

Note on need to focus on real crisis in asylum system: (a) chronic systemic delays in decisions and inadmissibility procedure, resulting in (b) limbo for refugees and (c) preventable asylum support costs, with possible start of solution as (d) a simplified refugee status determination procedure (retaining safeguards) for swifter refugee status grants for manifestly well-founded claims from high recognition nationalities

1. The Chief Inspector of Borders and Immigration, recently published its report into Home Office asylum casework. Our response is here. At a time of dangerous and impracticable ideas and policies, such as pushbacks at sea or offshore processing of claims, being mooted by the Home Secretary and those around her, this inspection report laid out in understated language where the actual asylum crisis is. Including (i) a decisions system riven by delays; (ii) with staff morale low, attrition high and incompetent, and insensitive interviews too frequent; and (iii) with limbo for refugees waiting, unable to move on. This dysfunction costs money, better invested in swifter and cogent decisions. The Home Office know this but its action at Ministerial level is insufficient, albeit officials may better understand the issues. The need for the Home Office to start to seriously address the chronic slowness in its protection decisions is especially vital, in advance of a Nationality and Borders Bill that when brought into effect will, we fear, increase not reduce the backlog of pending cases.

2. Senselessly in terms of policy; cruelly in its impact on people seeking protection and certainty to rebuild their lives; and at needless expense to the Exchequer, the Home Secretary is ploughing on with a New Plan for Immigration and a Nationality and Borders Bill, some of which is *already being implemented*. It is worsening not remedying the endemic problems in asylum decisions. In particular, via application of rules to consider or deem new asylum applications inadmissible to the UK system. In the absence of any removal agreements or offshore processing, the Home Secretary is issuing Inadmissibility notices of intent, which “park” that application for at least 6months, at the end of which it simply moves into a bulging decisions backlog. As at end of September, 6,598 notices had been issued since January 2021, only 10 led to removals, with 2,126 since admitted to the asylum procedure.

3. This rest of this note points to **two** aspects of a dysfunctional asylum decisions system. The Home Secretary should be made more accountable to deal with these, especially in scrutinising the Nationality and Borders Bill that will, in our estimation, add to not reduce the delays in asylum decisions. The **first** part is this *system-wide chronic slowness in asylum decisions*. The present backlog of 83,733 people waiting for an initial decision is the *highest* since 2000, when it was 94,500. And, the 56,520 individuals waiting 6months or more for an initial decision, as at end of September 2021, is the *largest* number since the current asylum support and dispersal system took effect, also in 2000. These delays have worsened throughout the last decade: in September 2011 there were 3,255 people waiting at least 6months for an initial decision, and then at two-yearly intervals this 6month delay cohort were 7,570 (2013) and 4,903 (2015), but then 14,399 (2017) to 26,155 (2019) and up again to 56,520 (2021). This trend of delays *is not explicable* by asylum applications. In the same years, the number of asylum applications were 25,898 (2011), 29,875 (2013), 39,968 (2015), 34,435 (2017), 45,537 (2019) and 34,534 (Q1-Q3, 2021).

4. The table immediately below sets out the *breadth* of the chronic slowness in the asylum decision system. These delays appear systemic, in the sense they affect people apparently irrespective of refugee recognition rates. For example, there are relatively high numbers of individuals waiting 18months or more for just an initial asylum decision across *high* (Iran, Vietnam, Afghanistan); *medium* (Iraq, Pakistan) and *low* (Nigeria, Sri Lanka) recognition nationalities. Significant numbers of those caught in the 6months or more group of 56,520, are from high to medium refugee recognition countries, as measured by Home Office refugee grant rates in 2019 (“high to medium” here ranges from 95% {Libya} to 61% {Malaysia} positive grant rates). For instance, the five highest refugee recognition nationalities account for 9% (5,111) in this 6months-plus group, rising to 23% (13,236) for the top ten recognition nationalities, and up to 37% (21,172) for the top 18 nationalities, which encompasses all the countries in the “high to medium” positive grant rate spectrum below.

