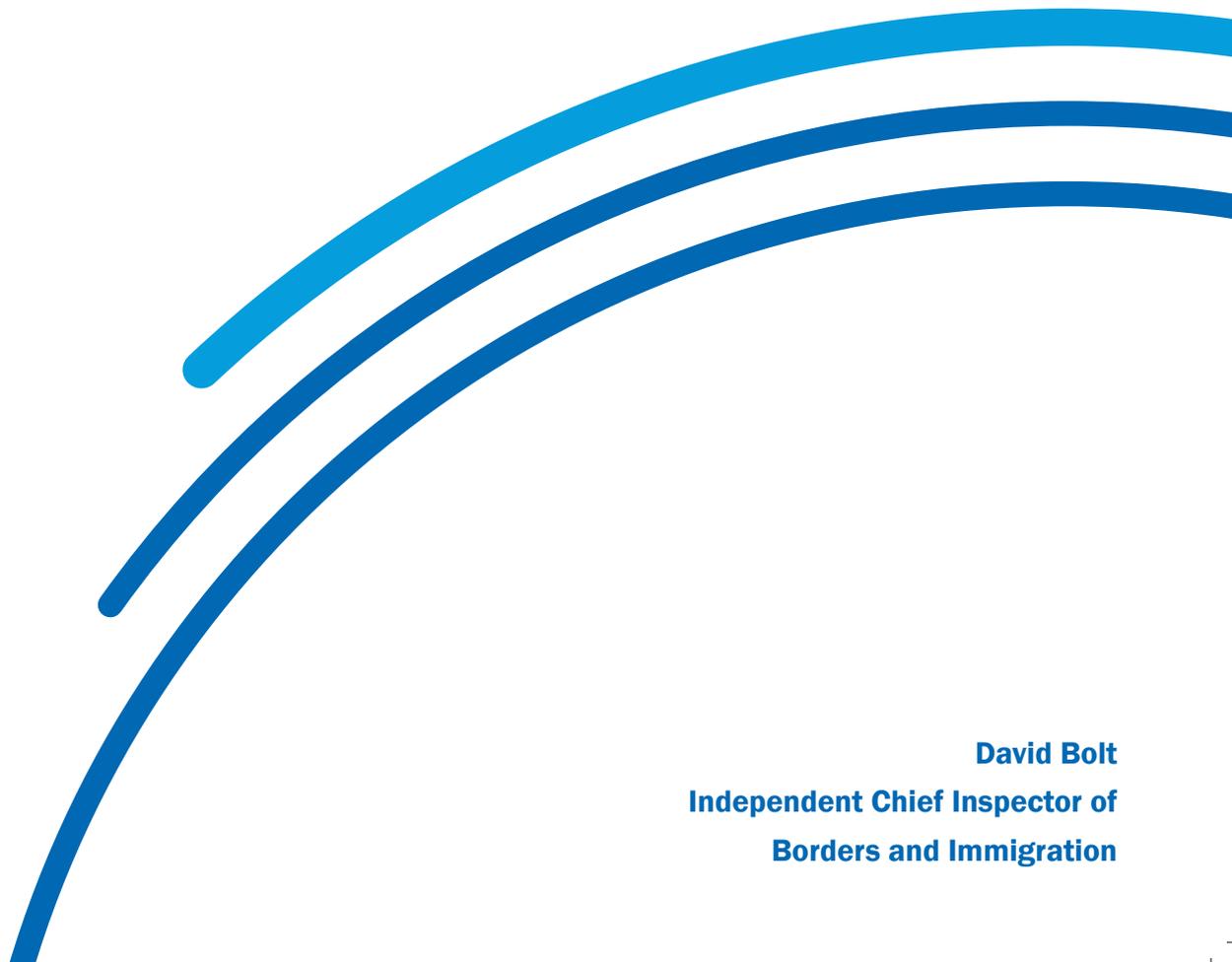




# An Inspection of Asylum Casework

March – July 2015



**David Bolt**  
Independent Chief Inspector of  
Borders and Immigration



# **An Inspection of Asylum Casework**

March – July 2015

Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

February 2016



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# Contents

Introduction by the Independent Chief Inspector	2
Purpose and Scope	3
1. Key Findings	4
2. Summary of Recommendations	7
3. The Inspection	8
4. Inspection Findings – Screening and Routing	12
5. Inspection Findings – The Third Country Unit	16
6. Inspection Findings – Detained Fast Track	19
7. Inspection Findings – Non-detained Regional Hubs	25
8. Inspection Findings – Unaccompanied Asylum-seeking Children: Further Leave	33
9. Inspection Findings – Operating Mandate and File Administration	37
Appendix 1: Role and Remit of the Chief Inspector	39
Appendix 2: Inspection Framework and Core Criteria	40
Acknowledgements	41

# Introduction by the Independent Chief Inspector

## Foreword

The term ‘asylum’ is normally used to refer to the protection provided by a country to someone fleeing persecution in their country of nationality or habitual residence. Asylum claims are considered in accordance with the 1951 United Nations Convention Relating to the Status of Refugees, to which the UK is a signatory, and the Asylum Qualification Directive 2004, which seeks to establish minimum standards and common criteria for asylum across all EU Member States.

In the case of the UK, claims for asylum are made under Paragraphs 328-333B of the Immigration Rules, and may be made on or after arrival in the UK. They are managed by UK Visas and Immigration (UKVI), a directorate of the Home Office.

The inspection considered the efficiency and effectiveness of the Home Office’s asylum casework operations and the quality of decision-making by examining: the registration, screening and routing process; how substantive asylum interviews were conducted and whether material facts were captured and probed; and whether decision-making was in accordance with Home Office guidance.

The inspection also examined routing of applicants for consideration under the Detained Fast Track (DFT) procedures; the Third Country Unit’s (TCU) management of cases; and the process for considering further leave applications by Unaccompanied Asylum-seeking Children (UASC).

The inspection found that the Home Office had made significant improvements in the efficiency and effectiveness of its management of asylum casework during 2014/15. It had met its aim of deciding all straightforward claims made on or after 1 April 2014 within six months, while successfully clearing all straightforward claims lodged before 1 April 2014 by 31 March 2015. The inspection also found that non-straightforward cases were being monitored effectively and decided quickly once barriers had been removed. This was a solid base from which to respond to the challenge of the rising asylum intake in 2015/16.

The inspection identified a number of areas for improvement, including aspects of the screening process, which the Home Office’s own internal quality assurance processes had also identified. The inspection found that management of further leave applications from unaccompanied asylum-seeking children could be improved to reduce delays and to maintain contact with the claimant. However, the most serious failings concerned the way in which allegations of torture were managed. Neither the Immigration Rule 35 process nor the Medico-Legal Report process was working as intended.

The inspection did not set out to test claims that a ‘culture of disbelief’ exists within the Home Office. It found that decision-makers, and other staff within Asylum Operations (AO), were professional, dedicated, and demonstrated a commitment to fairness. However, the quality of interviewing and decision-making needed to improve, along with the recording of the reasons for decisions. At the time of the inspection the Home Office was introducing a range of measures, including revised credibility training, which may help in this respect.

This report makes nine recommendations for improvement.

The report was sent to the Home Secretary on 9 December 2015.

# Purpose and Scope

## Purpose

This inspection considered the efficiency and effectiveness of the Home Office's asylum casework operations and the quality of decision-making by examining:

- the registration, screening and routing processes;
- the routing of applicants for consideration under the Detained Fast Track (DFT) procedures;
- how substantive asylum interviews were conducted and whether material facts were captured and probed;
- whether decision-making was in accordance with Home Office guidance;
- the Third Country Unit's (TCU) management of cases; and
- the process for considering further leave applications by Unaccompanied Asylum-seeking Children (UASC).

## Scope

The inspection involved:

- familiarisation visits to Asylum Operations (AO) in Croydon and the Complex Casework Directorate (CCWD) in Liverpool;
- examination of performance data and documentary evidence, including business plans, staffing information, process guidance and risk registers;
- sampling of 300 case files;
- interviews and focus groups with Home Office staff; and
- meetings with a range of stakeholders, including current and former asylum applicants.

The high-level emerging findings were presented to the Home Office on 23 July 2015.

# 1. Key Findings

## What was working well

- 1.1 In October 2014, the Home Office committed to clearing all outstanding straightforward asylum claims made before 1 April 2014 by 31 March 2015. A previous inspection had noted that this would be challenging, as it would require Asylum Operations (AO) to make more decisions than in any recent year.<sup>1</sup> The Home Office delivered on its commitment, which was a significant achievement.
- 1.2 As at 30 June 2015, having introduced a central workflow coordinator and learned the lessons from the case clearance exercise, AO was working on claims made between March and May 2015, well within the six-month service standard. AO's work over 2014/15 was recognised by Customer Service Excellence, who accredited AO in March 2015.
- 1.3 Based on a small file sample (33 cases), the Third Country Unit (TCU) appeared to process asylum cases referred to it by National Asylum Allocation Unit (NAAU) for transfer to another State efficiently and to make the necessary Formal Request (FR) within the three month deadline from the date when the claim was lodged.
- 1.4 Also based on file sampling (30 cases) of asylum claims routed into the Detained Fast Track (DFT) process, NAAU was applying the DFT guidance correctly in the majority of cases, and when mistakes were identified the claimants who had been wrongly detained under DFT were released without delay.
- 1.5 Claims based on membership of a particular social group (PSG) could be difficult and were likely to require sensitive questioning. The Home Office had introduced a 'second pair of eyes' process for cases where the basis of the claim was persecution due to sexual orientation, and believed that this was responsible for recent improvements in the handling of such cases. It had also recognised the need to update credibility guidance and training.
- 1.6 Claimants had been given the option of requesting a male or female interviewing officer for their substantive interview. Having identified that some requests were not being met, the Home Office had begun to monitor this centrally, and in May and June 2015 had met requests in 98.5% of cases. This was a positive step, and likely to lead to a more effective interview as the claimant should feel more at ease, in particular in discussing sensitive matters.
- 1.7 The inspection limited consideration of the initial decision to grant Discretionary Leave in Unaccompanied Asylum-seeking Child (UASC) cases to whether the period of leave granted was in accordance with the Immigration Rules. The Immigration Rules in relation to periods of Discretionary Leave are straightforward, and in almost all cases the correct period of leave had been granted. Such errors as were found appeared to be simple miscalculations.
- 1.8 There was 100% compliance with the UKVI Operating Mandate in respect of mandatory security checks against immigration and police databases for asylum claimants. Adherence to the Operating Mandate was strengthened by the introduction, in summer 2015, of a safeguard that did not permit a decision-maker (DM) to update a case as 'decided' on the Casework Information Database (CID) if these checks had not been completed.

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<sup>1</sup> An Unannounced Inspection of the Cardiff Asylum Team; Independent Chief Inspector of Borders and Immigration; 2014. Available at: <http://icinspector.independent.gov.uk/wp-content/uploads/2014/07/Cardiff-Report-FINAL-WEB.pdf>

- 1.9 In April 2015, the Home Office updated its criteria for designating an asylum claim ‘non-straightforward’ and introduced better coordination of the monitoring and review of such cases, to try where possible to resolve them within the 12-month service standard for non-straightforward cases.

## Areas for improvement

- 1.10 The Home Office’s internal quality assurance results pointed to a problem with the screening process. For the first three quarters of 2014/15, excluding those conducted by the Asylum Intake Unit (AIU), over 40% of the screening records quality assured were assessed as ‘weak’ or ‘fail’, and by Quarter 4 the figure was over 50%. The Quality Analysis Team (QAT) found that the quality of AIU screening records was generally better, with between 72% and 83% assessed as ‘satisfactory’ in Quarters 1-3. However, AIU performance also dropped off in Q4.
- 1.11 The screening process informs the routing of asylum claims and their subsequent consideration, and the process must be effective and consistent across the Home Office. Based on the QAT’s findings, too many screening records in 2014/15 fell short of ‘satisfactory’, and performance was deteriorating by the last quarter. An overall and sustained improvement in the quality of the screening process was needed.
- 1.12 Performance against the Home Office’s internal ten-day target for screening interviews was inconsistent during 2014/15, with no obvious explanation. From September to December 2014, due to the need to reduce pressure on accommodation, the Home Office decided not to conduct screening interviews for a cohort of 150-200 claimants to avoid problems with timeliness, despite having consistently met the internal target in the four preceding months. However, between January to March 2015, when the 10day target was missed each month, no such contingency measure was used.
- 1.13 The Third Country Unit (TCU) was able to provide numbers for Formal Requests (FRs) made and accepted in 2014/15. However, it did not routinely record the reasons why FRs had not been accepted, or the numbers and reasons for failed removals, so it was not possible to judge its overall effectiveness and efficiency, and managers were unable to learn from experience and make any necessary adjustments and improvements.
- 1.14 Most of the releases from Detained Fast Track (DFT) in 2014/15 were of individuals who claimed that they were victims of torture. In most cases, release was triggered by the claimant securing a pre-assessment appointment to begin the process of obtaining a medico-legal report (MLR). A significant minority of those released on this basis had previously failed to secure release through the Rule 35 process. The overall success rate for Rule 35 submissions was around 15%, suggesting some inefficiency in that process, although this was difficult to evidence because of the practice of destroying detention records once a claimant had been released.
- 1.15 The only two organisations (the Helen Bamber Foundation and Freedom from Torture) recognised by the Home Office as able to provide independent verification of torture resulting in release from detention were overwhelmed by the volume of applications for a medico-legal report (MLR). Consequently, claimants were waiting significantly longer for an MLR than the five months that these organisations aimed for and to which the Home Office’s Asylum Policy Instruction was geared. The published timescale was therefore not grounded in reality; asylum claimants were facing a lengthy period of uncertainty regarding the outcome of their claim; and the longer the wait, the greater the likelihood the claimant would acquire alternative rights to remain, for example on the basis of having established a family life in the UK.
- 1.16 Based on file sampling, the quality of substantive interviews of asylum claimants by decision-makers (DM) could be improved. It was important that in all cases the DM provided the claimant with the opportunity to identify all material facts in respect of their claim, and to address any inconsistencies, and that the claimant was not asked questions to which they could not reasonably be expected to know the answer. The Home Office had recognised the need to improve the assessment of credibility and had revised its training in early 2015/16. There was also a need to ensure that the record of the decision detailed what the DM had considered, including the rationale for their judgements and decision.

