House of Commons

Home Affairs Committee

Asylum Applications

Second Report of Session 2003–04

Volume I

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The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies; the administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office.

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Committee staff

The current staff of the Committee are Dr Robin James (Clerk), Mr Mark Etherton (Second Clerk), Miss Jane Gordon (Committee Legal Specialist), Mr Ian Thomson (Committee Assistant), Mrs Carolyn Bowes (Chief Office Clerk) and Mrs Melanie Barklem (Secretary).

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Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the page number as in 'Ev 12'. All evidence for this inquiry is printed in Volume II.

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Report

Summary

In May 2003 we published a report on *Asylum Removals*. We have followed this up with a comprehensive look at other aspects of asylum policy. This supplements our specific comments on the Government's new asylum bill in our report published in December 2003.

In this report we first set out an overview of the asylum process. We then consider recent trends in asylum applications, looking at why people seek asylum in Europe in general and the UK in particular. We note evidence that conflict, not poverty, is the defining characteristic of asylum seekers' source countries, though not all those who come from such countries are genuine asylum seekers. We consider that, very roughly, about half of claimants can justifiably be regarded as economic migrants rather than refugees—although the two categories frequently overlap. It is likely there are some factors which over the past ten years or so may have made the UK a relatively more attractive destination than some others in Europe.

We note that the rise in asylum applications to the UK over the past 15 years has been so steep—a more than twenty-fold increase—that it is likely that any asylum system and any Government would have had difficulty in coping with it. We review the various measures taken both by this Government and its predecessor to respond to the increase. We hope that the need for any future 'amnesties' for asylum seekers can be avoided by discouragement of unfounded claims, fast and efficient processing of those claims when they are made, and rapid removal when claims have failed.

We welcome recent specific measures to improve border security, but repeat our recommendation in an earlier report for the creation of a unified frontier force.

We acknowledge recent progress in the processing of asylum claims. We support fast-track processes, the establishment of dedicated induction centres, and the Government's plans to introduce accommodation centres. We call for a flexible approach to the siting of such centres including the use of dispersed accommodation. We support the extension of the language analysis scheme which helps to detect nationality fraud.

There are certainly grounds for concern about the poor quality of much initial decision-making on asylum claims. The pressure to speed up the process may have led to an erosion in the quality of some initial decision-making. We recommend greater 'front loading' of the applications system, that is, putting greater resources into achieving fair and sustainable decisions at an earlier stage. This should include better provision of good quality legal aid and interpretation services at the initial stage. More interpreters and caseworkers with specialist knowledge of asylum seekers' claimed countries of origin should be recruited. There should be an independent review of the quality of the Immigration and Nationality Directorate's decision-making on asylum applications. The Public Service Agreement targets on quality of decisions should be more challenging. The system should be properly resourced.

We welcome the fall in asylum applications in 2003. This is due in part to the Government's restrictive measures. As it becomes increasingly difficult to get into the UK to make an asylum claim, it must be the case that many people who would have a well-founded case for asylum will be unable to make a claim. There is agreement that a large proportion of asylum seekers arrive in the UK as the result of illegal people-smuggling operations conducted by criminal gangs. We also note that the asylum seekers who *do* manage to make a claim in the UK are not representative of the world's wider refugee population—they are more likely to be young, male, healthy, educated and with access to significant financial support, and less likely to be old, female, ill, uneducated or poor. We believe this creates a moral responsibility on the British Government to provide alternative legitimate means by which refugees can gain access to this country, to assist refugees closer to their country of origin, and to tackle the roots of enforced migration.

We consider the adequacy of support for asylum seekers in the UK, and conclude that the National Asylum Support Service is under-resourced, has too few trained staff, and insufficient local knowledge. An improvement in the performance of NASS should be a very high priority.

We discuss the operation of Section 55 of the Nationality, Immigration and Asylum Act 2002, which prevents provision of support to asylum seekers unless they have made their asylum claim "as soon as reasonably practicable" after arrival in the UK. We agree that it is reasonable to expect genuine refugees to claim asylum at an early stage after their arrival in this country. However, we are disturbed by widespread claims that the operation of Section 55 is causing real distress, and may be having a counter-productive effect on other asylum policies. We call for an independent review of the working of Section 55. This should also consider the problem of failed asylum seekers who are unable to return to their countries because of the human rights situation there. We recommend that the Government should make appropriate use of the power to grant a temporary right to remain in the UK in the case of such people.

We consider some recent developments in relation to asylum detention and removals, considered in our earlier report, and make further recommendations. We emphasise the crucial need to integrate asylum decision-making, voluntary departure and compulsory removals.

We explore issues arising from the problem of illegal working, and call for more vigorous government action to tackle this. In particular we urge tougher action against employers of illegal labour, for instance by using the Proceeds of Crime Act.

We recommend that the Government should clarify its policy on economic migration.

We review recent EU developments, and recommend that the UK Government should work for greater Europe-wide consistency on the treatment of asylum seekers. We support the concept of regional 'zones of protection' for refugees. We also support the UK's participation in the United Nations High Commission for Refugees' quota refugee resettlement scheme, and call for this to be expanded. We recommend that if the number of successful asylum applications made in the UK declines, Ministers should increase the UK's resettlement quotas through the scheme each year by a proportionate amount.

Finally, we discuss various radical options for the processing of asylum claims. We consider proposals for renegotiation of or withdrawal from the UK's treaty commitments relating to refugees. We do not favour withdrawal from the 1951 Convention or the European Convention on Human Rights. However, we believe that the 1951 Convention needs updating; this should be done on the basis of international consensus.

We also consider schemes for the segregation of asylum seekers from wider UK society until their claims have been determined, in order to remove an incentive for economic migration. We conclude that these options could take significant time to implement and could be costly. The most effective course of action is likely to be continuing with the Government's current strategy and the early adoption of the recommendations in this report.

We believe the overriding priority is to maintain recent progress in improving the applications system, to reduce the backlog further and to increase both the fairness and the speed of the system. Efficiency should be combined with humanity. As we stated in our report on removals, "whether we are dealing with genuine asylum seekers or economic migrants we should never lose sight of the fact that we are dealing with human beings, not numbers, and they should be treated accordingly".[1] There is likely to be popular support for humane treatment of genuine refugees, and admission of manageable numbers of economic migrants with skills the country needs, *as long as* overall numbers are seen to be manageable, border controls are effective, and those who attempt to abuse the system are detected and removed.

We accept that a consequence of the necessary actions taken to tighten up the applications system will be that some people with genuine claims will be deterred. This makes it all the more important for the Government to pursue its efforts to assist refugees closer to their country of origin, and to co-operate with other European countries in taking action to tackle the root causes of migration.

1 Home Affairs Committee, Fourth Report of Session 2002-03, *Asylum Removals* (HC 654-I), para 136

1 Introduction

1. Asylum is in the forefront of current political issues. We have carried out an inquiry into *Asylum Applications*, to follow up our previous reports on *Border Controls* (2000)[2] and *Asylum Removals* (May 2003).[3] During the course of this inquiry the Government has announced several new initiatives, culminating in the publication of the Asylum and Immigration (Treatment of Claimants, etc.) Bill on 27 November 2003. In order to keep track of these initiatives we have taken evidence from the relevant Minister on no fewer than five occasions in the past eight months.[4] We produced a separate report on the new Bill in time for its Second Reading debate on 17 December 2003.[5] In the present report we take a broader look at the issues underlying asylum policy.

2. The UK has a long and praiseworthy tradition of offering asylum to people fleeing from persecution in their own countries. In recent years a steep increase in the number of those claiming asylum in the UK has led to calls for the right to claim asylum to be restricted. Public concern has been driven by widespread fears that the asylum system is being abused, particularly by economic migrants posing as refugees, that the numbers of people entering the country as asylum seekers or illegal immigrants have become unmanageable, and that those found to have no right to be here have not been removed. There are genuine grounds for concern on these matters, and in our report on asylum removals we criticised those who are in a state of 'denial' over the reality of the problem. The necessary public debate over the issue of asylum should not excuse the inflammatory reporting in some sections of the press which has led to an exaggerated sense of public alarm, and created a danger that all claimants will be demonised. The Press Complaints Commission recently issued a warning to newspapers about their coverage of asylum issues, stating that "inaccurate, misleading or distorted reporting may generate an atmosphere of fear and hostility that is not borne out by the facts".[6]

3. We believe that the key to winning public support for a sensible and workable asylum policy is for the Government to demonstrate that it is in control of events. Perceptions are important: the general public must see clear evidence that the claims of asylum seekers are being fairly assessed and competently processed. As we stated in our report on asylum removals, the need is for an approach which is both *efficient* and *humane*. It is important that the asylum issue should not be treated in isolation from the problem of illegal working and the need for a managed immigration policy. We also believe that the UK should do more to assist developing countries to deal with the large numbers of refugees within their borders who, through age, infirmity or poverty, are not able to seek asylum in Europe, and

2 Home Affairs Committee, First Report of Session 2000–01, *Border Controls* (HC 163), published on 31 January 2001. The Government's reply was published on 28 March 2001 as the Committee's Fourth Special Report of Session 2000–01 (HC 375).

3 Home Affairs Committee, Fourth Report of Session 2002–03, *Asylum Removals* (HC 654-I). The Government's reply was published on 18 July 2003 as the Committee's Second Special Report of Session 2002–03 (HC 1006).

4 Evidence was taken from Beverley Hughes MP on 4 March 2003 as part of the inquiry into Asylum Removals , on 11 September as part of our annual evidence session with the Home Secretary, and on 8 May, 21 October and 19 November as part of the present inquiry.

5 Home Affairs Committee, First Report of Session 2003–04, *Asylum and Immigration (Treatment of Claimants, etc.) Bill* (HC 109), published on 16 December 2003.

6 Press Complaints Commission press release, 23 October 2003

who are at least as much deserving of attention and sympathy as those who manage to reach the haven of an EU country.

The Committee's inquiry

4. The key questions we announced as the basis of our inquiry were:

> "What are the reasons for the rise in asylum applications to the UK over the last ten years?
>
> How adequately and fairly are asylum applications managed today? How did the backlog of asylum determinations arise? Is it being dealt with satisfactorily?
>
> How adequately is support provided to asylum seekers by the National Asylum Support Service?
>
> How appropriately is detention used in respect of asylum applicants?
>
> What will be the effects on the management of asylum applications of changes made in the Nationality, Immigration and Asylum Act 2002 and the Prime Minister's pledge to halve the number of asylum seekers by September 2003?
>
> What is the possible impact of any proposed change to the treaties covering asylum and refugees to which the UK is committed?"[7]

During the course of the inquiry we considered other issues, including the relationship between the asylum process, economic migration and illegal working in the UK, international co-operation in dealing with asylum seekers, and the possible future contribution of the UK to assisting refugees overseas closer to their countries of origin.

5. During the course of our inquiry we took oral evidence on nine occasions and received 84memoranda. Oral evidence was taken from Beverley Hughes MP, Minister of State for Citizenship, Immigration and Counter-Terrorism at the Home Office, accompanied by officials of the Immigration and Nationality Department; and from the following organisations: Amnesty International, the Immigration Advisory Service, the Law Society, the Refugee Council and the United Nations High Commission for Refugees. In addition, the following persons gave oral evidence in an individual capacity: Mr Mohammad Fahim Akbari, Mr Zemmarai Shohabi and Mr Hashmatullah Zarabi, refugees; Mr Tom Bentley and Mr Theo Veencamp, co-authors of the Demos pamphlet *People Flow*; Dr Heaven Crawley, Director of the Migration and Equalities Programme, Institute of Public Policy Research; Mr Peter Gilroy, Strategic Director of Social Services, Kent County Council and Chair of the Association of Directors of Social Services Asylum Task Force; Mr Martin Howe QC, author of the Politeia pamphlet *Tackling Terrorism*; Simon Hughes MP, Principal Liberal Democrat Spokesperson for Home and Legal Affairs; Rt Hon Oliver Letwin MP, Shadow Home Secretary; and Ms Harriet Sergeant, author of the Centre for Policy Studies pamphlet *Welcome to the Asylum*. The Committee also visited Dover, to

7 The inquiry into Asylum Applications was announced on 25 February 2003. Our press notices are available on the Committee's website, available at www.parliament.uk

inspect border controls and reception facilities for asylum seekers; and Croydon, to see the IND Asylum Screening Unit and the National Asylum Support Service.

6. In parallel with our inquiry, the Constitutional Affairs Committee (formerly the Select Committee on the Lord Chancellor's Department) has been conducting an inquiry into *Asylum and Immigration Appeals*. On 31 October 2003 that Committee published a report commenting on the Government's proposed changes to legal aid for asylum and immigration work.[8] We understand that a further report on the appeals system as a whole is likely to be published in Spring 2004. We are grateful to the Constitutional Affairs Committee for keeping us informed of the progress of their inquiry. In our report we make some comments on the asylum appeals system and the Government's proposed reforms to it, but, being aware of our sister committee's ongoing investigation, we do not deal with this subject in extensive detail.

2 The asylum process: an overview

7. The right to claim asylum is governed by the United Nations Convention on Refugees, (1951) and its amending protocol (1967). The UK is a party to the Convention and protocol. Applications for asylum made at UK ports of entry or within the country are considered on the merits of each individual case in accordance with Convention obligations. The detailed legal background to the current system of asylum and immigration control is set out in our earlier report on asylum removals.[9]

8. Article 1 of the Convention defines a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country". An asylum-seeker is someone who has applied to be treated as a refugee. Asylum in the UK can only be claimed from within the UK.

9. In some circumstances asylum seekers who do not qualify to be treated as refugees under the 1951 Convention may be granted leave to remain in the UK, usually because there are humanitarian reasons for allowing them to stay under Article 3 of the European Convention on Human Rights (ECHR). This used to be known as "exceptional leave to remain" (ELR). Since 1 April 2003 two new categories of leave to remain have been introduced in substitution for ELR:

- Humanitarian protection: this may be granted to those who "though not refugees would, if removed, face in the country of return a serious risk to life or person arising from the death penalty, unlawful killing or torture, inhuman or degrading treatment or punishment". Such people will be granted three years of leave and then, if still in need of protection, may apply for settlement in the UK.

8 Constitutional Affairs Committee, Fourth Report of Session 2002–03, *Immigration and Asylum: the Government's proposed changes to publicly funded immigration and asylum work* (HC 1171).

9 HC (2002–03) 654-I, paras 13–23

- Discretionary leave: this may be granted to some people who do not otherwise qualify for leave. Periods of three years or less can be granted, after which a person will be able to apply for a further period of leave, but not for settlement.[10]

In theory, exceptional leave to remain conferred the right to stay in the UK on a temporary basis, but in practice people granted ELR have been allowed to settle. The two new categories of leave are intended to be genuinely temporary in effect.

10. Responsibility for dealing with asylum claims and providing support for asylum seekers lies with the Immigration and Nationality Department (IND) of the Home Office. IND comprises three sections:

- The Immigration Service
- The Integrated Casework Directorate, which has responsibility for considering asylum applications
- The National Asylum Support Service (NASS), which can provide financial and other support to asylum seekers.

11. A chart showing basic asylum application processes is on page 12. We analyse relevant statistics in much greater detail later in this report, but as a bare summary it may be noted here that in 2002, which is the last complete year for which figures are available, the number of applications received in the UK was 84,130, excluding dependants, and 103,080, including dependents. In the first three-quarters of 2003, the equivalent numbers were 38,540 and 47,875.

12. In 2002 two-thirds of applications were made in-country rather than on arrival. Three-quarters of applicants were male, and four-fifths were aged between 18 and 34. Over a third of all applicants were from African nationals (35%), a quarter were from Asian nationals (25%), 22% were from Middle Eastern nationals and 16% were from European nationals.

13. A total of 83,540 initial decisions were made during 2002. Refugee status was granted in 10% of these cases, exceptional leave to remain was granted in a further 24% of cases, and in the remaining 66% of cases both asylum and ELR were refused.[11] Equivalent statistics for 2003 are available for the first three-quarters only.[12] They are set out in the following table, and show a reduction in the proportion of cases in which leave to remain was given, after the introduction in April 2003 of the two new categories of leave to remain.

10 HC Deb, 1 April 2003, col 54WS

11 Home Office, *Asylum Statistics United Kingdom 2002*

12 *Asylum Statistics: 1st, 2nd, 3rd Quarters 2003*

2003	First Quarter	Second Quarter	Third Quarter
Number of initial decisions	20,765	14,655	14,210
Granted refugee status	7%	7%	5%
Granted exceptional leave to remain or (after 1.4.03) humanitarian protection or discretionary leave	19%	7%	7%
Refused both refugee status and leave to remain (N.B. These figures are pre-appeal. If past trends continue, a significant proportion of these refusals are likely to be overturned on appeal.)	74%	86%	88%

14. When an asylum application has been made, applicants are screened to establish their identity and nationality. Their fingerprints are taken to guard against fraud and multiple applications. Applicants are issued with an Application Registration Card recording their name, date of birth, nationality and other details. They will need to present this card to access services available to them as asylum seekers, for instance to collect support payments.

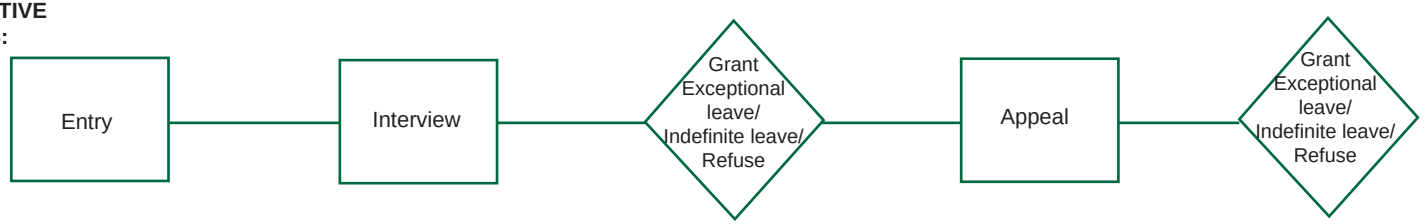
15. Decisions are taken at this initial stage about the best way of dealing with individual claims. For instance, if IND has identified another safe country which is responsible for considering an individual's application for asylum, then the procedures under the Dublin Convention apply (this provides for transfer of asylum applicants within the EU to the state deemed to be responsible for them under agreed criteria). As well as the EU states, Canada, Iceland, Norway, Switzerland and the USA are deemed to be 'safe third countries'.

16. If the UK Government is responsible for considering a claim, the applicant is usually asked to fill in a Statement of Evidence Form to explain the basis of his claim; this must be completed in English. This is followed by an interview at which he is questioned about his reasons for applying for asylum. Except in the case of 'fast-tracked' applicants (see paragraph 18 below), the interview is usually held about five or six weeks from the date the application was made. Interviews are held at a variety of locations including Croydon, Leeds and Liverpool. Many asylum seekers do not speak English, and their interviews will therefore be conducted through an interpreter employed by the Home Office. The initial decision on the case is then taken either by a trained caseworker or an immigration officer. The aim is to make a decision on the application within two months from the date of the application: in the third quarter of 2003, this target was met in 81% of cases, compared with 61% in 2001–02. The average time between application and initial decision was six months for initial decisions made in 2002; the comparable figure for initial decisions made in 1997 was 22 months.[13]

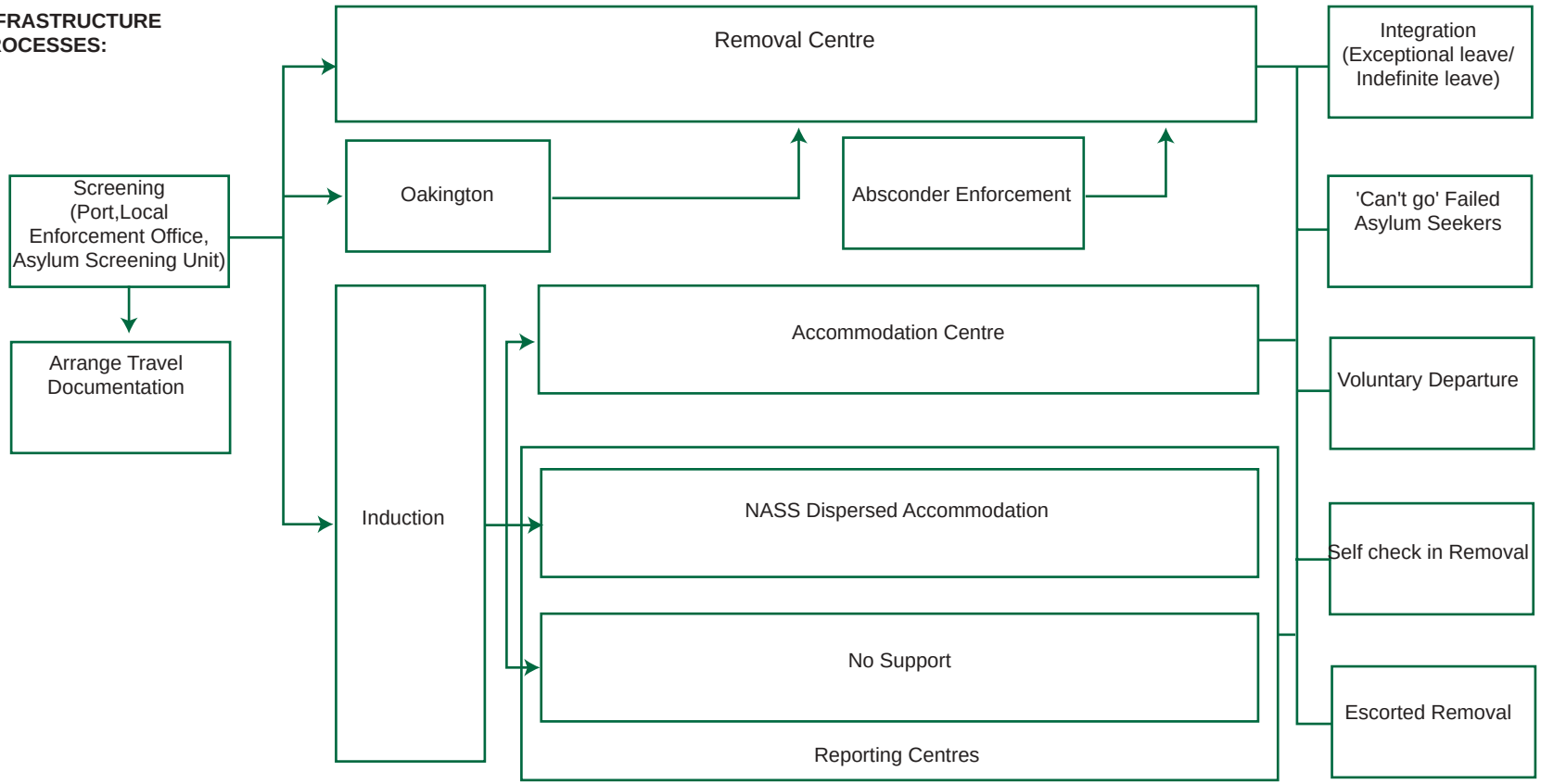
13 *Asylum Statistics: 3rd Quarter 2003*, p 3; Ev 168

Asylum Processes Level 1 Overview

SUBSTANTIVE PROCESS:



INFRASTRUCTURE PROCESSES:



17. The Government is introducing a comprehensive induction process for all asylum seekers. This will be provided through designated induction centres, at which applicants will be familiarised with asylum procedures, receive detailed briefings on different aspects of the asylum process, have their rights and responsibilities explained, and have their health and support needs assessed. The intention is that applicants will stay for about two weeks in a centre, before they move on to an accommodation centre or are dispersed round the UK. At present only two dedicated induction centres are operating, at Dover and Leeds. Others are planned, but in a number of cases these plans have faced strong local opposition.[14]

18. A 'fast-track' asylum centre operates at Oakington near Cambridge: asylum seekers are detained there if they come from countries from which claims are "presumed to be unfounded", to enable swift determination of their cases (usually within 10 days). This fast-tracking process has recently been extended to Harmondsworth detention centre near Heathrow.[15]

19. In its 2002 asylum white paper the Government also proposed to establish a network of accommodation centres.[16] It was envisaged that, following an initial trial, these would provide 3,000 places for first-time asylum seekers, offering full board, education, health and interpretation facilities. The Government commented that "The intention is that these places will be offered to a proportion of asylum applicants, and those who refuse an offer will not be offered alternative forms of support. Asylum seekers in accommodation centres will not be detained, but will be free to come and go; however, they will be required to reside at the allotted centre throughout the processing of their application. In August 2003 the Deputy Prime Minister gave planning approval for an accommodation centre on Ministry of Defence land at Bicester, Oxfordshire, and the Home Office announced that it would be moving ahead rapidly with plans to develop the site.[17] Other sites being considered are at RAF Newtown, Nottinghamshire, and at HMS Daedalus, Gosport, Hampshire.[18]

20. There are currently two levels of appeal against an initial refusal to grant leave to remain in the UK. In 2002, 67% of initial asylum applications were refused. Of those refusals, 77% (i.e. 51% of the initial applications) were appealed against, to adjudicators of the Immigration Appellate Authority. At this first level of appeal, 22% of appeals were successful.[19] There has been a steep rise in initial-level appeals in recent years, accompanied by a rise in the proportion of appeals which are successful, from one in 25 in 1994 to one in five in 2002.[20]

14 See Home Office press notice 167/2003, *New induction processes introduced to improve the asylum system*, dated 18 June 2003

15 Home Office press notice 074/2003, *New fast track pilot for asylum claims*, dated 18 March 2003

16 Home Office, *Secure Borders, Safe Haven: Integration with Diversity in Modern Britain*, February 2002 (Cm 5387), paras 4.28–39

17 Home Office press notice 223/2003, *Home Office reaction to the decision on a proposed accommodation centre at Bicester*, dated 19 August 2003

18 Home Office press notice 037/2003, *New steps in asylum seeker accommodation centre trial*, dated 11 February 2003

19 *Asylum Statistics United Kingdom 2002*, paras 25–30; Tables 7.1–2

20 *Ibid*., Table 7.1

21. Claimants whose appeals are dismissed at the first level may be given leave to appeal to the second level, that of the Immigration Appellate Tribunal; in addition, the Secretary of State may also appeal to the Tribunal. Calculation of the proportion of original applicants who proceed to each level of appeal is made difficult by the nature of the Home Office's statistics. These relate to all applications, decisions or appeals within a specific time period, and do not track a specific cohort of individuals through the process. The difficulty is made clear by the following table, in which asterisks indicate breaks in the continuity of data.

Total numbers of asylum applications decided, refused and appealed against, 2002

Initial decisions	83,540 initial decisions made
	55,130 refused
	* * * * *
Appeals at first level (adjudicators)	64,405 appeals determined
	48,845 (76%) dismissed
	* * * * *
Further appeals (to Tribunal)	25,600 applications for leave to appeal
	* * * * *
	6,920 appeals received
	* * * * *
	5,565 appeals determined
	620 appeals (11%) allowed
	plus 2,700 appeals remitted to the adjudicators.

Source: Asylum Statistics 2002

22. The above figures show that 11% of appeals from the first stage of appeal (the adjudicators) to the second (the Tribunal) are successful, but this cannot be expressed as a percentage of the appeals rejected at the first stage, because we are not necessarily dealing with the same cases. On the basis of the Home Office's published figures, it is not possible to say what proportion of applicants whose claims are rejected by the adjudicators seek leave to appeal to the Tribunal. Furthermore, the figure of 11% for the success rate of further appeals does not take into account the fact that nearly half of further appeals are remitted back to the adjudicators;[21] if these remittals are removed from the calculation, 22% of cases determined by the IAT are successful. Those referred back to the adjudicators may also be granted refugee status.

21 The Department of Constitutional Affairs defines remittals as follows: "Appeals are remitted when a defect in the adjudicator's determination is revealed which the Tribunal cannot correct. The error of the adjudicator may be, for example: that he failed to make findings or a finding of fact on the evidence before him; that he ignored evidence which was before him; that he did not consider objective evidence before him. … Most remittals are to a different adjudicator. Rarely, a case is remitted to the original adjudicator, for example so that he can take into account extra material which erroneously was not before him at the original hearing, without having to re-hear all the evidence." (Ev 261)

23. In an attempt to circumvent this difficulty, the Minister of State supplied us with figures for the 12 months up to September 2003 which included unpublished Home Office data on the outcomes of remitted appeals. During that period there were 61,925 asylum applications, 69,195 initial decisions and 74,811 adjudicator appeal decisions. (The high number of adjudicator decisions reflected an earlier surge in applications.) In the same period further appeals from the adjudicators to the Immigration Appeal Tribunal were allowed in 1,090 cases (1.4% of the original adjudicator decisions) and 995 more were allowed at the adjudicator tier having been remitted back from the Tribunal on further appeal (a further 1.3% of the original adjudicator decisions). Allowing for 31 successful asylum-related applications for judicial review, and three appeals granted by the Court of Appeal, a total of 2.8% of the original adjudicator decisions were overturned on appeal.[22]

24. The Government is currently proposing to replace the two-tier system with a single appeal to a new Asylum and Immigration Tribunal, with applicants expected to raise all their grounds of appeal at a single hearing.[23]

25. Applicants may at any stage ask to be returned to their country of origin under a Voluntary Assisted Return Programme. This is administered by the International Organisation for Migration (IOM) and funded by the Home Office. In 2002, IOM facilitated the voluntary return of 1,196 individuals from the UK to a wide variety of countries.[24]

26. Asylum seekers may receive financial support and accommodation from NASS while their claims are being considered.[25] To be eligible for support, they must satisfy IND that they applied for asylum at the earliest opportunity.[26] The cost to public funds of supporting asylum seekers in the last financial year for which statistics are available (2001–02) was £1,046 million.[27] At the end of September 2003, a total of nearly 86,000 asylum seekers were receiving NASS support (of which nearly 52,000 were supported in NASS accommodation and the remainder were receiving subsistence-only support). The Government has pursued a policy of dispersal of asylum seekers to the regions: an asylum seeker has no say in where he or she is sent. The regions with the highest populations of asylum seekers in NASS accommodation were Yorkshire and the Humber (19% of the total), West Midlands (18%), the North West (18%), Scotland (11%) and the North East (10%). However, nearly three-quarters of all asylum seekers in receipt of subsistence-only support (24,830 individuals) were located in London.[28]

27. If asylum seekers are granted refugee status, i.e. indefinite leave to remain in the UK under the 1951 Refugee Convention, they have a right to build new lives in the UK with the same legal rights and responsibilities as UK citizens. If they are granted Humanitarian

22Ev 259; other figures in this paragraph are taken from *Asylum Statistics: 1st and 3rd Quarters 2003*.

23 See our recent report on *The Asylum and Immigration (Treatment of Claimants, etc.) Bill*: First Report of Session 2003–04 (HC 109), paras 34–40.

24 HC (2002–03) 654-II, Ev 145

25 See paras 163 ff below.

26 See para 187 below.

27 HC Deb, 30 October 2003, col 320W

28 *Asylum Statistics: 3rd Quarter 2003*, p 7

Protection or Discretionary Leave (formerly Exceptional Leave), the same is true but on what may prove a temporary basis.

28. To help refugees adapt to their new life, the Home Office has a refugee integration strategy, which is to—

- Include refugees as equal members of society
- Help refugees develop their potential and contribute to the cultural and economic life of the country
- Set out a clear framework to support the integration process across the UK
- Facilitate access to the support necessary for the integration of refugees nationally and regionally.[29]

The Home Office announced in December 2003 that the Challenge Fund, set up in 2001 to help refugees integrate into the community, had disbursed grants totalling nearly £2 million to more than 40 local initiatives. It was also announced that the Fund, initially set up for three years, would continue in existence indefinitely.

29. When, however, a final determination is given that asylum seekers do not have leave to remain, they are expected to leave the UK. If they do not do so voluntarily, they may be detained until they can be removed. In September 2003, 1,270 persons who had sought asylum at some stage were being detained in the UK under Immigration Act powers. By the end of 2003, about 1,500 failed asylum seekers were being removed from the UK each month.[30]

29 Home Office press notice 346/2003, *New funding to help refugees become full and active citizens*, issued 4 December 2003

30 Letter to the Chairman from Beverley Hughes MP dated 3 December 2003. For detention and removals, see our earlier report on *Asylum Removals* (HC (2002–03) 654-I, and paras 209–37 below.

3 Trends in asylum applications

The level of applications to the UK

30. In recent years asylum applications have risen and fallen, but the overall trend in the past two decades has been a steep increase, as the following figures show:

Total asylum applications to the UK from 1985 to 2002 inclusive, excluding dependants[31]

1985	4,389	1995	43,965
1986	4,266	1996	29,640
1987	4,256	1997	32,500
1988	3,998	1998	46,015
1989	11,640	1999	71,160
1990	26,205	2000	80,315
1991	44,840	2001	71,025
1992	24,605	2002	84,130
1993	22,370	2003	[*till end September]*
1994	32,830		38,540

31. In 2002, a total of 84,130 applications for asylum in the UK were made, excluding dependants (a spouse or minor accompanying the main, or 'principal' applicant may be included in his or her application for asylum as his or her dependent). On average, there is one dependant for every five principal applicants. Including dependants, the figure for 2002 was 103,080.[32]

31 Source: *Asylum Statistics United Kingdom*

32 *Asylum Statistics United Kingdom 2002*, paras 1–2, 14

Asylum decisions 1998B2002, excluding dependants[33]

Number of principal applicants					
	1998	**1999**	**2000**	**2001**	**2002**
Applications Received	46,015	71,160	80,315	71,025	84,130
Decisions (year of outcome)					
	31,570	33,720	101,645	120,950	83,540
Granted asylum (B)	5,345	7,815	10,605	11,450	8,270
Granted exceptional leave to remain (B)	3,910	2,465	11,475	20,190	20,135
Refused asylum & exceptional leave to remain (B)	22,315	11,025	67,910	89,310	55,130
Adjudicator appeals					
Appeals received by Home	14,320	6,615	46,190	74,365	51,695
Appeals determined by Immigration Appellate Authority	25,320	19,460	19,395	43,415	64,405
Of which appeals allowed	2,355	5,280	3,340	8,155	13,875
Total granted asylum, exceptional leave to remain, or appeal allowed (year of outcome)	11,610	26,705 (B)	35,745 (B)	39,795	42,280
Removals and voluntary departures	6,990	7,665	8,980	9,285	10,740

B = includes some granted asylum or exceptional leave to remain under backlog criteria

32. During the first three-quarters of 2003 the number of applicants fell significantly. The total number of applicants over the period January to September 2003, excluding dependants, was 38,540 (16,000 in the first quarter, 10,585 in the second and 11,955 in the third).[34] If applications in the final quarter of 2003 continue at the same rate as in the first three-quarters, the total number for the year would be 51,387. This would be the lowest annual total for four years, though it would still be higher than any annual total prior to 1999, and more than ten times as high as in the mid-1980s.

33 Source: *Asylum Statistics United Kingdom 2001; Asylum Statistics: 3rd Quarter 2003*

34 *Asylum Statistics: 3rd Quarter 2003*

33. About two-thirds of applications are made 'in-country'—that is, by people who have already entered the UK—rather than at the port of entry (68% in 2002, and 72% in the third quarter of 2003).[35]

34. A majority of asylum seekers in the UK are young men. In 2002, 82% of principal applicants were aged between 18 and 34, 15% were aged between 35 and 49, and 3% were aged 50 or older. In the same year 74% of principal applicants were male.[36] We discuss the significance of this preponderence of young men in paragraphs 160–62 and 284 below.

