### **British Red Cross**

# **Building back confidence** in the asylum system:

Exploring approaches for efficient, accurate and compassionate decision making

## Introduction

In 2024, the British Red Cross supported over 40,000 people through our refugee support services across the UK, including thousands of people who are applying for asylum. Through our work we see the humanitarian impact of slow and inaccurate asylum decision making, with people living in limbo unable to rebuild their lives in the UK or be returned. Through our services, the British Red Cross also sees the inefficiency and unnecessary expense of the asylum system, with people accommodated in hotels for years at significant cost to the taxpayer.

This document sets out recommendations that should underpin efforts to achieve efficient, accurate and compassionate asylum decision making that will help to build back public confidence in the system and reduce costs. These recommendations are informed by British Red Cross policy analysis and research, consultation with legal experts and people with lived experience of seeking asylum in the UK, as well as insight from its refugee support services across the UK.

### **Overview**

The current asylum backlog started growing in 2018, peaked in 2023 and remains high in early 2025. This is a result of reduced productivity in Home Office decision making, an increased number of applications, the impacts of the Covid-19 pandemic, and the reduction in the numbers of claims processed between May 2023 and Autumn 2024 stemming from the introduction of the Illegal Migration Act 2023.<sup>1</sup>

In July 2024, the UK government committed to processing asylum claims through the Illegal Migration Act 2023 (Amendment) Regulations 2024, and the ending the UK-Rwanda Migration and Economic Development Partnership. Despite these positive steps, latest available data from the Home Office shows there were 90,686 asylum claims relating to 124,802 people waiting for an initial decision at the end of 2024<sup>2</sup>, and over 112,000 people in receipt of asylum support.<sup>3</sup> Public and media interest in the costs associated with housing people seeking asylum in hotels remains high, and the government has committed to ending hotel use, currently reported to be costing an estimated £4m per day.4 Despite committing to end the use of hotels in a year, the government has already had to open new additional hotels to deal with the current backlog and new arrivals last summer.5

The challenge facing the asylum system is compounded by the significant increase in appeals leading to a new backlog in the Courts, which increased by 264% in the year ending September 2024. Data on asylum appeals lodged and determined has not been updated by the Home Office since March 2023. However, at the end of September 2024, the total asylum and protection open caseload in the first-tier Tribunal (Immigration and Asylum Chamber), where appeals are handled, was 34,169. This is 54% of the total open caseload of the Chamber. At the end of September 2022, the asylum and protection caseload was only 25% of the total open caseload.

Between July and September 2024, 53% of appeals were granted in the first tier Tribunal (Immigration and Asylum Chamber). This high number of decisions granted at appeal by the court indicates an issue with the quality of initial decision making by the Home Office.

Backlogs in the asylum system are not new. In July 1998 the Home Office published a White Paper setting out the government's policy response to the large backlog at the time. 9 When the backlog grew again in 2005, a five-year strategy was published which also had the aim of achieving faster processing. 10 Future policy should be informed by learnings from the past to end the cycle of addressing backlogs as a crisis response.

The humanitarian impact of not getting decisions right first time is significant. While a claimant is appealing a decision, they will typically remain on asylum support and in asylum accommodation, living in limbo and uncertainty. Many clients spend years in hotels, sharing rooms with strangers, not allowed to work or start integrating into the UK, with continued high costs for the government.

## Towards efficient, accurate and compassionate asylum decision making

The following recommendations set out a number of concrete proposals to support efforts to improve asylum decision making, starting with some immediate steps that can be taken to reduce the backlog while looking towards the resilience of the system in the long-term.

## 1. Learn from the past by conducting assessments of previous decision-making policy.

Backlogs have existed in the asylum system at various points for decades, and although the current backlog is borne out of a unique policy and legislative context, the need to reduce the number of people waiting for a decision on an asylum claim is not new. The Home Office has piloted and fully implemented various initiatives which should be evaluated and published to inform the future of asylum decision making, from the NAM in 2007<sup>11</sup> to Streamlined Asylum Processing (SAP) in 2023.<sup>12</sup>
Approaches to dealing with asylum backlogs typically fall into one of the following categories:<sup>13</sup>

- Increasing the resources dedicated to processing cases, such as increasing staff numbers;
- Increasing the efficiency of the asylum process, such as by simplifying guidance or introducing caseworker specialisation;
- Prioritising applications from groups with particularly high or low success rates to make faster decisions on those cases;
- **Granting status** to people with longstanding, unprocessed claims without completing the full asylum casework process.