- 1.17 As at 31 March 2015, 1,761 non-straightforward claims lodged before 1 April 2014 remained outstanding, while 3,079 non-straightforward claims had been outstanding for more than six months. While the Home Office had introduced new guidance for designating cases as ‘non-straightforward’ and a new 12-month service standard for claims made from 1 April 2015, it also needed to ensure that older cases were being progressed towards a decision.
- 1.18 Performance in relation to the consideration of UASC further leave applications was mixed. While applications for further leave to remain were decided in line with Home Office guidance, four out of the 14 applications for settlement examined had failed to follow the guidance in that there was no record that the decision-maker had considered whether the applicant continued to qualify for Discretionary Leave. This had resulted in these four applicants being granted settlement when some or all may not have qualified for it. Given the rights and benefits associated with settlement, the Home Office needed to ensure that the process was robust and thorough in all cases.
- 1.19 The management of further leave cases also needed to improve. The 2012 report ‘*An Inspection of the UK Border Agency’s Handling of Legacy Asylum and Migration Cases*’ found lengthy delays in making decisions on applications lodged by children. The Home Office accepted the recommendation that it “ensures that decisions affecting young people are dealt with in a timely way that minimises any uncertainty that they may experience with their applications.”<sup>2</sup> However, based on the file sample, some cases still faced lengthy delays, in some instances exacerbated by moving the case to another regional hub to progress. The absence of formal service standards for decisions did not help.
- 1.20 On 1 April 2015, the Status Review Unit (SRU), part of UK Visas and Immigration Complex Casework Directorate, took responsibility for managing UASC further leave applications. This should ensure a more consistent approach. As well as looking at how to reduce delays in reaching decisions, the SRU will need to pay attention to contact management, since in all but one of the 64 sampled cases there was no evidence of a contact management strategy, and the one case contained only an initial pro-forma. Overall, there appeared to be a lack of ownership of this, despite Home Office guidance identifying establishing a contact management strategy as best practice.
- 1.21 Roughly one in five of the paper files sampled revealed some form of administrative error. Some had potentially serious consequences, like the failure to store a claimant’s original documents securely. This suggested a need to improve oversight of file administration and to look at relevant roles, responsibilities and resources.

## Overall findings

- 1.22 The Home Office had made significant improvements in the efficiency and effectiveness of its management of asylum casework during 2014/15. Some areas still required attention, particularly the quality of the screening process, the handling of torture claims and of older non-straightforward claims, and the further leave application process for Unaccompanied Asylum-seeking Children. However, managers recognised the need for further improvements, and the Cardiff non-detained regional hub had been designated a “model office”. This will test a number of pilot measures and technological innovations. Much of this will be aimed at increasing productivity, but a significant strand of work will focus on the quality of decision-making.
- 1.23 Evidence provided by the Home Office indicated that asylum intake was increasing. Between 1 June and 30 August 2015, the Home Office received almost 50% more claims (9,529) than in the corresponding period in 2014 (6,695). This posed a risk to efficiency and effectiveness in this area, and the Home Office needed to take care not to allow cases, and particularly non-straightforward cases, to build up to a level that meant performance against service standards began to deteriorate.

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<sup>2</sup> An Inspection of the UK Border Agency’s Handling of Legacy Asylum and Migration Cases; Independent Chief Inspector of Borders and Immigration; 2012. Available at: <http://icinspector.independent.gov.uk/wp-content/uploads/2012/11/UK-Border-Agency's-handling-of-legacy-asylum-and-migration-cases-22.11.2012.pdf>

## 2. Summary of Recommendations

### The Home Office should:

1. Identify from the Quality Analysis Team's work why the screening process was falling short of 'satisfactory' and use the learning to ensure that guidance, training and supervision of interviewers is fit for purpose.
2. Replace the internal target for screening interview timeliness with a published service standard, and monitor performance against those service standards to reduce risk to overall efficiency and effectiveness.
3. Improve the routine capture and analysis of data and management information in respect of asylum cases managed by the Third Country Unit (TCU) in order to understand why Formal Requests (FR) to other States to accept responsibility are unsuccessful and why removals by the TCU fail, and take the necessary steps to reduce both.
4. Review the arrangements for handling claims of torture, in particular:
  - identify the reasons why Rule 35 submissions fail, and why failed Rule 35 submissions subsequently succeed under the medico-legal route, and feed back to those involved in producing and reviewing Rule 35 submissions; and
  - explore how to accelerate the medico-legal route for asylum claimants, in the meantime adjusting the Asylum Policy Instruction reference to a five-month process to match the reality.
5. Extend the 'second pair of eyes' process for asylum claims based on membership of a particular social group (PSG) in order to improve the quality of decision-making in all complex and sensitive cases.
6. While remaining on top of 'straightforward' asylum claims so that they meet the six-month service standard from lodging the claim to providing the claimant with a decision, explore ways to reduce the number of 'non-straightforward' cases that are more than 12 months old.
7. Ensure that decision-makers follow Home Office guidance when considering applications for settlement from individuals who have been granted Discretionary Leave as an Unaccompanied Asylum-seeking Child (UASC), and that they record this in sufficient detail.
8. Publish service standards for extension of leave and settlement applications in UASC cases, and ensure that the further leave process is managed to provide timely decisions and to maintain appropriate contact with applicants (or their guardian or social worker) pending the decision.
9. Review roles, responsibilities (including oversight) and resources in relation to the administration of paper files for asylum claimants in order to reduce the number of misfiled documents and to ensure that claimants' original documents are stored securely.

# 3. The Inspection

## Background

- 3.1 The term ‘asylum’ is normally used to refer to the protection provided by a country to someone who is fleeing persecution in their country of nationality or habitual residence.
- 3.2 The 1951 United Nations Convention Relating to the Status of Refugees, to which the UK is a signatory, requires an individual seeking asylum to demonstrate that they have:  
  
*“a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of his country of nationality and is unable, or owing to that fear, is unwilling to avail themselves of the protection of that country”<sup>3</sup>.*
- 3.3 The UK opted into the Asylum Qualification Directive 2004, which seeks to establish minimum standards and common criteria on asylum for all European Union Member States.<sup>4</sup>
- 3.4 A claim for asylum in the UK is made under Paragraphs 328-333B of the Immigration Rules and may be made on or after arrival in the UK. Asylum claims are managed by UK Visas and Immigration (UKVI), a directorate of the Home Office. In October 2013, UKVI made a commitment to the House of Commons Home Affairs Committee that, from 1 April 2014, all straightforward asylum claims would be decided within six months of receiving the claim and, where possible, all ‘non-straightforward’ claims within 12 months.<sup>5</sup>
- 3.5 The vast majority of claimants make their claim after arrival in the UK at either the Asylum Intake Unit (AIU),<sup>6</sup> or with one of the 19 Immigration Compliance and Enforcement (ICE) Teams located around the UK, typically when encountered during an enforcement operation. Some claimants make their claim at their port of entry, and a small number submit their claim using ‘other’ routes.<sup>7</sup> Figure 1 provides a summary of where claims were made during the financial year 2014/15.

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3 The 1951 Convention Relating to the Status of Refugees; United Nations; 1951. Available at:

<http://www.unhcr.org/pages/49da0e466.html>

4 Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. Available at:

<http://www.asylumlawdatabase.eu/en/content/en-qualification-directive-directive-200483ec-29-april-2004>

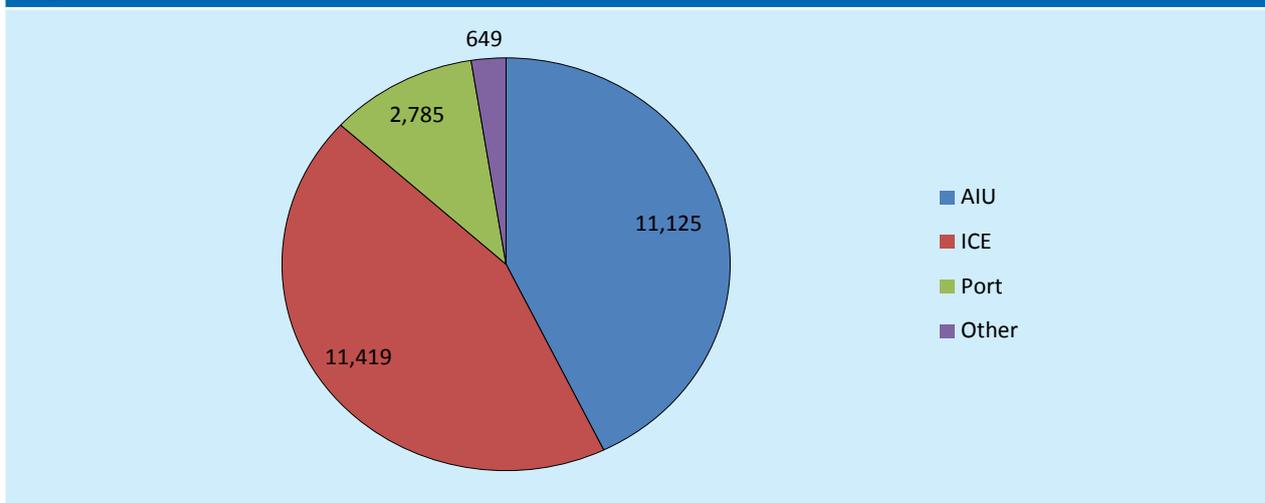
5 ‘The work of the Immigration Directorates (October – December 2013): Government response to the Committee’s Third Report of Session 2014-15’. Available at:

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhaff/747/747.pdf>

6 The Asylum Intake Unit, based in Croydon, was a Home Office centre where in-country asylum claims could be lodged.

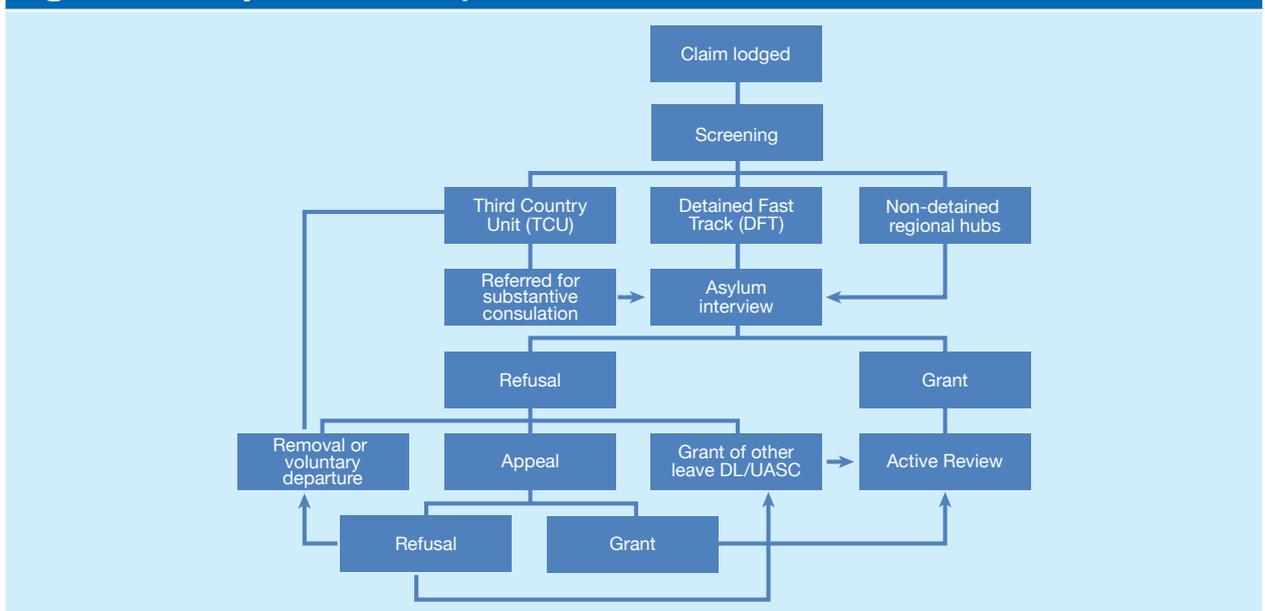
7 Other routes include cases where applicant is in prison or pre-agreed postal applications where the applicant has severe medical conditions.

