



House of Commons  
Women and Equalities  
Committee

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**Equality and the UK  
asylum process**

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**Fourth Report of Session 2022–23**

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to the report*

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## Women and Equalities Committee

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## Summary

People with vulnerabilities arising from Equality Act protected characteristics, including women with histories of gender-based violence and abuse, children, lesbian, gay, bi-sexual and transgender (LGBT) people, and disabled people, experience unnecessary risks under the Home Office's management of the asylum process. Recent and proposed changes to the system are likely to increase those risks. The Home Office must demonstrate it is taking effective steps to mitigate unequal effects.

The Home Office should collect and publish data in relation to asylum claims, initial decisions, appeals and final outcomes disaggregated by: UN Refugee Convention ground; whether the claim included sexual and gender-based violence and other abuse; and the protected characteristics of claimants.

The Department must ensure its guidance on gender issues in the asylum claim process, including meeting claimants' requests for female asylum interviewers and interpreters and childcare during interviews, is consistently followed. It should change the way it processes claims from women with histories of gender-based violence and abuse, ensuring women are supported by an independent expert advocate and end the reliance on long and gruelling single substantive interviews.

The Home Office should publish the findings of its 2019–20 internal review of its determination of claims based on sexual orientation and gender identity and the steps it has taken to improve its decision-making in such cases. It must review the performance of the Country Policy Information Team, including its ability to maintain and update high quality Country Policy Information Notes (CPINs) in a timely manner.

Asylum legal aid also needs an overhaul. Funding should be increased for expert legal advice, particularly in complex asylum cases involving sexual orientation or gender identity, religious belief or renunciation of belief, and sexual and gender-based violence and abuse.

There must be a long-term solution to ensure the Home Secretary continues to meet her legal duty to meet the essential living needs of asylum seekers in the context of the rising cost of living and after years of below inflation increases to asylum support. The weekly asylum support payment should increase to 70% of the standard rate of Universal Credit, and the Department should consider introducing a separate higher rate for women.

Serious concerns about substandard conditions in asylum accommodation persist. No one should have to endure unsanitary conditions, particularly people who are vulnerable. The Home Office must enhance its resources for accommodation inspection and contract management, with particular regard to the experiences of pregnant women and those with young children.

There must be an urgent review of safeguarding, including steps to prevent LGBT hate crime and violence against women, across all types of asylum accommodation, including the newly acquired accommodation barges. Housing vulnerable asylum seekers, including single women, mothers, children and LGBT people, in crowded hotel

and other types of contingency accommodation is unacceptable. While use of hotels and other contingency settings persists, there must be effective policies and practices in place to better protect vulnerable adults and children from harm.

The Home Office must stop the dangerous practice of moving pregnant women and new mothers between asylum accommodation settings. Mothers and babies should only move after clinical advice has been sought and acted on, the mother has consented to a move, and it is in the mother's and baby's best interests.

There are clear risks that the asylum provisions in the Nationality and Borders Act 2022 will have unequal impacts, including on women and girls with histories of sexual and gender-based violence and abuse; LGBT people who have complex sexual orientation and gender-based claims; and disabled people. The Government's equality impact assessment is inadequate and must be updated, with advice from the Equality and Human Rights Commission, to ensure effective mitigations are in place and in full compliance with the Public Sector Equality Duty.

The Nationality and Borders Act and Illegal Migration Bill risk turning back the clock on policies intended to ensure immigration detention is used only as a last resort, and to reduce the risks of harm to vulnerable people. The Government must set out how it intends to mitigate risks to vulnerable adults, including whether it remains committed to the Adults at Risk in detention policy established after the Shaw reviews. The Government has not yet set out its planned approach to the detention of children under Illegal Migration Bill provisions. We strongly believe the Government should abandon any intention of detaining asylum-seeking children under those provisions.

A significant number of vulnerable people, to whom the removal process would very likely be harmful, have received notices of the Home Office's intention to remove them to Rwanda. Notices of intent should be suspended, and no new notices issued until all legal challenges to the policy are complete. The risks of harm to children arising from the removal process outweigh any risks of damaging the intended deterrent effect of the policy—the Government should abandon any intention of forcibly removing children to Rwanda. Should removals to Rwanda be operationalised, the Home Office must establish a vulnerability assessment process prior to notice of intention stage. It should also publish data disaggregated by protected characteristics of people selected for and removed to Rwanda.

The Vulnerable Persons Resettlement Scheme (VPRS) resettled more than 20,000 people and demonstrated that the UK can do resettlement well. It should be used as a best practice model for the future. The Afghan resettlement schemes, by contrast, have been fraught with difficulty, including serious safeguarding issues for women and children in crowded accommodation. The lessons of the Afghan resettlement programme must be learnt so that mistakes are not repeated in future migrant crises. The Government must commission and publish an independent review.

# 1 Introduction and background

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## History of refugee protection in the UK

1. People from around the world fleeing wars and ethnic, religious, political, and other forms of persecution have settled successfully in the UK for centuries. Diverse groups have found safety, built secure lives, and contributed greatly to our society and culture.<sup>1</sup> The UN High Commissioner for Refugees (UNHCR) has emphasised the UK's "longstanding role as a global champion for the refugee cause", which to many, including this Committee, is a source of pride.<sup>2</sup>

## The UN Refugee Convention

2. Today's asylum system has its roots in the aftermath of the Second World War, as the international community cooperated to help displaced people from across Europe who were unable to return home. The UK was one of 26 original signatories to the 1951 UN Refugee Convention and one of six countries, alongside Belgium, France, Israel, Italy and the USA, who worked together on the agreed text. The 1967 Protocol to the Convention applied it globally and permanently, removing the original time limits and its restriction to Europe. Today, 149 of the UN's 193 member states are signatories to the Convention, its Protocol, or both.<sup>3</sup>

3. The Convention defines a refugee as a person in need of asylum because of a:

[...] **well-founded fear of being persecuted** for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>4</sup>

4. The key principles of the Convention are:

- **non-discrimination** based on race, religion, and country of origin (international human rights law has developed to reinforce the principle of non-discrimination on other grounds, including sex, age, disability, and sexuality);
- **non-penalisation** for illegal entry to, or stay in, a country for the purposes of claiming asylum; and, most fundamentally
- **non-refoulement**—"no one shall expel or return (*"refouler"*) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom."<sup>5</sup>

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1 See, for example, Refugee Week, *The Heritage and Contributions of Refugees to the UK – a Credit to the Nation*, 2015; see also, *Europe and its Political Refugees in the 19th Century*, HALSHS, 2016

2 *UNHCR Observations on the Nationality and Borders Bill*, Bill 141, 2021–22, October 2021, para 1

3 UNHCR, 'The 1951 Refugee Convention', accessed 8 March 2023

4 *1951 UN Refugee Convention*, Article 1

5 *1951 UN Refugee Convention*, p 3



5. The Convention does not prescribe in detail how refugees should be treated, but sets out some basic minimum standards, including access to employment, the legal system, and primary education.<sup>6</sup> Many countries, including the UK, allow application for full citizenship after a period of residence.<sup>7</sup>

## The UK's longstanding approach to asylum

6. The Convention does not prescribe the systems or processes by which claims for asylum should be determined, and different countries take a range of approaches.<sup>8</sup> Asylum claims made in the UK are considered by Home Office decision-makers on behalf of the Home Secretary, according to a complex framework of primary and secondary legislation, consolidated in the Immigration Rules, and a range of detailed guidance. Successive governments have legislated and updated guidance with the aim of ensuring a process sufficiently robust to deter abuse of the system by people without a genuine claim, while also ensuring fairness and efficiency.<sup>9</sup> The process involves an initial screening interview to establish the claimant's identity and the basic facts of their claim for asylum, followed by a longer substantive interview with Home Office officials.<sup>10</sup>

7. If a claim for asylum is accepted, the Home Office may grant:

- **refugee status on Convention grounds**—refugees and their dependents may be granted leave to remain in the UK for five years, after which they may apply to settle here permanently;
- **humanitarian protection on non-Convention grounds**—where the claimant is not determined to be a refugee in accordance with Article 1 of the Convention but would face “a real risk of serious harm”, such as execution or extra-judicial killing by the State, torture or inhuman or degrading treatment or punishment, or indiscriminate violence in situations of international or internal armed conflict, in their country of origin. These people may be granted temporary leave to remain. Following implementation of the Nationality and Borders Act 2022 (see chapter 6), those applying after 28 June 2022 may be granted more limited settlement and family reunion rights than a Convention grounds-based refugee;<sup>11</sup> or

6 1951 UN Refugee Convention, Articles 16, 17, 18 and 22

7 For a summary of approaches across 23 European countries, including the UK and 19 EU States, see Asylum Information Database/European Council on Refugees and Exiles, ‘[Mapping asylum procedures, reception conditions, detention and content of protection in Europe](#)’, accessed 8 March 2023

8 *Ibid.*

9 Key pieces of legislation include the [Immigration and Asylum Act 1999](#), which was intended to ensure a “fairer, faster and firmer” system; the [Nationality, Immigration and Asylum Act 2002](#), which contains provisions for asylum accommodation centres and created new provisions for detention and removal of refused asylum claimants; and the [Asylum and Immigration \(Treatment of Claimants etc.\) Act 2004](#), which created a distinct [Asylum and Immigration Tribunal](#) and restricted eligibility for support for people seeking asylum in some circumstances (the Bill was described as the then Labour Government’s “final phase of asylum reform”). See also, GOV.UK, ‘[Immigration Rules](#)’, accessed 9 March 2023.

10 See, Right to Remain, ‘[Asylum Screening \(First\) Interview](#)’ and ‘[Asylum Substantive \(Big\) Interview](#)’, accessed 11 May 2023

11 For a fuller discussion of refugee status compared to humanitarian protection, including the effects of recent legislation, see Free Movement, ‘[What is the difference between refugee status and humanitarian protection?](#)’, accessed 8 March 2023. The Nationality and Borders Act 2022 brought into force more restricted rights for claims made after 28 June 2022, see UKVI, ‘[Permission to stay on a protection route for asylum claims lodged on or after 28 June 2022](#)’, June 2022, accessed 17 April 2023

- **discretionary leave to remain**, in a variety of other “exceptional and compassionate” circumstances, including where a claimant’s medical condition prevents their removal from the UK, some cases involving modern slavery or human trafficking, or where a decision not to grant such leave would breach a claimant’s rights under the European Convention on Human Rights (ECHR).<sup>12</sup>

8. The UK’s asylum process relies heavily on the judicial system. Asylum claims refused by the Home Office can be, and very often are, appealed, initially at a First Tier Tribunal and in some circumstances at the Upper Tribunal, the Court of Appeal, the Supreme Court, and the European Court of Human Rights.<sup>13</sup>

## Other routes to protection and resettlement in the UK

9. The asylum process is distinct from other routes to protection and resettlement in the UK. The UK has participated in several country and region-specific schemes in which people in need of protection are either identified by the UNHCR or can apply or be selected by the UK for resettlement or temporary protection from overseas. The UK’s contribution to global resettlement has historically been sporadic but it has been a leading participant in recent times. A scheme for Syrians escaping the civil war resettled over 20,000 people from 2014 to 2021, more than any other European country in that period, and behind only the USA, Canada and Australia globally.<sup>14</sup> The UK currently has bespoke resettlement routes for Afghans and humanitarian visa schemes for Ukrainians.<sup>15</sup> The Afghan Relocations and Assistance Policy and Afghan Citizens Resettlement Scheme have helped over 21,000 people—most of whom (around 15,000) were part of the initial evacuation of Kabul in August 2021—and more than 166,000 Ukrainians have arrived safely after obtaining a humanitarian visa (see chapter 9).<sup>16</sup> The asylum process is distinct from these schemes because claims can only be made and determined in the UK. There is no process by which someone can apply for asylum from overseas, and most who wish to apply in the UK lack the means and/or documentation to travel here via regular routes.<sup>17</sup>

## Scope of our inquiry

10. The asylum process in the UK is undergoing substantial reform. Measures such as those introduced through the Nationality and Borders Act 2022 and proposed in the UK/Rwanda Migration and Economic Development Partnership and the Illegal Migration Bill will profoundly transform the asylum landscape in this country.<sup>18</sup> Research in recent

12 Home Office, [Discretionary Leave](#), version 10.0, December 2021; see also, UKVI, [Considering human rights claims](#), October 2009; Home Office, [Temporary Permission to Stay considerations for Victims of Human Trafficking or Slavery](#), version 2.0, February 2023

13 European Council on Refugees and Exiles, [‘Flow Chart: UK’](#), accessed 8 March 2023

14 *Refugee Resettlement in the UK*, Briefing Paper 8750, House of Commons Library, March 2020; *Refugee resettlement in the UK: recent developments*, Briefing Paper 9017, January 2021

15 GOV.UK, [‘Afghan Citizens Resettlement Scheme’](#), accessed 16 March 2023; GOV.UK, [‘Apply for a visa under the Ukraine Sponsorship Scheme \(Homes for Ukraine\)’](#), accessed 16 March 2023

16 [“Operation Warm Welcome: progress update”](#), DLUHC/Home Office press release, 6 January 2022; Home Office/UKVI, Ukraine Family Scheme, [‘Ukraine Sponsorship Scheme \(Homes for Ukraine\) and Ukraine Extension Scheme visa data’](#), accessed 17 April 2023; GOV.UK, [‘Afghan Citizens Resettlement Scheme’](#), accessed 16 March 2023

17 See, for example, Right to Remain, [‘The Right to Remain Toolkit: A guide to the UK immigration and asylum system’](#), accessed 13 March 2023

18 See [Nationality and Borders Act 2022](#) and [Explanatory Notes](#); Home Office, [‘Factsheet: Migration and Economic Development Partnership’](#), accessed 10 May 2023; UK Parliament, [‘Illegal Migration Bill’](#), accessed 10 May 2023 and [Explanatory Notes](#)

years has strongly suggested unequal effects for some groups in the UK's asylum system and it is likely those effects will be exacerbated by recent and proposed reforms.<sup>19</sup> In this inquiry we set out to focus on the equality impacts of the UK's longstanding approach to asylum and the Nationality and Borders Act provisions.

11. The likely effectiveness of the Government's asylum reforms and related policies such as the UK/Rwanda Migration and Economic Development Partnership in disrupting criminality and deterring dangerous small boat crossings is being scrutinised by the Home Affairs Select Committee.<sup>20</sup> The human rights implications of the Government's approach, including the radical reforms set out in the Illegal Migration Bill, are being scrutinised by the Joint Committee on Human Rights.<sup>21</sup>

12. While we chose not to duplicate the work of our colleagues and examine the new Bill as part of our inquiry, some of our recommendations, particularly on accommodation support to prevent destitution (chapter 5) and detention (chapter 8) will apply if its provisions are implemented. As a result of the substantial backlog of asylum claims (see chapter 2), tens of thousands of people seeking asylum in the UK will be subject to either the longstanding approach or that set out in the 2022 Act in the coming months. Should the Illegal Migration Bill be enacted, a future Committee may wish separately to examine its equality impacts, which are likely to be wide-ranging, including on women who have experienced sexual and gender-based violence, abuse and exploitation, pregnant women, children, older people, and those who are disabled.

### **Equality Act 2010**

13. The core strand of our remit is to consider the application of equality law in the UK, principally the Equality Act 2010, which legislates against discrimination based on nine "protected characteristics" (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation) and places a duty (the Public Sector Equality Duty) on a range of public authorities, including government departments such as the Home Office, to "consider or think about how their policies or decisions affect people who are protected under the Equality Act."<sup>22</sup>

14. As noted in evidence from The Law Society of Scotland, there is direct crossover between UN Convention grounds for protection as a refugee and Equality Act protected characteristics.<sup>23</sup>

19 See, for example, UK Lesbian & Gay Immigration Group, *Failing the Grade: Home Office initial decisions on lesbian and gay claims for asylum*, April 2010; "Home Office refused thousands of LGBT asylum claims, figures reveal", *The Guardian*, 2 September 2019

20 Home Affairs Committee, 'Migration and asylum' and 'Channel crossings', accessed 16 March 2023; Home Affairs Committee, Second Report of Session 2022–23, *Asylum and migration: Albania*, HC 197

21 Joint Committee on Human Rights, 'Human Rights of Asylum Seekers in the UK' and 'Legislative Scrutiny: Illegal Migration Bill', accessed 16 March 2023; Joint Committee on Human Rights, Twelfth Report of Session 2022–23, *Legislative Scrutiny: Illegal Migration Bill*, HC 1241/HL Paper 208

22 Citizens Advice, 'What's the public sector equality duty?', accessed 16 March 2023

23 The Law Society of Scotland (EAP0013)

Table 1: UN Convention grounds and read across to Equality Act protected characteristics

Convention Article 1 ground for asylum	Equality Act protected characteristic
Race	Race
Nationality	Race (in some circumstances)
Religion	Religion or belief
Political Opinion	Religion or belief
Membership of a Particular Social Group	PSGs are not defined or listed in the Convention but may apply to the remaining protected characteristics:  Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Sex; Sexual Orientation

15. While the Equality Act applies to everyone in the UK, immigration status is not itself a protected characteristic, and therefore differential treatment of asylum seekers and refugees is not necessarily unlawful. For example, UK immigration law allows some discrimination such as restricting access to work and mainstream social security benefits while claims for asylum are being determined (see chapter 5). However, the Act does require the Home Office to consider how immigration policies affect migrant groups, including people seeking asylum, with protected characteristics.<sup>24</sup>

16. Our inquiry considered the experiences of groups of asylum seekers with vulnerabilities arising from protected characteristics, particularly where these are wholly or partly the basis of their claim or closely associated with it. The weight of evidence led us to focus predominantly on:

- **women**, including pregnant women and mothers, and those who have experienced sexual and gender-based violence and abuse;<sup>25</sup> and
- **lesbian, gay, bi-sexual and transgender (LGBT) people**.<sup>26</sup>

We also considered evidence on the treatment and safeguarding of asylum-seeking children,<sup>27</sup> people with health conditions and disabilities,<sup>28</sup> and those whose claims for asylum are based on persecution because they are non-religious or have renounced their religion (apostates).<sup>29</sup>

17. We received written evidence from the Home Office, academic researchers, legal experts and third sector advice and support organisations, and heard oral evidence from legal and policy experts, academics, charitable organisations supporting women and LGBT people, women with experience of seeking asylum in the UK, and the Home Office's

24 Equality and Human Rights Commission, 'Public Sector Equality Duty', accessed 8 March 2023

25 See, for example, Women for Refugee Women (EAP0003), (EAP0026), (EAP0029); Maternity Action (EAP0015); Hibiscus Initiatives (HAP0016); Refugee Women Connect (EAP0020);

26 See, for example, SOGICA Project, University of Sussex (EAP0001); Dr Christopher Pullen and Dr Mengia Tschalaer, Bournemouth University (EAP0007); Dr S. Chelvan (EAP0008); Aydan Greatrick and Claire Fletcher (EAP0011); Rainbow Migration (EAP0021)

27 See, for example, Q154; Q168–172 [Rivka Shaw]

28 See, for example, National Aids Trust (EAP0005)

29 Humanists UK (EAP0002)

Minister for Immigration, The Rt Hon Robert Jenrick MP and senior Home Office officials. We met representatives of the lived experience campaign groups Allies for Justice and Allies for Families, who had experience of immigration detention or detention of family members. We also visited Derwentside Immigration Removal Centre, the main Home Office-contracted facility for the detention of women (notes of our visits are included as annexes to this Report). Our Member Anum Qaisar MP represented us on a Home Affairs Select Committee visit to observe the conditions at Manston Short-Term Holding Facility in Kent in November 2022. Completion of our evidence gathering was delayed by several months because of the political upheaval and Cabinet reshuffles of last year. We finally heard oral evidence from the current Home Office minister in January 2023.

18. A full list of witnesses is available via our webpages and at the end of this Report.<sup>30</sup> We are grateful to everyone who contributed. Special thanks are due to those who described their own experiences of the UK's asylum process, resettlement schemes, and detention—Annie, Esther, Roxana and Zahra, and representatives of Allies for Justice and Allies for Families. We also thank our Specialist Adviser for this inquiry, Dr Emmaleena Käkälä, Teaching Associate and researcher in forced migration and asylum at the University of Strathclyde, for her valuable contribution to our work.<sup>31</sup>

## This Report

19. Other than chapter 9, which considers the recent and ongoing Syrian and Afghan resettlement schemes and the current Ukrainian humanitarian visa pathways from an equalities perspective, our Report is focused on the asylum process and how groups of people with protected characteristics experience it. We begin by setting out the context of recent and proposed reforms in chapter 2. Chapter 3 examines the available data on asylum claims and outcomes for groups of claimants with protected characteristics. We then consider some longstanding issues in asylum decision-making and the availability and adequacy of financial and accommodation support for asylum seekers (chapters 4 and 5), before considering equality impacts of the Nationality and Borders Act's asylum provisions (chapter 6), the Government's approach to detention of asylum seekers (chapter 7), and the UK/Rwanda Migration and Economic Development Partnership (chapter 8).

30 Women and Equalities Committee, 'Equality and the UK asylum process', accessed 8 March 2023

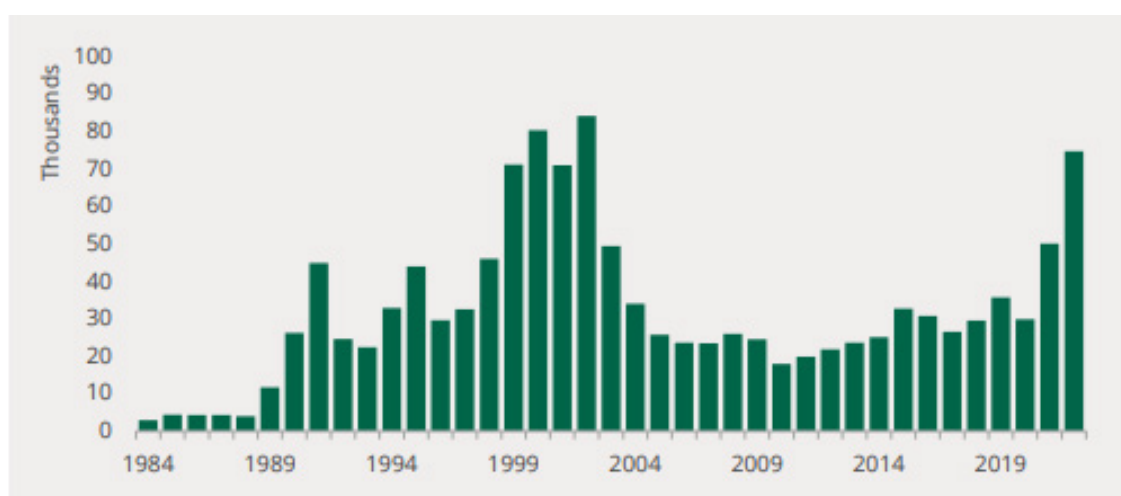
31 See staff profile at [University of Strathclyde](#), accessed 16 March 2023

## 2 The UK asylum process and ongoing reforms

### Increase in claims and the asylum backlog

20. Our inquiry took place in the context of an asylum system under immense strain.<sup>32</sup> Asylum claims made in the UK have increased sharply since the Covid-19 pandemic, reaching nearly 75,000 in 2022, the highest annual figure since a peak of 84,000 in 2002.<sup>33</sup>

Figure 1: Asylum applications in the UK, 1984–2022



Source: House of Commons Library, from Home Office, Immigration statistics quarterly February 2023, table [Asy\\_D01](#)

21. The number of initial Home Office decisions on asylum claims has not kept pace with the rise in applications and the backlog has grown exponentially.<sup>34</sup> At the end of March this year, there were 172,758 people, including dependents of main asylum applicants, awaiting an initial decision, up from 114,610 a year earlier and 69,581 the year before that.<sup>35</sup> Analysis by the Institute for Government shows a 408% increase in the asylum backlog since 2017.<sup>36</sup>

22. Drawing on the Home Office's published data and Freedom of Information responses, the Refugee Council found last year that more than 40,000 asylum-seeking people in the UK had been waiting between one and three years for an initial decision.<sup>37</sup> In 2014 the Home Office introduced a target of processing 98% of "straightforward" claims within six months. The Department abandoned this target in May 2019.<sup>38</sup> The majority of asylum

32 For a summary of key data see, *Asylum statistics*, Standard Note [SN01403](#), House of Commons Library, March 2023; see also, GOV.UK, '[New Plan for Immigration: policy statement](#)', accessed 9 March 2023; [Nationality and Borders Act 2022](#).

33 *Asylum statistics*, Standard Note [01403](#), House of Commons Library, March 2023, section 2.1

34 *Ibid.*, section 2.4; see also, Home Affairs Committee, First Report of Session 2022–23, *Channel crossings, migration and asylum*, [HC 199](#), paras 4–5. While the number of initial asylum decisions increased

35 Home Office, '[Asylum and resettlement datasets](#)', table Asy\_D03

36 Institute for Government, '[Asylum backlog](#)', accessed 16 March 2023

37 Refugee Council, '[New figures reveal scale of asylum backlog crisis](#)', accessed 23 March 2023

38 Institute for Government, '[Asylum backlog](#)', accessed 16 March 2023



claimants are now found to have a genuine claim for protection at the initial decision stage—nearly three quarters of claims were granted over the last two years, up from around a third over the period 2010–20.<sup>39</sup>

### **Small boat Channel crossings**

23. Since 2018, there has been a huge increase in the number of people risking their lives by crossing the English Channel in unseaworthy small boats to claim asylum in the UK. The number of people detected arriving via this route rose from just under 300 in 2018 to over 45,000 in 2022.<sup>40</sup> These crossings are often facilitated by criminal people-smuggling gangs and traffickers. The perilous journey claimed the lives of at least 47 people from 2019 to the end of 2022.<sup>41</sup> While other “irregular” routes, such as travelling hidden in haulage trucks, have largely been closed off in recent years, 39 Vietnamese people tragically died in a refrigerated lorry in 2019 after entering the UK in a journey facilitated by a criminal gang.<sup>42</sup>

24. There are severe shortages of adequate accommodation for people seeking asylum in the UK who would otherwise be destitute, with thousands of people expensively housed in Home Office-contracted hotels, often for many months (see chapter 5).<sup>43</sup> In autumn last year, there was a period of severe over-crowding and “wretched” conditions for migrants who had crossed the Channel in Manston Short-Term Holding Facility in Kent.<sup>44</sup>

### **New Plan for Immigration and Nationality and Borders Act 2022**

25. We began our inquiry after the Government’s response to its consultation on a New Plan for Immigration was published in July 2021, and during the then Nationality and Borders Bill’s passage through Parliament.<sup>45</sup>

26. The Nationality and Borders Act, which gave effect to the asylum reforms set out in the New Plan for Immigration, received royal assent in April 2022, with some of the key asylum provisions coming into force from 28 June 2022. It is intended to disincentivise criminal gangs from exploiting people who want to access the UK asylum system and deter people from making the dangerous journey across the Channel. It aims to address abuse of the system by legislating for a much tougher claim determination process. The Act strengthens the “inadmissibility” rules, disallowing claims where people have travelled through “safe countries” to reach the UK, in part by including a new interpretation of the key Convention principle of non-penalisation. The Act weights the claim determination process further against the claimant, for example by more clearly allowing late presentation

39 Home Office, ‘[Asylum and resettlement datasets](#)’, table Asy\_02a, accessed 3 May 2023

40 GOV.UK, ‘[Irregular migration to the UK, year ending December 2022](#)’, accessed 16 March 2023

41 “[A timeline of migrant Channel crossing deaths since 2019](#)”, *The Guardian*, 14 December 2022

42 “[Essex lorry deaths: Men jailed for killing 39 migrants in trailer](#)”, *BBC News*, 22 January 2021

43 See, for example, “[Number of asylum seekers placed in UK hotels has soared since 2020](#)”, *The Guardian*, 10 February 2023

44 See, for example, “[Manston asylum centre not operating legally, concedes minister](#)”, *The Guardian*, 3 November 2022; HM Chief Inspector of Prisons, [Report on an unannounced inspection of the short-term holding facilities at Western Jet Foil, Lydd Airport and Manston, 25–28 July](#), November 2022; Oral evidence taken before the Home Affairs Committee on 26 October 2022, [HC 822](#), Q113 [David Neal]

45 HM Government, [New Plan for Immigration: Consultation on the New Plan for Immigration: Government Response](#), CP493, July 2021; [Nationality and Borders Bill: Progress of the Bill](#), Briefing Paper [9386](#), House of Commons Library, April 2022

of evidence in support of a claim to count against a claimant's credibility.<sup>46</sup> The Act also instituted a two-tier refugee system according to mode of arrival in the UK. Actions under this part of the Act have since been paused (see chapter 6).