The Home Office should conduct and publish evaluations of previous initiatives to improve the efficiency and quality of asylum decision making to demonstrate how that evidence is informing future policy. For example, the Home Office sharply increased the number of asylum caseworkers, from 1,237 in December 2022 to 2,392 in December 2023. The ICIBI inspection of asylum casework noted that this surge in the number of decision makers, filled by staff from other government departments and agency staff, resulted in rapid staff turnover and varying skill levels and experience among decision makers. This ultimately impacted the quality of work. This suggests there is need for the Home Office to invest in caseworker productivity, training and retention beyond just increasing the number of caseworkers available.

In addition, there has already been at least one enhanced screening pilot in Glasgow where a new screening interview template was piloted on claimants from all nationalities. To our knowledge there is no published Home Office evaluation of this pilot. UNHCR's audit of asylum screening in the UK recommends this pilot it is rolled out in more locations across the UK. <sup>15</sup> Evaluation of this pilot, SAP, and other initiatives, will allow policy makers to ensure future policy is informed by learnings from the past and end the cycle of addressing backlogs as a crisis response.

## 2. Amend the inadmissibility guidance and split standard of proof to allow for efficient decision making and not cause unnecessary delays.

The introduction of successive asylum legislation has led to an often complicated and confusing legislative picture for decision makers. The current inadmissibility process in section 16 of the Nationality and Borders Act 2022 makes it harder to determine an asylum claim quickly as it builds in a significant wait before the merits of a claim are considered.

An asylum claim may be treated as inadmissible and not substantively considered if someone has a connection to a safe third country for a set of five reasons as set out in legislation. These include having made an asylum claim in a third country or travelling through a safe third country on the way to the UK.

Since the inadmissibility rules were introduced, Home Office statistics show 77,304 notices of intent have been issued resulting in only 25 removals. <sup>17</sup> As of December 2024, there are 24 known returns agreements between the UK and other third countries. Many of these agreements are unpublished, and the countries involved are not necessarily those from which most asylum seekers in the UK originate, meaning that in effect the government is currently not able to remove people under inadmissibility rules because no such third country agreements exist. <sup>18</sup>

While the government is currently unable to effectively make removals under inadmissibility rules, the Home Office should consider either pausing inadmissibility rules or amending current guidance to significantly mitigate the amount of time that someone seeking asylum spends in the inadmissibility process. Home Office guidance already states that the inadmissibility process must not create a lengthy 'limbo' position and suggests six months as a general guideline. <sup>19</sup> In future, the government should consider reducing this time to three months in order to minimise unnecessary delays. This is in line with the most recent ICIBI inspection of asylum casework which makes a number of recommendations on processing and determining asylum claims, including reviewing the inadmissibility cohort so that only claimants with a realistic prospect of removal are considered under the process.<sup>20</sup>

The British Red Cross is disappointed that the government did not take the opportunity presented by the Border Security, Asylum and Immigration Bill to address some of these concerns. In addition, the higher and split standard of proof introduced by section 32 of the Nationality and Borders Act is only likely to contribute to delays as decision makers have to navigate a two-stage process with different standards of proof. 22

## 3. Pilot an enhanced screening model for certain cohorts to speed up decision making.

Moving from a standardised refugee status determination for almost everyone claiming asylum in the UK towards more targeted and differentiated processes can contribute to decongesting the UK's asylum system, as recommended by UNHCR.<sup>23</sup> Some claims are more 'straightforward' and require less time and consideration to determine refugee status, such as a person fleeing war with documentation where there is already detailed country of origin information at the decision makers disposal that makes it clear that person would be at risk of harm if they were to return to their country of origin. Dedicating an appropriate amount of time to these claims allows more resource to be committed to more complex claims which require more scrutiny and consideration to reach a decision. These are varied but could include a claim of individualised persecution as a member of a specific social group in a country with a lower grant rate at initial decision, where there is not sufficient existing country of origin information to corroborate the account of the person seeking asylum.

