



# Asylum

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Asylum: MW 468

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- It is important that the UK should be [able](#) to provide refuge for those in genuine need while also deterring false claimants and removing those whose claims have been rejected.
- An “asylum seeker” is a person who has claimed asylum under the 1951 United Nations Convention on the Status of Refugees (hereinafter referred to as “the Convention”) on the ground that if he or she is returned to his country of origin he or she has a well-founded fear of persecution on account of race, religion, nationality, political belief or membership of a particular social group.
- In 2018, the UK granted asylum or some other form of international protection or resettlement to 15,891 people. (For international comparison, Japan – which is also a signatory to the Refugee Convention - granted asylum, resettlement or international protection to 82 people in the same year).
- An asylum claimant can remain here for so long as the application or an appeal against refusal of his application is pending.
- In recent years, grants of asylum (as against total claims) have outstripped refusals when appeals are taken into account. Just over half of cases are eventually successful - 38% are granted at the initial decision, and a further 17% are granted after appeal. Less than 40% of those who were refused asylum between 2004 and 2017 were removed or departed voluntarily.
- The asylum system is under increasing strain and has been the target of abuse by some who have used it as a means of backdoor immigration.
- As regards the EU, of the 120,000 migrants who had arrived in December 2015, 60% were from countries where they had *no reason whatsoever to ask for refugee status*’ (First Vice President, European Commission).

1. An “asylum seeker” is a person who has claimed asylum under the 1951 United Nations Convention on the Status of Refugees (hereinafter referred to as “the Convention”) on the ground that if he or she is returned to his country of origin he or she has a well-founded fear of persecution on account of race, religion, nationality, political belief or membership of a particular social group.

2. The terms “asylum seeker” and “refugee” are frequently conflated by commentators and in the media, giving rise to much confusion. For more on this legal distinction, see our [paper](#).

3. That person remains an asylum seeker for so long as the application or an appeal against refusal of his application is pending. (This definition is a paraphrase of the statutory definitions of “asylum seeker” and “claim for asylum” in section 94(1) of the Immigration and Asylum Act 1999)

## Applications

4. Use of the asylum route has increased significantly in recent decades. In 1988, there were only 4,000 asylum applications. It was illegal to claim in-country U.K. until 1990s. In 2018 the UK received just under 30,000 applications. The UK received the 6th highest number of applications of all EU member states in that year. ***Since 2009, there has been an annual average of 32,000 applications by main applicants and dependants.***

## Grants of protection

5. The UK offered protection – in the form of grants of asylum, humanitarian protection, alternative forms of leave and resettlement – to 17,300 people in the year ending March 2019 (up 22% compared with the previous year and the highest number of people granted protection in the UK in a single year since the year ending September 2003. ***Over the past decade, there has been an annual average of 8,900 initial grants of protection for main applicants and dependants.***

6. ***When appeals are taken into account, grants for main applicants have run at about 10,300 per year over the past decade.*** For the years 2015 to 2017, there remain a large number of cases for whom the outcome is not yet known. Therefore, to establish the overall grant and refusal rate we look at the period 2005-2014. ***About 40% of asylum applications were granted, while just under 60% were rejected***

7. In more recent years the share of grants after appeal has outstripped the share of rejections after appeal. 55% of cases are eventually successful - 38% are granted at the initial decision, and a further 17% are granted after appeal.

## Humanitarian protection and other forms of leave

8. There are also a number of what the Home Office calls ‘*alternative forms of leave*’. These include grants of humanitarian protection, discretionary leave, grants under family and private life rules, leave outside the rules, and leave for unaccompanied asylum seeking children resulting from an asylum claim.

9. To qualify for “*Humanitarian Protection*”, a claimant must show that there are substantial grounds for believing that if he or she is returned to their country of origin they would face a real risk of suffering serious harm and is, owing to such risk, unwilling to avail themselves of the protection of that country.

10. “Serious harm” consists of the death penalty, unlawful killing, torture, inhumane or degrading treatment or punishment, or a serious or individual threat to civilian’s life or person by reasons of indiscriminate violence in situations of international or internal armed conflict.

11. In practice, it is this last category that gives rise to most grants of humanitarian protection. These provisions were brought into UK law in April 2004. Previously, the Home Office might well have granted Exceptional Leave to Remain (ELR) outside the immigration rules. ***Grants of leave of alternative forms of leave to main applicants have averaged 2,100 per year since 2004.***

## Resettlement

12. Resettlement is a process that occurs independent of the asylum rules. According to Eurostat, the EU's statistical arm, in 2017 the UK resettled more refugees from outside Europe than any other EU member state. The Vulnerable Person Resettlement Scheme (VPRS) accounted for three-quarters (4,328) of those resettled in the UK in the year ending March 2019. Since it began in 2014, just under 16,000 people have been resettled under the scheme.