## UK/Rwanda Migration and Economic Development Partnership

27. On 13 April last year, the Government signed a Migration and Economic Development Partnership with Rwanda (see chapter 8).<sup>47</sup> The Government's intention is to remove some people with claims deemed inadmissible to Rwanda, where their asylum claim will be determined. People removed to Rwanda would either be granted asylum, or other leave to remain there, or returned to their country of origin. They would have no legal route to return to the UK.<sup>48</sup>

28. The first Home Office-contracted flight to Rwanda, scheduled to leave on 14 June last year, was grounded by an 11th hour "urgent interim measure" issued by the European Court of Human Rights. In December 2022, following judicial review hearings in September and October, the UK's High Court ruled that the Home Secretary had not properly considered the individual circumstances of the remaining people scheduled for removal on the 14 June flight—those who had not already successfully challenged their removal in the courts on human rights or modern slavery grounds—and ordered that she must consider their cases again. On a broader challenge to the legality of the Government's decision to remove inadmissible asylum seekers to Rwanda, the High Court ruled in favour of the Government.<sup>49</sup> The judicial review claimants were granted leave to appeal the High Court's ruling, and the Court of Appeal heard the case in April this year.<sup>50</sup> The Appeal Court's judgment is awaited.

29. The Government has stated its determination to proceed with removals to Rwanda as a key part of its asylum policy.<sup>51</sup> However, the European Court of Human Rights' injunction prevents flights to Rwanda commencing until after the final determination of the UK courts. Given the possibility of a Supreme Court hearing, this could take many more months.<sup>52</sup>

## Illegal Migration Bill

30. On 8 March this year, after we had concluded gathering evidence for our inquiry, the Government introduced the Illegal Migration Bill. Its primary intention is to fulfil one of the Prime Minister's five priorities for 2023—to stop the dangerous small boat Channel crossings.<sup>53</sup> The Bill goes much further than the Nationality and Borders Act and represents a fundamental departure from the UK's longstanding approach to asylum. The

46 [Nationality and Borders Act 2022](#), Parts 2 and 3

47 Home Office, '[UK and Rwanda migration and economic development partnership](#)', 14 April 2023 (accessed 28 April 2023)

48 GOV.UK, '[Factsheet: Migration and Economic Development Partnership](#)', accessed 16 March 2023

49 *The UK-Rwanda Migration and Economic Development Partnership*, Research Briefing [9568](#), House of Commons Library, December 2022; for full judgment, see [2022] [EWHC 3230](#) (Admin)

50 Free Movement, '[Permission granted on additional grounds in the Rwanda case in the Court of Appeal](#)', accessed 15 March 2023; '[Britain's asylum plan 'unlawful' and Rwanda 'unsafe', lawyers tell court of appeal](#)', *Channel 4 News*, 24 April 2023

51 See, for example, '[Migrant flights to Rwanda 'by this summer'](#)', *The Telegraph*, 18 March 2023

52 For a more comprehensive summary, see *The UK-Rwanda Migration and Economic Development Partnership*, Research Briefing [9568](#), House of Commons Library, December 2022

53 '[Prime Minister outlines his five key priorities for 2023](#)', 10 Downing Street press release, 4 January 2023



Bill would radically restrict access to the UK's asylum process. It would place a duty on the Home Secretary to remove from the UK all asylum seekers arriving here irregularly, "irrespective of whether a person makes a [UN Convention-based] protection claim, human rights claim, or claims to be a victim of modern slavery or human trafficking [...]." The Bill would give the Home Secretary powers to detain people for 28 days prior to their removal and permanently proscribe their re-entry or resettlement in the UK. Exceptions would have to meet a very high bar. Removal from the UK could only be suspended where it would cause "a real risk of serious and irreversible harm". Children in family groups would be in scope of the scheme. Unaccompanied children would be temporarily exempt until they reach the age of 18.<sup>54</sup>

31. The Bill is now being scrutinised in Parliament. It had its House of Commons stages in March and April 2023 and is shortly to begin its Report Stage in the Lords.<sup>55</sup> If enacted, it will face practical difficulties, including the Home Office's capacity to detain substantially more people should thousands continue to arrive irregularly, and its ability to remove people from the UK in the absence of a range of returns agreements with safe third countries and while the UK/Rwanda MEDP remains before the courts. It will also inevitably face legal challenges. The Home Secretary was unable to make the customary declaration on the title page of the Bill that it is compatible with the ECHR.<sup>56</sup> The UK's equalities regulator, the Equality and Human Rights Commission (EHRC), has expressed concern that the legislation "risks breaching the UK's legal obligations under the Refugee Convention and ECHR."<sup>57</sup> In a briefing for Report Stage consideration of the Bill in the House of Commons, the EHRC emphasised risks of "serious harm" to individuals, including children, pregnant women and victims of modern slavery and trafficking.<sup>58</sup> The UNHCR has stated that it is "profoundly concerned". It believes the Bill as drafted would be a "clear breach" of the Refugee Convention.<sup>59</sup>

**32. The asylum system is undergoing substantial reform, in part due to the Home Office's inability to process the volume of asylum claims it receives effectively and expeditiously. The Government is now seeking to reduce the ability of people to claim asylum in the UK despite recent figures showing the majority of those seeking to do so will have a genuine claim and would, in all likelihood, meet the criteria to be accepted. As this Report will set out, people with vulnerabilities arising from Equality Act protected characteristics are particularly affected. This cohort is experiencing unnecessary risks under the Home Office's current management of the asylum process, and recent and proposed changes to the system may lead to those risks increasing.**

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54 [Illegal Migration Bill and Explanatory Notes](#)

55 UK Parliament, '[Illegal Migration Bill](#)', accessed 8 June 2023

56 For a fuller explanation of the Government's position re human rights and the Bill, see [Illegal Migration Bill: European Convention on Human Rights Memorandum](#)

57 "[Statement following the announcement of the Illegal Migration Bill](#)", Equality and Human Rights Commission press release, 7 March 2023

58 Equality and Human Rights Commission, '[Statement on Illegal Migration Bill ahead of House of Commons Report Stage](#)', 24 April 2023 (accessed 2 May 2023)

59 "[Statement on UK Asylum Bill](#)", UNHCR press release, 7 March 2023

### 3 Equality data on decisions and final outcomes

33. Studies have shown that inequalities exist in asylum decisions. For example, a 2009–10 analysis of asylum claims from lesbians and gay men found a refusal rate of around 98%, compared to 75% for other claims.<sup>60</sup> Analysis of 2019 data found that the Home Office had refused 3,100 claims from LGBT people from countries in which same-sex sexual acts are criminalised.<sup>61</sup> More broadly, witnesses expressed concerns about the paucity of data disaggregated by protected characteristics and Refugee Convention grounds.<sup>62</sup> The Home Office’s published statistics on asylum applications include claimants’ nationality, age, sex, and whether the applicant was an unaccompanied asylum-seeking child. Its final outcomes statistics, which include appeal decisions, are disaggregated by nationality only.<sup>63</sup> Below we consider the need for a greater range of equality data.

#### Experimental statistics on sexual orientation-based claims

34. Since 2017, the Home Office has published a series of statistics dating from 2015 onwards, including the number of claims in which sexual orientation formed part or all of the basis for a claim, initial decisions in such claims, number of appeals, and final outcomes. They show a grant rate of 39% in 2015 for asylum claims with a sexual orientation element, falling to 22% in 2017, before rising to 44% in 2019 and 49% in 2020. This was, for the first time in the period, higher than the grant rate for other categories of claim (45%). The grant rate for sexual orientation-based claims rose further in 2021, reaching 64%. Predictably, the statistics demonstrate large variations in grant rate by nationality, reflecting varying national policies and laws on sexuality and sexual behaviour, and therefore varying likelihood of sexual orientation-based persecution. The statistics are designated “experimental” because they are not yet considered sufficiently accurate and have a number of known limitations. For example, it is unknown whether claimants define themselves as either lesbian, gay or bi-sexual or whether claims are based on “imputed assertions or association rather than a defining characteristic of the claimant.” They also do not show whether the sexual orientation element of the claim had any bearing on the initial decision, appeal, or final outcome. The statistics do not include claims based on gender identity.<sup>64</sup>

35. Policy and legal specialists welcomed the Home Office’s publication of these statistics. Leila Zadeh, Executive Director of LGBT charity Rainbow Migration said they were a “very useful” resource for tracking trends. She noted that grant rates for claims from some countries where there is known persecution on the basis of sexual orientation, for example Uganda and Malaysia, demonstrated that the Home Office was more consistently recognising this in its decision-making.<sup>65</sup> Dr S. Chelvan, a leading specialist barrister described the experimental statistics as a “fantastic basis” from which to examine LGB

60 UK Lesbian & Gay Immigration Group, *Failing the Grade: Home Office initial decisions on lesbian and gay claims for asylum*, April 2010

61 “Home Office refused thousands of LGBT asylum claims, figures reveal”, *The Guardian*, 2 September 2019

62 See, for example, SOGICA Project (University of Sussex) (EAP0001); Humanists UK (EAP0002); The Law Society of Scotland (EAP0013); Rainbow Migration (EAP0021); Dr Rossella Pulvirenti (EAP0025)

63 GOV.UK, ‘Asylum and resettlement datasets’, accessed 16 March 2023

64 GOV.UK, ‘Asylum claims on the basis of sexual orientation 2021’, accessed 20 March 2023

65 Q74

claimants' journeys through the process.<sup>66</sup> However, witnesses urged the Home Office to improve the accuracy of the statistics to meet the standard of national statistics and to include more data, notably a breakdown by sex, self-identified sexual orientation i.e., whether claimants self-identify as either lesbian, gay or bi-sexual, and to include transgender-based claims.<sup>67</sup>

### Need for more disaggregated data on all protected characteristics

36. More broadly, a range of witnesses noted the paucity of published data on the range of Convention grounds and protected characteristics of claimants in the asylum process meant that tracking inequalities in initial decisions, appeals and final outcomes for other protected groups was very difficult or impossible.<sup>68</sup>

37. Dr Rossella Pulvirenti, Senior Lecturer in international criminal and human rights law at Manchester Metropolitan University, argued that, if we want to understand and address equality issues in the UK asylum process, the “first step” would be to collect a more comprehensive range of data.<sup>69</sup> Humanists UK echoed the view of many witnesses when it said:

It is unclear why the Home Office has not published [comprehensive equality data] as it collects data against all the nine protected characteristics in the initial screening interviews conducted with all asylum seekers. In this interview, they are asked to provide information on their sex, nationality and race, religion, disability, age, whether they are pregnant, and have a spouse or partner. It would also be possible to gather information on sexuality and gender reassignment as this information would be elucidated, where relevant, under questions on reasons for seeking asylum. The Home Office publishes similar disaggregated data on hate crime broken down by five protected characteristics. There is no reason why this data should be beyond the ability of the Home Office to analyse and publish.<sup>70</sup>

38. The Home Office said that:

From the data we record, we cannot determine whether any differences in grant rate for individuals with certain protected characteristics are linked to those characteristics, or how various characteristics may work in combination with each other and additionally, with other factors which are not recorded such as the reason for an individual's claim.<sup>71</sup>

While the Home Office confirmed that information relating to a range of protected characteristics was collected during the claim determination process, it was not currently in a “reportable format”. The Home Office told us it was considering ways of collecting a

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66 Q75

67 See, for example, Q74 [Leila Zadeh]; Q75 [Nuno Ferreira]

68 See, for example, Humanists UK ([EAP0002](#)), paras 4–5; The Law Society of Scotland ([EAP0013](#)); Rainbow Migration ([EAP0021](#)), paras 30–1; Dr Rossella Pulvirenti ([EAP0025](#)); Q4 [Dr Pulvirenti]; Q74 [Leila Zadeh]

69 Q33 [Dr Pulvirenti]

70 Humanists UK ([EAP0002](#)), para 5

71 Home Office ([EAP0023](#))

greater range of data through its new Atlas database. This would include the Convention reason for a claim with further breakdowns including sexuality, transgender identity, religion and whether the claimant had reported experiences of gender-based violence.<sup>72</sup>

39. A range of witnesses emphasised paucity of equality data on wider aspects of the asylum process. For example, Maternity Action noted there were no published data on pregnant women in the process, including the type of accommodation they were housed in, and how often they were moved. It was therefore not possible to monitor whether the Home Office was complying with its guidance (see chapter 5).<sup>73</sup> Rainbow Migration drew attention to a lack of data on immigration detention disaggregated by sexual orientation and other protected characteristics (see chapter 7).<sup>74</sup>

40. **It is not currently possible from published official data to monitor outcomes in the asylum process for groups of people with vulnerabilities arising from Equality Act protected characteristics. Experimental statistics on sexual orientation-based claims are a good start and we welcome the Home Office's intention to increase its collection of data on protected characteristics and UN Convention protection grounds. Data collection and transparency is the vital first step needed to ensure that inequalities in the process can be identified and addressed. *We recommend the Home Office collect and publish data in relation to claims, initial decisions, appeals and final outcomes disaggregated by: UN Convention ground; whether the claim included sexual and gender-based violence and other abuse; and the protected characteristics of claimants.***

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72 Home Office ([EAP0023](#))

73 Maternity Action ([EAP0015](#))

74 Rainbow Migration ([EAP0021](#))

## 4 Asylum decision-making

41. Academic and third sector research over two decades has routinely drawn attention to a culture of disbelief in Home Office asylum decision-making.<sup>75</sup> It can be very challenging for anyone with a genuine claim for asylum to provide a convincing chronological narrative and evidence needed to prove their case. The difficulty proving a genuine claim is invariably compounded by trauma and related mental health effects, making the accurate reporting of chronological events challenging.<sup>76</sup> This chapter begins by considering specific difficulties faced by two groups of people with vulnerabilities arising from protected characteristics—women, including those who have experienced sexual and gender-based violence or abuse; and LGBT people whose claim is wholly or partly based on their sexual orientation or gender identity. We then consider the adequacy of asylum-seeking people’s access to specialist legal representation and the resources and training available to Home Office decision-makers to enable them to make accurate initial decisions in complex cases.

### Women in the asylum process

#### Culture of disbelief

42. We heard strong evidence from a range of witnesses that a culture of disbelief persists in the Home Office’s determination of asylum claims.<sup>77</sup> Women for Refugee Women told us that “women’s experiences of persecution are routinely dismissed by decision-makers.” In their experience, the “starting point” for the Home Office was one of “suspicion”, with officials “actively looking for reasons to refuse a protection claim”.<sup>78</sup>

43. The British Red Cross’s VOICES Network of asylum seekers and refugees published a report on women’s experiences of the asylum process in January 2022. Drawing on survey responses, interviews and workshops, it found most asylum-seeking women had a negative experience of the claim determination process, including confrontational attitudes displayed by Home Office staff and feeling disbelieved.<sup>79</sup> This was born out by oral evidence from female witnesses with recent lived experience of seeking asylum in the UK. Roxana told us her self-confidence had been “demolished” by the process. Annie said it left her feeling “lonely”, “helpless”, and “broken”.<sup>80</sup>

75 See, for example, Independent Asylum Commission, Robinson, V., *Cultures of Ignorance, Disbelief and Denial: Refugees in Wales*, Journal of Refugee Studies, Vol 12 (1) (1999), pp78–87; *Fit for Purpose Yet? The Independent Asylum Commission’s Interim Findings*, March 2008; Women for Refugee Women, *Refused: the experiences of women denied asylum in the UK*, May 2012; Anderson, J., Hollaus, J., Lindsay, A. and Williamson, C., *The culture of disbelief: An ethnographic approach to understanding an under-theorised concept in the UK asylum system*, Refugee Studies Centre, University of Oxford, July 2014; Freedom from Torture, *Lessons not Learned: The failures of asylum decision-making in the UK*, September 2019

76 See, for example, Women for Refugee Women (EAP0003), paras 41–3; Qq 1–2 [Zoe Gardner]

77 See, for example, SOGICA Project (University of Sussex) (EAP0001); Women for Refugee Women (EAP0003); Refugee Council (EAP0004); Bournemouth University (EAP0007); Dr Ali Bilgic (Loughborough University) (EAP0010); Joint Council for the Welfare of Immigrants (EAP0019); Refugee Women Connect (EAP0020); Q115 [Roxana]; Q117, Q120 [Priscilla Dudhia]; Q121 [Pip McKnight]

78 Women for Refugee Women (EAP0003), para 12

79 British Red Cross VOICES Network, *We want to be strong, but we don’t have the chance: Women’s experiences of seeking asylum in the UK*, January 2022

80 Q115 [Roxana]; Q116 [Annie]

## Sexual and gender-based violence and abuse

44. We heard that the nature of the claim determination process was particularly problematic for women who had experienced sexual and gender-based violence and abuse, related trauma, and other mental health effects.<sup>81</sup> For example, Women for Refugee Women told us about:

[...] a woman in our network who was repeatedly raped by a powerful man who was a friend of her family. In her asylum refusal letter, the Home Office justified its decision to deny her protection in part through the ridiculous assertion that “the actions you describe [i.e., the rapes she was subjected to] are inconsistent with someone who you claim was a family friend.”<sup>82</sup>

In another recent example, a Chinese woman who had been trafficked into sexual exploitation in the UK was told by the Home Office she “could not be believed because she had not disclosed this as soon as she was encountered in a brothel to the immigration officers who had arrested her there.” Women for Refugee Women argued this was “absurd” and “in direct contravention of the Home Office’s own guidance”, which states explicitly that late disclosure in trafficking cases should not be assumed to damage a claimant’s credibility.<sup>83</sup>

45. Several expert witnesses and those with lived experience of seeking asylum told us that the claim determination process actively disadvantages women with histories of sexual and gender-based violence and abuse.<sup>84</sup> As noted in chapter 1, the process relies heavily on a single, sometimes hours long, substantive interview with Home Office officials.<sup>85</sup> It is described by the Home Office as the claimant’s “main opportunity” to prove their claim for protection.<sup>86</sup> It is often described by asylum-seekers as the “big interview”.<sup>87</sup> It is a daunting prospect for anyone who has fled persecution or violence and may be particularly distressing for women who are required to disclose traumatic experiences of sexual and other forms of gender-based violence and abuse.<sup>88</sup>

46. Leading specialist barrister, Kathryn Cronin of Garden Court Chambers, described the “extreme trauma” experienced by some of her female asylum clients, who had been “disfigured by abuse”. She explained it “takes some significant time” for them to be able to speak about their experiences, even to their legal representatives. Ms Cronin told us she often arranged for them to speak first to a psychologist before a lawyer. She emphasised that many trafficked women remained under the control of men and special arrangements had to be made “to have their story elicited from them because they are still very frightened of telling it.”<sup>89</sup> Annie told us the trauma of her experiences had affected her memory and

81 See for example, Refugee Women Connect ([EAP0020](#)), para 3.1; Q124 [Kathryn Cronin]

82 Women for Refugee Women ([EAP0003](#)), para 18

83 *Ibid.*, para 19

84 See, for example, Women for Refugee Women ([EAP0003](#)); Q124 [Kathryn Cronin]

85 British Red Cross VOICES Network, *We want to be strong, but we don’t have the chance: Women’s experiences of seeking asylum in the UK*, January 2022, para 1.1.1; see also, Right to Remain, ‘*Asylum Substantive (Big) Interview*’, accessed 24 March 2023

86 Home Office, *Asylum interviews*, version 9, June 2022

87 Right to Remain, ‘*Asylum Substantive (Big) Interview*’, accessed 24 March 2023

88 British Red Cross VOICES Network, *We want to be strong, but we don’t have the chance: Women’s experiences of seeking asylum in the UK*, January 2022, para 1.1.2

89 Q124 [Kathryn Cronin]



ability to recount a consistent chronological narrative. She told us that, in any case, when she fled her situation, she was not thinking about “gathering evidence” for an asylum claim, she was only focused on finding safety.<sup>90</sup>

47. Pip McKnight of Refugee Women Connect recommended the process for determining women’s asylum claims involving gender-based violence and abuse closely mirror the Independent Domestic Violence Adviser system, in which survivors are supported by a specially trained advocate.<sup>91</sup> She also called for such claims to be dealt with by a specialist Home Office team. She believed that, in cases involving gender-based violence and abuse, reliance on a single substantive interview without specialist support was often deeply ineffective, leading to poor initial decisions. She argued:

If you had a gender-informed team that dealt with cases where there were suspected or disclosed gender-based traumas, then it could make that so much better for the women. It could make the system so much smoother as well because if you have a five-hour interview where somebody can be extremely distressed, how can you take good evidence from them? It is just impossible. I would recommend specialist teams and independent advocacy.<sup>92</sup>

48. **The Home Office’s heavy reliance on a single substantive asylum interview disadvantages women with histories of sexual and gender-based violence and abuse. These women will invariably be experiencing the effects of trauma and related mental health issues, with potential effects on memory and their ability to provide a cogent, chronological narrative of what has happened to them. This can unfairly harm their claim. We recommend the Home Office establish a specially trained team to determine the claims of women with histories of sexual and gender-based violence and abuse. It should not rely on a single substantive interview to determine such claims. Women should be afforded sufficient time and space to recount distressing and traumatic experiences in a safe and supportive environment. They should be supported in all aspects of the process by an independent specialist advocate.**

### **Gender sensitive interview practices**

49. The Home Office guidance document, *Gender issues in the asylum claim*, sets out how issues of gender should be dealt with sensitively. For example, at the screening interview, women should be given the opportunity to request a female interviewer and/or a female interpreter for their substantive interview. Only legal representatives are permitted formally to take part in the substantive interview, but women can be given the opportunity to have a friend or other trusted companion, for example from a charitable support organisation, to provide “emotional or medical support”. The guidance is clear that women should not have to recount distressing evidence in front of their children, and requests for childcare during the substantive interview should be met where possible, or an alternative date for the interview offered.<sup>93</sup>

90 Q128 [Annie]

91 Q125; For a summary of the IDVA process see, for example, Safer Futures, ‘[Independent Domestic Violence Advisers \(IDVA\)](#)’, accessed 27 March 2023

92 Q125

93 Home Office, [Gender issues in the asylum claim](#), version 3.0, April 2018, pp 30–1

50. Expert witnesses agreed that much of the Home Office's gender guidance was good, but we heard evidence that it was not applied consistently.<sup>94</sup> Annie told us she had requested a female interviewer for her substantive interview because she did not want to recount her story to a man. On the day, she was interviewed by a "dishevelled man in his 20s", who turned up late. She felt he displayed a "callous" attitude towards her, and clearly did not believe her story.<sup>95</sup>

51. Refugee Women Connect reported that requests for childcare in the substantive interview were not "routinely and proactively implemented". Where requests were met, it "required significant administrative work on behalf of [charitable advocacy] staff or solicitors." In their experience, "single mothers are disproportionately impacted."<sup>96</sup>

52. **The Home Office document, 'Gender issues in the asylum claim', includes very welcome guidance on gender sensitive asylum interview practice, including on meeting claimants' requests for female interviewers, providing childcare where necessary and allowing female claimants to have a friend or other companion present to provide emotional or medical support. It is regrettable that awareness of these policies among asylum-seeking women appears to be low and that requests, when made, often go unmet. It is crucial that all asylum-seeking women are aware of the opportunity to make gender sensitive interview requests, and that such requests are met. *We recommend that the Home Office immediately carries out, and publishes within three months, a review of the implementation of its gender sensitive interview guidance, including requests for female interviewers and interpreters, provision of childcare, and presence at substantive interviews of emotional and medical support companions. Alongside this review, it should publish an action plan to ensure all female asylum claimants are aware of these policies and requests made in accordance with the guidance are met.***

## Issues in sexual orientation and gender identity-based claims

### *Reliance on particular social group Convention ground*

53. Witnesses described a range of specific difficulties faced by asylum claimants making claims based on sexual orientation and gender identity.<sup>97</sup> We heard that some stemmed from the Home Office's tendency to determine such claims predominantly against the particular social group Convention ground. Witnesses believed the adverse consequences of this approach for LGBT claimants were twofold. Firstly, it led to a predominant focus on whether the claimant was genuinely a member of a sexual orientation minority group, despite the Home Office's guidance that:

A claimant may qualify for asylum when they fear persecution on account of their actual or perceived sexual orientation that does not, or is deemed not to conform to prevailing political, social or cultural norms in their country of origin. An asylum claim may also be founded on the basis that the claimant will be perceived to be LGB regardless of their actual sexual

94 See, for example, Q110 [Priscilla Dudhia]

95 Q122

96 Refugee Women Connect ([EAP0020](#))

97 See, for example, See, for example, SOGICA Project, University of Sussex ([EAP0001](#)); Dr Christopher Pullen and Dr Mengia Tschalaer, Bournemouth University ([EAP0007](#)); Dr S. Chelvan ([EAP0008](#)); Aydan Greatrick and Claire Fletcher ([EAP0011](#)); Rainbow Migration ([EAP0021](#))



orientation. In such a claim, the emphasis is likely to be on factors perceived to indicate that someone is [lesbian, gay or bi-sexual] in their country of origin.<sup>98</sup>

54. Secondly, focusing on membership of a particular social group led to other potential grounds for asylum being overlooked at the initial decision stage. The SOGICA Project at the University of Sussex, which researched determination of sexual orientation-based claims in European countries including the UK, told us this was common.<sup>99</sup> This was despite Home Office guidance that clearly states grounds other than membership of a particular social group can come into play in sexual orientation-based cases. For example, race, national identity, and political opinion may play a part in persecution of LGBT groups in some countries.<sup>100</sup>

### **Persistence of “discretion reasoning”**

55. In 2010, the UK Supreme Court ruled that asylum could not be refused to a homosexual person on the basis that it could be “reasonably tolerable” for them to be “discreet” in their country of origin i.e., to hide their sexuality and behaviours associated with it, thereby avoiding persecution they would otherwise face. The judgment reasoned that:

[...] to compel a homosexual person to pretend that their sexuality does not exist, or that the behaviour by which it manifests itself can be suppressed, is to deny the fundamental right to be who he or she is. [...] one of the purposes of the [UN Refugee] Convention is to counteract discrimination and it does not permit or envisage applicants being returned to their country “on condition” that they take steps to avoid offending their persecutors. Persecution does not cease to be persecution if the person persecuted can eliminate the harm by taking avoiding action.<sup>101</sup>