In order to do this, more resources should be committed at the outset of the decision-making process to triage people seeking asylum into differentiated processes. Triaging should identify certain cohorts of people with more straightforward claims that can be granted quickly through an accelerated process without a second interview. Claims requiring more consideration would go through the regular refugee status determination with a substantive interview. A pilot and subsequent evaluation would allow policy makers to determine if this model improves the efficiency of decision making across the board without compromising on quality. This approach should also be informed by learnings from other countries which have embedded differentiated case processing for asylum claims, including Canda and South Africa.

The asylum decision making process needs to minimise the risk of someone seeking asylum being refused refugee status and returned to a country where they face persecution. Any decision-making process which employs accelerated procedures, where asylum claims are triaged into a process where they are given less consideration, must safeguard against this risk. If it is not possible to grant refugee status to someone who has been triaged into an accelerated process, the claim should be referred for substantive consideration instead of refused without proper consideration. Similarly, asylum claims should not be implicitly withdrawn by the Home Office for non-participation in the accelerated process. In any future pilot, there are steps that the government can take to prevent adverse effects on claimants while the shortage of legal aid-funded immigration advice is addressed. If a claimant lacks legal representation during an enhanced screening interview, any inconsistencies between the screening and substantive interviews should not disadvantage their application. This approach is expected to reduce the number of claims initially refused but later granted on appeal.

# 4. The Home Office should be transparent as to how it is prioritising asylum claims, reintroduce the six-month service standard and proactively communicate how long someone can expect to wait for a decision.

The humanitarian impacts of people waiting indefinitely for a decision on their asylum claim cannot be understated. British Red Cross research has found waiting for a decision on an asylum claim negatively impacts the mental health and wellbeing of people seeking asylum, and not knowing how long it will be until a decision is reached contributes to a feeling of being in limbo.<sup>24</sup> People seeking asylum are also currently unable to get an update on their case.

Alongside reintroducing the six-month service standard for processing time, the Home Office should introduce regular, accessible communication with applicants as they go through the asylum process. This should be informed by improvements in passport processing where applicants can track their application.<sup>25</sup>

Relatedly, it is not clear how the Department prioritises the processing of asylum claims. The Asylum decision-making prioritisation guidance for caseworkers last updated in October 2023 sets out the strategy for considering asylum claims in line with the statement made by Prime Minister Rishi Sunak on 13 December 2022. The Home Office should regularly update this document and publish how decision makers are prioritising claims to manage the expectations of claimants.

## 5. People with lived experience of seeking asylum should be involved in improving asylum decision making.

People who have been through the asylum system have rich insight into how the system works in practice and can support the government to anticipate challenges in asylum decision making policy. Learning and insights from the expertise of this group will challenge and strengthen asylum decision making policy.

Through engaging with people who had been through the asylum system to inform our recommendations, we heard about a 'culture of disbelief' throughout the asylum decision making process. Refugees told us that while they understood the need for scrutiny to make a decision, they felt decision makers were starting from an assumption that they were lying about the basis of their claim, even when they were able to provide evidence. At the same time, claimants felt that there was a lack of consideration that it is not always possible when you are forced to flee to gather the evidence required to support a claim. The culture of disbelief has a profound impact on the mental health of people seeking asylum, and also impacts their ability to engage with the process. Starting the decision-making process from the assumption that someone is lying may be contributing to the high number of claims being refused at initial decision and subsequently granted at appeal.