## Removal of failed asylum seekers.

13. Outcome analysis above shows an average of 13,900 people per year whose asylum application has been refused or withdrawn each year between 2004 and 2017 (194,000 in total). Those who have been refused asylum no longer have the right to be in the UK. Yet just under 40% of those refused asylum between 2004 and 2017 (75,000 in total) departed the country.

14. In 2019, it was revealed that the taxpayer has paid more than £10 million in just five years on 'phantom' flights to deport failed asylum seekers that were abandoned before take-off. According to Home Office accounts, the bill for cancelled repatriation flights was £2.04 million in 2018.

## EU migrant crisis

15. The EU experienced a migrant crisis which gathered pace from 2012 onwards, in part due to the Syrian Civil War and the overthrow of the Libyan government led by President Obama, President Sarkozy and Prime Minister Cameron. This reached a peak in 2015 and led to a massive rise in both illegal arrivals and asylum applications in EU countries, from both Turkey and from North Africa.

16. Since the start of 2012, there have been 3.1 million illegal border crossings into the EU. In the period 2012-2016, there were a total 3.8 million asylum applications in the 28 EU member states. In total, there have been 2.5 million first instance decisions in the period 2012-2016, both first instance and on appeal. Just under half of these (1.4 million) were positive decisions.

17. The crisis had the direct effect of increasing the number of asylum applications by main applicants and dependants in the UK in 2015 (to nearly 40,000). It also had indirect effects, with asylum seekers arriving at a camp in Calais in Northern France and then making further clandestine journeys to the UK.

18. Even ignoring the fact that many such claimants are likely to be economic migrants, there is no reason why genuine applicants should not seek protection in France which is a safe country in this context instead of going on to make dangerous and illegal trips to the UK.

19. The phenomenon of 'asylum shopping' between different EU countries is something the UK government should take very firm steps to discourage. Not only does it undermine the spirit of the asylum system itself, such practices can lead to migrants being victimised by people-traffickers who put their lives at risk on

dangerous voyages to the UK in unsafe craft across the Channel. This problem has already led to loss of life.

20. The UK does not take part in most of the EU's asylum policy. However, it does participate in the Dublin Regulation which helps to determine which state should process an asylum claim made in the EU. In recent years, however, the number of asylum seekers who have been sent to the UK under the Dublin Rules has been higher than the number of asylum seekers that the UK has sent to other EU member states. There is no good case for the UK's continued involvement in the Dublin process after Brexit. For more, see our papers – [here](#) and [here](#).

## Misuse of the asylum route

21. Asylum should only be granted to a small number of people in extreme circumstances. It is not meant to be used as a substitute for the process of immigration itself.

22. The UN created a right of asylum after World War Two in order to protect those who were feeling regimes where they would be killed or imprisoned because of their identity or beliefs. However, the scope has been considerably broadened over the years. The October 1967 Protocol relating to the Status of Refugees ([UNHCR](#)) was approved with very little public attention or debate. It gave the Convention a global scope, applying to refugees without any geographic or temporal limitation. Protection can now even be granted due to the threat of gang warfare or domestic violence. Some are now pushing for refugee status to be granted for reasons of climate change or poverty.

23. The broadening of the criteria, coupled with the reality that this is often seen as a safe way to enter the UK, have unfortunately made the asylum system open to abuse. As a result, there have been large numbers of applications from countries which are not experiencing widescale conflict.

24. For example, of the 120,000 migrants who had arrived in the EU in December 2015, '60 per cent were from countries where you can assume *they have no reason whatsoever to ask for refugee status*' (according to Frans Timmermans, First Vice President of the European Commission, speaking to Dutch broadcaster NOS in January 2016).

25. Meanwhile, there are hundreds of millions of people around the world who live in poor and unstable regions where threats of violence abound who could apply for asylum. It is legitimate to ask whether this is a satisfactory state of affairs.

26. As a result of a recent increase in claims as well as deficiencies in government allocation of resources and training, the backlog of cases awaiting an initial decision for six months or more than trebled between 2010 and 2017.

27. Decisions on asylum applications are taking longer now than in recent years. In 2014, 80% of applicants received an initial decision within six months, compared with around 25% now (Migration Observatory).

28. A Home Office document reported by the BBC in January 2019 said that the number of people waiting for their asylum claims to be processed in the UK was 'unacceptably high' and added that delays could cause 'reputational damage to the Home Office' (see [BBC report](#)).