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Nationality	Grant rate (2019)	Nos., wait 6m-plus at Sep.18	% change	Nos., wait 6m-plus at Sep.19	% change	Nos., wait 6m-plus at Sep.20	% change	Nos., wait 6m-plus at Sep.21	Inadmissible notice of intent	Nos., wait 6-12m ¹ for initial dec.	Nos., wait 12-18m ² for initial dec.	Nos., wait 18m+ ³ for initial dec.
1.Libya	95%	271	116%	587	-1%	583	5%	613	53	107	67	120
2.Saudi Arabia	93%	13	200%	39	226%	127	-11%	113	0	14	9	58
3.Syria	92%	151	194%	444	144%	1,086	54%	1,682	513	663	395	279
4.Yemen	91%	31	170%	84	253%	297	53%	457	60	118	149	86
5.Eritrea	90%	455	93%	882	61%	1,424	57%	2,246	1,110	873	782	446
6.Sudan	89%	722	12%	812	36%	1,111	47%	1,636	589	510	665	363
7.Turkey	87%	289	55%	450	118%	985	27%	1,257	41	201	144	438
8.Russia	86%	74	106%	153	133%	358	37%	490	14	78	51	121
9.Uganda*	77%	63	146%	155	47%	228	-5%	217	0	44	36	119
10.Iran	74%	584	171%	1,587	147%	3,932	15%	4,525	867	1,470	1,025	1,589
11.Somalia	73%	193	36%	264	68%	445	9%	485	54	106	71	237
12.El Salvador	72%	17	788%	151	536%	961	26%	1,213	307	312	7	302
13.Occ.Pal.Ter.*	71%	103	64%	169	29%	218	47%	320	45	67	69	119
14.Vietnam	70%	843	59%	1,342	79%	2,401	5%	2,520	591	493	297	1,573
15.Kuwait	70%	137	23%	169	46%	246	35%	331	62	84	48	55
16.Afghanistan	69%	1,204	15%	1,387	51%	2,098	18%	2,470	278	561	482	1,051
17.Cameroon	67%	61	202%	184	57%	289	0.7%	291	0	61	40	165
18.Malaysia	61%	50	292%	196	57%	308	-0.6%	306	0	47	28	189
19.Egypt	54%	118	72%	203	81%	368	36%	500	65	134	88	155
20.DRC*	51%	113	7%	121	27%	154	3%	158	0	20	9	97
21.Ethiopia	49%	216	45%	314	18%	371	35%	501	105	110	128	212
22.Iraq	47%	1,191	92%	2,292	59%	3,637	26%	4,585	627	794	725	1,646
23.Pakistan	46%	1,164	73%	2,019	58%	3,187	10%	3,493	42	556	379	1,728
24.Morocco*	43%	49	96%	96	110%	202	27%	257	9	52	46	117
25.Kenya*	41%	77	75%	135	68%	227	28%	291	0	36	65	151
26.The Gambia°	35%	60	17%	70	81%	127	61%	204	5	50	32	181
27.Nigeria	32%	986	13%	1,119	45%	1,618	29%	2,085	0	301	199	715
28.Sri Lanka	32%	600	26%	755	60%	1,210	2%	1,234	17	128	107	734
29.Zimbabwe	28%	96	90%	182	62%	294	10%	324	0	38	38	195
30.Namibia	27%	53	243%	182	198%	543	13%	613	0	99	46	326

¹ Main applicants only, Home Office FOI data 67183, as at September 2021

² Ibid

³ Ibid

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5. The **second** part of this chronic slowness in asylum decisions is the *lack of priority given by Ministers to practical solutions*, such as consideration for a simplified procedure that is *within not outside* the asylum procedure, for protection applicants from countries that the Home Office commonly recognise anyway as refugees; albeit too often it takes years not months. Instituting a simplified procedure, but only if there is no loss of substantive or procedural safeguards, alongside scrapping the use of Inadmissibility notices of intent, can start to make overdue and sustained inroads into the bulging backlog. For people desperate to get on and rebuild their lives in the UK. For the Exchequer, in not passing millions of pounds to private companies. For the public to help restore credibility to asylum decisions, via swifter grants of leave. *Such practical solutions can be effective where the proposed legislation will not.*

6. A simplified, swifter decision procedure for manifestly well-founded applications is not a substitute for each person having their claim considered on its own basis. But, it may help to triage, streamline and reduce delays. So long as key safeguards are not removed, it starts to enable progress, *via refugee leave grants*, into this backlog in a manner that maintains the integrity of decisions whilst recognising patterns of persecution in certain countries. To be clear, for us, the chronic slowness in Home Office decisions *is the real-world crisis* in the asylum system. The numbers of new asylum applications year-on-year are relatively low, in UK terms and with comparable European nations. They are manageable if the political will was there. There is no credible reason why the Home Office have let matters slip so badly, especially since 2014, such that the latest figures are of 83,733⁴ waiting for an initial decision, 56,520⁵ of which are stuck for 6months or more. Many are from UK-high recognition countries e.g. 3,796 Afghans, and rising, are awaiting even just an initial decision.

7. The next table is to further pinpoint the malaise in the Home Office asylum decision system. It does so through reference to the *volume and trend* of UK-high refugee recognition nationalities being affected by these delays, *in not getting even just an initial decision*. No one should have to suffer *such chronic and worsening delays* that long pre-date Covid-19, and have been aggravated by it. *It seems absurd and expensive that people from high refugee countries are suffering in this malaise too.* The table is structured by the sixteen nationalities in the UK with the highest UK refugee recognition rates. I used the estimated final grant rate official figures for 2019, to arrive at these nationalities. This was to strike a balance between a sufficiently recent but still decent-sized dataset on final decisions. I opted for those nationalities at around 70% or more positive grant rates, so starting with Afghanistan at 69% up to Libya at 95%. The rest of the figures are either from (a) the latest official statistics for year ending September 2021 and (b) from the attached Home Office FOI data that sets out the timeline of main applicants awaiting an initial decision, disaggregated by nationality. The numbers in the table below refer to main applicants plus dependents unless otherwise specified, in which case it will be referenced as main applicants. The figures reflect chronic delays in decisions.