There are lessons to be learnt from Wendy Williams' Windrush Lessons Learned Review, in which she recommends the Home Office 'must change its culture to recognise that migration and wider Home Office policy is about people and, whatever its objective, should be rooted in humanity.'26 In the government's response to the review, it announced the development of the 'Face Behind the Case' mandatory training course.<sup>28</sup> It was launched in August 2020 as e-learning but replaced in June 2023 by lived experience events. An ICIBI inspection survey in July 2023 found only 12% of decision makers who responded said they had taken part in one of the new lived experience events, and Home Office staff reported that 'face behind the case' was no longer a priority when there was a focus on clearing the backlog.<sup>29</sup> 'Face behind the case' training should be mandatory for all asylum decision makers. Furthermore, one of the positive indicators of significant cultural reform Williams identified was 'a community engagement programme which results in community-informed policy-making.30 People with lived experience of seeking asylum should be involved to participate meaningfully and safely. They could be engaged in evaluating the impact of the training on people seeking asylum. The British Red Cross and the Voices Network co-created a Values Pyramid setting out the criteria or conditions for meaningful and safe involvement of people with lived experience which could be employed in Home Office policy making.31

#### Asylum seekers should have access to free, quality legal representation.

A critical risk to address in the decision-making process is the lack of legal representation. There is recognition of the necessity increase the provision of legal aid. In November 2024, the government announced an increase in civil legal aid funding, with a consultation launched on 24 January 2025 on increasing legal aid fees for those working in immigration sectors.<sup>32</sup> Long-term, there is a need to provide free, quality legal representation for all asylum seekers, including those undergoing enhanced screening.

7. The decision-making process needs to mitigate the risk of destitution and exploitation among people seeking asylum and refugees.

#### Withdrawals

Withdrawals were particularly high in 2023 when the Home Office was clearing the legacy backlog. In the year ending 31 March 2024, there were 26,150 people whose claims were withdrawn. This is the highest number of withdrawals in a 12-month period since 2001 when records began, and a 243% increase since 31 March 2023.<sup>33</sup>

The Asylum Policy instruction for caseworkers on withdrawing asylum claims states that failure to maintain contact or provide up to date contact details is grounds for a claim to be withdrawn by the Home Office. Other conditions for withdrawal, such as failure to complete an asylum questionnaire and failure to attend an asylum interview, are often related to poor contact management by the Home Office when people seeking asylum do not receive the necessary correspondence. When withdrawn claims are reinstated they no longer form part of the initial decision backlog but still require consideration and a decision.

British Red Cross and UNHCR research into exploitation and the UK asylum system found that Home Office guidance on withdrawing asylum claims does not set out welfare or safeguarding responses that should be taken in response to someone not engaging with their asylum claim. Focus group participants engaged through the research explained how this led to failures to identify indicators of trafficking and heightened risks of exploitation.<sup>34</sup>

People whose asylum claims have been withdrawn often endure significant periods of destitution and need to wait long periods of time until a legal advisor is available to help them re-access the asylum system. During this time, they are also therefore at an increased risk of exploitation and trafficking. In November 2023, it was reported that the Home Office was unable to locate 17,000 people whose claims had been withdrawn.<sup>35</sup>

To mitigate against this risk the Home Office should amend the guidance on withdrawing claims to include further steps that need to be taken to locate the claimant before a claim is withdrawn.

#### Move on

The move on period for new refugees is relevant to asylum decision-making as it is the period which immediately follows an asylum decision. Anything which impacts the speed at which decision-making happens results in higher numbers of people exiting the system.

Since 2014, the British Red Cross has been concerned about destitution faced by many newly recognised refugees as they move on from asylum support. Now that decision making has restarted and the Home Office seeks to move through the backlog, it is essential that those granted refugee status are prevented from falling into destitution. In 2023, British Red Cross services saw a sharp increase in the number of new refugees experiencing homelessness as the government made high numbers of positive decisions through SAP. As well as the humanitarian impacts, it ultimately costs more money and hinders integration, as evidenced in the British Red Cross cost benefit analysis in conjunction with the London School of Economics in 2020.<sup>36</sup> We welcome the pilot announced in December 2024 to temporarily extend the move on period to 56 days from the date of decision. Extending the move on period alongside policy and practice initiatives to support new refugees to move on quickly will reduce destitution in this cohort and save money.

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