of family reunion applications*, January – May 2016, available at: <http://bit.ly/2khoPav>.

⁷⁴⁹ *Ibid.* See also Refugee Council, 'Watchdog: Government should show more compassion in reuniting refugees', 15 September 2016, available at: <http://bit.ly/2kWBXFX>.

⁷⁵⁰ ICIBI, *A re-inspection of the family reunion process, focusing on applications received at the Amman Entry Clearance Decision Making Centre*, September 2018, available at: <https://bit.ly/2oK8QVy>.

⁷⁵¹ ICIBI, *An inspection of family reunion applications*, October 2020, available at: <https://bit.ly/3cgh0yN>.

⁷⁵² Government response to the Inspection of family reunion applications, 8 October 2020, available at: <https://bit.ly/36hJLaK>.

Members Bills and activities of the Families Together coalition.⁷⁵³ As explained above, the government has since maintained and successfully defended its position in court.⁷⁵⁴

The Families Together campaign coalition published research on barriers and challenges faced by refugees attempting to reunite with family members.⁷⁵⁵ Findings included that the Rules were unnecessarily complex and insufficiently flexible, poor quality decisions, difficulty in accessing legal aid lawyers, British Red Cross published a report that also highlighted issues with the procedural requirements for making the application, such as difficulties people have in travelling to enrol their biometrics.⁷⁵⁶

A report published in 2023 following a reinspection by the ICIBI found that the situation had deteriorated since the previous inspection and that applicants were waiting unacceptably long for a decision, over double the service standard of 60 days, and there was a backlog of almost 8,000 applications. This was partly a result of staff being diverted to work on the Homes for Ukraine Scheme.⁷⁵⁷

2. Status and rights of family members

Family members do not receive the same status as their sponsor. They receive 'leave in line' i.e. leave to remain to expire at the same time as their sponsor. If the sponsor has limited leave, the family members all apply for settlement at the same time. There are difficulties for estranged partners in these circumstances.

C. Movement and mobility

1. Freedom of movement

There are no restrictions on freedom of movement for refugees, those with humanitarian protection or their family members. Some difficulties arise when people want to move away from where they have been dispersed and relocate to a place where they have no previous connection as they may be unable to access social housing.⁷⁵⁸

2. Travel documents

Refugees and their dependants, including those who are united through the refugee family reunion process, can apply for a 'Refugee Travel Document'. The cost is the same as a UK national passport. An adult's travel document will expire after 10 years if they have indefinite leave to remain, or at the same time as the refugee's limited leave (if during the first 5 years of leave) if that is earlier. A child's travel document will expire after 5 years or at the expiry of their leave.⁷⁵⁹

Beneficiaries of subsidiary protection and other forms of leave, including their dependants, are expected to apply to their national authorities for a passport, unless the humanitarian protection is granted following

⁷⁵³ Families Together, see website at: <https://bit.ly/39puvum>.

⁷⁵⁴ High Court, *DM, R (On the Application Of) v Secretary of State for the Home Department* [2023] EWHC 740 (Admin), available at: <https://bit.ly/3UR5xfA>.

⁷⁵⁵ CRII and Families Together, *Refugee Family Reunification in the UK: Challenges and Prospects*, 2021, available at: <https://bit.ly/3ASQXcq>.

⁷⁵⁶ British Red Cross, *The Long Road to Reunion: Making Refugee Family Reunion Safer* (2020), available at <https://bit.ly/3wsaMbc>.

⁷⁵⁷ ICIBI, *Inspection report published: A reinspection of family reunion applications September – October 2022*, 21 February 2023, available at: <https://tinyurl.com/2s3hkwpr>.

⁷⁵⁸ England Shelter, 'What is a local connection?', available at: <https://bit.ly/3wspHCm>.

⁷⁵⁹ Government website, 'Apply for a Home Office travel document', available at: <https://bit.ly/4bH7hOp>.

a refusal of asylum and it is accepted that the beneficiary has a fear of their national authorities.⁷⁶⁰ This includes those resettled under the Syrian Resettlement Scheme who are granted humanitarian protection. Other than these individuals, including dependants, those with leave following a refusal of asylum, including beneficiaries of subsidiary protection where it is not accepted that the person is in fear of the national authority, are expected to show evidence of refusal to issue a document following contact with their national embassy.⁷⁶¹

All those who are not entitled to a Refugee Travel Document, including all beneficiaries of subsidiary protection, can apply for a certificate of travel, which costs £280 (€ 326),⁷⁶² more than three times that of a Refugee Travel Document which is £82 (€ 96),⁷⁶³ and a maximum validity of 5 years. It will only be issued when the individual has more than 6 months leave remaining.⁷⁶⁴

The procedure for all travel documents is via an online application.⁷⁶⁵ Travel documents that are not CTD, issued by other countries, would often need to be accompanied by a visa.