**Figure 1: Total number of claims 2014/15**



- 3.6 At the time of our inspection, the National Asylum Allocation Unit (NAAU) assessed all claims on receipt. The NAAU first determined whether a claim could be redirected to another European Union (EU) Member State under the Dublin Regulations.<sup>8</sup> These cases were routed to the Third Country Unit (TCU). The NAAU next determined whether the claimant should be held in detention under the Home Office’s Detained Fast Track (DFT) criteria.<sup>9</sup> All remaining claims were routed to an asylum caseworking unit for consideration.
- 3.7 Most asylum claims, including all claims from Unaccompanied Asylum-seeking Children (UASC), were considered by one of seven regional asylum case-working units: South East; London; Midlands; North East, Yorkshire and Humber; North West; Scotland and Northern Ireland. There was also a Non-suspensive Appeals Hub, based in London.
- 3.8 The asylum casework process is illustrated at Figure 2.

**Figure 2: The asylum casework process**



<sup>8</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person; European Parliament, Council of the European Union; 2013. Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/;jsessionid+jHNITp3HLjqw8mqGbQSpZH1VWpjCyVQq14Hgctw4pbfSQZffnm!557467765?uri+CELEX:32013R0604>

<sup>9</sup> See Chapter 6 for a fuller discussion on DFT.

## Methodology

3.9 This inspection examined the efficiency and effectiveness of the Home Office's asylum casework operations using eight of the Independent Chief Inspector's inspection criteria.<sup>10</sup>

3.10 Our inspection process involved:

- a familiarisation visit to Asylum Operations (AO) in Croydon and the Complex Casework Directorate (CCWD) in Liverpool;
- examination of performance data and documentary evidence including business plans, staffing information and process guidance;
- sampling 300 cases in which a decision was made between 1 April 2014 and 31 March 2015, broken down as follows:<sup>11</sup>
  - » 72 cases where the asylum claim had been granted;
  - » 70 cases where the asylum claim had been refused;
  - » 31 cases where no decision had been made on the asylum claim;
  - » 30 cases where the claimant had been routed for consideration under the DFT procedures, but had been released prior to an initial decision being made;
  - » 33 cases managed by the TCU; and
  - » 64 further leave cases, where the claimant was an unaccompanied asylum-seeking child.
- a detailed examination of 26 grants of asylum and 26 refusals focusing on the quality of decision-making; and
- a focus group with representatives from organisations that support asylum claimants.

3.11 The on-site phase of the inspection took place between 22 June and 3 July 2015, during which we:

- met a range of stakeholders, including asylum applicants;
- observed the training for 'credibility' testing;
- interviewed staff and held focus groups at the non-detained regional hubs in Cardiff, Croydon, Leeds, Liverpool and London;
- interviewed Asylum and Family Policy Unit staff in Liverpool and London; and
- held group interviews with staff from the National Asylum Allocation Unit and the TCU in Croydon.

3.12 The numbers and grades of Home Office staff interviewed were:

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<sup>10</sup> The inspection criteria used in this inspection are detailed at Appendix 2 of this report. Details of the full set of inspection criteria can be found on the Independent Chief Inspector's website at:

<http://icinspector.independent.gov.uk/inspections/inspection-programmes/>.

<sup>11</sup> The breakdown was based on volumes and case complexity, and was developed in consultation with Home Office Science.

<b>Figure 3: Staff interviewed (by grade)</b>	
Senior Civil Servant	2
Grade 6	1
Grade 7	11
Senior Executive Officer	22
Higher Executive Officer	43
Executive Officer	70
Administrative Officer	28
Administrative Assistant	3
<b>Total</b>	<b>180</b>

## 4. Inspection Findings – Screening and Routing

### The screening interview and case routing process

- 4.1 Asylum claims can be lodged on arrival at a port of entry, in-country with a local Immigration, Compliance and Enforcement (ICE) Team, or at the Asylum Intake Unit (AIU). In the case of the AIU, the claimant can use a dedicated telephone line to make an appointment or, if they “*have nowhere to live*”,<sup>12</sup> can attend in person without an appointment, which is commonly referred to as a ‘walk in’.
- 4.2 Once the claim was made, the Home Office would conduct a short screening interview to establish the claimant’s personal details, capture biometric information and record in brief the individual’s reason(s) for claiming asylum. The NAAU used the screening interview to determine whether to route the case to the Third Country Unit (TCU), Detained Fast Track (DFT) or one of the non-detained regional hubs.
- 4.3 Home Office data indicated that 17,535 screening interviews were conducted in the financial year 2014/15. Asylum intake for 2014/15 was 25,798. Unaccompanied asylum-seeking children, and other vulnerable claimants not requiring a screening interview accounted for the bulk of the difference. The Home Office also made an operational decision in late September 2014 not to invite a cohort of 150-200 claimants, who had previously attended the AIU, to return for the screening process to be completed. Senior managers told us that this was due to the need to reduce the number of claimants being accommodated in hotels. Rather than cause delays, screening interviews were foregone and claims were routed directly to the non-detained regional hubs to be managed.

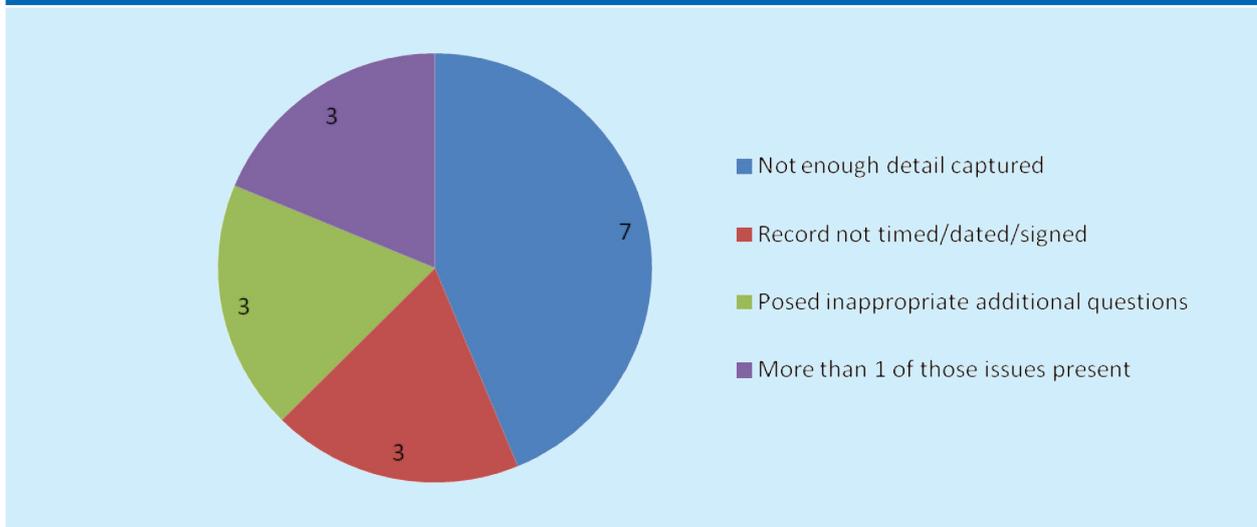
### Quality of screening interviews

- 4.4 We sampled 199 screening interview records. We examined whether the correct screening pro-forma had been used, and whether Home Office guidance had been followed and the required information had been captured, in particular whether the screening officer had:
  - obtained sufficient responses to questions;
  - timed, dated and signed the record; and
  - posed additional question where appropriate.
- 4.5 We found that in 179 cases the information captured was in line with guidance and the requirements of the screening pro-forma.
- 4.6 In the remaining 20 cases: two had no record of the screening interview on file; two had used the wrong pro-forma; and 16 had not captured information in line with guidance and the screening pro-forma.

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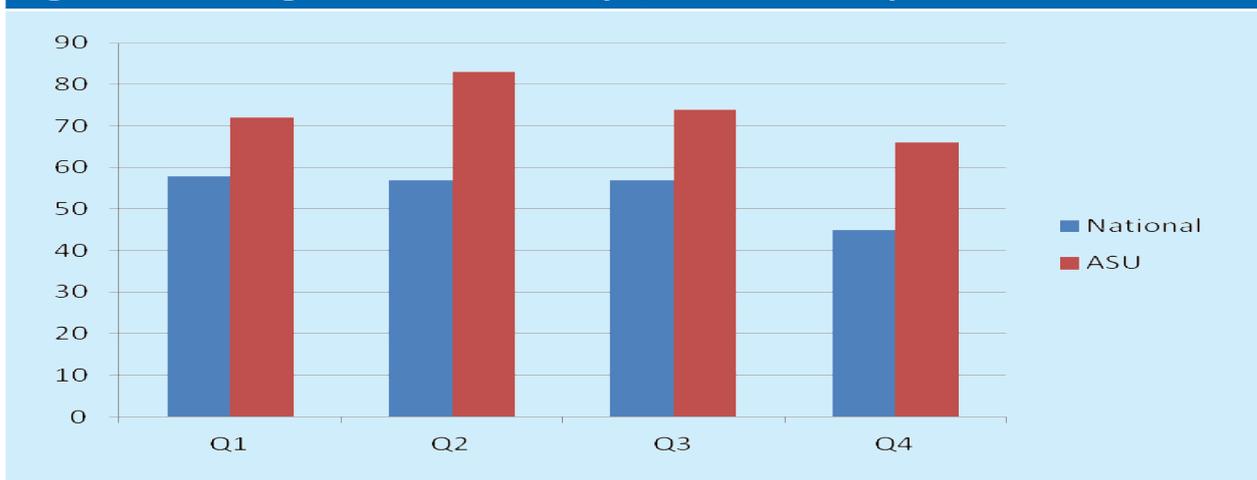
<sup>12</sup> ‘Claim asylum in the UK.’ Home Office. 2015. Available at: <https://www.gov.uk/claim-asylum/screening>

**Figure 4: Required information not appropriately captured**



- 4.7 Of the 20 records where we identified scope for improvement, ten of the screening interviews had been conducted at the AIU, five by an Immigration, Compliance and Enforcement (ICE) team, three at an Immigration Removal Centre, and two at port.
- 4.8 We were provided with the results of the Home Office's internal quality assurance checks for the period 1 April 2014 to 31 March 2015, conducted by the Home Office Quality Analysis Team (QAT) on a quarterly basis. The QAT grades records against set criteria and marks them: 'satisfactory'; 'weak'; or 'fail'.
- 4.9 In contrast to our file sample findings, the QAT's checks indicated that AIU screening records were generally of higher quality than those of other units, as outlined in Figure 5.

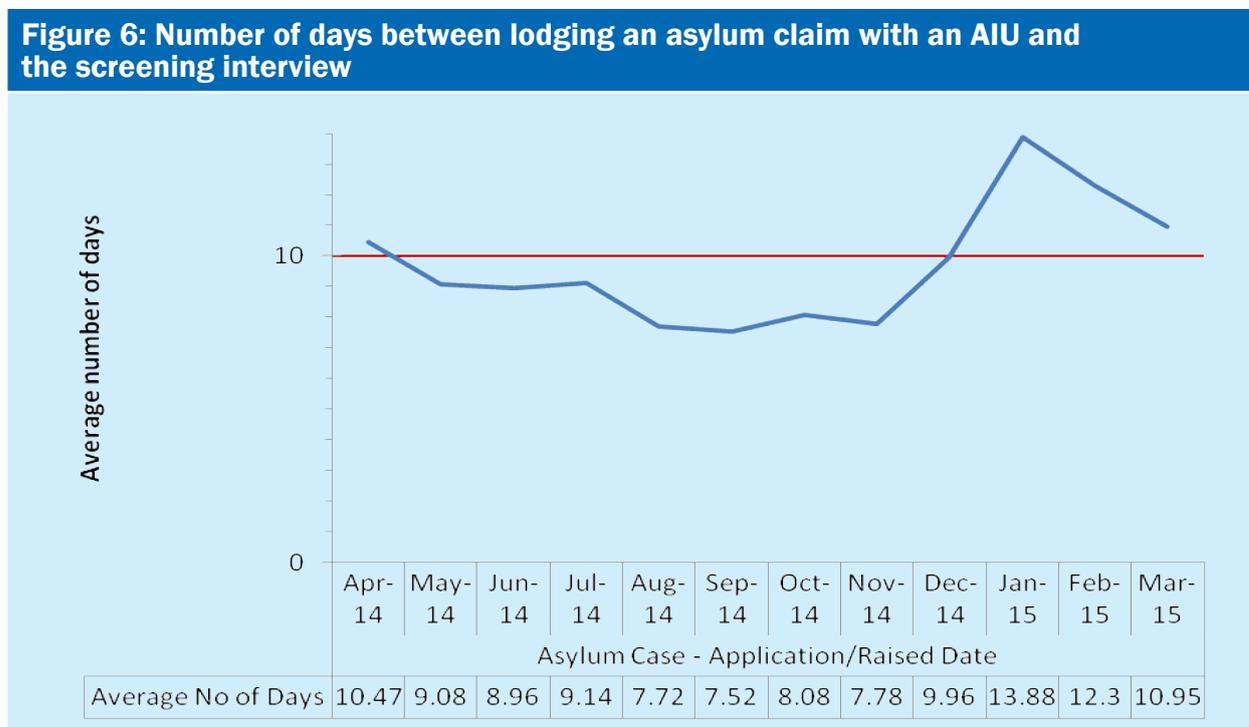
**Figure 5: Percentage of cases assessed by QAT as 'satisfactory'**



### Timeliness of screening interviews

- 4.10 The Home Office had an internal target of ensuring that all screening interviews were conducted within ten days of the claimant lodging their asylum claim. Claims lodged at a port of entry, as a 'walk in', or at a local enforcement office were screened on the same day or within five days.