The judgment is referenced and reflected in Home Office guidance.<sup>102</sup>

56. However, the SOGICA Project at the University of Sussex was concerned that elements of “discretion logic” were still being applied in the UK’s asylum process, in relation to claimants who would “choose” to hide their sexuality for reasons other than persecution, such as to comply with the social norms in their country of origin. Professor Nuno Ferreira, who led the SOGICA Project, told us the UK was “the worst example” of retaining an element of discretion logic because the 2010 Supreme Court judgment had in effect replaced the previous discretion requirement with a “new and cumbersome test” of whether a claimant would choose to be discreet for reasons other than persecution.<sup>103</sup>

57. Dr S. Chelvan agreed that the voluntary discretion test needed to be “got rid of” but noted it was not a policy for which the Home Office could be “blamed”, it was a legal test that would need to be overturned through litigation. He explained why he believed the current approach was harmful:

98 Home Office, [Asylum Policy instruction: Sexual orientation in asylum claims](#), version 6.0, August 2016, p 12

99 SOGICA Project (University of Sussex) ([EA0001](#)), paras 25–6

100 Home Office, [Asylum Policy instruction: Sexual orientation in asylum claims](#), version 6.0, August 2016, p 10

101 *HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department*, [2010] UKSC 31

102 Home Office, [Asylum Policy instruction: Sexual orientation in asylum claims](#), version 6.0, August 2016, p 10

103 Q85

It is important to get rid of the discretion test, because the biggest hurdle for the individual, having made their physical and emotional journey to come to the UK to claim asylum, is to prove that they are gay or perceived to be gay. To then be refused asylum on the basis that you will be voluntarily discreet only because of social personal reasons, means that individual goes back to their country of origin and does not lie for a day or a week or a month, but has to lie for the rest of their lives about who we accept they naturally are. That is the reality of the discretion test. It is not an issue of hiding, it is an issue of lying.<sup>104</sup>

Leila Zadeh of Rainbow Migration argued that:

The Home Office could include a strong presumption that, if they accept that somebody is LGB [lesbian, gay or bi-sexual], and if they accept that there is risk of persecution of LGB people in their country of origin, then there could be a strong presumption that that person should be granted asylum.<sup>105</sup>

### *Home Office internal review*

58. Rainbow Migration noted that in 2019–20 the Home Office conducted an internal review of the determination of sexual orientation and gender identity-based, and religion-based, asylum claims.<sup>106</sup> The Department confirmed in February 2020 that the review had been completed and an action plan formulated. It had no plans to publish the review or action plan.<sup>107</sup>

59. Rainbow Migration reported that LGBT stakeholder organisations had received an oral briefing on the review’s findings in March 2020. They told us that, despite the wide range of specific issues in the determination of sexual orientation and gender identity-based claims, the review appeared to have been “very broad” and “did not appear” to systematically address whether decisions were being consistently taken in according with the guidance.<sup>108</sup>

60. Leila Zadeh of Rainbow Migration explained she had been told a key finding was that decision-makers tended to find asylum claims based on sexual orientation or gender identity “quite complex” and the related guidance long, detailed and not “user friendly”. She reported another finding was that interviewers needed improved training on how to elicit the information needed to determine claims, and interviewers and decision-makers should be working more closely together in the same teams.<sup>109</sup>

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104 Q86

105 Q86

106 Rainbow Migration ([EAP0021](#))

107 PQ, [UIN 11509](#) [on Asylum], answered on 11 February 2020

108 Rainbow Migration ([EAP0021](#)); Home Office, [Asylum Policy instruction: Sexual orientation in asylum claims](#), version 6.0, August 2016

109 Q76

61. The Minister for Immigration, Rt Hon Robert Jenrick MP, who took up his post last October, was not aware of the review, its findings, or any subsequent action plan and how it had been implemented.<sup>110</sup> He subsequently wrote to us, but his letter provided very little information. He stated that, in relation to guidance to decision-makers on sexual orientation and gender identity-based claims, the Department had:

[...] ensured that our products are accessible, easy to understand and cover what caseworkers need to deliver high quality decisions in asylum cases. As and when guidance is reviewed, we routinely consult with operational teams internally and external stakeholders to seek their views before publishing any updated version.<sup>111</sup>

62. **The Home Office should demonstrate it is taking effective steps to mitigate the risk of unequal effects in the asylum process. There is a range of distinct difficulties faced by people claiming asylum on grounds of sexual orientation or gender-identity. These claims are difficult to evidence, legally complex and difficult to determine accurately. They are not determined consistently well, leading to expensive appeals and overturned decisions. We were disappointed that the Minister was unable to set out in any detail the steps the Department has taken since the internal review it conducted in 2019–20 to improve the accuracy of its initial decision-making in such cases. *In response to this Report the Home Office should set out the main findings of the 2019–20 review and the steps it has taken to improve decision-making in cases involving sexual orientation and gender identity-based claims.***

### Country Policy and Information Notes

63. The Home Office has a team responsible for publishing, maintaining, and updating a range of country-specific reports (Country Policy and Information Notes, (CPINs)) on forms of persecution affecting different groups of people. Given varying and changing attitudes towards sexual orientation and transgender minority groups, such reports are often key in the determination of claims based on sexual orientation and gender-identity.<sup>112</sup>

64. Dr S. Chelvan, who conducted a review of country policy information for the Independent Chief Inspector of Borders and Immigration (ICIBI) in 2020, raised concerns about some sexual orientation and gender identity CPINs and the team that produces them.<sup>113</sup> Dr S. Chelvan gave three examples of what he argued were “gravely” inadequate or “misleading” CPINs. He reported that, despite submitting a March 2021 paper to the Home Office detailing persecution of gay men in Sri Lanka, the Home Office continued to rely on the “flawed” CPIN published in September 2020. He cited the successful asylum appeal in July 2021 of gay Kenyan rugby player Kenneth Macharia, in which the Home Office relied on an April 2020 CPIN to argue that gay men were not persecuted in Kenya. He emphasised this was “even after the Kenyan High Court in May 2019 upheld the constitutionality of anti-gay criminal laws [...]”.<sup>114</sup> We note that the April 2020 CPIN

110 Q307

111 Letter to the Chair of the Committee from Rt Hon Robert Jenrick MP, Minister for Immigration, Home Office, 28 March 2023

112 Home Office, [Asylum Policy instruction: Sexual orientation in asylum claims](#), version 6, August 2016, pp 17–18

113 See, Independent Chief Inspector of Borders and Immigration, [‘Inspection of Country-of-Origin Information: Thematic Report \(September 2020\)’](#), December 2020

114 Dr S. Chelvan ([EAP0008](#)), para 18

has not been updated.<sup>115</sup> He was also critical of the Home Office’s reliance on an April 2020 CPIN on Bangladesh to argue that lesbians are not at risk of persecution there, on the basis of there being “no evidence of actual reported persecution of named lesbians”. He reported that lack of such evidence was “generally accepted [to be] due to their forced invisibility” as lesbians in Bangladesh, while there was “clear evidence of sexual violence towards women who do not conform to social norms”.<sup>116</sup>

65. Dr S. Chelvan argued these examples showed the Country Policy and Information Team was “not fit for purpose” and demonstrated the need for “structural” and “cultural” change. He told us problems had been evident for “many years” and that:

The question is why is the country policy information team publishing reports which are—and I put this in the broadest sense I can—inaccurate and misleading? Who is driving the pressure for the Home Office to publish evidence, country background material, to decide cases of LGBT+ Sri Lankans which chooses to omit a Supreme Court judgment of Sri Lanka when they had it in their possession before the July 2017 publication, and then chooses to selectively edit sections?<sup>117</sup>

66. Priscilla Dudhia of Women for Refugee Women agreed that, while accurate and timely CPINs were vital, cultural change was necessary to ensure the Home Office applied the guidance consistently and fairly. She cited a “classic” example of a woman claiming asylum in the UK on the basis of sexual orientation:

Fiona [not her real name] was refused. She was a survivor of extreme sexual violence. She had fled on the basis of her sexual orientation. The Home Office said, “Oh, we have found some evidence that a gay man can safely relocate, so we think you can too,” which completely disregarded the information that was out there that showed the risks that a lone woman in her country of origin would face, including the risk of further violence and abuse. The short answer is yes, it is always great to have the policy guidance, it is really important to review it, but it is not going to make a meaningful difference until the culture changes.<sup>118</sup>

67. The ICIBI routinely reviews the quality of Home Office-prepared country information and has created the Independent Advisory Group on Country Information (IAGCI), a panel of experts and practitioners, for this purpose. In its September 2020 report on country of origin information, the ICIBI was generally positive about the quality of individual CPINs but found that intervals between updates were an issue. The Chief Inspector reported that loss of staff from the Country Policy and Information Team, “has left an already small team looking seriously under-resourced” and that requests by the reviewers for additional information to be included in the CPINs were often not acted upon.<sup>119</sup> He concluded that there was “insufficient senior-level oversight of the work of CPIT” and that:

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115 Home Office, [Country Policy and Information Note Kenya: Sexual orientation and gender identity and expression](#), version 3.0, April 2020

116 Dr S. Chelvan ([EAP0008](#)), paras 14–21

117 Q80

118 Q120

119 Independent Chief Inspector of Borders and Immigration, [Inspection of Country of Origin Information Thematic Report \(September 2020\)](#), December 2020, para 3.5

Overall, this points to an under-investment by the Home Office in COI. Given that the department is dealing with increasing numbers of asylum claims, this is neither sensible nor acceptable.<sup>120</sup>

The ICIBI called on the Home Office to build the capacity of the CPIT to a point where it is able to review and, if necessary, update all extant CPINS every two years, and to publish within three months an updated version of any extant CPIN where the Home Office agrees that the CPIN requires urgent or significant amendment.<sup>121</sup>

68. We also note that, in 2021, the ICIBI found that presenting officers, who represent the Home Secretary at asylum appeals, struggled to stay up to date with relevant information, including CPINs, because they had insufficient time to prepare for hearings.<sup>122</sup>

69. **We share expert witnesses' concerns about the performance of the Home Office Country Policy and Information Team and the accuracy and timeliness of Country Policy and Information Notes (CPINs). We heard several examples of outdated or otherwise inaccurate CPINs leading to poor initial decisions and flawed legal arguments being made, particularly in relation to sexual orientation and gender identity-based claims.**

70. *We recommend the Home Office conduct a review of the performance of the Country Policy Information Team, including its ability to maintain and update high quality CPINs in a timely manner. We further recommend the Home Office introduce a new programme of training for asylum decision-makers and presenting officers on correctly using and interpreting CPINs in the claim determination process.*

### **Biased or prejudiced interpreters and interviewers**

71. We heard allegations that people claiming asylum based on sexual orientation can be disadvantaged by biased or prejudiced interpreters in substantive interviews and appeal hearings. The SOGICA Project cited academic research that found LGBT asylum claimants may be “wary of interpreters from their own ethnic communities as they may fear they share the homophobia or transphobia they have fled or will put them at risk by disclosure.”<sup>123</sup> Rainbow Migration reported instances of interpreters deliberately providing a poor service because of their own prejudice, “for example, by mistranslating, rebuking or judging people, or being dismissive of their fears such as the death penalty.” Some claimants were inhibited from talking openly about their claims in front of an interpreter from their country of origin. Rainbow Migration also emphasised that relevant concepts and behaviours “can be hard to translate across cultures and languages, particularly where they are not usually discussed or are considered taboo.”<sup>124</sup>

120 *Ibid.*, para 3.7

121 *Ibid.*, recommendation 1, p 10

122 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office Presenting Officer function \(November 2019 – October 2020\)](#), January 2021, para 6.41

123 SOGICA Project (University of Sussex) ([EAP0001](#)), para 20

124 Rainbow Migration ([EAP0021](#)), para 13

72. Humanists UK expressed similar concerns about interpreters' biases in relation to asylum claims made by non-religious people and apostates in highly religious or theocratic countries. Its 2019 survey of 40 such claimants found around a quarter reported experiencing "difficulties with prejudiced translators", including problems "finding independent translators willing to translate criticisms of religious beliefs".<sup>125</sup>

73. Some witnesses noted that Home Office interviewers were not immune to biases and applying harmful stereotypes, which they believed contributed to the culture of disbelief. The SOGICA project reported its research had found the interviewers:

[...] often fail to understand the individual [LGBT] claimant, because of assumptions and prejudices. These include, among others, expectations that claimants have a partner or are sexually active, take part in LGBTIQ+ activism, provide a "coming out" narrative, and have difficulty reconciling their [sexuality or gender identity] with their religious beliefs.<sup>126</sup>

Researchers at University College London found the interview process disadvantages LGBT claimants "based on a set of stereotypes about how those characteristics should present themselves (i.e., in speech, appearance, behaviour)."<sup>127</sup>

**74. Biased or prejudiced interpreters can adversely affect a person's asylum claim, particularly in cases where claims are based on sexual orientation or gender identity and religion or renunciation of religious belief. No interpreter contracted by the Home Office should be able to influence the determination of any claim, particularly where this is motivated by their own beliefs, prejudices or stereotyping.**

**75. We recommend the Home Office establish a programme of religious impartiality and LGBT sensitivity training for all language interpreters on its approved list. We further recommend the Department review and enhance its training of asylum interviewers on avoiding application of stereotypes to asylum claimants in sexual orientation and gender identity-based claims.**

## Access to expert legal representation

76. Access to good quality expert legal representation was emphasised as problematic for people seeking asylum in the UK. Zoe Gardner of the Joint Council for the Welfare of Immigrants (JCWI) told us it was down to "dumb luck" whether an asylum seeker received the legal representation they needed, and most did not.<sup>128</sup> Roxana told us her experience of accessing legal representation was "very poor". She explained:

When I was given the opportunity to seek help from legal aid, I had to wait four months just to receive a call from the solicitor. I later found out that the solicitor was so busy he just did not bother to take my case. Through the British Red Cross, I had to look for different solicitors. By doing that I lost a really valuable opportunity because I had already started the process.<sup>129</sup>

125 Humanists UK ([EAP0002](#)), question 4, paras 1–2

126 SOGICA Project, University of Sussex ([EAP0001](#))

127 Aydan Greatrick and Claire Fletcher ([EAP0011](#))

128 Q29

129 Q108



77. Specialist barrister Kathryn Cronin said access to good quality legal representation in asylum cases compared “very poorly” with other areas of law. She told us there had been a “sea change” in funding and access over the 40 years of her career. She said:

When I began, for probably the first 10 or 15 years, you did have really very good representation at a budget. You had a legal aid system that was not awash with money, but you had really competent and dedicated lawyers in multiple law centres who took the great majority of cases. That is not the case now. The cases are taken by small private firms who very frequently have very junior and unskilled staff. Some of them are very poor in their ethics or honesty. You have whole areas of the UK where you get no proper immigration representation at all.<sup>130</sup>

In recent evidence to the Justice Select Committee, the Immigration Law Practitioners Association (ILPA) described a “legal aid crisis”, with “deserts” of provision across England and Wales.<sup>131</sup>

78. We heard that accessing good legal representation was particularly difficult for those with complex asylum claims requiring specialist knowledge, including many involving sexual orientation or gender identity and from women with experiences of sexual and gender-based violence and abuse.<sup>132</sup> Priscilla Dudhia called for an “overhaul” of the legal aid system because:

These are difficult claims for a variety of reasons. It is not just important to have a solicitor or a good lawyer, but often the women want a female lawyer, and they want someone who understands not just the effects of trauma, how that affects disclosure, but also how that specific violence falls within the Refugee Convention, which is the real issue here, and how that triggers the UK’s obligation to grant asylum.<sup>133</sup>

79. Jonathan Thomas, Senior Fellow and migration researcher at think tank the Social Market Foundation, told us that countries including Switzerland and the Netherlands had more efficient asylum processes, in part by “keeping the legal process quite close to [claim determination] rather than pushing it away”.<sup>134</sup>

80. Our expert legal witnesses, Dr S. Chelvan and Kathryn Cronin, agreed that a UK process in which asylum claimants were legally represented by specialists earlier in the process was very likely to produce faster and more accurate initial decisions with fewer appeals and very expensive further legal challenges.<sup>135</sup> A range of witnesses believed increased funding for specialist legal aid was required to achieve this.<sup>136</sup>

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130 Q112

131 Oral evidence heard before the Justice Select Committee, 25 April 2023 (HC 1152), Q6 [Zoe Bantleman]

132 See, for example, SOGICA Project (University of Sussex) ([EA0001](#)), para 19; Women for Refugee Women ([EAP0003](#)), para 12

133 Q117

134 Q24

135 Q87 [Dr S. Chelvan]; Q112 [Kathryn Cronin]

136 See, for example, Q39 [Zoe Gardner]; Q87 [Dr S. Chelvan]; Q87 [Nuno Ferreira]; Q112 [Kathryn Cronin]; Q117 [Priscilla Dudhia]; Aydan Greatrick and Claire Fletcher ([EAP0011](#)); The Law Society of Scotland ([EAP0013](#))

81. There is a lack of access to expert legal representation for people claiming asylum in the UK. This is particularly problematic in relation to complex claims, often involving sexual orientation or gender identity, religious belief or renunciation of belief, and sexual and gender-based violence and abuse. There is evidence that lack of legal representation during the initial claim determination phase leads to poor initial decisions and unnecessary and expensive appeals later in the process. We agree with expert witnesses that an overhaul of legal aid for these types of complex asylum cases is needed.

82. *We recommend the Government increases funding for asylum legal aid to ensure specialist support is available for claimants across the UK during the initial determination process, particularly for sexual orientation and gender identity, sexual and gender-based violence and abuse, and religious belief and apostasy-based claims.*

## Home Office resources and training

83. The Prime Minister has made tackling the asylum backlog a priority, pledging to “abolish the backlog of initial asylum decisions” by the end of this year. To support the pledge, it was announced that the number of asylum decision-makers would double, with the aim of tripling their productivity.<sup>137</sup> The Home Office later clarified that this pledge applies to 92,601 “legacy” claims lodged prior to 28 June 2022 and the coming into force of key Nationality and Borders Act asylum provisions, and not the entire backlog of over 160,000 initial decisions.<sup>138</sup>

84. Clearing a substantial proportion of the backlog this year is likely to be a considerable challenge. Analysis by the Institute for Government shows that while the number of Home Office asylum decision-makers has increased, the number of initial decisions made per decision-maker has fallen in the last decade. The period 2011–12 to 2021–22 saw a 62% increase in decision-makers alongside a similar decrease in decision-making rates. In 2011–12, 380 Home Office asylum decision-makers made on average 13.7 decisions per month. In December 2022, there were 1,237 decision-makers making on average just four decisions each per month.<sup>139</sup> The ICIBI identified several reasons for the fall in productivity, including a lack of specialist staff, inadequate training, low staff morale and high turnover, and the removal in 2019 of the Home Office service standard to decide 98% of more straightforward cases within six months.<sup>140</sup>

85. Initial asylum decisions are not only often delayed, but decisions to refuse claims are also frequently found to be flawed. Around half of all asylum appeals are either found in favour of the claimant or withdrawn by the Home Office.<sup>141</sup> This has continued to be the case despite the substantial increase in the initial asylum grant rate, and the introduction from December 2021 of a new “appeal skeleton argument” (ASA) stage in the appeal process. The ASA is intended to allow a claimant’s legal representative to build the appeal case and provide the Home Office the “opportunity to withdraw, to grant a decision or

137 HC Deb, 13 December 2022, [cols 886–7](#)

138 See, *Delays to processing asylum claims in the UK*, Research Paper [CBP9737](#), House of Commons Library, March 2023, section 5; [Letter dated 29 January 2023 from the Home Secretary to Rt Hon Dame Diana Johnson MP](#), Chair of the Home Affairs Select Committee

139 Institute for Government, [‘Asylum backlog’](#), accessed 16 March 2023

140 Institute for Government, [‘Asylum backlog’](#), accessed 16 March 2023; see also, Independent Chief Inspector of Borders and Immigration, [An inspection of asylum casework \(August 2020 – May 2021\)](#), November 2021

141 See Home Office, [‘Asylum and resettlement datasets’](#), table Asy\_D07



concede parts of it at an earlier stage in the process.”<sup>142</sup> It might be expected that, as the initial application success rate rises and an increasing number of cases are withdrawn at the ASA stage, the appeal success rate would fall, but there is no evidence of that happening yet. Rowena Moffatt, Public Law Practitioner, Doughty Street Chambers, told the Justice Select Committee:

It is relevant to note that historically the Home Office has explained the reason for the high overturn rate on appeal by reference to new evidence being provided at the appeal stage. The reform process was designed with the review to remove that problem. [...] I have not noticed a massive change in cases being overturned after the review stage. If the Home Office was right and it was essentially just new evidence, there would not be any cases being pursued post review to appeal that would be overturned. We know that is not the case. What has happened since the reform procedure has been rolled out shows that it is not just new evidence; poor decision making plays a significant role in why cases are overturned.<sup>143</sup>

### Delays

86. Witnesses wanted to see faster and better-quality asylum decision-making.<sup>144</sup> They believed the Home Office’s asylum decision-makers were under-resourced and poorly trained.<sup>145</sup> David Goodhart of Policy Exchange noted that asylum decision-makers in other European countries were much more highly qualified and enjoyed higher status and pay.<sup>146</sup> Zoe Gardner of JCWI argued there had been an “absolutely incredible” lack of priority given to high quality, efficient asylum decision-making over at least the last decade.<sup>147</sup>

87. Zoe Gardner also told us that “time and time again” organisations like JCWI made no progress in supporting refused asylum claimants until just before or at the appeal stage. She said it was “absolutely routine” for refused asylum claimants to wait many months for their appeal to be heard, only for the Home Office to drop the case at the last moment and grant refugee status.<sup>148</sup> In recent evidence to the Justice Select Committee, ILPA confirmed that asylum appeal cases were being “conceded on the day of the appeal hearing or shortly before it”.<sup>149</sup> Rowena Moffatt, a public law practitioner at Doughty Street Chambers, noted that the deadlines within which the Home Office has to provide its bundle are frequently not met.<sup>150</sup>

142 HM Courts and Tribunals Service, [First-tier Tribunal \(Immigration and Asylum Chamber\) Reform: interim process evaluation](#), September 2022

143 Oral evidence taken before the Justice Select Committee on 25 April 2023, HC (2022–23) 1152, Q23 [Rowena Moffatt]

144 See, for example, Q21 [Zoe Gardner]; Q24 [Jonathan Thomas]; Q123 [Annie]; David Goodhart ([EAP0022](#))

145 See, for example, Rainbow Migration ([EAP0021](#)); Bournemouth University ([EAP0007](#)); Q4–5 [Dr Pulvirenti]; Q23 [David Goodhart]; Q128 [Annie]

146 Q23

147 Q21

148 Q21

149 Oral evidence heard before the Justice Select Committee, 25 April 2023 (HC 1152), Q27 [Zoe Bantleman]

150 *Ibid.*, Q15 [Rowena Moffatt]

88. In 2021, the ICIBI noted that “a decision withdrawn at the appeal stage adds to the length of time a claimant is in the asylum process, and could result in adding to any trauma a claimant may already have [...]”.<sup>151</sup> It is hoped that the introduction of the Appeal Skeleton Argument stage will assist in speeding up the judicial process, either through cases being withdrawn earlier or a narrowing of the issues under contention. Once the Home Office decides to withdraw a case or loses at appeal that decision then needs be acted upon but even here delays are commonplace. Rowena Moffatt told the Justice Select Committee:

We have evidence from a member who points to significant problems in the implementation of judgments. For example, it took 13 months for leave to be granted after a case was allowed, which is inexplicable. It is not unusual for successful appellants to wait up to four months to receive leave. These are cases where there does not need to be any substantive casework; it just needs simple security checks—there really is no explanation of why it should take so long.<sup>152</sup>

89. Zoe Bantleman added, “On 6 April 2023, we wrote to the Home Office about Home Office implementation of appeals and the fact that they were delayed, because this was such an issue experienced across the membership.”<sup>153</sup>

90. In his 2021 report on the presenting officer function, the ICIBI found deficiencies in training and professional skills. These included poor advocacy and cross-examination skills, which could leave applicants feeling “uncomfortable, extremely upset and re-traumatised.” Stakeholders reported to the Independent Chief Inspector that presenting officers made “inappropriate comments” during hearings, including one instance in which a presenting officer argued that a claimant “could not be a lesbian because she has a son”.<sup>154</sup> Rowena Moffatt told the Justice Select Committee that “The general view among barrister practitioners is that the standard of presenting officers is generally poor.”<sup>155</sup>

91. A range of expert organisations and individuals called for much improved training for Home Office officials across a range of issues affecting people with vulnerabilities arising from protected characteristics.<sup>156</sup> For example, the SOGICA Project reported that LGBT asylum claimants in its study experienced a “lack of empathy” from Home Office decision-makers and others in the UK’s asylum process. It recommended improved training to include:

[...] the importance of empathy, awareness of equality and human rights, appropriate terminology, confidentiality assurances, how to create a safe space, training on the effects of trauma on individuals and unconscious bias.<sup>157</sup>

151 Independent Chief Inspector of Borders and Immigration, *An inspection of asylum casework (August 2020 – May 2021)*, November 2021, para 12.62

152 Oral evidence heard before the Justice Select Committee, 25 April 2023 (HC 1152), Q28

153 Oral evidence heard before the Justice Select Committee, 25 April 2023 (HC 1152), Q28

154 Independent Chief Inspector of Borders and Immigration, *An inspection of the Home Office Presenting Officer function (November 2019 – October 2020)*, January 2021, para 10.28

155 Oral evidence heard before the Justice Select Committee, 25 April 2023 (HC 1152), Q27

156 See, for example, Q4 [Dr Pulvirenti]; SOGICA Project, University of Sussex ([EAP0001](#)); Rainbow Migration ([EAP0021](#)); Bournemouth University ([EAP0007](#))

157 SOGICA Project, University of Sussex ([EAP0001](#)), para 18

Several witnesses called on the Home Office to draw on the lived experience of refugees to improve asylum-decision-making and training of decision-makers.<sup>158</sup>

92. Dan Hobbs, Director of Asylum Protection and Enforcement at the Home Office emphasised that decision-makers received an “extensive” range of classroom-based and online training. He told us there was an “intensive” period of training when first appointed to the role, “and then ongoing monitoring and review of new caseworkers [...]”<sup>159</sup> We wanted to know more about the type of training all decision-makers received, how it was delivered and by whom. The Minister wrote to tell us that:

Initial training is provided to new decision-makers by the Asylum Operations Training Team. This is through a five-week Foundation Training Programme covering all aspects of asylum decision making, including bespoke modules dedicated to considering sexuality and gender identity. To consolidate training a practical skills workshop has been developed and rolled out to all decision makers to provide further guidance on this area. Senior case workers retain the right to refresh decision maker interview skills through the workshop if it is considered necessary.<sup>160</sup>

93. **In order to fulfil the Prime Minister’s pledge to clear a substantial part of the backlog of asylum cases this year, the Home Office will need many more highly-trained decision-makers making initial decisions faster. Data on decision-making rates and appeal outcomes show initial decisions are far too slow and too often wrong. Evidence also shows delays in the Home Office engaging with the Tribunals and actioning its decisions.**

94. ***The Home Office must establish a new programme of training for Home Office decision-makers and presenting officers particularly on matters concerning gender, sexual orientation and gender identity-based asylum claims. Training should be delivered by independent expert stakeholders, drawing on lived experiences of refugees. The Home Office must also improve the timeliness of its actions once notice of an appeal has been served and when an outcome is known. It is simply unacceptable, as well as unnecessarily costly for the taxpayer, for successful appellants to then have to wait months for their leave to be granted.***

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158 See, for example, SOGICA Project, University of Sussex ([EAP0001](#)); Bournemouth University ([EAP0007](#))

159 Q304

160 Letter dated 28 March 2023 from the Minister for Immigration to the Chair of the Committee

## 5 Asylum support

95. People seeking asylum in the UK have no recourse to public funds such as mainstream social security benefits and public housing and are not generally permitted to work.<sup>161</sup> The Government has a statutory duty towards asylum seekers who can show they would otherwise be destitute to provide an adequate form of accommodation and a weekly financial payment sufficient to cover essential living needs.<sup>162</sup>

### Financial support

96. The amount of financial support available to asylum seekers is low, substantially below the level of mainstream social security benefits.<sup>163</sup> Prior to 2008, the weekly financial asylum support rate was set at 70% of the then mainstream benefit Income Support. While there was no statutory duty on the Government to uprate asylum support annually in line with inflation, it was the policy of successive governments to do so. Therefore, while asylum support was well below the level of mainstream benefits, it increased at the same rate.