Why do people seek asylum in Europe?

35. It is estimated that the total number of refugees and asylum seekers in the world in 2002 was 13 million. [37] The vast majority of these people remain close to their countries of origin. Only a small proportion have arrived in European countries including the UK. The number of asylum applications to all EU countries in 2001 was 384,000. [38]

36. According to the Institute of Public Policy Research (IPPR),

> "At the end of 2000, Pakistan alone had a refugee population of two million. Tanzania had 18.93 refugees for every 1,000 inhabitants and 80.15 refugees per $1 million GDP. In comparison, even if all 655,000 people who had sought asylum in the UK over the past decade had been granted refugee status, this would mean that there were 10.88 refugees for every 1,000 inhabitants and 0.4 refugees per $1 million GDP. … In 2002 the UNHCR ranked the UK 32nd in the world on the basis of its size/GDP/population and number of refugees."[39]

37. Although, as we shall see, there were significant differences between our witnesses on the question of why people seek asylum *specifically in the UK* rather than in other European countries, there was some measure of agreement as to why they seek asylum *in Europe as a whole*. The Refugee Council stated that "consistently over the last 10 years the greatest numbers have come from the very countries where persecution, upheaval, war and human rights abuse are greatest".[40]

38. The IPPR recently published the results of research on 'push' and 'pull' factors operating in the ten countries from which the largest groups of nationals claimed to have come to the EU in the 1990s. [41] (Later in the report we deal with the extent to which some asylum seekers may falsely claim to come from particular countries.[42]) The countries were the Federal Republic of Yugoslavia, Romania, Turkey, Iraq, Afghanistan, Bosnia-Herzogovina, Sri Lanka, Iran, Somalia and the Democratic Republic of the Congo. The

35 *Asylum Statistics United Kingdom 2002*, para 5

36 *Ibid*., para 17

37 United States Committee for Refugees, *World Refugee Survey 2003*, pp 3–4

38 Ev 209, and table above.

39 *Asylum in the UK: an IPPR Fact File* (2003), p 3

40 Ev 238 (para 1.2). The Refugee Council notes that in 2002 of a total of 85,865 applications 47% came from just five countries—Iraq, Afghanistan, Zimbabwe, Somalia and China.

41 Stephen Castles, Dr Heaven Crawley and Sean Loughna, *States of Conflict: Causes and patterns of forced migration to the EU and policy responses* (IPPR, May 2003)

42 See para 71 below.

report attempts to identify the extent to which each of the push factors was present in these countries, as follows:[43]

- Repression and/or discrimination against minorities, ethnic conflict and human rights abuse. This factor operated in all ten countries, and was the only common factor in all the cases.

- Civil war. Major internal wars occurred during the 1990s in seven of the ten countries. Ethnic conflict was present in all seven cases but was often a surrogate for other problems.

- Numbers of internally displaced people (IDPs) relative to total population. All the countries except Romania and Iran had substantial IDP populations. However, there are many countries with huge IDP populations which do not generate large numbers of people seeking asylum in the EU.

- Poverty. Statistics "do not indicate a clear or self-evident relationship between low income and a propensity to seek asylum in the EU". Although poverty underlies much forced migration it is not the cause of it. Because mobility requires some resources and access to networks it is not the poorest of the poor who migrate.

- Position on the UN Development Programme's Human Development Index (HDI). The index assigns countries an HDI-value on the basis of indicators including longevity, as measured by life expectancy at birth, educational attainment, and standard of living. There is no clear or self-evident link between HDI scores and asylum flows to the EU. None of the sending countries score highly on the index but four (Romania, Turkey, Iran and Sri Lanka) are at an intermediate level. Underdevelopment in itself does not appear to be a major push factor. However, it may be a crucial factor in precipitating conflict, which leads to forced migration.

- Life expectancy. There are no clear similarities or patterns in life expectancy rates in the ten countries. Low life expectancy is found in only three of the ten countries.

- Population density. There appears to be no clear link between either population density or population growth and migration rates. High population density exists in only one of the ten countries (Sri Lanka).

- Adult literacy rate. Six of the ten countries have relatively high literacy rates (over 75% of the population).

39. The report concluded that "indicators of conflict are far more significant than indicators of development as explanatory factors for flows of asylum seekers to the EU".[44] The only one of the social/economic indicators of any real significance in relation to asylum-seeking was high rates of adult literacy.

43 *States of Conflict*, pp 17–28

44 *Ibid*., p 27

40. The report identified the following 'pull factors' at work in attracting asylum seekers to the EU:

- The perception that EU countries offer a high level of peace and public order
- Democratic institutions and the rule of law
- The strong economies and developed welfare and health systems of EU states
- Geographic proximity (e.g. asylums seekers from Eastern and South Eastern Europe tend to go to Austria and Germany, those from North Africa to France, Italy or Spain)
- Past colonial links, common language and diaspora communities (e.g. asylum seekers from the Democratic Republic of Congo tend to go to Belgium, while Nigerians prefer the UK).
- Past labour recruitment (e.g. Turks applying to Germany because of past 'guestworker' links).[45]

41. The respective strength of 'push' and 'pull' factors as a cause of asylum-seeking migration is open to debate. The IPPR report argued that flight from persecution and conflict is the principal cause, but acknowledges that "there is evidence that some, although not all, asylum seekers have a degree of control over where they go and how they travel". It noted the importance of the 'migration industry', and stated, "in many cases, it is the people-smugglers who determine the options available to individual migrants about where they will go and how they will travel". The report concluded that the extent to which migrants are able to make choices within this range of options is often dependent on their socio-economic status.[46]

42. The difficulty of distinguishing between economic and non-economic causes of migration is compounded by the fact that the two categories may frequently overlap. Some refugees are undoubtedly motivated solely by the impossibility of continuing to live without persecution in their own countries. Some may be fleeing persecution in their homeland *and* be seeking a better job and income than is available there. Some may primarily be seeking to improve their economic position which is limited by the political or economic instability in their country of origin. Yet others will have identified the asylum system as a means of gaining access to the economic prosperity and welfare systems of Western Europe.

43. The difficulty and expense of getting to Europe also means that the asylum seekers who arrive in EU countries are unrepresentative of the wider global population of asylum seekers, in that that they are more likely to be young, male, healthy, educated, and with access to significant financial assistance or guarantees from family or friends. They are less likely to be old, female, ill, uneducated or poor. This fact has significant implications for asylum policy at both UK Government and EU level—we address these in paragraphs 160–62 and 284 below.

45 *Ibid*., pp 28–30

46 *Ibid*., pp 30, 31

Why do people seek asylum in the UK?

44. The number of asylum applications to all EU countries in 2001 was 384,000, of which some 71,000, or about a fifth of the total, were to the UK.[47] The trends in applications to Britain and four other major European countries over the past 12 years (including dependants) are shown below:[48]

	UK	Germany	France	Netherlands	Sweden
1990	33,540	193,060	54,810	21,210	29,420
1991	57,395	256,110	47,380	21,620	27,350
1992	31,495	438,190	28,870	20,350	84,020
1993	28,630	322,610	27,560	35,400	37,580
1994	42,020	127,210	25,960	52,570	18,640
1995	56,275	127,940	20,170	29,260	9,050
1996	37,940	116,370	17,410	22,170	5,750
1997	41,600	104,350	21,400	34,440	9,660
1998	58,900	98,640	22,380	45,220	12,840
1999	91,085	95,110	30,910	42,730	11,230
2000	102,805	78,760	39,780	43,900	16,300
2001	91,350	88,290	47,290	32,580	23,515
2002	109,910	71,130	50,800	18,670	33,015

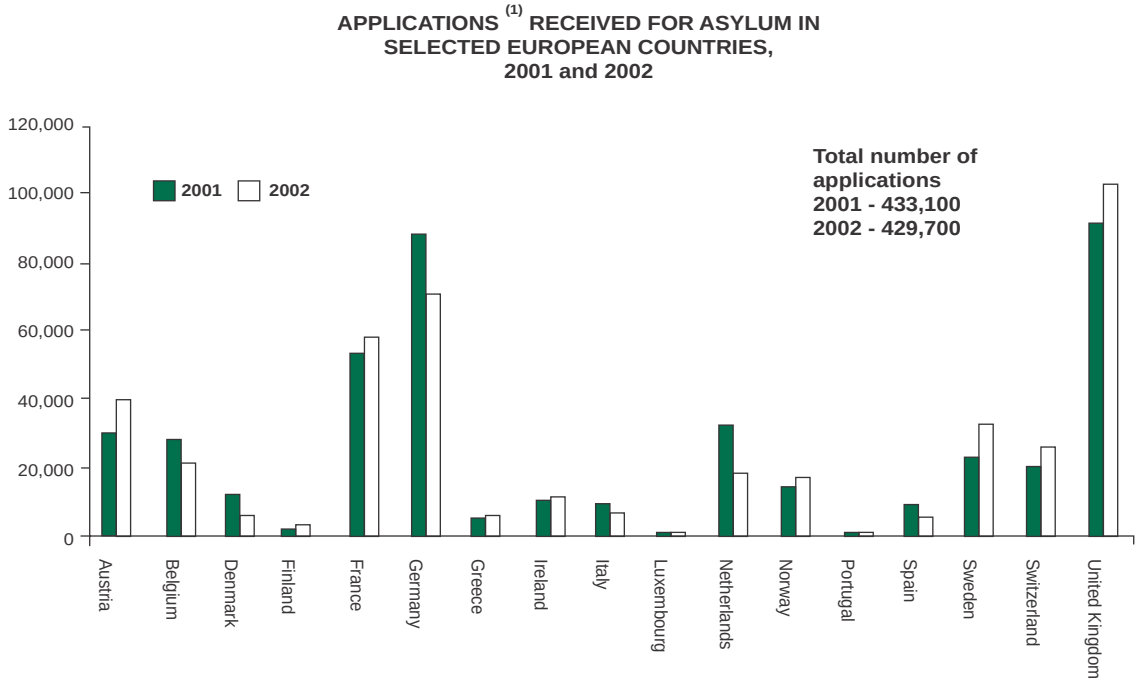
45. It will be noted that Germany, like the UK, has recent experience—in its case in the early 1990s—of a dramatic surge in the number of asylum applications. This surge appears to have been caused by a combination of factors including the end of the Cold War, the conflict in the Balkans, historic links with Turkish 'guest-workers' and the fact that Germany shares a land border with nine other countries. Germany responded to the surge by taking restrictive measures. In 1993 the German constitution was amended to limit the right to asylum. Under the new system, individuals who arrive by land and travel through a 'safe third country' can be refused entry, and returned immediately to that country if it is willing to receive them. There is a system of 'non-suspensive appeals', so individuals can be removed despite a legal challenge. The effect is that all asylum seekers arriving by land are excluded from refugee status, as they must have arrived via an EU country or another

47 Ev 209, and table above.

48 Source: Refugee Council (2002), *Asylum by numbers 1985–2000*; Home Office, *Asylum Statistics United Kingdom 2001*; *Asylum Statistics: 4th Quarter 2002*; UNHCR, *Asylum Applications Lodged in Industrialized Countries: Levels and Trends, 2000–02*. Cited in Ev 185, where the following note is added: "In relation to European information it should be noted that states do not calculate statistics in uniform ways. Of particular relevance is the fact that the majority of European countries count every person named on an asylum application, whereas the UK counts only the principal applicant and does not include dependents. Thus, for the purposes of this comparison, the UK figures have been multiplied by 1.28, which is estimated by UNHCR to be the average number of persons per asylum case."

country deemed by Germany to be safe. The German government also maintains a list of 'safe countries of origin'; asylum seekers from these countries are subject to an accelerated procedure and are liable to rapid removal. As will be seen from the above table, in the year following the introduction of these measures, asylum applications to Germany fell by 66%.[49]

46. A comparison of applications to a wider range of European countries over the past two years is shown below:[50]



(1) Estimated to include dependents where necessary.

47. In 2002 the UK received more applications than any other Western European country, amounting to 24% of the total. Germany received the next most, with 17%. When the relative size of domestic populations is taken into account, the UK ranked eighth amongst European countries in terms of asylum seekers per head of population (up from tenth in 2001), at 1.7 per 1,000 of population as against an EU average of 1.0. Austria, Norway and Sweden received most asylum seekers per head of population, with respectively 4.9, 3.9 and 3.7 per 1,000. France received 1.0 and Germany 0.9 per 1,000.[51]

48. Of the small proportion of asylum seekers world-wide who come to Europe, a relatively high proportion *at present* apply for asylum in the UK. Why is this? There were differences of opinion between our witnesses not only as to the respective weight to be given to 'push' and 'pull' factors leading people to seek asylum in the UK, but also as to whether the 'pull' factors are disproportionately strong compared to other European countries—and if so whether this is something that government policy is able to influence.

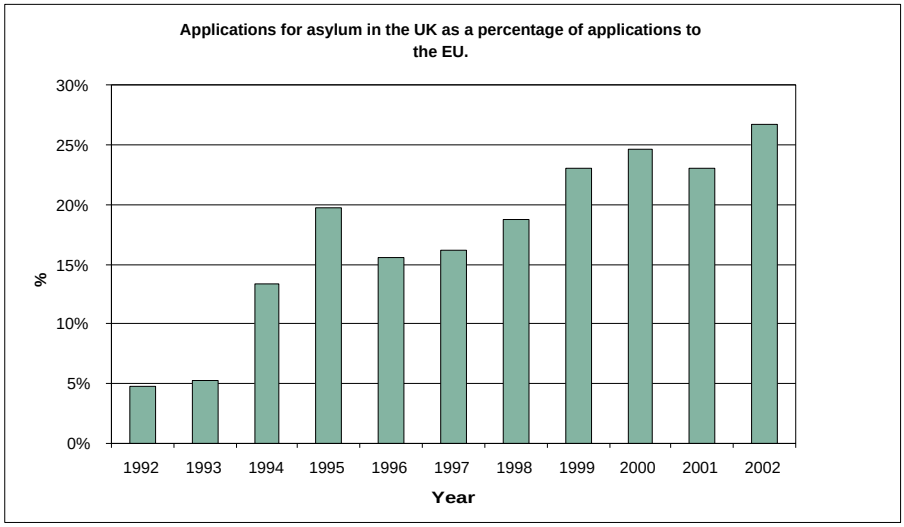
49 JUSTICE, *Asylum: changing policy and practice in the UK, EU and selected countries* (2002), pp 93–94

50 *Asylum Statistics United Kingdom 2002*, para 2; *Asylum Statistics: 3rd Quarter 2002*, tables 16 and 17

51 *Asylum Statistics United Kingdom 2002*, para 4

49. On the one hand, witnesses such as Amnesty International argued that "objective evidence from a wide range of sources shows that the principal aim of asylum seekers in the UK is to reach a country where they can seek refuge. Safety is their priority rather than the intention to travel specifically to the UK." They claimed that asylum seekers, often in the hands of human smugglers or traffickers, are often not able to make their own decisions about their destination, and that the majority are not well informed about levels of welfare provision in the UK. The dismantling of access to welfare, Amnesty argued, was not therefore a disincentive to asylum seekers entering the UK. [52]

50. Other witnesses, however, notably MigrationwatchUK, claimed that the rise in applications to the UK is not a result of adverse changes in the extent of persecution from which people are fleeing. Migrationwatch argue that while the number of asylum applications worldwide and in the EU has remained relatively stable in recent years, the percentage of asylum applications to Europe being submitted in the UK has been rising rapidly, as shown in the graph below.



Source: Ev 264; see also Ev 234.

51. In July 2002 the Home Office published the results of research into why asylum seekers sought asylum in Britain rather than elsewhere. [53] They pointed out that the research was based on a small sample and should not therefore be considered definitive. The study found there was "a complex mix of factors", including:

- views of the UK as a tolerant, affluent society with a good education system
- ability to speak English or desire to learn it
- perceived cultural similarities

52 Ev 147 (paras 2–3)

53 Vaughan Robinson and Jeremy Segratt, University of Wales, *Understanding the decision-making of asylum seekers* (Home Office Research Study 243, July 2002); see Ev 167.

- previous migration patterns to the UK
- historical links, including colonialism
- presence of family and friends in the UK.

52. The Home Office study found that the presence of friends or family in the UK played a part in determining why one-third of the study respondents came to the UK rather than another country. The prospect of being re-united with family members in the UK or the knowledge that when they arrived they would know someone in the UK (even if not a close relative) "acted as a strong magnet for many asylum seekers once they had already made the decision to leave their home country". In addition, the study found that potential asylum seekers received information from relatives and friends in the UK, before or during their journeys. Characteristic responses from respondents were:

> "When I heard my family had come to Britain I decided to come here." (*Male respondent, Somalia*)
>
> "…when we have to leave the country, we just think about here because my brother was here, it was better for us to come here." (*Female respondent, Iran*).[54]

53. The importance of historical and family links is suggested by evidence that flows of migration vary according to the source countries. For example, when there was a major flow out of Turkey and the former Yugoslavia in the early 1990s, numbers seeking asylum in Germany peaked, reflecting past employment links in the 1970s and 1980s; whereas many of the current source countries have strong historic links to the UK.[55]

54. Other witnesses pointed to special factors that appear to make the UK more attractive to asylum seekers than other European countries. Such factors, it was argued, include the low removal rates of those refused asylum (on which we commented in our report on asylum removals), the asylum appeals system with its several stages and long delays, the past frequency with which exceptional leave to remain was granted to applicants from certain countries (notably Iraq, Afghanistan and Somalia); the ease of access to illegal work in the UK and the absence of identity checks; and the perception of the liberal way in which the UN Convention on Refugees and the European Convention on Human Rights have been incorporated into British law and interpreted by the judiciary.[56]

55. We address these points separately later in this report. We explored in evidence the extent to which individual asylum seekers choose their eventual destination, and choose—when they do so—on the basis of knowledge about that destination. To the extent that they *can* exercise choice, they will be influenced by the perception they have of the system in the UK and other European countries—whether they see a country's regime for asylum seekers as liberal or harsh, whether they think they will have opportunities to work, legally or illegally, whether they think that rules will be interpreted fairly and in accordance with 'due process', and whether they think they are likely to be removed if their asylum application fails. These perceptions will influence their decision whether or not they are accurate.

54 Robinson and Segratt, p 39

55 See *States of Conflict*, pp 29–30

56 See, e.g, Ev 234–35 (paras 7–13); Qq 142, 179, 188, 212.

56. There is agreement that a large proportion of asylum seekers arrive in the UK as the result of illegal people-smuggling operations conducted by criminal gangs. In many cases visa restrictions have made it difficult to gain access to the UK other than illegally. The Minister of State at the Home Office, Beverley Hughes MP, when asked what proportion of the asylum seekers who come to the UK do so as a result of illegal operations, replied:

> "I would say the vast majority, either through actually being transported in lorries and so on through people operating as people smugglers, or through facilitation at the other end or with false documents that allow people to get on an airline."[57]

57. One of our witnesses, Harriet Sergeant, author of the Centre for Policy Studies pamphlet *Welcome to the Asylum*, described the scale and sophistication of these criminal gangs:

> "This new migration industry provides all kind of services to would-be immigrants from obtaining entry visas and other supporting documents for travel, to transport arrangements and legal instructions on how to apply for asylum and employment. A journey from Asia, India and Pakistan, costs about £15,000 to £20,000. A Franco-Dutch gang active since 1994 charges Chinese immigrants $50,000 for their journey to the US which includes new identities and false passports. A large market has grown up for forged documents."[58]

58. Ms Sergeant argued that "the growth of asylum seekers is directly related to the rise of the people traffickers". Measures aimed at restricting the number of asylum seekers, such as visa requirements and penalties for carriers, have "made it difficult for illegal immigrants and asylum seekers to come to the UK without the aid of a trafficker and forger". The gangs are quick to exploit changes in the rules; she quoted an immigration officer as saying that "after any new piece of legislation, we see the gangs reacting within two weeks with a new scam". Asylum seekers transported by the gangs pay not only with money but often with years of servitude and exploitation in clandestine workshops or prostitution.[59]

59. The gangs' cynical disregard for the welfare of their human cargo was demonstrated in the most horrendous way by the deaths of 58 Chinese immigrants, found suffocated in the back of a sealed container in a lorry at Dover in June 2000. The lorry had arrived at Dover's eastern docks after a five-hour ferry crossing from Zeebrugge on one of the hottest days of the year. The lorry driver was subsequently convicted of manslaughter and sentenced to 14 years' imprisonment; a Chinese translator was also convicted of conspiring to smuggle illegal immigrants into the UK and sentenced to six years' imprisonment. The court heard that each of those on board the lorry had paid tens of thousands of dollars to Chinese smuggling gangs known as 'snakeheads' to pay for their journey to the UK. They had travelled from China through Yugoslavia, Hungary, Austria, France, Holland and Belgium on their way to Britain.[60]

57 Q 778

58 Harriet Sergeant, *Welcome to the Asylum: Immigration and Asylum in the UK* (Centre for Policy Studies, 2001), p 61

59 *Welcome to the Asylum*, pp 57–66

60 BBC and CNN news websites, 5 April 2001

60. Ms Sergeant told us that:

> "75% of asylum seekers are young men and these young men have all paid criminal gangs between £10,000, £15,000, £20,000 to get here, so obviously they are not coming here for, whatever it is, £35 a week, because that is not going to pay off their debt. The reason they are coming here is because we have a thriving black economy in this country. … It is also very easy to work illegally in this country because we do not have identity cards."[61]

61. Mr Peter Gilroy, Strategic Director of Social Services for Kent County Council (and thus responsible for the social services needs of asylum seekers entering through Dover Harbour, the busiest port of entry in the UK), told us that "it is certainly my belief that traffickers publicise certain countries". He stated that "our colleagues in the Calais region tell us that many of the migrants they see are keen to reach the UK [because of] a belief that their asylum claim will be dealt with more fairly and that benefits and the possibility of work will be greater".[62] He commented:

> "As many have said to me—only last week youngsters were saying to me, from Iraq—'I came here because it's a free country and I know that I'm going to be treated fairly." They say that quite openly."

Mr Gilroy estimated that about 50% of asylum seekers were "in the category of coming here because they are trying to seek work and to make a better life for themselves". However, he also told us that most of asylum seekers "come from countries of known conflict such as Afghanistan, Iraq and latterly, Zimbabwe", and he emphasised that "the proportion that are economic migrants or the proportion that are genuine asylum seekers is complex. It is not a black and white issue".[63]

62. The correlation between asylum seekers and war or conflict in their claimed countries of origin is borne out by the statistics. The following table shows the ten main countries of origin of asylum seekers to the UK for each of the past five years. [64] As will be seen, the majority of these countries have experienced either war, civil disorder or serious human rights abuses:

61 Q 142

62 Ev 215

63 Q 147; Ev 215

64 *Source: Asylum Statistics United Kingdom 2002*, from data in table 2.1

The ten main countries of claimed origin of asylum seekers to the UK, 1998–2002

1998	1999	2000	2001	2002
FRY* 16%	FRY 16%	Iraq 9%	Afghanistan 13%	Iraq 17%
Somalia 10%	Somalia 11%	Sri Lanka 9%	Iraq 9%	Zimbabwe 9%
Sri Lanka 8%	Sri Lanka 7%	FRY 8%	Somalia 9%	Afghanistan 9%
Afghanistan 5%	Afghanistan 6%	Iran 7%	Sri Lanka 8%	Somalia 8%
Former USSR** 5%	Turkey 4%	Afghanistan 7%	Turkey 5%	China 4%
Above totals 44% of all applications	Above totals 44% of all applications	Above totals 40% of all applications	Above totals 44% of all applications	Above totals 46% of all applications
Turkey 4.4%	Other former Yugo 3.7%	Somalia 6.25%	Iran 4.8%	Sri Lanka 3.7%
Pakistan 4.3%	China 3.7%	China 5.0%	FRY 4.6%	Turkey 3.4%
China 4.3%	Pakistan 3.7%	Turkey 5.0%	Pakistan 4%	Iran 3.1%
Poland 3.4%	Former USSR 3.5%	Pakistan 3.9%	China 3.4%	FRY 2.7%
Nigeria 3.0%	Romania 2.8%	FormerUSSR 2.8%	Zimbabwe 3.0%	DRC*** 2.6%

* = Federal Republic of Yugoslavia

** = other than Russia and Ukraine

*** = Democratic Republic of Congo.

63. The top ten applicant nationalities in the third quarter of 2003, with numbers of applicants, were as follows: Somalia (1,440), China (965), Iran (860), Zimbabwe (710), Iraq (690), India (655), Turkey (530), Pakistan (495), Afghanistan (470), and the Democratic Republic of Congo (380).[65]

64. In paragraph 38 above we listed the ten countries from which the largest numbers of claimed nationals came to the EU in the 1990s, and cited the IPPR's research which concluded that "repression and/or discrimination against minorities, ethnic conflict and human rights abuse" was the only common factor found in all those countries. The IPPR study looked at 'push' factors to the EU as a whole, and it does not necessarily follow that its findings explain the motivation of those seeking asylum specifically in the UK. However, it may be noted that seven of the ten countries in the IPPR study also feature among the top five countries of claimed origin of asylum seekers to the UK during the period 1998–2002 (as set out in the table on the previous page).[66]

65. **These UK statistics give significant support to the view that "repression and/or discrimination against minorities, ethnic conflict and human rights abuse" are the defining characteristics of the countries of origin cited by asylum seekers. That is**

65 Other nationalities amounted to 4,760. Figures rounded to the nearest five. This is provisional data, from *Asylum Statistics: 3rd Quarter 2003*, p 2. With regard to the 655 asylum seekers from India, the Home Office told us that although they do not keep statistical records of the parts of a country from which asylum seekers come, "the impression from those dealing with the cases is that a very significant proportion if not the majority of asylum claims from Indian nationals are from young male Sikhs from Punjab. Most of these applications are based on having either forcibly or voluntarily supported/harboured terrorists, having associated with terrorists, or of being a member of a terrorist organisation." (Ev 261)

66 The seven countries are: Afghanistan, Federal Republic of Yugoslavia, Iran, Iraq, Somalia, Sri Lanka and Zimbabwe.

clearly true of the majority of asylum seekers in the UK (whether or not their individual cases for asylum are well founded).

66. We took oral evidence from three former asylum seekers, now granted leave to remain in the UK and working for Migrant Helpline.[67] Their names were Mr Mohammed Fahim Akbari, Mr Zemmarai Shohabi and Mr Hashmatullah Zarabi. All three were Afghans who told us they had fled persecution under the Taliban regime. All three told us that they had been tortured. Mr Akbari had been persecuted for allegedly "spreading and preaching Christianity", and Mr Zarabi for being a representative of a students' union in Kabul; Mr Shohabi's whole family had had to flee because of their links with a banned political party, and his brother was killed by the Taliban.[68] They had entered the UK illegally, with their passage arranged by 'agents', and had claimed asylum immediately upon entry. All three said that that they had not known in advance what their final destination would be, other than that it would be in Europe.[69] Mr Akbari told us that:

> "our teachers and parents all said we should go to Europe because you enjoy human rights, there are prospects for humanity, rule of law and everything. When someone is persecuted there … they are highly interested in a safe European country. It does not matter which country it is. People are interested in Europe."[70]

67. In response to further questioning it became clear that in each case transport had been paid for by the refugee's parents or other family members on the basis of a prior agreement with the 'agent'. In the case of Mr Akbari the sum involved was $12,000, in the case of Mr Zarabi it was about $10,000, and Mr Shohabi told us, "To be honest, I have never asked about it".[71] Mr Akbari told us that his father was a brigadier and that "I come from a well-to-do family, a rich family".[72] He said that the agents sought destinations that were as far away as possible in order to maximise their profits:

> "there is a rule that when the agent takes you, the further he takes you the more money he makes. So usually he is looking for a place further away. For example, if he takes you to Germany, he would not earn as much money as he could for taking you to the UK."[73]

68. Our witnesses conceded that, though they might not have known about their eventual destination, their parents or the family members who arranged their transportation are likely to have done so when they agreed terms of payment with the agent. Mr Akbari said:

67 Migrant Helpline is a charitable organisation which receives government funding to provide reception services to newly arrived asylum seekers in London and the South East.

68 Qq 590–92

69 Qq 593–95, 615–17

70 Q 602

71 Qq 612–13

72 Q 612

73 Qq 596; see also Q 618

> "My parents might have been told, they might have argued with him or something, but we, as we were persecuted and hiding, did not know about it. … At the beginning the agent or the parents might know about it. Some people do know."[74]

Mr Akbari also said that agents would recommend particular destination countries to the parents on the basis that they were safer than other countries and more likely to offer asylum.[75] The Home Office research published in 2002[76] found that—

> "for the majority of respondents … the interaction between agent and asylum seeker was relatively equal in nature with the eventual destination being a joint decision based on the asylum seeker's preferences, the availability of migration networks, the proximity of the preferred country and the asylum seeker's ability to pay."[77]

69. Mr Shohabi gave a graphic account of why he sought asylum in the UK rather than in Italy and France, through which he had earlier travelled:

> "When I was taken to Italy … I went to the police, they did not listen to me and they punched me and kicked me. I said "What a country! If the police are like this then the people will kill me". I did not come to be abused, I did not come to be sworn at, I did not come to be punched, I came to save my life. It is better to be killed in your own country, in front of your mother and not be punched or kicked or imprisoned as I was imprisoned in Paris."

He claimed he was beaten up by the French police, put in prison, and persuaded to travel on to the UK to claim asylum:

> "I thought that was enough for me, thank you Paris and thank you Italy. I shall go to the UK. I came to you and you said 'Most welcome', that was enough for me."[78]

Likewise, Mr Akbari contrasted the treatment and freedom of movement of asylum seekers in the UK with "those countries like Germany where there are restrictions on asylum seekers".[79]

70. Another of our witnesses, Mr Peter Gilroy, suggested that there may be a gap between theory and practice in other European countries' treatment of asylum seekers—

> "I went down to Brindisi, to see how the Italians were coping at the port when people were coming across from Albania. I assumed I would see a quite sophisticated process of assessment but I did not. When I asked, "What happens now to these people?" they said, "Well, they are going back to Albania." I said, "When?" "Now," they said. I asked, "When? Do you mean now? This minute?" "Oh, yes." I thought: "What about appeals?" Yes. They were back, and they even had the Italian police at

74 Qq 604, 620

75 Q 621

76 See paras 51–52 above.

77 Vaughan Robinson and Jeremy Segrott, University of Wales, *Understanding the decision-making of asylum seekers* (Home Office Research Study 243, July 2002), p 25

78 Q 640

79 Q 605

> the Albanian side. I came back to the UK thinking, "That's interesting. You couldn't do that in Dover."[80]

This is, of course, anecdotal evidence, and it is not possible to quantify the extent to which an unwelcoming approach by immigration officers and a disregard for due process are to be found in other EU countries. Such a phenomenon *may* constitute a 'pull' factor to the UK. It may also somewhat distort the comparative asylum statistics for EU countries, if significant numbers of potential asylum seekers are informally discouraged from making a claim in certain countries. The working of the Dublin Convention may help to counteract this problem. (Under the Convention asylum seekers who have transited several European countries may be returned to the first country in which they could have claimed asylum. The original Dublin Convention came into force in 1997 and a revised version in September 2003—see paragraph 260 below.)

71. The three refugees who gave evidence to us also drew attention to the problem of fraudulent nationality claims by some asylum seekers. They told us that there was, for instance, a particular problem of Pakistanis pretending to be Afghans. They argued that immigration officers were not well qualified to detect such fraud, lacking the necessary local knowledge and skill in languages (see paragraph 125 below).[81] Pilot tests of language analysis by the Home Office, investigating asylum claims from selected applicants who claimed to be nationals of Afghanistan, Somalia and Sri Lanka, established that 9% of the total number of applicants selected—and 21% of claimed Somali nationals—were making false claims of nationality.[82] The possibility of nationality fraud must be borne in mind in considering statistics for the claimed countries of origin of asylum seekers.

72. **A proportion of asylum seekers to the UK are not actually fleeing persecution but are seeking economic advantage. According to Home Office estimates, in 2002 only 42% of asylum applications resulted in grants of refugee status, humanitarian leave to remain or allowed appeals.[83] This suggests that—even allowing for some further undetected errors in the system—about half of claimants can justifiably be regarded as 'economic migrants' rather than refugees. This is in line with the judgement made by Mr Peter Gilroy of Kent County Council, who estimated that about 50% of asylum seekers were "in the category of coming here because they are trying to seek work and to make a better life for themselves".[84]**

73. **The categories of 'economic migrant' and 'genuine refugee' often overlap. We note the research evidence that conflict, not poverty, is the defining characteristic of asylum seekers' source countries, though not all those who come from such countries are genuine asylum seekers. Equally, people genuinely seeking asylum may also be seeking to better their own and their families' lives. Likewise people who do not personally have a well-founded case for asylum may be coming from countries suffering conflict as well as from countries which are not.**

80 Q 141

81 Qq 633, 655–66, 658

82 HC Deb, 21 October 2003, cols 35–36WS; see paras 126–27 below.

83 *Asylum Statistics United Kingdom 2002*, para 30

84 Q 147

74. **As we have also seen, there is evidence that most asylum seekers exercise a significant degree of choice in regard to their eventual destination. Amongst the reasons why asylum seekers choose to come to the UK rather than other European countries are historic links between their country of origin and the UK, and the presence of family members, friends or larger diaspora communities already in the UK.**

75. **We think it is likely that there are some factors which over the past ten years or so may have made the UK a relatively more attractive destination than some others in Europe. These may include the perception of low removal levels, lengthy appeal proceedings, the absence of systematic identity checks, the strength of the economy and the opportunity to work legally or illegally. On the other hand, Home Office research published in 2002 found that for the most part potential asylum seekers had "only very vague and general expectations" about levels of welfare support in the UK, and that "expectations relating to welfare benefits and housing did not play a major role in shaping the decision to seek asylum in the UK within the response group".[85]**

76. **The UK may well be seen also as having a greater commitment to fairness and due process and respect for treaty obligations. Of course, while the need to ensure that asylum systems are not subject to abuse or exploitation is important, so is respect for law and international obligations. Asylum seekers' perceptions of the advantages of the UK may simply reflect this country's longstanding reputation for justice and fairness.**

77. **On balance, it is reasonable to say that a motivating factor for many refugees in choosing to come to the UK will be their expectation that they will receive fairer treatment than in some other European countries, and the employment opportunities (legal or illegal) in the UK. We do not believe that Britain can be described as a soft touch for asylum seekers. However, there are weaknesses in the system that need to be addressed.**

78. **We comment later in this report on the need for the UK Government to work with its EU partners to ensure that there is greater consistency across Europe in the treatment of asylum seekers.**

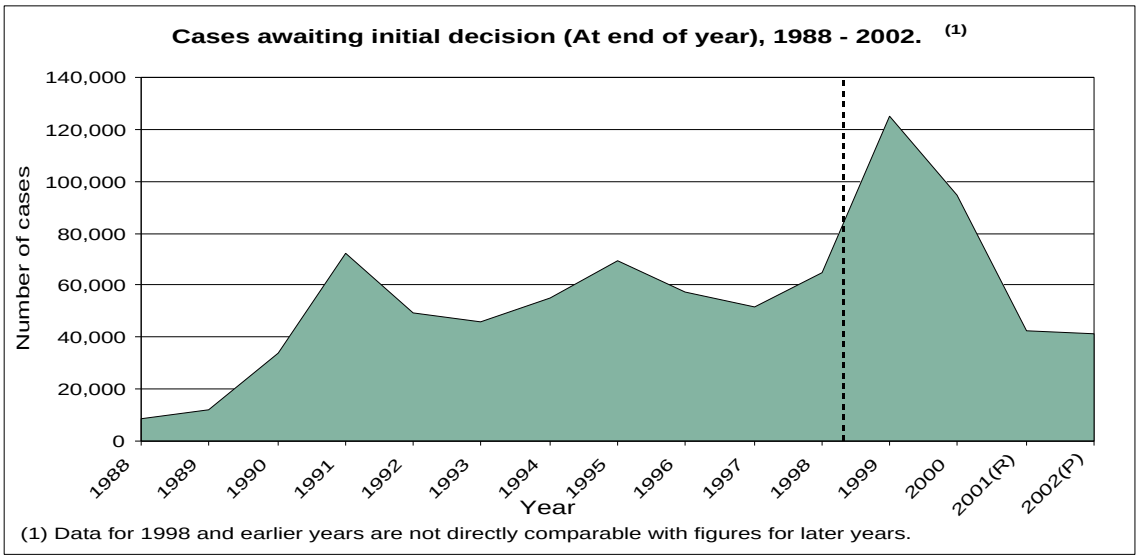
79. The statistics for asylum applications to the UK and to Germany over the past 12 years set out in paragraph 44 above suggest that government measures to discourage unfounded applications can have a significant impact on the overall level of applications. In the next section of this report we consider ways in which successive Governments have sought to balance the need to give fair treatment to refugees against the need to ensure that large numbers of people with no genuine claim to be refugees are not being allowed to enter and settle in the UK. In this way Governments have sought to reassure the public about the handling of the asylum system.