In 2023, 55,494 travel documents were issued to third country nationals without a passport (this is not exclusively beneficiaries of international protection).⁷⁶⁶ There are no specific obstacles to people obtaining these documents.

D. Housing

Indicators: Housing

1. For how long are beneficiaries entitled to stay in Home Office accommodation? 28 days
2. Number of beneficiaries staying in dispersal accommodation as of 31 December 2023: not available

The reception centres are designed for short term support, almost all residents will move to 'dispersal accommodation' in self-contained houses or apartments. This is known as 'Section 95' support (see [Reception Conditions: Criteria and Restrictions](#)).

On receipt of a decision to grant asylum or leave that would entitle the individual to work, apply for state welfare benefits and rent, buy or take on a public housing tenancy, , under law asylum support can be stopped 28 days after the decision.⁷⁶⁷ This is often termed the 'move on period'. People must be given a minimum of seven days' notice that they are being evicted from their asylum accommodation.⁷⁶⁸ In practice, as it was not possible to claim public funds without the biometric residence card that is issued as evidence of refugee status, the Home Office would only stop support 28 days or longer following receipt of the biometric residence permit.

In August 2023 the Home Office made a change in practice that was not publicly announced. They started counting the 28 days from the date of the decision instead of from receipt of the biometric residence

⁷⁶⁰ Home Office, 'Home Office travel documents: caseworker guidance', published 29 August 2013, available at: <https://bit.ly/48sdZok>.

⁷⁶¹ Home Office, 'Apply for a Home Office travel document', available at: <https://bit.ly/48tMFX9>.

⁷⁶² Home Office, 'Apply for a Home Office travel document', available at: <https://bit.ly/48tMFX9>.

⁷⁶³ Home Office, 'Apply for a Home Office travel document', available at: <https://bit.ly/48tMFX9>.

⁷⁶⁴ Home Office, 'Home Office travel documents: caseworker guidance', published 29 August 2013, available at: <https://bit.ly/48sdZok>, 13.

⁷⁶⁵ Home Office, *Apply for a Home Office travel document*, available at: <https://bit.ly/42RDuOJ>.

⁷⁶⁶ Resettlement, Asylum Support and Integration Transparency data, Q1 2023.

⁷⁶⁷ The Asylum Support Regulations 2000, regulation 22, available at: <https://bit.ly/49p9JY2> and the Asylum Support (Amendment) Regulations 2002, available at: <https://bit.ly/48ue1fD>.

⁷⁶⁸ The Asylum Support Regulations 2000, regulation 22, available at: <https://bit.ly/49p9JY2>.

permit. As in many cases the permit would take longer than 28 days to arrive, this meant that many refugees were made street homeless shortly after receiving their grant of refugee leave.⁷⁶⁹ This change resulting in a 223% increase in people sleeping rough after leaving asylum housing.⁷⁷⁰ Towards the end of 2023 an internal change was made at the Department for Work and Pensions which allowed newly recognised refugees to claim public funds before receiving their biometric residence permit.⁷⁷¹

This is regardless of whether or not any alternative source of income and accommodation has been secured. Recent issues with this process have been detailed in [Forms and levels of material reception conditions](#) In practice few refugees find alternative accommodation within this time. The main obstacles they face are the processing times for welfare benefits, the lack of a bank account or online credit history. Public housing is restricted to those with children or who are considered a priority because of ill health or disability and those whose illness is mental rather than physical face particular difficulties. The latter category often finds difficulty persuading the authorities to provide them with public housing. The Refugee Council has written a guide to making and pursuing these applications,⁷⁷² as well as translated guides to opening a bank account.⁷⁷³

This is in stark contrast to those who arrive in the UK as refugees under resettlement programmes. Although individuals will have to open a bank account, sign a tenancy for housing and make a claim for welfare benefits on arrival, support is usually available to assist with this and a small monetary amount is given by the Home Office to ensure that people have some funds on which to live when they first arrive. The Refugee Council has written a policy briefing on this issue.⁷⁷⁴