4.11 Data in relation to claims lodged at the AIU, where an appointment was made using the telephone booking service, showed that performance against the 10-day target varied from month to month during 2014/15, as shown at Figure 6.



4.12 The time taken to interview did not appear to correlate to the number of asylum claims lodged in any given month. Asylum intake levels were at their highest during the period June to October 2014, when the 10-day target was met each month, although the decision not to conduct screening interviews for 150-200 claimants between September and December 2014 will have had some impact on the monthly averages. Nor did it reflect staffing levels, which managers told us had remained largely static throughout 2014/15.

### Routing of cases after screening interview

4.13 The Home Office did not collect data on the time taken between the screening interview and the routing of the claim to a caseworking unit. However, NAAU staff and management told us that they worked on the basis that claims would be routed on the day of the screening interview. This was possible because they operated a shift working system, and cases could be routed after the AIU had closed to the public. We were also told that data was collected to show the volume of claims routed within two or five days of the date of claim. However, we were not provided with that data.

### Conclusions

4.14 File sampling indicated that most screening interviews followed Home Office guidance and the requirements of the pro-forma. In a small number of cases the interview had failed to capture the required details, and in a smaller number the wrong pro-forma had been used or not properly completed or filed. However, the Home Office's own internal quality assurance results pointed to a greater problem with the screening process. For the first three quarters of 2014/15, excluding those conducted by the AIU, over 40% of the screening records quality assured were assessed as 'weak' or 'fail', and by Quarter 4 the figure was over 50%. The Quality Analysis Team (QAT) found that the quality of AIU screening records was generally better, with between 72% and 83% assessed as 'satisfactory' in Quarters 1-3. However, AIU performance also dropped off in Q4. The screening process informs the routing of asylum claims and their subsequent consideration, and the process must be effective and consistent across the Home Office. Based on the QAT's findings, too many

records in 2014/15 fell short of 'satisfactory', and performance was deteriorating by the last quarter. An overall and sustained improvement in the quality of the screening process was needed.

- 4.15 Performance against the Home Office's internal 10-day target was inconsistent during 2014/15, with no obvious explanation. From September to December 2014, due to the need to reduce pressure on accommodation, the Home Office decided not to conduct screening interviews for a cohort of 150-200 claimants to avoid problems with timeliness, despite having consistently met the internal target in the four preceding months. However, between January and March 2015 when the 10-day target was missed each month, no such contingency measure was in use.

## Recommendations

### The Home Office should:

Identify from the Quality Analysis Team's work why the screening process was falling short of 'satisfactory' and use the learning to ensure that guidance, training and supervision of interviewers is fit for purpose.

Replace the internal target for screening interview timeliness with a published service standard and monitor performance against those service standards to reduce risk to overall efficiency and effectiveness.

# 5. Inspection Findings – The Third Country Unit

## Transfer of asylum claims to another State

- 5.1 The National Asylum Allocation Unit's (NAAU) first priority was to determine whether an asylum claim could be transferred to another State in accordance with international agreements. Under the Dublin Regulations, asylum claims made within the European Union (EU) should be considered by the Member State where the claimant first arrived in the EU. The Asylum Policy Instruction '*Safe Third Country cases*'<sup>13</sup> provided guidance on which asylum claims could be transferred to a non-EU Member State in accordance with bilateral agreements between the UK and those States, for example the USA and Switzerland.
- 5.2 During the screening interview, the claimant's fingerprints were taken and checked against the EURODAC database.<sup>14</sup> A EURODAC match was the most common way to identify claimants who should be managed by another EU Member State, but other forms of evidence, for example official documents issued by another State, could also be sufficient proof.
- 5.3 Once the NAAU had identified that a claimant could be transferred to another State, the case was routed to the Third Country Unit (TCU) to manage. The majority of cases routed to the TCU were ones that were judged by NAAU to fall under the Dublin Regulations. In 2014/15, 1,220 asylum cases were referred to TCU. At the time of our inspection, TCU had a full-time equivalent (FTE) resource of 52 staff.
- 5.4 The TCU reviewed the case to establish whether it has been routed correctly and which State could be responsible for considering the asylum claim. TCU sent a Formal Request (FR) to that State, requesting acceptance of responsibility. If the State accepted responsibility, or failed to reject responsibility within one month where there was evidence of an asylum claim having been lodged or two weeks where the claimant had been identified using the EURODAC system, the TCU had six months in which to remove the claimant to that State.<sup>15</sup>
- 5.5 In 2014/15, TCU made 2,014 FRs, of which 1,250 (62%) were accepted. The Home Office was unable to provide separate figures for asylum and non-asylum FRs, or a breakdown of the reasons why 764 FRs in 2014/15 were unsuccessful. However, it did provide a breakdown of the 308 unsuccessful FRs between 1 December 2014 and 31 March 2015, which is shown at Figure 7.

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<sup>13</sup> Safe Third Country Cases; Home Office; 2009; Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257399/safethirdcountrycases.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257399/safethirdcountrycases.pdf)

<sup>14</sup> EURODAC is a fingerprint database set up and operated by the EU Commission and located in Luxembourg. It went live on 15 January 2003. All EU Member States (plus Norway and Iceland) transmit fingerprint records of asylum claimants and some categories of illegal migrants to EURODAC electronically, where they are checked against the records already held.

<sup>15</sup> Article 20(1)b of the Dublin II Regulation.

**Figure 7: Reasons for transfer of responsibility for cases from TCU to other units.**

Reason	Date				
	Dec 2014	Jan 2015	Feb 2015	Mar 2015	Total
FR Deadline Exceeded	0	1	0	2	3
FR Rejected	8	12	16	6	42
Deadline for challenging FR rejection exceeded	0	0	0	1	1
Removal deadline exceeded	11	13	16	26	66
Claimant absconded – revised removal deadline exceeded	4	2	7	11	24
Dublin Regulations did not apply <sup>16</sup>	10	12	14	12	48
TCU decided not to pursue action	41	24	26	33	124
<b>Total</b>	<b>74</b>	<b>64</b>	<b>79</b>	<b>91</b>	<b>308</b>

- 5.6 TCU staff and managers told us that one of the most common reasons why FRs were rejected was that individuals had previously claimed asylum in another Member State and had been removed to their country of origin by that State before travelling to the UK. In such circumstances, the other Member State could not be held responsible under the Dublin Regulations for the new claim. TCU did not provide a breakdown of the reasons why some cases were not pursued.
- 5.7 At the time of our inspection, TCU managed its own removals casework. In 2014/15, TCU had removed 513 asylum-seekers, which was 12% of the 4,214 enforced asylum removals achieved by the Home Office in total. In addition, it had removed 177 individuals who had not claimed asylum in the UK.
- 5.8 TCU was unable to provide figures for failed removal attempts or management information showing the reasons why removals had failed. TCU senior managers told us that failed removals were often due to an inability to find escorts to facilitate the removal. Dublin III, the most recent iteration of the Dublin Regulations, sets a limit of six weeks on the detention of asylum claimants before removal to another Member State. TCU staff and managers also told us it was often not possible to resolve significant barriers to removal within six weeks, and claimants who were due to be removed absconded when not detained. No management information was provided to evidence these points.

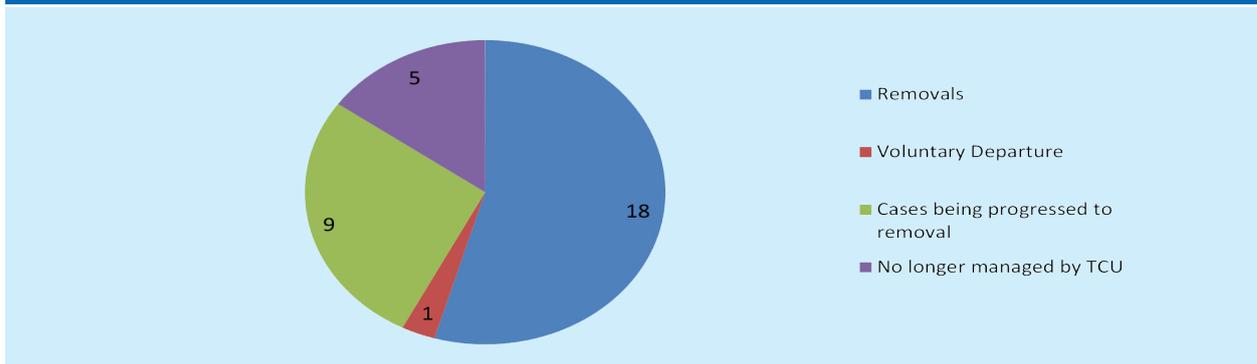
## File sampling

- 5.9 We sampled 33 cases referred to the TCU between 1 April 2014 and 31 March 2015. The Dublin Regulations stipulate that FRs must be made within three months of the claim being lodged. We found that TCU met this deadline in all 33 cases, and only two cases took the TCU more than three weeks (32 and 48 days) from receipt of the case to submission of an FR. In most cases sampled (22) an FR was made within seven days.<sup>17</sup>
- 5.10 Figure 8 shows the outcomes of the 33 cases we sampled as at 1 June 2015.

<sup>16</sup> The Dublin Regulations do not apply where the claimant has been granted some form of protection by another Member State prior to lodging a claim in the UK, and they are returned instead under the relevant terms.

<sup>17</sup> In six cases, an FR was made within 14 days and in the remaining three cases within 21 days of receipt of the case by the TCU.

**Figure 8: Outcomes of 33 sample cases managed by TCU**



- 5.11 In four of the five cases no longer managed by TCU the other State had not accepted responsibility for the claim. The fifth case was a failed removal, after which there was insufficient time to rearrange an escorted removal before the removal deadline.

## Conclusions

- 5.12 Based on a small file sample (33 cases), TCU appeared to process the asylum cases referred to it by NAAU for transfer to another State efficiently, and to make the necessary Formal Request (FR) within the three-month deadline from the date when the claim was lodged.
- 5.13 The TCU was able to provide overall numbers for FRs made and numbers accepted (in 2014/15) and for removals. However, by not routinely recording the reasons why FRs had not been accepted, and the numbers of and reasons for failed removals, it was not possible to judge the TCU's effectiveness and efficiency and managers were unable to learn from experience and make any necessary adjustments and improvements.

## Recommendation

### The Home Office should:

Improve the routine capture and analysis of data and management information in respect of asylum cases managed by the Third Country Unit (TCU) to understand why Formal Requests (FR) to other States to accept responsibility are unsuccessful and why removals by the TCU fail, and take the necessary steps to reduce both.

# 6. Inspection Findings – Detained Fast Track

## The Detained Fast Track (DFT) process

- 6.1 Having decided that an asylum claim could not be transferred via the Third Country Unit (TCU) to another State, the National Asylum Allocation Unit (NAAU) would next consider if the case could be considered under the Detained Fast Track (DFT) process.<sup>18</sup> The DFT process was introduced in 2000 and was described by the Government as a measure to “*strengthen our ability to deal quickly with asylum applications, many of which prove to be unfounded.*”<sup>19</sup> A key characteristic of the original system was that decisions would be made within seven days, at which point claimants would be released having either been granted protection or lodged an appeal against the refusal of their claim. In 2003, the DFT process was amended to allow those whose asylum claims failed to be detained while they appealed or waited to be removed.
- 6.2 DFT guidance, first published in June 2013, and in operation at the time of our inspection, stated that a claimant ‘*may enter into or remain in [the DFT process] only if there is a power in immigration law to detain,<sup>20</sup> and only if on consideration of the known facts ... it appears that a quick decision is possible*’. The guidance went on to state that a quick decision may be possible:
- *Where it appears likely that no further enquiries (by the Home Office or the applicant) are necessary in order to obtain clarification, complex legal advice or corroborative evidence, which is material to the consideration of the claim, or where it appears likely that any such enquiries can be concluded to allow a decision to take place within normal indicative timescales;*
  - *Where it appears likely that it will be possible to fully and properly consider the claim within normal indicative timescales;*
  - *Where it appears likely that no translations are required in respect of documents presented by an applicant, which are material to the consideration of the claim; or where it appears likely that the necessary translations can be obtained to allow a decision to take place within normal indicative timescales;<sup>21</sup>*
  - *Where the case is one likely to be certified as “clearly unfounded” under S.94 of the Nationality, Immigration and Asylum Act 2002.*
- 6.3 The guidance required NAAU to exclude anyone meeting the DFT Suitability Exclusion criteria:
- *Women who are 24 or more weeks pregnant;*
  - *Family cases;*
  - *Children (whether applicants or dependants), whose claimed date of birth is accepted by the Home Office;*
  - *Those with a disability which cannot be adequately managed within a detained environment;*

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18 Detained Fast Track Processes; Home Office; 2014. Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370322/Detained\\_Fast\\_Track\\_Processes\\_v6\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370322/Detained_Fast_Track_Processes_v6_0.pdf).

19 Hansard HC 16 March 2000 Volume 364, Column 385 WS.

20 Powers to detain were provided for in Paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (as applied by section 10(7) of the Immigration and Asylum Act 1999).