85 Vaughan Robinson and Jeremy Segrott, University of Wales, *Understanding the decision-making of asylum seekers* (Home Office Research Study 243, July 2002), pp 49, 52

4 Government responses to the rise in applications

The backlog: how it came about

80. The rise in asylum applications to the UK over the past 15 years has been so steep—from 3,998 in 1988 to 84,130 in 2002, a more than twenty-fold increase—that it is likely that any asylum system and any Government would have had difficulty in coping with it. Unsurprisingly, since the early 1990s there has been a backlog of unprocessed applications, although, like the level of applications, the level of backlog has fluctuated within this period, as the following chart indicates:[86]



81. In an attempt to get to grips with the problem of increasing numbers of applications, there has been a continuous stream of government initiatives. Four major pieces of legislation dealing with asylum have been passed in the past ten years, and a fifth is currently before Parliament.[87]

82. Some of those initiatives have proved, in retrospect, to be misguided. Three examples are (1) the failed computer system for processing applications and the damage done by staff lay-offs in response to what turned out to be a short-lived fall in applications, (2) the asylum support vouchers scheme, and (3) the over-centralisation of the National Asylum Support Service. We deal with the latter two examples in our section on asylum support, in paragraphs 163–64 and 172–78 below.

86 Source: Ev 265; see also Ev 236

87 The Asylum and Immigration Appeals Act 1993, the Asylum and Immigration Act 1996, the Immigration and Asylum Act 1999, the Nationality, Immigration and Asylum Act 2002 and the current Asylum and Immigration (Treatment of Claimants, etc.) Bill.

83. The failure of the computer system was described by the technical magazine *Computer Weekly* as "a classic example of how not to manage an IT project".[88] In April 1996, following a competition, the Home Office let a contract to Siemens Business Services for a privately financed initiative called the Casework Programme, which was intended to combine a major business process reorganisation project with a complex computer-based document management system designed to speed up asylum claims by scanning documents and transmitting them electronically.[89]

84. The new computer system was introduced in 1998, 18 months behind schedule, and was overwhelmed by the volume of asylum applications, compounded by disruption caused by IND's move to a new headquarters building. In January 2000 the Public Accounts Committee (PAC) referred to "unacceptable delays" and criticised the lack of contingency planning.[90]

85. In February 2001 the then Home Secretary admitted that "the original full casework application now seems over-complex", and that as a result IND had decided not to introduce the fully computerised system as originally envisaged.[91] Since then asylum claims have been processed using a combination of IT and manual methods. The Home Office summed up in evidence to us the consequences of the failure to introduce an effective computer system:

> "By April 1997, there were 54,000 asylum applications awaiting an initial decision. In 1996 the then Government entered into a contract to computerise the caseworking function of [IND]. The scheme envisaged a paperless office with the costs being met from improved efficiency and a consequent requirement for fewer staff. In anticipation of this development, the number of caseworkers was run down and much experience was lost. Casework capacity was significantly reduced in anticipation of the efficiency savings, but the IT was not delivered and output fell. At the same time, there was a substantial increase in the volume of applications, particularly as a result of the conflict in Kosovo. As a result, the number of outstanding applications had increased to a peak level of 121,200 at the end of January 2000."[92]

86. The Minister of State told us that about 1,200 experienced caseworkers had disappeared from the system by 1998–99, "on the back of the expectation of that computer system by the previous Government"[93] She described the ensuing situation as one of "catastrophe", a "very, very disastrously low point".[94]

88 *Computer Weekly*, 22 February 2001

89 The early history of the project is set out in Committee of Public Accounts, Seventh Report of Session 1999–2000, *Home Office: The Immigration and Nationality Directorate's Casework Programme* (HC 130), published in January 2000.

90 HC (1999–2000) 130, paras 14, 16, 30–31

91 HC Deb, 6 February 2001, col 497W

92 Ev 168

93 Q 4

94 Q 32

Tackling the backlog

87. The Home Office state that "in order to create the headroom" necessary to deal with the remaining backlog of claims, "there is a clear policy aim, also reflected in the PSA [Public Service Agreement] target for 2003–04 and beyond, to deter new, unfounded applications and thereby reduce intake".[95] This is not a new policy. Successive Governments have attempted to "deter new, unfounded applications" by a variety of measures—most of which have been attended by controversy because of the possibility that they might deter not only unfounded claims but genuine ones also.

88. The box below sets out a summarised list of government measures over the past decade to discourage unfounded applications. The figures for asylum applications to the UK set out in paragraph 30 above show significant dips in the level of applications in the mid-1990s and again since 2002. Although it is not possible to demonstrate a direct chain of cause and effect, the falls in applications following government restrictions suggest a significant correlation. As we have seen, the German experience in the early 1990s also indicates that government measures such as fast-tracking and rapid removals of asylum seekers originating from 'safe countries' can have a major impact on the number of applications.[96]

UK Government measures to restrict unfounded asylum applications,

1993–2003

Asylum and Immigration Appeals Act 1993

- Fast-track appeals system limited right of appeal to certain asylum seekers
- Applications from certain 'safe third countries' prevented from appealing beyond level of adjudicator, if latter upheld initial decision
- Carriers required to demand to see transit visas
- Compulsory fingerprinting of all asylum seekers
- Housing allowances for asylum seekers curtailed

Asylum and Immigration Act 1996

- Removal of benefit entitlement from 'in-country' applicants and further restricted access to housing
- Benefit also denied to those whose claim is rejected and who appeal
- 'White list' of nations where any claims of persecution considered 'manifestly unfounded', with a fast-track appeals process for applicants from those countries and others deemed to lack credibility
- New offence of knowingly assisting someone to gain entry to UK who is an asylum seeker or an illegal entrant

95 Ev 169

96 See para 79 above.

- Fine of £5,000 for employers who employ an illegal immigrant

Immigration and Asylum Act 1999

- 'Safe third country' list including EU countries, Canada and USA
- 'White list' abolished but other limitations on appeal rights retained
- Fast-tracking of certain applications (Oakington)
- Voucher system introduced for asylum seekers claiming benefit
- Benefit for asylum seekers to be 70% of standard levels (further 20% made up in payment of utility bills and furniture allocation)
- Dispersal scheme introduced to relieve pressure on London and the South East
- Fines on carriers who bring passengers to the UK without valid travel documents

Nationality, Immigration and Asylum Act 2002

- 'Safe country of origin' list re-introduced
- Removal of benefit entitlement from those who do not claim asylum "as soon as reasonably practicable" after arrival in UK, and from others deemed to lack credibility
- Right to work after six months removed
- ID cards introduced for asylum seekers, and benefit claimants required to report regularly
- 'Non-suspensive appeals' introduced
- Asylum and immigration advisers to be regulated

Asylum and Immigration (Treatment of claimants, etc.) Bill 2003 [*not yet enacted—still before Parliament*]

- New offences of losing or destroying travel documents
- Appeal system to be reduced to single tier
- Abolition of right to challenge removal to 'safe third country' under ECHR
- Benefit to be removed from failed asylum-seeking families who refuse to leave UK voluntarily

89. By December 2002 the backlog of outstanding applications had decreased to 40,800. The Home Office attributes this to "more efficient processes and additional resources".[97] The most recent statistics indicate a continuing reduction in the backlog: the number of cases awaiting an initial decision at the end of September 2003 was down to 29,100. However, of these cases, 20,600, or over two-thirds of the total, had been outstanding for

97 Ev 168

more than six months.[98] The Minister of State told us that good progress towards the government target of deciding 75% of substantive asylum applications within two months (for this, see paragraphs 109–10 below) would help further clear the remaining backlog. She said that she did not want to set a target date, but hoped that within "a reasonable period of time", the number of outstanding applications would have been reduced to "normal work in progress".[99]

'Amnesties'

UK Government Asylum 'Amnesties', 1992-2003

1992–1993

Rapid increase in 'exceptional leave to remain' granted—total of 26,000 cases

1998

Indefinite leave to remain granted in 10,000 cases

Special consideration given in 20,000 cases

2003

Indefinite leave to remain to be granted to up to 15,000 families

90. One obvious means of clearing a backlog is to provide for special or expedited treatment for the most long-standing claims. This has been done on three occasions in the past 12 years. It is noteable that on each occasion the Government of the day has avoided using the term 'amnesty' to describe its measures. On the first occasion no public announcement was made, but a rapid increase in the number of asylum seekers granted exceptional leave to remain, from about 2,000 in 1991 to 15,000 in 1992 and 11,000 in 1993, strongly suggests a deliberate policy of reducing the backlog by administrative means.[100]

91. A second attempt to reduce the number of outstanding cases was made in 1998. The Government's asylum white paper announced that:

> "There can be no question of an amnesty for those in the backlog. This would be unfair and would be seen as a reward for those who would abuse the system. Equally it would be unfair to ignore the consequences of very long delays, which are no fault of the applicant, in terms of the applicant's ties in this country or elsewhere. The Government will therefore adopt an approach in which the effects of long delays in

98 *Asylum Statistics: 3rd Quarter 2003*, p 3; Qq 22–25

99 Q 25

100 HC Deb, 27 July 1998, col 41

reaching a decision will be taken into account and weighed with other considerations, but only in due proportion and in appropriate cases."[101]

In practice this meant that in the case of about 10,000 applications dating from before July 1993, the delay was deemed to be "so serious as to justify, as a matter of fairness, the grant of indefinite leave to enter or remain". In the case of applications made between July 1993 and December 1995, estimated to be about 20,000 cases, the delays would be weighed in the balance against the applicants' current circumstances.[102]

92. Finally, on 24 October 2003, the Government announced that "up to 15,000 families who sought asylum in the UK more than three years ago, the majority of whom are being supported by the taxpayer, will be considered for permission to live and work here".[103] The Government described this as a "one-off exercise" which will apply to those who sought asylum in the UK before 2 October 2000, had children before that date and who have suffered from historical delays in the system. It will also apply to cases where the final appeals process has not been exhausted and to those where final decisions were made but removal not effected. Asylum seekers who have committed a criminal offence, lodged multiple applications or whose cases are the responsibility of other European countries will be excluded from the exercise.

93. The Home Secretary stated that many of the families who will benefit have put down roots in the community, with children who are "especially motivated and doing well in schools".[104] The Home Office expected that it will take about six months to assess the claims from those who may be eligible.

94. Citizens Advice and JUSTICE welcomed the Government's announcement.[105] Citizens Advice expressed regret that the Government did not go even further and include families which applied for asylum before October 2000 and have since been granted temporary leave to remain.[106]

95. Opposition to the Government's initiative in principle was expressed by MigrationWatch UK. MigrationWatch argued that "the exercise is highly unlikely to be a one-off", on the grounds that "the continuing failure to remove more than a small proportion of asylum seekers whose claims have failed (we estimate that about 1 in 5 are removed or depart voluntarily) will caused a recurrence of the conditions which led to the current amnesty". They estimated that since the cut-off date of October 2000, "a further 14,000 families will have applied for asylum who will, in time, meet the same criteria as those just granted an amnesty". They argued that experience in Spain and Italy shows that amnesties tend to be repeated and to act as a 'pull' factor to attract more asylum seekers and illegal immigrants.[107]

101 *Fairer, faster and firmer: a modern approach to immigration and asylum* (Cm 4018), July 1998, para 8.28

102 Cm 4018, paras 8.29–30; see also HC Deb, 27 July 1998, cols 39–41, and HC Deb, 26 October 1998, col 18.

103 Home Office press notice 295/2003, *Clearing the decks for tough new asylum measures*, dated 24 October 2003

104 *Ibid*.

105 HC (2003–04) 109, Ev 16 (para 5.1), Ev 23 (para 3)

106 *Ibid*., Ev 16 (para 5.2)

107 *Ibid*., Ev 39 (paras 3, 5)

96. In defence of the Government's decision, the Minister of State told us that the initiative was "very targeted", being aimed specifically at asylum applicants who made their claims before reforms of the appeals process came into effect in October 2000, and who therefore had considerable reserved rights of appeal which later applicants did not enjoy. She said that "we took the view that … it was in everybody's interests to draw a line before we go on to bring in new simplifications to the appeals process".[108] She added that the Government estimated that for every 1,000 applicants who would move from benefits into employment as a result of this exercise, there would be a saving of £15 million to the public purse.[109]

97. We understand the reasons why the Government has announced what is in effect an amnesty for up to 15,000 asylum-seeking families who arrived in the UK more than three years ago. An individual amnesty may well be the appropriate humanitarian and financial response to a backlog. However, the cumulative effect of amnesties is to undermine the credibility of the system. The combination of a high level of applications and a low rate of removals will, over a period of years, create a situation in which the Government not only faces political pressure to clear up the ensuing backlog of cases, but has a moral obligation to asylum seekers who have been in the UK for several years, who have put down roots in the community, made friends and have children in local schools. **If the Government does not address the problem at both ends, by reducing unfounded applications and by swiftly and humanely removing failed asylum seekers, it is indeed likely that there will be further amnesties.** They will in turn act as a 'pull' factor, sending out an unfortunate message to people contemplating making an unfounded claim for asylum, that if they can get to the UK and make that claim, sooner or later the Government will regularise their position. **Amnesties set up a vicious circle which should be broken by discouragement of unfounded claims, fast and efficient processing of those claims when they are made, and rapid removals when claims have failed.**

Border controls

98. A key element in discouraging claims is through more effective border controls (which are likely to have the effect of preventing both genuine and unjustified claimants from entering the UK to make a claim). Our predecessors in the last Parliament reported on this issue in January 2001.[110] The major recommendation in that report was that the existing border control agencies should be combined into a single frontier force, combining the efforts of the police, Customs and Excise and the Immigration Service to tackle illegal entry into the UK. The report also recommended better use of technology, adopting equipment used in other countries to detect and deter clandestine entrants. [111]

99. In its reply, in March 2001, the Government said that it "remains to be persuaded that a single frontier force would necessarily bring the benefits being sought", but undertook to

108 Q 889

109 Qq 898–99

110 Home Affairs Committee, First Report of Session 2000–01, *Border Controls* (HC 163), published on 31 January 2001. The Government's reply was published on 28 March 2001 as the *Committee's Fourth Special Report of Session 2000–01* (HC 375).

111 HC (2000–01) 163-I, paras 109, 116

look at compromise options for improving co-operation between agencies.[112] More recently, speaking in the House on 3 July 2003, the Home Secretary said:

> "We have received a report on the reorganisation of the special branch throughout the country, that that involves the question of regionalisation, and that accountability will be important in that area. We know that we must get this right. However, there is a strong difference of opinion, including that between the police and others, as to whether a unified border control taking in special branch, immigration controls, Customs and Excise and those involved in the surveillance of our coastline, would be more or less effective. If I am convinced that it would be more effective, I will recommend to My Right Hon. Friend the Prime Minister that we take that course."[113]

100. Speaking to us in September 2003, the Home Secretary clarified the Government's position on this issue. He said that a cabinet committee was examining the connected issues of border control and organised crime, and that this was giving urgent consideration to the question of whether to link or unify the work of agencies involved in border control, including Customs and Excise, the National Crime Squad, the National Criminal Intelligence Service, individual Special Branches and the Coastguard. Mr Blunkett said that:

> "My own view is that there will have to be change. We have not yet agreed that change. … We will have to square the circle of those who believe that their activity is integral to their wider work. The Kent Police believe that their Special Branch activity on the issues of border control and immigration are crucial to their wider role and should be integrated. We want to ensure that we do not lose that. We want a more cohesive structure … we do not want to set up something which works on paper but does not actually work in practice."[114]

101. On the issue of introduction of new technology, and other measures to improve existing security, particularly at ports on either side of the English Channel, more progress has been made. As a result of UK-French co-operation, British immigration officers are now based at locations in France to decide upon admissibility of passengers prior to embarkation for the UK. Since June 2001, the UK Immigration Service has been operating immigration controls at Coquelles for vehicle traffic through the Channel tunnel, and at the Eurostar stations of Paris Gare du Nord, Lille and Calais for passenger traffic. In early 2003, 'juxtaposed immigration controls' at the ferry ports of Dover, Calais, Dunkirk and Boulogne began to be introduced. It is hoped that by February 2004 there will be full joint immigration control on French soil.[115] Similar joint working is being introduced at the Belgian ports of Ostend and Zeebrugge.

102. New detection technology deployed at Calais, Coquelles, Ostend and Zeebrugge, as well as at British ports such as Dover, includes *passive milimetric wave imagers* (which uses natural background radiation and thermal imaging techniques to produce an image of the

112 HC (2000–01) 375, para 44

113 HC Deb, 3 July 2003, col 625

114 Qq 50–51

115 See Q 774.

interior of a vehicle), *heartbeat detectors* (using acoustic sensors linked to a portable computer that can identify a human heartbeat when placed on the chassis of a stationary vehicle), and *X/gamma ray scanners* (which use thermal imaging to depict the contents of a vehicle). The Home Office claims that use of this technology contributed to preventing 4,000 would-be illegal immigrants from reaching the UK illegally in the first six months of 2003. The Government stated that "we aim to expand the use of this technology to secure the whole of the north European coastline—progressively moving the UK's borders abroad to prevent people reaching the UK clandestinely in the backs of lorries."[116] The Government is currently negotiating to institute detection equipment in The Netherlands as well.[117]

103. The Sangatte Red Cross Centre near Calais, which at one stage had housed over 1,000 people and which had become a magnet for potential illegal entrants to the UK, was closed at the end of 2002 following agreement between the British and French governments. In that agreement:

- stronger controls and tighter security were introduced at Calais and other French ports;
- the UK took responsibility for just under 1,000 Iraqi Kurds, who were brought to the UK on work visas, and admitted around 200 Afghans identified by the UNHCR as having strong family links to the UK; and
- the French government took responsibility for the around 300 remaining residents of the Sangatte centre, the around 500 already housed elsewhere or already deported and any illegal immigrants who continued to turn up in the area, then running at 30–40 a week.

104. A new EU-wide database of fingerprints, Eurodac, now records the country in which an asylum seeker first applies for asylum together with personal data and fingerprints, and is designed to prevent applicants from lodging claims in more than one state. Under the revised Dublin Convention ("Dublin II"), which came into force on 1 September, member states of the EU will be required to respond within six weeks to a request from another member state for information on an asylum-seeker. They will also be obliged to return anyone who has made multiple applications to the state in which the first application was made.[118]

105. Visa regimes for passengers transiting through the UK have been tightened up: in June 2003, it was announced that nationals of 16 specified countries would henceforward need visas to pass through, as well as to visit, the UK; and in October six more countries were added to the list.[119]

106. The Government proposes to impose new sanctions on asylum seekers who deliberately lose or destroy their travel documents on or before arrival in the UK, in order to conceal their origin or identity, or remove evidence as to their mode of arrival. The

116 IND press notice 273/2003, *New detection technology to prevent illegal immigration*, dated 6 October 2003.

117 Q 774

118 Ev 172; Qq 777, 781

119 HC Deb, 23 June 2003, col 29WS; Home Office press notice 280/2003, *Tighter visa regimes to improve border control*, dated 15 October 2003

Government has also floated the idea of requiring carriers to take copies of passengers' travel documents before they embark. We commented on these proposals in our recent report on the Asylum and Immigration (Treatment of Claimants, etc.) Bill now before Parliament.[120]

107. **We welcome the various specific measures the Government has recently taken to improve border security. These will have contributed to the fall in asylum applications during 2003. We particularly welcome the enhanced co-operation between the British and French Governments, which has led to significant progress in tackling the problem of illegal entry through the Channel ports.**

108. **However, we consider that there has been undue delay in resolving the issues surrounding the creation of a unified frontier force, as recommended by our predecessor Committee in 2001. It is now time for the Government to resolve disagreements between agencies on this proposal and take action to promote their greater integration.**

Improving the processing of applications

The Government's target

109. The Government has committed itself to achieving these aims as a formal target. Home Office Public Service Agreement Target 7 is as follows:

> "To focus the asylum system on those genuinely fleeing persecution by taking speedy, high quality decisions and reducing significantly unfounded asylum claims, including by: fast turnaround of manifestly unfounded cases; ensuring by 2004 that 75% of substantive asylum applications are decided within two months; and that a proportion (to be determined) including final appeal, are decided within six months; and enforcing the immigration laws more effectively by removing a greater proportion of failed asylum seekers."[121]

110. In December 2003 the Home Office announced that it was on track to meet the target of deciding 75% of substantive applications within two months: initial performance data indicated that between April and July 2003, 79% of such applications had been decided within two months.[122]

111. To assist in achieving the target, the Home Office state that they have made a number of "process improvements":

> "These include the setting of clear milestones to help monitor performance at key stages of the process, the use of management information reports derived from the Case Information Database to track the progress of individual cases, and the creation

120 HC (2003–04) 109, paras 20, 23, 26, 29, 33

121 *Home Office Targets: Annual Performance Report 2003* (Cm 6057), December 2003

122 *Ibid*.

of a centralised unit to serve decisions that had previously been returned to individual Immigration Service Outstations for this purpose."[123]

Fast-track procedures

112. In order to speed up the processing of applications, the Government has put in place 'fast track' procedures to deal with certain claimants. A fast-track detention centre has operated at Oakington in Cambridgeshire since March 2000. Asylum seekers are detained at Oakington "where it appears that their application can be decided quickly, including those which may be certified as manifestly unfounded".[124] The aim is to decide claims within about 7 to 10 days. The decision to send an asylum seeker to Oakington is taken at the initial screening. The most important factor in this decision is nationality. In the case of some countries, deemed by the Government to be 'safe', any national of that country claiming asylum can be detained at Oakington. In the case of other countries, decisions will depend on the nature of the claim: for instance, applicants from Pakistan may be detained there but not if their claim is based on their being Ahmadi, Christians or women, because those claims are treated as being of a more complex nature.[125]About 80% of detainees at Oakington are released after they receive a decision; the remainder are moved on to other detention facilities.[126]

113. Oakington has a capacity to hold about 400 detainees. In 2002, an initial decision was made on 7,775 asylum applicants held there. In 99% of these cases the application was refused. Of the cases refused, 94% (7,230) lodged an appeal. Of the 6,315 cases which have received an appeal outcome, 11% of appeals were allowed, 86% were dismissed, and 4% withdrawn. The top five applicant nationalities received at Oakington in 2002 were Chinese (14%), Zimbabwean (10%), Turkish (10%), Indian (10%) and Czech (8%).[127] The most recent figures available, for the third quarter of 2003, show that during that period an initial application was made on 1,060 cases; in every case the application was refused.[128]

114. A recent change in the law allows an asylum seeker to be removed from the country while their appeal is still pending, if the claim is certified as "clearly unfounded", and the applicant is entitled to live in a state where there is "no serious risk" of persecution. The Minister of State told us that "there will be a presumption, I think a legitimate presumption, that people coming from those countries would not have a legitimate claim".[129] This process of 'non-suspensive appeals' came into force in November 2002. Certified applicants who have been removed must pursue any appeal from abroad. The process is mainly administered at Oakington. [130]

123 Ev 167

124 HC Deb, 16 March 2000, col 263W

125 Joint Council for the Welfare of Immigrants, *JCWI Immigration, nationality and refugee law handbook*, ed Duran Seddon (2002), p 507

126 *JWCI handbook*, p 508

127 *Asylum Statistics United Kingdom 2002*, paras 40–42

128 *Asylum Statistics: 3rd Quarter 2003*, p 9

129 Q 41

130 HC (2002–03) 654-I, para 37; AA 33, p 3

115. Four Kurdish Iraqi asylum seekers sought judicial review of the decision to detain them at Oakington, arguing that this was contrary to Article 5 of the ECHR. In October 2002 the House of Lords ruled that detention for the purposes of speedy removal was lawful.[131]

116. A new fast-track scheme was announced by the Home Office in March 2003. This is being piloted at Harmondsworth removal centre. Up to 90 asylum seekers at a time with claims deemed to be 'straightforward' will be detained. The intention is that they will proceed from arrival to decision, through appeal and, if unsuccessful, removal, in about four weeks. The scheme is aimed particularly at new asylum claimants arriving at Gatwick, Heathrow and Stansted airports.[132]

117. One of the Home Office's Public Service Agreement targets for 2003–04 is for 70% of detainees in the fast-track schemes to be dealt with within 14 days. This target has not yet been met: as at December 2003, the average time in detention for those removed so far is 36 days.[133]

The quality of initial decision-making

118. The Home Office claims that "while delivering greater speed and volume, it is also essential to sustain the high quality of initial decisions". [134] Notwithstanding this stated commitment, many of our witnesses were highly critical of the quality of initial decision-making on asylum applications.

119. The Immigration Advisory Service (IAS), for instance, described IND as "a department now notorious for its poor administrative performance." They stated that the reasons given by the Home Office for rejection of claims "often bear little relation to the basis on which the claim is made", and, as a result, many meritorious claims have to be unnecessarily appealed. IAS alleged that decisions are arbitrary, with two problems in particular:

- Changes to a claimant's account often lead to rejection on grounds that he or she is not a credible witness, ignoring factors such as the fallibility of human memory and lack of early access to legal advice (which enables claimants to focus on what it is most relevant); and

- Claimants are often rejected on a 'damned if you do, damned if you don't' basis:

> "For example, a claimant who explains that he left his country at the first sign of trouble is rejected because he has not suffered any sustained problems. A claimant who remains in his country despite suffering persecution, perhaps because he did not have the resources to leave or felt tied or loyal to his country in some way, will be

131 R v Secretary of State for the Home Department *ex parte Saadi* (FC) and others (FC) (Appellants), [2002] HL 41

132 Home Office press notice 074/2003, *New fast track pilot for asylum claims*, dated 18 March 2003; Ev 167, 171–72

133 Cm 6057, PSA 7

134 Ev 168

> rejected on the grounds that he cannot be telling the truth or he would have left sooner."[135]

120. The Refugee Council, the Law Society, and many other of our witnesses made similar criticisms.[136] Asylum Aid told us that "refusal letters habitually disclose gross mis-statements of the application's details or the country information".[137] The Jesuit Refugee Service referred to "basic administrative errors—with serious consequences. We hear from our clients of important letters from the Home Office not arriving at all, or being sent to previous addresses."[138] IAS proposed a co-operative rather than confrontational approach to the assessment of claims, with IND being replaced by a new agency more independent of the Home Office, and resources 'front-loaded' to improve the quality of initial decisions.[139]

121. The Immigration Law Practitioners' Association argued that the Government's drive to speed up decision-making was proving counter-productive:

> "A failure to 'front load' the determination system, collecting the necessary information at the earliest possible stage and assessing this information in a way that stands up to scrutiny, leads to a system that is neither adequate nor fair. The demand for speed in initial decision-making furthermore lengthens and complicates the system as a whole, by ensuring that the initial decision is unlikely to be informed and sustainable. … Separating the staff involved in initial decision-making from those involved in defending those decisions at appeal ensures duplication of effort on a massive scale."[140]

122. The Home Offices itself acknowledges that "what happens at appeal is an important source of information about the quality of initial decisions".[141] Over the past ten years there has been a steep rise in initial-level appeals (i.e appeals from the initial decision to the adjudicators of the Immigration Appellate Authority), from 2,440 determined in 1994 to 64,405 determined in 2002. This has been accompanied by a significant rise in the proportion of appeals which are successful, from 4% in 1994 to 22% in 2002.[142] Critics of the Home Office argue that this level of successful appeals indicates that, in the words of Mr Keith Best, Chief Executive of IAS, "there is something terribly wrong with the initial system".[143]

123. Initial decision-making has been particularly criticised on the grounds that inadequate 'country information' is available to the Home Office—in other words information about the human-rights situation in the countries of origin of asylum seekers. Several witnesses, including the Refugee Council, called for the establishment of an independent

135 Ev 195–96

136 Ev 239, 222–23

137 Ev 154 (para 3.4)

138 Evidence not printed

139 Ev 196

140 Ev 207

141 Ev 168

142 *Asylum Statistics United Kingdom 2002*, paras 25–30; Tables 7.1–2

143 Q 401

documentation centre, to provide objective advice on conditions in asylum seekers' countries of origin.[144] The Law Society called attention to:

> "the use of incorrect country information. An example of this is the decisions to return applicants to Zimbabwe last year, despite it being unsafe to do so. The Government subsequently had to change its policy on this. … An independent documentation centre … if adequately resourced, would provide publicly accessible, accurate and up to date independent country information."[145]

124. The Government has set up an Advisory Panel on Country Information within the Home Office, as envisaged in the Nationality, Immigration and Asylum Act 2002, and it argues that this will be a source of objective information.[146] However, the Advisory Panel was described by Mr Keith Best, Chief Executive of IAS, as "a much, much watered down version" of the independent documentation centre.[147]

125. IND has been criticised not only for insufficient knowledge of the human rights situations in applicants' claimed countries of origin, but of lacking local knowledge which would give it a better chance of detecting fraudulent applications. The former asylum seekers who gave oral evidence to us argued that IND should employ refugees with direct personal knowledge of countries of origin.[148] Mr Mohammed Fahim Akbari told us:

> "most of the case workers … are not qualified. Even if they ask a question, they have them all written down and if you see the way they ask, all of them ask exactly the same questions."

Mr Akbari said that there were two national languages in his home country of Afghanistan, Dari and Pashto, and to a native of Afghanistan no Dari-speaker could be mistaken for a Pashtun, but Home Office caseworkers lacked this kind of local knowledge that would enable them to detect people who were not what they claimed to be.[149]

126. The Home Office has been exploring the potential value of language analysis in detecting such nationality fraud. In October 2003 the results were announced of a pilot study involving selected applicants from Afghanistan, Somalia and Sri Lanka. The applicants were told:

> "From the information you have supplied, we are not satisfied that you come from [country/area] as claimed. We therefore wish to give you the opportunity to substantiate your statements about your country/area of origin. If you agree to proceed, we will tape your statements and hand them over to an expert for analysis who will give their opinion on your place of origin. … We would like to ask you to talk about [country] in your own language."[150]

144 Ev 239 (para 2.6)

145 Ev 222

146 HC (2002–03) 654-II, Qq 629–30, 799

147 Q 454

148 Q 631–33, 659–60

149 Qq 632–33

150 Home Office, *Evaluation of Language Analysis Pilot: Summary of Findings*, Annex B

127. The study found that 9% of the total number of applicants, and 21% of claimed Somali nationals, were claiming a false nationality. A further 8% were found to be not from their claimed minority tribe. Where language testing had been deployed, the percentage of outright refusal decisions was 78% compared to 51% for the pilot nationalities as a whole. The percentage of appeal decisions upheld was also significantly higher for the selected applicants (86% as against 68% for the pilot nationalities as a whole). The pilot study will be followed up by a wider use of language analysis as part of the asylum screening process. The Home Office accepts that the credibility of such language analysis depends on the credentials of individual language analysts. It is considering setting up a language analysis bureau to address this issue.[151]

128. Several of our witnesses criticised what they claimed was a lack of good quality legal advice available to claimants.[152] The Refugee Society, for instance, stated that—

> "There is still no guarantee of quality legal representation from the outset of the asylum process, even though the Government has previously acknowledged that it can contribute to an efficient system."[153]

JCWI (the Joint Council for the Welfare of Immigrants) claimed that "there is restricted access to legal information and advice".[154] Bail for Immigration Detainees likewise asserted that "some detained people do not have proper access to good quality legal advice … one illustration, of many, is that legal visits at Lindholme detention centre are restricted to three days a week, from 1.30 pm to 3 pm".[155]

129. HM Chief Inspector of Prisons, Anne Owers, has commented on the specific issue of the provision of legal assistance to people being detained. On the basis of her inspections of five immigration centres (including Oakington), she stated that detainees were unable easily to obtain good legal advice, and that in a number of centres they were Aclearly targeted by unscrupulous advisers who were able to prey on their vulnerability@. Inadequate provision of interpreting services meant that detainees reported being unable to understand what representatives told them.[156] Language Line, which supplies interpretation services to public sector organisations in the UK including the Immigration Service and NASS, told us that they "do not believe that all organisations involved in the immigration process currently achieve best practice … in their provision and use of language services".[157]

130. In our report on asylum removals, we stated that "current arrangements for access to legal advice [for detainees] are inadequate". We recommended that the situation be improved either through the appointment of welfare officers within removal centres who could co-ordinate access to legal services, or by provision of access to a duty solicitor.[158] In

151 HC Deb, 21 October 2003, cols 35–36WS; *Evaluation of Language Analysis Pilot: Summary of Findings*, para 4.2

152 The specific issue of legal aid to asylum seekers is currently the subject of an inquiry by the Constitutional Affairs Committee.

