Refugee Council

Briefing

The asylum backlog and asylum accommodation

June 2023

Summary

- Half of the people accommodated in hotels come from just five countries with high asylum grant rates – Afghanistan, Eritrea, Iran, Sudan and Syria. Granting asylum to them and people from those countries who are in dispersal accommodation could end 89 per cent of hotel use overnight, saving just over £5million each day.
- The Home Office would need to make over 10,600 decisions every month to meet the Prime Minister's commitment to clear the "legacy" backlog by the end of 2023.
- Over half of asylum decisions are currently withdrawals, rather than grants or refusals. This shows that rather than increasing the productivity of caseworkers by making faster and better decisions, people are instead effectively being forced out of the process by having their cases withdrawn before they are even considered.
- The number of decision makers in the Home Office has fallen in recent months from 1,333 at the start of January 2023 to 1,280 on 1 May. The number of substantive asylum interviews carried out is no higher than it was at the start of 2020 when there was half the number of decision makers.
- The Government needs to transform the decision-making process so that it focuses on the face-behind-the-case with claims dealt with effectively and efficiently.

On 28 May 2023, there were 137,583 asylum claims awaiting an initial decision. This represents as estimated 177,899[1] men, women and children waiting in limbo to hear from the Home Office. The Refugee Council works with many of the people who make up the backlog and see the mental and physical harm that comes from having to wait for months, if not years, just to receive a decision. It also has a wider cost, as people are unable to work and support themselves while waiting for a decision, so instead rely on the taxpayer for accommodation and financial assistance.

Nearly seven months ago, the Prime Minister promised to clear the backlog of "legacy" asylum claims – those made before 28 June 2022[2] – by the end of 2023. To achieve this, he said the number of decision makers in the Home Office would be doubled and productivity tripled. In February 2023 a Streamlined Asylum Process (SAP) was introduced focused on key nationalities

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[1] The figure for the 28 April 2023 is from the statistics published by the Home Office relating to the Illegal Migration Bill. The publication did not include the number of people those cases covered. The estimated 177,899 people is based on the ratio of people to outstanding cases for cases that were awaiting a decision at the end of March 2023 (133,607 cases relating to 172,758 people).

[2] The legacy backlog refers to asylum claims made before 28 June 2022, which the day when large parts of the Nationality and Borders Act 2022 came into force.

within the legacy backlog. That process has since been extended to cover some applications made since 28 June 2022 (also referred to as the "flow" backlog).
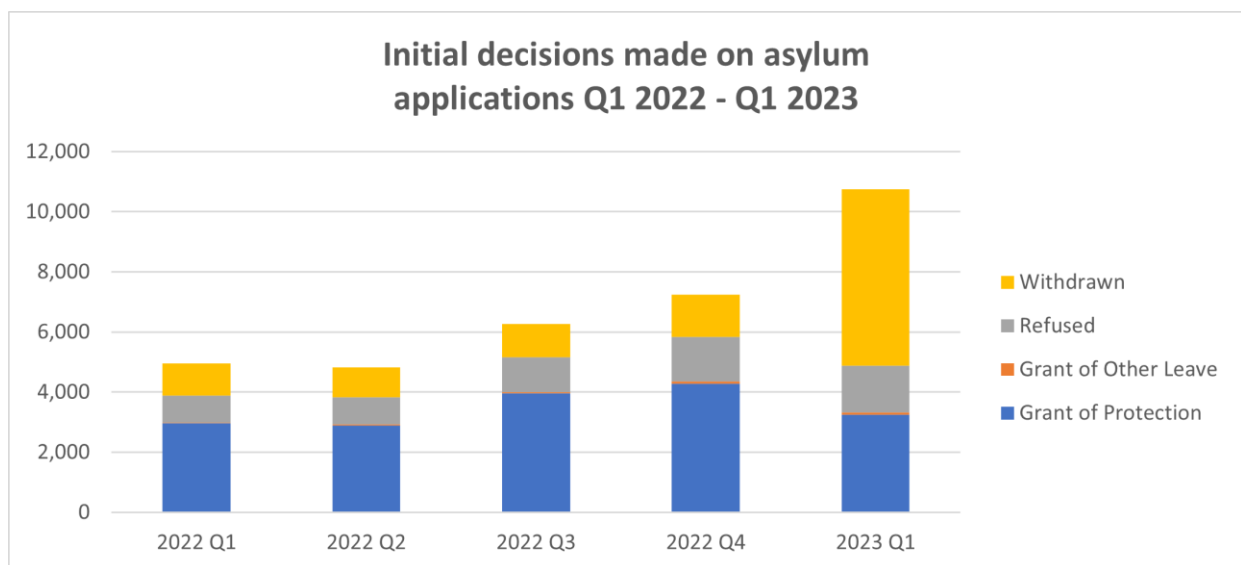
On 13 June 2023, referring to legacy claims, the Prime Minister reaffirmed his commitment, saying "we're on track to clear it entirely by the end of the year."[3]

Is he right to be so confident?