97. In 2008, the link to Income Support was removed. The Home Office now uses a bespoke methodology to review and recalculate the weekly rate annually.<sup>164</sup> This has resulted in asylum support being uprated at a considerably slower rate than mainstream benefits, and its value has fallen significantly below 70% of mainstream benefits.<sup>165</sup> In February 2022, the standard weekly essential needs asylum support payment was uprated from £39.63 by the September 2021 Consumer Price Index (CPI) inflation rate of 3.1% to £40.85.<sup>166</sup> This is equivalent to around 53% of the Universal Credit standard allowance for over-25s.<sup>167</sup>

98. The large majority (£26.89) of the weekly amount of £39.63 was calculated to cover the costs of food and drink, based on Office for National Statistics data on spending by the lowest 10% income group in the UK. The remainder included amounts calculated by the Home Office after researching the costs of other essentials:

- toiletries (£0.69)
- non-prescription medicines (£0.44)
- laundry and toilet paper (£0.43)
- clothing and footwear (£3.01)
- travel (£4.70)

161 See, for example, NRPF Network, '[Immigration status and entitlements: How immigration status affects eligibility for public funds and other services](#)', accessed 12 April 2023

162 See, *Asylum support: accommodation and financial support for asylum seekers*, Briefing Paper 1909, House of Commons Library, April 2021

163 See Full Fact, '[Asylum seekers do not receive £175 a week](#)', accessed 12 April 2023

164 *Asylum support: accommodation and financial support for asylum seekers*, Briefing Paper 1909, House of Commons Library, April 2021; see also, for example, Home Office, '[Report on review of weekly allowances paid to asylum seekers and failed asylum seekers: 2021](#)', accessed 12 April 2023

165 See Refugee Action, '[Asylum support is not enough to live on: An extra 60 pence a day won't change that](#)', accessed 12 April 2023

166 [The Asylum Support \(Amendment\) Regulations 2022](#)

167 GOV.UK, '[Universal Credit](#)', accessed 12 April 2023

- communications (£3.52).<sup>168</sup>

Those housed in accommodation in which meals are provided, for example hotels and other catered facilities (see below), do not receive the food and drink element of the payment. Additional weekly payments of £3 are available to pregnant women. Mothers of young children receive £5 for a baby up to a year old and £3 for each child aged one to three years old. A one-off maternity payment of £300 is available to asylum-seeking women whose baby is due within eight weeks or whose baby is less than six weeks old.<sup>169</sup>

### *Lived experiences of meeting essential needs*

99. Many witnesses reported that the weekly payment of around £40 per week was “grossly inadequate”, particularly in the context of current cost of living pressures, and that many people in the asylum process were experiencing severe poverty.<sup>170</sup> Rivka Shaw of Greater Manchester Immigration Aid Unit put the weekly payment in context by asking how we would choose to spend a little over £5 per day on essentials:

What would you spend it on? A hot meal to feed yourself, a bus ticket for a vital appointment, toiletries to keep yourself clean or a phone credit to call loved ones? That is not a hypothetical question, it is the reality for thousands of people in the asylum system.<sup>171</sup>

100. We heard evidence that a range of protected groups faced specific challenges in meeting their essential living costs. Rainbow Migration noted that LGBT people were often accommodated far from support services they needed and could not afford to travel to them (see no choice dispersal and frequent moves, below).<sup>172</sup> National Aids Trust told us about an asylum-seeking man who had to spend £10 per week travelling to a sexual health clinic and had to go without other essentials to do so.<sup>173</sup> Roxana described how meeting unexpected or exceptional costs was extremely difficult, for example travel costs to healthcare services and sending documents to the Home Office via recorded delivery.<sup>174</sup>

101. While meeting all essential living costs with around £40 per week was challenging for all groups, women, particularly those with children, faced specific difficulties and were often faced with near impossible choices about how to provide for themselves and their families. Refugee Women Connect reported that an asylum-seeking lone parent woman with an autistic son could not adequately provide for his additional needs. Her application on his behalf for Disability Living Allowance was rejected because of her immigration status and the Home Office denied her request for additional emergency asylum support payments.<sup>175</sup>

168 Home Office, [Report on the allowances paid to asylum seekers and failed asylum seekers: 2020](#), December 2021

169 See GOV.UK, [Asylum support](#), accessed 12 April 2023

170 See, for example, Q10 [Zoe Gardner]; Q135 [Pip McKnight]; Q143 [Rivka Shaw]; National Aids Trust ([EAP0005](#)), paras 13–15; Greater Manchester Immigration Aid Unit ([EAP0012](#)); Refugee Women Connect ([EAP0020](#))

171 Q143

172 Q91 [Leila Zadeh]

173 National Aids Trust ([EAP0005](#))

174 Q138

175 Refugee Women Connect ([EAP0020](#))

102. We heard evidence on the extent of period poverty for asylum-seeking women. As noted above, the 2021 calculation of asylum support included £0.69p per week for all “toiletries”, including women’s sanitary products.<sup>176</sup> Priscilla Dudhia of Women for Refugee Women told us about their research, which demonstrated “just how difficult it is to afford period products [...] on this extremely small amount”. She described how women felt shame and indignity and were forced to “choose between food and pads when they are menstruating.”<sup>177</sup>

103. Witnesses told us that the low level of financial support was especially problematic for women experiencing sexual and gender-based violence and abuse.<sup>178</sup> Refugee Council noted that the asylum support system does not generally make provision for separate payments for men and women within family units.<sup>179</sup> Women for Refugee Women noted that financial support for refused asylum-seeking women who had exhausted their appeal rights was “very restricted”, leaving them at high risk of destitution. It cited its research, which found the risk of destitution had compelled 35% of asylum-seeking women in one study to remain in a relationship they would otherwise have left. Of these women, 41% experienced some form of sexual violence at the hands of their partner; 38% had been raped; and 35% suffered physical abuse.<sup>180</sup>

104. Maternity Action said the standard weekly amount plus the small additional payment available to pregnant women was inadequate, particularly for the many asylum-seeking women who lacked support networks of friends and family. Ros Bragg, Maternity Action’s Director, told us these women were:

[...] struggling to be able to pay for basic requirements—basic equipment, baby clothes—in many cases they are able to meet these needs only with help from midwives or voluntary organisations. These are not women who have a network of friends who can provide them with old baby clothes or with a buggy that is no longer needed. They have to get everything from scratch without the networks in place, so there are quite significant problems in the amount of support they get.<sup>181</sup>

105. Maternity Action told us that some women were missing out on the one-off maternity payment of £300 because of short timeframes for applications and “bureaucratic complexity”. It noted that the mainstream Sure Start Maternity Grant had an application period of 11 weeks prior to due date and up to six months after birth. By contrast:

The asylum support maternity grant has a much shorter period for application: eight weeks before the baby is due until six weeks after the birth. Applications submitted prior to these dates are returned, unprocessed. It is standard practice for applications received after these dates to be refused. Errors in applications, such as incorrect description of the form of asylum support, also result in claims being refused.<sup>182</sup>

176 Home Office, ‘[Report on review of weekly allowances paid to asylum seekers and failed asylum seekers: 2021](#)’, accessed 12 April 2023

177 Q136

178 Women for Refugee Women ([EAP0003](#)), paras 22–5;

179 Refugee Council ([EAP0004](#)), para 10

180 Women for Refugee Women ([EAP0003](#)), paras 22–5; see also Refugee Council ([EAP0004](#)), para 10

181 Q136 [Rosalind Bragg]

182 Maternity Action ([EAP0015](#))



Pip McKnight of Refugee Women Connect emphasised difficulties for pregnant asylum-seeking women with additional maternity care needs, noting that if a woman required frequent scans at a hospital, she may be forced to choose between paying a bus fare or eating.<sup>183</sup>

### **High Court judgment, December 2022**

106. Immigration NGOs and others supporting the rights of asylum seekers have been calling for a substantial uplift in asylum support for many years.<sup>184</sup> In the most recent legal challenge last year, the High Court found the Home Secretary was acting unlawfully by not uprating the weekly asylum support payment of £40.85 in line with inflation following the 2022 annual review. Mr Justice Fordham’s judgment noted the claimant:

[...] describes herself having to choose between Calpol and food, or which child to buy clothes for; not having enough money to pay for household cleaning items; unable to afford sanitary products for herself, so that “when I am on my period I have to use toilet tissue”; and struggling to pay for basic educational items. She explains how worried she is about the predicted increases in prices and how this will affect her children [...].

The claimant told the court it was getting “harder and harder just to survive day to day”.<sup>185</sup>

107. On 16 December 2022, the Court took the unusual step of issuing a Mandatory Order that the Home Secretary uprate the payment by the then CPI inflation rate of 10.1%, to £45.00. The Court concluded, drawing on the Home Office’s own analysis, that this was the “minimum legal action required” to satisfy her duty to provide for essential living needs.<sup>186</sup>

108. Doughty Street Chambers, whose lawyers acted for the claimant, has noted that the increase to £45 “is not the end of the matter”. Its view is that, given the Court found the decision to update the weekly amount to £40.85 was unlawful because of “a failure to rationally explain a change in methodology for calculating the cost to asylum seekers of meeting their food needs”, further increases are likely to be required to fulfil the legal duty to meet essential needs.<sup>187</sup>

109. We asked how the Government planned to maintain asylum support at a level sufficient to meet essential needs in the longer term, and whether it was considering reinstating a link to annually uprated mainstream benefits. The Minister and Dan Hobbs, Director of Asylum Protection and Enforcement at the Home Office, told us that, while the Government had complied with the High Court’s Order to introduce the increased payment, it was still considering its longer-term response to the judgment.<sup>188</sup>

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183 Q137

184 For a brief history of campaigns and legal challenges, see *Asylum support: accommodation and financial support for asylum seekers*, Briefing Paper 1909, House of Commons Library, April 2021, section 4.2; for a more detailed description of previous legal challenges, see *R (on the application of CB) v. SSHD* [2022] EWHC 3329 (Admin)

185 *R (on the application of CB) v. SSHD* [2022] EWHC 3329 (Admin)

186 *R (on the application of CB) v. SSHD* [2022] EWHC 3329 (Admin)

187 Doughty Street Chambers, ‘[High Court orders Home Secretary immediately to increase asylum support payments to £45 per week](#)’, 21 December 2022 (accessed 12 April 2023)

188 Q332

110. £40 per week was clearly inadequate to meet the essential living needs of people seeking asylum in the UK. Women, including those with children, face particular difficulties and near-impossible choices about how to provide for themselves and their families. It is unsurprising that the High Court ordered an immediate increase to £45—the “minimum legal action required” for the Home Secretary to meet her legal duty. It is clear that a long-term solution is required after many years of below inflation increases to asylum support have left people facing severe poverty. We believe the simplest, fairest and most sustainable solution is to link the rate of asylum support to that of the main annually uprated mainstream social security benefit. In the context of the asylum system, this would also be relatively inexpensive, at a likely initial annual cost in the low tens of millions of pounds.

111. *We recommend the Government set the weekly asylum support payments at 70% of the standard over 25s rate of Universal Credit. The Government should also consider increasing the payment for women to address specifically concerns regarding period poverty.*

## Asylum accommodation

112. Asylum seekers who would otherwise be destitute are provided with accommodation via the Home Office and contracted providers. Those who cross the Channel can be held for up to 96 hours at a short-term holding facility such as Manston migrant processing centre in Kent.<sup>189</sup> They may then be accommodated in “initial” asylum accommodation, usually a hostel-type environment. After a relatively short period, typically two to four weeks, and no more than 35 days, they are “dispersed” across the country to contracted asylum accommodation, with asylum seekers having no choice about where they are housed. Pressure on capacity in dispersal asylum accommodation has led to exponential increases in the number of people housed in “contingency” accommodation, including hotels and disused and repurposed military barracks.<sup>190</sup> In April 2023, the Refugee Council noted that there were 51,000 asylum seekers accommodated in 395 hotels.<sup>191</sup>

113. Academics and practitioners have long expressed concerns over the adequacy and safety of accommodation provided for asylum seekers.<sup>192</sup> Several Home Affairs Select Committee Reports have identified substandard conditions in contracted accommodation. The problems were exacerbated by opaque and ineffective complaints mechanisms, and poor contract management by the Home Office. In 2017, the Committee described the condition of some asylum accommodation as a “disgrace” and concluded that it was “shameful that some very vulnerable people have been placed in such conditions”.<sup>193</sup> Two years later, while the then COMPASS contracts for asylum accommodation were under review and implementation of the current Asylum Accommodation and Support Services (AASC) contracts planned, it found that “very little has changed”. A key Home Affairs

189 [The Short-term Holding Facility \(Amendment\) Rules 2022](#) increased the maximum holding period from 24 hours

190 For a discussion of the causes in the rise, see *Asylum accommodation: the use of hotels and military barracks*, Briefing Paper 8990, House of Commons Library, November 2020

191 Refugee Council, ‘[Illegal Migration - Assessment of impact of inadmissibility, removals, detention accommodation and safe routes](#)’, April 2023 (accessed 2 May 2023)

192 See, for example, Vicky Glen and Kate Lindsay, [The Extent and Impact of Asylum Accommodation Problems in Scotland](#), Scottish Refugee Council, August 2014; Helen Baillot and Elaine Connelly, [Women seeking asylum: Safe from violence in the UK?](#), June 2018; Refugee Council, [Lives on Hold: Experiences of people living in hotel asylum accommodation. A follow-up report](#), July 2022

193 Home Affairs Committee, Twelfth Report of Session 2016–17, *Asylum accommodation*, [HC 637](#), para 68



Select Committee recommendation was that the Home Office should align standards in asylum accommodation with local authority housing standards and adjust contracted providers' key performance indicators accordingly.<sup>194</sup> The Government responded in March 2019 that it believed the standards required by the existing COMPASS contracts were "broadly equivalent to or in excess of standards used in other forms of social and rented housing." It noted that the new AASC contracts had been developed to align with local authority housing standards and contained additional requirements, including "pro-active maintenance schedules for each property which should reduce the incidence of defects."<sup>195</sup>

114. However, evidence to our inquiry demonstrated that the same problems persist. We heard about a range of issues experienced by groups of people with different protected characteristics, including women, children, LGBT people and people with disabilities.<sup>196</sup> While the vulnerabilities and harms experienced by each group were distinct, the root causes were shared—substandard accommodation; inadequate safeguarding and ineffective mechanisms for reporting and dealing with complaints; and the social and health impacts of "no choice" dispersal and frequent moves, often at very short notice.

### **Substandard accommodation**

115. The VOICES Network's January 2022 report on female asylum-seekers' experiences emphasised asylum accommodation as a key issue for women in the system:

Women described being placed in accommodation that was "old", "dirty" and had infestations of pests such as bed bugs. Some women felt that the quality of the housing they were provided reflected how little they were valued and felt humiliated and angry that they were being asked to live in accommodation that they didn't think would be deemed fit for the rest of the population in the UK.<sup>197</sup>

116. We heard that pregnant women were often provided with only the most rudimentary equipment for their babies and conditions were often unsanitary.<sup>198</sup> Maternity Action told us conditions in initial asylum accommodation were often unacceptable, particularly for pregnant women and new mothers and their babies, including:

[...] dirty bathrooms and toilets, bad or inedible food, being forced to sterilise bottles in the toilets, safety issues, rooms on upper floors without lifts, and being assigned top bunks.<sup>199</sup>

Witnesses emphasised that delays in the determination of asylum applications meant that people can be stuck in poor conditions for many months or years.<sup>200</sup>

194 Home Affairs Committee, Thirteenth Report of Session 2017–19, *Asylum accommodation: replacing COMPASS*, HC 1758, para 58

195 Home Affairs Committee, Twelfth Special Report of Session 2017–19, *Asylum accommodation: replacing COMPASS: Government Response to the Committee's Thirteenth Report of Session 2017–19*, HC 2016, p12

196 See, for example, National Aids Trust (EAP0005); Maternity Action (EAP0015); Hibiscus Initiatives (EAP0016)

197 British Red Cross VOICES Network, *We want to be strong, but we don't have the chance: Women's experiences of seeking asylum in the UK*, January 2022, para 2.2.2

198 Maternity Action (EAP0015)

199 Maternity Action (EAP0015)

200 See, for example, Q7 [Zoe Gardner]; Q131 [Roxana]

117. Witnesses also told us that needs arising from health conditions and disabilities, and children's needs, often went unmet. For example, National Aids Trust told us there was inadequate access to healthcare for people with HIV. Initial, contingency and dispersal accommodation were said to often provide a phone only at the reception desk, so that people with HIV were unable have confidential conversations about health issues, including sexual health.<sup>201</sup> We also heard that there were risks that children in need of support were not being referred to children's services.<sup>202</sup>

118. In May 2023, the Government announced plans to remove licensing requirements for asylum accommodation as part of plans to help move people out of hotels. Under the proposals, landlords will be allowed to house asylum seekers for two years without getting the property recognised as a house in multiple occupation (HMO)—this would create exemptions from regulations such as those governing electrical safety and minimum room sizes. The Government argues that removing the licensing requirement will make it easier to acquire suitable accommodation, critics of the proposals warn that vulnerable people may be required to stay in conditions that are unsafe.<sup>203</sup>

**119. Substandard conditions in asylum accommodation are unacceptable. No one should have to endure unsanitary conditions, particularly people who are vulnerable. The slow claim determination process means people can be stuck in poor accommodation for excessive periods leading to and exacerbating adverse effects on people's physical and mental health. Concerns over the standard of asylum accommodation have been raised repeatedly over many years. It is disappointing that the latest round of contracts to provide such accommodation appear to have yielded little improvement. It is also concerning that the Government is now planning to exempt those properties from basic safety requirements.**

**120. *The Home Office must do more to ensure contracted providers of asylum accommodation provide accommodation of a decent, safe standard and hold contractors to account with financial penalties when they fail to do so. The Home Office should enhance its resources for inspection and contract management and give particular regard to the experiences of pregnant women and those with young children.***

## **Violence and harassment**

121. Witnesses told us experiences of violence and harassment were common in asylum accommodation. Researchers described incidences of verbal and physical harassment, homophobic, transphobic, racist and anti-migrant violence, and hate crime against LGBT people.<sup>204</sup> Dr Christopher Pullen and Dr Mengia Tschalaer of Bournemouth University told us their research had found that LGBT people in asylum accommodation lived in "constant fear" of homophobic abuse and violence at the hands of both accommodation staff and fellow asylum seekers.<sup>205</sup>

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201 National Aids Trust ([EAP0005](#))

202 Q170 [Rivka Shaw]

203 See, "[Asylum seekers in England and Wales to lose basic protections in move to cut hotel use](#)", *The Guardian*, 16 May 2023

204 Bournemouth University ([EAP0007](#)); Aydan Greatrick and Claire Fletcher ([EAP0011](#))

205 Bournemouth University ([EAP0007](#))

122. Leila Zadeh from Rainbow Migration described how LGBT people's fear of being outed prevented them from accessing support groups, giving rise to depression and self-harm. She described profound anxiety and fear experienced by LGBT people in asylum accommodation:

[...] we often see people who are called names in their accommodation by the people they are sharing that accommodation with; they are sexually harassed, and they are physically abused [...]. People will often therefore do one of two things: they will either spend their entire time in their room and be too afraid to go out, or they will spend as much time as they possibly can actually away from their accommodation because they think it is safer to be anywhere else rather than at the home that has been provided for them.<sup>206</sup>

Researchers at University College London found that LGBT people who chose to leave asylum accommodation to avoid homophobia or transphobia faced homelessness and destitution and, in some cases, were forced into sex-work to avoid rough sleeping.<sup>207</sup>

123. We heard evidence that single women could be extremely vulnerable in asylum accommodation. Pip McKnight of Refugee Women Connect and Rivka Shaw from Greater Manchester Immigration Aid Unit (GMIAU) gave examples of sexual harassment of women, by fellow asylum-seekers and accommodation staff, in mixed-sex accommodation.<sup>208</sup> Specialist immigration barrister Kathryn Cronin described abuse of women in asylum accommodation as “endemic”.<sup>209</sup> Roxana gave disturbing evidence about women's personal spaces being violated. She told us about an instance where “one guy put a CCTV camera in the bathroom, in the toilet, and he was selling the tapes to YouTube and other social media [...]”.<sup>210</sup>

### *Safeguarding and complaints mechanisms*

124. A range of witnesses described inadequate safeguarding and complaints mechanisms. Rivka Shaw from GMIAU said people who complained were often met with “rudeness” and “disrespect” from staff.<sup>211</sup> Responses to complaints about substandard conditions were said to often be inadequate or very slow. We were told that contracted providers often ignored issues until third sector organisations intervened on asylum seekers' behalf.<sup>212</sup>

125. Witnesses described LGBT people's widespread fear of reporting hate crime, harassment, and violence.<sup>213</sup> Like complaints about housing conditions, several witnesses reported that where complaints about safety were made, they were frequently ignored or dismissed by contracted accommodation providers. People were frequently forced to continue to share accommodation with perpetrators of harassment and violence.<sup>214</sup> Laila Zadeh described the efforts made by organisations like Rainbow Migration to get contracted accommodation providers to act on the safeguarding complaints of LGBT asylum seekers:

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206 Q91

207 Aydan Greatrick and Claire Fletcher ([EAP0011](#))

208 Q132 [Pip McKnight]; Q152 [Rivka Shaw]

209 Q142

210 Q138

211 Q157

212 Greater Manchester Immigration Aid Unit ([EAP0012](#)); Refugee Women Connect ([EAP0020](#))

213 Bournemouth University ([EAP0007](#))

214 Refugee Women Connect ([EAP0020](#))

We do help people to make complaints, and often we end up complaining to the accommodation provider, to the Home Office and also to Migrant Help, who run a service contracted to the Home Office. It takes a lot of chasing by us. Normally the outcome is one of two things: one, the situation is resolved, but it has taken weeks and that person has been left self-harming or left with severe depression and living with fear daily, or we end up moving them out to accommodation that is provided by a charity, for example, Refugees at Home or Micro Rainbow.<sup>215</sup>

Refugee Women Connect highlighted a case study in which a survivor of domestic abuse and her children had to continue living with their abuser for two weeks after reporting. They also told us about inadequate responses to complaints, including instances in which the complainant, rather than the perpetrator, was moved to different accommodation.<sup>216</sup> We heard that inadequate responses to safeguarding issues made victims of harassment and violence feel “punished” for reporting their experiences.<sup>217</sup>

126. In May 2022, the Home Office published an asylum support contracts safeguarding framework. This sets out the policies and practices each contracted provider should have in place to protect vulnerable adults and children, including having a policy/strategy document that is “clearly written and understandable”, “shared, publicised and promoted”, and “endorsed” by the Home Office. It should be “mandatory reading for all staff”. Providers should have an “identifiable” Board member with specific responsibility for safeguarding. The document should be reviewed annually, or whenever there is a “major change in policy or legislation.”<sup>218</sup>

**127. We were disturbed to hear reports of serious safeguarding issues, including LGBT hatecrime and violence against women, occurring in all types of asylum accommodation. Despite the asylum support contracts safeguarding framework, published in May 2022, many settings appear to lack effective complaints and safeguarding mechanisms. It is unacceptable that reported issues are routinely ignored.**

**128. *The Home Office should conduct an urgent review of safeguarding policies and practices across all asylum support contracts, to ensure the asylum support contracts safeguarding framework is being consistently and effectively implemented in all settings. It should publish its review and an action plan within three months. We further recommend the Home Office increase contracted provision of female-only and family-only accommodation, and dedicated safe asylum accommodation for LGBT people.***

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215 Q91

216 Refugee Women Connect ([EAP0020](#))

217 Q93 [Nuno Ferreira]

218 Home Office, '[Asylum support contracts safeguarding framework](#)', May 2022 (accessed 25 April 2023)

### Contingency accommodation

129. Witnesses told us there was a particular problem with inadequate monitoring and safeguarding of vulnerable asylum seekers housed in contingency accommodation.<sup>219</sup> In an inspection in 2022, the ICIBI found inadequate vetting of staff in hotel accommodation for unaccompanied asylum-seeking children.<sup>220</sup> In January 2023, the Home Office confirmed that 440 unaccompanied asylum-seeking children had “gone missing” from Home Office-contracted hotels and that 200 of these children had not been located.<sup>221</sup> There were reports that some children been “abducted” and were at risk of exploitation by criminal gangs.<sup>222</sup>

130. We heard that LGBT people had been exposed to “extreme suffering” in contingency accommodation. Leila Zadeh told us about the experiences of a gay man housed in repurposed military barracks:

He was being harassed by the others there, and there was no private space—the showers were communal, and they were sleeping in dorms, effectively. We worked very hard with other partner NGOs to try to get this person out but, to our knowledge, vulnerable people are being placed in accommodation like barracks and other forms of contingency accommodation which are completely unsuitable.