153 Ev 239 (para 2.3)

154 Ev 210

155 Evidence from Bail for Immigration Detainees (not printed)

156 Inspection of five Immigration custodial establishments (April 2003), pp 6B7

157 Ev 221

158 HC (2002–03) 654-I, para 99

its reply to our report, the Government agreed that all detainees should have access to competent legal advice. They added:

> "All detainees are told how to contact the IAS and RLC for advice and assistance, and they have access in removal centres to the free telephone lines operated by those two organisations. Information about finding a legal representative is displayed in removal centres. … The Legal Services Commission is currently considering letting contracts to solicitors local to removal centres in order to enhance access to legal representation."[159]

131. The Minister of State, responding to our witnesses' criticisms of the quality of initial decision-making and processing of applications, told us that "the priority has to be to get order into the system and to get the numbers down", but also that "I want to see … if we can make sure that we can say, hand on heart, that the decisions are all as high-quality as we would like them to be".[160]

132. The Home Office told us that caseworkers receive three weeks' initial asylum training and mentoring, followed by three days' interview skills training. They are "trained to conduct interviews objectively and impartially", while "it is recognised in particular that caseworkers should be equipped to deal fairly and sensitively with those applicants who have suffered torture or other forms of trauma". Caseworkers who deal with 'non-suspensive appeal' cases receive additional training. The quality of decision-making is sampled by internal and external (Treasury Solicitors) assessors.[161]

133. The Home Office's Public Service Agreement targets for 2003–04 include "taking high quality decisions". The criteria for meeting this target are:

i. 80% of decisions (grants and refusals of asylum), sampled at random over the year, are found to be fully effective or better; and

ii. 80% of decisions, assessed by external assessors over the year, are found to be fully effective or better.

Both criteria will increase to 85% for the year 2005–06.[162] The Home Office *Autumn Performance Report 2003*, issued in December 2003, states that outturn figures for the target will not be available till 2005.[163]

Processing of applications: conclusions

134. The Minister of State told us that—

> "it happened to be experienced caseworkers who were run down, and the numbers … were reduced by between 1,000 and 1,200. You can appreciate, I think, that during that period of time, from 1997, 1998, 1999, … the computer was meant to be coming,

159 HC (2002–03) 1006, p 10

160 Q 26

161 Ev 168

162 *Ibid*.

163 Cm 6057, PSA 7

> we had the budget that was set, the staff was being reduced, but the computer never arrived. And … at the same time as it was clear that this was not going to work, the inflow from Kosovo started. And … those are the dynamics that led to the complete incapacity of the organisation at that time then to deal with what was a massive and sudden inflow of applications primarily from the Kosovan crisis."[164]

It is clear that the decision-making capacity of the asylum system was badly affected by the failure in the late 1990s to introduce an operational computer system. This was a classic case of botched IT procurement, made worse by the failure of Home Office contingency planning.

135. **Since then much effort has been put into, in the Minister's words, restoring "order and management and rationality" to the system, and it is right that the progress made towards this end should be acknowledged—even though much remains to do.**

136. **We believe that fast-track processes are justified in principle.** There are substantial numbers of applications for asylum which are indeed "manifestly unfounded" or can for other reasons be disposed of swiftly, and it makes sense to sift out such applications for special treatment at the stage of initial screening. Following the Law Lords' ruling that detention for the purposes of fast decision-making and, if necessary, removal is lawful, the Government has taken steps to expand the system of 'fast-tracking'. **We support the decision to pilot the fast-tracking of incoming airline passengers at Harmondsworth. However, it is important that claimants subject to fast-tracking procedures should be treated humanely and receive a fair hearing, with safeguards to ensure that any genuine refugees who have been sifted in error have their rights protected. We hope that HM Chief Inspector of Prisons will continue to monitor conditions at Oakington and Harmondsworth, as well as at other asylum detention centres, and we expect the Home Office to take action where necessary in response to her findings. We are not satisfied that the Government has done enough to ensure that adequate legal advice is available to asylum seekers and repeat the recommendation in our previous report (see paragraph 130 above) that steps should be taken to remedy this.**

137. **We commend the Government for its introduction of a comprehensive induction process for asylum seekers.**[165] We observed induction procedures at first hand on our visit to Dover, and were impressed by the thoughtfulness with which they had been drawn up, and the balance struck in informing claimants both of their rights and their responsibilities. **We support the establishment of dedicated induction centres.** This will not only make the applications process more efficient, but also carry benefits in the provision of information and services to asylum seekers. **We strongly endorse the Government's induction centre strategy.**

138. **We also support the Government's plans to introduce accommodation centres.**[166] **Such centres, if properly resourced, will operate as 'one-stop shops' to the benefit of asylum seekers, providing board, education, health, interpretation and purposeful**

164 Q17; see also Q 32.

165 See para 17 above.

166 See para 19 above.

activity on one site. They will enable applications to be processed more efficiently and lift some of the burden of asylum support from local authorities.

139. **Given the delays in opening accommodation centres, and the fall in asylum applications, the Government in its response to this report should clarify how many accommodation centres it intends to establish, with what capacity, on what timetable and at what cost.**

140. **There will be some local sensitivities about the siting of both induction centres and accommodation centres. For induction centres, a flexible approach including the use of dispersed accommodation may reduce these concerns.**

141. **We recommend that the Government should move as quickly as possible towards a situation in which all asylum seekers are processed either through an induction centre, accommodation centre or a fast-tracking facility. The investment necessary to expand the IND estate must be made available as a matter of priority.**

142. We welcome the Home Office's commitment to developing language analysis. The results of the recent pilot study (see paragraphs 126–27 above) confirm anecdotal evidence that there is a significant problem with asylum seekers falsely claiming certain nationalities. They also demonstrate the effectiveness of language analysis as a tool for detecting such fraud. **We support the extension of the language analysis scheme as part of the asylum screening process and believe that this should be developed as quickly as possible.**

143. **Notwithstanding these positive initiatives, there are still grounds for concern about the poor quality of much initial decision-making by immigration officers and caseworkers.** This is indicated not only by the near-unanimous view of our witnesses, but by the disturbing rise in the number of initial decisions successfully appealed against, from 4% in 1994 to 22% in 2002.[167] **The pressure to speed up the process and increase through-put may have led to an erosion in the quality of some initial decision-making.** In our recent report on the Asylum and Immigration (Treatment of Claimants, etc.) Bill, we expressed support for the principle of moving to a single-tier of asylum appeals, as the Government propose, but we added:

> "The real flaws in the system appear to be at the stage of initial decision-making, not that of appeal. We recommend that the implementation of the new asylum appeals system should be *contingent* on a significant improvement in initial decision-making having been demonstrated. In particular, the relevant sections of the Act should not be brought into force until the statistics show a clear reduction in the number of successful appeals at the first-tier, adjudication level."[168]

144. **We support the calls for greater 'front loading' of the applications system, that is, putting greater resources into achieving fair and sustainable decisions at an early stage. It is essential that better provision is made of good quality legal advice and interpretation services at the initial stage will not only serve the interests of justice, but eliminate much of the need for initial decisions to be reconsidered through the appeals process. We also recommend that the Home Office should seek to recruit a greater**

167 See above, para 20

168 HC (2003–04) 109, para 43

number of interpreters or caseworkers with specialist knowledge of asylum seekers' claimed countries of origin, to enable more informed decisions to be taken at the initial stage. Claimants whose applications have been accepted as genuine may, after suitable screening, be suitable candidates for these posts.

145. **The overall calibre and training of the immigration officers and caseworkers who take the initial decisions also needs to be reviewed.** The Home Office's Public Service Agreement targets for 2003–04 include "taking high quality decisions", with the aim that 80% of decisions should be assessed to be "fully effective or better". There are three grounds for concern about this target:

i. We note that no indications have yet been given of progress towards meeting the target.

ii. Even when the target for "fully effective or better" decisions has been raised to 85% in 2005–06, that will still leave 15% of decisions, or 3 in 20, as less than fully effective, which is an unacceptably high proportion.

iii. Although Treasury Solicitors will provide "external" assessment of progress towards the target, there is no provision for independent, extra-governmental assessment.

146. **We recommend that the Government should publish details of the Treasury Solicitors' assessment of the quality of IND decision-making on asylum applications. We further recommend that the Home Office should commission an independent review of the quality of that decision-making, and publish its results. We also recommend that the Public Service Agreement targets for future years should be more challenging. A reduction in the current relatively high proportion of successful appeals should be formally included as part of the target. The system of decision-making should be subject to constant assessment and review.**

147. **The aim with regard to initial decisions should be, as elsewhere in the system, to combine efficiency with fairness. This means holding early interviews, but in circumstances where their fairness cannot be challenged, i.e. conducted in the presence of interpreters, with legal advice, medical reports and accurate country information available at the right stage in the process, thereby minimising grounds for appeal.**

148. **Finally, it is essential that the system of processing asylum applications should be properly resourced.** When we took evidence in July 2003 from Mr John Gieve, Permanent Secretary at the Home Office, we were astonished to find that the Treasury had still not agreed the IND budget for the current financial year. More recently, the Home Office announced that although IND's resource budget for 2003–04 was £1,713 million, "discussions on the detail of a settlement on additional funding continue with the Treasury".[169] On 12 January 2004 the Home Office told us that "negotiations with the Treasury have now concluded and the revised budget for IND for 2003–04 will be reflected in the Spring Supplementary Estimates."[170]

169 Letter dated 17 December 2003 from the Minister of State, in reply to a Written Question tabled by Mrs Claire Curtis-Thomas MP, Annex C

170 Ev 263–64

149. **A failure to fund the system adequately during the period of the computer crisis undoubtedly exacerbated that situation. It is profoundly unsatisfactory that a key service has to operate without a defined budget. While this remains the case, it is difficult to have any confidence that the necessary 'front-loading' of the applications system will take place. We strongly urge the Treasury and the Home Office to reach agreement on the extra investment needed in the asylum system in good time for the next spending round, and for that investment to be keyed significantly to the 'front-loading' of the system.**

The recent reduction in applications—and its consequences

150. On 7 February 2003 the Prime Minister, speaking on BBC *Newsnight*, said that the most effective way of tackling the asylum problem was "to stop the numbers coming in … I would like to see us reduce it by 30 or 40% in the next few months and I think by September we should have it halved". The figure should go below 45,000 "in years to come", he added.[171] In the House on 12 February he stated that this reduction was "a firm commitment".[172] Giving evidence to us on 8 May, the Minister of State was confident that the commitment would be met. However, she acknowledged that the baseline month was "a peak month for that year", which would make achieving the target easier.[173]

151. In November 2003 the Government announced that it had met the Prime Minister's commitment. The asylum statistics for the third quarter of 2003 show numbers down 52%, with 4,225 applications in September 2003 compared to 8,770 in October 2002.[174] The number of applications in the whole quarter was up slightly on the previous quarter (11,955 as against 10,585), but the overall trend in the past year has been clearly downwards (with the three previous quarters having had 16,000, 22,760 and 22,030 applications respectively). The Home Office attributes the decrease in applications to the impact of measures in the Nationality, Immigration and Asylum Act 2001 (such as non-suspensive appeals and benefit restrictions), tighter border controls, new visa regimes and the replacement of exceptional leave to remain with the new category of humanitarian leave.[175]

152. What is not clear from the published figures is the extent to which these various new measures, rather than dissuading people from seeking illegally to enter the UK, may be dissuading them from claiming asylum when they have already arrived in the country. In other words, there may be a 'displacement effect', with fewer asylum applicants but more non-declared illegal immigrants.

153. In the nature of things it is not possible to know how many people are illegally present in the UK. It is arguable that a compulsory national identity card scheme might 'flush out' significant numbers of such people—although it might be that some would continue to lead an underground existence, lacking a card, working illegally and therefore statistically

171 www.epolitix.com/bos/epxnews/0000007DBA98.htm

172 HC Deb, 12 February 2003, col 861

173 Q 56

174 *Asylum Statistics: 3rd Quarter 2003*; Home Office press notice 325/2003, *Government meets target to halve asylum applications*, dated 27 November 2003

175 Ev 169

invisible. We will review the arguments for and against an identity card scheme in a separate inquiry in the present Session of Parliament.

154. A further issue arising from the fall in applications was raised by Dr Heaven Crawley of the IPPR. She claimed that the latest asylum figures show that measures intended to deter economic migrants are also excluding those in need of protection:

> "The Home Office has introduced a range of measures which it believes will deter and prevent economic migrants from using the asylum system to avoid UK immigration controls. At the same time it has pledged to provide protection to those genuinely in need. If the measures had been successful in meeting both these objectives, we would expect to see the number of those granted refugee status increase proportionately. The fact that we have not suggests that the measures fail to differentiate between those who are genuinely in need of protection and those who are not. The reduction in the number of applications has been achieved principally by making it difficult for everyone, regardless of their circumstances, to get into the UK."[176]

155. We subsequently asked the Minister of State how she responded to the argument that if unfounded claims are reduced, one would expect to see a proportionate increase in the grant rate. She replied:

> "I think that is a spurious argument. It fails to take account of the fact that as a result of some of the measures that we have introduced, not least Non-Suspensive Appeals, and also as a result of changing country conditions, particularly Afghanistan and Iraq, then you actually get a changing mix of people from which asylum claims are being drawn. It is not a variable that is fixed, your mix of countries changes, and that means the actual quality of the claims that are put forward is different and that has to be taken into account."[177]

156. **We welcome the recent fall in applications. There is no doubt that this is due at least in part to the range of measures the Government has introduced over the past 18 months to deter unfounded applications for asylum. It is clear that as the border control and asylum application system is tightened, as incentives to claim asylum in-country are reduced, and as action is taken against people trafficking, the number of applications is being reduced. The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill, currently before Parliament, will have the effect of reducing applications further. It is possible that a future fall in applications may reflect at least in part the increasing difficulty of simply making a claim, whether well founded or spurious. There also remains scope for doubt as to the extent to which the fall may be offset by an increase in the number of people illegally present and undeclared within the UK.**

157. It has been argued that the absence of an increase in the proportion of successful applications as the overall number of applications has fallen suggests that genuine refugees are being deterred from applying. Although we note the Minister's counter-argument that

176 IPPR press notice, 28 August 2003

177 Q 797

this is not necessarily the case because the mix of countries of origin is also changing, we fear that there is some substance in these fears.

158. **The recent fall in applications has not been accompanied by a rise in the success rate at the stage of initial decisions. In fact, the success rate has actually fallen. In the case of those granted refugee status, the fall has been a slight one: from 10% in 2002, to 7% in the first and second quarters of 2003, to 5% in the third quarter. In the case of those granted leave to remain on humanitarian grounds the fall has been steep: from 24% in 2002, to 19% in the first quarter of 2003, and then—after the introduction of the two new categories of humanitarian protection or discretionary leave—to 7% in the second and third quarters of 2003.**[178]

159. **The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill currently before Parliament, if enacted, are likely to make it even more difficult to make an asylum claim in the UK.** This may be an unintended effect of measures such as those to crack down on people traffickers—however illegal their activities, people traffickers are used by genuine as well as unjustified claimants.

160. **As it becomes increasingly difficult to get into the UK to make an asylum claim, it must be the case that many people who would have a well-founded case for asylum will be unable to make a claim. In addition, the dependence on people traffickers means that asylum is overwhelmingly an option only available to young men from relatively financially supportive backgrounds. They are not necessarily representative of the refugee population that would potentially be able to claim asylum in the UK.**

161. **This is an inescapable consequence of the border-control and other measures which the Government have taken in order to crack down on abuse. We do not criticise the Government for taking such measures, but we do believe that their full implications for potential genuine asylum seekers must be recognised. The Government should acknowledge that, as genuine claims become harder to make, more needs to be done to fulfil the UK's humanitarian obligations to the world's refugees by alternative means. There is a moral obligation on the Government to provide alternative legitimate routes by which refugees can gain access to this country, to assist refugees closer to their country of origin, and to tackle the roots of enforced migration.**

162. Secondly, as the system for applications is tightened, we can expect a rise in illegal migration and illegal working, whether by failed asylum seekers or by those who do not make an asylum application. It is important that the Government should devote as much attention to this problem as it has done to the level of asylum applications.

178 *Asylum Statistics United Kingdom 2002*; Asylum Statistics: 3rd Quarter 2003

5 Adequacy of support provided to asylum seekers

The asylum support system

163. The National Asylum Support Service (NASS) was set up in April 2000, under the Immigration and Asylum Act 1999, to provide welfare support to asylum seekers who would otherwise be left destitute (that is, without adequate accommodation or the means to meet their essential living needs). Previously, many asylum seekers had been supported, in an *ad hoc* and unco-ordinated way, by local authorities. The new NASS arrangements were based on enforced dispersal to the regions, to relieve pressure on local authorities in London and Kent; and on the provision of most subsistence support in the form of vouchers exchangeable for goods, rather than cash.

164. The voucher scheme was greeted with much hostility, on the grounds that it stigmatised the users, required them to travel to designated shops, and made shopkeepers' work more difficult. The fact that no cash change could be tendered for an unused portion of a voucher was also resented.

165. The implementation of the dispersal policy was also criticised. For instance, a joint report by the British Medical Association and the Medical Foundation for the Care of Victims of Torture claimed that the policy was putting the health of asylum seekers at serious risk by making it more difficult for them to access healthcare services.[179] A report by the Audit Commission criticised local authorities for being under-prepared to deal with dispersed asylum seekers. It found that inadequate accommodation had hampered the dispersal policy, and that "in some areas, community tensions have been raised". However, it also concluded that dispersal, properly implemented, offered an opportunity "to develop a more coherent response to the needs of asylum seekers and refugees". [180]

166. In August 2001 the Home Secretary commissioned reviews of the voucher and dispersals policies.[181] The ensuing report found there had been "administrative and operational problems resulting in a poor service by NASS to asylum seekers".[182] In October 2001 the Home Secretary concluded that "the system is too slow, vulnerable to fraud, and felt to be unfair by asylum seekers and local communities".[183] In consequence the voucher system would be phased out. He acknowledged that the dispersals policy had led to "social tensions in neighbourhoods across the country and considerable pressures on local education, social and GP services", but defended the principle of dispersal away from London and the South-East, and pledged improved liaison with local authorities. In addition a new network of induction and accommodation centres would be set up. Initially the accommodation centres would provide 3,000 places for first-time asylum seekers,

179 Joint report, *Asylum Seekers and Health* (October 2001)

180 Audit Commission, *Another Country: implementing dispersal under the Immigration and Asylum Act 1999*

181 Home Office, *Report of the operational reviews of the voucher and dispersal schemes of the National Asylum Support Service* (October 2001)

182 *Ibid*., para 1.3.2

183 HC Deb, 29 October 2001, col 627

offering full board, education and health facilities.[184] In April 2002 the voucher-only system was replaced by a system of vouchers exchangeable for cash.

167. The revised arrangements now in force operate as follows. The level of cash support for asylum seekers is set at 70% of Income Support for adults and 100% of the personal allowance for children under 18.[185] The Home Office argue that because the full NASS support package also includes furnished accommodation, with the cost of rent, utilities and council tax paid by NASS, the net value of the package is broadly equivalent to that of Income Support. No assistance with accommodation costs is given to those asylum seekers on 'subsistence-only support', because they are assumed to be living rent-free with family or friends.

168. Asylum seekers who request that accommodation be provided may be subject to dispersal. Those who request subsistence-only support may live where they choose. NASS contracts with the public and private sector to provide accommodation in dispersal areas for destitute asylum seekers. At the end of September 2003 there were 51,810 asylum seekers, including dependants, supported in NASS accommodation across the UK. At the same date a further 33,895 were in receipt of subsistence-only support. The regions with the highest populations of asylum seekers in NASS accommodation were Yorkshire and the Humber (19% of the total), West Midlands (18%), the North West (18%), Scotland (11%) and the North East (10%). However, nearly three-quarters of all asylum seekers in receipt of subsistence-only support (24,830 individuals) were located in London.[186]

169. The Home Office is still engaged in consultation on the sites for the new accommodation centres. The criteria for selection of a site include the capacity to cater for several hundred residents plus facilities either as new-build or conversion and a reasonable geographical spread beyond the south east of England.[187] The intention is to disperse asylum seekers in 'clusters' based on language groups.[188] Accommodation centres will not be secure facilities but applicants will be required to stay in the centre as a condition of NASS support. The intention is that the centres will provide 'one-stop shop' services: education, health, interpretation and self-catering facilities, legal advice, purposeful activity and voluntary work.[189]

170. A key factor in siting the centres is the need to judge carefully "the number of asylum seekers that each cluster or region can successfully accommodate both from the integration angle and without causing/increasing racial tension in an area".[190] Mr Peter Gilroy, Strategic Director of Social Services at Kent County Council, told us of the potential pitfalls:

> "to take people from Kent in large numbers … and parachute them into local authorities around the country, has created some quite serious problems. First of all,

184 *Ibid*., cols 627–28

185 Ev 169

186 *Asylum Statistics: 3rd Quarter 2003*, p 7

187 HC Deb, 7 February 2002, col 1128W

188 HC Deb, 8 April 2003, cols 202–03W

189 Home Office press notice 037/2003, *Next steps in asylum seeker accommodation centre trial*, dated 11 February 2003

190 HC Deb, 8 April 2003, col 203W

> it adds to the sense of perception to the public that they are being flooded with people. In truth, there are significant numbers, but if you concentrate people in certain locations then the public perception very quickly is affected by that."[191]

171. The operational performance of NASS has been the subject of much criticism. The Immigration Advisory Service told us that:

> "NASS and the dispersal policy it was supposed to administer were a disaster. The policy of dispersal was virtually unplanned, no preparations for services to dispersed asylum seekers were made, … implementation was a shambles and the dispersal policy led to a number of racist attacks, some of which were fatal."[192]

172. The IAS and other witnesses accept that improvements have been made since the early days of NASS. However, NASS is still criticised for allegedly providing unacceptable standards of service delivery, being over-centralised, and difficult to contact.

173. Citizens Advice, the national co-ordinating body for Citizens Advice Bureaux, argued that NASS is "effectively displacing its costs to other agencies … with very limited human and financial resources", and that bureaux "continue to report endemic delay, inefficiency, and administrative error". They also criticised a lack of empathy with asylum seekers and "a mindset … of all asylum seekers being 'on the make'". [193] Mr Peter Gilroy of Kent County Council said that "just simply …they do not have the trained personnel".[194]

174. Many other witnesses made similar criticisms. Asylum Aid stated that NASS "continues to be woefully inaccessible and prone to error", and that it fails the most vulnerable.[195] Asylum Welcome, a small charity which deals with asylum seekers in Oxfordshire, alleged that:

- Initial applications to NASS for support take a long time to process
- There is poor quality and lack of emergency accommodation
- Vouchers fail to arrive
- NASS loses documents
- NASS fails to record information changes
- NASS is extremely difficult to contact by phone,

and that these administrative and procedural problems result in "an unacceptable level of human hardship and misery".[196] The poor telephone service offered by NASS has clearly been a particular problem.

191 Q 149

192 Ev 197

193 Ev 158–61

194 Q 248

195 Ev 154

196 Ev 156–57

175. Lack of local knowledge on the part of NASS has also been much criticised. Ms Harriet Sergeant told us:

> "I went to the refugee centre in Newcastle. They spent most of their time complaining to me about NASS. They said that one of the major problems … was that NASS's centre of operations was so far from the NASS headquarters in Croydon. They said that NASS had not noticed that a river runs between North and South Shields and that they were expecting asylum seekers to have to take a ferry and a bus in order to collect their money when there is actually a perfectly good post office at the end of the road, but they simply did not know the geography."[197]

176. In March 2003 the Government announced there would be an independent review of "the organisation, management and staffing and expertise within NASS".[198] This followed controversy over NASS's decision to use the Coniston hotel in Sittingbourne, Kent, as an asylum induction centre without first consulting local residents.

177. The Government published a summary of the review's findings in July 2003. The full text of the review was not published on the grounds that it contained confidential advice to Ministers. When we queried this with the Minister of State, she told us that she had commissioned the report as "personal advice to me" and felt it would be inappropriate to publish it.[199] However, from the short Home Office summary which *has* been published, it is clear that although the review noted "signs of improvement", its overall tone was heavily critical. NASS "had failed to establish a clear strategy", had not properly integrated with other parts of the asylum process, had had "unrealistic expectations surrounding issues such as social integration", had not dealt effectively with partners such as local authorities or the voluntary sector, had not exploited IT effectively, and needed to improve its basic customer service. The review pointed to the need for many more aspects of NASS's business to be dealt with at local level.[200]

178. The Government is committed to the 'regionalisation' of NASS. In June 2003 it announced that NASS would be opening 12 new regional offices, to be occupied by 400 of its 1,000 staff.[201] The Director-General of IND, Mr Bill Jeffrey, told us in October 2003 that he chaired a steering group charged with implementing the review's recommendations:

> "What we have been looking at is the governance structure for NASS: integrating it more into IND as a whole; improving staffing, because I think one of the significant reasons for the weaknesses in NASS performance in the past has not been a lack of effort by its senior management but shortcomings and weaknesses in the number and quality of staff at different levels; and looking at the initiatives to bring in external stakeholders to improve the quality of the relationship between the local government and the voluntary sector, and to drive through the introduction of the regional offices which the Minister referred to. It is a very big programme. Speaking

197 Q 256

198 HC Deb, 7 March 2003, col 90WS

199 Q 802

200 HC Deb, 15 July 2003, cols 30–31WS

201 Home Office press notice 184/2003, dated 26.06.03

as the Director General of IND as a whole, improving NASS performance is something that I think is one of our highest priorities."[202]

179. **We believe that Mr Jeffrey is right to regard an improvement in the performance of NASS as a very high priority. We are disappointed that the Government has not published the full text of the independent review of NASS. Nonetheless, the summary which has been published makes clear that many of its findings are highly critical. This reinforces the great weight of evidence we have received from our witnesses, to the effect that NASS is under-resourced, has too few trained staff, and insufficient local knowledge. Members of Parliament in their constituency work know at first hand the innumberable difficulties that dealing with NASS entail.**

180. **We support the policy of 'regionalising' NASS. Building bridges with local communities, to reduce hostility to asylum seekers and enhance social cohesion, is an essential part of the way forward. This should involve better mechanisms for joint working with local, health and education authorities. Recruitment and retention of sufficient trained personnel is equally important, as is the investment of resources to enable an efficient telephone answering service.**

181. **We recognise that the Government is in the early stages of implementing the recommendations of the independent review. In order that we can subject to proper scrutiny the Government's progress in tackling the problems of NASS, we recommend (a) that the full text, including recommendations, of the independent review should be published; and (b) that the Director-General of IND should submit to us by the end of 2004 a progress report on the work of his steering group on NASS reform, with a view to our taking further oral evidence on this subject from him in early 2005.**

Right to work

182. Until recently, asylum seekers could be granted, on application, the right to work in the UK if their claim had not been decided within six months of it being made. Exercise of this right reduced the burden on the benefit system, but arguably also constituted a 'pull' factor for those seeking to move to the UK primarily from economic motives. Accordingly, in July 2002 the right was withdrawn.

183. The Refugee Council expressed disappointment "that the Government has removed the right to work after six months thus condemning people to quite unnecessary dependency during the period of their claim". They alleged that this had had the unintended side-effect of depriving people from access to English for Speakers of Other Languages, orientation and prevocational training programmes funded by the European Social Fund to which the right to work acts as a passport. They pointed out that under devolved arrangements in Scotland there is no such prohibition on asylum seekers taking part in European Social Fund programmes.[203]

202 Q 804

203 Ev 239–40 (paras 3.2–3)

184. The Home Office maintain that as a high proportion of applications now receive initial decisions within six months (87% in the third quarter of 2003),[204] the number of those eligible to benefit from the former right to work is now comparatively small. The Minister of State commented that "improved timeliness of initial decisions by the Immigration Nationality Directorate had made the concession largely irrelevant in practice".[205] She pointed out that asylum seekers who had been given permission to work as part of the concession would retain that right until they receive a final determination of their asylum application; and that the Home Office had "maintained a discretion to grant permission to work in exceptional cases".[206]

185. The Minister of State subsequently told us that in response to representations from the Refugee Council, the Home Office had agreed that "access to certain pre-vocational programmes available under the terms of the [European Social] Fund, including some English Language programmes, should not be ruled out for asylum seekers."[207]

186. **The danger that restoration of the concession to work after six months may act as a 'pull' factor is a real one. We recommend that the ban on working should remain in place while the applications process is being streamlined, to avoid re-creating a work incentive; but that the Government should make a commitment to eventually restoring the concession. In the long run, the inability to work is not advantageous to asylum seekers themselves (who may sometimes be, for example, engineers or doctors whose skills are in demand) or to wider society.**

Section 55 of the 2002 Act

187. One aspect of the asylum support system has caused particular controversy. Section 55 of the Nationality, Immigration and Asylum Act 2002 prevents the provision of support to asylum seekers unless the Secretary of State is satisfied that their asylum claim was made as soon as reasonably practicable after arrival in the UK. This section came into force in January 2003. Exceptions include families with children and those who can show that they would suffer treatment contrary to the European Convention on Human Rights.

188. Of the 4,260 cases referred to NASS for a Section 55 decision in the third quarter of 2003, 2,810 cases were notified that they were not eligible for NASS support because they had not applied for asylum as soon as reasonably practicable. This was an increase of nearly a thousand on the comparable figure for the second quarter (1,830 out of 3,110). In the third quarter, 795 cases were exempted from consideration under Section 55 on the ground of being a family application, and 210 cases were exempted to avoid a breach of the European Convention (comparable figures for the second quarter were 540 and 475 respectively). [208]

189. The operation of Section 55 has been subject to review by the courts. Six test cases were taken to the High Court and on 19 February 2003 Mr Justice Collins found that

204 *Asylum Statistics: 3rd Quarter 2003*, p 3

205 HC Deb, 31 October 2002, col 942W

206 HC Deb, 17 November 2003, col 673W

207 Ev 260

208 *Asylum Statistics: 3rd Quarter 2003, p 11; Asylum Statistics: 2nd Quarter 2003*, p 11

aspects of the decision-making process under the section were flawed and in breach of the European Convention. The Government appealed, and the Court of Appeal gave judgement on 18 March. The appeal was dismissed in relation to the specific cases, and the Court found against the Government on the issue of procedural fairness. However, it found in favour of the Government on several issues of principle, reaffirming that:

- the burden of showing that a claim was made as soon as reasonably practicable is on the asylum seeker
- State support does not have to be given automatically to all destitute asylum seekers who have failed to make their asylum claims when required to do so
- Section 55 is not incompatible with the European Convention.

The Government accepted the Court of Appeal's judgements, and changed decision-making procedures under Section 55 to comply with the Court's rulings.[209]

190. A further case came before the courts more recently. In July 2003 three asylum seekers sought judicial review of the Home Office's refusal of support under Section 55. Mr Justice Maurice Kay ruled against the Secretary of State on the grounds that the refusal was a breach of Article 3 of the European Convention, which states that "no one shall be subjected … to inhuman or degrading treatment or punishment". The Home Secretary appealed in the case of one of the asylum seekers, and his appeal was upheld, Mr Justice Kay arguing that the asylum-seeker's level of destitution had not been sufficiently severe to render Article 3 applicable. The judge stated that it was impossible to find that the asylum-seeker's condition at the relevant date "had reached or was verging on the inhuman or the degrading. He had shelter, sanitary facilities and some money for food. He was not entirely well physically, but not so unwell as to need immediate treatment." The Minister of State commented on the judgement that it "helps clarify where, in deciding Article 3 considerations, the threshold lies … [it] reinforces the message that those who do not claim asylum as soon as possible cannot expect to be supported merely because they assert they have no means of supporting themselves."[210]

191. Many of our witnesses criticised Section 55 on ethical grounds. Shelter was "extremely concerned that Section 55 will continue to result in some very vulnerable people being left destitute and, in some cases, having to sleep on the street".[211] A group of organisations concerned with the welfare of asylum seekers issued a joint statement urging that:

> "In a civilised society, it is simply unacceptable that any group of human beings should be prohibited from working and denied access to any state support by force of law. The United Kingdom is one of the richest countries in the world. We do not force convicted criminals into destitution and starvation. There is no excuse for

209 HC Deb,20 March 2003, cols 53–54WS

210 R ('T') – v – The Secretary of State for the Home Department, on appeal from Maurice Kay J, before Lord Justice Kennedy, Lord Justice Peter Gibson and Lord Justice Sedley, 23 September 2003

211 Ev 251 (para 3.1.4)

> employing such a tactic against people whose asylum claims have yet to be decided."[212]

192. It was also argued that Section 55 would undermine other government policies on asylum. Ms Margaret Lally, Acting Chief Executive of the Refugee Council, claimed that by driving asylum seekers underground, Section 55 would make it more difficult to track them : "the way you know where people are is by having them in the benefit system, they have to turn up to collect their benefit".[213] Mr Keith Best of the Immigration Advisory Service said that Section 55—

> "drives a coach and horses through the whole policy of dispersal. If you are denying people support and accommodation because they have not claimed asylum immediately you cannot disperse then because you are not providing them with accommodation. What are these people going to do? They are going to hang round London and the South East."[214]

193. There have been press reports of hardship caused by the operation of Section 55. According to a recent article in *The Guardian*, "huddles of asylum seekers have begun visibly sleeping rough in central and south London, and in gardens and car parks in Croydon", as a result of denial of support under Section 55. [215] The article also claimed that "one young Ugandan rape victim recently made her home in a phone box in Liverpool's Lime Street station". Mr Justice Kay was quoted in the press on 16 October 2003 as saying that

> "in a typical case … the claimant was supported for a short period, pending the determination of his application for support. But then the application was refused and support was withdrawn. Within a short time he is sleeping rough with no money except for the proceeds of begging and in many cases there are health complications."[216]

194. Another senior judge, Sir Stephen Sedley, in a lecture given on 3 November 2003, said that a consequence of Section 55 had been:

> "a major flow into the courts of asylum seekers denied benefit or housing under the new system and now without food or shelter and frequently ill. … To rescue them, judges of the administrative court have made over 800 emergency orders for interim payment of benefit. Every week about 60 more such orders are having to be made. It is thanks to the safety net of the Human Rights Act … and perhaps also to the judiciary's unwillingness to pass by on the other side, that these people are not starving in the streets."[217]

212 Joint statement by the Refugee Council, Oxfam, Shelter, Liberty, Crisis, JCWI, Refugee Action, Refugee Legal Centre, Immigration Law Practitioners' Association and Migrant Helpline, issued 24 November 2003

213 Q 504; see also Ev 240 (para 3.4)

214 Q 504

215 Angelique Chrisafis, 'Destitute: asylum seekers pushed on to the street by an official letter', *The Guardian*, 18 August 2003

216 *The Guardian,* 16 October 2003

217 Lecture delivered to the Legal Action Group, quoted in *The Guardian*, 4 November 2003

195. When we questioned Home Office witnesses about the effects of Section 55, the Director-General of IND said that "it would not be fair to say that the consequence [of Section 55] is widespread destitution". The Minister of State commented that:

> "I think well over 60 per cent of claims are not at port, they are in-country, and it is certainly the view from many of our caseworkers and people making the decisions, on the basis of their interviews, that many people claiming asylum have been in-country for some time and are therefore supporting themselves or being supported, and we believe that it is right to expect people, if they are fleeing persecution, to want to claim asylum at the earliest opportunity and that largely will be the port. … So whilst I accept that this is a tough measure I do not accept that its intention is to make people destitute, … but it is about changing behaviour."[218]

196. **The implementation of Section 55 raises difficult issues. On the one hand, we agree with the Government that it is reasonable to expect genuine refugees to claim asylum at an early stage during their stay in this country. There is no doubt that many 'in-country' applicants in the past have abused the system: for instance, only claiming asylum when they have been detected as illegally working. On the other hand, we are disturbed by the claims by some of our witnesses, and in the press, that asylum seekers from whom benefit has been withdrawn under Section 55 are suffering real distress, and that in some cases the powers under the section are being invoked against people whose asylum claim has been made relatively soon after their arrival in the UK. We are also worried that, for the reasons set out in evidence to us, the operation of Section 55 may be having a counter-productive effect on other government asylum policies such as those on dispersal and on tracking of asylum seekers.**

197. Section 55 provides for the withholding of support from those who fail to claim asylum "*as soon as reasonably practicable*" after their arrival in the UK. We queried with our witnesses how those words are being interpreted by NASS decision-makers, and in particular whether people who claimed asylum after only one or two days in the country were being deprived of support. The Minister of State told us that:

> "If somebody applies a day or two after and can give the caseworker information that supports a credible reason as to why that happened, preferably but not necessarily with some verifiable information as to how and when they came into the country to confirm the day or zone, then they will be given support and that is within the guidance to the caseworkers, but if people cannot give that credible story, and the caseworkers believe on the basis of the screening that their story is not credible, not true, and they probably are someone who has been here longer than that, then they will be denied support."[219]

198. On 17 December 2003 the Home Secretary announced a change in the guidelines governing the implementation of Section 55. This would be to allow claimants a period of 72 hours rather than, as at present, 24 hours from their arrival in the UK within which they will, as a general rule, be expected to claim asylum. He said that this "will allow us to be

218 In March 2003, as part of our inquiry into asylum removals: HC (2002–03) 654-II, Qq 622, 621.

219 HC (2002–03) 654-II, Q 622

more flexible in assessing whether people have been in the country for any length of time".[220]

199. **We welcome the Home Secretary's announcement that 72 hours rather than 24 hours will henceforward be regarded as the period within which new arrivals in the UK will normally be expected to claim asylum. This will certainly help to make the operation of Section 55 more humane. Nonetheless, we remain concerned that cases of unduly harsh treatment will continue to occur, and will continue to lead to challenges in the courts. We recommend that the Government should commission an independent review of the working of Section 55, so that any decision on whether to keep or repeal the provision can be based on more than merely anecdotal evidence.** This review should also consider the position of failed asylum seekers who cannot be returned to their countries (see paragraphs 202–08 below).