When the Prime Minister made his commitment, the legacy backlog stood at around 90,000 claims.[4] Between 2013 and 2022 the Home Office made an average of 20,162 decisions a year, so a considerable increase in the rate of decision making would be required. By 28 May 2023, the legacy backlog was 74,410, a significant decrease. **But this would still require 10,630 decisions to be made each month to fulfil the Prime Minister's commitment.** Without significant increases in the rate of decision making, it is unlikely that the target will be met.

The majority of recent "decisions" aren't decisions at all

The Home Office's own data shows that 10,458 decisions on asylum applications, both legacy and flow, were made in the first three months of 2023.

Source: Home Office quarterly statistics year to March 2023, Asylum and Resettlement – Applications, Initial Decisions, and Resettlement, table Asy_DO2

This is a significant increase in the number of decisions being made but would still see the Prime Minister fall well short of clearing the legacy backlog by the end of 2023. It also needs to be caveated by the significant increase in the number of cases where the Home Office didn't refuse or grant the claim, but instead the case was withdrawn.

An asylum claim can be either explicitly withdrawn by someone telling the Home Office that they don't want to proceed with their claim, or implicitly withdrawn when the applicant hasn't engaged

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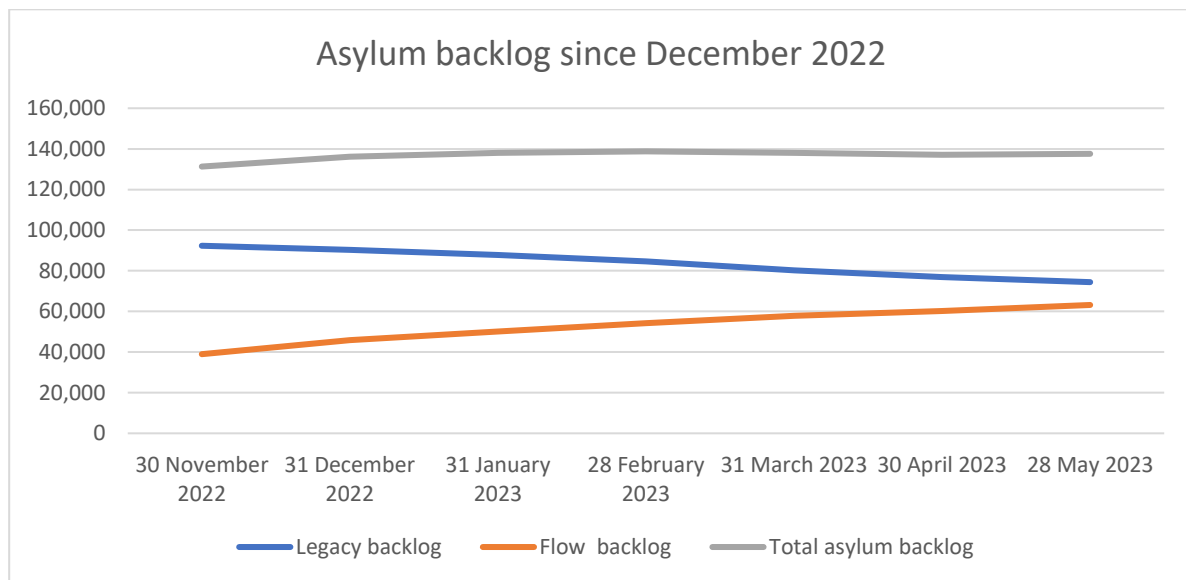[3] https://www.gov.uk/government/speeches/pm-statement-on-illegal-migration-delivery-update-5-june-2023
[4] It was 92,327 on 30 November *Home Office, Statistics Relating to the Illegal Migration Bill, 5 June 2023*

with a Home Office process, such as reporting at a required time and location.[5] After someone's claim is withdrawn, unless they have another outstanding immigration application or another form of immigration leave, they will be liable to being detained and removed from the UK.

Normally, around 15-20 per cent of asylum claims are withdrawn before an initial decision is made. **Over the first three months of 2023, 55 per cent of "decisions" were withdrawals** – the Home Office hadn't made a decision at all. The National Audit Office (NAO) has revealed this trend is continuing, with 72 per cent of decisions made in April being withdrawals.[6] **Without withdrawals, only 4,885 decisions were made in the first quarter of 2023** – less than either quarter three (5,169) and quarter four (5,827) of 2022.