She added that another gay man had “pranks” played on him and was sexually assaulted.<sup>223</sup>

131. Witnesses reported that contingency accommodation, including hotels, posed a “huge risk” of domestic violence.<sup>224</sup> Refugee Council reported that increased use of hotels as contingency asylum accommodation had led to “a rise in the number of women reporting experiences of sexual harassment by other residents and, in some cases, by hotel staff.” They told us hotel staff “often receive no specialist training despite being asked to work with vulnerable people.”<sup>225</sup> Witnesses reported issues arising from women and children sharing rooms and living spaces with strangers.<sup>226</sup> Roxana told us about an incident when she was living in a hotel:

One day someone knocked on my door and literally was calling me names because he was high on drugs and alcohol. I just got up from the bed, I was not in very good physical condition, I dropped on the floor—I did not faint, I just became blurred for a couple of minutes—I hurt my head and my hip, and the police came.<sup>227</sup>

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219 See, for example, Refugee Council ([EAP0004](#)); Bournemouth University ([EAP0007](#)); Greater Manchester Immigration Aid Unit ([EAP0012](#))

220 Independent Chief Inspector of Borders and Immigration, *An inspection of the use of hotels for housing unaccompanied asylum-seeking children (UASC) March – May 2022*, October 2022; See, “Unvetted staff working in hotels housing child asylum seekers, report says”, *The Guardian*, 19 October 2022

221 HC Deb, 24 January 2023, col 859

222 See, for example, “Revealed: scores of child asylum seekers kidnapped from Home Office hotel”, *The Guardian*, 21 January 2023

223 Q94

224 Q150 [Rivka Shaw]

225 Refugee Council ([EAP0004](#)), paras 18–19

226 See, for example, Annie (Q130); Refugee Council ([EAP0004](#)); Hibiscus Initiatives ([HAP0016](#))

227 Q131

Another concerning example we heard was of a woman and her child housed in a hotel with 80 men and no other females.<sup>228</sup>

132. In April 2023, the Home Office announced plans to accommodate 500 single male asylum seekers on a barge berthed at Portland Port in Dorset. The intention is to provide “basic and functional accommodation” as a cheaper alternative to hotel accommodation.<sup>229</sup> In June, the Home Secretary announced that the Department had secured two more barges to accommodate another 1,000 people.<sup>230</sup>

**133. Accommodation of asylum seekers with a range of vulnerabilities arising from protected characteristics, including single women, mothers, children and LGBT people, in crowded hotel and other contingency accommodation, including the recently acquired accommodation barges, is unacceptable from both safeguarding and equalities perspectives. Despite the asylum support contracts safeguarding framework, we heard evidence of clear safeguarding risks and people living in fear, often for many months. While the practice of accommodating asylum seekers in hotels and other forms of contingency accommodation persists, there must be effective policies and practices in place to protect vulnerable adults and children from harm.**

*134. As part of the safeguarding review and action plan recommended above, the Home Office must publish a robust safeguarding policy in relation to the use of hotels and other facilities as contingency accommodation. This should include a requirement for a needs-based risk assessment to be carried out before any women, families, children, or LGBT people at risk of hate crime are housed in hotels and other types of contingency accommodation alongside single men.*

### **No choice dispersal and frequent moves**

135. Asylum seekers have no choice about where they are dispersed to, and once in accommodation they have no tenancy rights and can be moved, to any region of the UK, often at very short notice. Roxana told us she had been moved “nearly 20 times”, including across the country from London to Bristol, and then to Newcastle. She told us she had no support in the north of England, which made her feel very lonely, and her mental health deteriorated.<sup>231</sup>

136. While all asylum seekers can be disadvantaged by being located far from social support networks and services, we heard the effects on some groups with protected characteristics were disproportionate. For example, children moved in the middle of a school year, disrupting their education and social networks;<sup>232</sup> transgender people located in remote areas, long distances from LGBT support groups in towns and cities;<sup>233</sup> LGBT people and women accommodated far from specialist legal services;<sup>234</sup> and people with health conditions far from the healthcare services they need.<sup>235</sup>

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228 Refugee Women Connect ([EAP0020](#))

229 “[Vessel to accommodate migrants](#)”, Home Office press release, 5 April 2023

230 HC Deb, 5 June 2023, [col 557](#)

231 Q131

232 Scottish Refugee Council ([EAP0027](#)), para 3

233 Q91 [Leila Zadeh]; SOGICA Project, University of Sussex ([EAP0001](#))

234 SOGICA Project, University of Sussex ([EAP0001](#)); Dr Christopher Pullen and Dr Mengia Tschalaer, Bournemouth University ([EAP0007](#))

235 Q154 [Rivka Shaw]



137. We heard particularly concerning evidence from Maternity Action and others about dispersal and frequent moving of pregnant women and new mothers, often with little notice and sometimes without, or contrary to, clinical advice. Refugee Women Connect told us how frequent moves disrupted maternity care and “put the health of mother and baby at risk.”<sup>236</sup>

138. Maternity Action cited its research, which showed a number of women had been moved in the final trimester of their pregnancy, in some cases in the final weeks or days before their baby’s due date. They reported that pregnant women and new mothers continued to be moved without the Home Office first obtaining the advice of a clinician, despite published guidance to the contrary.<sup>237</sup> Hibiscus Initiatives told us about a woman who had been moved back and forth between a house and a hotel while trying to recover from a caesarean section birth and having to sleep on a mattress on the floor for two weeks with her baby in a Moses basket.<sup>238</sup> Clinicians had reported to Maternity Action that it was sometimes difficult to find anyone in the Home Office to communicate their advice against subjecting a pregnant woman to a potentially harmful move.<sup>239</sup>

**139. The Home Office is too often failing to comply with guidance on moving pregnant women and new mothers between asylum accommodation settings. The guidance is clear that such moves are potentially harmful and should only be made where advice on safety has first been sought from a clinician and acted on. We heard that the health of mothers and babies has been put at risk, with moves taking place within days of women’s due dates and shortly after births. This is dangerous and unacceptable. There is a lack of data on pregnant women in the system by which to monitor the Home Office’s compliance with its own guidance.**

**140. *The Home Office must stop moving pregnant women and new mothers between asylum accommodation settings unless clinical advice has been sought and acted on, the mother has consented to a move, and it is in the mother’s and baby’s best interests. The Home Office must collect and publish data on the number of pregnant asylum-seeking women and new mothers in the asylum system, the category of accommodation in which they are living, the number of times they are moved, and in which trimester, and whether on each occasion clinical advice was sought and acted on.***

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236 Refugee Women Connect ([EAP0020](#))

237 Maternity Action ([EAP0015](#)); see UKVI, [Healthcare Needs and Pregnancy Dispersal Policy](#), August 2012 (updated January 2016)

238 Hibiscus Initiatives ([HAP0016](#))

239 Maternity Action ([EAP0015](#))

## 6 Nationality and Borders Act 2022

141. As set out in chapter 2, the Nationality and Borders Act 2022 made substantial changes to the UK's longstanding asylum process. In this chapter, we briefly describe the Act's policy intent and some of its asylum provisions, before examining their equality implications and the steps the Home Office is taking to monitor and mitigate unequal impacts.

### Asylum provisions and policy intent

142. The Act sets out in legislation the asylum reforms that were proposed in the Government's New Plan for Immigration consultation.<sup>240</sup> Key policy objectives include deterring abuse of the system, such as late provision of evidence and "unmeritorious" last minute claims and appeals; deterrence of criminal gangs who facilitate dangerous journeys, including via small boat Channel crossings; and disincentivising people from making irregular journeys to claim asylum by weighting the claim determination process against the claimant in a number of ways.<sup>241</sup> These include by:

- establishing a two-tier refugee system allowing "differential treatment" for those who arrive irregularly via "safe third countries", with fewer rights to protection and family reunion (section 12). [In June 2023, the Minister for Immigration announced that this system would be paused via changes to the Immigration Rules from July 2023. The Government said it was taking this decision because it intended to take more radical measures to deter irregular journeys through provisions in the Illegal Migration Bill.<sup>242</sup> Critics of the policy have argued that it was counterproductive, creating more work for the Home Office at a time when it is already struggling to deal with existing backlogs].<sup>243</sup>
- raising the threshold of proof for a well-founded fear of persecution, establishing a two-stage test with a new first stage of proof to the higher threshold of "on the balance of probabilities", before proving, to the long-established threshold of "reasonable likelihood", fear of persecution if returned to their country (section 32);
- criminalising people who arrive in the UK to claim asylum via irregular journeys and those who facilitate such journeys (sections 40 and 41); and
- allowing late provision of evidence to support a claim to damage the claimant's credibility or affect the weight given to such evidence (sections 19 and 26).<sup>244</sup>

240 Home Office, *New Plan for Immigration: Overarching Equality Impact Assessment of policies being delivered through the Nationality and Borders Bill*, September 2021; see also, Home Office, 'Consultation outcome New Plan for Immigration: policy statement', updated 29 March 2022, chapters 4 and 5 (accessed 14 April 2023)

241 Home Office, 'Consultation outcome New Plan for Immigration: policy statement', updated 29 March 2022, chapters 4 and 5 (accessed 14 April 2023)

242 HC Deb, 8 June 2023, [HCWS837](#)

243 HC Deb, 8 June 2023, [HCWS837](#)

244 [Nationality and Borders Act 2022](#)

143. The Bill was highly controversial, in part due to concerns regarding its compatibility with the UK's obligations under the UN Refugee Convention, notably Article 31 and the key principle of non-penalisation.<sup>245</sup> The UNHCR was clear in its view that the Bill breached Article 31 and further argued that its premise that “people should claim asylum in the first safe country they arrive in” was unworkable and undermined the principle of global cooperation on which the Convention was self-evidently founded.<sup>246</sup>

144. We took evidence on the Bill during its passage through Parliament and heard a range of views on its policy intent. David Goodhart, Head of the Demography, Immigration, and Integration Unit at the Policy Exchange think tank, was in favour of fundamental reform of the longstanding approach, arguing that in the modern context of mass migration within the UN Convention and international human rights framework:

Asylum tends to be seen as a morality tale—the hard versus soft-hearted. Actually, it's a wicked, insoluble, problem and will remain so while we retain a legal framework that has created an absolute entitlement [to cross borders to claim asylum] that takes no account of numbers. For, thanks to the way that the concept of persecution has been stretched in recent decades, asylum could legitimately be enjoyed by hundreds of millions of people, many of whom are now potentially on the move to an extent unimaginable in the 1950s. The legal obligation cannot be met because the number of people it potentially embraces is not compatible with a welfare state and a stable democracy.<sup>247</sup>

Jonathan Thomas of the Social Market Foundation think tank, while sceptical about the likely effectiveness of the Bill's asylum provisions, defended the UK Government's right to challenge through domestic legislation the conventional interpretation of Article 31.<sup>248</sup> Dr Pulvirenti of Manchester University Law School held an opposing view, arguing that the intention and meaning of Article 31 was clear and not open to reinterpretation.<sup>249</sup>

## Equality implications

145. Aside from the above debates on international legality and likely policy effectiveness, most of our witnesses raised concerns about the potential equality impacts of the Bill's new asylum provisions.<sup>250</sup> Specialist barrister Kathryn Cronin explained that they would exacerbate difficulties experienced by vulnerable asylum-seekers to the extent that she could “not imagine the sort of refugee system that you will have after it comes into force.”<sup>251</sup>

245 See, for example, [Joint Opinion on the Nationality and Borders Bill for Freedom from Torture](#), Raza Husain QC, Jason Pobjoy, Eleanor Mitchell, and Sarah Dobie, October 2021, in particular paras 33–44

246 UNHCR, [Observations on the Nationality and Borders Bill](#), October 2021

247 David Goodhart ([EAP0022](#))

248 Q62

249 Q47; Q64

250 For example, SOGICA Project, University of Sussex ([EAP0001](#)); Humanists UK ([EAP0002](#)); Women for Refugee Women ([EAP0003](#)), ([EAP0026](#)), ([EAP0029](#)); National Aids Trust ([EAP0005](#)); Dr Christopher Pullen and Dr Mengia Tschalaer, Bournemouth University ([EAP0007](#)); Dr S. Chelvan ([EAP0008](#)); Aydan Greatrick and Claire Fletcher ([EAP0011](#)); Maternity Action ([EAP0015](#)); Hibiscus Initiatives ([HAP0016](#)); Refugee Women Connect ([EAP0020](#)); Rainbow Migration ([EAP0021](#))

251 Q124

JCWI's Zoe Gardner argued that the legislation could have been designed by someone who had considered and understood many of the equality issues examined during our inquiry and then "sought to exacerbate every single one of them."<sup>252</sup> JCWI argued that:

Any increase in the requirements placed on asylum seekers will lead to more people falling through the gaps. In JCWI's experience it is vanishingly rare for a person with no real need of protection from persecution to falsely gain refugee protection from the state, while the number of cases of people who are genuinely fleeing persecution but fail to obtain the protection they need is very high. These changes will inevitably impact more harshly on the most vulnerable including [...] groups of applicants with protected characteristics [...].<sup>253</sup>

146. Witnesses raised concerns about impacts on specific protected groups. Women for Refugee Women told us it and other stakeholders had raised concerns about disproportionate impacts on female asylum seekers at consultation stage, in evidence to the Public Bill Committee, and in several letters to the Home Secretary but that none of their concerns had been adequately addressed.<sup>254</sup>

147. Some of the key concerns were set out in a legal opinion produced for Women for Refugee Women by barristers at Garden Court Chambers, whose view was that female asylum seekers would "undoubtedly experience differential adverse impacts". These included impacts of the premise of "safe third countries", which would disadvantage women and girls who may have several good reasons for passing through third countries before claiming asylum in the UK. Some women would be under the control of men and have no real choice about where to claim. Some third countries would not be "safe" for women, for example because of the presence of "hostile elements", such as traffickers, in the diaspora. Treatment of late evidence to support a claim would likely exacerbate the unequal impacts on women and girls with the histories of sexual and gender-based violence discussed in chapter 4. Garden Court Chambers noted the Home Office's own guidance, which states that:

[...] disclosure of gender-based violence at a later stage in the asylum process should not automatically count against their credibility. There may be a number of reasons why a claimant, or dependant, may be reluctant to disclose information, for example feelings of guilt, shame, and concerns about family "honour", or fear of family members or traffickers, or having been conditioned or threatened by them. [...] Those who have been sexually assaulted and or who have been victims of trafficking may suffer trauma that can impact on memory and the ability to recall information.<sup>255</sup>

148. Similar concerns were raised in relation to asylum claims based on sexual orientation and gender identity. Witnesses believed the new approach, in particular the higher threshold of proof for a well-founded fear of persecution, would exacerbate some of the

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252 Q48

253 Joint Council for the Welfare of Immigrants ([EAP0019](#))

254 Women for Refugee Women ([EAP0026](#))

255 [Garden Court Chambers legal opinion on the Nationality and Borders Bill for Women for Refugee Women](#), Stephanie Harrison QC, Emma Fitzsimons, Ubah Dirie, Hannah Lynes, November 2021

pre-existing issues discussed in chapter 4.<sup>256</sup> Leila Zadeh of Rainbow Migration was “extremely concerned” that the new threshold would lead to more genuine claims being refused. She said:

It is already incredibly difficult to prove your sexual orientation, gender identity, gender expression or sex characteristics. [...] If you have [only] so much that you can talk about, [and only] so many other forms of evidence that you can produce, you are really making it extremely difficult for people [to reach the higher threshold of proof].

She believed that, without effective mitigations, the new approach risked sending LGBT asylum seekers back to places where they may be raped, tortured, or killed.<sup>257</sup>

### **Monitoring and mitigation**

149. The Government’s overarching equality impact assessment for the New Plan for Immigration and the Nationality and Borders Bill acknowledged a number of potential unequal effects. Nationality groups more likely to enter the UK by small boat were likely to be disproportionately affected by the provisions. Home Office data from 2020 showed these groups were principally Iranians, Sudanese, Syrians and Afghans.<sup>258</sup> These nationalities are among those with the highest asylum grant rates.<sup>259</sup>

150. The new claim determination processes could impact a number of other groups, some with vulnerabilities arising from protected characteristics, including children and disabled people, and people with vulnerabilities linked to gender reassignment, pregnancy and maternity, sexual orientation, and sex. The assessment acknowledged that these groups:

[...] might find it more difficult than others: to disclose what has happened to them; to participate in proceedings; and to understand the consequences of non-compliance with legal requirements. There may also be trauma-related considerations, in terms of how any vulnerable groups adduce evidence.

The document stated the Home Office was “considering ways to mitigate these impacts”, including by exempting unaccompanied asylum-seeking children from the new inadmissibility process and providing guidance to officials on interviewing and supporting vulnerable claimants.<sup>260</sup>

151. Witnesses were concerned that the Home Office had not set out clear operational mitigations in detail. Some argued the equality impact assessment was therefore inadequate and that the Home Office had not fulfilled its Equality Act Public Sector Equality Duty.<sup>261</sup>

152. In oral evidence in January 2023, the Minister and Dan Hobbs were unable to provide significant detail about how unequal impacts were being monitored and mitigated. The Minister told us a range of equality impacts were being “measured”. Mr Hobbs emphasised

256 See, for example, SOGICA Project, University of Sussex ([EAP0001](#)); Rainbow Migration ([EAP0021](#))

257 Q99

258 Home Office, *New Plan for Immigration: Overarching Equality Impact Assessment of policies being delivered through the Nationality and Borders Bill*, September 2021

259 See, GOV.UK, ‘*Asylum and resettlement datasets*’, table ASY\_d02, accessed 2 May 2023

260 Home Office, *New Plan for Immigration: Overarching Equality Impact Assessment of policies being delivered through the Nationality and Borders Bill*, September 2021

261 See, for example, Q100 [Nuno Ferreira]

that the provisions were relatively new, having come into force in June 2022. He noted that the ICIBI was “overseeing” work to implement the Nationality and Borders Act and that the Department had:

[...] a team that works with a range of NGOs and partners to gain insight and collect it, as well as a formal monitoring and evaluation of the statistics. [...] that will be undertaken by our monitoring and evaluation and through our standard dialogue with the NGOs and the stakeholder forums, where they are able to bring issues to our attention if we are not picking up on them.<sup>262</sup>

**153. We agree with legal and policy experts that the Government’s equality impact assessment of the Nationality and Borders Act 2022’s asylum provisions is inadequate. There are clear risks, acknowledged by the Government, of unequal effects on asylum claimants with vulnerabilities related to Equality Act protected characteristics. These include women and girls with histories of sexual and gender-based violence and abuse; LGBT people who have complex sexual orientation and gender-based claims; and disabled people. Without effective mitigations, these groups are likely to be disadvantaged by the new procedures. It is unacceptable that the Home Office remains unable to set out a clear plan to monitor and mitigate unequal effects.**

***154. The Home Office must publish an updated equality impact assessment of the Nationality and Borders Act’s asylum provisions within three months. Alongside this assessment it should publish a mitigation plan to prevent discriminatory effects of the Act’s asylum provisions on people with vulnerabilities arising from protected characteristics, including women with disclosed histories of sexual and gender-based violence and other forms of abuse, people with physical and mental disabilities, children and families, and LGBT people. It should seek the advice of the Equality and Human Rights Commission to ensure the equality impact assessment and mitigation plan follow best practice and fully comply with the Equality Act’s Public Sector Equality Duty.***



## 7 Detention

155. We heard directly from people with experience of being detained while seeking asylum in the UK. We examine some of those experiences below (see the two annexes to this Report for fuller summaries of our discussions). We also consider some of the reforms made to the immigration detention regime in recent years, with a focus on protecting vulnerable people from harm.

### Framework for immigration detention

156. People seeking asylum in the UK may be detained in an Immigration Removal Centre, Short-term Holding Facility or special pre-removal accommodation. People can be detained under immigration control for a range of reasons, including:

- the person is likely to abscond if released;
- there is insufficient reliable information to decide whether to release them (for instance their identity cannot be verified);
- removal from the United Kingdom is imminent;
- the person needs to be detained whilst alternative arrangements are made for their care;
- release is not considered conducive to the public good;
- the application may be decided quickly using fast-track procedures.

157. There is currently no distinct detention framework for asylum seekers. Unlike many other countries, the UK has no maximum period of immigration detention.<sup>263</sup> While most people spend less than a month in immigration detention, there have long been calls, including from HM Inspector of Prisons in 2020, the Joint Committee on Human Rights and the Home Affairs Select Committee, for the introduction of a maximum period.<sup>264</sup> Witnesses to our inquiry called for detention to be abolished for certain groups, including all LGBT people and women.<sup>265</sup>

### Detention reform programme and implications of new approach

158. Serious concerns about the scale of immigration detention in the UK, the welfare of detainees, and the experiences of detained vulnerable people were raised in Stephen Shaw's Home Office-commissioned independent review in January 2016, and his follow up report in 2018.<sup>266</sup> He made several recommendations in relation to the detention of

263 European Council on Refugees and Exiles, '[Grounds of detention: UK](#)', accessed 20 April 2023. The [Asylum Information Database](#) includes details of asylum procedures across Europe.

264 See, The Migration Observatory, '[Immigration Detention in the UK](#)', accessed 20 April 2023; see also, Home Affairs Committee, Fourteenth Report of Session 2017–19, *Immigration detention*, [HC 913](#), para 224; Joint Committee on Human Rights, Sixteenth Report of Session 2017–19, *Immigration detention*, [HC 1484/HL 278](#)

265 SOGICA Project (University of Sussex) ([EA0001](#)), para 14; Rainbow Migration ([EAP0021](#)), para 28; Women for Refugee Women ([EAP0029](#))

266 *Review into the Welfare in Detention of Vulnerable Persons: a report to the Home Office by Stephen Shaw*, Cm 9186, January 2016; *Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons: A follow-up report to the Home Office by Stephen Shaw*, Cm 9661, July 2018

vulnerable groups, including that there should be a presumption against detention for victims of rape and other sexual and gender-based violence. He recommended the existing presumption against detention for pregnant women be replaced by an absolute exclusion. He found that people with serious mental illness were being detained without access to good psychiatric care, which was “an affront to civilised values”. He recommended that people with a diagnosis of post-traumatic stress disorder, those with “learning difficulties” and “transsexual people” be presumed unsuitable for detention.<sup>267</sup>

159. The Government legislated for a new “adults at risk in immigration detention” (AAR) policy in the Immigration Act 2016 and published guidance on conducting “case-by-case evidence-based” assessments of individuals. The guidance states:

The clear presumption is that detention will not be appropriate if a person is considered to be “at risk”. However, it will not mean that no one at risk will ever be detained. Instead, detention will only become appropriate at the point at which immigration control considerations outweigh this presumption. Within this context it will remain appropriate to detain individuals at risk if it is necessary in order to remove them.<sup>268</sup>

160. The Home Office told us asylum-seeking people were only detained when their identity was in doubt or prior to removal from the UK. However, while most people are detained for a relatively short time, we heard several examples of women being held for extended periods. For example, the longest period for which a woman had been detained in Derwentside IRC since it opened was around 220–230 days (see annex B). We spoke to one person who had been detained for 18 months. Former detainees described being told repeatedly that their removal was “imminent” while remaining detained for several months. People described adverse mental health impacts of the uncertainty about the length of their detention. They described being given monthly updates on their case, but these were perceived as “cut and paste”, often not giving any new information on progress for several months (see annex A).

161. People held in immigration detention are often released back into the community and immigration bail is frequently granted as the Home Office struggles to prove that there is an imminent prospect of removal.<sup>269</sup> The Home Office confirmed that of the 200 women who were released from Derwentside Immigration Removal Centre (IRC) between November 2021 and 30 September 2022, only 10 (5%) had been removed from the UK; 95% (190 women) were released.<sup>270</sup>

162. Witnesses told us that compliance with the AAR policy could not be effectively monitored due to a lack of data on the characteristics of detainees. Rainbow Migration noted that the ICIBI had commented on the lack of data on “LGBTQI persons” in detention

267 [Review into the Welfare in Detention of Vulnerable Persons: a report to the Home Office by Stephen Shaw](#), Cm 9186, January 2016, Part 4

268 Home Office, [Immigration Act 2016: Guidance on adults at risk in immigration detention](#), May 2021, para 3

269 Home Office, [‘How many people are detained or returned?’](#), accessed 2 May 2023; Home Office statistics, [Table DET 03](#)

270 [Letter dated January 2023 to the Chair of the Committee from Frances Hardy, Director of Detention Services, Home Office](#)

in his annual inspection of the AAR policy in 2018–19. He found that without data it was “hard to see how the Home Office is able to assess the quality of its decisions to detain or the impacts of detention on specific groups.”<sup>271</sup>

163. After the Shaw reviews, there was a wider programme of immigration detention reform, with the aim of detaining fewer people and making detainees’ welfare “an absolute priority”.<sup>272</sup> There were pilot schemes to test alternatives to detention.<sup>273</sup> An independent evaluation of a scheme that supported 20 asylum-seeking women in Newcastle, who would otherwise have been in detention, was positive. The pilot ensured “more stability and better health and wellbeing outcomes” for the participants “without decreasing compliance with the immigration system.”<sup>274</sup>

164. Use of immigration detention was on a downward trend from 2015 to 2019, from 32,400 people entering detention per year to 24,500. After reaching a low of around 13,000 during the Covid-19 pandemic, the number of people entering detention has risen again but the figure for 2022 (20,446) is still 19% below the pre-pandemic 2019 number.<sup>275</sup> Very few women are now detained. At the end of 2022, only 44 women were in detention—3.8% of the total detained population of 1,159.<sup>276</sup> The figure in 2015 was 270 women, more than 10% of the then detained population of 2,607.<sup>277</sup>

165. Campaigners with lived experience of detention we spoke to during our visit to Birmingham in July 2022 were concerned that the New Plan for Immigration and the Nationality and Borders Act signalled a change of approach. Allies for Justice were concerned that any learning from pilots of alternatives to detention was not being analysed and taken forward (see annex A).

166. While we chose not to reopen our inquiry to hear evidence on the Illegal Migration Bill, it has clear implications for the detention of asylum seekers. As noted in chapter 2, if enacted it would place a legal duty on the Home Secretary to remove from the UK people who arrive irregularly to claim asylum, with a very high bar for exceptions. The Home Secretary would have powers to detain people for 28 days before they can make an application to be released on immigration bail.<sup>278</sup>

**167. The prolonged detention with no certainty of release of asylum-seeking people who pose no threat to the public and for whom there is little prospect of removal from the UK is potentially harmful, impractical and costly. We are deeply concerned that current and planned reforms in the Nationality and Borders Act and Illegal Migration Bill risk turning back the clock on policies intended to ensure detention is used only as a last resort, and to reduce the risks of harm to vulnerable people. We recommend the Government set out in response to this Report its planned approach to mitigating risks of harm to vulnerable adults in detention under Nationality and Borders Act and**

271 Rainbow Migration (EAP0021), para 26; Independent Chief Inspector of Immigration and Borders, [Annual inspection of ‘Adults at Risk in Immigration Detention’ \(2018–19\)](#), April 2020, para 5.99

272 See, for example, Home Office, [‘Home Secretary statement on immigration detention and Shaw report’](#), 24 July 2018 (accessed 20 April 2023)

273 Home Office, [‘Immigration Minister writes about alternatives to detention’](#), 5 December 2018 (accessed 20 April 2023)

274 UNHCR, Evaluation of ‘Action Access’, an [‘Alternatives to Detention Pilot’](#), January 2022

275 Home Office, [‘How many people are detained or returned?’](#), section 1, accessed 3 May 2023

276 Home Office, [‘Returns and detention datasets’](#), table Det\_D02, accessed 4 May 2023

277 Home Office, [List of tables](#), see section 9, table D13q, accessed 10 May 2023

278 [Illegal Migration Bill](#) and [Explanatory Notes](#)

***Illegal Migration Bill provisions, including whether it remains committed to the Adults at Risk in detention policy established after the Shaw reviews in 2016 and 2018. The Government has not yet set out its planned approach to the detention of children under Illegal Migration Bill provisions. We strongly believe the Government should abandon any intention of detaining asylum-seeking children under those provisions.***

168. Monitoring and mitigating adverse effects of detention on groups of asylum seekers with vulnerabilities arising from Equality Act protected characteristics requires much improved data. ***The Government should collect and publish data on the protected characteristics of detained asylum seekers, including where they are detained and for how long.***

## **Derwentside Immigration Removal Centre**

169. When we visited Derwentside Immigration Removal Centre (IRC) in County Durham, the main facility for the detention of women, in December 2020, conditions were generally very good. Women's bedrooms were small and basic but appeared adequate. There was extensive outdoor space and good recreational and leisure facilities, including a well-equipped gym, a library, an arts room, and a hair and beauty salon (although some of the facilities appeared under-used and there had been no hairdresser available for two months). Conditions at Derwentside appeared much better than those described at other facilities (see annexes A and B).