200. Ms Margaret Lally, Acting Chief Executive of the Refugee Council, told us that:

> "There have been particular problems with people coming through the airports, if you come through Heathrow or Gatwick and you want to claim asylum the notices are difficult to see … Once you get through the barrier you cannot go back and claim. You are then told you are in-country and you have to get yourself to Croydon the next day. You are then told when you get to Croydon you did not apply immediately so you are not entitled to benefit."[221]

201. **Greater efforts should be made to draw to the attention of potential asylum seekers, on or before their arrival at ports, the provisions of Section 55 and the consequent need for them to make any asylum claim without delay. This should be done through posters prominently displayed.**

The welfare of non-returnable asylum seekers

202. Special problems are raised by the case of failed asylum seekers who for the foreseeable future cannot be returned to their country owing to the human rights situation there. At present there are, considerable numbers of Somalis in this position. Iraqi Kurds and Zimbabwean nationals are other groups which have recently been in a similar plight.

203. Under Section 4 of the Immigration and Asylum Act 1999, accommodation and food can be made available to some failed asylum seekers who, through no fault of their own, are unable to leave the UK. This is sometimes called 'hard cases support'. No cash is provided. The Minister of State told us that the discretion to offer accommodation under Section 4 is exercised in cases where there is "a practical obstacle" to removal, such as where there is no safe route of return available, or if failed asylum seekers are awaiting passports, or temporarily cannot travel owing to illness. At March 2003 there were 100 people receiving support under Section 4. The Minister told us there was a difficulty in that accommodation under Section 4 was not always available in the city where people qualifying for such support were living, and they would often refuse to be relocated.[222]

220 HC Deb, 17 December 2003, col 1594

221 Q 504

222 HC (2002–03) 654-II, Ev 89, and Q 643

204. During our inquiry into asylum removals, the Refugee Council told us that—

> "There are growing numbers of people not being removed, for a variety of reasons, but who are being thrust into absolute destitution. There is in existence a 'hard cases' fund but the criteria for this are very narrow, access has proved problematic and the support provided is even more restricted than normal NASS support and with no cash. In many instances people are being placed in this position even though they cannot currently be removed."[223]

205. In our report on asylum removals we recommended that:

- Where the removal of a failed asylum seeker is delayed through no fault of his own, it is morally unacceptable for him to be rendered destitute. We recommend that during any such delay the individuals concerned should be provided either with adequate support (including sufficient cash to allow for reasonable minimum living expenses) or a temporary status which will allow them to work to support themselves.

- It is absurd to refuse leave to remain to people who, for whatever reason, cannot be removed. We recommend that such people be granted a temporary status which will allow them to support themselves.[224]

206. In its reply, the Government drew attention to the support available under Section 4 of the Immigration and Asylum Act 1999, but argued that it would wrong to grant temporary status or the right to work to failed asylum seekers "as this would put them in a more favourable position than those awaiting asylum decisions who cannot work".[225]

207. **We note the Government's response but do not consider that this is adequate to tackle the problem. We think it likely that significant numbers of failed asylum seekers who are unable to return to their countries are not receiving Section 4 support. That support itself is much more limited than normal NASS support. We suspect that the consequence is that a major burden is being placed on charities and voluntary organisations. We recommend that the review into the operation of Section 55 which we have called for in paragraph 199 above should also investigate the position of welfare support for failed asylum seekers who are unable to return home or be removed. The review should address in particular the numbers involved, the adequacy of existing support, the extent to which the voluntary section is involved in providing support, and the feasibility and desirability of providing such people with either full NASS support or the right to work.**

208. Since April 2003 the category of "exceptional leave to remain" in the UK has been replaced by the categories of "humanitarian protection" and "discretionary leave".[226] We note that the Home Office is granting such leave much more sparingly than it did the previous form of leave which arguably was more open to abuse. **We recommend that the Government should make appropriate use of the power to grant a strictly temporary**

223 HC (2002–03) 654-II, Ev 166

224 HC (2002–03) 654-I, paras 55, 63

225 HC (2002–03) 1006, p 5

226 See para 9 above.

right to remain in the UK to those who are genuinely unable, at least for the time being, to return to their countries.

6 Detention and removals

Detention

209. A full description of the system of asylum detention is set out in our report on asylum removals, published in May 2003.[227] The paragraphs which follow summarise, and where necessary update, the relevant sections of that earlier report.

210. Legal powers to detain are contained in the Immigration Act 1971 and the Immigration and Asylum Act 1999. The statutes allow the detention of certain classes of people while decisions are made about their immigration status. The criteria for detention are not stated in legislation, and have therefore been a matter for policy. Limits on detention have, however, been imposed by the courts and the European Convention of Human Rights to ensure that it is only used to facilitate particular immigration actions, and within a reasonable time.

211. The most recent statistics show that 1,270 asylum seekers were in detention on 27 September 2003. This compares with 795 on 28 December 2002 and 1,280 on 29 December 2001. In September 2003, 260 individuals were being held at Oakington Reception Centre, 890 at Immigration Service Removal Centres, 25 at Immigration Short Term Holding Facilities, and 100 at prison establishments.[228] Excluding detainees at Oakington (which operates on a different basis from most Centres, and has been used since March 2000 to house only those with claims which may be decided quickly), 40% of the total had been in detention for less than one month, 20% for between one and two months, 21% for between two and four months, and 20% for four months or more.[229]

212. In their 2002 White Paper the Government emphasised the Akey role@ of detention in removal, and stated that Athe primary focus of detention will continue to be its use in support of [the] removals strategy@.[230] The primary reasons for detaining asylum seekers are because it is feared they may otherwise abscond before removal, and (in the case of Oakington) where there is a presumption that a fast determination of their case will be followed by rapid removal.

213. In our report on asylum removals, we examined claims that detention is not always used appropriately, and that conditions in detention centres were unsatisfactory. Our conclusions and recommendations, and the Government's responses, are set out in the box on the next page. The Government's reply to our report was published in July 2003; we

227 Home Affairs Committee, Fourth Report of Session 2003–03, *Asylum Removals* (HC 654-I). See paras 43ff. The Government's reply was published on 18 July 2003 as the *Committee's Second Special Report of Session 2002–03* (HC 1006).

228 In answer to a Parliamentary Question in January 2003, the Minister of State said that Aalthough the routine use of prison accommodation for immigration detainees had ended, there would remain a need to hold small numbers of individual detainees in prison for reasons of security and control@ (HC Deb, 27 January 2003, col 708W).

229 *Asylum Statistics: 3rd Quarter 2003; 4th Quarter 2002*; *Asylum Statistics United Kingdom 2001*

230 Home Office, *Secure Borders, Safe Haven: Integration with Diversity in Modern Britain* (Cm 5387), February 2002, p 66, para 4.74

asked the Government for an update on subsequent action where our recommendations had been accepted, and for details of relevant public announcements: this is printed as an appendix to this report.[231]

Key recommendations on detention in the Committee's *Asylum Removals* report (May 2003), with summary of Government responses

- Welfare officer should be attached to each removal centre, with duties including assisting failed asylum seekers to wind up their affairs (para 75). *Government disagrees, but may revisit matter in future.*
- IND should provide quarterly figures on numbers detained with length of detention (para 82). *Government will consider most appropriate way of publishing more information on detention.*
- Detention can be justified, especially prior to removal in cases where individual has history of evading the Immigration Service, or where reasonable grounds to suspect that he will abscond or pose security threat or engage in criminal activities (para 83). *Government welcomes this.*
- May be a case for giving anyone detained longer than three months an automatic bail hearing at that point (para 84). *Government disagrees—no point in returning to issues debated during passage of NIA Act 2002.*
- Under current practice, children should only be detained prior to removal when planned period of detention is very short or where grounds to suppose family may abscond (para 86). *Government agrees.*
- After 12 months' detention should be automatic bail hearing, with similar reviews every six months thereafter; Home Office should publish quarterly lists of names of those in detention for longer than 12 months with reasons for their detention (para 90). *Government disagrees; existing processes for review are sufficient.*
- Strip searches should only be carried out where justified by reasonable suspicion, not as matter of routine (para 93). *Government agrees—in future any strip-searching will be intelligence- or evidence-led.*
- Remaining Operating Standards for removal centres should be published as soon as possible. Standards should be more consistent, with target dates for achieving this, and standards in former Prison Service accommodation raised to match best practice of privately-contracted centres. If public sector unable to achieve reasonable standard, contract should be put out to tender (para 96). *Government accepts this recommendation.*
- Current arrangements for access to legal advice are inadequate. Should be improved either by appointment of welfare officers or through access to a duty solicitor (para 99). *Government agrees detainees should have access to competent legal advice; details ways of providing this.*
- Welcome undertaking to provide better statistical information about self-harm in removal centres (para 102).

231 At pages 113–118 below.

214. Since the publication of our report in May 2003 and the Government's response in July, HM Chief Inspector of Prisons, Anne Owers, has issued reports critical of conditions in two detention centres. She commented on the results of an inspection of Harmondsworth:

> "In spite of some extremely conscientious work by staff and managers, the diversity and constant flux of the population, low staffing levels and the physical environment made Harmondsworth essentially an unsafe place for both staff and detainees. This was reflected in increasing levels of disorder, damage and escape attempts, … with an average of seven assaults a week. In spite of an average of one self-harm incident a week, suicide, self-harm and anti-bullying procedures were not effectively managed. Nor was there sufficient mental health support for detainees held in the in-patient ward."[232]

215. The Chief Inspector added:

> "Many of the systematic problems that detainees experienced at Harmondsworth have already been covered in the Inspectorate's six previous removal centre reports, and need to be addressed centrally."

These problems included: the inability of the Immigration Service to progress cases efficiently or communicate effectively with detainees; the absence of sufficient competent legal advice and representation; the need for independent welfare advice to assist detainees to deal with practical problems during detention and on removal; and the need for more activities for detainees, including the ability to work.[233]

216. On 14 August 2003, HM Chief Inspector published a report dealing with the detention of children at Dungavel Immigration Removal Centre in South Lanarkshire, run by Premier Detention Services. This is the only detention centre in Scotland,[234] and the only one in the UK where children are regularly held for long periods. It opened in September 2001. Children currently account for about a quarter of the 80 people detained. The Catholic Church's Justice and Peace Commission has campaigned against the detention of children at Dungavel, and this campaign has been supported by some Scottish newpapers and MSPs. The case of the Ay family, a mother and four children—Turkish Kurds—detained for over a year before being deported to Germany in August 2003, received much publicity. In a further case in September, lawyers acting on behalf of Fatima Muse, a Somalian asylum seeker detained with her two children aged one and two, allege that she had her weekly allowance removed as a punishment for smuggling food into her room to feed her children.[235]

217. HM Chief Inspector in her report commented that staff at Dungavel were dealing conscientiously and positively with detainees, but that it was still inappropriate to hold children there except for very short periods. She said that although "there was a child-friendly atmosphere in the family unit", nonetheless "the welfare and development of

232 *An Inspection of Harmondsworth Immigration Removal Centre, September 2002*, report published 29 August 2003

233 *Ibid*.

234 Asylum is a reserved matter and therefore the responsibility of Westminster not the Scottish Parliament.

235 BBC news website, 3 September 2003

children is likely to be compromised by detention, however humane the provisions, and that will increase the longer detention is maintained". Educational facilities at Dungavel had been improved, but they were still acceptable for only a short period—no more than two weeks. Owers called for "an independent assessment of the needs of each child to advise on the compatibility of detention with welfare of the child and to inform decisions on detention and continued detention".[236]

218. The Minister of State has undertaken to consider carefully and respond to the Chief Inspector's criticisms of the regime at Harmondsworth. With regard to the report on Dungavel, she told us that although she thought much of the criticism of the treatment of children there was unfair, nonetheless the Chief Inspector raised serious issues about children in detention. She said she was considering various options for reform, including whether ministerial authorisation should be required for the detention of a child for longer than a specified period, whether education provision for detained children could be improved, and, where children have to be detained for more than two or three weeks, "how we can … normalise that experience more, perhaps by being able to take them out under escort and do the kinds of things that children do".

219. The Minister subsequently supplied us with details of measures which the Government propose to take in relation to children in detention. These include:

- "Express Ministerial authorisation for any family with children to be detained beyond 28 days
- The appointment of a senior IND official to oversee cases involving detained children to ensure that there are no administrative delays that might extend their detention
- A commitment to consider ways in which the assessment of the welfare and educational needs of children detained for more than just a short period might be improved
- A commitment, following consultation with the Scottish Executive, to work with HM Inspectorate of Education and South Lanarkshire Education Authority, to ensure that the educational provision at Dungavel meets the needs of individual children, particularly in those exceptional cases where children are detained for more than just a short period."[237]

220. **We welcome the Minister's evident commitment to improving the treatment of children in detention. We repeat our comment in our earlier report:**

> **"Under current practice, children should only be detained prior to removal when the planned period of detention is very short or where there are reasonable grounds to suppose that the family is likely to abscond."**[238]

We note that the Government has accepted this in principle, and trust that the Minister's package of proposals will be implemented in accordance with this principle.

236 HMI Prisons website, 14 August 2003

237 Ev 260

238 HC (2002–03) 654-I, para 86

221. **We also note the Chief Inspector of Prisons' criticisms of the regime at Harmondsworth. These reinforce some of the comments in our report on asylum removals, for instance in regard to the inadequacy of legal advice for detainees. We expect the Home Office to take these criticisms seriously and look forward to its formal response to the Chief Inspector's report.**

Removals

222. The subject of removals was dealt with in detail in our report published in May 2003.[239] Again, the paragraphs which follow summarise and where necessary update that earlier report.

223. If an asylum claim is refused, and any subsequent appeal lost, it is open to failed asylum seekers to return voluntarily to their source countries, rather than being subject to forcible return by the Immigration Service. Since 1999, the Home Office has funded the voluntary assisted returns programme run by the International Organisation for Migration, an intergovernmental body. According to the Home Office, Avoluntary returns are inherently preferable to enforced returns@ and Aa vital component of [the Government=s] returns policy@.[240] The voluntary return programme is open to those with pending or failed asylum claims, as well as those granted leave to remain on humanitarian grounds. Until March 2002, the programme provided basic assistance only, in the form of advice and information, pre-departure, transit and post-arrival assistance. Since that date, the package has also included some reintegration assistance.[241]

224. If a failed asylum seeker does not wish to return voluntarily to his or her country of origin, the Immigration Service may attempt to effect an enforced removal. The Service, sometimes accompanied by the police, visits the individual or family=s home without notice, arrests them and conducts them to holding facilities where they are transferred to the custody of Wackenhut, the private security firm contracted to run in-country escorting services for the Home Office. A provision in the Nationality, Immigration and Asylum Act allows the detainee custody officers of private firms to attend a residence with the Immigration Service or police, to remove an individual directly rather than via holding facilities.[242] The private companies may only attend with the Immigration Service or police, not alone. The asylum seeker may then be taken directly to the airport and put on a flight, or may be taken into detention for a brief period prior to departure. Special cases, such as vulnerable or potentially troublesome individuals, may be accompanied on the flight by an escort, the contract for which service is currently held by Loss Prevention International Ltd.

225. In our report on asylum removals we drew attention to "the disparity between the numbers of people refused asylum or leave to remain in this country and the numbers recorded as having left, whether voluntarily or through removal by the Immigration

239 HC (2002–03) 654-I.

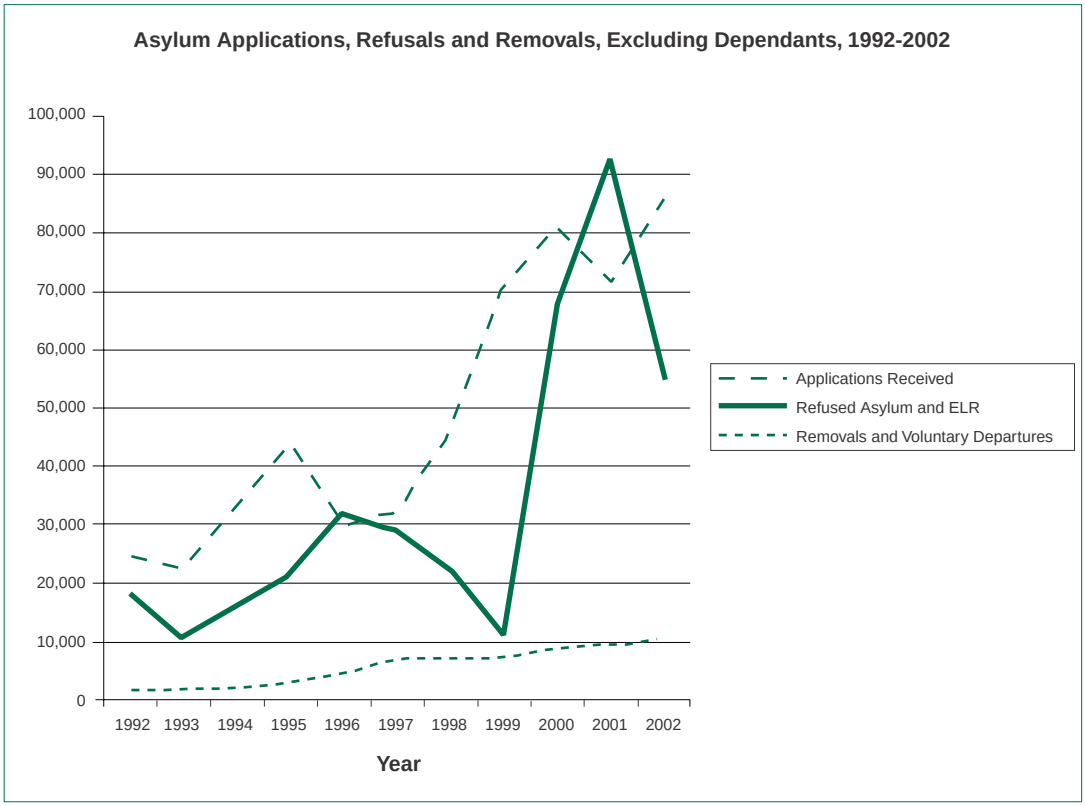
240 *Ibid*., Ev 86, para 13

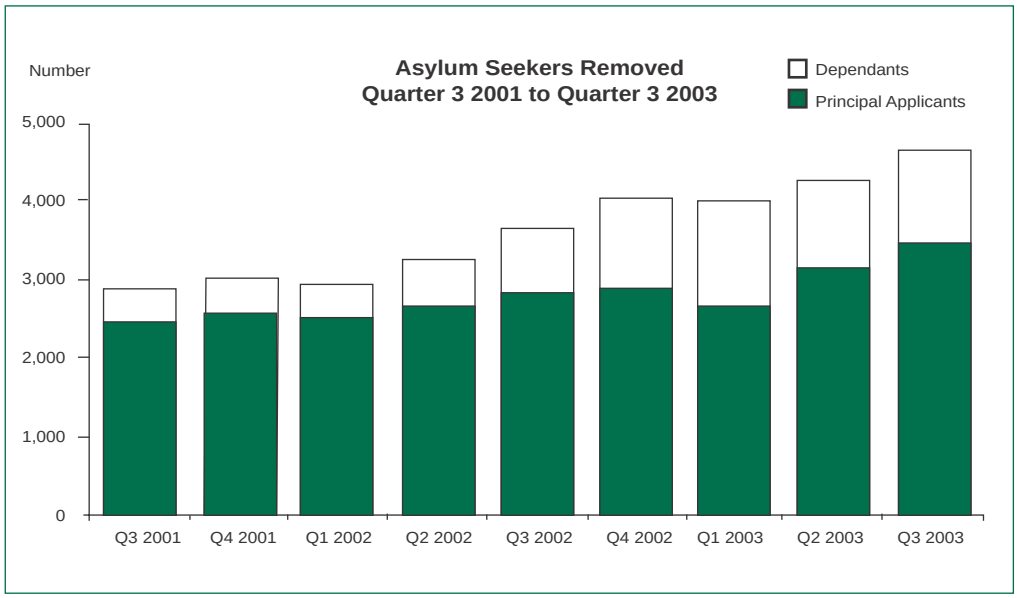
241 *Ibid*., Ev 145

242 Nationality, Immigration and Asylum Act 2002, section 64

Service."[243] The number of removals has been increasing, but remains low as a proportion of the total of asylum refusals, as the following two tables demonstrate:

243 HC (2002–03) 654-I, para 7





Source: see footnote.244

Source: Asylum Statistics: 3rd Quarter 2003, p5

244 *Asylum Statistics United Kingdom 2000*, HOSB 17/01, Home Office, September 2001; *Asylum Statistics United Kingdom 2001*, HOSB 09/02, Home Office, July 2002; *Asylum Statistics: 4th Quarter 2002*

226. Annual totals for removals over the past five years have been as follows:[245]

1998	1999	2000	2001	2002
6,990	7,665	8,980	9,285	10,740

These figures are defined by the Home Office as including—

> "persons departing 'voluntarily' after enforcement action had been initiated against them, persons leaving under Assisted Voluntary Return Programmes run by the International Organisation for Migration, and removals on safe third country grounds."[246]

They do *not* include persons departing voluntarily without notifying the immigration authorities, and they therefore must represent an underestimate of the total number of failed asylum applicants who depart the UK. The same caveat must be made about the line indicating 'removals and voluntary departures' in the graph on the previous page.

227. The Minister of State told us that the current rate of removals of failed asylum seekers, as at November 2003, was around 1,500 a month, or 18,000 a year. She also pointed out that around 1,300 non-asylum seekers with no right to remain in the UK were being removed each month, together with over 3,000 port removals each month, making a total of about 5,800 removals each month.[247] However, as the removal figures are not related to any specific cohort of asylum seekers, it is impossible to say whether the pool of failed asylum seekers still in the country is increasing or diminishing.

228. The conclusions and recommendations in our report on asylum removals, and the Government's responses, are set out in the box on the following page. Updated details of Government action in response to our report, and of relevant public announcements, are printed as an appendix to this report.[248]

245 *Asylum Statistics United Kingdom 2001; Asylum Statistics: 4th Quarter 2002; 3rd Quarter 2003*

246 *Asylum Statistics United Kingdom 2002*, Table 11.1, footnote 1

247 HC (2003–04) 109, Ev 18

248 At pages 113–118 below.

Key recommendations on <u>removals</u> in the Committee's *Asylum Removals* report (May 2003), with summary of Government responses

- There is an absence of reliable statistics: the Government is unable to offer even a rough estimate of the number of failed asylum seekers remaining in the UK. *Government has commissioned research into methods used in other countries—but it is intrinsically difficult to count illegal migrants who are motivated to stay hidden.*
- Subject to proper evaluation and costing, embarkation controls should be reinstated at UK borders. *Government considering this carefully; will respond in due course.*
- Voluntary Assisted Returns Programme should be opened up to detainees in removal centres, and brought to detainees' attention; should also be advertised to asylum seekers from beginning of asylum process (para 48). *Government accepts more could be done to advertise programme and will pursue this.*
- Where removal of failed asylum seeker is delayed through no fault of his own, it is morally unacceptable for him to be rendered destitute; he should be given adequate support including cash, or allowed to work (para 55). *If unsuccessful asylum seeker is unable to return for practical reasons, he can seek NASS support. To allow failed asylum seekers to work would be wrong because it would put them in more favourable position than those awaiting asylum decisions.*
- Calls on IND to tackle problem of lack of proper travel documentation by claimants (para 58). *Government working hard to clear these blockages in removals process.*
- Negotiation of Readmission Agreements with countries reluctant to accept return of their nationals should be diplomatic priority (para 60). *Government agrees.*
- Current situation in which Home Office does not know even in outline what proportion of failed asylum seekers abscond is unacceptable—should be possible to obtain at least snapshot of scale of problem (para 65). *Government agrees—data collection systems being developed.*
- Refusal notice prior to appeal should give indication of likely duration of appeal process and likelihood of immediate removal if appeal lost (para 70). *Government rejects recommendation—difficult to pre-judge timescales.*
- Separation of a child from parents by removal is nearly always unjustified (para 114). *Government agrees.*
- Mistaken removals to be recorded, audited and details published annually; checks should be in place to ensure mistaken removals do not happen (para 119). *Government will consider publishing details if information is of sufficient quality. Checks against mistaken removal are already in place.*
- Consideration should be given to extending role of Visitors' Committees to cover removals (para 124). *Government disagrees—suitable complaints mechanism already exists.*
- Home Office should commission research into reception of failed asylum seekers by their source countries after removal (para 130). *Government says it already takes account of wide range of country information; will consider need for further research.*
- Provision should be made for payment at point of departure of modest allowance to asylum seekers who otherwise are likely to be destitute or impoverished on arrival in their country of origin; this payment should not be universal (para 132). *Government rejects this, citing difficulty of means-testing failed asylum seekers about whether they would be considered destitute in their country of origin.*

229. **Tackling the problem of removals is a key component of a successful asylum strategy.** The abuse of the asylum system can be countered by a firm differentiation between genuine refugees and those with no claim, and the subsequent removal of the latter. In this way the widespread public perception that the system is being abused can be most effectively countered. In recent years, however, those who are refused asylum do not appear to have been systematically and successfully removed, as evinced by the number of asylum refusals compared with the number of removals. In our earlier report we noted that the great majority of the 50,530 asylum seekers whose appeals were rejected in 2002 would have become liable to removal by the Immigration Service, but that in the same year the number of principal applicants removed or notifying the Immigration Service of their voluntary departure was only 10,410.[249] **Over the past year there has been a rise in the rate of removals and departures to something like 18,000 a year. This is a significant improvement and we welcome it. However, it remains the case that the rate of removal is still unacceptably low in proportion to the numbers of people eligible to be removed.** It also remains the case that the true scale of the problem is not known: due to the lack of embarkation controls there is no way of checking which failed asylum seekers are still in the country and which have left voluntarily.

230. **We repeat our previous recommendation that—subject to proper evaluation and costing—embarkation controls should be reinstated at UK borders, so that credible estimates can be made of the number of failed asylum seekers who remain in the country. We believe that the Government has by now had ample opportunity to carry out such evaluation and costing. The Government should include details of this work in its formal response to our report.**

231. **We also reaffirm the potential importance of voluntary resettlement, and urge the Government to make greater efforts to draw the Voluntary Assisted Returns Programme to the attention of asylum seekers at all stages of the process. We recommend that the Home Office should work with the International Organisation for Migration to make this service more pro-active—for example, by contacting failed asylum seekers at the time of notification of the failure of their application in order to offer advice and assistance. We also recommend that the Government should consider whether a relatively modest increase in the level of assistance provided, financial and otherwise, might lead to a greater take-up of the scheme and a net saving to public funds arising from a reduction in expenditure on enforced removals.**

232. **However, we also believe that a more fundamental attempt should be made to integrate asylum decision-making, voluntary departure and compulsory removals. We note that the present system provides little or no support or advice to asylum seekers before they receive their initial or appeal decision. Little is done to prepare them either for a positive or a negative decision. Those whose applications are rejected are left with no support and little advice about the options available to them.**

233. **In most cases it is not possible to know whether removal action will be taken swiftly or even at all. In these circumstances it would not be surprising if many failed asylum seekers simply remain in this country, working illegally if possible, and hoping they may avoid removal.**

249 HC (2002–03) 654-I, para 7

234. **As we commented in our recent report on the Asylum and Immigration (Treatment of Claimants, etc.) Bill, "the priority should be to improve the removal system so that it is understood by all parties that a failed claim will lead to swift action to effect a removal".[250] A successful applicant should be given advice and support on becoming a full member of the UK community. This can only be achieved if asylum seekers are prepared for their decision before they receive it, and if the authorities responsible for removals are organised to act once a negative decision has been given.**

235. We explored with the Minister of State the option of requiring people who are about to receive their asylum appeal decision to attend at a specified location in person to receive that decision. The Minister told us that this was:

> "certainly worth considering. Indeed, we did have a pilot in which people were presented with the outcome of the appeal personally. We have not extended that pilot yet because we did not get it right. It was not wholly effective. The personal presentation of decisions, provided we have the systems in place to mobilise the removal stage effectively, is an important thing that we ought to be considering further."[251]

236. **We believe that this option should be pursued much more vigorously by Government. On the basis of the evidence we have taken, in this and our previous inquiry, we are far from convinced that every effort is being made to ensure that failed asylum seekers can take an informed decision on the options open to them. Requiring asylum seekers to attend in person to receive their appeal decision, with their dependants, would make it possible for them, if necessary, to be detained immediately with a view to speedy removal. This measure would increase the rate of removals and reduce the likelihood of failed applicants remaining in the UK in a state of destitution. We urge the Government to bring forward new pilots at the earliest possible opportunity.**

237. We also recommend that they should review urgently the whole system by which failed asylum seekers are advised on their options.

250 HC (2003–04) 109, para 67

251 Q 815

7 Economic migration and illegal working

238. The issues of asylum-seeking and economic migration are heavily entangled. Without doubt a proportion of asylum seekers is motivated by desire of economic gain rather than being genuine refugees from persecution, but it is not clear how high that proportion is. The two categories may overlap: genuine refugees may well *also* seek a better economic future for themselves and their families. Equally, as we commented in our report on asylum removals, "there is nothing dishonourable about being an economic migrant. Many of our ancestors were."[252] However, while the UK, quite rightly, has accepted a legal obligation to accept genuine refugees in all circumstances, it is under no similar obligation to accept economic migrants and has a right to consult its own economic and social interests in deciding how many to accept.

239. The problem is bedevilled by lack of accurate information on the scale of illegal entry to the UK and the scale of illegal working. As we state in paragraph 230 above, we continue to believe that it would be desirable for embarkation controls to be reinstated at UK borders. We repeat our call for the Government to "explore the most appropriate method for building a complete picture of net migration into the UK".[253]

240. We have explored some issues arising from the problem of illegal working. Official statistics show that over the past five years for which figures are available (1998–2002), only 22 prosecutions were brought for "employing a person subject to immigration control", contrary to Section 8 of the Asylum and Immigration Act 1996, and only eight persons were convicted of the offence.[254] In oral evidence with the Minister of State in October 2003 we asked about the particular case of recent action against illegal working in King's-Lynn. The Minister confirmed that following an operation there by the police and immigration officers, 63 Chinese nationals had been interviewed, of whom four were failed asylum seekers who should not have been in the country, 16 were asylum seekers who should not have been working, 10 had committed other immigration offences, and 33 were working illegally and, when served with illegal entry papers, had claimed asylum. At the time the Minister gave evidence, only one of these people had been removed from the UK. Their employers had not been prosecuted, on the grounds that they had co-operated with the authorities.[255]

241. When it was put to the Minister that these statistics did not suggest that very effective action was being taken against illegal workers, she made a number of points in reply. First, the King's-Lynn operation, which had involved co-operation between the Immigration Service, the local authorities and other enforcement agencies, had shown that illegal workers *were* being detected. Second, the number of prosecutions under Section 8 of the 1996 Act did not give the full picture of prosecutions of employers who might be employing someone illegally, because such employers might be charged with even more serious offences such as fraud rather than under Section 8. Third, Section 8 itself needed

252 HC (2002–03) 654-I, para 2

253 HC (2002–03) 654-I, para 27

254 Home Office, *Control of Immigration: Statistics United Kingdom 2002* (Cm 6053), published November 2003, p 97

255 Qq 743–49; letter to the Chairman from Beverley Hughes MP dated 16 October 2003 (published in *The Work of the Home Office*, HC 1088, Session 2002–03, Ev 19)

strengthening, because "it is quite hard to enforce and easy to subvert", especially if an employer co-operates with an operation and can show in court that he has done so. Employer co-operation was often useful, and about 30% of operations were prompted by an approach from employers. The Government had been consulting with employers, the TUC and the Commission for Racial Equality on how to strengthen the provisions of Section 8 "to make it less easy for employers to get round them", and hoped to be able to bring forward secondary legislation to achieve this. Finally, the Minister told us that although only one person among those interviewed at King's-Lynn had hitherto been removed, "we will, of course, be seeking to remove all these people". In the case of Chinese nationals there had been redocumentation problems. Negotiations had been taking place with the Chinese authorities on this, and the Minister hoped to be able to make "significant progress … very shortly".[256]

242. The Minister of State subsequently gave us overall details of recent anti-illegal working operations in the UK. Between April and June 2003, the Immigration Service reported carrying out 79 illegal working operations, of which 27 were aimed at detecting significant numbers of illegal workers. Between July and September, the number of reported operations increased by over 50% to 129, and those aimed at detecting a significant number of illegal workers rose by over 60% to 44. The total number of immigration offenders detected between July and September 2003 was 520, of whom 350 were reported to have been removed immediately after the operation took place; further removals will have taken place since then but figures for these are not available.[257]

243. In September 2003 the House of Commons Environment, Food and Rural Affairs Committee published a report on illegal working in the agricultural sector and the role of 'gangmasters' in organising such working.[258] The Committee concluded that—

> "the dominant position of the supermarkets in relation to their suppliers is a significant contributory factor in creating an environment where illegal activity by gangmasters can take root. Intense price competition and the short time-scales between orders from the supermarkets and deliveries to them put great pressure on suppliers who have little opportunity or incentive to check the legality of the labour which helps them to meet these orders. ... We ask the supermarkets to re-examine their policies in this area bearing in mind their own stated policies on corporate social responsibility."[259]

244. The Committee also commented that they were "appalled by the lack of priority given to, and political accountability for, what is supposed to be the Government's co-ordinated response to illegal activity by gangmasters". They called for greater cross-departmental working, and in particular recommended that an official from IND should be seconded to work with Defra "to help develop a good practice blueprint linked to a system of

256 Q 750

257 Ev 178

258 Environment, Food and Rural Affairs Committee, Fourteenth Report of Session 2002–03, *Gangmasters* (HC 691), published on 18 September 2003

259 *Ibid*., paras 25, 26

independent verification of individuals' employment and immigration status", and that the Government should set up an inter-departmental working group.[260]

245. In its response, the Government accepted some of the Committee's criticisms but maintained that its basic approach was correct. It cited examples of Home Office liaison with Defra over the issue of illegal working.[261]

246. **Illegal working can have a particularly pernicious effect on community relations and an unfair impact on the legally employed workforce. It is important that the Government should be seen to be vigorously tackling the problem. This will help to create confidence in the operation of the asylum system. The extremely low level of prosecutions for employment of illegal workers under Section 8 of the Asylum and Immigration Act 1996 is a cause for concern. We appreciate that there are difficulties in enforcing Section 8 in its current form. We therefore recommend that the Government shortly bring before Parliament legislative proposals to make it easier to proceed against employers of illegal workers.**

247. **We believe that a significant factor in the problem of illegal working is the deliberate decision by some employers to break the law. We recommend that the Government should target such employers, who are not only easier to identify than those they employ but arguably more culpable. We refer below to the Government's commitment to use the Proceeds of Crime Act as a weapon against people traffickers. We recommend that the Act should also be used to seize profits made from the employment of illegal labour. The Home Office should be pro-active within Government in seeking to ensure that other departments take action against illegal working—for instance, by means of a concerted attempt to prosecute employers of illegal labour for other related breaches of employment legislation (e.g. failure to pay the minimum wage or to observe health and safety regulations). We note the comments by the Environment, Food and Rural Affairs Committee on the collusion of employers with illegal rural labour through the gangmaster system, and support their view that the Government should treat this problem with greater seriousness.**

248. One way of tackling illegal working, and thereby reducing the incentive for illegal immigration, could be by means of a national system of identity cards. As we mentioned in paragraph 153 above, this raises wider issues which we are addressing in a separate inquiry.