The British Red Cross produced a cost benefit analysis of the 28 day 'move-on' period in February 2020, arguing that the UK government could save significant amounts of money including the cost of temporary accommodation, if the 28 days was doubled to 56.⁷⁷⁵

Despite a wealth of evidence, the issue continues to affect many new refugees and other beneficiaries of leave, resulting in homelessness and destitution.⁷⁷⁶ The reasons for this are outlined in the research; it is acknowledged that many refugees may not be aware that claims for welfare benefits usually take weeks to process and may not apply as soon as they are eligible, but recent reports show that in many cases the people advising them, employed by the department that processes claims, to advise that refugees are not able to make welfare benefits applications whilst still receiving asylum support. Similar incorrect advice was found to be given regarding eligibility for an advance payment to cover any gap in support. Additional barriers exist for refugees who have not opened a bank account; unable to do this without a regular income, they then face additional delays in welfare benefits payments which are usually made directly into a claimant's bank account.

Unless eligible for public housing, refugees' access to the private rental sector is impeded in practice because of the lack of funds; a refugee will not have been eligible for asylum support payments if they have savings but will need a lump sum in order to pay a deposit. Without specific schemes such as one

⁷⁶⁹ For more details, see: <https://bit.ly/3uFI0Vh>.

⁷⁷⁰ Centre for Homelessness Impact, 'Critical links between resettlement in the UK and rising rates of street homelessness' 18 January 2024, available at: <https://bit.ly/49Ggk07>.

⁷⁷¹ Free Movement, Refugees can now claim universal credit without a biometric residence permit, 4 December 2023, available at: <https://bit.ly/3UOyLLM>.

⁷⁷² Refugee Council, *Making homelessness applications for refugees in England*, Refugee Council, March 2019, available at: <https://bit.ly/2U9CYu9>.

⁷⁷³ See the English guide at: <https://bit.ly/3i7fDYh>; there are also five translated guides available.

⁷⁷⁴ Refugee Council, *Policy briefing: Support for refugees in England*, December 2019, available at: <https://bit.ly/38oSTsT>.

⁷⁷⁵ British Red Cross; The cost of destitution, February 2020, available at: <https://bit.ly/2VlwCmx>.

⁷⁷⁶ British Red Cross, *The Cost of Destitution*, 2020, available at: <https://bit.ly/49LAXrA>.

operated by the Refugee Council in **London**,⁷⁷⁷ refugees are reliant on family, friends, refugee hosting schemes or members of their community to avoid street homelessness.

As mentioned under [Special reception needs of vulnerable people](#), former unaccompanied minors who turn 18 and who have leave, as a refugee or otherwise, will receive assistance from the local authority in line with British citizens in the same situation, under the Children (Leaving Care) Act⁷⁷⁸ which will include help with accessing housing.

E. Employment and education

1. Access to the labour market

The law provides for refugees and beneficiaries of humanitarian protection the same access to the labour market as UK citizens.⁷⁷⁹ In practice, very few individuals will enter the labour market immediately; some will need to ensure their qualifications allow them to practice their profession and may need to retrain or pass exams to allow them to practice e.g. doctors.⁷⁸⁰ These requirements will vary by profession and employer. Many refugees may have had limited language provision when they were seeking asylum so may need to learn English sufficient to access the labour market. Government funded English classes have been criticised as lacking in proper funding meaning that people are unable to access the amount of teaching that they need.⁷⁸¹

A Home Office initiative is the Refugee Employability Programme which aims to support refugees to find work. This provides CV writing classes, sector specific training and interview practice as well as English language and integration support.⁷⁸²

There is little practical support provided by the state although when applying for the main welfare benefit for those fit to work (Job Seekers Allowance) individuals are required to show evidence of applications for jobs they have made and are questioned about this by an adviser.

2. Access to education

Access to compulsory education (up to age 16) is the same for asylum seekers, refugees and UK citizens (see section on [Reception Conditions: Education](#)). Although mid-term admissions may cause additional difficulties, the ease of access to school places is related more to the geographical area in which an individual lives than their immigration status.