21 DFT guidance stated that for DFT the timescales were not rigid and must be varied when fairness or case developments required it, but the time from entry into the process to service of a decision would normally be quicker than the 10-14 days indicative timescale for detained non-suspensive appeal (DNSA) cases.

- *Those with a physical or mental medical condition which cannot be adequately treated within a detained environment, or which for practical reasons, including infectiousness or contagiousness, cannot be properly managed within a detained environment;*
- *Those who clearly lack the mental capacity or coherence to sufficiently understand the asylum process and/or cogently present their claim. This consideration will usually be based on medical information, but where medical information is unavailable, officers must apply their judgement as to an individual's apparent capacity; and*
- *Those for whom there has been a reasonable grounds decision taken (and maintained) by a competent authority stating that the applicant is a potential victim of trafficking or where there has been a conclusive decision taken by a competent authority stating that the applicant is a victim of trafficking;*
- *Those in respect of whom there is independent evidence of torture.<sup>22</sup>*

6.4 Home Office data indicated that 3,795 asylum claimants were detained in 2014/15 for consideration of their claims under the DFT procedures.

## **File Sampling**

6.5 We sampled 30 asylum cases which had been routed for consideration under the DFT procedures but where the claimant had been released from detention prior to an initial decision on their claim. We looked at why the claimant had been released and whether the initial referral to DFT was in line with legislation and with Home Office policy and guidance, in particular whether the detention was lawful and whether the exclusion criteria had been correctly considered.

## **Initial routing to DFT**

6.6 The routing of 28 of the 30 cases in our sample had followed relevant legislation, policy and guidance. In one of the two exceptions, we found that there was no legal basis for detention, and no record that staff in the NAAU and DFT had considered this. The claimant was released once their legal representative put the point to the Home Office.

6.7 In the other case, we found that the claimant had a medical condition which could not be adequately treated in a detained environment. Although the claimant had provided details of their medical condition at the screening interview, this had not been properly recorded on either the paper file or electronic record. The claimant was released from detention when they had to be referred to a hospital for medical treatment.

## **Release from DFT**

6.8 In 2014/15, in total 906 claimants were released from the DFT prior to receiving an initial decision on their claim. Home Office data indicated that the most common reason for release was independent verification of torture. Of the 906, 452 had obtained a referral to the Helen Bamber Foundation<sup>23</sup> or to Freedom from Torture.<sup>24</sup> A similar pattern was reflected in our file sample, where a breakdown of the reasons for release is at Figure 9.

<sup>22</sup> Detained Fast Track Processes; Home Office; 2014. Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370322/Detained\\_Fast\\_Track\\_Processes\\_v6\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370322/Detained_Fast_Track_Processes_v6_0.pdf).

<sup>23</sup> "The Helen Bamber Foundation (HBF) is a human rights charity based in the London which was founded by Helen Bamber in 2005. Our specialist team of therapists, doctors and legal experts hold an international reputation for providing therapeutic care, medical consultation, legal protection and practical support to survivors of human rights atrocities." Helen Bamber Foundation. Available at: <http://www.helenbamber.org/>

<sup>24</sup> "Freedom from Torture, formerly the Medical Foundation for the Care of Victims of Torture, has been working for over 30 years to provide direct clinical services to survivors of torture who arrive in the UK, as well as striving to protect and promote their rights." Freedom from Torture. Available at: <http://www.freedomfromtorture.org/what-we-do>

<b>Figure 9: Reasons for release from DFT in 30 sampled files</b>	
Referral accepted by Helen Bamber Foundation	15
Rule 35 (Torture) report accepted by Home Office	4
Case could not be decided within DFT timescales	3
Bail granted by Tribunal	2
Pre-action protocol submitted. <sup>25</sup>	2
Quarantine protocol in place	1
Claimant admitted to hospital	1
No legal power to detain claimant	1
Lack of female detention facilities	1
<b>Total</b>	<b>30</b>

- 6.9 There were two routes to obtaining independent verification of torture: the Rule 35 process and a Medico-legal Report.

### **Rule 35 of the Detention Services Rules 2001**

- 6.10 The Rule 35 process provided a mechanism by which the Detention Centre medical practitioner could submit a medical report to the Home Office where they considered that continued detention was likely to be injurious to a claimant’s health.<sup>26</sup> Rule 35 applied to suicide risks, health concerns or torture claims. The inspection focused only on torture claims.
- 6.11 Section 3 of ‘Detention Rule 35 Process’<sup>27</sup> provided guidance for caseworkers on what to consider when judging whether a Rule 35 report constituted independent verification of torture. This guidance stated that:

*“Because each case will be different, it is not possible to provide definitive guidance on when a Rule 35 report will constitute independent evidence of torture. However, it must have some corroborative potential (it must “tend to show”) that a detainee has been tortured, but it need not definitively prove the alleged torture. The following pointers may assist:*

- *A report which simply repeats an allegation of torture will not be independent evidence of torture;*
- *A report which raises a concern of torture with little reasoning or support or which mentions nothing more than common injuries or scarring for which there are other obvious causes is unlikely to constitute independent evidence of torture;*
- *A report which details clear physical or mental evidence of injuries which would normally only arise as a result of torture (e.g., numerous scars with the appearance of cigarette burns to legs; marks with the appearance of whipping scars), and which records a credible account of torture, is likely to constitute independent evidence of torture.”*

<sup>25</sup> A pre-action protocol “sets out a code of good practice and contains the steps which parties should generally follow before making a claim for judicial review.” Guidance on pre-action protocols is available at:

[https://www.justice.gov.uk/court/procedure-rules/civil/protocol/prot\\_irv](https://www.justice.gov.uk/court/procedure-rules/civil/protocol/prot_irv)

<sup>26</sup> In accordance with the Rule 35 of the Detention Services Rules 2001. Available at:

<http://www.legislation.gov.uk/ukSI/2001/238/contents/made>

Home Office; 2013; Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257437/rule35reports.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257437/rule35reports.pdf)

<sup>27</sup> Detention Rule 35 Process; Home Office; 2013; Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257437/rule35reports.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257437/rule35reports.pdf)

- 6.12 In 2014/15, medical practitioners submitted 1,400 Rule 35 reports relating to torture claims. Of these, 216 (15.43%) were accepted by the Home Office and resulted in the claimant being released from detention. Our file sample included five cases in which a Rule 35 (Torture) report had been submitted. One of these had not been accepted by the Home Office as necessitating release from detention. However, the claimant had later been released and their detention file destroyed, which is standard practice. This meant that we were unable to examine the rationale for the decision to reject the submission and test whether continued detention at that point was in line with Home Office guidance.

## Medico-legal Reports

- 6.13 Potentially, a number of organisations were capable of producing Medico-legal Reports (MLRs). However, the Home Office recognised only two, the Helen Bamber Foundation and Freedom from Torture, as able to provide independent verification of torture, such that immediate release from detention was appropriate. These were the only organisations in receipt of public funding for this purpose, via the Legal Aid Agency. Individuals claiming to be victims of torture were required to seek an appointment for an initial screening with one or other organisation. If either of the organisations was satisfied that the claimant may have been a victim of torture, they would later have a thorough medical examination by medical practitioners who work with the organisations, and an MLR would be produced.
- 6.14 In our file sample, 15 claimants had been released from detention as they had been provided with an appointment for the initial screening. It was not possible to establish how many of the 15, if any, had sought a Rule 35 report before seeking an MLR, as their detention files had been destroyed soon after their release.
- 6.15 Home Office data indicated that 452 applicants were released from DFT in 2014/15 having obtained an appointment with the Helen Bamber Foundation or with Freedom from Torture. Of the 452, roughly a quarter (107) had previously sought to verify their torture claim using the Rule 35 process.
- 6.16 Our file sample indicated that claimants faced lengthy delays, typically around two years, before an MLR could be provided. Both organisations told us that demand for their services had increased, primarily due to greater use by the Home Office of DFT. Rising demand for its services, and financial and logistical constraints, had resulted in the Helen Bamber Foundation accepting referrals only from claimants detained under DFT. Freedom from Torture continued to accept referrals from detained and non-detained asylum claimants.
- 6.17 The Home Office's Asylum Policy Instruction '*Medico-Legal Reports from the Helen Bamber Foundation and the Medical Foundation Medico-Legal Report Service*'<sup>28</sup> stated that "*The Foundations aim to produce a full MLR within 5 months of the date that the legal representative or the applicant has been notified in writing that the case has been placed on hold by the Home Office.*" While the Instruction allowed the flexibility to extend the suspension of consideration beyond this five-month period, it continued "*the Home Office is unable to delay a decision indefinitely whilst awaiting receipt of an MLR and is entitled to set a reasonable time limit for the receipt of additional evidence after which the case will be decided.*"
- 6.18 We found no evidence that any 'reasonable time limits' were set by the Home Office in the 15 cases we sampled in which an MLR had been sought. During interviews with staff and managers we were told that it was common practice to await an MLR and that such cases were categorised as 'non-straightforward' in line with guidance defining non-straightforward cases.<sup>29</sup>

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<sup>28</sup> Medico-legal Reports from the Helen Bamber Foundation and the Medical Foundation Medico-legal Report Service; Home Office; 2015. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444410/MLR\\_Foundation\\_Cases\\_External\\_v4\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444410/MLR_Foundation_Cases_External_v4_0.pdf)

<sup>29</sup> See Chapter 7 for a fuller discussion of non-straightforward cases.

- 6.19 Figure 10 provides a typical example of the management of claimants once an initial screening appointment has been made with the Helen Bamber Foundation or with Freedom from Torture.

**Figure 10: Case study: An example of the delay faced by claimants in obtaining an MLR.**

- Following their arrest by the police on 2 December 2014, the claimant made their asylum claim at the police station. During the screening interview, the claimant made no reference to having been tortured. The case was routed for consideration under the DFT procedures.
- On 29 December 2014, the claimant's substantive asylum interview took place, at which they claimed to be a victim of torture.
- On 30 December 2014, the Home Office was advised that the claimant's case had been accepted by the Helen Bamber Foundation for a Medico-legal Report pre-assessment and had been given a pre-assessment appointment date in August 2017. The claimant was released from detention that day and the case was suspended and categorised as 'non-straightforward' in line with guidance.

**Independent Chief Inspector's comment**

A wait of over two and a half years for a Medico-Legal report is significantly longer than the five months aimed at by the Foundations and referenced in the Home Office's Asylum Policy Instruction.

## Conclusions

- 6.20 Based on file sampling of asylum claims routed into the Detained Fast Track (DFT) process, the National Asylum Allocation Unit (NAAU) was applying the DFT guidance correctly in almost all cases, and when mistakes were identified the claimants who had been wrongly detained under DFT were released without delay.
- 6.21 Most of those released from DFT in 2014/15 had claimed that they were victims of torture. In most cases, release was triggered by the claimant being given a pre-assessment appointment to begin the process of obtaining a Medico-legal Report (MLR). A significant minority of those released on this basis had failed to secure release through the Rule 35 process. The overall success rate for Rule 35 submissions was around 15%, suggesting some inefficiency in that process, although this was difficult to evidence because of the practice of destroying detention records once a claimant had been released.
- 6.22 The only two organisations (the Helen Bamber Foundation and Freedom from Torture) recognised by the Home Office as able to provide independent verification of torture resulting in immediate release from DFT are overwhelmed by the volume of applications for an MLR. Consequently, claimants are waiting significantly longer for an MLR than the five months that these organisations aim for and to which the Home Office's Asylum Policy Instruction is geared. The published timescale is therefore not grounded in reality; asylum claimants are facing a lengthy period of uncertainty regarding the outcome of their claim; and the longer the wait, the greater the likelihood the claimant will acquire alternative rights to remain, for example on the basis of having established a family life in the UK.

## Recommendations

### The Home Office should:

Review the arrangements for handling claims of torture, in particular:

- identify the reasons why Rule 35 submissions fail, and why failed Rule 35 submissions subsequently succeed under the medico-legal route, and feed back to those involved in producing and reviewing Rule 35 submissions; and
- explore how to accelerate the medico-legal route for asylum claimants, in the meantime adjusting the Asylum Policy Instruction reference to a five-month process to match the reality.

# 7. Inspection Findings – Non-detained Regional Hubs

## Routing of asylum claims to regional hubs

- 7.1 Of the 25,798 asylum claims lodged during the financial year 2014/15, 18,447 claims were managed by the seven non-detained regional hubs. The non-detained regional hubs managed two distinct case types: adults and families; and unaccompanied asylum-seeking children (UASC).
- 7.2 The National Asylum Allocation Unit (NAAU) looked to route asylum claims to the hub nearest to where the claimant was already living or to where they had been provided with accommodation by one of three Home Office contractors. The latter was rarely in London or the South East, due to the Home Office's long-established dispersal policy, except where claimants had particular needs or vulnerabilities, for example a medical condition requiring treatment at a specific hospital. Most claimants routed to the London and South East hubs had made their own accommodation arrangements.

## The substantive interview

- 7.3 Once a claimant's case had been routed to a regional hub, the hub's workflow management team made arrangements for the claimant to be invited for a substantive interview, at which the claimant would have the opportunity to provide the details of their asylum claim. Following this interview, the Home Office considered the claim, sought further information if required, and made a decision. This was referred to by the Home Office as the 'interview-decide' model.
- 7.4 Interviews were conducted and decisions made by decision-makers (DMs). Where practicable, the same DM conducted the interview and made the decision. DMs were supported in each hub by administrative teams.
- 7.5 DMs were also supported by technical specialists and Senior Caseworkers (SCWs) who had in-depth knowledge and experience of asylum casework. They provided advice and guidance and acted as a 'second pair of eyes' and approved decisions in certain cases, for example where the claim was based on the claimant's sexual orientation.