249. The criminal organisers of illegal working are often also involved in people smuggling. The National Criminal Intelligence Service describes the processes involved:

> "Large numbers of illegal immigrants entering the UK will be looking to work but will not be entitled to work legitimately. Serious and organised criminals exploit this by controlling the recruitment and supply of illegal immigrants as cheap, unskilled and casual labour within the manufacturing, food processing, construction, catering and agricultural labour markets. Sometimes a job, or documentation permitting someone to work, is offered as part of the original facilitation service. Illegal working and labour exploitation has been identified across the UK, with migrants coming

260 *Ibid*., paras 45, 63, 78

261 The Government's response was published on 17 December 2003 as the Environment, Food and Rural Affairs Committee's First Special Report of Session 2003–04 (HC 122).

> from many different countries, but especially from Central and Eastern Europe. Some employers are aware that they are employing illegal workers. While most of these workers are willing accomplices, a minority is trafficked for use as bonded labour. In many cases, whether individuals have been smuggled or trafficked, migrants are required to work to pay off the debts incurred on their journey."[262]

250. The Asylum and Immigration (Treatment of Claimants, etc.) Bill, currently before Parliament, introduces a new offence of trafficking for purposes other than sexual exploitation (which is already illegal)—such as domestic slavery—with a penalty of up to 14 years' imprisonment.

251. On 13 November 2003 the Government announced extra funding (trebling to £60 million) for law enforcement work to disrupt people smugglers and seize their profits. This

> "will bolster the successful multi-agency Reflex taskforce which in the last six months alone has resulted in the prosecution of 16 facilitators and the disruption of 20 criminal gangs in the UK. It will establish a new Reflex financial crime unit to seize the profits made by criminal immigration networks under Proceeds of Crime legislation, expand the UK's network of immigration officers in sources countries, and support further overseas project work".[263]

252. Reflex was set up in May 2000 and involves joint working by the National Crime Squad, the Immigration Service, the Police Service, the National Criminal Intelligence Service, the Crown Prosecution Service and other Government departments and agencies. It focuses on combating immigration crime through intelligence-led enforcement action and overseas co-operation. Partnerships have been established with Romania, Serbia, Bosnia, Montenegro and Bulgaria.

253. In a recent speech the Home Secretary said that in tandem with measures to tackle illegal immigration, the Government would work to build tolerance and enthusiasm for legal migration. He stated that legal migrants made up 8% of the UK's population but generated 10% of its GDP. He argued that "effectively managed legal migration is vital to Britain's economic and social interests".[264] In a subsequent interview with the BBC, Mr Blunkett said that he sees "no obvious limit" on managed migration to the UK.

254. In *The Times* on 14 November, 2003 it was reported that Mr Blunkett was considering

> "ways of offering thousands of illegal immigrants the chance to remain legally in Britain. The Home Secretary is looking at the means by which migrants who work in the black economy could openly admit their existence, become legal and be welcomed into this country."[265]

262 NCIS, *United Kingdom Threat Assessment of Serious and Organised Crime 2003* (2003), para 4.34

263 Home Office press notice 310/2003, *Funding trebled to fight immigration crime bosses*, dated 13 November 2003

264 Home Office press notice 309/2003, *Effectively managed migration is good for Britain—Home Secretary*, dated 12 November 2003

265 *The Times*, 'Blunkett considers deal with illegal immigrants', 14 November 2003

When asked to comment on this newspaper report, the Minister of State told us:

> "there are absolutely no plans at all to allow illegal workers to somehow regularise their position in this country".[266]

She said that the Home Secretary's comments had been referring to a situation in maybe 10 years' time when a system of identity cards had been introduced, and a decision would then have to be taken by the Government on what to do about people illegally present in the UK who would not be entitled to apply for an identity card.[267]

255. **We agree with the Home Secretary that managed inward migration is of potential value to the UK economy and society. This raises issues which go beyond the remit of our present inquiry, such as how such migration should be managed, what desirable levels of immigration might be, what qualities and skills should be sought in immigrants, how the public should be consulted over immigration policy and how that policy should be policed. It is healthy that a debate should take place on these topics. We recommend that the Government should further clarify and open to wider debate its policy towards economic migration.**

8 International co-operation

Some recent developments within the EU

256. Asylum seeking is of its nature a phenomenon which crosses national boundaries. In dealing with it, the UK engages with other European nations both on a bilateral and an EU-wide basis.

257. In paragraphs 101–03 above we set out recent developments in relation to border controls jointly operated by the UK with France, Belgium and (prospectively) The Netherlands.

258. All EU countries are parties to the 1951 Convention on Refugees. Although individual grants of asylum are a matter for individual member states, the Treaty of Amsterdam, which came into force in 1999, gave the EU significant powers in relation to asylum and immigration. Under the treaty, the United Kingdom, Ireland and Denmark reserved the right to decide whether or not they will opt in to specific EU proposals on asylum. In October 1999 the European Council at Tampere in Finland decided to develop a common European asylum system. The aim was to harmonise individual states' procedures and practices in line with a uniform set of principles for determining asylum claims within the EU. The Tampere decision committed the EU to developing, in the short term—

> "a clear and workable determination of the State responsible for the examination of an asylum application, common standards for a fair and efficient asylum procedure, common minimum conditions of reception of asylum seekers, and the approximation of rules on the recognition and content of the refugee status."

266 HC (2003–04) 109, Q 885

267 *Ibid.*, Q 886

In the longer term, there should be developed "a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union". [268] One of the principal objectives of the Tampere decision was to reduce secondary movement of asylum seekers within the EU, by harmonising standards and thus reducing 'pull' factors to individual countries.

259. In March 2003 the European Commission issued a paper reviewing progress towards implementing the common asylum policy.[269] The House of Commons European Scrutiny Committee summarised its conclusions: "matters [have] moved slowly and, where deadlines were met, it was sometimes because the only standards that could be agreed were low".[270]

260. However, some elements of the common EU asylum package have been agreed. They are:

- The Reception Directive: this provides for EU-wide minimum standards for living conditions for asylum seekers, including access to education, health care and accommodation, and taking into account the needs of particularly vulnerable people. It also allows EU countries to refuse to support those seeking to abuse asylum systems. The Directive was agreed in April 2002 and comes into force in February 2005.

- "Dublin II": this revises the Dublin Convention which provides for transfer of asylum applicants within the EU to the state deemed to be responsible for them under agreed criteria. Members states are now required to respond within six weeks to a request from another member state for information on an asylum-seeker. They will also be obliged to return anyone who has made multiple applications to the state in which the first application was made. Dublin II was agreed in November 2002 and came into force in September 2003.

- Eurodac: this is the European electronic fingerprint database for asylum seekers and illegal entrants, implemented under Dublin II. It records the country in which an asylum seeker first applies for asylum together with personal data and fingerprints, and is designed to prevent applicants from lodging claims in more than one state. Eurodac became operational in January 2003.[271]

261. Parts of the common asylum package which have not yet been agreed are:

- The Procedures Directive: this sets a framework in which all EU countries must examine asylum claims. It supports measures such as fast-tracking of claims and 'non-suspensive appeals' which have already been implemented by the UK Government.

- The Qualification Directive: this aims to define refugee status, setting common minimum standards for determining who is a refugee under the 1951 Geneva

268 Cited in JUSTICE, *Asylum: changing policy and practice in the UK*, EU and selected countries (2002), p 53

269 Commission Communication, *Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum* (2003)

270 Select Committee on European Scrutiny, Twenty-eighth Report of Session 2002–03 (HC 63-xxviii), published 17 July 2003, para 19.3

271 Ev 172; Qq 777, 781; Home Office press notice 056/2003, *UK pushes for progress on EU common asylum package*, dated 26 February 2003; HC Deb, 17 November 2003, cols 673–74W

> Convention and who is a person qualifying for subsidiary protection, and to establish minimum standards for the content of protection for such persons.[272]

262. Some elements of these draft directives have attracted opposition from refugee organisations. For instance, Amnesty International described the draft Procedures Directive's proposals on 'safe third countries' and a reduction in in-country appeals as "seriously flawed in terms of human rights", and stated that the EU common asylum policy was "held hostage" to "national governments … competing with each other to see how far they can lower standards of refugee protection in Europe in response to populist pressures".[273] The meeting of EU Justice and Home Affairs Ministers in November 2003 postponed further consideration of the draft directives till May 2004.

263. In addition to these proposals on asylum, the EU is at the early stage of developing a common European policy on illegal immigration. The Seville European Council in June 2002 endorsed this objective. In June 2003 the European Council in Thessaloniki considered proposals for the development of unified policy on illegal immigration, smuggling and trafficking in human beings, external borders and the return of illegal immigrants. These include a Visa Information System, still at the planning stage, which the UK Government considers "potentially an extremely powerful tool for information purposes", improved operational co-operation between national border control agencies, and co-operation on the return of failed asylum seekers.[274] The European Commission has proposed the creation of a European Agency for the management of operational co-operation at the external borders of the Union.

Differing definitions of refugee

264. As we have seen, one of the aims of the Tampere Council in 1999 was to reduce secondary migration within the EU by harmonising member states' asylum policies and thus reducing 'pull' factors to particular countries. In one major respect this certainly has not been achieved. Germany and France interpret the 1951 Refugee Convention in a significantly narrower way than the UK. They do not regard persons fleeing from 'non-state persecution' as refugees within the terms of the Convention, whereas the UK, at least in some circumstances, does. 'Non-state persecution' means persecution by non-state agents in circumstances where the state fails in its duty to protect an individual from the persecutors.

265. In the *Adan* case in 2001, the House of Lords determined that there is only one true legal definition of a refugee within the meaning of the Convention.[275] Theoretically, this definition should be an international one, which is applicable in all states party to the Convention. States have, however, interpreted the Convention in different ways, especially in relation to the issue of persecution by non-state agents, and where the Home Office has wished to remove claimants to 'safe third countries'. The Law Lords concluded that the Secretary of State had wrongly proceeded to try to return refugees to France and Germany.

272 See previous footnote.

273 Amnesty International press notice, 24 November 2003

274 See Select Committee on European Scrutiny, Thirty-fifth Report of Session 2002–03 (HC 63-xxxv); quotation is from para 14.4

275 Adan v Secretary of State for the Home Department [2001] 1 All ER 593

He had acted under the assumption that the practice hitherto followed in those countries (whereby they had determined that Article 1A2 of the Convention applied only to persecution by the state and not in cases where there was no state to which persecution could be attributed) fell within the permissible range, when it did not.

266. The *Horvath* case, decided by the House of Lords in 2000, is the leading case in relation to non-state agents. [276] The case featured the racially motivated persecution of a Slovakian citizen of Roma origin, by local skinheads. The court concluded that where a state was not willing or able to fulfil its obligations to protect its citizens, then this could amount to persecution, even though it was not the state itself that was persecuting an individual. This obligation only arose where the person's own state was unable or unwilling to discharge its own duty to protect its own nationals, and an applicant for refugee status has to show that the persecution which he feared consisted of acts of violence or ill-treatment against which the state was unable or unwilling to provide protection.

267. The effect of these decisions, by preventing the return of asylum seekers from the UK to France or Germany, has arguably been to create an incentive to claim asylum in the UK rather than elsewhere in Europe.

268. The EU draft Qualifications Directive, which we described in paragraph 261 above, provides for EU-wide harmonisation around the present, wider, UK interpretation of the Convention rather than the narrower Franco-German one. Adoption of this Directive would therefore remove the 'pull' factor towards the UK arising from the present difference of interpretation, although possibly at the expense of creating a greater 'pull' factor for Europe as a whole. One of our witnesses, Mr Martin Howe QC, opposed any decision by the UK Government to opt in to any such harmonisation on the grounds that 'communitising' this area of law would entail "further delays in the asylum process as a result of opening up EU routes of legal challenge".[277] The position of the UK Government is that it *will* participate in the adoption of this directive. (Of the other countries with the right to opt out on asylum proposals, Ireland is also participating but Denmark is not.)[278]

269. We consider that the current interpretation of the 1951 Convention by the UK courts, to allow non-state persecution as grounds for claiming asylum, is too broad, and exerts an undesirable 'pull' factor towards the UK by contrast with Germany and France. We support the need for European harmonisation in this area, but regret that the EU draft Qualifications Directive proposes harmonisation around the broader rather than narrower interpretation of the Convention. We appreciate the difficulty of re-opening negotiations on this issue, although we would support attempts to do so. Nonetheless, we believe that harmonisation on the proposed basis would be better than no harmonisation at all.

276 Horvath v Secretary of State for the Home Department [2000] 2 All ER 577

277 Ev 182; Qq 139–41

278 Justice and Home Affairs Council, Brussels, press notice, 27 November 2003

The need for Europe-wide consistency on asylum

270. The proposed harmonisation of definitions of refugees is part of the wider process, initiated at Tampere in 1999, of moving towards common European policies on asylum. The aim is to minimise secondary migration of asylum seekers within the EU and 'pull' factors to individual countries arising from their different asylum policies and practices. We support this objective. However, there is a danger that harmonisation of asylum procedures across Europe will not eliminate secondary migration as long as the way individual countries actually implement those procedures varies widely. As we have seen, there are grounds for suspecting that the UK is more rigorous in its observance of due process and its honouring of international obligations than some other European countries. There is also evidence that the perception that this is the case influences the decisions of asylum seekers to come to the UK.[279]

271. **We believe that there is an urgent need to gather objective evidence on the extent to which EU countries vary in their approach to asylum. We recommend that the UK Government should take steps to secure the agreement of its EU partners to the establishment of a body with appropriate powers and expertise at EU level to monitor and report regularly on the practical operation (rather than the theory of operation) of the asylum system in each EU member state.**

Transit processing centres and 'zones of protection'

272. On 27 March 2003, the Home Secretary announced "a radically new approach to delivering the reduction of asylum seeker numbers that we need … We have now put proposals to our EU partners for zones of protection which involve working with the United Nations High Commission for Refugees".[280]

273. These proposals had two strands:

- Transit processing centres to process asylum claims where asylum seekers would be safe and decently treated without having to travel to the countries in which they want to seek asylum

- Regional protection zones near areas of conflict or natural disaster.

274. In May 2003 the Home Office submitted to the European Commission a discussion paper on the proposals.[281] This called for "better management of the asylum process globally". It set out the proposals for transit processing in more detail:

- Asylum seekers arriving in the UK (and other EU member states) could be transferred to a transit processing centre outside the EU where their claims would be assessed. This would allow participating countries to uphold their obligations under the 1951 Convention and the European Convention on Human Rights.

279 See paragraph 75 above.

280 Home Office press notice, 27 March 2003

281 Ev 174–76

- The centres could be managed by the International Organisation for Migration (IOM), with a screening system approved by UNHCR. It could be financed by participating states and the European Commission.

- Those granted refugee statue would be resettled within the EU, on a burden-sharing basis. Failed claimants would be, wherever possible, returned to their country of origin.[282]

275. Several of our witnesses criticised the proposals for transit processing centres. The Refugee Legal Centre commented that "the proposals are not, in our view, either fair or workable", because they would make it difficult for asylum seekers to obtain legal advice or pursue appeals effectively, and shift the burden of asylum seekers disproportionately to developing countries.[283] Likewise, the Immigration Advisory Service argued that the proposals would:

> "expose vulnerable and traumatised individuals to poorly supervised and no doubt poorly resourced detention camps. Such camps … will inevitably be surrounded by barbed wire and patrolled by security guards. The camps will be out of sight, out of mind and, most importantly, out of the tabloid press. It would be difficult to guarantee protection in such circumstances."[284]

JUSTICE argued that the Government's proposals would "violate the UK obligations under the Refugee Convention and international human rights law".[285]

276. Other witnesses were less hostile to the Home Secretary's ideas. Mr Peter Gilroy of Kent County Council said that transit processing centres "may be part of the solution if you can get the countries where they are going to operate working with you effectively".[286] Mr Michael Kingsley-Nyinah, Deputy Representative, London Branch Office, United Nations High Commissioner for Refugees, said that UNHCR favoured a proposal with some similarities to that put forward by the UK Government: "smaller, well managed, tightly managed, closed centres in certain parts of Europe" which would be used "to decide asylum applications that are deemed to be manifestly unfounded".[287]

277. On 8 May 2003 the Minister of State told us that "there has been dialogue both with countries interested in working with us, … and there is every indication that there is sufficient interest from countries for this to be a viable possibility".[288] She added that the International Organisation for Migration and the UNHCR had been "very supportive" of the proposal.[289]

282 *Ibid*.

283 Ev 246 (para 11)

284 Ev 198, pp5–6

285 Ev 212 (para 9)

286 Q 192

287 Q 347; Ev 256

288 Q 103

289 Q 106

278. The UK Government's proposals were discussed at the European Council at Thessaloniki in June 2003. The Minister of State told us in October that "as a result of the discussions there on the proposals for transit processing centres, we have decided not to progress at the moment". She added that there were "significant legal issues" with the proposals.[290]

279. The Government's other proposal, for 'zones of protection', has received a relatively favourable response. The European Commission reported on the discussion paper submitted by the UK before the Thessaloniki Council that it—

> "provides the right analysis of the deficiencies in the current international protection regime and asks the appropriate questions, helping to address the challenges the EU asylum system faces."

280. At Thessaloniki the European Council urged the Commission—

> "to examine ways and means to enhance the protection capacity of regions of origin with a view to presenting to the Council, before June 2004, a comprehensive report suggesting measures to be taken, including legal implications. As part of this process the European Council notes that a number of Member States plan to explore ways of providing better protection for the refugees in their region of origin, in conjunction with the UNHCR. This work shall be carried out in full partnership with the countries concerned on the basis of recommendations from the UNHCR."[291]

281. UNHCR itself issued a statement just before the Council, distancing itself from the British proposals:

> "UNHCR's position has been widely misinterpreted, and we would like to set the record straight. UNHCR has NOT been talking about 'zones of protection'. We're not sure what this concept means exactly. We are primarily concerned with making more concerted and imaginative efforts to grapple with specific situations in refugees' regions of origin, not with creating some sort of new geographical or physical entities. We are very interested indeed in working with states to build more effective protection in asylum countries neighbouring the refugees' own countries. One result of this would be that fewer refugees feel the need to move further afield, to Europe and elsewhere."[292]

282. The UK Government has moved to adapt its proposal in the light of UNHCR's criticisms. In a Written Answer in November 2003, the Minister of State commented that—

> "our thinking continues to evolve and we are engaged in dialogue with the UNHCR, the European Commission and others to consider how we might put these ideas into practice. We are thinking less in terms of specific protection areas or 'zones' and more in terms of strengthening capacity in regions of origin. The aim would be to reduce the motivation to cross continents to make a claim; and to reduce the burden

290 Q 782

291 Presidency Conclusions, Thessaloniki European Council, 19–20 June 2003

292 UNHCR press notice, *UNHCR statement on asylum on the occasion of the Thessaloniki Summit*, dated 19 June 2003

on the asylum system from those misusing it to gain entry to the UK for economic or other reasons."[293]

In another Written Answer the Minister asserted that "this is not about shifting the burden to poorer regions".[294] She told us that the Government was working with The Netherlands and Denmark to seek EU support for pilot projects, as well as working bilaterally with African countries to assist them develop internal management arrangements for dealing with their refugee problems.[295]

283. **We strongly support the Government's initiative in exploring ways of assisting the regions in the world most directly affected by refugee flows. The Government is also right to seek to enlist the support of EU partners in doing this. European states have a humanitarian duty to provide assistance and protection not only to the comparatively small number of refugees who succeed in travelling to Europe, but also to the much greater numbers who remain close to their countries of origin. This is desirable not only on humanitarian grounds but because the restrictive measures being imposed at domestic and EU level are significantly reducing the chances of genuine refugees being able to come to Europe to make an asylum claim.**

284. As we have commented earlier, the asylum seekers who make it to the UK are an unrepresentative sample of asylum seekers worldwide, being predominantly healthy, able-bodied young men with a strong sense of personal purpose, and often from a relatively prosperous background. The UK has a moral obligation to assist also the population of refugees who remain in their regions of origin, and who may be poor, ill, old, female or otherwise vulnerable.

285. **At present the Government's proposals lack clarity. The Home Office should issue a clear statement of what "regional protection" is intended to achieve, and set out a detailed strategy for achieving it.**

286. **We support measures to enhance assistance to refugees overseas, but believe this must be done in liaison and co-operation with UNHCR. It is essential that the existence of a protection zone does not become a reason for a refusal of an asylum application received in the UK.**

287. **We have argued above[296] that if the effect of the British Government's policy is to make it more difficult for genuine refugees to gain access to the UK to claim asylum, then it is essential for the Government to be pro-active in seeking to assist refugees in or near to their countries of origin, as well as to develop a clearer policy for assisting refugees through UNHCR (see next section). We believe that this argument holds good on an EU-wide scale as well, and recommend that the Government should seek the implementation of concerted, pan-European policies of active assistance to refugees in or near the countries of origin and co-operation with UNHCR in accepting quotas of refugees.**

293 HC Deb, 17 November 2003, cols 669–70

294 HC Deb, 17 November 2003, col 669

295 Q 782

296 In paragraphs 159–61.

The UK's acceptance of quotas of refugees

288. The Government announced in October 2003 that it would establish a resettlement programme to provide a legal gateway into the UK for *bona fide* refugees who would otherwise be unable to travel to the UK.[297] The programme will be operated jointly with UNHCR, which operates similar programmes with 18 other countries, including the United States. It is intended to benefit up to 500 refugees during financial year 2003–04. Those initially assisted will be refugees referred to the UK by UNHCR from West and Central Africa. The Government has stated that "as the programme develops, we will consider further locations where UNHCR is in operation". Asylum seekers will be able to claim asylum from within the country where they are living, but their application must be made to UNHCR, not to the UK post there.

289. Applicants referred to the UK by UNHCR will be interviewed in their current country of asylum by Home Office staff based in Accra. They will undergo health and security screening before a decision is made. The decision on their application will be made by caseworkers in the UK "against UK-specific criteria".

290. The quota of 500 is a maximum for financial year 2003–04. Successful applicants who arrive in the UK before the end of the financial year will be counted against the quota. No unused portion of the quota can be rolled over to the following year. The Home Office states that it will set future quotas at a level which will be "established by Ministers each year having considered the resources available, need for resettlement globally, and impact on local services in the UK".[298]

291. **We support the UK's participation in the UNHCR's quota refugee resettlement programme. This will enable the granting of refugee status to be made to those who are adjudged by UNHCR to be most in need and who are likeliest to benefit from relocation to a new life in the UK. The scheme offers an opportunity for asylum seekers to gain refuge in the UK without having to place themselves in the hands of criminal gangs. At present it operates only in West and Central Africa, but we recommend that in future years the scheme should be expanded to cover other parts of the world with acute refugee problems. If the level of asylum applications to the UK continues to diminish in response to the Government's restrictive measures, we believe that this opens up an opportunity progressively to increase the annual resettlement quotas. We recommend that the Government should make a commitment that if the number of successful asylum applications made in the UK declines, Ministers should increase the resettlement quotas each year by a proportionate amount.**

Addressing the root causes of migration

292. Since the early 1990s there has been growing awareness within the EU of the need to pay attention to the root causes of migration. In December 1992, the Edinburgh European Council called for measures to address the causes of migration, including preservation of peace, an end to armed conflicts, respect for human rights, encouragement of democracy and trade policies aimed at improving economic conditions. Subsequently, the Task Force

297 IND website, *Quota Resettlement Programme*

298 Home Office, *Quota Refugee Resettlement Programme* (October 2003), section 3

on Justice and Home Affairs in the EC Secretary General's Department called for a comprehensive approach aimed at implementing such measures.

293. The European Council at Tampere in 1999 also agreed to continue the mandate of the High Level Working Group on Asylum and Migration, which was charged with producing Action Plans for specific countries which address the root causes of migration. This is a 'cross-pillar' group containing not only justice and home affairs experts but experts in the fields of foreign, security, development and economic policies. The Group has drawn up Action Plans for Afghanistan, Morocco, Somalia, Sri Lanka and Iraq.

294. The Institute of Public Policy Research, in a report entitled *States of Conflict*, welcomes the principle of the EU Action Plans but makes some specific criticisms of them. Firstly, they cover only four of the top ten source countries of asylum seekers for the EU. Second, it is claimed that there was insufficient consultation with the governments concerned. Thirdly, "they are lacking in new ideas and specific proposals for action", and do not set measurable targets. Finally, the report comments that "the Group's work has largely stalled … and it has decided for the moment to launch no new Action Plans".[299]

295. The report also criticises the EU for focussing its attention on measures to prevent illegal immigration rather than on tackling the root causes of migration. It expresses concern over the recent tendency to link development aid to Third World countries to their willingness to assist in the management of migration flows, especially through the mechanism of readmission agreements.[300]

296. Dr Heaven Crawley, one of the co-authors of the report (and formerly head of the Home Office's asylum and immigration research programme) told us that in terms of content the Action Plans were "really quite superficial". She contrasted this with the detail and seriousness with which the European Commission was developing policy on matters such as border control and illegal immigration. She argued that "most of the … policy effort is going into an immediate 'How do we stop people coming here?'", whereas what was needed was "a much more long-term view which looks at development, human rights abuse, how we invest, the use of trade as a level for making change happen".[301]

297. The IPPR report argues that the root causes of "forced migration" should be tackled through conflict reduction strategies.[302] The Global Conflict Prevention Pool was set up by the Government in April 2001 as "a major innovation in joined-up government".[303] It is jointly funded by the Foreign and Commonwealth Office, the Ministry of Defence and the Department for International Development, and is aimed at conflict reduction in 15 priority areas including the Balkans, Afghanistan, the Middle East, Nepal and Indonesia. An Africa Conflict Prevention Pool does similar work in relation to Africa. The joint Public Service Agreement target of the three departments contributing to the Global Pool is:

299 Stephen Castles, Heaven Crawley and Sean Loughna, *States of Conflict: Causes and patterns of forced migration to the EU and policy responses* (May 2003), pp 36–39

300 *States of Conflict*, pp 39ff, p 41

301 Q 670

302 *States of Conflict*, pp 46–57

303 MoD website: www.mod.uk/issues/cooperation/gcpp.htm

> "Improved effectiveness of the UK contribution to conflict prevention and management as demonstrated by a reduction in the number of people whose lives are affected by violent conflict and a reduction in potential sources of future conflict, where the UK can make a significant contribution."[304]

298. We explored with the Minister of State why the Home Office did not form part of the Pool. She replied that this was because "their focus is very specific", and that the Home Office worked closely with the FCO and DfID in other ways.[305]

299. **We support the Government's establishment of a Conflict Prevention Pool. We hope that the Government will pursue the objectives of the Pool at EU level, where commitment to conflict prevention appears to have been hitherto more theoretical than real. We believe that it is a mistake for the Home Office to be excluded from the Pool, and we recommend that they be added. We also recommend that the aims of the Pool be changed to prioritise conflicts likely to produce significant numbers of asylum seekers to the UK. We recommend that the Government should work within the EU to bring a greater external focus to EU policy, and to secure greater use of EU development funds for purpose of conflict prevention.**

9 More radical options

Schemes for the segregation of asylum seekers

300. The Committee considered evidence on policy proposals designed to ensure that asylum seekers are segregated from wider UK society until their applications have been finally determined, in an attempt to remove the incentive for 'economic migrants' to apply for asylum. These proposals were as follows:

- Originally proposed by Rt Hon Ann Widdecombe MP when Shadow Home Secretary: that all asylum seekers should be detained at sites within the UK, until their cases had been finally determined.

- Proposed during our inquiry by Rt Hon Oliver Letwin MP, then Shadow Home Secretary: that all asylum seekers should be transferred to an "offshore processing centre"—an unspecified offshore location—where their case would be determined. Mr Letwin also proposed that the UK should accept a quota through UNHCR.

301. It is worth noting that some elements of these schemes are common to current or recent government proposals. For example, as we have noted in paragraph 274 above, the Government's plans for regional processing zones, which now appear to have been dropped, required the transfer of asylum seekers from the UK to centres outside the EU. The Government is increasing (albeit from a small base) the number of asylum seekers whose cases will be fully determined in detention, through the fast-track schemes at Oakington and Harmondsworth. The Government is expanding support offered through the UNHCR for accepting a quota of asylum seekers from overseas. It is also seeking to

304 HC Deb, 6 November 2002, col 330W

305 Q 769

reduce the overall number of asylum applications—one of the key aims of those proposing to detain or transfer overseas all asylum applicants.

302. It would appear that there is some common ground between the Government and the advocates of these more radical approaches. We now consider each option individually.

Detention of all asylum seekers?

303. A policy of detaining *all* new asylum seekers until their claims are determined would, it is argued, send out a clear message that the UK was acting to discourage abuses of the asylum system. It would prevent asylum seekers melting into the illegal economy, and be a major disincentive to those seeking to enter the country for economic reasons rather than as genuine refugees. It could be argued that, in the absence of a system of identity cards, this is the only option which can provide a near guarantee of achieving those ends. A policy of universal detention, to achieve maximum effectiveness, would require efficient interception of potential asylum seekers at ports, as well as detention of those who, having previously entered the country, subsequently claim asylum. It would also require fast processing of claims and efficient removals (though these are, of course, desirable objectives irrespective of whether this proposal is adopted).

304. Universal detention might be an expensive option, though it is difficult to calculate its costs with precision as so many variables are involved. Amongst the factors difficult to predict are:

a) The capital costs of building new detention centres or converting existing buildings;

b) the extent of a deterrent effect in reducing overall numbers applying;

c) the speed with which claims could be processed and unsuccessful asylum seekers returned;

d) the extent to which some existing costs could be reduced, for instance through providing more efficient services to asylum seekers and enabling more efficient processing of claims; and

e) the costs of provision for Immigration Officers to meet arrivals at ports.

305. The human rights implications of a policy of universal detention are open to debate. On the one hand, it could be argued that such a policy, if properly resourced, would bring benefits to asylum seekers in that medical help, legal advice, interpretation and possibly education services would all be provided in the detention centres, which would thus form a 'one-stop shop'. Asylum seekers would also be protected from destitution, being guaranteed basic standards of secure accommodation, food and drink, and would be isolated from the traffickers and organised crime.

306. On the other hand, asylum seekers, including genuine claimants, would be deprived of their liberty until their claims had been determined. In the case of those eventually granted refugee status, this would have a retarding effect on their integration into British society. It also raises the specific question of whether a policy of universal detention would involve the UK in a breach of its treaty obligations. Article 5 of the European Convention on Human Rights provides that an individual may be deprived of his liberty in the case of "the

lawful … detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition". However, Article 6 provides that an individual has a right to "a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". Mr Martin Howe QC told us that—

> "the courts have interpreted this, both the Strasbourg court and our own domestic courts, in a way in which they say that the detention has to be proportionate to come within Article 5, and it can only be proportionate if the deportation is imminent, or if you have a specific factor like a flight risk in a particular case. [However,] because the courts cannot deal with judicial reviews in particular very rapidly, they say, 'Once you have filed a judicial review application, because we, the courts, are so slow in dealing with it, therefore your deportation cannot be imminent and therefore you have to be released from detention'. This is … Alice in Wonderland logic which of course results in it being the case that, in order to get sprung from detention, you go and file a judicial review application."[306]

307. Mr Howe said that the courts' interpretation of the European Convention raised obstacles in the way of implementing a policy of universal detention. However, he thought these obstacles were not insuperable, and that such a policy could be lawful, with some "necessary adjustment" of the law, and a speeding up of the processing of asylum seekers' claims.[307]

308. An acknowledgement that detention on a large scale might be justified in some circumstances was given by Mr Michael Kingsley-Nyinah, Deputy Representative at the London office of the UN High Commission for Refugees, who told us that the international "processing camps" within the EU which were envisaged by UNHCR would be "closed" and "secured".[308] However, Mr Kingsley-Nyinah made clear that UNHCR's general principle was that detention should be avoided wherever possible, and that "we frown upon detention other than detention immediately prior to removal".[309]

309. The Minister of State, when invited to comment on the proposal for universal detention, said that "It would take a very large amount of resources, that, as a Government, we think we can deploy better elsewhere … it is not necessary, in order to have a good system, to detain everybody".[310] She added that it would be possible to develop 'one-stop shop' facilities which all asylum seekers would be free to access, without needing to be detained; this would be piloted shortly at two 'accommodation centres'.[311]

306 Q 213

307 Qq 215–16

308 Qq 347–49; see para 276 above.

309 Q 380

310 Q 118

311 Q 120

An offshore processing centre?

310. In June 2003 the Rt Hon Oliver Letwin MP, the then Shadow Home Secretary, submitted to us a written proposal for a new asylum system.[312] Mr Letwin criticised the existing system. He argued that the current asylum rules encourage young, resourceful males to use the system as a means of economic migration, and that it is in effect "a system of rationing by wealth and ingenuity". It "discriminates in favour of the relatively rich and relatively ingenious—rather than favouring those who are most disadvantaged".[313]

311. In his paper Mr Letwin proposed that any person claiming asylum in the UK would be removed to an offshore asylum-processing centre, where their rights would be protected but which by its location would discourage those seeking economic migration. Asylum seekers' claims would be assessed at the offshore centre, and successful claimants would form part of an annual quota for refugees to be set by Ministers. The UNHCR and the International Organisation for Migration would act as agents for the UK Government in nominating refugees to fill the quota. A full resettlement package would be provided for those in the quota.