170. Before our visit, we were aware of concerns about limited access to legal advice at Derwentside. Women for Refugee Women reported that women detained there had experienced severe difficulties accessing in-person visits from solicitors, to which they were entitled under the Detained Duty Advice Scheme (DDAS). Women for Refugee Women reported that contracts for DDAS services at Derwentside were delayed because of a lack of compliant bids.

171. Under interim arrangements, legal aid firms who deliver DDAS in Yarl's Wood IRC in Bedfordshire were contracted to provide services at Derwentside. However, many of these firms were based in London. Consequently, for the first six months of operations at Derwentside, all DDAS appointments were conducted over the telephone or via video call.

172. Women for Refugee Women argued that face-to-face legal advice was particularly important for women who have experienced sexual and gender-based violence:

[...] speaking with women in person is critical to building rapport and developing a relationship with them, so that they feel able to trust the person they are talking to and open up about previous experiences of rape and other gender-based violence. Thus, being denied access to in-person legal advice exacerbates the difficulties women face in disclosing their previous experiences.<sup>279</sup>

173. Women for Refugee Women lost a legal challenge on the issue in June 2022. However, the Home Office finally secured contracts for face-to-face legal advice at Derwentside from July 2022 and on 29 March 2023 the Minister for Immigration confirmed that all DDAS appointments in immigration detention would be face-to-face from 3 April 2023.<sup>280</sup>

174. During our visit we observed two other potential barriers to accessing legal advice in Derwentside. While information about accessing legal advice was given verbally to detainees at reception and in writing in an information booklet, which was available in a wide range of languages, information displayed around the IRC on posters appeared to be in English only. While detainees were issued with a basic mobile telephone (not smartphone) with which they could contact their solicitor, it was acknowledged by IRC staff that phone reception at Derwentside could be poor. While phone reception was “checked” regularly, it was not clear what action, if any, had been taken to improve the situation (see annex B).

175. **We welcome the Government’s announcement that all Detained Duty Advice Scheme appointments in immigration detention, including Derwentside Immigration Removal Centre (IRC), will now be delivered face-to-face. However, the Government must address further potential barriers to accessing legal advice in Derwentside IRC. It must ensure that information in foreign languages about how to access legal advice is more readily available and displayed on posters throughout Derwentside IRC and the wider immigration removal estate. The Government must also take steps to improve mobile phone reception in Derwentside IRC and set out in response to this Report the steps it has taken to do so.**

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280 Women for Refugee Women, ‘[Campaign win! All legal advice surgeries in immigration detention must now take place face-to-face](#)’, 13 April 2023 (accessed 20 April 2023); PQ, [UIN 171569](#) [on Derwentside Immigration Removal Centre: Legal Aid Scheme], answered on 29 March 2023

## 8 UK/Rwanda Migration and Economic Development Partnership

176. The UK/Rwanda Migration and Economic Development Partnership (MEDP) is a five-year agreement signed in April 2022. As described in chapter 2, the intention is that it will facilitate the removal of inadmissible asylum claimants from the UK to Rwanda, where their claims would be determined. There would be no possibility of return to the UK.<sup>281</sup> The intention is to deter people who have already reached a “safe third country” from making perilous journeys to claim asylum in the UK.<sup>282</sup> This chapter considers the equality impacts of the policy and steps required to mitigate any unequal effects.

### Criteria for removal and screening for vulnerabilities

177. Asylum claimants deemed inadmissible under Nationality and Borders Act provisions because they have travelled through or have a connection with a safe third country and have made a dangerous journey to claim asylum in the UK are in scope of the scheme. Home Office guidance states:

An asylum claimant may be eligible for removal to Rwanda if their claim is inadmissible under this policy [the MEDP] and (a) that claimant’s journey to the UK can be described as having been dangerous and (b) was made on or after 1 January 2022. A dangerous journey is one able or likely to cause harm or injury. For example, this would include those that travel via small boat, or clandestinely in lorries.<sup>283</sup>

There are currently some exceptions to the scheme under the Nationality and Borders Act inadmissibility provisions. Home Office guidance confirms that unaccompanied children will not be sent to Rwanda, nor will asylum-seeking Rwandans be returned there.<sup>284</sup> Should the Illegal Migration Bill be enacted and implemented, removal to Rwanda or other “safe third country” could apply to almost all asylum claimants who enter the UK irregularly. It would also substantially restrict the grounds on which an asylum seeker could challenge a decision to remove them.<sup>285</sup>

178. The Home Office’s initial focus was on single men, who made up the entire cohort scheduled for removal to Rwanda on 14 June 2022.<sup>286</sup> Initially, family groups with children were explicitly excluded, but this was “under review”.<sup>287</sup> In oral evidence in January 2023, the Minister for Immigration confirmed that removal of families with children was still under consideration. He told us:

As we operationalise the Rwanda policy, we will need to consider whether or not we would remove families. There, the balance that we will need

281 GOV.UK, ‘[Factsheet: Migration and Economic Development Partnership](#)’, accessed 19 April 2023; see also, *The UK-Rwanda Migration and Economic Development Partnership*, Briefing Paper [9568](#), House of Commons Library, December 2022

282 Home Office, *Inadmissibility: safe third country cases*, version 7.0, June 2022

283 Home Office, *Inadmissibility: safe third country cases*, version 7.0, June 2022, p17

284 *The UK-Rwanda Migration and Economic Development Partnership*, Briefing Paper [9568](#), House of Commons Library, December 2022, section 1.3

285 See, Home Office, ‘[Illegal Migration Bill: Legal proceedings factsheet](#)’, accessed 19 April 2023

286 Q262 [Robert Jenrick and Daniel Hobbs]

287 Home Office, *Inadmissibility: safe third country cases*, version 7.0, June 2022, p17



to consider is, obviously, the challenge of minors leaving the country for Rwanda against the risk that the UK then became a magnet for people traffickers focusing on families. That is a very real concern if the Rwanda policy was fully operationalised.<sup>288</sup>

The Home Office has a screening process, described in the equality impact assessment of the MEDP as a “case-by-case risk assessment”, considering individual vulnerabilities and any relevant equalities concerns about conditions in Rwanda for different groups.<sup>289</sup> The department has been reluctant to publish details of individual vulnerabilities that might prevent a person’s removal, arguing that doing so could incentivise “perverse behaviours” by criminals trying to abuse the UK’s asylum process. In June 2022, officials told the Home Affairs Select Committee:

We have been very careful not to put out a lot of public statements definitively about the exact selection criteria that we will use for the Rwanda scheme. We worry that, were we to do that, we would design a business model that was intended to evade it. That has been a very conscious choice on our part.<sup>290</sup>

The Minister’s view in oral evidence before us in January 2023 was that, if the policy was to have its intended deterrent effect, the evidential bar for exceptions to removal needed to be high.<sup>291</sup>

## Process of removal

179. The decision to remove a person to Rwanda is a two-stage process. After the initial screening and consideration of relevant country policy information, the Home Office can issue inadmissible claimants who meet the criteria for the scheme a “notice of intent”. This is not yet a formal decision. It informs the claimant that there is evidence that their asylum claim is inadmissible in the UK, and they may be considered for removal to Rwanda.<sup>292</sup> If they are in immigration detention, they then have seven days to make representations against their removal. They have 14 days to do so if they are not detained. If, after considering any representations against removal the decision is to remove them, they will receive a formal notice of removal. These can be legally challenged by judicial review.<sup>293</sup>

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288 Q263

289 Home Office, ‘[Migration and Economic Development Partnership with Rwanda: equality impact assessment](#)’, section 1, accessed 19 April 2023

290 Oral evidence taken before the Home Affairs Committee on 22 June 2022, HC 200, Q348 [Tricia Hayes]

291 Q266

292 The wording for this notice is set on in, Home Office, [Inadmissibility: safe third country cases](#), version 7.0, June 2022, p30

293 *The UK-Rwanda Migration and Economic Development Partnership*, Briefing Paper [9568](#), House of Commons Library, December 2022, section 1.3

## Impacts of the removal process on vulnerable people

180. There are no published data on the number of people selected for removal to Rwanda or their protected characteristics. In January 2023, Dan Hobbs, Director of Asylum Protection and Enforcement at the Home Office, told us that 3.5% of the total number of notices of intent had been issued to women. No women had yet been issued with notices of removal.<sup>294</sup>

181. In September 2022, the immigration healthcare rights organisation Medical Justice reported it had been in contact with 51 people “targeted for removal to Rwanda”, including:

[...] men, women, aged-disputed children or young people, people with mental health conditions, and people who have self-harmed and/or have suicidal ideation in detention.

It had conducted clinical assessments of 17 people, of whom:

- 15 had a diagnosis or symptoms of PTSD.
- 14 had evidence of torture histories.
- 11 had experienced suicidal thoughts in detention, including one who had attempted suicide twice.
- 6 had indicators of trafficking.
- 1 needed urgent investigations to rule out recurrence of a previous brain tumour.

Dr Rachel Bingham, Clinical Advisor for Medical Justice, said:

Our report shows extremely high rates of evidence of torture, trafficking and other vulnerabilities in this group, to whom the government plan to deny assessment or interview before they are forcibly removed. The policy knowingly places people in an extremely damaging situation and should be considered exceptionally harmful. As a doctor, what shocks me most is the total disregard for the need to assess the risks of subjecting individual people to this policy.<sup>295</sup>

182. We received evidence from Women for Refugee Women that vulnerable women, including at least two who had been “recognised by the Home Office as potential victims of trafficking”, had been issued with notices of intent for Rwanda while detained at Derwentside IRC. Women for Refugee Women was “extremely concerned” about the impacts. It reported one of the women had been issued with the notice during a weekend, when it was difficult to get in touch with her solicitor. This was particularly problematic and stressful because notices of intent issued to detained people must be responded to within seven calendar days. Women for Refugee Women told us the woman was:

294 Q259

295 Medical Justice, [Who's paying the price? The human cost of the Rwanda scheme](#), September 2022; [“Who's Paying the Price? – Report Released”](#), Medical Justice press release, 1 September 2022 (accessed 19 April 2023)

[...] hugely distressed by the threat of being removed to Rwanda and could not understand why, given all she had been through, the Home Office were saying this was an appropriate course of action for her case. Very quickly her mental health deteriorated significantly.<sup>296</sup>

183. We wanted to know how decision-makers were assessing whether the removal process might cause medical harm to individuals, including mental health effects. Dan Hobbs acknowledged these were “difficult” decisions to make. He emphasised that asylum seekers had two opportunities to make representations against their removal, at the notice of intent and notice of removal stages. Decision-makers would decide “on the basis of the evidence in front of them.”<sup>297</sup>

184. We are deeply concerned that the Home Office’s case-by-case risk assessments prior to issuing notices of intent to remove potentially inadmissible asylum claimants to Rwanda appear to be inadequate. There is evidence that a significant number of vulnerable people, to whom the removal process would very likely be harmful, have received such notices. *The Home Office should suspend all notices of intent and review its initial screening procedures. No new notices of intent should be issued until the legal challenges to the policy are complete. Should removals to Rwanda be operationalised, we believe thorough vulnerability assessments should be undertaken prior to issuing notices of intent, to avoid the risk of harm to individuals.*

185. We believe the risks of harm to children arising from the removal process outweigh any risks of damaging the intended deterrent effect of the Rwanda policy. *The Government should abandon any intention of forcibly removing children to Rwanda.*

186. *Should removals to Rwanda be operationalised after the legal challenges are complete, the Government must record and publish full equality data, disaggregated by Equality Act protected characteristics, of people issued with a notice of intent; people issued with a notice of removal; and those removed to Rwanda. It should also collect and publish equality data disaggregated by protected characteristics of those who challenge in the courts a decision to remove them, and the outcomes of those legal challenges. The Government should also set out how it intends to monitor and ensure that those removed to Rwanda do not suffer harm or experience discrimination in that country.*

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296 Women for Refugee Women ([EAP0029](#))

297 Q266

## 9 Best practice in resettlement and humanitarian visa pathways

187. While our main focus was on equality issues in the asylum process, we also considered best practice in resettlement schemes and humanitarian visa pathways from an equalities perspective. We examined and compared the different approaches taken in relation to recent and ongoing schemes to help Syrians, Afghans and Ukrainians.

### Vulnerable Persons Resettlement Scheme (Syria)

188. The Vulnerable Persons Resettlement Scheme (VPRS) was launched in January 2014. Managed by the Home Office, working with referrals from the UNHCR, it was intended to resettle in the UK “those in the greatest need, including people requiring urgent medical treatment, survivors of violence and torture, and women and children at risk.”<sup>298</sup> In September 2015, the VPRS was substantially expanded in response to the forced displacement of millions of people by the Syrian civil war. The then Prime Minister pledged that the scheme would resettle 20,000 Syrians in the UK, later expanded to other nationalities displaced by the war, by 2020. The scheme was on track to achieve this target before progress was halted by Covid-19 travel restrictions. Arrivals under the VPRS restarted in December 2020, with the final refugees landing in the UK in February 2021. In total, the VPRS resettled 20,319 people displaced from Syria, making it the largest resettlement scheme in Europe during the period.<sup>299</sup>

189. Local authorities were key to delivering the VPRS. Their participation in the scheme was voluntary, with those choosing to take part indicating in advance the number of resettlement places they could offer. They were required to provide a “meet-and-greet” service to refugees at the airport, a local authority or private rented sector home, children’s education, advice on accessing social security benefits, and employment and wider integration support, such as access to English language and other skills training. The first year of housing and integration support for refugees was fully funded by central government, via the overseas aid budget, with a further two to five years support available to those who needed it, tapering off from £5,000 per refugee in year two, to £1,000 in the fifth year.<sup>300</sup>

190. Reviews and assessments of the VPRS have generally been very positive. Following an inspection in 2017–18, the then ICIBI found the scheme was “delivering what it set out to achieve”, with everyone involved deserving “enormous credit”.<sup>301</sup> In 2017, a report by the UNHCR also found the scheme was working well, albeit with some improvements needed, for example in English language and employment support provision.<sup>302</sup> Looking back at the scheme after it closed in 2021, the UNHCR described the VPRS as “transformative” for the refugee participants. The UNHCR’s representative in the UK said:

298 HC Deb, 29 January 2014, [cols 863–4](#)

299 UKVI, ‘[Vulnerable Persons and Vulnerable Children’s Resettlement Schemes Factsheet](#)’, March 2021 (accessed 14 April 2023)

300 *Refugee Resettlement in the UK*, Briefing Paper [8750](#), House of Commons Library, March 2020, section 3.3

301 *Refugee Resettlement in the UK*, Briefing Paper [8750](#), House of Commons Library, March 2020, section 3.5; Independent Chief Inspector of Prisons, [An Inspection of the Vulnerable Persons Resettlement Scheme: August 2017 – January 2018](#), May 2018

302 “[UNHCR study: integration efforts advancing in UK Syria refugee resettlement](#)”, UNHCR press release, 9 November 2021

The programme has been hugely beneficial for the refugees, who have been able to rebuild their lives in safety, thanks to the generosity of the British people. It was a great example of responsibility-sharing and set a high standard in refugee resettlement.<sup>303</sup>

191. Some witnesses contrasted the structured and funded support available under the VPRS with the asylum process, in which people experienced a culture of disbelief, poor housing and poverty, long delays and related mental health and welfare effects.<sup>304</sup>

192. Esther, who came to the UK under the VPRS as a child with her family from Syria via asylum in Lebanon, told us the resettlement route was “a blessing”:

Coming here, you have someone waiting for you in the airport with an interpreter. You are welcomed with a big smile, and you know you are safe. They assured us that everything was going to be fine; from this moment your life is starting. [...] It was the new beginning where you feel you are safe, and you had the support for housing and education and healthcare. [...] It has been a great support that I wish everyone could access [...].<sup>305</sup>

193. Policy and legal experts agreed the VPRS was a good practice example. They argued key elements of VPRS should be used to inform other schemes, including the global UK Resettlement Scheme (UKRS), which was originally intended to launch in 2020 and resettle 5,000 of the world’s “most vulnerable” refugees in its first year but was halted by Covid-19 travel restrictions.<sup>306</sup> The target for the number of refugees it will help is now unclear, given the Home Office’s current focus on the Afghan and Ukrainian schemes.<sup>307</sup> Arrivals under the UKRS began in 2021. By the end of 2022, it had resettled 2,023 people in the UK.<sup>308</sup>

194. Andy Hewitt, Head of Advocacy at Refugee Council, told us that:

If we could mirror what the Government have committed to under the Syrian scheme in terms of a target that was to be met over a number of years; if we could achieve that for the UK resettlement scheme, that would go a long way in terms of ensuring that the UK would have the capacity to bring some of the world’s most vulnerable refugees to the UK under resettlement.<sup>309</sup>

He emphasised that a lack of a firm target made it difficult for local authorities and support organisations like Refugee Council to plan for arrivals over the longer term. It was much more difficult for local authorities to “scale up and scale down their resettlement teams”. Consequently, they ended up “losing skills and expertise” required to deliver resettlement for the most vulnerable refugees effectively.<sup>310</sup>

303 [“The UK’s Syria Resettlement Programme: Looking Back, and Ahead”](#), UNHCR UK press release, 23 March 2021

304 For example, Q220 [Jennifer Blair]; Savera UK ([EAP0014](#))

305 Q200

306 Q91 [Andy Hewitt]; Q205 [Jennifer Blair]; see also, *Refugee resettlement in the UK: recent developments*, Briefing Paper [9017](#), House of Commons Library, January 2021, section 2

307 *Refugee resettlement in the UK: recent developments*, Briefing Paper [9017](#), House of Commons Library, January 2021, section 2

308 Home Office, [‘Asylum and resettlement datasets’](#), table ASY\_D02, accessed 18 April 2023

309 Q192 [Andy Hewitt]

310 Q192

195. Mr Hewitt told us there was “not an awful lot of evidence” that the Government had learnt from the largely positive experiences of the VPRS.<sup>311</sup> Jennifer Blair, a specialist immigration barrister at No.5 Chambers and co-founder of the *pro-bono* Ukraine Advice Project, agreed that the VPRS was a “gold star resettlement process” and should be used as a good practice template, “tweaked” to respond to different global situations. She believed the Government’s recent approach since the VPRS closed, including in relation to Afghanistan and Ukraine, felt like “random” crisis responses “being developed by whichever senior person who has been stuck with it at the time.”<sup>312</sup> She said:

What is undesirable is waiting until after a crisis and then, on the hoof, trying to run a programme, because that is poor. It will lead to individual civil servants on the ground or public officials over-working in a heroic way but delivering something fraught with problems [...], and people being left behind.<sup>313</sup>

**196. The Vulnerable Persons Resettlement Scheme (VPRS) provides a recent good practice example of an effective resettlement scheme, which was successfully scaled up in response to a migrant crisis. The scheme was adequately and predictably funded with a clear target for the number of refugees to be resettled, providing local authorities with the certainty they needed to plan and take part with confidence. The VPRS included a clear package of integration support, with improvements made to housing and employment support over time. *The Government should replicate the VPRS approach in the UK Resettlement Scheme and in response to future migrant crises.***

## Afghan Citizens Resettlement Scheme

197. Our inquiry was launched in autumn 2021, around six weeks after the evacuation of Kabul. The UK’s evacuation effort, Operation Pitting, flew around 15,000 people to the UK over a two-week period, with thousands more making the journey in the following weeks and months under the Afghan Relocations and Assistance Policy (ARAP), a Ministry of Defence-run scheme for former locally employed UK government staff in Afghanistan, and Afghans who had assisted or supported the UK diplomatic and military effort in other ways.<sup>314</sup>

### *Vulnerable groups’ access to the scheme*

198. The Government announced the broader Afghan Citizens Resettlement Scheme in August 2021, but it did not open until nearly five months later, in January 2022. It aimed to resettle 5,000 Afghans in its first year of operation, and 20,000 “over the coming years”. The Government announced three pathways onto the scheme:

- Pathway 1: the first pathway to open, in January 2022, for vulnerable and at-risk individuals who had already arrived in the UK via Operation Pitting.

Two further pathways opened in June 2022, some 10 months after the evacuation:

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311 Q195

312 Q205

313 Q236

314 Ministry of Defence, ‘[Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply](#)’, accessed 18 April 2023; see also, *UK immigration routes for Afghan nationals*, Briefing Paper [9307](#), House of Commons Library, January 2023



- Pathway 2: referrals from the UNHCR of vulnerable refugees still in the region who had fled Afghanistan. Pathway 2 was capped at 2,000 people during the first year.
- Pathway 3: those at risk who supported the UK and international community effort in Afghanistan, as well as those who are particularly vulnerable, such as women and girls at risk and members of ethnic and religious minority groups. During its first year, pathway 3 would focus on British Council and GardaWorld (private security) contractors, and Chevening alumni (former master's degree scholars at UK universities). The Foreign, Commonwealth and Development Office launched an online system via which Afghans could express an interest in resettlement to the UK under this pathway. The Government pledged to resettle 1,500 people through pathways 3. The online system closed to expressions of interest in August 2022.<sup>315</sup>

199. Explaining its approach, the Government said:

While we recognise the plight of many vulnerable individuals who remain in Afghanistan and the region, the capacity of the UK to resettle people under this scheme is not unlimited and difficult decisions have had to be made on who will be prioritised for resettlement. Nevertheless, we will continue to be committed to supporting the people of Afghanistan and after the first year of the third referral pathway, we will continue to work with international partners and NGOs to welcome wider groups of Afghans at risk.<sup>316</sup>

200. When we heard evidence on the ACRS in June 2022, there was “little or no data” on the number of people being supported by the scheme and their protected characteristics or types of vulnerabilities.<sup>317</sup> Witnesses were very concerned that the early focus on Afghans who had made it on to evacuation flights in August 2021 and those with direct links to UK or international military and security operations in Afghanistan, meant access to the scheme for some of the most vulnerable, including women and girls at risk of persecution by the Taliban, would be extremely restricted until at least June 2023.<sup>318</sup>

201. The Afghan Solidarity Coalition, a group of organisations that conducts research, campaigns for women's rights, and was providing resettlement advice and assistance to female “peace builders, artists, film makers, researchers, doctors and LGBT activists” in Afghanistan, submitted evidence in late 2021. It was gravely concerned that the delay in opening the scheme, and its restrictions on access, would put vulnerable women and others at extreme risk of persecution and exploitation. It noted recent reports of the killing of an activist woman by the Taliban.<sup>319</sup>

202. Andy Hewitt of Refugee Council emphasised the contrasting experiences of Esther, after fleeing Syria, with the treatment of Zahra, who had been evacuated from Afghanistan, and women from other war-torn parts of the world, such as Sudan and Yemen:

315 UKVI/Home Office, ‘[Afghan citizens resettlement scheme](#)’, accessed 18 April 2023; see also, HC Deb, 13 June 2022, [cols 6–7WS](#) [HCWS91]

316 HC Deb, 13 June 2022, [cols 6–7WS](#) [HCWS91]

317 Q203 [Andy Hewitt]

318 See, for example, Afghan Solidarity Coalition ([EAP0017](#)); Q203 [Andy Hewitt]

319 Afghan Solidarity Coalition ([EAP0017](#)), para 15

For Zahra, the UK Government opened up a bespoke scheme for Afghans with a particular set of rights and entitlements. For Esther, there was the Syrian vulnerable persons resettlement programme, with completely different rights and entitlements. For the lady from South Sudan, she would have no access to a resettlement scheme; there is no way for her to access any safe route. Her only choice would be to make a dangerous journey to the UK. Similarly, for the lady from Yemen. [...] There is no difference in those women's experiences. The only difference is the way that the UK Government have responded and the schemes that they set up to respond to them. The options for those women are starkly different and are entirely dependent on their nationality and what conflict they have fled from.<sup>320</sup>

203. Data covering the period to the end of 2022 show that only 22 vulnerable refugees referred via UNHCR had been resettled through pathway 2.<sup>321</sup> There are no data disaggregated by protected characteristics.