## File sampling

- 7.6 We sampled 142 files in which the asylum decision was made between 1 April 2014 and 31 March 2015. Of these, 72 resulted in grants of asylum and 70 in refusals. We examined 56 of these cases in detail, 28 grants and 28 refusals, focusing on the quality of interviews and decision-making.

## Quality of interviews

- 7.7 Section 5.1 of the Asylum Policy Instruction on '*Asylum Interviews*'<sup>30</sup> states that the asylum interview must "*focus on facts which identified as key issues in the asylum claim*" (material facts), and that "*Claimants must be asked to explain contradictions which become apparent in their answers or any significant inconsistency with information previously provided in writing or at the screening interview.*"

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<sup>30</sup> Asylum Interviews; Home Office; 2015. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/410098/Asylum\\_Interviews\\_AI.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/410098/Asylum_Interviews_AI.pdf).

7.8 In assessing interview quality, we looked at:

- whether the interview effectively established and tested the material facts;
- whether the claimant was provided with the opportunity to address inconsistencies; and
- whether questions put by the DM were fair, in that the claimant might reasonably have been expected to have the requisite knowledge or experience to be able to provide a satisfactory answer.

7.9 In 44 of the 56 cases we sampled the questions focused on the material facts, probed those facts sufficiently, and provided the claimant with the opportunity to address any inconsistencies.

7.10 In 12 of the 56 cases, we identified room for improvement:

- in five cases material facts had not been effectively identified, established or tested (see Figure 11);
- in six cases the claimant had not been provided the opportunity to address inconsistencies; and
- in one case the questions posed by the interviewer were unfair.

**Figure 11: Sampled cases where material facts had not been effectively identified, established or tested.**

	Basis of the asylum claim	Inspection findings
Case 1	Persecution as a result of the claimant's faith	While the claimant's faith was established, there was limited exploration of their claim to have been persecuted.
Case 2	Membership of a particular social group in a particular State	Although the Home Office disputed the claimant's nationality, nationality was not effectively probed as the Home Office determined that the applicant should have been able to answer the questions they were asked if they had spent any period of time in the claimed country of origin. Questions relating to the membership of the particular social group did not establish whether the claimant was a member of a particular social group and faced persecution as a result of this.
Case 3	Fear of persecution as a result of comments made by the claimant about the government, which were heard by government officials	The interviewer did not probe the claimant's story in any depth, and there was no record of the comments they claimed to have made, or of whether such comments would have likely resulted in persecution by the government.
Case 4	Victim of domestic violence, and fear of persecution by other non-State actors	The interview focused on the material facts only in relation to the claimant's account of having been a victim of domestic violence. Fear of persecution by other non-State actors was not probed. The claimant's responses as recorded suggested they did not understand some of the questions posed, but there was nothing to indicate that the interviewer recognised this and took steps to ensure that the claimant had understood and could answer the questions.

Case 5	Fear that the claimant's daughter might be subject to female genital mutilation (FGM) if the claimant and their daughter were to be returned to their country of origin.	The interviewer asked a series of questions about the claimant's own experience of FGM. As the claimant had been very young at the time, they were unable to provide detailed responses. This line of questioning was inappropriate and not necessary to establish the material facts of the asylum claim, as the applicant had agreed to provide a medical report to evidence this element of their claim.
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- 7.11 The one case of unfair questioning related to a claim based on faith. During the substantive interview, the DM asked a series of questions about the claimant's faith, including how it differed in detail from another faith. It was not reasonable to expect the claimant to have sufficient knowledge of other faiths to be able to provide a detailed analysis of how they differed from his own.

## Length of interviews

- 7.12 There was widespread consensus among DMs, managers and senior managers in Asylum Operations (AO) that a high quality interview could be completed in around two to three hours, unless the case was particularly complex. In the 12 cases referred to above, five interviews lasted in excess of four hours. Three of these five interviews failed to identify, establish and test material facts effectively. Two of them failed to provide the claimant with the opportunity to address inconsistencies, as did three more (of the 12) where the interviews had taken less than two hours to complete.

## Administration and record-keeping in relation to interviews

- 7.13 Claimants were entitled to request a male or female DM for their substantive interview. In the 142 cases in our sample, 18 claimants had made such a request. The request was met in 12 of the 18 cases. In the other six, the interviews went ahead with a DM of the non-preferred gender. In five of these six cases the requests had been made at the end of the screening interview, giving the Home Office time (weeks or months) to make the necessary arrangements. The Home Office told us that they were aware that requests had not been met in all cases, and in May 2015 began to monitor performance centrally. In the period 1 May to 30 June 2015, 203 claimants requested a DM of a particular gender and the Home Office met this request in 200 (98.5%) cases. Two of the three requests that were not met were due to staffing issues. The third was refused due to the claimant's criminal history.
- 7.14 In 47 of the 142 cases we sampled the interview started on time or within 30 minutes of the scheduled starting time. In 36 cases it started 30 or more minutes late, without any record of why. In the remaining 59 cases the start and/or finish times were not recorded.
- 7.15 We found other examples of information not being recorded. In 33 of the 142 cases interview records had not been dated, timed, signed or pages numbered, while in eight out of 42 family cases there was no record of whether the main applicant had attended the interview alone or with family members.

## Quality of decision-making

- 7.16 To assess the quality of decision-making, we looked at the Asylum Policy Instruction '*Assessing credibility and refugee status*'<sup>31</sup> and identified four key factors:
- whether Country of Origin Information (COI) had been considered in accordance with Paragraph 4.5 of the Instruction;

<sup>31</sup> Assessing Credibility and Refugee Status; Home Office; 2015. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/397778/ASSESSING\\_CREDIBILITY\\_AND\\_REFUGEE\\_STATUS\\_V9\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397778/ASSESSING_CREDIBILITY_AND_REFUGEE_STATUS_V9_0.pdf)

- whether the appropriate standard of proof ('reasonable degree of likelihood') had been applied in accordance with Paragraph 5.2 of the Instruction;
- whether risk of return, focusing on 'sufficiency of protection' and 'internal relocation', had been appropriately considered in accordance with Section 8 of the Instruction; and
- whether credibility, including consideration of Section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 and the application of the 'benefit of the doubt', had been appropriately assessed in accordance with Section 5 and Annex A of the Instruction.

7.17 We reviewed the decision minutes and letters held on file for 56 cases (28 grants and 28 refusals) from our file sample to establish whether the DM had evidenced their consideration of the facts of the case in line with the four factors.

7.18 In 34 of the 56 cases, all four factors had been considered appropriately. Of the remaining 22 cases: in 13 it was not possible from the record to determine whether material facts had been assessed in accordance with the Asylum Policy Instruction; in three cases material facts had been considered but not assessed in accordance with the Instruction; and, in six cases membership of a particular social group was not appropriately considered.

7.19 Of the 13 cases where it was not possible to determine from the decision minute or letter whether material facts had been considered in accordance with the Asylum Policy Instruction, we found:

- one case in which there was no evidence that the DM had assessed material facts against objective criteria provided by COI reports;
- one case in which the DM did not provide their rationale for rejecting material facts against the required standard of proof ('reasonable degree of likelihood');
- two cases in which DMs did not evidence the rationale for their assessment of 'sufficiency or protection' or 'internal relocation', and
- nine cases in which there was no evidence in grant minute or refusal letter to indicate that the DM had effectively assessed credibility.

7.20 During our interviews with staff, we were told that a refreshed training package on credibility was in the process of being rolled out across AO. Senior managers told us that credibility was the most difficult concept for DMs to understand and assess, and that the training was designed to build on updated guidance on assessing credibility in order to better equip DMs.

7.21 Figure 12 outlines one of the three cases in our sample in which there was evidence that material facts had been considered, but no record that they had been assessed in accordance with the Asylum Policy Instruction.

**Figure 12: Case study: No record that decision-maker had assessed the credibility of material facts in accordance with the Asylum Policy Instruction**

- On 20 February 2014, the claimant lodged their asylum claim, based on their prior employment as an interpreter for the UK military in Afghanistan, which was confirmed by the Ministry of Defence.
- On 25 February 2015, the asylum claim was refused. The DM stated in the reasons for refusal letter that despite the claimant's employment as an interpreter "*it is not considered that you would be at a real and personal risk... because you have not established a high profile.*"
- The relevant Country of Origin Information (COI), which had just been amended, stated that former interpreters were at higher risk than most other Afghans.

- On 28 July 2015, the claimant's appeal was allowed.
- On 11 August 2015, asylum was granted.

### **Independent Chief Inspector's comments**

By not giving appropriate consideration to the COI, the decision-maker failed to follow the Asylum Policy Instruction, prompting an avoidable appeal and a five-month delay in the grant of asylum.

- 7.22 The claimant in the second of these three cases that her daughter would be subject to female genital mutilation (FGM) if the family were returned to their country of origin. The Home Office considered that the risk on return to be limited because the claimant was educated and could relocate to a city. We found that insufficient consideration was given to the claimant's membership of a particular social group, as required by Section 7.2 of the Asylum Policy Instruction, in that 64-80% of her tribal group suffered FGM,<sup>32</sup> as she had done herself.
- 7.23 In the third case, the DM refused the claim as it did not qualify as a 'Convention reason' under the Refugee Convention. In this case, the DM did not take into account that the claimant had been referred to the National Referral Mechanism (NRM) as a potential victim of trafficking. Although the Home Office had previously determined that the claimant was not a victim of trafficking, the guidance on trafficking had changed by the time the asylum decision was made. Had the claimant's status been reassessed, as should have happened, it would have resulted in the claimant being recognised as a victim of trafficking and the DM should then have considered whether this constituted membership of a particular social group.

### **Membership of a particular social group**

- 7.24 In six cases in our file sample there was no evidence that the DM had assessed the claimant's membership of a particular social group in accordance with the Asylum Policy Instruction. We found:
- two cases in which there was no evidence that the DM had used Country of Origin information to assess the credibility of the claimant's account;
  - one case in which the rejection of the claimant's nationality on credibility grounds meant their membership of a particular social group was not fully assessed; and
  - three cases in which the DM did not consider whether the claimant's circumstances and basis of claim constituted membership of a particular social group.
- 7.25 These last three cases involved a potential victim of trafficking; a victim of sexual assault; and, a victim of domestic violence. In other cases that we sampled, these same circumstances were taken to constitute membership of a particular social group.
- 7.26 In our detailed sampling of 56 cases (28 grants and 28 refusals), two claims were based on the claimant's sexual orientation. In both cases, we found that the interviews were conducted effectively and sensitively, and the decisions were well argued. AO managers and staff attributed recent improvements in the handling of sexual orientation cases to the 'second pair of eyes' process that had been introduced.<sup>33</sup>

<sup>32</sup> The Country of Origin report on the State concerned referenced two studies, one of which suggested the prevalence of FGM at 64.2% and one at 79.9% of the female population. Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/311874/Gambia\\_COI\\_report\\_2013\\_2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311874/Gambia_COI_report_2013_2014.pdf)

<sup>33</sup> An Investigation into the Home Office's Handling of Asylum Claims on the Grounds of Sexual Orientation; Independent Chief Inspector of Borders and Immigration; 2014. Available at:

<http://icinspector.independent.gov.uk/wp-content/uploads/2014/10/Investigation-into-the-Handling-of-Asylum-Claims-Final-Web.pdf>

## Service standards

- 7.27 On 1 April 2014, the Director General of UKVI informed the Home Affairs Select Committee that “by the end of this financial year we will be in a position to say that all cases will get a decision within that six month period.”<sup>34</sup> The Home Office, in the Government’s response to the Home Affairs Committee Third Report, clarified that “our aim this year is to ensure that all claims received since 1<sup>st</sup> April 2014, a decision is given within the six months service standard.” The Home Office described this as an internal service standard to make an initial decision on straightforward claims submitted from 1 April 2014 within six months and, where possible, non-straightforward cases within 12 months.
- 7.28 Non-straightforward cases were defined as those where, due to factors outside the Home Office’s control, it was not possible to make a decision within six months of the application being lodged, and fell into six case types:
- the claimant claimed to be a victim of torture and a Medico-legal Report was awaited;
  - a claimant had a medical condition which caused delay;
  - the Home Office was awaiting information from a specialist unit in order for all the evidence relating to the claimant to be available, for example where the claimant was a potential victim of trafficking;
  - the claimant was pregnant and due either to the stage of the pregnancy or pregnancy-related illness, a decision could not be made;
  - the claimant was identified as being suitable for consideration by the Third Country Unit (TCU); and
  - delay was caused by the claimant, for example a delay in providing supporting documentation, which was critical in evidencing their case.
- 7.29 In interviews with staff, we found significant variation in the terminology used to describe non-straightforward cases: ‘non-straightforward’, ‘blocked’, ‘unworkable’ and ‘flagged’. Senior managers told us that there were only two case types: straightforward or non-straightforward. The other terms were not recognised in the relevant guidance.
- 7.30 Fifty-nine of the 142 asylum claims in our file sample were lodged after 1 April 2014. Of these, 44 claimants received a decision within six months.
- 7.31 The other 15 cases had not been categorised as non-straightforward. Of these, 11 were decided within 12 months. In the other four cases, two were decided within 13 months and two within 14 months.
- 7.32 We asked for data on outstanding claims. The Home Office provided data indicating that, as at 31 March 2015, there were 21,268 outstanding asylum claims, of which 3,079 (15%) had been outstanding for more than six month. All 3,079 had been categorised as ‘non-straightforward’. Some 1,761 non-straightforward claims made before 1 April 2014 remained outstanding as at 31 March 2015, and therefore were more than 12 months old.