29. Instead of focusing on improving removals of failed claimants, the government has in the past responded by granting large-scale amnesties. In 2011, it was revealed that the government granted settlement to over 160,000 people whose asylum claims had been rejected or were still outstanding after years. Such actions are unwise since they can only encourage false asylum claimants, in the expectation that once they set foot in the UK it is very unlikely they will ever be removed.

## Recommended steps for tackling abuse

30. It is important for the UK to be able to provide refuge for those in genuine need. However, the asylum system is being abused by some, with the encouragement of some in the legal world, as a substitute for following the immigration rules. This is unacceptable. Below are steps that should be taken to reform the asylum system:

- The criteria for grants should be tightened up in the UK so as to prioritise those with genuine need.
- In order to deal with the backlog of cases, *the number of courts and judges dealing with asylum should be greatly expanded*, as should the resources available for this task. Training and support for staff should be improved.
- *The government should step up removals of failed asylum seekers* which have declined substantially since 2006.
- *The government should make clear that those who enter the UK clandestinely from France or other safe EU countries will immediately be returned there.* Agreement on this question should be reached via bilateral negotiation. The Dublin Regulation is not working well from the UK's perspective and we should not continue to participate in it after Brexit.
- The criteria under which people may be granted protection are outdated and too wide. The government should work with other countries to ensure that *asylum criteria are rewritten and substantially tightened so they reflect the challenges of global movement in the modern world.*

## Asylum seekers and work

31 The UK currently allows asylum seekers to work if their cases have not been decided after 12 months provided that the job is on the government's official Shortage Occupation List. The case for extending these rights further – as the immigration lobby is demanding – is unconvincing. Read our [piece](#) on this topic.

## Financial support for asylum seekers

### Section 95 for destitute asylum claimants

32. The asylum rules make clear that claimants who are destitute can claim support if their case is ongoing (under Section 95 of the Immigration and Asylum Act 1999). Section 95 support can take the form of subsistence only (i.e cash only support) or if the asylum seeker does not have somewhere to stay pending their asylum claim, free accommodation as well as subsistence support.

33. Only a minority of people on section 95 support opt for '*subsistence only*' support. The level of cash support provided is a fixed rate which is significantly lower than income support levels. It is not increased every year. It is currently **£36.95** per week per person (adults and children now receive the same).

34. Asylum seekers are accommodated outside London and the South East under the Home Office's dispersal policy. Accommodation can be provided in London in exceptional circumstances. As at the end of March 2019 there were more than 45,600 asylum applicants in receipt of support (8% more than the previous year).

35. Of these, 42,597 (93%) were in receipt of both accommodation and subsistence, and 3,046 (7%) in receipt of subsistence only. The majority (83%) were located in England, with smaller numbers supported in Scotland (9%), Wales (6%) and Northern Ireland (2%).

## Section 98 support for those awaiting a decision on Section 95 support

36. Asylum seekers who are destitute and who are awaiting a decision on section 95 support above, can access support under section 98 of the same legislation (see more [here](#)). As of March 2019, 1,832 individuals were in receipt of Section 98 support, 17% more than the year before.

## Section 4 support for failed asylum seekers

37. Section 4(2) of the Immigration and Asylum Act 1999 allows for the provision of support to failed asylum-seekers who are destitute and who meet certain criteria. The support consists of accommodation and £35.39a week via a payment card. Also see the [Immigration and Asylum \(Provision of Accommodation to Failed Asylum-Seekers\) Regulations 2005](#). As of March 2019, 3,897 individuals were in receipt of support under this provision.

## The asylum process and clandestine immigration

38. In 2018 and 2019, around 2,000 people have attempted to cross the Channel by clandestine and illegal means in small and unsafe craft. This practice is often encouraged by ruthless people-traffickers who profit from the journeys. Crossing the Channel by boat is a more expensive option than many of the other illegal migration routes but has been used widely by Iranian and Iraqi asylum seekers who are often more affluent than other nationalities.

39. Illegal immigrants frequently claim asylum only after they have been discovered by the authorities. Some such claims may be genuine, but a large number of others will simply be a last-ditch effort to simply try and remain in the UK.

40. Between 2005 and 2014, there were a total of 83,912 asylum claims made by individuals encountered by local Immigration and Enforcement Staff. Of these just under 20,000 were granted asylum, 48,500 were rejected and 15,500 were classified as 'other'. Of the 48,500 rejections, less than half - 23,300 or 48% of the total - were removed (see [Parliamentary Answer](#)).

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