There are a number of possible reasons why the number of withdrawals has increased so significantly. This includes the Home Office taking a much stricter approach to withdrawing claims when the applicant misses a reporting requirement. The recent NAO report on the asylum system suggests this is particularly the case for Albanians who have applied for asylum. The Home Office can also treat a claim as being withdrawn if someone who is being accommodated by the department is absent from their housing for a period of time. This includes situations where someone may have fallen into an exploitative situation, but rather than being treated as a missing person is dealt with as an "absconder". It is also possible that as part of the process of trying to clear the legacy backlog, the Home Office is discovering cases where they have been unable to contact the person for a significant period of time. The Home Office has not yet provided an official reason for why the number of withdrawals has increased, and there is a risk that people are having their claims incorrectly withdrawn.

Overall backlog not decreasing and decision maker numbers falling

Source: *Home Office, Statistics Relating to the Illegal Migration Bill, 5 June 2023, table IMB_02*

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[5] Home Office guidance, Withdrawing asylum applications
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1156855/Withdrawing_asylum_claims.pdf
[6] The asylum and protection transformation programme (nao.org.uk) https://www.nao.org.uk/wp-content/uploads/2023/06/the-asylum-and-protection-transformation-programme.pdf

While the legacy backlog has fallen since the start of December 2022, **the overall backlog has stabilised at nearly 140,000 cases (137,583 as of 28 May 2023, relating to an estimated 177,899 people).** The backlog of flow cases is increasing at roughly the same rate as the legacy backlog is being reduced.

And while there was initially an increase in the number of decision makers after the Prime Minister made his commitment, there has since been a decrease. On 1 January 2023 there were 1,333 decision makers. This had fallen to 1,280 by the beginning of May. Increasing the number of decision makers doesn't have an immediate impact on the number of cases being processed. According to the NAO, at the end of April 2023 only around **half of the 1,270 decision makers were making decisions, and only 140 had been fully trained and able to work independently.** This explains why in March of this year 1,281 decision makers carried out 2,313 substantive asylum interviews, six fewer interviews than 635 decision makers had managed in January 2020.[7]

Date	Number of decision makers
01 October 2022	1,175
01 November 2022	1,265
01 December 2022	1,237
01 January 2023	1,333
01 February 2023	1,302
01 March 2023	1,281
01 April 2023	1,274
01 May 2023	1,280

Source: *Home Office, Statistics Relating to the Illegal Migration Bill, 5 June 2023, table IMB_06*

Nationalities in the backlog

At the end of March 2023, 46,199 of all asylum cases awaiting a decision were from people from just five countries: Afghanistan, Eritrea, Iran, Sudan and Syria. **These cases accounted for a third (35 per cent) of the total backlog of initial decisions, and nearly three quarters (71 per cent) of those cases were at least six months old.**

All five countries have very high asylum grant rates. For three of them (Afghanistan, Eritrea and Syria), nearly all claims are granted.

Nationality	Cases awaiting initial decision	Initial decision grant rate year to March 2023
Afghanistan	12,310	98%
Eritrea	6,142	99%
Iran	16,698	77%
Sudan	5,010	83%
Syria	6,039	98%

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[7] UK Visas and Immigration Transparency Data Q1 2023, Immigration and Protection, table ASY_05(M)

Streamlined Asylum Processing

Four of these countries are included in the SAP to different degrees.[8] Legacy and flow cases from Afghans, Eritreans and Syrians are within the scheme, as are flow cases from Sudanese applicants. The SAP involves individuals being sent a questionnaire by the Home Office that people have a minimum of 20 working days to complete, with reminders also sent when a response hasn't been received.

The questionnaire is supposed to then allow decision makers to grant cases without needing to carry out an interview. However, there are significant concerns about the design of the process, including the over-complicated nature of the questionnaire and it only being available in English. Additionally, the Home Office guidance states that if a questionnaire is not returned within the specified period then the asylum claim may be treated as being withdrawn. This could lead to claims being incorrectly withdrawn due to the Home Office not having up-to-date contact details for people or recipients of the questionnaire not being able to get the right support - including legal advice - to understand and complete it in time. The Home Office are yet to publish any data on the impact of the SAP, which was launched in February 2023, and up to the end of May there had been no noticeable fall in the backlog.

Iranians are not included in the SAP and are instead part of a process of grouping the remaining claims in the legacy backlog into different cohorts. In a letter to several Select Committee chairs,[9] the Home Secretary, Suella Braverman, set out that these would be based on factors such as volume of cases, compliance rates and grant rates. Under this process, Iranians who applied before 28 June 2022 will be sent a questionnaire with the aim of being able to either make a decision based on the response, or to allow for a shorter interview to take place. Asylum claims cannot be refused based on the questionnaire alone.

The backlog and asylum accommodation

The size of the backlog of asylum decisions impacts the demand for asylum accommodation. The Home Office has increasingly relied on expensive hotel accommodation and, in an attempt to reduce costs, are in the process of starting to use more ex-military sites and barges. Through "operation maximise" people are expected to share hotel rooms. None of this would be necessary if people were moved through the asylum process faster.