## Management of non-straightforward cases

- 7.33 Categorisation of a case as ‘non-straightforward’ had to be authorised by a member of staff in AO at Senior Executive Officer (SEO) grade or above. The claimant had to be informed that their case had been excluded from the six-month service standard, and provided with an update every six months until they received a decision. When the reason for exclusion had been resolved, the case could be decided in the normal way, but the decision had to be approved by a senior caseworker before it was served.

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<sup>34</sup> Home Affairs Committee, Oral Evidence: The work of the Immigration Directorates 1 April 2014 HC 1164, Q115, Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/the-work-of-the-immigration-directorates-2013-q4/oral/8300.html>

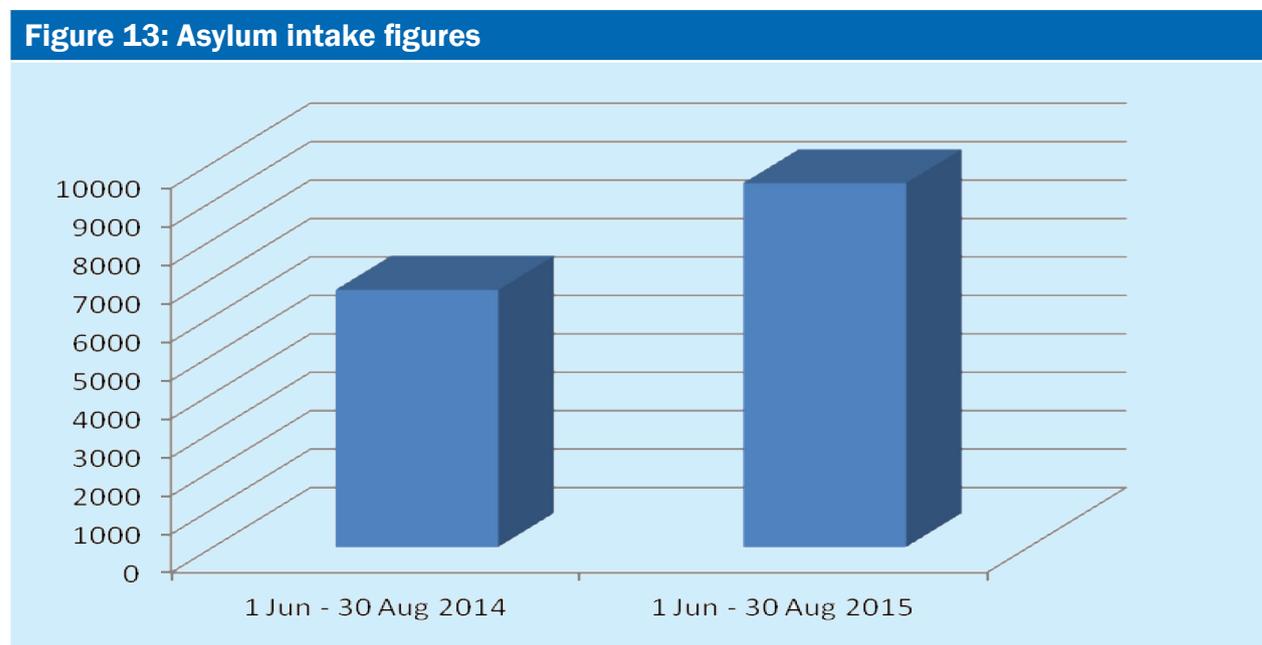
- 7.34 Home Office managers told us that each non-detained regional hub monitored its cases categorised as ‘non-straightforward’. The cases were reviewed at least every six months to see if the barrier to a decision remained in place, and at 11 months after the claim had been lodged to reach a decision within the 12 month service standard where possible.
- 7.35 Non-detained regional hubs had assigned responsibility for monitoring ‘non-straightforward’ cases differently. Some had made the workflow manager responsible; others had assigned responsibility to the administrative support team. In February 2015, as part of the exercise to clear the pre-April 2014 cases, AO had introduced the role of workflow coordinator. The workflow coordinator was responsible for monitoring work-in-progress and performance against service standards across the non-detained regional hubs and nationally. This permitted the transfer of cases between regions to enable AO to meet the six-month service standard. The workflow coordinator also monitored progress in resolving ‘non-straightforward’ cases.

### **Commitment to clear all outstanding straightforward claims made before 1 April 2014**

- 7.36 On 21 October 2014, the Home Office committed to clearing all outstanding straightforward claims made before 1 April 2014 by the end of the financial year 2014/15. It successfully delivered on this commitment.

### **Response to rising asylum intake**

- 7.37 Evidence provided by the Home Office indicated that asylum intake was increasing. As demonstrated in Figure 13, between 1 June and 30 August 2015, the Home Office received almost 50% more claims (9,529) than in the corresponding period in 2014 (6,695).



- 7.38 Senior managers told us that they were aware that performance against service standards could be at risk from the rising intake and expected budget cuts. They had contingency plans in place should the increased intake be sustained over the latter part of 2015. In addition, a number of measures were being piloted to improve productivity and quality. AO had designated the Cardiff non-detained regional hub as a “model office” to pilot new processes. The pilots had been informed by knowledge sharing between AO and EU partners as well as technological innovation.

## Conclusions

- 7.39 Based on file sampling, the quality of substantive interviews of asylum claimants by decision-makers (DM) could be improved. It was important that in all cases the DM provided the claimant with the opportunity to provide evidence in support of all material facts in respect of their claim, and to address any inconsistencies, and that the claimant was not asked questions to which they could not reasonably be expected to know the answer. In terms of assessing a claim, the greatest difficulty for DMs surrounded credibility. The Home Office had recognised the need to improve the assessment of credibility and had revised its training in early 2015/16. There was also a need to ensure that the record of the decision detailed what the DM had considered, including the rationale for their judgements and decision.
- 7.40 Claims based on membership of a particular social group (PSG) could be difficult and were likely to require sensitive questioning. The Home Office had introduced a 'second pair of eyes' process for cases where the basis of the claim was persecution due to sexual orientation, and believed that this was responsible for recent improvements in the handling of such cases. Claimants had been given the option to request a male or female interviewing officer. Having identified that some requests were not being met, the Home Office had begun to monitor this centrally, and in May and June 2015 had met requests in 98.5% of cases. This was a positive step, and likely to lead to a more effective interviews as the claimant should feel more at ease, in particular in discussing sensitive matters.
- 7.41 The Home Office succeeded in delivering on its commitment (made in October 2014) to clear all outstanding straightforward asylum claims made before 1 April 2014 by 31 March 2015. As at 30 June 2015, Asylum Operations (AO) were working on claims made between March and May 2015, well within the six-month internal service standard.
- 7.42 In April 2015, the Home Office updated its criteria for designating an asylum claim 'nonstraightforward' and introducing better coordination of the monitoring and review of such cases to try, where possible, to resolve them within the 12 month service standard for non-straightforward cases. As at 31 March 2015, 1,761 claims lodged before 1 April 2014 remained outstanding, while 3,079 non-straightforward claims had been outstanding for more than six months.
- 7.43 The number of asylum claims increased by almost 50% during the summer of 2015. If sustained, this increase posed a risk to the efficiency and effectiveness of the asylum casework system. While senior managers had introduced measures to improve productivity and quality, the Home Office needed to take care not to allow cases, and particularly non-straightforward cases, to build up to a level which meant that performance against service standards began to deteriorate.

## Recommendations

### The Home Office should:

Extend the 'second pair of eyes' process for asylum claims based on membership of a particular social group (PSG) in order to improve the quality of decision-making in all complex and sensitive cases.

While remaining on top of 'straightforward' asylum claims so that they meet the six-month service standard from lodging the claim to providing the claimant with a decision, explore ways to reduce the number of 'non-straightforward' cases that are more than 12 months old.

# 8. Inspection Findings – Unaccompanied Asylum-seeking Children: Further Leave

## Background

- 8.1 Prior to 6 April 2013, an Unaccompanied Asylum-seeking Child (UASC) whose asylum claim was rejected would be issued Discretionary Leave, known as UASC leave, for a period of three years or until the applicant reached the age of 17 ½ years old, whichever was shorter. Since 6 April 2013, the period of UASC leave was reduced to two and a half years or until the age of 17 ½. At the end of the period of Discretionary Leave, the claimant could apply for further leave to remain in the UK. This process also applied to adults who were refused asylum but granted Discretionary Leave, and to both adults and UASCs who were granted asylum and an initial period of limited leave as refugees.
- 8.2 We inspected the Home Office's management of asylum claims made by UASCs in our report '*An Inspection into the Handling of Asylum Applications Made by Unaccompanied Children*', published on 31 October 2013.<sup>35</sup> In this inspection, we limited our examination to the further leave process.

## File sampling

- 8.3 We sampled 64 files in which a UASC had been refused asylum, but had been granted a period of Discretionary Leave (UASC Leave). Our sample comprised:
- 30 cases in which further leave had been sought by the claimant and a decision had been made;
  - 29 cases in which further leave had been sought by the claimant and no decision had been made; and
  - 5 cases in which further leave had not been sought by the claimant.
- 8.4 We focused on three key issues: decision quality; timeliness; and whether the Home Office had maintained contact with the claimant.

## Decision Quality: Initial decision

- 8.5 With respect to decision quality, we reviewed the original decision to grant UASC Leave to ascertain if the correct period of leave had been granted in accordance with Paragraph 352ZE of the Immigration Rules.<sup>36</sup> Paragraph 352ZE states that a claimant who meets the criteria in Paragraph 352ZC should be issued leave for a "*period of 30 months or until the child is 17 1/2 years of age whichever is shorter.*"
- 8.6 In 62 of the 64 cases we examined the period of leave granted was appropriate, according to the criteria in Paragraph 352ZE.
- 8.7 In one of the two other cases, the decision-maker (DM) had granted leave for a period beyond the point where the claimant would reach 17 ½ years of age. In that case, the claimant was 18 years and four months of age when their leave expired. The decision minute and file note did not provide an explanation as to why leave was granted for longer than was permitted.

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<sup>35</sup> An Inspection into the Handling of Asylum Applications Made by Unaccompanied Children; Independent Chief Inspector of Borders and Immigration; 2013. Available at:

<http://icinspector.independent.gov.uk/wp-content/uploads/2013/10/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-FINAL.pdf>

<sup>36</sup> [www.gov.uk/government/publications/immigration-rules-part-11](http://www.gov.uk/government/publications/immigration-rules-part-11)

- 8.8 In the other case the initial period of leave granted was too short, due to an error by the DM in calculating the claimant's age. As a result, the grant of UASC Leave was for two months, instead of one year and two months when the claimant would have reached 17 ½.

### Decision Quality: Further leave

- 8.9 Section 6 of the Home Office document '*Active Review of Unaccompanied Asylum Seeking Children (UASC) Discretionary Leave (DL)*'<sup>37</sup> set out the guidance which should be followed when considering applications for a further period of Discretionary or UASC Leave.
- 8.10 Our file sample included 16 cases in which an application for further leave had been submitted and a decision taken. In all 16 cases, decisions were made in line with the guidance.
- 8.11 Section 7 of the Home Office document '*Discretionary Leave*'<sup>38</sup> set out the guidance to be followed in considering applications for settlement. It made clear that settlement should be granted only where the applicant had held DL for the relevant qualifying timescales and "*continues to qualify for DL.*"
- 8.12 The file sample contained 14 cases in which a decision had been taken on a settlement application: all 14 cases resulted in a grant of settlement. In ten cases, we found evidence that the DM had considered whether the applicant continued to qualify for DL. In one case, we found that the Home Office had misplaced the applicant's application form and supporting documents but proceeded to grant settlement on the assumption that the applicant's circumstances had not changed. In the other three cases, decision minutes referred to qualification timescales and criminality and exclusion criteria, but there was no evidence that DMs had considered whether the applicants continued to qualify for DL. Figure 14 gives an example of one such case.

#### Figure 14: Case study: No evidence that decision-maker had considered whether claimant continued to qualify for Discretionary Leave.

- On 28 September 2007, the applicant claimed asylum.
- On 18 December 2007, the asylum claim was refused and the claimant was granted Discretionary Leave for three years.
- On 25 March 2011, the applicant was granted a further three years Discretionary Leave.
- On 24 March 2014, the individual made an application for further leave and was granted Indefinite Leave to Remain, also known as settlement, on 24 November 2014.

#### Independent Chief Inspector's comments

There was no evidence from the decision minute that the Home Office had complied with guidance and considered whether the individual continued to qualify for Discretionary Leave. According to the record, the decision was based solely on the absence of criminality and the applicant having been in the UK for a period in excess of six years.