In **England, Wales** and **Northern Ireland** access to post-18 education is different and one of the distinctions between beneficiaries of refugee status and subsidiary (“humanitarian”) protection is that for the purposes of fees and student support, refugees are considered home students once they receive status, whereas recipients of humanitarian protection are considered as overseas students until they have lived in the UK for 3 years. In **Scotland** the only requirement is 3 years residence, rather than status.

⁷⁷⁷ Refugee Council, ‘Helping refugees find a home’, accessed 24 March 2024, available at: <https://bit.ly/3T6rYfl>.

⁷⁷⁸ Children (Leaving Care) Act 2000. Devolved governments have similar provisions.

⁷⁷⁹ Paragraph 334B Immigration Rules.

⁷⁸⁰ UKENIC, ‘Statement of comparability’, accessed 24 March 2024, available at : <https://bit.ly/3wsbV2w>.

⁷⁸¹ Refugee Action, ‘Let Refugees Learn’, accessed 24 March 2024, available at : <https://bit.ly/49nC7Ko>.

⁷⁸² Home Office, *Refugee employability programme*, 27 October 2023, <https://bit.ly/3ULAbqz>.

F. Social welfare

The law provides access to social welfare for beneficiaries of international protection,⁷⁸³ although practical difficulties are encountered.

Social welfare is provided to beneficiaries under the same conditions and on the same level as for nationals, although public housing may be restricted to those with a history of living in a particular area, so beneficiaries who move away from dispersal areas may encounter problems.⁷⁸⁴ The laws do apply to all. The main authorities responsible for granting social assistance are the Department for Work and Pensions, (national government department) administered by local Job Centres. The provision of social welfare is not tied to a requirement to reside in a specific place or region.

Beneficiaries face various difficulties in accessing social assistance such as difficulties in opening a bank account, outlined in research conducted by the Refugee Council and British Red Cross.⁷⁸⁵ Since 8 January 2018 the Residence Permit has the National Insurance Number printed on it,⁷⁸⁶ this was done to reduce delays in making welfare benefit claims. The issues relating to opening bank accounts and finding enough money to secure private rented housing (which require an upfront fee) remain unresolved. A parliamentary debate in March 2020 discussed many of the key difficulties experienced by newly recognised refugees in general as well as the Red Cross report.⁷⁸⁷

G. Health care

The entitlement to health care is not affected in law for refugees and beneficiaries of humanitarian protection but in practice there can be difficulties. Although not required in law, registering with a GP practice for primary care often asks for proof of address; if a refugee has moved from asylum support accommodation it may be difficult to obtain this.⁷⁸⁸

Specialist medical support for refugees is patchy; waiting list for mental health services for the population in general in England in particular can be long.⁷⁸⁹ The issues in practice are very similar for refugees to those faced by asylum seekers, despite the difference in status (see [Reception conditions – Healthcare](#)).

The Advocacy Forum, a group of Refugee led Community Organisations supported by the Refugee Council, published research in 2022 examining the barriers to integration by refugees and people seeking asylum living in London. Refugees reported challenges in integration in areas of employment and housing in particular and many were experiencing mental ill health and worryingly, not accessing appropriate treatment.⁷⁹⁰

⁷⁸³ Home Office, *Public funds : caseworker guidance*, 5 October 2023, available at: <https://bit.ly/3SLKI2p>.

⁷⁸⁴ Citizens Advice, 'Getting on the waiting list for a council home', accessed 24 March 2024, available at: <https://bit.ly/3UPuEzi>.

⁷⁸⁵ Refugee Council, *Refugees without refuge: Findings from a survey of newly recognised refugees*, September 2017, available at: <https://bit.ly/49IKtMq>.

⁷⁸⁶ Minister for Immigration, Answer to parliamentary question, 5 December 2017, available at: <http://bit.ly/2DDIEXL>.

⁷⁸⁷ Asylum decisions (support for refugees) debate, 4 March 2020, available at: <https://bit.ly/2PRcOtj>.

⁷⁸⁸ Healthwatch, 'Registering with your GP: understanding your rights', 4 October 2023, available at: <https://bit.ly/49Lbe2Q>.

⁷⁸⁹ National Audit Office, *Progress in improving mental health services in England*, 9 February 2023, available at: <https://tinyurl.com/2fum8psx>.

⁷⁹⁰ Refugee Council, 'Going Full Circle: The primary needs and experiences of refugees and people seeking asylum living in London', July 2022, available at: <https://bit.ly/3Uaaqw8>.