### Accommodation

204. The nature of the evacuation of Kabul meant that the Government and local authorities were much less prepared to accommodate Afghan refugees than they were Syrians resettled through the VPRS. There was already considerable strain on Home Office-contracted accommodation because of the exponential rise in the asylum backlog described earlier in this report. Consequently, many thousands of Afghan refugees were accommodated in “bridging hotels”, some for many months, before they could be relocated to permanent housing.<sup>322</sup> The latest Home Office operational data on Afghan resettlement, updated in February this year, showed there were 9,483 people, more than half of whom were children, living in hotels or other serviced accommodation.<sup>323</sup>

205. Afghan refugees living in hotels faced, and continue to face, some of the same welfare and safeguarding issues discussed in chapter 5. Zahra told us about her experiences in a bridging hotel. It was “very crowded”, and the situation was “not good”. She described issues arising from cultural differences between the refugees, for example she was the only woman in her hotel who did not wear a veil, which caused tensions that made her feel unsafe. She said living on the same corridor as some Afghan men was “very difficult”. She was “stuck all the time in my room” as she felt afraid to go out. There was very little integration support, other than some “basic” English courses. She felt unable to attend these because of the attitudes of the men in the hotel. She told us the men “were always gossiping with each other about me.”<sup>324</sup>

206. Again, Andy Hewitt of Refugee Council emphasised the starkly different experiences of Esther and Zahra. It was much more difficult for local authorities and organisations like his to provide effective integration support to Afghans living in bridging hotels. Often organisations did not even know where Afghan refugees were:

Very often we were not informed of the location of the hotels for some weeks. In some cases, the local authorities were not even consulted as to

320 Q194

321 Home Office, ‘[Asylum and resettlement datasets](#)’, table ASY\_D02, accessed 18 April 2023

322 See, for example, “[What is happening with Afghan refugees in the UK?](#)”, *The Guardian*, 28 March 2023

323 Home Office, ‘[Afghan Resettlement Programme: operational data](#)’, accessed 18 April 2023

324 Q237–8 [Zahra]

the location, so we had to work quite rapidly to put similar levels of support in place for people in bridging hotels, but it was not done in a planned systematic way that Esther experienced. It was done in a very “Let’s try to fix this after the event” way, and so I think different people would have received different levels of support and advice depending on which bridging hotel they were in at what period. There has not been that consistent level of information and support available to people.<sup>325</sup>

Refugee Council’s position was clear. It believed “people should be afforded the same level of integration support irrespective of what scheme they arrived with”, based on their individual needs.<sup>326</sup>

207. The Government has acknowledged that long-term use of bridging hotels for Afghan refugees is “unsuitable for children who are adjusting to their new life and schools, does not support individuals to enter the world of work and holds people back from putting down roots in communities.”<sup>327</sup> In March 2023, the Home Office announced additional support to find permanent housing for those who had been living in hotels for 18 months. This included increasing the £500 million Local Authority Housing Fund by £230 million, and £35 million—in addition to existing ACRS/ARAP funding—for local authorities to provide support to address refugees’ barriers to accessing the housing market and employment. It also announced a small partnership with a leading housebuilder to provide 20 four-bedroom homes for Afghan refugees. It hoped to increase partnership working with major housebuilders, including by introducing a scheme in which Afghan refugees could lease new homes “for a few years to start their resettlement journey.”<sup>328</sup>

208. The Government intended to start the process of closing the remaining 59 bridging hotels used to house Afghan refugees from the end of April 2023, writing to all refugees, giving them at least three months’ notice of the closure of their hotel and offering them a settled home.<sup>329</sup> The Minister for Veterans’ Affairs confirmed that those who refuse the offer will not receive an alternative and will be required to find their own accommodation. He told the House of Commons that this approach to ending use of bridging hotels for Afghan refugees represented:

[...] a generous offer, and in return we expect families to help themselves. While the Government realise our responsibilities to the cohort, there is a responsibility on them to take the opportunities [...] and integrate into UK society. [...] At a time when there are many pressures on the taxpayer and the housing market, it is not right that people can choose to stay in hotels when other perfectly suitable accommodation is available. We are balancing difficult competing responsibilities, including to the UK taxpayer.<sup>330</sup>

209. However, Refugee Council and others have expressed “grave concerns” that the plan could leave Afghans at risk of homelessness if the first and only offer of alternative accommodation is inadequate or unacceptable.<sup>331</sup>

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325 Q215 [Andy Hewitt]

326 Q231 [Andy Hewitt]

327 [“New support for Afghans in UK hotels to find settled housing”](#), Home Office press release, 28 March 2023

328 [“New support for Afghans in UK hotels to find settled housing”](#), Home Office press release, 28 March 2023

329 [“New support for Afghans in UK hotels to find settled housing”](#), Home Office press release, 28 March 2023

330 HC Deb, 28 March 2023, [col 841](#)

331 [“Refugee Council warns Afghan housing plan is ‘deeply concerning’”](#), *ITV News*, 28 March 2023; see also, [“Afghan refugees face homelessness under UK plans, say rights groups”](#), *The Guardian*, 28 March 2023

210. In contrast to the generally positive experiences of many Syrians who came to the UK via the Vulnerable Persons Resettlement Scheme, many Afghan refugees' experiences of resettlement have been fraught with difficulty. While some of the early issues were a consequence of the unplanned nature, and sheer scale, of the evacuation of Kabul, the Government has been too slow to respond to meet the needs of Afghan refugees, particularly those with vulnerabilities related to protected characteristics. It is deeply concerning that only 22 vulnerable refugees identified by the UNHCR in pathway 2 of the Afghan Citizens Resettlement Scheme had been resettled in the UK by the end of 2022, some 16 months after control of Afghanistan was ceded to the Taliban. Pathway 2 is currently the only viable route to safety in the UK for many women and girls and ethnic and religious minorities at extreme risk of persecution and violence. *The Government must set out its plans for pathway 2 as a matter of urgency, including a clear and manageable target for the number of arrivals over the coming years. It should do so in response to this Report.*

211. Accommodation of Afghan refugees in bridging hotels for many months has been deeply problematic, with serious safeguarding issues for people with vulnerabilities arising from protected characteristics, including women and children enduring crowded conditions alongside single men. For many, integration and employment support has been entirely lacking. The lessons of the Afghan resettlement programme must be learnt so that mistakes are not repeated in future migrant crises. *The Government should commission, and publish within six months, an independent review and equality impact assessment of its approach to the resettlement of people from Afghanistan, including the funding model, use of hotels as bridging accommodation, and the integration support package.*

## Ukraine humanitarian visa pathways

212. The Government designed another bespoke approach, in the form of humanitarian visa pathways, in response to the crisis in Ukraine. There are three schemes. The Ukraine Family Scheme, opened in early March 2022, issues three-year visas to Ukrainians to join family members already in the UK who are British nationals, settled or permanently UK-resident Ukrainians, or pre-settled citizens of the EU, Iceland, Liechtenstein, Norway or Switzerland under the EU Settlement Scheme.<sup>332</sup> The Homes for Ukraine scheme opened on 18 March 2022. It matches Ukrainians who successfully apply for a three-year visa with UK sponsors who agree to house them for at least six months.<sup>333</sup> The Ukraine Extension scheme allows some Ukrainians who were already in the UK before the other schemes launched, and those who had permission to stay during the period 18 March 2022 to 16 May 2023, to apply for a new three-year humanitarian visa.<sup>334</sup>

332 UKVI/Home Office, ['Apply for a Ukraine Family Scheme visa'](#), accessed 18 April 2023

333 UKVI/Home Office, ['Apply for a visa under the Ukraine Sponsorship Scheme \(Homes for Ukraine\)'](#), accessed 18 April 2023

334 UKVI/Home Office, ['Apply to stay in the UK under the Ukraine Extension Scheme'](#), accessed 18 April 2023

## Accessibility

213. All the schemes require Ukrainians to apply online. Jennifer Blair of No.5 Chambers, who co-founded the Ukraine Advice Project to offer free immigration advice from a coalition of lawyers to Ukrainians fleeing the conflict, noted that while most people could manage the online process, several groups had struggled.<sup>335</sup>

214. She reported “distressing cases of older people struggling to do the online application form”. She said it was “really unpleasant” that there was so little help available to them. There was also a “significant educational barrier”—some socioeconomically deprived people and those with poor literacy were also effectively excluded.<sup>336</sup>

215. Ms Blair noted that visa applications were only available to those with a passport, which many children and older people did not have. She said:

That then affects the whole family who have to get that person to a visa application centre and are unlikely to travel until all the family have their visas. I am sure you are very much aware of it, as I am, but we are still seeing some family members granted visas and others not and then no-one is able to travel as a result because they are not going to leave their seven-year-old behind who has not yet got their visa.<sup>337</sup>

216. The schemes also effectively excluded the substantial Roma minority and the significant population of stateless people in Ukraine. Jennifer Blair told us she had “not heard of any of them being able to access this application process.” She believed many in these groups, if they were aware of the schemes, assumed they were ineligible because they did not hold a passport. She said they would, in fact, be able to make strong applications with the right support.<sup>338</sup>

217. Andy Hewitt argued that Homes for Ukraine excludes disabled people “by design”, noting that:

[...] it is very unlikely that a UK host will have their home set up to be able to welcome someone with a particular disability and all the wraparound support that that person may require. The scheme is not really set up to deal with that kind of scenario [...].<sup>339</sup>

Jennifer Blair noted that, while good practice to support disabled participants in the scheme, including an additional screening stage, links to social services and help finding suitable accommodation, had been introduced through the Scottish and Welsh Governments’ “super-sponsor” schemes, this support was not available UK-wide.<sup>340</sup>

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335 Qq205–8

336 Q205

337 Q205

338 Q206

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340 Q208. The Welsh and Scottish super-sponsor schemes were paused in June and July 2022 respectively, after receiving more applications than anticipated. See, [“Ukraine: Wales refugee super sponsor scheme paused for June”](#), BBC News, 8 June 2023; [“Ukraine refugees: Scotland pauses super sponsor scheme”](#), BBC News, 11 July 2023

218. The online visa application processes for the Ukrainian humanitarian protection pathways are a barrier to access for several groups of people with protected characteristics. These include older and younger people, Roma and other ethnic minority groups, and disabled people. We appreciate that the schemes were designed at pace and that barriers to access may have been unavoidable in the early stages. However, more than a year later we expect action to have been taken to improve access to visa applications for those previously excluded. *The Government should set out in response to this Report the actions it has taken or plans to take to address these barriers. In relation to disabled people's access to the scheme and suitable accommodation, we recommend the Government expand across the UK the enhanced support previously available via the Scottish and Welsh governments' "super-sponsor" schemes.*

### Safeguarding

219. Jennifer Blair noted worrying risks associated with matching Ukrainians with UK sponsors in the Homes for Ukraine scheme, particularly where they self-matched via the internet and social media. She described this as “a kind of unregulated hosted scheme”, which had been “very problematic”. She told us:

[...] For example, the Ukraine Advice Project UK do not match people with hosts, but we were getting a lot of enquiries from people saying they wanted to house a child and some enquiries from men saying they would like two Ukrainian women, that kind of thing. I have seen, for example, there is a very large Facebook group called Help for Ukraine Scotland with thousands of members, where it is like people picking up personal ads with their photograph and their families, saying they have no bad habits and they are nice, there are the most beautiful photographs of people looking for a host. It is just fraught with problems. [...] thousands and thousands of people have self-matched with random strangers.<sup>341</sup>

220. Once visas have been issued by the Home Office, the Department for Levelling Up, Housing and Communities (DLUHC), is principally responsible, with local authorities, for managing the hosting arrangements under the Homes for Ukraine scheme. DLUHC published safeguarding guidance to local authorities in January 2023, some 10 months after the scheme was launched. It sets out local authorities' statutory safeguarding duties to protect children. It acknowledges that while the “vast majority” of people who offer to sponsor Ukrainians “will be doing so for altruistic reasons”, there “are risks [...] that some will be applying to be a sponsor for the wrong reasons”, and therefore:

Everyone should be vigilant and take appropriate safeguarding action where needed. Some of those issues will be immediately apparent, such as an unsatisfactory Disclosure and Barring Service (DBS) certificate or previous local concerns about the sponsor. Others will only emerge over time.



The guidance includes links to National Crime Agency guides and government policy papers and guidance on identifying and responding to instances of exploitation and trafficking; modern slavery; domestic abuse; child sexual exploitation; and criminal exploitation, in the form of “county lines” guidance on children and vulnerable adults.<sup>342</sup>

**221. We heard worrying evidence of safeguarding risks to vulnerable adults and children where UK sponsors and Ukrainians in the Homes for Ukraine scheme have self-matched via the internet and social media. We welcome safeguarding guidance to local authorities published earlier this year, but it is regrettable that it was not published sooner. It is not clear the extent to which safeguarding concerns in relation to self-matching of UK sponsors and Ukrainians in the Homes for Ukraine scheme have arisen and what action, if any, has been taken to address them. *The Government should set out in response to this Report the steps it has taken to monitor and mitigate safeguarding concerns within the Ukrainian schemes. It should carry out a review of safeguarding in the schemes within three months, to ensure that lessons are learnt and any failings not repeated.***

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342 Department for Levelling Up, [‘Housing and Communities, Safeguarding: Homes for Ukraine’](#), accessed 18 April 2023

# Conclusions and recommendations

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## The UK asylum process and ongoing reforms

1. The asylum system is undergoing substantial reform, in part due to the Home Office's inability to process the volume of asylum claims it receives effectively and expeditiously. The Government is now seeking to reduce the ability of people to claim asylum in the UK despite recent figures showing the majority of those seeking to do so will have a genuine claim and would, in all likelihood, meet the criteria to be accepted. As this Report will set out, people with vulnerabilities arising from Equality Act protected characteristics are particularly affected. This cohort is experiencing unnecessary risks under the Home Office's current management of the asylum process, and recent and proposed changes to the system may lead to those risks increasing. (Paragraph 32)

## Equality data on decisions and final outcomes

2. It is not currently possible from published official data to monitor outcomes in the asylum process for groups of people with vulnerabilities arising from Equality Act protected characteristics. Experimental statistics on sexual orientation-based claims are a good start and we welcome the Home Office's intention to increase its collection of data on protected characteristics and UN Convention protection grounds. Data collection and transparency is the vital first step needed to ensure that inequalities in the process can be identified and addressed. *We recommend the Home Office collect and publish data in relation to claims, initial decisions, appeals and final outcomes disaggregated by: UN Convention ground; whether the claim included sexual and gender-based violence and other abuse; and the protected characteristics of claimants.* (Paragraph 40)

## Asylum decision-making

3. The Home Office's heavy reliance on a single substantive asylum interview disadvantages women with histories of sexual and gender-based violence and abuse. These women will invariably be experiencing the effects of trauma and related mental health issues, with potential effects on memory and their ability to provide a cogent, chronological narrative of what has happened to them. This can unfairly harm their claim. *We recommend the Home Office establish a specially trained team to determine the claims of women with histories of sexual and gender-based violence and abuse. It should not rely on a single substantive interview to determine such claims. Women should be afforded sufficient time and space to recount distressing and traumatic experiences in a safe and supportive environment. They should be supported in all aspects of the process by an independent specialist advocate.* (Paragraph 48)
4. The Home Office document, 'Gender issues in the asylum claim', includes very welcome guidance on gender sensitive asylum interview practice, including on meeting claimants' requests for female interviewers, providing childcare where necessary and allowing female claimants to have a friend or other companion present to provide emotional or medical support. It is regrettable that awareness of

these policies among asylum-seeking women appears to be low and that requests, when made, often go unmet. It is crucial that all asylum-seeking women are aware of the opportunity to make gender sensitive interview requests, and that such requests are met. *We recommend that the Home Office immediately carries out, and publishes within three months, a review of the implementation of its gender sensitive interview guidance, including requests for female interviewers and interpreters, provision of childcare, and presence at substantive interviews of emotional and medical support companions. Alongside this review, it should publish an action plan to ensure all female asylum claimants are aware of these policies and requests made in accordance with the guidance are met.* (Paragraph 52)

5. The Home Office should demonstrate it is taking effective steps to mitigate the risk of unequal effects in the asylum process. There is a range of distinct difficulties faced by people claiming asylum on grounds of sexual orientation or gender-identity. These claims are difficult to evidence, legally complex and difficult to determine accurately. They are not determined consistently well, leading to expensive appeals and overturned decisions. We were disappointed that the Minister was unable to set out in any detail the steps the Department has taken since the internal review it conducted in 2019–20 to improve the accuracy of its initial decision-making in such cases. *In response to this Report the Home Office should set out the main findings of the 2019–20 review and the steps it has taken to improve decision-making in cases involving sexual orientation and gender identity-based claims.* (Paragraph 62)
6. We share expert witnesses' concerns about the performance of the Home Office Country Policy and Information Team and the accuracy and timeliness of Country Policy and Information Notes (CPINs). We heard several examples of outdated or otherwise inaccurate CPINs leading to poor initial decisions and flawed legal arguments being made, particularly in relation to sexual orientation and gender identity-based claims. (Paragraph 69)
7. *We recommend the Home Office conduct a review of the performance of the Country Policy Information Team, including its ability to maintain and update high quality CPINs in a timely manner. We further recommend the Home Office introduce a new programme of training for asylum decision-makers and presenting officers on correctly using and interpreting CPINs in the claim determination process.* (Paragraph 70)
8. Biased or prejudiced interpreters can adversely affect a person's asylum claim, particularly in cases where claims are based on sexual orientation or gender identity and religion or renunciation of religious belief. No interpreter contracted by the Home Office should be able to influence the determination of any claim, particularly where this is motivated by their own beliefs, prejudices or stereotyping. (Paragraph 74)
9. *We recommend the Home Office establish a programme of religious impartiality and LGBT sensitivity training for all language interpreters on its approved list. We further recommend the Department review and enhance its training of asylum interviewers on avoiding application of stereotypes to asylum claimants in sexual orientation and gender identity-based claims.* (Paragraph 75)

10. There is a lack of access to expert legal representation for people claiming asylum in the UK. This is particularly problematic in relation to complex claims, often involving sexual orientation or gender identity, religious belief or renunciation of belief, and sexual and gender-based violence and abuse. There is evidence that lack of legal representation during the initial claim determination phase leads to poor initial decisions and unnecessary and expensive appeals later in the process. We agree with expert witnesses that an overhaul of legal aid for these types of complex asylum cases is needed. (Paragraph 81)
11. *We recommend the Government increases funding for asylum legal aid to ensure specialist support is available for claimants across the UK during the initial determination process, particularly for sexual orientation and gender identity, sexual and gender-based violence and abuse, and religious belief and apostasy-based claims.* (Paragraph 82)
12. In order to fulfil the Prime Minister's pledge to clear a substantial part of the backlog of asylum cases this year, the Home Office will need many more highly-trained decision-makers making initial decisions faster. Data on decision-making rates and appeal outcomes show initial decisions are far too slow and too often wrong. Evidence also shows delays in the Home Office engaging with the Tribunals and actioning its decisions. (Paragraph 93)
13. *The Home Office must establish a new programme of training for Home Office decision-makers and presenting officers particularly on matters concerning gender, sexual orientation and gender identity-based asylum claims. Training should be delivered by independent expert stakeholders, drawing on lived experiences of refugees. The Home Office must also improve the timeliness of its actions once notice of an appeal has been served and when an outcome is known. It is simply unacceptable, as well as unnecessarily costly for the taxpayer, for successful appellants to then have to wait months for their leave to be granted.* (Paragraph 94)

### Asylum support

14. £40 per week was clearly inadequate to meet the essential living needs of people seeking asylum in the UK. Women, including those with children, face particular difficulties and near-impossible choices about how to provide for themselves and their families. It is unsurprising that the High Court ordered an immediate increase to £45—the “minimum legal action required” for the Home Secretary to meet her legal duty. It is clear that a long-term solution is required after many years of below inflation increases to asylum support have left people facing severe poverty. We believe the simplest, fairest and most sustainable solution is to link the rate of asylum support to that of the main annually uprated mainstream social security benefit. In the context of the asylum system, this would also be relatively inexpensive, at a likely initial annual cost in the low tens of millions of pounds. (Paragraph 110)
15. *We recommend the Government set the weekly asylum support payments at 70% of the standard over 25s rate of Universal Credit. The Government should also consider increasing the payment for women to address specifically concerns regarding period poverty.* (Paragraph 111)

16. Substandard conditions in asylum accommodation are unacceptable. No one should have to endure unsanitary conditions, particularly people who are vulnerable. The slow claim determination process means people can be stuck in poor accommodation for excessive periods leading to and exacerbating adverse effects on people's physical and mental health. Concerns over the standard of asylum accommodation have been raised repeatedly over many years. It is disappointing that the latest round of contracts to provide such accommodation appear to have yielded little improvement. It is also concerning that the Government is now planning to exempt those properties from basic safety requirements. (Paragraph 119)
17. *The Home Office must do more to ensure contracted providers of asylum accommodation provide accommodation of a decent, safe standard and hold contractors to account with financial penalties when they fail to do so. The Home Office should enhance its resources for inspection and contract management and give particular regard to the experiences of pregnant women and those with young children.* (Paragraph 120)
18. We were disturbed to hear reports of serious safeguarding issues, including LGBT hate crime and violence against women, occurring in all types of asylum accommodation. Despite the asylum support contracts safeguarding framework, published in May 2022, many settings appear to lack effective complaints and safeguarding mechanisms. It is unacceptable that reported issues are routinely ignored. (Paragraph 127)
19. *The Home Office should conduct an urgent review of safeguarding policies and practices across all asylum support contracts, to ensure the asylum support contracts safeguarding framework is being consistently and effectively implemented in all settings. It should publish its review and an action plan within three months. We further recommend the Home Office increase contracted provision of female-only and family-only accommodation, and dedicated safe asylum accommodation for LGBT people.* (Paragraph 128)
20. Accommodation of asylum seekers with a range of vulnerabilities arising from protected characteristics, including single women, mothers, children and LGBT people, in crowded hotel and other contingency accommodation, including the recently acquired accommodation barges, is unacceptable from both safeguarding and equalities perspectives. Despite the asylum support contracts safeguarding framework, we heard evidence of clear safeguarding risks and people living in fear, often for many months. While the practice of accommodating asylum seekers in hotels and other forms of contingency accommodation persists, there must be effective policies and practices in place to protect vulnerable adults and children from harm. (Paragraph 133)
21. *As part of the safeguarding review and action plan recommended above, the Home Office must publish a robust safeguarding policy in relation to the use of hotels and other facilities as contingency accommodation. This should include a requirement for a needs-based risk assessment to be carried out before any women, families, children, or LGBT people at risk of hate crime are housed in hotels and other types of contingency accommodation alongside single men.* (Paragraph 134)

22. The Home Office is too often failing to comply with guidance on moving pregnant women and new mothers between asylum accommodation settings. The guidance is clear that such moves are potentially harmful and should only be made where advice on safety has first been sought from a clinician and acted on. We heard that the health of mothers and babies has been put at risk, with moves taking place within days of women's due dates and shortly after births. This is dangerous and unacceptable. There is a lack of data on pregnant women in the system by which to monitor the Home Office's compliance with its own guidance. (Paragraph 139)
23. The Home Office must stop moving pregnant women and new mothers between asylum accommodation settings unless clinical advice has been sought and acted on, the mother has consented to a move, and it is in the mother's and baby's best interests. The Home Office must collect and publish data on the number of pregnant asylum-seeking women and new mothers in the asylum system, the category of accommodation in which they are living, the number of times they are moved, and in which trimester, and whether on each occasion clinical advice was sought and acted on. (Paragraph 140)

### Nationality and Borders Act 2022

24. We agree with legal and policy experts that the Government's equality impact assessment of the Nationality and Borders Act 2022's asylum provisions is inadequate. There are clear risks, acknowledged by the Government, of unequal effects on asylum claimants with vulnerabilities related to Equality Act protected characteristics. These include women and girls with histories of sexual and gender-based violence and abuse; LGBT people who have complex sexual orientation and gender-based claims; and disabled people. Without effective mitigations, these groups are likely to be disadvantaged by the new procedures. It is unacceptable that the Home Office remains unable to set out a clear plan to monitor and mitigate unequal effects. (Paragraph 153)
25. *The Home Office must publish an updated equality impact assessment of the Nationality and Borders Act's asylum provisions within three months. Alongside this assessment it should publish a mitigation plan to prevent discriminatory effects of the Act's asylum provisions on people with vulnerabilities arising from protected characteristics, including women with disclosed histories of sexual and gender-based violence and other forms of abuse, people with physical and mental disabilities, children and families, and LGBT people. It should seek the advice of the Equality and Human Rights Commission to ensure the equality impact assessment and mitigation plan follow best practice and fully comply with the Equality Act's Public Sector Equality Duty.* (Paragraph 154)

### Detention

26. The prolonged detention with no certainty of release of asylum-seeking people who pose no threat to the public and for whom there is little prospect of removal from the UK is potentially harmful, impractical and costly. We are deeply concerned that current and planned reforms in the Nationality and Borders Act and Illegal Migration Bill risk turning back the clock on policies intended to ensure detention



is used only as a last resort, and to reduce the risks of harm to vulnerable people. We recommend the Government set out in response to this Report its planned approach to mitigating risks of harm to vulnerable adults in detention under Nationality and Borders Act and Illegal Migration Bill provisions, including whether it remains committed to the Adults at Risk in detention policy established after the Shaw reviews in 2016 and 2018. The Government has not yet set out its planned approach to the detention of children under Illegal Migration Bill provisions. We strongly believe the Government should abandon any intention of detaining asylum-seeking children under those provisions. (Paragraph 167)

27. Monitoring and mitigating adverse effects of detention on groups of asylum seekers with vulnerabilities arising from Equality Act protected characteristics requires much improved data. *The Government should collect and publish data on the protected characteristics of detained asylum seekers, including where they are detained and for how long.* (Paragraph 168)
28. We welcome the Government's announcement that all Detained Duty Advice Scheme appointments in immigration detention, including Derwentside Immigration Removal Centre (IRC), will now be delivered face-to-face. *However, the Government must address further potential barriers to accessing legal advice in Derwentside IRC. It must ensure that information in foreign languages about how to access legal advice is more readily available and displayed on posters throughout Derwentside IRC and the wider immigration removal estate. The Government must also take steps to improve mobile phone reception in Derwentside IRC and set out in response to this Report the steps it has taken to do so.* (Paragraph 175)

### UK/Rwanda Migration and Economic Development Partnership

29. We are deeply concerned that the Home Office's case-by-case risk assessments prior to issuing notices of intent to remove potentially inadmissible asylum claimants to Rwanda appear to be inadequate. There is evidence that a significant number of vulnerable people, to whom the removal process would very likely be harmful, have received such notices. *The Home Office should suspend all notices of intent and review its initial screening procedures. No new notices of intent should be issued until the legal challenges to the policy are complete. Should removals to Rwanda be operationalised, we believe thorough vulnerability assessments should be undertaken prior to issuing notices of intent, to avoid the risk of harm to individuals.* (Paragraph 184)
30. We believe the risks of harm to children arising from the removal process outweigh any risks of damaging the intended deterrent effect of the Rwanda policy. *The Government should abandon any intention of forcibly removing children to Rwanda.* (Paragraph 185)
31. *Should removals to Rwanda be operationalised after the legal challenges are complete, the Government must record and publish full equality data, disaggregated by Equality Act protected characteristics, of people issued with a notice of intent; people issued with a notice of removal; and those removed to Rwanda. It should also collect and publish equality data disaggregated by protected characteristics of those who challenge in the courts a decision to remove them, and the outcomes of those legal challenges.*

*The Government should also set out how it intends to monitor and ensure that those removed to Rwanda do not suffer harm or experience discrimination in that country.* (Paragraph 186)

### Best practice in resettlement and humanitarian visa pathways

32. The Vulnerable Persons Resettlement Scheme (VPRS) provides a recent good practice example of an effective resettlement scheme, which was successfully scaled up in response to a migrant crisis. The scheme was adequately and predictably funded with a clear target for the number of refugees to be resettled, providing local authorities with the certainty they needed to plan and take part with confidence. The VPRS included a clear package of integration support, with improvements made to housing and employment support over time. *The Government should replicate the VPRS approach in the UK Resettlement Scheme and in response to future migrant crises.* (Paragraph 196)
33. In contrast to the generally positive experiences of many Syrians who came to the UK via the Vulnerable Persons Resettlement Scheme, many Afghan refugees' experiences of resettlement have been fraught with difficulty. While some of the early issues were a consequence of the unplanned nature, and sheer scale, of the evacuation of Kabul, the Government has been too slow to respond to meet the needs of Afghan refugees, particularly those with vulnerabilities related to protected characteristics. It is deeply concerning that only 22 vulnerable refugees identified by the UNHCR in pathway 2 of the Afghan Citizens Resettlement Scheme had been resettled in the UK by the end of 2022, some 16 months after control of Afghanistan was ceded to the Taliban. Pathway 2 is currently the only viable route to safety in the UK for many women and girls and ethnic and religious minorities at extreme risk of persecution and violence. *The Government must set out its plans for pathway 2 as a matter of urgency, including a clear and manageable target for the number of arrivals over the coming years. It should do so in response to this Report.* (Paragraph 210)
34. Accommodation of Afghan refugees in bridging hotels for many months has been deeply problematic, with serious safeguarding issues for people with vulnerabilities arising from protected characteristics, including women and children enduring crowded conditions alongside single men. For many, integration and employment support has been entirely lacking. The lessons of the Afghan resettlement programme must be learnt so that mistakes are not repeated in future migrant crises. *The Government should commission, and publish within six months, an independent review and equality impact assessment of its approach to the resettlement of people from Afghanistan, including the funding model, use of hotels as bridging accommodation, and the integration support package.* (Paragraph 211)
35. The online visa application processes for the Ukrainian humanitarian protection pathways are a barrier to access for several groups of people with protected characteristics. These include older and younger people, Roma and other ethnic minority groups, and disabled people. We appreciate that the schemes were designed at pace and that barriers to access may have been unavoidable in the early stages. However, more than a year later we expect action to have been taken to improve access to visa applications for those previously excluded. *The Government should*

*set out in response to this Report the actions it has taken or plans to take to address these barriers. In relation to disabled people's access to the scheme and suitable accommodation, we recommend the Government expand across the UK the enhanced support previously available via the Scottish and Welsh governments' "super-sponsor" schemes. (Paragraph 218)*

36. We heard worrying evidence of safeguarding risks to vulnerable adults and children where UK sponsors and Ukrainians in the Homes for Ukraine scheme have self-matched via the internet and social media. We welcome safeguarding guidance to local authorities published earlier this year, but it is regrettable that it was not published sooner. It is not clear the extent to which safeguarding concerns in relation to self-matching of UK sponsors and Ukrainians in the Homes for Ukraine scheme have arisen and what action, if any, has been taken to address them. *The Government should set out in response to this Report the steps it has taken to monitor and mitigate safeguarding concerns within the Ukrainian schemes. It should carry out a review of safeguarding in the schemes within three months, to ensure that lessons are learnt and any failings not repeated. (Paragraph 221)*

# Annex A: Note of visit to Birmingham, 4 July 2022

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**Members attending:** Caroline Nokes; Carolyn Harris; Kim Johnson; Anum Qaisar

**External participants:** Four representatives of the immigration detention campaign group, Allies for Justice, and one person from its sister organisation, Families for Justice, attended. Both groups are run by people with lived experience of immigration detention or family members of people who have been detained and/or subject to forced removal. The groups are supported by the charity Detention Action.