312. Mr Letwin argued that his proposed system would "reconcile in an appropriate way (1) the requirement for a rational and humane approach to the fulfilment of Britain's moral obligations to the most needful refugees, and (2) the requirement to persuade the British public that those entering the country are welcome guests who have been brought here in an orderly manner".[314]

313. Mr Letwin stated that "our intuition is that the number of people making such journeys, and such applications under these conditions [i.e. asylum seekers who qualify under the criteria rather than economic migrants] would be at or below the 8,000 recognised by the courts as incoming refugees in Britain last year". He proposed to set the annual quota at a higher level than this, at "around 20,000".[315]

314. We sought the views of some of our other witnesses on Mr Letwin's proposed scheme. The following is a selection of comments received:

- Mr Peter Gilroy, Strategic Director of Social Services at Kent County Council, called the proposals "interesting", but mentioned that they do not appear to take account of a number of issues including child protection.[316]

- The Immigration Advisory Service stated that "in their present form we do not consider Mr Letwin's proposals to be workable and we recognise that he acknowledges himself that much more work needs to be done on them".[317]

- The Refugee Council described the idea of offshore processing centres as unprincipled, legally problematic, unworkable and expensive.[318]

312 Ev 231–32

313 Ev 231

314 Ev 232

315 Ev 232

316 Ev 220

317 Ev 206

318 Ev 241–42

- Ms Harriet Sergeant supported the proposals, which she said were in line with the recommendations she made in her report *Welcome to the Asylum*. [319]

- The Law Society commented that "it is unclear exactly how the quota figure stated in the memorandum has been decided upon, and as such it appears somewhat arbitrary". They argued that "situations around the world can change very quickly", and in consequence any quota set could be overtaken by events, leading to people who need asylum being denied it on the basis that the quota was full.[320]

315. When he gave oral evidence to us about his proposed scheme, Mr Letwin admitted that it would not be possible for his quota to represent an absolute ceiling on applications, because in-country applications by those genuinely fleeing persecution would still have to be accepted:

> "I do not think there is any question but that we have to retain an arrangement under which, when someone is, or even arguably is, under threat of dreadful persecution, we have to be able to provide immediately for that person a safe place in which the question of whether that threat is real can be assessed."[321]

He added that if the number of genuine asylum applications were to prove greater than the quota, the quota would have to be raised: "I think one has to … envisage the quota as dynamic rather than static".[322]

316. Mr Letwin also told us that "I do not have a view at present about the best location" for the proposed offshore processing centre. He thought that it was not critical where the centre was "as long as it is somewhere which is not economically attractive".[323]

Segregation schemes: conclusions

317. As we have noted, it has not been possible for us to conduct a full assessment of the costs and practical implications of these two proposals. We note that Mr Letwin acknowledged that his proposal is at an early stage of development.[324] We do not have full costings of the proposal for detention of new applicants nor indeed of the Government's own proposals for accommodation centres, processing centres and zones of protection.

318. **The greatest gains are likely to be made by continuing with the Government's current strategy and the early adoption of the recommendations made in this report. We believe that this is where the Government's efforts should be concentrated. We think that the following factors should be taken into account:**

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319 Ev 249–50

320 Ev 229–30

321 Q 511

322 Qq 584–85

323 Q 571

324 Q 509

- **More radical options could take a significant time to implement. We note the slow progress made in setting up accommodation and induction centres and the need to drop proposals for transit processing camps. The more radical options could take even longer to implement, whilst the need is for effective urgent action now.**
- **Though we do not have detailed costings, the radical options could cost more. We believe that it would be better for resources to be devoted to improving decision-making and removals, and taking action against illegal working.**
- **The proposals do not deal with the key issue of illegal migrants. By discouraging people from claiming asylum they may increase the flow of illegal migrants and illegal workers.**
- **The proposals would not resolve all the problems raised by removals, for example the substantial number of failed asylum seekers present in the UK illegally, or failed asylum seekers whom the Government is unable to remove safely to their country of origin.**
- **We are not convinced that all the issues of principle arising from the proposal to detain all new asylum applicants, rather than just those who may pose particular problems, have been resolved.**
- **Asylum is a complex and sensitive issue to tackle. Care needs to be taken in proposing solutions that may appear simple but which would be hard to implement in practice.**

A European Refugee Authority?

319. We also took evidence from Mr Simon Hughes MP, who was then (in September 2003) the Principal Liberal Democrat Spokesperson for Home and Legal Affairs. In September 2002, Mr Hughes had published a paper with the Centre for Reform, entitled *Who Goes Where? Asylum—Opportunity not Crisis*. This paper advocated a co-ordinated European asylum system. Initial decisions about asylum would remain with the member states but final decisions would be passed to a European Refugee Authority. This would be entirely independent and have three principal functions—to advise on and recommend common standards and procedures, and monitor and police them; to provide and manage the final appeals procedure, and to broker responsibility sharing for all asylum seekers in the EU between member states. The system would allow applications to be made at any EU mission around the world. Accepted asylum seekers could count towards the nationally determined total of permitted migrants, subject to no upper limit for genuine refugees, thus coordinating asylum obligations and immigration policy. This system would, it was argued, minimise the difficulty of removals and be a model for other regions of the world.

320. Possible objections to Mr Hughes's scheme raised in evidence were that it would require the complete harmonisation of standards and procedures across the EU, which would be very difficult to achieve; that it might entail considerable transfers of people from across national borders, if one country's quota was filled and another's was not; and that

allowing applications at any EU mission anywhere in the world might lead to a massive increase in the numbers applying.[325]

321. **We believe that Mr Hughes's scheme is premised upon a degree of pan-European harmonisation in the field of asylum which is not likely to be achieved for many years. In the short to medium term, we consider that a more realistically achievable option for the British Government to pursue would be the establishment of a central European body to monitor and report on the practical implementation of individual member states' policies, as we recommend in paragraph 271 above.**

Changes to the Treaties?

322. Some of our witnesses urged that it would be desirable for the UK to renounce or renegotiate its obligations under the 1951 Geneva Convention on Refugees and the European Convention on Human Rights.

323. Mr Martin Howe QC argued that the right to asylum should be qualified by "what it is practical for us to achieve" and to protection against the terrorist threat. He advocated that the UK should reconsider its acceptance of treaty obligations relating to asylum, and in particular that:

- The 1951 Geneva Convention should no longer be directly interpreted and applied by domestic courts. Instead, entitlement to asylum should be judged against criteria enacted in domestic law.

- The UK should withdraw from the European Convention on Human Rights and not re-enter unless the convention is revised to take better account of the need to tackle terrorism.

- As an alternative, the UK could withdraw from the Convention and then re-adhere to it after a short period attaching 'reservations' under Article 57 in respect of anti-terrorist measures.[326]

324. Mr Oliver Letwin MP stated that his proposals would require "a recasting of all relevant legislation and (to the extent necessary) of Britain's relationship to international treaties and conventions, so as to make it lawful for any person entering the UK and claiming asylum (where the person is not part of the quota for that year) to be removed instantly to a safe, offshore asylum-processing centre".[327]

325. The Law Society, commenting on Mr Letwin's proposal, expressed concern that it "would lead to the complete undermining of the international system of protection which has been in place since 1951".[328] The Immigration Advisory Services claimed that the proposed "recasting of all relevant legislation" would involve withdrawing from the 1951 Refugee Convention and cast doubt over the UK's commitment to the European

325 Qq 704–08, 695–99, 731–34

326 Mr Martin Howe QC, *Tackling Terrorism: the European Human Rights Convention and the Enemy Within* (Politeia, 2001), pp 28–29

327 Ev 231

328 Ev 229–30

Convention on Human Rights. They argued that this "would be an enormous setback for the development of an international culture of human rights".[329] The Refugee Council likewise alleged that "the proposal would threaten the global safety net … many countries would be keen to use the UK's precedent as an excuse to renege on their own obligations".[330]

326. In its memorandum to us, the Government expressed its commitment to the 1951 Convention and the European Convention on Human Rights—albeit with some reservations. They stated that "the Government is committed to ensuring that this country adheres to its international obligations" under the two conventions, "and that those who are fleeing persecution are given the protection they need". However, they noted that:

> "the world has changed considerably since 1951 and 1967: larger groups of migrants and refugees are moving, they are moving for complex reasons, and they are moving further."[331]

The memorandum concluded—

> "The Government has no current plans to withdraw from its international obligations relating to asylum or the ECHR. However, we should not be afraid to review our international obligations if current measures to tackle asylum are not effective."[332]

327. We asked the Minister of State what the Government meant by saying it had "no current plans" to withdraw from its obligations, but might review them. She replied:

> "Review does not mean withdraw, and, in saying review, I think that is a position that is consistent, as I have already said, with what the UNHCR have already both said and done. Which is that the Convention and its principles were defined 50 years ago, the way in which they have been implemented over the years does not reflect the changes in migration that we have seen during that time, and we need to look again not so much at the principles but actually the way in which they are operated, and particularly the extent to which the Convention perhaps needs to take account of the very large level of economic migration now, which was not the case 50 years ago, when transport and communications were so very different."[333]

328. The UN High Commissioner for Refugees is mandated by the United Nations to supervise, in co-operation with states, the application of the 1951 Convention and its legal protection regime. UNHCR has recently undertaken a global process of consultation on how to adapt this international protection regime to meet present challenges, including recent developments such as the mix of refugees with economic migrants, and the number of refugees fleeing from civil conflicts. What has emerged from this consultation process is a 'Convention Plus' initiative aimed at modernising the 1951 Convention. This will involve

329 Ev 203 (para 6)

330 Ev 242 (para 8 (i))

331 Ev 173

332 *Ibid*.

333 Q 117

"the development of special agreements or arrangements which will promote fairer responsibility and burden-sharing, make durable solutions more accessible within a shorter time framework and reduce migratory pressure on asylum systems".[334]

329. UNHCR summarises its Convention Plus initiative as follows:

> "UNHCR is therefore in the process of exploring measures to improve protection and solutions arrangements in regions of origin, while proposing an EU-based approach to deal with certain caseloads of essentially manifestly unfounded applications lodged primarily by "economic migrants" resorting to the asylum channel. These proposals should be seen to complement existing national asylum systems. UNHCR is further prepared to examine with States how national asylum systems, and in particular their procedural aspects, could be rendered more efficient."[335]

330. The 1951 Convention and the European Convention on Human Rights are the bedrock of humane international arrangements for the reception of refugees. To seek to undermine them would send a very unfortunate signal to other countries, especially those with poor human rights records. However, the Government is right to point out that much has changed in the world, and in the pattern and volume of asylum seeking, since the two conventions were originally drawn up. We have drawn attention earlier in this report to the difficulties which arise from differing interpretations of the 1951 convention by national courts.[336] We note that our predecessor Committee three years ago, in its report on *Border Controls*, recommended that—

> "The 1951 UN Convention on the Status of Refugees should be updated to reflect changes over the past 50 years. We recognise that this cannot be done in the short-term but, given the unrelenting pressure, we do think that the way the 1951 Convention in interpreted in modern circumstances needs to be clarified urgently. In particular we ask whether people fleeing persecution in their own country should be found refuge in nearby safe countries rather than in countries far away."[337]

331. **We do not favour the option of withdrawal from the 1951 Convention or the European Convention on Human Rights. However, we endorse our predecessors' view that the 1951 Convention needs updating. This should be done on the basis of broad international consensus. We support the work of UNHCR through 'Convention Plus' in attempting to adapt the operation of the convention to modern circumstances, and urge the UK Government to continue to work closely with UNHCR in this endeavour.**

More radical options: overall conclusions

332. **As we have identified, there is more in common between the overall strategy of the main political parties than is apparent at first sight. In particular, they are advocating a reduction in in-country applications for asylum, balanced by a significant increase in**

334 Ev 255

335 UNHCR, *Summary of proposals to complement national asylum systems through new multilateral approaches*

336 In paragraphs 264–69.

337 HC (2000–01) 163-I, para 157

the number of refugees accepted through UNHCR. There is broad agreement on the need for more effective processing of claims, a reduction in illegal working and effective action on removals. A greater public understanding of these constructive common elements in the main parties' approach, as well as of the undoubted differences of principle on some issues, would help to make asylum a less divisive issue in the wider community.

333. **There is an urgent need to maintain recent progress in improving the applications system, to reduce the backlog further and to increase both the fairness and the speed of the system. The measures proposed in this report would command widespread support and would help to develop public confidence in the operation of the asylum system.**

334. **We have set out, as in our previous report on removals, recommendations that the Government should now consider in dealing with undoubtedly very difficult and sensitive issues, which face many other countries as well, and certainly not only in Europe. However, in doing this we have not forgotten that we are dealing with fellow human beings, whether genuine asylum seekers or economic migrants, many particularly of the latter who are the victims of unscrupulous international criminals.**

335. **Britain's reputation for fairness and tolerance should not be exploited by those with no genuine claim for asylum, and even more so by the criminals running the international gangs, nor should it be sullied by ill-informed or exaggerated debate. We hope that our report will contribute to a rational debate about the asylum issue.**

Conclusions and recommendations

1. These UK statistics [cited in paragraph 62] give significant support to the view that "repression and/or discrimination against minorities, ethnic conflict and human rights abuse" are the defining characteristics of the countries of origin cited by asylum seekers. That is clearly true of the majority of asylum seekers in the UK (whether or not their individual cases for asylum are well founded). (Paragraph 65)

2. A proportion of asylum seekers to the UK are not actually fleeing persecution but are seeking economic advantage. According to Home Office estimates, in 2002 only 42% of asylum applications resulted in grants of refugee status, humanitarian leave to remain or allowed appeals. This suggests that—even allowing for some further undetected errors in the system—about half of claimants can justifiably be regarded as 'economic migrants' rather than refugees. This is in line with the judgement made by Mr Peter Gilroy of Kent County Council, who estimated that about 50% of asylum seekers were "in the category of coming here because they are trying to seek work and to make a better life for themselves". (Paragraph 72)

3. The categories of 'economic migrant' and 'genuine refugee' often overlap. We note the research evidence that conflict, not poverty, is the defining characteristic of asylum seekers' source countries, though not all those who come from such countries are genuine asylum seekers. Equally, people genuinely seeking asylum may also be seeking to better their own and their families' lives. Likewise people who do not personally have a well-founded case for asylum may be coming from countries suffering conflict as well as from countries which are not. (Paragraph 73)

4. As we have also seen, there is evidence that most asylum seekers exercise a significant degree of choice in regard to their eventual destination. Amongst the reasons why asylum seekers choose to come to the UK rather than other European countries are historic links between their country of origin and the UK, and the presence of family members, friends or larger diaspora communities already in the UK. (Paragraph 74)

5. We think it is likely that there are some factors which over the past ten years or so may have made the UK a relatively more attractive destination than some others in Europe. These may include the perception of low removal levels, lengthy appeal proceedings, the absence of systematic identity checks, the strength of the economy and the opportunity to work legally or illegally. On the other hand, Home Office research published in 2002 found that for the most part potential asylum seekers had "only very vague and general expectations" about levels of welfare support in the UK, and that "expectations relating to welfare benefits and housing did not play a major role in shaping the decision to seek asylum in the UK within the response group". (Paragraph 75)

6. The UK may well be seen also as having a greater commitment to fairness and due process and respect for treaty obligations. Of course, while the need to ensure that asylum systems are not subject to abuse or exploitation is important, so is respect for law and international obligations. Asylum seekers' perceptions of the advantages of

the UK may simply reflect this country's longstanding reputation for justice and fairness. (Paragraph 76)

7. On balance, it is reasonable to say that a motivating factor for many refugees in choosing to come to the UK will be their expectation that they will receive fairer treatment than in some other European countries, and the employment opportunities (legal or illegal) in the UK. We do not believe that Britain can be described as a soft touch for asylum seekers. However, there are weaknesses in the system that need to be addressed. (Paragraph 77)

8. We comment later in this report on the need for the UK Government to work with its EU partners to ensure that there is greater consistency across Europe in the treatment of asylum seekers. (Paragraph 78)

9. If the Government does not address the problem at both ends, by reducing unfounded applications and by swiftly and humanely removing failed asylum seekers, it is indeed likely that there will be further amnesties. (Paragraph 97)

10. Amnesties set up a vicious circle which should be broken by discouragement of unfounded claims, fast and efficient processing of those claims when they are made, and rapid removals when claims have failed. (Paragraph 97)

11. We welcome the various specific measures the Government has recently taken to improve border security. These will have contributed to the fall in asylum applications during 2003. We particularly welcome the enhanced co-operation between the British and French Governments, which has led to significant progress in tackling the problem of illegal entry through the Channel ports. (Paragraph 107)

12. However, we consider that there has been undue delay in resolving the issues surrounding the creation of a unified frontier force, as recommended by our predecessor Committee in 2001. It is now time for the Government to resolve disagreements between agencies on this proposal and take action to promote their greater integration. (Paragraph 108)

13. It is clear that the decision-making capacity of the asylum system was badly affected by the failure in the late 1990s to introduce an operational computer system. This was a classic case of botched IT procurement, made worse by the failure of Home Office contingency planning. (Paragraph 134)

14. Since then much effort has been put into, in the Minister's words, restoring "order and management and rationality" to the system, and it is right that the progress made towards this end should be acknowledged—even though much remains to do. (Paragraph 135)

15. We believe that fast-track processes are justified in principle. (Paragraph 136)

16. We support the decision to pilot the fast-tracking of incoming airline passengers at Harmondsworth. However, it is important that claimants subject to fast-tracking procedures should be treated humanely and receive a fair hearing, with safeguards to ensure that any genuine refugees who have been sifted in error have their rights protected. We hope that HM Chief Inspector of Prisons will continue to monitor

conditions at Oakington and Harmondsworth, as well as at other asylum detention centres, and we expect the Home Office to take action where necessary in response to her findings. We are not satisfied that the Government has done enough to ensure that adequate legal advice is available to asylum seekers and repeat the recommendation in our previous report (see paragraph 130 above) that steps should be taken to remedy this. (Paragraph 136)

17. We commend the Government for its introduction of a comprehensive induction process for asylum seekers. (Paragraph 137)

18. We support the establishment of dedicated induction centres. (Paragraph 137)

19. We strongly endorse the Government's induction centre strategy. (Paragraph 137)

20. We also support the Government's plans to introduce accommodation centres. Such centres, if properly resourced, will operate as 'one-stop shops' to the benefit of asylum seekers, providing board, education, health, interpretation and purposeful activity on one site. They will enable applications to be processed more efficiently and lift some of the burden of asylum support from local authorities. (Paragraph 138)

21. Given the delays in opening accommodation centres, and the fall in asylum applications, the Government in its response to this report should clarify how many accommodation centres it intends to establish, with what capacity, on what timetable and at what cost. (Paragraph 139)

22. There will be some local sensitivities about the siting of both induction centres and accommodation centres. For induction centres, a flexible approach including the use of dispersed accommodation may reduce these concerns. (Paragraph 140)

23. We recommend that the Government should move as quickly as possible towards a situation in which all asylum seekers are processed either through an induction centre, accommodation centre or a fast-tracking facility. The investment necessary to expand the IND estate must be made available as a matter of priority. (Paragraph 141)

24. We support the extension of the language analysis scheme as part of the asylum screening process and believe that this should be developed as quickly as possible. (Paragraph 142)

25. Notwithstanding these positive initiatives, there are still grounds for concern about the poor quality of much initial decision-making by immigration officers and caseworkers. (Paragraph 143)

26. The pressure to speed up the process and increase through-put may have led to an erosion in the quality of some initial decision-making. (Paragraph 143)

27. We support the calls for greater 'front loading' of the applications system, that is, putting greater resources into achieving fair and sustainable decisions at an early stage. It is essential that better provision is made of good quality legal advice and interpretation services at the initial stage will not only serve the interests of justice,

but eliminate much of the need for initial decisions to be reconsidered through the appeals process. We also recommend that the Home Office should seek to recruit a greater number of interpreters or caseworkers with specialist knowledge of asylum seekers' claimed countries of origin, to enable more informed decisions to be taken at the initial stage. Claimants whose applications have been accepted as genuine may, after suitable screening, be suitable candidates for these posts. (Paragraph 144)

28. The overall calibre and training of the immigration officers and caseworkers who take the initial decisions also needs to be reviewed. (Paragraph 145)

29. We recommend that the Government should publish details of the Treasury Solicitors' assessment of the quality of IND decision-making on asylum applications. We further recommend that the Home Office should commission an independent review of the quality of that decision-making, and publish its results. We also recommend that the Public Service Agreement targets for future years should be more challenging. A reduction in the current relatively high proportion of successful appeals should be formally included as part of the target. The system of decision-making should be subject to constant assessment and review. (Paragraph 146)

30. The aim with regard to initial decisions should be, as elsewhere in the system, to combine efficiency with fairness. This means holding early interviews, but in circumstances where their fairness cannot be challenged, i.e. conducted in the presence of interpreters, with legal advice, medical reports and accurate country information available at the right stage in the process, thereby minimising grounds for appeal. (Paragraph 147)

31. Finally, it is essential that the system of processing asylum applications should be properly resourced. (Paragraph 148)

32. A failure to fund the system adequately during the period of the computer crisis undoubtedly exacerbated that situation. It is profoundly unsatisfactory that a key service has to operate without a defined budget. While this remains the case, it is difficult to have any confidence that the necessary 'front-loading' of the applications system will take place. We strongly urge the Treasury and the Home Office to reach agreement on the extra investment needed in the asylum system in good time for the next spending round, and for that investment to be keyed significantly to the 'front-loading' of the system. (Paragraph 149)

33. We welcome the recent fall in applications. There is no doubt that this is due at least in part to the range of measures the Government has introduced over the past 18 months to deter unfounded applications for asylum. It is clear that as the border control and asylum application system is tightened, as incentives to claim asylum in-country are reduced, and as action is taken against people trafficking, the number of applications is being reduced. The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill, currently before Parliament, will have the effect of reducing applications further. It is possible that a future fall in applications may reflect at least in part the increasing difficulty of simply making a claim, whether well founded or spurious. There also remains scope for doubt as to the extent to which

the fall may be offset by an increase in the number of people illegally present and undeclared within the UK. (Paragraph 156)

34. The recent fall in applications has not been accompanied by a rise in the success rate at the stage of initial decisions. In fact, the success rate has actually fallen. In the case of those granted refugee status, the fall has been a slight one: from 10% in 2002, to 7% in the first and second quarters of 2003, to 5% in the third quarter. In the case of those granted leave to remain on humanitarian grounds the fall has been steep: from 24% in 2002, to 19% in the first quarter of 2003, and then—after the introduction of the two new categories of humanitarian protection or discretionary leave—to 7% in the second and third quarters of 2003. (Paragraph 158)

35. The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill currently before Parliament, if enacted, are likely to make it even more difficult to make an asylum claim in the UK. (Paragraph 159)

36. As it becomes increasingly difficult to get into the UK to make an asylum claim, it must be the case that many people who would have a well-founded case for asylum will be unable to make a claim. In addition, the dependence on people traffickers means that asylum is overwhelmingly an option only available to young men from relatively financially supportive backgrounds. They are not necessarily representative of the refugee population that would potentially be able to claim asylum in the UK. (Paragraph 160)

37. This is an inescapable consequence of the border-control and other measures which the Government have taken in order to crack down on abuse. We do not criticise the Government for taking such measures, but we do believe that their full implications for potential genuine asylum seekers must be recognised. The Government should acknowledge that, as genuine claims become harder to make, more needs to be done to fulfil the UK's humanitarian obligations to the world's refugees by alternative means. There is a moral obligation on the Government to provide alternative legitimate routes by which refugees can gain access to this country, to assist refugees closer to their country of origin, and to tackle the roots of enforced migration. (Paragraph 161)

38. Secondly, as the system for applications is tightened, we can expect a rise in illegal migration and illegal working, whether by failed asylum seekers or by those who do not make an asylum application. It is important that the Government should devote as much attention to this problem as it has done to the level of asylum applications. (Paragraph 162)

39. We believe that Mr Jeffrey [Director General of IND] is right to regard an improvement in the performance of NASS as a very high priority. We are disappointed that the Government has not published the full text of the independent review of NASS. Nonetheless, the summary which has been published makes clear that many of its findings are highly critical. This reinforces the great weight of evidence we have received from our witnesses, to the effect that NASS is under-resourced, has too few trained staff, and insufficient local knowledge. Members of

Parliament in their constituency work know at first hand the innumberable difficulties that dealing with NASS entail. (Paragraph 179)

40. We support the policy of 'regionalising' NASS. Building bridges with local communities, to reduce hostility to asylum seekers and enhance social cohesion, is an essential part of the way forward. This should involve better mechanisms for joint working with local, health and education authorities. Recruitment and retention of sufficient trained personnel is equally important, as is the investment of resources to enable an efficient telephone answering service. (Paragraph 180)

41. We recognise that the Government is in the early stages of implementing the recommendations of the independent review. In order that we can subject to proper scrutiny the Government's progress in tackling the problems of NASS, we recommend (a) that the full text, including recommendations, of the independent review should be published; and (b) that the Director-General of IND should submit to us by the end of 2004 a progress report on the work of his steering group on NASS reform, with a view to our taking further oral evidence on this subject from him in early 2005. (Paragraph 181)

42. The danger that restoration of the concession to work after six months may act as a 'pull' factor is a real one. We recommend that the ban on working should remain in place while the applications process is being streamlined, to avoid re-creating a work incentive; but that the Government should make a commitment to eventually restoring the concession. In the long run, the inability to work is not advantageous to asylum seekers themselves (who may sometimes be, for example, engineers or doctors whose skills are in demand) or to wider society. (Paragraph 186)

43. The implementation of Section 55 raises difficult issues. On the one hand, we agree with the Government that it is reasonable to expect genuine refugees to claim asylum at an early stage during their stay in this country. There is no doubt that many 'in-country' applicants in the past have abused the system: for instance, only claiming asylum when they have been detected as illegally working. On the other hand, we are disturbed by the claims by some of our witnesses, and in the press, that asylum seekers from whom benefit has been withdrawn under Section 55 are suffering real distress, and that in some cases the powers under the section are being invoked against people whose asylum claim has been made relatively soon after their arrival in the UK. We are also worried that, for the reasons set out in evidence to us, the operation of Section 55 may be having a counter-productive effect on other government asylum policies such as those on dispersal and on tracking of asylum seekers. (Paragraph 196)

44. We welcome the Home Secretary's announcement that 72 hours rather than 24 hours will henceforward be regarded as the period within which new arrivals in the UK will normally be expected to claim asylum. This will certainly help to make the operation of Section 55 more humane. Nonetheless, we remain concerned that cases of unduly harsh treatment will continue to occur, and will continue to lead to challenges in the courts. We recommend that the Government should commission an independent review of the working of Section 55, so that any decision on whether

to keep or repeal the provision can be based on more than merely anecdotal evidence. (Paragraph 199)

45. Greater efforts should be made to draw to the attention of potential asylum seekers, on or before their arrival at ports, the provisions of Section 55 and the consequent need for them to make any asylum claim without delay. This should be done through posters prominently displayed. (Paragraph 201)

46. We note the Government's response but do not consider that this is adequate to tackle the problem. We think it likely that significant numbers of failed asylum seekers who are unable to return to their countries are not receiving Section 4 support. That support itself is much more limited than normal NASS support. We suspect that the consequence is that a major burden is being placed on charities and voluntary organisations. We recommend that the review into the operation of Section 55 which we have called for in paragraph 199 above should also investigate the position of welfare support for failed asylum seekers who are unable to return home or be removed. The review should address in particular the numbers involved, the adequacy of existing support, the extent to which the voluntary section is involved in providing support, and the feasibility and desirability of providing such people with either full NASS support or the right to work. (Paragraph 207)

47. We recommend that the Government should make appropriate use of the power to grant a strictly temporary right to remain in the UK to those who are genuinely unable, at least for the time being, to return to their countries. (Paragraph 208)

48. We welcome the Minister's evident commitment to improving the treatment of children in detention. We repeat our comment in our earlier report:

"Under current practice, children should only be detained prior to removal when the planned period of detention is very short or where there are reasonable grounds to suppose that the family is likely to abscond."

We note that the Government has accepted this in principle, and trust that the Minister's package of proposals will be implemented in accordance with this principle. (Paragraph 220)

49. We also note the Chief Inspector of Prisons' criticisms of the regime at Harmondsworth. These reinforce some of the comments in our report on asylum removals, for instance in regard to the inadequacy of legal advice for detainees. We expect the Home Office to take these criticisms seriously and look forward to its formal response to the Chief Inspector's report. (Paragraph 221)

50. Tackling the problem of removals is a key component of a successful asylum strategy. (Paragraph 229)

51. Over the past year there has been a rise in the rate of removals and departures to something like 18,000 a year. This is a significant improvement and we welcome it. However, it remains the case that the rate of removal is still unacceptably low in proportion to the numbers of people eligible to be removed. (Paragraph 229)

52. We repeat our previous recommendation that—subject to proper evaluation and costing—embarkation controls should be reinstated at UK borders, so that credible estimates can be made of the number of failed asylum seekers who remain in the country. We believe that the Government has by now had ample opportunity to carry out such evaluation and costing. The Government should include details of this work in its formal response to our report. (Paragraph 230)

53. We also reaffirm the potential importance of voluntary resettlement, and urge the Government to make greater efforts to draw the Voluntary Assisted Returns Programme to the attention of asylum seekers at all stages of the process. We recommend that the Home Office should work with the International Organisation for Migration to make this service more pro-active—for example, by contacting failed asylum seekers at the time of notification of the failure of their application in order to offer advice and assistance. We also recommend that the Government should consider whether a relatively modest increase in the level of assistance provided, financial and otherwise, might lead to a greater take-up of the scheme and a net saving to public funds arising from a reduction in expenditure on enforced removals. (Paragraph 231)

54. However, we also believe that a more fundamental attempt should be made to integrate asylum decision-making, voluntary departure and compulsory removals. We note that the present system provides little or no support or advice to asylum seekers before they receive their initial or appeal decision. Little is done to prepare them either for a positive or a negative decision. Those whose applications are rejected are left with no support and little advice about the options available to them. (Paragraph 232)

55. In most cases it is not possible to know whether removal action will be taken swiftly or even at all. In these circumstances it would not be surprising if many failed asylum seekers simply remain in this country, working illegally if possible, and hoping they may avoid removal. (Paragraph 233)

56. As we commented in our recent report on the Asylum and Immigration (Treatment of Claimants, etc.) Bill, "the priority should be to improve the removal system so that it is understood by all parties that a failed claim will lead to swift action to effect a removal". A successful applicant should be given advice and support on becoming a full member of the UK community. This can only be achieved if asylum seekers are prepared for their decision before they receive it, and if the authorities responsible for removals are organised to act once a negative decision has been given. (Paragraph 234)

57. We believe that this option [that of requiring people who are about to receive their asylum appeal decision to attend at a special location in person to receive that decision] should be pursued much more vigorously by Government. On the basis of the evidence we have taken, in this and our previous inquiry, we are far from convinced that every effort is being made to ensure that failed asylum seekers can take an informed decision on the options open to them. Requiring asylum seekers to attend in person to receive their appeal decision, with their dependants, would make it possible for them, if necessary, to be detained immediately with a view to speedy

removal. This measure would increase the rate of removals and reduce the likelihood of failed applicants remaining in the UK in a state of destitution. We urge the Government to bring forward new pilots at the earliest possible opportunity. (Paragraph 236)

58. We also recommend that they should review urgently the whole system by which failed asylum seekers are advised on their options. (Paragraph 237)

59. Illegal working can have a particularly pernicious effect on community relations and an unfair impact on the legally employed workforce. It is important that the Government should be seen to be vigorously tackling the problem. This will help to create confidence in the operation of the asylum system. The extremely low level of prosecutions for employment of illegal workers under Section 8 of the Asylum and Immigration Act 1996 is a cause for concern. We appreciate that there are difficulties in enforcing Section 8 in its current form. We therefore recommend that the Government shortly bring before Parliament legislative proposals to make it easier to proceed against employers of illegal workers. (Paragraph 246)

60. We believe that a significant factor in the problem of illegal working is the deliberate decision by some employers to break the law. We recommend that the Government should target such employers, who are not only easier to identify than those they employ but arguably more culpable. We refer below to the Government's commitment to use the Proceeds of Crime Act as a weapon against people traffickers. We recommend that the Act should also be used to seize profits made from the employment of illegal labour. The Home Office should be pro-active within Government in seeking to ensure that other departments take action against illegal working—for instance, by means of a concerted attempt to prosecute employers of illegal labour for other related breaches of employment legislation (e.g. failure to pay the minimum wage or to observe health and safety regulations). We note the comments by the Environment, Food and Rural Affairs Committee on the collusion of employers with illegal rural labour through the gangmaster system, and support their view that the Government should treat this problem with greater seriousness. (Paragraph 247)

61. We agree with the Home Secretary that managed inward migration is of potential value to the UK economy and society. This raises issues which go beyond the remit of our present inquiry, such as how such migration should be managed, what desirable levels of immigration might be, what qualities and skills should be sought in immigrants, how the public should be consulted over immigration policy and how that policy should be policed. It is healthy that a debate should take place on these topics. We recommend that the Government should further clarify and open to wider debate its policy towards economic migration. (Paragraph 255)

62. We consider that the current interpretation of the 1951 Convention by the UK courts, to allow non-state persecution as grounds for claiming asylum, is too broad, and exerts an undesirable 'pull' factor towards the UK by contrast with Germany and France. We support the need for European harmonisation in this area, but regret that the EU draft Qualifications Directive proposes harmonisation around the broader rather than narrower interpretation of the Convention. We appreciate the

difficulty of re-opening negotiations on this issue, although we would support attempts to do so. Nonetheless, we believe that harmonisation on the proposed basis would be better than no harmonisation at all. (Paragraph 269)

63. We believe that there is an urgent need to gather objective evidence on the extent to which EU countries vary in their approach to asylum. We recommend that the UK Government should take steps to secure the agreement of its EU partners to the establishment of a body with appropriate powers and expertise at EU level to monitor and report regularly on the practical operation (rather than the theory of operation) of the asylum system in each EU member state. (Paragraph 271)

64. We strongly support the Government's initiative in exploring ways of assisting the regions in the world most directly affected by refugee flows. The Government is also right to seek to enlist the support of EU partners in doing this. European states have a humanitarian duty to provide assistance and protection not only to the comparatively small number of refugees who succeed in travelling to Europe, but also to the much greater numbers who remain close to their countries of origin. This is desirable not only on humanitarian grounds but because the restrictive measures being imposed at domestic and EU level are significantly reducing the chances of genuine refugees being able to come to Europe to make an asylum claim. (Paragraph 283)

65. At present the Government's proposals [for regional protection zones] lack clarity. The Home Office should issue a clear statement of what "regional protection" is intended to achieve, and set out a detailed strategy for achieving it. (Paragraph 285)

66. We support measures to enhance assistance to refugees overseas, but believe this must be done in liaison and co-operation with UNHCR. It is essential that the existence of a protection zone does not become a reason for a refusal of an asylum application received in the UK. (Paragraph 286)