Not everyone who applies for asylum is eligible for or applies for accommodation, and some nationalities are more likely to be accommodated than others.

Nationality	Dispersal Accommodation	Hotels	Other contingency	Initial accommodation	Total
Afghanistan	1,604	5,166	163	157	7,090
Eritrea	3,548	3,191	178	101	7,018
Iran	7,625	9,341	438	303	17,707

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[8] More information on Streamlined Asylum Processing can be found in the Home Office guidance https://www.gov.uk/government/publications/streamlined-asylum-processing/streamlined-asylum-processing-accessible

[9] Letter from Suella Braverman, Home Secretary, to Dame Diana Johnson, Clive Betts and Sir Stephen Timms, 2 June 2023 committees.parliament.uk/publications/40396/documents/197146/default/

Sudan	2,235	2,430	134	77	4,876
Syria	2,386	2,980	140	99	5,605
Five Nationalities	*17,398*	*23,108*	*1,053*	*737*	*42,296*
All nationalities	56,979	47,518	2,088	1,651	108,236

Source: Home Office quarterly statistics year to March 2023, Asylum and Resettlement – Asylum Seekers in receipt of support, table Asy_DO9.

As of the end of March 2023, just over 42,000 people from Afghanistan, Eritrea, Iran, Sudan and Syria were being accommodated by the Home Office. **This was 39 per cent of the total number of people being accommodated. 23,108 of those men, women and children were housed in hotels – 49 per cent of the total number of people in hotels.[10]**

When giving evidence to the Home Affairs Select Committee on 14 June, the Home Secretary said that the use of hotels was costing "£6 million a day".[11] What she didn't say is that around half of this money is being spent accommodating people whose asylum claims have an exceptionally high likelihood of being granted. If the 42,000 people from those five countries who are being accommodated by the Home Office were given decisions and so longer required Home Office accommodation, that would allow for the use of hotels to be reduced by 89 per cent.[12] This could save the Home Office £5.34 million a day.

Conclusion and Recommendations

Prioritising reducing the backlog is the right thing for the Government to do. Everyday, at the Refugee Council see the devastating impact that delays in the system have on those we work with. But it needs to be done properly and strategically. The historically large numbers of withdrawn asylum claims is an increasing concern and requires closer scrutiny to understand exactly why this is happening. And, given the failure to simply grant status to the 49 per cent of people in hotels from high grant countries, now is the time to make significant changes to the process. This should include ensuring that the focus on legacy cases doesn't allow the flow backlog to simply grow ever larger and making improvements to the SAP. The Government must also recognise that the Illegal Migration Bill, if enacted in its current form, could create a cohort of over 190,000 people in the first three years who will be stuck in a permanent limbo in the UK with huge human and financial costs.[13]

1. **The Home Office should set a target for completing all outstanding legacy and flow cases from high grant countries by the end of September, with new applications receiving decisions within three months. The use of hotels should be reduced by 89% by the end of October, in line with the proportion of people being accommodated by the Home Office from those same countries.**
2. **The Home Office should work with people with lived experience and expert organisations to ensure the questionnaire used for the Streamlined Asylum**

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[10] By comparison, only 1,963 Albanians were accommodated in hotels at the end of March 2023.
[11] Q638 https://committees.parliament.uk/oralevidence/13284/pdf/
[12] At the end of March 2023 there were 47,518 people in hotels and 42,296 people from Afghanistan, Eritrea, Iran, Sudan and Syria in various forms of Home Office accommodation.
[13] See Refugee Council, Illegal Migration Bill – Assessment of impact of inadmissibility, removals, detention, accommodation and safe routes https://www.refugeecouncil.org.uk/information/resources/illegal-migration-bill-impact-assessment/

Process is accessible and will capture the information required to make quick grants.

3. **The Home Office should work with legal practitioners to ensure legal advice is available to assist people completing the questionnaire. The timeframe for returning the questionnaire should be set according to the availability of legal advice.**

4. **The Home Office should publish data as part of the quarterly immigration statistics on the outcomes of the Streamlined Asylum Process. This should include the return rate of questionnaires, the number of decisions that are made as a result of the questionnaire, the number of cases where an interview is still required and the number of asylum claims that are withdrawn as a result of questionnaires not being returned.**

5. **The Home Office should not withdraw an asylum claim if a questionnaire hasn't been returned unless the applicant explicitly says they wish to withdraw their claim, or the Home Office knows the individual has definitely left the UK.**

6. **The Home Office should provide an analysis of the rate of asylum claims being withdrawn the quarterly immigration statistics, explain the reasons behind any increase, and take action to ensure it is not adversely affecting people's asylum claim.**