### Timeliness of decisions

- 8.13 During 2014/15 there was no formal service standard in place for further leave applications. However, Section 55 of the Border, Citizenship and Immigration Act 2009 states that "*Children should have their applications dealt with in a way that minimises the uncertainty they may experience.*"<sup>39</sup>

<sup>37</sup> Active Review of Unaccompanied Asylum Seeking Children (UASC) Discretionary Leave (DL); Home Office; 2009. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/461188/consideringapplications1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461188/consideringapplications1.pdf) N.B. This guidance was withdrawn on 16 September 2015, but remained in place during the period of the inspection.

<sup>38</sup> Discretionary Leave; Home Office; 2015. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460712/Discretionary\\_Leave\\_2\\_v7\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460712/Discretionary_Leave_2_v7_0.pdf)

<sup>39</sup> Borders, Citizenship and Immigration Act 2009. Available at: <http://www.legislation.gov.uk/ukpga/2009/11/contents>

- 8.14 Nineteen of the 30 cases in our sample in which a decision had been made were decided within six months of the application being submitted, and 10 were decided within 12 months. In one case, the decision took 13 months.
- 8.15 In our sample of 29 cases where an application had been submitted but no decision had been made at the time of our inspection, 10 had been outstanding for more than 12 months and a further seven for more than six months. The Home Office told us that they were aware that a number of applications had been subject to delays and were committed to clearing those cases as quickly as possible.

### Maintaining contact with the applicant

- 8.16 Section 3 of the Home Office guidance stated that, with respect to UASCs, it was “*best practice for Case Owners to establish a contact management strategy with the applicant and their social worker and/or guardian. This should enable any application for further leave to remain to be made... Case Owners will be responsible for conducting an active review on these applications.*”<sup>40</sup>
- 8.17 In 63 of the 64 cases we sampled there was no evidence of a contact management strategy. In one case an initial pro-forma had been completed, but no further contact had been made. Where there had been contact between the Home Office and the applicant or their social worker and/or guardian, it was the applicant who had instigated the contact or there had been an issue raised with the case.
- 8.18 DMs told us their responsibilities were limited to interviewing applicants and making decisions. Some longer-serving members of staff, who had been case owners under the previous structure operated by AO, told us that they were previously responsible for maintaining contact with UASCs, but that this was no longer the case.
- 8.19 Senior managers told us they were aware that this responsibility had not been maintained, and the issue would be addressed as part of wider changes in the way further leave casework was managed.

### Management of cases

- 8.20 From our sample, we identified that where UASC further leave cases were moved between regional hubs this resulted in further delay and inefficiencies. In five cases we found that decisions had been prepared by DMs at one regional hub and the case transferred to another hub before the decision was served. Figure 15 demonstrates the time taken between preparing and serving the decisions in those instances.

**Figure 15: Time between making and serving decisions where files were transferred between regional hubs.**

	Date decision made	Date decision served	Time between making and serving decision
Case 1	30 Jan 2015	24 Feb 2015	3 weeks
Case 2	6 Jan 2015	22 May 2015	19 weeks
Case 3	21 Dec 2014	28 July 2015	30 weeks
Case 4	16 Dec 2014	Not yet served	46 weeks (as at 8 Nov 2015)
Case 5	15 Nov 2014	Not yet served	49 weeks (as at 8 Nov 2015)

- 8.21 On 1 April 2015, responsibility for managing UASC further leave applications transferred to the Status Review Unit (SRU) within the Complex Case Work Directorate (CCWD) as part of a wider reallocation of casework responsibilities within UK Visas and Immigration. The SRU told us that they were aware of the need to manage the UASC further leave caseload more closely and were, at the time of our inspection, developing a strategy for doing so.

<sup>40</sup> 'Active Review of Unaccompanied Asylum Seeking Children (UASC) Discretionary Leave.' Home Office. 2015. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/461188/consideringapplications1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461188/consideringapplications1.pdf)

## Conclusions

- 8.22 The inspection limited consideration of the initial decision to grant Discretionary Leave in Unaccompanied Asylum-seeking Child (UASC) cases to whether the period of leave granted was in accordance with the Immigration Rules. The Immigration Rules in relation to periods of Discretionary Leave are straightforward, and in almost all cases the correct period of leave had been granted. Such errors as were found appeared to be simple miscalculations.
- 8.23 Performance in relation to consideration of further leave applications submitted by those UASC who had previously been granted Discretionary Leave was mixed. While applications for further leave to remain were decided in line with Home Office guidance, four out of the 14 applications for settlement examined had failed to follow the guidance in that there was no record that the decision-maker had considered whether the applicant continued to qualify for Discretionary Leave. This had resulted in these 4 applicants being granted settlement when some or all may not have qualified for it. Given the rights and benefits associated with settlement, the Home Office needs to ensure that the process is robust and thorough in all cases.
- 8.24 The management of further leave cases also needed to improve. In our 2012 report *'An Inspection of the UK Border Agency's Handling of Legacy Asylum and Migration Cases'* we found lengthy delays in making decisions on applications lodged by children. The Home Office accepted our recommendation that it should *"ensure that decisions affecting young people are dealt with in a timely way that minimises any uncertainty that they may experience with their applications."*<sup>41</sup> However, based on the file sample, some cases still faced lengthy delays, in some cases exacerbated by moving the case to another regional hub to progress. The absence of formal service standards for decisions did not help.
- 8.25 On 1 April 2015, the Status Review Unit (SRU) (part of UKVI's Complex Casework directorate) took responsibility for managing UASC further leave applications. This should ensure a more consistent approach. As well as looking at how to reduce delays in reaching decisions, the SRU will need to pay attention to contact management, since in all but one of the 64 sampled cases there was no evidence of a contact management strategy, and the one case contained only an initial pro-forma. Overall, there appeared to be a lack of ownership of this, despite Home Office guidance identifying establishing a contact management strategy as best practice.

## Recommendations

### The Home Office should:

Ensure that decision-makers follow Home Office guidance when considering applications for settlement from individuals who have been granted Discretionary Leave as an Unaccompanied Asylum-seeking Child (UASC), and that they record this in sufficient detail.

Publish service standards for extension of leave and settlement applications in Unaccompanied Asylum-seeking Child (UASC) cases, and ensure that the further leave process is managed so as to provide timely decisions and to maintain appropriate contact with applicants (or their guardian or social worker) pending the decision.

41 An Inspection of the UK Border Agency's Handling of Legacy Asylum and Migration Cases; Independent Chief Inspector of Borders and Immigration; 2012. Available at: <http://icinspector.independent.gov.uk/wp-content/uploads/2012/11/UK-Border-Agency's-handling-of-legacy-asylum-and-migration-cases-22.11.2012.pdf>

## 9. Inspection Findings – Operating Mandate and File Administration

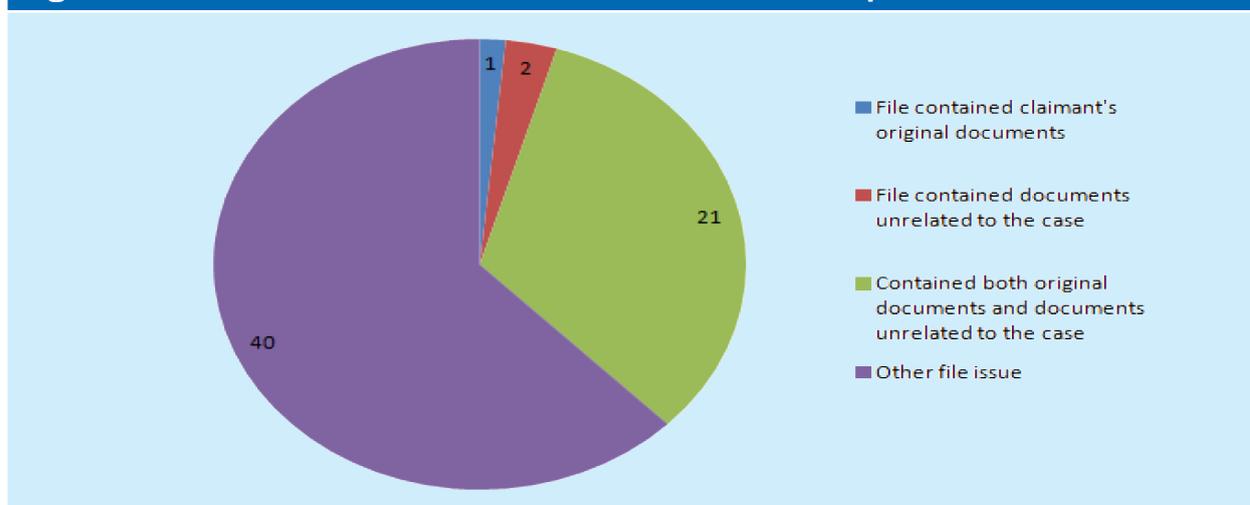
### Operating Mandate checks

- 9.1 The UKVI Operating Mandate, introduced on 1 November 2014, set out the mandatory security checks against immigration and police databases for all applications to enter or remain in the UK, and required these checks to be recorded on the appropriate caseworking system, which in asylum cases was the Casework Information Database (CID).
- 9.2 All mandatory checks had been completed in all 300 of the asylum cases we sampled. Staff told us that a safeguard had been added to CID during the summer of 2015 which would not permit a decision-maker (DM) to update a case as ‘decided’ if the Operating Mandate checks had not been completed.

### File administration

- 9.3 We examined the 300 sample paper files to see:
- whether original documents, such as the claimant’s passport or identity documents, were attached to the paper file rather than stored in the national valuable document bank as required by the Safeguarding Valuable Documents guidance; and
  - whether documents were wrongly attached to the file, for example decision letters that related to another case.
- 9.4 We found one or both of these errors in 63 files, plus one file which comprised the papers for two unrelated claimants, as demonstrated at Figure 16.

**Figure 16: Breakdown of administrative issues in cases sampled**



## Administrative support

- 9.5 Staff told us that either screening officers or administrative support officers were responsible for completing security checks in accordance with the Operating Mandate. Administrative support officers had overall responsibility for file administration, decision-makers were responsible for ensuring that they attached documents appropriately. Home Office managers told us that one administrative support officer to three DMs would work best, but the ratio was greater in all five of the regions we visited.

## Conclusions

- 9.6 There was 100% compliance with the UKVI Operating Mandate in respect of mandatory security checks against immigration and police databases for asylum claimants. Adherence to the Operating Mandate was strengthened by the introduction, in summer 2015, of a safeguard that did not permit a DM to update a case as 'decided' on the Casework Information Database (CID) if these checks had not been completed.
- 9.7 Roughly one in five of the paper files sampled revealed some form of administrative error. Some had potentially serious consequences, like the failure to store a claimant's original documents securely. This suggested a need to improve oversight of file administration and to look at relevant roles, responsibilities and resources.

## Recommendation

### The Home Office should:

Review roles, responsibilities (including oversight) and resources in relation to the administration of paper files for asylum claimants in order to reduce the number of misfiled documents and to ensure that claimants' original documents are stored securely.

# Appendix 1: Role and Remit of the Chief Inspector

The role of the Independent Chief Inspector ('the Chief Inspector') of the UK Border Agency (the Agency) was established by the UK Borders Act 2007 to examine and report on the efficiency and effectiveness of the Agency. In 2009, the Independent Chief Inspector's remit was extended to include customs functions and contractors.

On 26 April 2009, the Independent Chief Inspector was also appointed to the statutory role of independent Monitor for Entry Clearance Refusals without the Right of Appeal as set out in Section 23 of the Immigration and Asylum Act 1999, as amended by Section 4(2) of the Immigration, Asylum and Nationality Act 2006.

On 20 February 2012, the Home Secretary announced that Border Force would be taken out of the Agency to become a separate operational command within the Home Office. The Home Secretary confirmed that this change would not affect the Chief Inspector's statutory responsibilities and that he would continue to be responsible for inspecting the operations of both the Agency and the Border Force.

On 22 March 2012, the Chief Inspector of the UK Border Agency's title changed to become the Independent Chief Inspector of Borders and Immigration. His statutory responsibilities remain the same. The Chief Inspector is independent of the UK Border Agency and the Border Force, and reports directly to the Home Secretary.

On 26 March 2013 the Home Secretary announced that the UK Border Agency was to be broken up and brought back into the Home Office, reporting directly to Ministers, under a new package of reforms. The Independent Chief Inspector will continue to inspect the UK's border and immigration functions, as well as contractors employed by the Home Office to deliver any of these functions. Under the new arrangements, the department UK Visas and Immigration (UKVI) was introduced under the direction of a Director General.

# Appendix 2: Inspection Framework and Core Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Core Inspection Criteria. These are shown in Figure X.

<b>Figure 17: Inspection criteria used</b>
<b>Operational Delivery</b>
1. Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration.
2. Resources should be allocated to support operational delivery and achieve value for money.
3. Complaints procedures should operate in accordance with the recognised principles of complaints handling
<b>Safeguarding individuals</b>
4. All individuals should be treated with dignity and respect and without discrimination in accordance with the law.
5. All border and immigration functions should be carried out with regard to the need to safeguard and promote the welfare of children.
6. Personal data of individuals should be treated and stored securely in accordance with the relevant legislation and regulations.
<b>Continuous Improvement</b>
7. The implementation of policies and processes should support the efficient and effective delivery of border and immigration functions.
8. Risks to operational delivery should be identified, monitored and mitigated.

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