67. We have argued above that if the effect of the British Government's policy is to make it more difficult for genuine refugees to gain access to the UK to claim asylum, then it is essential for the Government to be pro-active in seeking to assist refugees in or near to their countries of origin, as well as to develop a clearer policy for assisting refugees through UNHCR. We believe that this argument holds good on an EU-wide scale as well, and recommend that the Government should seek the implementation of concerted, pan-European policies of active assistance to refugees in or near the countries of origin and co-operation with UNHCR in accepting quotas of refugees. (Paragraph 287)

68. We support the UK's participation in the UNHCR's quota refugee resettlement programme. This will enable the granting of refugee status to be made to those who are adjudged by UNHCR to be most in need and who are likeliest to benefit from relocation to a new life in the UK. The scheme offers an opportunity for asylum seekers to gain refuge in the UK without having to place themselves in the hands of criminal gangs. At present it operates only in West and Central Africa, but we recommend that in future years the scheme should be expanded to cover other parts of the world with acute refugee problems. If the level of asylum applications to the

UK continues to diminish in response to the Government's restrictive measures, we believe that this opens up an opportunity progressively to increase the annual resettlement quotas. We recommend that the Government should make a commitment that if the number of successful asylum applications made in the UK declines, Ministers should increase the resettlement quotas each year by a proportionate amount. (Paragraph 291)

69. We support the Government's establishment of a Conflict Prevention Pool. We hope that the Government will pursue the objectives of the Pool at EU level, where commitment to conflict prevention appears to have been hitherto more theoretical than real. We believe that it is a mistake for the Home Office to be excluded from the Pool, and we recommend that they be added. We also recommend that the aims of the Pool be changed to prioritise conflicts likely to produce significant numbers of asylum seekers to the UK. We recommend that the Government should work within the EU to bring a greater external focus to EU policy, and to secure greater use of EU development funds for purpose of conflict prevention. (Paragraph 299)

70. The greatest gains are likely to be made by continuing with the Government's current strategy and the early adoption of the recommendations made in this report. We believe that this is where the Government's efforts should be concentrated. We think that the following factors should be taken into account:

- More radical options could take a significant time to implement. We note the slow progress made in setting up accommodation and induction centres and the need to drop proposals for transit processing camps. The more radical options could take even longer to implement, whilst the need is for effective urgent action now.
- Though we do not have detailed costings, the radical options could cost more. We believe that it would be better for resources to be devoted to improving decision-making and removals, and taking action against illegal working.
- The proposals do not deal with the key issue of illegal migrants. By discouraging people from claiming asylum they may increase the flow of illegal migrants and illegal workers.
- The proposals would not resolve all the problems raised by removals, for example the substantial number of failed asylum seekers present in the UK illegally, or failed asylum seekers whom the Government is unable to remove safely to their country of origin.
- We are not convinced that all the issues of principle arising from the proposal to detain all new asylum applicants, rather than just those who may pose particular problems, have been resolved.
- Asylum is a complex and sensitive issue to tackle. Care needs to be taken in proposing solutions that may appear simple but which would be hard to implement in practice. (Paragraph 318)

71. We believe that Mr Hughes's scheme is premised upon a degree of pan-European harmonisation in the field of asylum which is not likely to be achieved for many

years. In the short to medium term, we consider that a more realistically achievable option for the British Government to pursue would be the establishment of a central European body to monitor and report on the practical implementation of individual member states' policies, as we recommend in paragraph 271 above. (Paragraph 321)

72. We do not favour the option of withdrawal from the 1951 Convention or the European Convention on Human Rights. However, we endorse our predecessors' view that the 1951 Convention needs updating. This should be done on the basis of broad international consensus. We support the work of UNHCR through 'Convention Plus' in attempting to adapt the operation of the convention to modern circumstances, and urge the UK Government to continue to work closely with UNHCR in this endeavour. (Paragraph 331)

73. As we have identified, there is more in common between the overall strategy of the main political parties than is apparent at first sight. In particular, they are advocating a reduction in in-country applications for asylum, balanced by a significant increase in the number of refugees accepted through UNHCR. There is broad agreement on the need for more effective processing of claims, a reduction in illegal working and effective action on removals. A greater public understanding of these constructive common elements in the main parties' approach, as well as of the undoubted differences of principle on some issues, would help to make asylum a less divisive issue in the wider community. (Paragraph 332)

74. There is an urgent need to maintain recent progress in improving the applications system, to reduce the backlog further and to increase both the fairness and the speed of the system. The measures proposed in this report would command widespread support and would help to develop public confidence in the operation of the asylum system. (Paragraph 333)

75. We have set out, as in our previous report on removals, recommendations that the Government should now consider in dealing with undoubtedly very difficult and sensitive issues, which face many other countries as well, and certainly not only in Europe. However, in doing this we have not forgotten that we are dealing with fellow human beings, whether genuine asylum seekers or economic migrants, many particularly of the latter who are the victims of unscrupulous international criminals. (Paragraph 334)

76. Britain's reputation for fairness and tolerance should not be exploited by those with no genuine claim for asylum, and even more so by the criminals running the international gangs, nor should it be sullied by ill-informed or exaggerated debate. We hope that our report will contribute to a rational debate about the asylum issue. (Paragraph 335)

Appendix

Letter dated 8 January 2004 from Beverley Hughes MP, Minister of State, Home Office, to the Chairman of the Committee

I am writing to you in your capacity as Chair to the Home Affairs Select Committee (HASC) in response to the Committee's request on 6 January for a list of the Government's public announcements that have been made in light of my response to your report of 8 May 2003 on the subject of Asylum Removals.

At the time, the Government welcomed the report as a constructive contribution to the debate on this difficult subject. In the circumstances I thought that it might be useful if I provide the Committee with an update on all those recommendations on which we undertook to take further action. The report on progress is attached as an annex to this letter. For completeness I have also included my earlier responses.

The Committee will recall that in my letter of 8 July 2003 I explained that the Government was unable to accept a number of the recommendations made in the report. On these recommendations, I trust that my letter clarified the Government's reasons for so doing and there is little that I can usefully add here to my earlier comments.

Annex

(a) It is very difficult to address the problem of over-staying failed asylum seekers effectively in the absence of reliable statistics. It is not satisfactory that the Government is unable to offer even a rough estimate of the number of failed asylum seekers remaining in the UK (paragraph 27).

The Government is already working towards the development of methods to estimate numbers of illegal residents in the UK. We have commissioned research into the methods used in other countries. On the basis of this information and likely sources of UK information we will consider the next steps. The work is very complex and challenging because, by definition, illegal migrants fall outside of official statistics and are therefore difficult to measure; and illegal migrants are motivated to ensure they remain hidden.

A number of approaches have been tried in other countries with varying success. One approach has been via the numbers coming to light through enforcement action or schemes to regularise undocumented workers. Other approaches have used immigration control data linked to such sources as population censuses and surveys. Another approach has been focused on business sectors but only where it has been possible for the researchers to gain the confidence of employers and employees. We will assess the merits of these various approaches along with any others which are identified by research to ensure any commitments that might be made to undertaking significant primary data collection work are appropriate.

Update: Information arising from the review of methods of estimating the size of the illegally resident population is being utilised as part of ongoing work to develop methods applicable to the UK. Data sources and availability are currently being investigated. We are continuing to assess the merits of various approaches all of which have limitations to varying degrees and many are not feasible for the UK because of very different approaches to data collection. It is therefore becoming apparent that there is no single method already in existence that is immediately applicable to the UK and that considerable work is required to locate data, overcome problems with the logistics of obtaining it and develop a methodology which produces estimates that are sufficiently robust to justify the cost and effort of producing them. Appropriate assumptions will need to be developed in order to embark on methods of estimation.

No further public announcements made.

(b) We recommend that, subject to proper evaluation and costing, embarkation controls should be reinstated at UK borders, to enable credible estimates to be made of the number of failed asylum seekers who remain in this country (paragraph 27).

The Government is considering carefully the Committee's recommendation. I will respond to the Committee about this issue separately in due course.

Update: The option for embarkation controls remains under review, taking into account cost, the move towards capturing details of arriving and departing passengers electronically and our ability to conduct random, short-term embarkation controls if necessary.

There have been no public announcements on this area.

(c) We believe that the Government should explore the most appropriate method for building a complete picture of net migration into the UK (paragraph 27).

The Government agrees that it is important to provide improved information about net migration into the United Kingdom and its social and economic impacts, including on workforce size and composition, the demand for housing, education and the provision of social services. Statistics on international migration produced by the Office of National Statistics and control of immigration and asylum statistics produced by the Home Office need to be accurate and comprehensive to inform policy and decision-making, as well as the general public.

International migration is the most difficult component of population change to estimate. Since the early 1960s, the main source of statistics on migration flows in and out of the United Kingdom has been the International Passenger Survey (IPS), supplemented by administrative data from the Home Office. ONS and the Home Office continue to work together to ensure that the best use is made of all the available data in the compilation of estimates of international migration.

The Office for National Statistics is currently undertaking a National Statistics Quality Review on International Migration in conjunction with the Home Office and other Government departments. The main aim of the review is to make recommendations for continuation and changes to the current data, methods and outputs of United Kingdom International Migration statistics. A number of options are being considered, including the use of other sources of information. The final report, including recommendations, was sent to the National Statistician in the middle of July. The report will be published, together with the National Statistician's response, once he has had an opportunity to consider.

Further work is currently ongoing by ONS in consultation with the Home Office, looking at a number of International Migration issues in the light of the results of the 2001 Census and in due course the findings of the National Statistics Quality Review on International Migration. This work will include looking at all the available information, including that on dependants of asylum seekers to ensure that the best possible estimates of international migration are produced.

A second National Statistics review will shortly commence, which covers the compilation and analysis of existing sources of statistical information and research on immigration to present a more comprehensive picture of migration and migrants in the United Kingdom and abroad. The review is expected to realise the following benefits:

a comprehensive publication of immigration statistics in the United Kingdom and abroad;

improved presentation of Control of Immigration statistics; and improved understanding and presentation of the relationships between different immigration data sources and research.

Statistics on migration produced by the Office of National Statistics and the Research and Statistics Directorate of the Home Office are part of the National Statistics, and are covered by the National Statistics Code of Practice.

Update: A National Statistics Quality Review of International Migration statistics was published in September 2003 and is available on the National Statistics Website at the following address:
http://www.statistics.gov.uk/methods_quality/quality_review/population.asp

It recommends ways of improving the quality and accuracy of international migration statistics. ONS and the Home Office will shortly publish an implementation plan for taking forward the recommendations of the report.

The second National Statistics review has been delayed due to other priorities, but is expected to start soon.

ONS published revised estimates of International Migration for 1992 to 2001 on 12 June.

(f) We recommend that— …

(2) If grounds other than nationality for considering a claim "clearly unfounded" are developed by the Home Office, an explanation of those grounds should be made available to this Committee .(Paragraph 42)

The Government broadly agrees with this recommendation. No claim is refused simply because an applicant resides in a State listed in Section 94: each case is considered on its individual merits to determine whether or not it is clearly unfounded. The power to certify is applicable to any clearly unfounded asylum or human rights claim and not limited to claims from residents of particular countries, but as a matter of policy we have, until recently, exercised the power only in relation to listed countries. As from 8 June, however, we have started to apply the power to individuals from non-listed countries in some cases.

Policy instructions are provided to caseworkers to assist them in considering whether claims are or are not clearly unfounded. These instructions are updated as necessary. It is planned to update them again shortly. The Government would be happy to make these updated instructions available to the Committee.

It should be noted, however, that the term "clearly unfounded" has the same meaning whether the applicant is from a designated country or not. Where there is a difference is that a clearly unfounded claim made by a resident of a designated country must be certified but it is discretionary whether a claim from a resident of a non-designated country is certified. It follows that applying the clearly unfounded provisions in section 94 of the Act does not involve the creation of additional definitions of what is meant by "clearly unfounded" claims.

Update: At this stage there is nothing I can add to what I have said previously.

(f) (3) A review of the practicality and effects of non-suspensive appeals should be carried out after they have been in operation for 12 months (paragraph 42).

The Nationality, Immigration and Asylum Act 2002 provided that a monitor should be appointed to review the use of the power to refuse with a non-suspensive right of appeal in the case of clearly unfounded human rights and asylum claims. The monitor is to make a report once a year and on any other occasions when asked to do so by the Secretary of State. Careful consideration will be given to the monitor's reports and to any recommendations that might be made in these. The Government believes that these arrangements provide the best way of meeting the spirit of the Committee's recommendation for a review.

Update: The process of appointing the Monitor has now been completed. A Monitor has been identified and has accepted the appointment. The appointment will be announced formally following the completion of the necessary security clearance.

There have been no public announcements on this area.

(g) We recommend that the Voluntary Assisted Returns Programme is opened up to detainees in Removal Centres, advertised in the Centres and otherwise brought to the attention of detainees. We further recommend that the Immigration Service advises asylum seekers of the option of voluntary return from the beginning of the asylum process (paragraph 48).

The Voluntary Assisted Return Programme (VARP) is available to asylum seekers from the moment their asylum application is made, and is widely advertised. The Government accepts, however, that more could be

done in contacts with failed asylum seekers to encourage the voluntary option, at all stages of the asylum process and will be pursuing this.

Update: The Voluntary Assisted Return and Reintegration Programme (VARRP) is widely advertised both internally and externally. Information on the programme can be found in Reporting Centres, Reception Centres and Removals Centres as well as from the Home Office website. We have regular meetings with non-governmental organisations including the Refugee Council, Refugee Action, UNHCR and the International Organisation for Migration (IOM), who operate the programme, to discuss promotion of voluntary return. The Home Office hosts meetings with Afghan community groups to raise the profile of voluntary return including the Return to Afghanistan Programme and the recently launched Afghan Explore and Prepare Programme. The voluntary sector organisations are also involved in outreach work with the communities.

Detainees have always had the opportunity to Voluntarily Depart (Vol Dep) without any of the additional reintegration assistance available under VARRP. Making a voluntary departure is not the same as applying for assisted voluntary return.

At present VARRP is not available to those in detention. This is because IOM previously were not willing to work with those in immigration detention. The Home Office is continuing discussions with IOM and others about expanding voluntary return to include those in detention.

The Explore and Prepare Programme for Afghanistan was launched on 28 October 2003.

(j) We consider that the negotiation of Readmission Agreements with countries currently reluctant to accept the return of their nationals should be a diplomatic priority (paragraph 60).

The Government agrees with the Committee's conclusion. We attach a high priority to the prompt removal from the United Kingdom of those who have no legal basis to enter or remain here. Co-operation on the management of migratory flows and returns and readmission is an important element of our wider dialogue with countries of origin and transit, both at UK and EU level. The Seville European Council called for increased activity on the negotiation of readmission agreements at EU level and the Thessaloniki Council in June 2003 further reaffirmed the importance of effective co-operation at EU level on returns. The UK is committed to the negotiation of EC readmission agreements and to taking forward bilateral agreements where these are judged to be beneficial.

Update: The Government, in common with other Member States, continues to attach great importance to making further progress to effect the removal of third country nationals who do not, or no longer have a basis to remain here. This includes increasing operational co-operation between Member States and the conclusion of Community readmission agreements. The UK has been participating fully in the development of both areas and continues to support the Commission politically and technically in their negotiations with third countries. The European Council in Brussels in December 2003 reaffirmed the importance of this work in calling for more rapid progress in the field of return and inviting the Commission to present at the beginning of 2004 a proposal for a financial instrument to support a Community return policy. The UK has also been working on a bilateral basis with third countries on the management of migration flows and to facilitate the return of their nationals.

There have been no public announcements on this area.

(l) In the absence of adequate statistics, it is difficult to know the extent of the problems caused by absconding. The current situation, in which the Home Office simply does not know—even in broad outline—what proportion of failed asylum seekers abscond is unacceptable. It ought to be possible to obtain at least a snapshot of the scale of the problem and we recommend that steps are taken to do this without delay (paragraph 65).

The Government agrees with this recommendation. Systems are currently being developed to collect consistently and collate such data. When this work is complete we will analyse the data it produces and if the data quality is satisfactory, we will consider the most appropriate method for publishing this information.

Update: Work continues to develop the data collection.

There have been no public announcements on this area.

(o) We recommend that the Immigration and Nationality Directorate should provide quarterly figures on total numbers detained during the period with lengths of detention (paragraph 82).

The Government is currently assessing the quality of data available from local management systems. Once this work is completed and if the data quality is sufficient, we will consider the most appropriate method of publishing this information.

Update: Work continues to assess the quality of data available.

There have been no public announcements on this area.

(u) We regret the delay in publishing a full set of detailed Operating Standards for Removal Centres. As the Centres have now been operating for some time, the inevitable consequence of this delay has been the emergence of undesirable disparities in standards and conditions between different Centres. We urge that remaining Operating Standards should be published as soon as possible. Standards governing visiting hours and legal access are particularly needed. We further recommend that standards should be raised in those Removal Centres run in former Prison Service accommodation, to match the best practice of privately-contracted Centres, and that a target date should be set by which consistency of standards across private and public Removal Centres is to be achieved. If, after a reasonable time, the public sector is unable to achieve an acceptable standard, the contract should be put out to tender (paragraph 96).

The Government agrees with this recommendation. Operating Standards are being developed and will be published as soon as practicable. This exercise involves extensive consultation. The Government agrees that standards should be more consistent across the removal centre estate and work is in hand to achieve this. All removal centres should be operating within the provision of the Detention Centre Rules and where Operating Standards have been put in place these provide the minimum standard of operation or service provision. There is no reason why directly managed centres should not achieve similar standards to contracted out centres. Instances of best practice are found in both contracted-out and directly managed removal centres, and the Government is keen to ensure that it is shared across the removal estate as a whole. However, we do not favour complete uniformity, as there should always be scope for imaginative service providers to exceed the minimum standards.

Update: Operating Standards have been issued to removal centre operators covering the following areas: Activities (adults and children), Catering, Complaints/Requests procedures, Female Detainees, Healthcare, Race Relations, Religion, Suicide and Self-harm, Temporary Confinement and Use of Force. Further Standards (covering areas such as Accommodation, Communications, Detainees' Property, Security and Control) are under development and, once issued, will provide for a comprehensive range of auditable, minimum requirements.

There have been no public announcements on this area.

(v) We accept that current arrangements for access to legal advice are inadequate. It may be that the matter can be resolved by appointment of a welfare officer, as we have recommended at paragraph 75 above, who can either put detainees in touch with their own legal representatives or who can provide access to emergency legal advice. Failing that, however, consideration should be given to providing detainees with access to a duty solicitor (paragraph 99).

The Government agrees that all detainees should have access to competent legal advice. All detainees are told how to contact the IAS and RLC for advice and assistance, and they have access in removal centres to the free telephone lines operated by those two organisations. Information about finding a legal representative is displayed in removal centres. Furthermore, much work has been done recently by the Office of the Immigration Services Commissioner (OISC) to raise the profile of its registration and complaints scheme among those in detention. Separately, the Legal Services Commission is currently considering letting contracts to solicitors local to removal centres in order to enhance access to legal representation.

Update: Previously reported work is ongoing.

There have been no public announcements on this area.

(cc) We recommend that the Home Office, through the Advisory Panel on Country Information, commissions research into the reception of failed asylum seekers by the authorities in their source countries, after removal (paragraph 130).

The function of the Advisory Panel on Country Information is to consider and make recommendations on the content of country information produced by the Home Office. The role of the Panel is advisory.

In making decisions about removing failed asylum seekers, the Home Office takes account of up to date information from a wide range of sources about the situation in the country of origin. These sources include UNHCR, Amnesty International, Human Rights Watch and other human rights organisations, as well as reports from the Foreign and Commonwealth Office. If there was clear evidence that asylum seekers would be persecuted upon return to a particular country (whether for having sought asylum or any other reason), such cases would not be removed.

The Government is already looking at the sustainability of returns to country of origin made under voluntary return schemes. This includes failed asylum seekers. This work has been commissioned by the Home Office's Research and Statistics Directorate. The need for further research on this topic is being considered.

Update: The Advisory Panel held its first meeting on 2 September 2003. It has undertaken a limited consultation exercise on the Home Office's Country Reports, the results of which will be considered at the Panel's next meeting on 2 March 2004. Minutes of the Panel's meetings are published on its website at www.ind.homeoffice.gov.uk/default.asp?pageid = 4470

No further public announcements on the research commissioned by the Home Office's Research and Statistics Directorate.

(ee) We believe it is self-evident that the efficient removal of asylum seekers whose claims have failed is a precondition for the credibility of the entire asylum process (paragraph 133).

The Government agrees and has made substantial progress. The Nationality, Immigration Asylum Act 2002 included provisions designed to ensure an effective end-to-end asylum system and tackle abuse. The Government has made clear its determination to increase the removal of asylum seekers whose claims have failed.

Update: The Government has already expressed its intent to remove a greater proportion of those whose asylum claims have not been successful and who have exhausted all avenues of appeal. To this end we have strengthened enforcement and increased the size of the detention estate this year, with further expansion planned over the next 12 months. We have instituted an intelligence-led approach to enforcement activity and are working in accordance with the National Intelligence Model in order to optimise our removals productivity. These measures have all contributed to a substantial increase in the number of failed asylum seekers being removed from the United Kingdom over the last year.

There have been no public announcements on this area.

Formal minutes

Tuesday 13 January 2004

[Morning sitting]

Members present:

Mr John Denham, in the Chair

Janet Anderson
Mr James Clappison
Mrs Janet Dean
Mr Gwyn Prosser
Bob Russell
Mr John Taylor
Miss Ann Widdecombe
David Winnick

The Committee deliberated.

Draft Report (Asylum Applications), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraph 1 read and agreed to.

Paragraph 2 read, as follows:

The UK has a long and praiseworthy tradition of offering asylum to people fleeing from persecution in their own countries. In recent years a steep increase in the number of those claiming asylum in the UK has led to calls for the right to claim asylum to be restricted. Public concern has been driven by widespread fears that the asylum system is being abused, particularly by economic migrants posing as refugees, that the numbers of people entering the country as asylum seekers or illegal immigrants have become unmanageable, and that those found to have no right to be here have not been removed. There are genuine grounds for concern on these matters, and in our report on asylum removals we criticised those who are in a state of 'denial' over the reality of the problem. The necessary public debate over the issue of asylum should not excuse the inflammatory reporting in some sections of the press which has led to an exaggerated sense of public alarm, and created a danger that all claimants will be demonised. The Press Complaints Commission recently issued a warning to newspapers about their coverage of asylum issues, stating that "inaccurate, misleading or distorted reporting may generate an atmosphere of fear and hostility that is not borne out by the facts".

Amendment proposed, in line 8, to leave out from the word 'problem.' to the end of the paragraph.∝ (*Mr James Clappison.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 3 to 76 read and agreed to.

Paragraph 77 read, as follows:

On balance, it is reasonable to say that a motivating factor for many refugees in choosing to come to the UK will be their expectation that they will receive fairer treatment than in some other European countries, and the employment opportunities (legal or illegal) in the UK. We do not believe that Britain can be described as a soft touch for asylum seekers. However, there are weaknesses in the system that need to be addressed.

Amendment proposed, in line 3, to leave out from the word 'UK' to the end of the paragraph.∝ (*Mr James Clappison.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 4	Noes, 2
Mrs Janet Dean	Mr James Clappison
Mr Gwyn Prosser	Miss Ann Widdecombe
Bob Russell	
David Winnick	

Paragraphs 78 to 96 read and agreed to.

Paragraph 97 read, as follows:

We understand the reasons why the Government has announced what is in effect an amnesty for up to 15,000 asylum-seeking families who arrived in the UK more than three years ago. An individual amnesty may well be the appropriate humanitarian and financial response to a backlog. However, the cumulative effect of amnesties is to undermine the credibility of the system. The combination of a high level of applications and a low rate of removals will, over a period of years, create a situation in which the Government not only faces political pressure to clear up the ensuing backlog of cases, but has a moral obligation to asylum seekers who have been in the UK for several years, who have put down roots in the community, made friends and have children in local schools. **If the Government does not address the problem at both ends, by reducing unfounded applications and by swiftly and humanely removing failed asylum seekers, it is indeed likely that there will be further amnesties.** They will in turn act as a 'pull' factor, sending out an unfortunate message to people contemplating making an unfounded claim for asylum, that if they can get to the UK and make that claim, sooner or later the Government will regularise their position. **Amnesties set up a vicious circle which should be broken by discouragement of unfounded claims, fast and efficient processing of those claims when they are made, and rapid removals when claims have failed.**

Amendment proposed, to leave out from the beginning of the paragraph to the first word "the" in line 4.∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 98 to 134 read and agreed to.

Paragraph 135 read, as follows:

Since then much effort has been put into, in the Minister's words, restoring "order and management and rationality" to the system, and it is right that the progress made towards this end should be acknowledged—even though much remains to do.

Amendment proposed, at the end of the paragraph to add the words "and even though Government decisions may have contributed to the sharp increase in applications".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 136 and 137 read and agreed to.

Paragraph 138 read, as follows:

We also support the Government's plans to introduce accommodation centres. Such centres, if properly resourced, will operate as 'one-stop shops' to the benefit of asylum seekers, providing board, education, health, interpretation and purposeful activity on one site. They will enable applications to be processed more efficiently and lift some of the burden of asylum support from local authorities.

Amendment proposed, at the end of the paragraph to add the words "However we believe such centres could also provide a deterrent to unfounded claims if they were made secure, preventing claimants from leaving until either their claim had been accepted or removal had been effected.".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 139 and 140 read and agreed to.

Paragraph 141 read, as follows:

We recommend that the Government should move as quickly as possible towards a situation in which <u>all</u> asylum seekers are processed either through an induction centre, accommodation centre or a fast-tracking facility. The investment necessary to expand the IND estate must be made available as a matter of priority.

Amendment proposed, at the end of the paragraph to add the words "and all such centres must be secure".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 142 to 198 read and agreed to.

Paragraph 199 read, as follows:

We welcome the Home Secretary's announcement that 72 hours rather than 24 hours will henceforward be regarded as the period within which new arrivals in the UK will normally be expected to claim asylum. This will certainly help to make the operation of Section 55 more humane. Nonetheless, we remain concerned that cases of unduly harsh treatment will continue to occur, and will continue to lead to challenges in the courts. We recommend that the Government should commission an independent review of the working of Section 55, so that any decision on whether to keep or repeal the provision can be based on more than merely anecdotal evidence. This review should also consider the position of failed asylum seekers who cannot be returned to their countries (see paragraphs 202–08 below).

Amendment proposed, in line 4, to leave out from the word "humane." to the end of the paragraph.∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 4	Noes, 2
Mrs Janet Dean	Mr James Clappison
Mr Gwyn Prosser	Miss Ann Widdecombe
Bob Russell	
David Winnick	

Paragraphs 200 to 206 read and agreed to.

Paragraph 207 read, as follows:

We note the Government's response but do not consider that this is adequate to tackle the problem. We think it likely that significant numbers of failed asylum seekers who are unable to return to their countries are not receiving Section 4 support. That support itself is much more limited than normal NASS support. We suspect that the consequence is that a major burden is being placed on charities and voluntary organisations. We recommend that the review into the operation of Section 55 which we have called for in paragraph 00 above should also investigate the position of welfare support for failed asylum seekers who are unable to return home or be removed. The review should address in particular the numbers involved, the adequacy of existing support, the extent to which the voluntary section is involved in providing support, and the feasibility and desirability of providing such people with either full NASS support or the right to work.

Amendment proposed, in line 2, to leave out from the word "problem." to the end of the paragraph and insert the words "We recommend the Government make an assessment of the numbers of failed asylum seekers who are unable to return or be returned to their countries of origin and examine ways of ensuring such persons are not rendered destitute.".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 208 to 247 read and agreed to.

Paragraph 248 read, as follows:

One way of tackling illegal working, and thereby reducing the incentive for illegal immigration, would be by means of a national system of identity cards. As we mentioned in paragraph 153 above, this raises wider issues which we are addressing in a separate inquiry.

Question put, That the paragraph do not stand part of the Report.∝ (*David Winnick.*)

The Committee divided.

Ayes, 1	Noes, 5
David Winnick	Mr James Clappison
	Mrs Janet Dean
	Mr Gwyn Prosser
	Bob Russell
	Miss Ann Widdecombe

Paragraph agreed to.

Paragraphs 249 to 254 read and agreed to.

Paragraph 255 read, as follows:

We agree with the Home Secretary that *managed* inward migration is of potential value to the UK economy and society. This raises issues which go beyond the remit of our present inquiry, such as how such migration should be managed, what desirable levels of immigration might be, what qualities and skills should be sought in immigrants, how the public should be consulted over immigration policy and how that policy should be policed. It is healthy that a debate should take place on these topics. We recommend that the Government should further clarify and open to wider debate its policy towards economic migration.

Amendment proposed, in line 7, after the word "migration" to insert the words "but without any presumption in favour of increased economic migration".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Question put, That the paragraph do not stand part of the Report.∝ (*Mr James Clappison.*)

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 256 to 282 read and agreed to.

Paragraph 283 read, as follows:

We strongly support the Government's initiative in exploring ways of assisting the regions in the world most directly affected by refugee flows. The Government is also right to seek to enlist the support of EU partners in doing this. European states have a humanitarian duty to provide assistance and protection not only to the comparatively small number of refugees who succeed in travelling to Europe, but also to the much greater numbers who remain close to their countries of origin. This is desirable not only on humanitarian grounds but because the restrictive measures being imposed at domestic and EU level are significantly reducing the chances of genuine refugees being able to come to Europe to make an asylum claim.

Amendment proposed, in line 2, after the word "flows" to insert the words "and also the proposal to establish transit centres. We accept the view of the UNHCR that such centres should be secure.".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 284 to 303 read and agreed to.

Paragraph 304 read, as follows:

Universal detention would clearly be an expensive option, though it is difficult to calculate its costs with precision as so many variables are involved. Amongst the factors difficult to predict are:

a) The capital costs of building new detention centres or converting existing buildings;

b) the extent of a deterrent effect in reducing overall numbers applying;

c) the speed with which claims could be processed and unsuccessful asylum seekers returned;

d) the extent to which some existing costs could be reduced, for instance through providing more efficient services to asylum seekers and enabling more efficient processing of claims; and

e) the costs of provision for Immigration Officers to meet all arrivals at ports.

Amendment proposed, in line 3, after the word "buildings;" to insert the words "Oakington cost £5 million to convert and was predicted by Ministers to process one fifth of all asylum seekers. If similar conversions were possible, the capital cost would not be great but new premises would be more expensive.".∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraph 305 read and agreed to.

Paragraph 306 read, as follows:

On the other hand, asylum seekers would be deprived of their liberty until their claims had been determined. In the case of those eventually granted refugee status, this would have a retarding effect

on their integration into British society. It also raises the specific question of whether a policy of universal detention would involve the UK in a breach of its treaty obligations. Article 5 of the European Convention on Human Rights provides that an individual may be deprived of his liberty in the case of "the lawful … detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition". However, Article 6 provides that an individual has a right to "a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". Mr Martin Howe QC told us that—

> "the courts have interpreted this, both the Strasbourg court and our own domestic courts, in a way in which they say that the detention has to be proportionate to come within Article 5, and it can only be proportionate if the deportation is imminent, or if you have a specific factor like a flight risk in a particular case. [However,] because the courts cannot deal with judicial reviews in particular very rapidly, they say, 'Once you have filed a judicial review application, because we, the courts, are so slow in dealing with it, therefore your deportation cannot be imminent and therefore you have to be released from detention'. This is … Alice in Wonderland logic which of course results in it being the case that, in order to get sprung from detention, you go and file a judicial review application."

Amendment proposed, in line 2, to leave out from the word "determined" to the word "It" in line 3.∝ (*Miss Ann Widdecombe.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 307 to 309 read and agreed to.

A paragraph∝ (*Miss Ann Widdecombe*)∝ brought up and read, as follows:

In the last full year for which statistics are available, 2000 to 2001, the cost of asylum seeker support was £1,046 million and the number of asylum seekers seeking support was 80,270, making an average weekly per capita cost of £249. In that same year in an answer to a PQ the Minister of State estimated the cost of keeping an asylum seeker at Oakington at £274 per week. This suggests the additional costs of detention, especially if offset by faster decision-making and earlier removals, need not be prohibitive. Indeed their proponents claim they would result in savings over time.

Question put, That the paragraph be read a second time.

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraphs 310 to 317 read and agreed to.

Question put, That paragraph 318 do not stand part of the Report.∝ (*Mr James Clappison.*)

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraphs 319 to 330 read and agreed to.

Question put, That paragraph 331 do not stand part of the Report.∝ (*Miss Ann Widdecombe.*)

The Committee divided.

Ayes, 2	Noes, 4
Mr James Clappison	Mrs Janet Dean
Miss Ann Widdecombe	Mr Gwyn Prosser
	Bob Russell
	David Winnick

Paragraph agreed to.

Paragraphs 332 to 335 read and agreed to.

Ordered, That further consideration of the Chairman's draft Report be now adjourned.∝ (*The Chairman.*)

Report to be further considered this day.

[Adjourned till this day at 2.30 p.m.

Tuesday 13 January 2004

[Afternoon sitting]

Members present:

Mr John Denham, in the Chair

Mr James Clappison	Mr John Taylor
Mrs Janet Dean	Miss Ann Widdecombe
Mr Gwyn Prosser	David Winnick
Bob Russell	

Consideration of the Chairman's draft Report [Asylum Applications] resumed.

Summary read and agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

A paper was ordered to be appended to the Report.

Ordered, That the provisions of Standing Order No. 134 (Select committees (reports)) be applied to the Report.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

Several memoranda were ordered to be reported to the House.

[Adjourned till Tuesday 27 January at 2.15 p.m.

Witnesses (page numbers refer to Volume II)

List of written evidence

List of unprinted written evidence

Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by Members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

H Hintjens
WF Gross
Judy and Guy Whitmarsh
Charing Cross Police Station: Chinatown Unit
Chair of the Catholic Worker Community
Christian Khan Solicitors
Jose Weinberg
Leanne Weber
KRAN
Jennifer Monahan
Bail for Immigration Detainees
Jesuit Refugee Service UK
Wackenhut
Zimbabwe Association
Helen Kimble
Immigration Advisory Service
Lewes Group in Support of Refugees and Asylum Seekers
Institute for Public Policy Research
Dina Mehmedbegovic

Reports from the Home Affairs Committee since 2001

The following reports have been produced by the Committee since the start of the 2001 Parliament. Government Responses to the Committee's reports are published as Special Reports from the Committee or as Command Papers by the Government. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2003–04

First Report	Asylum and Immigration (Treatment of Claimants, etc.) Bill	HC 109

Session 2002–03

First Report	Extradition Bill	HC 138 (*HC 475*)
Second Report	Criminal Justice Bill	HC 83 (*Cm 5787*)
Third Report	The Work of the Home Affairs Committee in 2002	HC 336
Fourth Report	Asylum Removals	HC 654
Fifth Report	Sexual Offences Bill	HC 639 (*Cm 5986*)

Session 2001–02

First Report	The Anti-Terrorism, Crime and Security Bill 2001	HC 351
Second Report	Police Reform Bill	HC 612 (*HC 1052*)
Third Report	The Government's Drugs Policy: Is it Working?	HC 318 (*Cm 5573*)
Fourth Report	The Conduct of Investigations into Past Cases of Abuse in Children's Homes	HC 836 (*Cm 5799*)