⁴ Main applicants and dependents

⁵ Ibid

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15.Kuwait	70%	137	23%	169	46%	246	35%	331	62	84	48	55
16.Afghanistan	69%	1,204	15%	1,387	51%	2,098	18%	2,470	278	561	482	1,051
								Total =20,575		=5,701	=4,297	=6,956
										Total =16,954		

8. Applications for refugee protection from nationals (including dependents), from these sixteen countries account for 37,133 (44%) of the total 83,733 awaiting an initial decision. 20,575 of this 37,133 have been waiting for at least 6months, which is 25% of all outstanding applications and 36% of the 56,520 awaiting an decision for 6months or more. Those 20,575 from these sixteen high recognition countries waiting 6months or more, comprise 16,954 main applicants and 3,621 dependents. Substantial numbers of which are waiting at least 12months (4,297) or 18months (6,956) for just an initial decision, despite applying from UK-high refugee recognition countries. *Swifter grants of Refugee leave for these persons can start to reduce the bulging backlog.*

9. Earlier when detailing the actual crisis in asylum, namely the Home office's chronic slowness in making initial decisions, we noted "the Home Secretary ploughs on with a New Plan for Immigration and a Nationality and Borders Bill, some of which is *already being implemented*. It is worsening not remedying the endemic problems in asylum decisions ... via application of rules to consider or deem new asylum applications inadmissible to the UK system ... [with]

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the Home Secretary issuing Inadmissibility notices of intent, which “park” that application for at least 6months, at the end of which it simply moves into a bulging decisions backlog”.

10. This table is again structured by the sixteen UK-highest refugee recognition nationalities, as at 2019 grant rates. It covers the Inadmissibility procedure from January to September 2021. There are four phases: (a) consideration for Inadmissibility; (b) potential issuing of a Notice of intent; (c) possible service with a Decision; and (d) either (i) if served with such a Decision, possible removal or (ii) moved onto the asylum procedure. This analysis draws on Home office FOIs. That data disaggregates published statistics on Inadmissibility, by nationality, sex, and age, for main applicants plus dependents. It reflects an unworkable procedure, as prior evidenced here and here. Far from helping deal with the chronic slowness in asylum decisions, this regime adds more delay.

Nationality	Grant rate (2019)	1. Considered for Inadmissibility	2. Notice of intent to investigate	3. Inadmissibility decision ⁹	4a. Removed ¹⁰	4b. Moved onto asylum procedure	Already waiting for an initial asylum decision	Have been waiting 6months or more for an initial decision
1. Libya	95%	53 <i>of which</i>	52	None	None	26	844 <i>of which</i>	613
2. Saudi Arabia	93%	0	N/A	N/A	N/A	N/A	175 “	113
3. Syria	92%	528 “	513	None	None	199	3,362 “	1,682
4. Yemen	91%	60 “	59	None	None	13	677 “	457
5. Eritrea	90%	1,087 “	1,110	27	None	246	5,777 “	2,246
6. Sudan	89%	610 “	589	None	None	110	3,060 “	1,636
7. Turkey	87%	41 “	23	None	None	8	1,660 “	1,257
8. Russia	86%	14 “	12	None	None	6	629 “	490
9. Uganda*	77%	0	N/A	N/A	N/A	N/A	240 “	217
10. Iran	74%	960 “	867	None	None	388	9,111 “	4,525
11. Somalia	73%	54 “	51	None	None	9	828 “	485
12. El Salvador	72%	336 “	307	None	None	59	1,727 “	1,213
13. Occ.Pal.Ter.*	71%	47 “	45	None	None	8	458 “	320
14. Vietnam	70%	609 “	591	None	None	164	3,765 “	2,520
15. Kuwait	70%	64	62	None	None	10	844 “	331
16. Afghanistan	69%	301 “ = 4,764 (68% of 7,006)	278 = 4,559 (65% of 6,598)	None	None	104 = 1,350 (63% of 2,126)	3,976 “	2,470

* Grant rate (2018) and ° Grant rate (2017) – as equivalent % figures not available for these countries for 2019

Graham O'Neill, Policy Manager, Scottish Refugee Council, 4 January 2022

⁹ There have been only 46 decisions to render persons inadmissible to the UK asylum procedure, 27 of which were served on Eritrean nationals, the rest being across approximately ten states

¹⁰ There have been only 10 removals through this Inadmissibility procedure, affecting nationals from approximately six countries – all from Home Office FOI data 67180, as at September 2021