This note summarises the discussion under eight themes: mental health and wellbeing; access to healthcare and medication; emphasis on enforcement and coercion; induction and information; general conditions of detention; access to legal advice and community support; effects on children and families; and consideration of alternatives to detention, including in the context of the New Plan for Immigration and the Nationality and Borders Act 2022.

## 1. Mental health and wellbeing

The effect of immigration detention on mental health was a recurring theme. It was noted that different groups may be affected differently, and each individual may have different tolerances, but mental health was an issue for everyone detained for a significant period, regardless of their characteristics.

Participants spoke about the uncertainty around how long a person would be detained, and the detainee's lack of control over this, being a key factor affecting mental health. While detainees received monthly updates on their case and the reasons for continued detention, these were perceived as “cut and paste”, often not giving any new information about progress for several months. This gave detainees “no sense of direction” in relation to their case and was at odds with Home Office guidance. There were instances of detainees repeatedly being told their removal from the UK was “imminent” and remaining in detention for several months.

Lack of information about progress led to growing feelings of isolation and frustration, and deterioration in mental health over time. Mental ill health often led to physical health problems. Participants reported that some detainees would self-harm or attempt suicide out of desperation.

## 2. Access to healthcare and medication

Participants reported that detainees were subject to some initial health screening. However, detainees were not always aware of their health conditions and initial screening was not always sufficient to identify previously undiagnosed issues.

While people in detention had access to healthcare services provided by the contracted Immigration Removal Centre (IRC) service provider (G4S, Mitie or Serco) or directly by the NHS, there was a perception that healthcare was not of the same quality people would receive in the community. One participant reported that the attitude of IRCs was “as long as [detainees] don't die on our watch”, they had discharged their duty. Participants

reported that people with health conditions were being detained in contravention of Home Office guidance (people kept in detention for months despite being assessed as level 3 [at risk of harm] under the Adults at Risk policy). Detainees were sometimes in need of hospital care, but IRC/Home Office staff did not send them to hospitals because they were concerned it could be used as a barrier to removal.

One participant reported that detainees were regularly unable to access the medication they needed.

### **3. Emphasis on enforcement and coercion**

It was noted that people were often moved into detention “under cover of darkness” with no notice.

One participant described being “scared to open envelopes” from the Home Office.

Once detained, there was a lack of consistency in the attitudes of IRC staff towards detainees. Some staff would take the time to allow detainees to make representations (an example was given of an individual employee allowing a detainee the time to make legal representations before a removal flight), but others would “make things ten times worse”. One participant believed that some unsupportive IRC staff had been “institutionalised” and may have been traumatised by, and desensitised to, the environment.

Participants reported being made to feel “lesser people”, and this was a feeling that stayed with them after leaving detention. There was a sense that detainees and their families “did not know who was willing to help”. This applied across all public agencies, not only the Home Office and IRC staff but also social services and others; there was a perception that the system as a whole placed the onus on enforcement rather than supporting people. Participants expressed concern that the Nationality and Borders Act 2022 and plans for human rights reform would make the situation worse.

### **4. Induction and information**

Participants described inadequate induction processes for detainees. They were provided with a leaflet, but some people struggled to take in complex information. People felt bombarded with information when “their head was not in the right place”. It was felt that the information leaflet was issued merely to “tick a box”.

One participant described an induction meeting lasting around 20 minutes, with detainees who spoke no English unaware of what was happening. Detainees had to “figure it out for themselves” or rely on peer support, if it was available, to understand their situation.

Another participant emphasised the importance of an initial external phone call because IRC staff could not understand detainees. Some staff lacked the patience to listen to and understand people who spoke English with a strong accent.

### **5. General conditions of detention**

Participants described living conditions in detention as broadly adequate, but with an over-riding lack of autonomy. Detainees were locked up for significant portions of the day.

Meals were often unappealing but generally adequate. One participant reported a lack of vegetarian options. Detainees generally lacked choice about what they ate; they were just “eating to survive”. This was particularly problematic, and could be a threat to mental health, for people with strong cultural connections to food. “Cultural kitchens”, in which national or ethnic groups had some control over menus, happened periodically but this was a privilege that could be withdrawn for whole groups because of poor behaviour of individuals.

Facilities were broadly adequate. Rooms were sometimes singles but often doubles. Where shared, detainees had no choice about who they shared rooms with. People were often moved into a shared room with no notice. It could be very difficult to raise issues about sharing rooms with fellow detainees, particularly at night, when there were very few staff to deal with problems. Staff were expected to deal with a wide range of problems, which was not realistic.

Participants reported that the heating system in Harmondsworth IRC had been broken for over a year. When people complained they had been told it was too expensive to fix. One participant described being detained for a year, during the Covid-19 pandemic. This was a particularly “scary” experience because the IRC had no windows or ventilation.

Another participant described being moved long distances between IRCs with little notice and no explanation. They had been moved to a remote location, where they had felt isolated. On one occasion they had been moved for two weeks, then moved back again, with no explanation.

Participants reported that being detained in prison was even more difficult. There was no access to legal advice and detainees could not have a phone. There was no consistency in decisions to detain people in prison under Immigration Rules at the end of a sentence, rather than in an IRC.

While noting that improvements to the conditions of detention would be welcome, one participant emphasised that such improvements would not address more fundamental issues.

## **6. Access to legal advice and community support**

There was a perception that the detention system was “designed to prevent access to justice”. Accessing legal advice and family/community support was much more difficult in detention. Detention was “not a proper environment in which to prove your claim”; much of the information people needed to access was in the outside community. One participant described a family member being taken straight into detention on arrival in the UK, preventing them from accessing the information and advice they needed to support their case. Family members were “too scared” to engage with the process for fear of being detained themselves.

Another participant emphasised the lack of legal advice and support available to people prior to detention, which they believed was an equally important “flaw” in the current system and led to inappropriate detentions. It was argued that if detention was genuinely a “last resort”, there ought to be a prior stage in the process.



More than one participant emphasised that lack of access to legal advice and community support often led to last minute, “11th hour” appeals against Home Office removal decisions. A participant noted the often very short time frame between decision and removal.

## **7. Effects on children and families**

One participant reported that there was very little, if any, support available for children and families of people in detention. Women were often trying to hold families together without help. Children needed emotional and mental health support. The participant reported being “passed from pillar to post”. There was no additional support for children in schools.

Another participant reported a general lack of acknowledgement of the needs of children of detainees. There was no risk assessment of, and no data on, the effects on children.

## **8. Consideration of effective alternatives to detention**

There was a view that detention should be used as a last resort and that alternatives were not being given proper consideration. Despite being repeatedly told they would be detained for as short a time as possible, one participant was detained for 18 months.

While participants understood there had been impact assessments of various “alternative to detention” pilot programmes, there was concern that the New Plan for Immigration and Nationality and Borders Act 2022 indicated that these would not be taken forward. There was an assumption that the Government’s plans to increase the size of the immigration detention estate were motivated by a desire to scale up detention (contrary to commitments made following the Shaw reviews in 2016 and 2018) rather than to address existing overcrowding. Allies for Justice had seen a recent increase in detention rates, which it believed was due to measures in the Act.

# Annex B: Note of visit to Derwentside Immigration Removal Centre, 5 December 2022

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**Members attending:** Caroline Nokes; Mark Jenkinson; Kate Osborne; Bell Ribeiro-Addy; Anum Qaisar

**External participants:**

**Senior Home Office officials:** Dan Smith, Head of Detention Progression and Return Command; Amy Wilson, Service Delivery Manager (Derwentside and Dungavel IRCs); Melanie Rudd, Operations Manager, Newcastle Asylum Team

**Senior Mitie Care and Custody managers:** Paul Morrison, Immigration Service Director; Sarah Mallender, Centre Manager

## 1. Introduction to Derwentside

Derwentside IRC had been established on a “green field” site and had been the main facility for the immigration detention of women since November 2021. It had a maximum capacity of 84 women. There were plans for additional capacity for female detention at other IRCs (Colnbrook, Dungavel and Yarl’s Wood) from early 2023.<sup>343</sup>

When the Committee visited, there were 29 women detained in Derwentside, ranging in age from 19 years to 58. The oldest women detained there had been 69 years.

The stated purpose of detention was two-fold; either to establish a detainee’s identity/nationality, or to detain a person prior to removal from the UK. Home Office officials could not provide data on the number or proportion of women detained in Derwentside who were subsequently a) removed from the UK or b) released into the community.<sup>344</sup>

There was a very varied mix of immigration detainees at Derwentside, including a significant proportion of female foreign national offenders (FNOs) transferred from prisons. FNOs could be held for an indefinite period, until detention was no longer required.

There were 99 Detention Custody Officers (DCOs) working at Derwentside. Female officers were always a majority; the proportion was around 60% at the time of the visit. Home Office officials/Mitie managers could not provide a further breakdown of officers’ characteristics, including their ethnicity, which were recorded voluntarily.

The site was operated under the terms of an initial two-year “emergency” contract to operate Derwentside and Dungavel. The contract would run until November 2023. Mitie had not bid for the next contract. This had been a financial decision based on the Home Office’s procurement of separate contracts for Derwentside and Dungavel.

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343 A [follow up letter dated 28 March 2023](#) from The Rt Hon Robert Jenrick MP, Minister for Immigration, clarified that a planned 45% increase in the detention estate would comprise an additional 1,000 beds for men at reopened former IRCs at Kidlington and Gosport. These would not be operational until “at least late 2023”.

344 A [follow up letter of January 2023](#) confirmed the number of women who had left Derwentside since it opened in November 2021 up to 30 September 2022 was 200. Of these, 95% (190 women) had been released and 5% (10 women) had been removed from the UK.

The Home Office managed the contract and monitored Key Performance Indicators (KPIs), which had been streamlined over time. There was no specific KPI related to legal advice visits, for example. The contract was managed “holistically” to get the best out of the contractor.

The Independent Monitoring Board (IMB) had a presence at the site, and regularly published reports on conditions at the site. An inspection report on Derwentside was imminent.<sup>345</sup>

Derwentside tended towards “rapid” turnover of detainees, with around half of the women held there leaving within two weeks. Women detained for longer periods often had “complexities” in their cases, for example last minute appeals against removals or difficulties sourcing accommodation in the community suitable for their care needs. The longest period for which a current detainee had been held in Derwentside was 203 days. Her release had been delayed because she had safeguarding needs, which had not been identified at the time of detention. Had these needs been known she would not have been detained. The longest period of detention at Derwentside to date was around 220–230 days.

There had been one attempted suicide, in around May/June of 2022. The detainee had received mental health support off site.

There had been three pregnant women detained in Derwentside in the last three months, two of which had been in the last few weeks—all had been in the very early stages of pregnancy. All detainees were offered a pregnancy test as part of their initial health screening by nursing staff. While women could refuse a test, this was rare because it was explained to them that they could not be detained beyond 72 hours if they were pregnant.

After initial health screening, women were offered a GP appointment within 48 hours, and 72 hours for an appointment with a female GP.

The detention engagement team at Derwentside conducted a modern slavery National Referral Mechanism (NRM) assessment of detainees within 48 hours of their arrival. The healthcare screening also included questions pertaining to modern slavery.

Information about accessing legal advice was given to detainees verbally at reception (see tour of facility, below) and in writing, including in a “compact” information booklet at reception and a welcome pack in bedrooms. Information on posters appeared to be in English only.

Written information, including information about accessing legal advice, and complaint forms, could be made available in 21 different languages. Where necessary, language interpretation services were provided by Big Word.

Mitie was not able to provide information about the language skills of staff, though it was giving thought to how to gather such information, for example via a survey, as part of its Equality, Diversity and Inclusion strategy. A full review of language interpretation was planned for next year.

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345 See, HM Chief Inspector of Prisons, [Report on an unannounced inspection of Derwentside Immigration Removal Centre](#), 8–25 August 2022, December 2022

All detainees were issued a basic mobile phone (not smart phone) via which they could contact legal representatives. At least one of the women the Committee met (see informal meetings with detainees, below) received a message from her solicitor during the visit. The women also had access to the internet, including Zoom, and email in dedicated rooms in the “regimes” block (see tour of the facility, below).

There had been issues with the quality, quantity and variety of food. There had been incidents of detainees refusing the food offered. But feedback from detainees had improved in recent months.

Derwentside did not have a “cultural kitchen”, in which detainees had some control over menus and cooking according to their cultural preferences, but there were plans to establish one. Once established, there were plans to hold “cultural celebrations” each month, based on the nationalities of detainees. Despite recent improvements, food remained a high priority and detainees were very vocal about it (see informal meetings with detainees, below). The weekly “residents committee”, attended by healthcare, facilities and kitchen staff and senior managers, and to which all detainees were invited, had food as a standing agenda item.

## **2. Tour of the facility**

### *Reception*

Reception staff had been specially trained to welcome distressed women and identify immediate needs, including under Adults at Risk in Detention (AAR) protocols. Some women had been separated from their children; this was a casework decision in which reception staff could not intervene. Women were often transferred from other sites where they had been detained with males. After arrival in an escorting vehicle, women were often emotional and unused to the level of care and sensitivity afforded at Derwentside IRC. There was an understanding that the first night at Derwentside could be particularly difficult and emotional.

The women were issued with a “compact” welcome pack, which was available in 21 languages. Initial screening at reception included establishing date of birth, immediate medication needs, dietary requirements, ethnicity, religion, whether room sharing was appropriate, and any other information the women wanted to disclose immediately. This information, plus “demographic data”, was entered onto a computer system (DMS). This typically took around 30 minutes.

Information from casework and escorting teams was logged onto a separate system, which did not automatically share information with the system used at reception. This required some copying of information from one system to the other and close collaborative working between staff responsible for decision-making and escorting detainees, and reception staff. Occasionally information required at reception, including about risks, was missing from the “movement order”. Collaborative working between the teams to resolve such issues was described as very good.

After initial reception screening, there was a confidential screening in a private room, covering issues including mental health, self-harm risks and substance misuse.

The women were offered either a packed lunch-type meal or hot meal.

Each detainee was allocated two named staff keyworkers.

### *Healthcare*

The healthcare block appeared clean, bright, and spacious. There were four clinical treatment rooms, which appeared well-equipped. A GP was available on site for two days per week and there was an on-call telephone service.

There was a range of medical services including mental health (support available Mon-Fri, with a psychiatrist on site once per week),<sup>346</sup> menopause, and sexual health.

There was a system by which to transfer detainees' medical notes from other IRCs and NHS systems, but medical notes taken in police custody could not be transferred.

Detainees could be referred to external NHS services if necessary; however, IRC staff were unable to say how often women were moved from the site to receive medical treatment.<sup>347</sup>

There was a dental treatment room, which appeared well-equipped. A dental nurse was present during the visit. A dentist attended the site "around three times per week".

Information posters in the healthcare block appeared to be in English. Detainees were given a healthcare information pack on arrival, which was available in 21 foreign languages. Language interpretation in the healthcare block was provided by LanguageLine Solutions.

Covid-19 testing was available and detainees were encouraged to get tested if they were symptomatic. There had been a Covid outbreak early in the IRC's operation but there had not been a Covid case for some time. Covid and other vaccinations were available and encouraged.

There were no current cases of communicable diseases or headlice.

Period products were freely available.

### *"Regimes" (sports and recreation)*

There was a very well-equipped gymnasium, with a good range of apparently new equipment. There were no women using the gym at the time of the visit (around 11am). IRC staff reported that, despite encouragement, the gym was generally underused but was busier at other times. Some detainees had said they preferred to exercise outside, and staff were obtaining quotes for outdoor gym equipment.

Badminton sessions had been popular. There were plans to introduce Zumba classes.

### *Library and internet access*

The library appeared to be well-stocked. The large majority of books appeared to be in English, with a small foreign languages section. Detainees could request specific books.

There were separate dedicated internet/Zoom rooms, which could be used by detainees to contact family, friends and legal representatives. None of the rooms were in use at the time of the visit.

<sup>346</sup> Further details were included in the Minister for Immigration's [letter dated 28 March 2023](#)

<sup>347</sup> This information was also included in the Minister's letter.

*Hibiscus Initiatives*

The charity Hibiscus Initiatives, which provides a wide range of support to migrant women, had an office close to the library. Three support workers were usually present, but the office was closed at the time of visit.

*Art room*

An arts and crafts room appeared to be well-equipped. There was no-one using the room at the time of the visit.

*I.T. education room*

There was a room with several computers for I.T. classes. One woman was using the room at the time of the visit, receiving word processing training. There had been issues with saving detainees' work. There was no working printer; work had to be emailed and printed off site by staff.

*Faith room*

There was a small faith room with prayer mats, which could serve as a Chapel/prayer room.

*Hair and beauty salon*

The hair and beauty salon was closed and locked at the time of the visit. Nail products could be used under supervision. There had been no hairdresser since late October. IRC staff had found it difficult to recruit a replacement hairdresser, who required a Level 3 qualification. Detainees were not permitted to cut each other's hair because of the required access to scissors in a custody environment [NB scissors were available for use under supervision in the art room].

*Outside space*

Outside space was extensive. There was a large, grassed area with outside seating, and giant chess pieces (though there did not appear to be a board) and a polytunnel for growing vegetables.

**3. Informal meetings with detainees**

The Committee visited the residential block and Members of the Committee spoke individually or in small groups with some of the detainees.

At least three women had been detained at Derwentside for more than two weeks. A Brazilian woman had been there for five weeks. Two other women reported being in Derwentside for three months.

At least three women had been in the UK for several years prior to detention, one for 11 years. They described the experience as difficult and scary and were emotional recalling it. One woman described being taken from her home while her flatmates had been out, and it being several hours before she could let them know what had happened. She had not been given the opportunity to change into appropriate clothing.



At least one woman said she had been held in several different IRCs before coming to Derwentside. The purpose of moving her was not clear.

Another woman was very concerned about an elderly relative in the community for whom she had been providing informal care prior to detention.

One woman said she had found it difficult to access high quality legal advice.

At least one woman received a message from her solicitor on her IRC-issued mobile phone while the Committee was present. IRC staff noted that mobile phone reception in the area could be poor—a contractor tested reception every two weeks.

A detainee was concerned about not being able to have a haircut and was worried about accessing medication for high blood pressure.

There were several issues with food. One Brazilian woman said rice, a staple of the Brazilian diet, was rarely available. Another woman described the food as “oily” and sometimes “unhealthy”.

Detainees’ bedrooms were relatively small and basic but appeared comfortable, and each had an en-suite toilet and shower. There were some shared rooms. Detainees could request a shared room, but no one was required to share.

#### **4. Home Office approach to detention**

Dan Smith, Home Office Head of Detention Progression and Returns Command, gave an overview of his role and the Home Office’s approach to immigration detention. He had been brought in to ensure consistency of approach and ensure best practice following the Shaw reviews and inquiries by the Home Affairs Select Committee and Joint Committee on Human Rights, many of whose recommendations had been accepted.

He described five key detention safeguards:

I. AAR policy, which was intended to rebalance consideration of vulnerability with the need for detention, with a greater presumption in favour of liberty. He reported that vulnerable adults were no longer detained unless they had reached the end of all legal processes and refused voluntary return.

II. “Detention gatekeeper”, a system by which a team of 60 Home Office officials reviewed all cases of detention where a level 3 AAR risk had been assessed, or where the individual had been in the UK for 20 years. The team had recently increased from 52 and was dealing with increased caseloads because of the rise in small boat Channel crossings.

III. Case Progression Panels, which included Home Office officials, stakeholders and external experts (e.g., former police and probations officers), to review ongoing longer-term cases of detention. These panels were currently meeting three to five times, and considering around 15 individual cases, per week. Each panel meeting lasted around two and a half hours and was held online. They were sometimes observed by senior civil servants.

IV. Increased staff to detainee ratio—despite difficulties in recruiting to roles in closed institutions, staff to detainee ratios had increased. The aim was to ensure that staff/detainee relationships went beyond the “transactional”, and staff could provide a wider range of provision, support, and communication.

V. Professional curiosity of staff, who, as part of lessons learned after the Windrush generation scandal, were now encouraged to question whether detention was appropriate in individual circumstances. An example was given of a pre-planned removal not going ahead because a Home Office team learned that an individual had recently become a father.

Dan Smith said that the average cost of detention per day per detainee was around £85, and had not changed significantly in recent years.<sup>348</sup>

Dan Smith reported that, while women were in scope for removal to Rwanda as part of the Rwanda Migration and Economic Development Partnership, only “healthy men” had so far been issued with notices of the Government’s intention to remove them. It was possible that notices of intent in more complex cases, including women, could be issued later.<sup>349</sup>

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348 The Home Office later clarified that the figure had increased to £115.32 as of September 2022.

349 In its [January 2023](#) letter, the Home Office clarified that Mr Smith recalled saying “notices of removal” not “notices of intent”. The department confirmed that a “small number” of women had been issued with notices of intent, but none had been served a notice of removal.

# Formal minutes

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**Tuesday 20 June 2023**

**Members present:**

Caroline Nokes, in the Chair

Caroline Dinenage

Carolyn Harris

Kim Johnson

Draft Report (*Equality and the UK asylum process*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 221 read and agreed to.

Summary agreed to.

Annexes agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned until Wednesday 28 June at 2.00 pm]

# Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Wednesday 26 January 2022

**David Goodhart**, Head of Demography, Immigration, and Integration Unit at Policy Exchange; **Dr Rossella Pulvirenti**, Senior Lecturer in Human Rights Law, Manchester Law School at Manchester Metropolitan University; **Jonathan Thomas**, Senior Fellow at Social Market Foundation and **Zoe Gardner**, Policy Advocacy Manager at Joint Council on the Welfare of Immigrants

[Q1–71](#)

## Wednesday 23 February 2022

**Dr S Chelvan**, Barrister and Head of Immigration and Public Law, 33 Bedford Row; **Leila Zadeh**, Executive Director, Rainbow Migration and **Nuno Ferreira**, Professor in Law and leader of the SOGICA project, University of Sussex

[Q73–106](#)

## Wednesday 23 March 2022

**Kathryn Cronin**, Barrister, Garden Court Chambers; **Pip McKnight**, Head of Policy and Advocacy, Refugee Women Connect; **Priscilla Dudhia**, Policy and Advocacy Co-ordinator (Destitution), Women for Refugee Women; **Annie**, Ambassador, VOICES Network and **Roxana**, Ambassador, VOICES Network

[Q107–142](#)

## Wednesday 27 April 2022

**Rivka Shaw**, Policy Officer, Greater Manchester Immigration Aid Unit (GMIAU) and **Rosalind Bragg**, Director, Maternity Action

[Q143–181](#)

## Wednesday 15 June 2022

**Andy Hewett**, Head of Advocacy at Refugee Council; **Jennifer Blair**, Barrister at No5 Chambers and Co-founder Ukraine Advice Project UK; **Esther Baleh**, Lived experience witness and **Zahra Shaheer**, Lived experience witness

[Q182–241](#)

## Wednesday 25 January 2023

**Rt Hon Robert Jenrick MP**, Minister of State (Minister for Immigration), Home Office; **Daniel Hobbs**, Director of Asylum Protection and Enforcement, Home Office; and **Mandy Ivey**, Deputy Director Resettlement, Relocation and Reunion Services

[Q242–340](#)

## Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

EAP numbers are generated by the evidence processing system and so may not be complete.

- 1 Adeeko, Ms. Ketch (Doctoral Researcher, University of Nottingham) ([EAP0006](#))
- 2 Afghan Solidarity Coalition (ASC); and UKRI GCRF Gender, Justice and Security Hub ([EAP0017](#))
- 3 Bilgic, Dr Ali (Reader in International Relations and Security, Loughborough University) ([EAP0010](#))
- 4 Blair, Jennifer ([EAP0028](#))
- 5 Bournemouth University ([EAP0007](#))
- 6 Chelvan, Dr S (Barrister, Head of Immigration and Public Law) ([EAP0008](#))
- 7 Goodhart, David ([EAP0022](#))
- 8 Greater Manchester Immigration Aid Unit ([EAP0012](#))
- 9 Greatrick, Mr Aydan (PhD Candidate, University College London); and Fletcher, Ms Claire (PhD Candidate, University College London) ([EAP0011](#))
- 10 Hibiscus Initiatives ([EAP0016](#))
- 11 Home Office ([EAP0023](#))
- 12 Joint Council for the Welfare of Immigrants ([EAP0019](#))
- 13 Lousley, Gemma (Policy and Research Manager, Women for Refugee Women) ([EAP0029](#))
- 14 Maternity Action ([EAP0015](#))
- 15 National AIDS Trust ([EAP0005](#))
- 16 Pulvirenti, Dr Rossella ([EAP0025](#))
- 17 Rainbow Migration ([EAP0021](#))
- 18 Refugee Council ([EAP0004](#))
- 19 Refugee Women Connect ([EAP0020](#))
- 20 SOGICA project ([EAP0001](#))
- 21 Savera UK ([EAP0014](#))
- 22 Scottish Refugee Council ([EAP0027](#))
- 23 Taggart-Ryan, Ms Rachel (Campaigns Officer, Humanists UK) ([EAP0002](#))
- 24 The Law Society of Scotland ([EAP0013](#))
- 25 Thomas, Jonathan ([EAP0024](#))
- 26 Women for Refugee Women ([EAP0026](#))
- 27 Women for Refugee Women ([EAP0003](#))

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the publications page of the Committee's website.

## Session 2022–23

Number	Title	Reference
1st	Menopause and the Workplace	HC 91
2nd	The rights of cohabiting partners	HC 92
3rd	Black maternal health	HC 94
1st Special	Ethnicity pay gap reporting: Government response to the Committee's fourth report of session 2021–22	HC 110
2nd Special	Equality in the heart of democracy: A gender sensitive House of Commons: responses to the Committee's fifth report of session 2021–22	HC 417
3rd Special	The rights of cohabiting partners: Government response to the Committee's second report	HC 766
4th Special	Menopause and the workplace: Government response to the Committee's first report	HC 1060

## Session 2021–22

Number	Title	Reference
1st	Levelling Up and equality: a new framework for change	HC 702
2nd	Appointment of the Chair of the Social Mobility Commission: Katharine Birbalsingh CBE	HC 782
3rd	Reform of the Gender Recognition Act	HC 977
4th	Ethnicity pay gap reporting	HC 998
5th	Equality in the heart of democracy: A gender sensitive House of Commons	HC 131

## Session 2019–21

Number	Title	Reference
1st	Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act	HC 386
2nd	Appointment of the Chair of the Equality and Human Rights Commission	HC 966
3rd	Unequal impact? Coronavirus and BAME people	HC 384



Number	Title	Reference
4th	Unequal impact? Coronavirus, disability and access to services: full Report	HC 1050
5th	Unequal impact? Coronavirus and the gendered economic impact	HC 385
6th	Changing the perfect picture: an inquiry into body image	HC 274