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A Doctrinal and Newspaper Data Analysis of UK Policy for LGBTQ+ Asylum Seekers Following the Enactment of the Nationality and Borders Act 2022

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Abstract: The UK government has detailed guidelines for assessing and guiding LGBTQI+ asylum seekers through the asylum process in the UK. This is an explorative paper assessing whether post the enactment of the Nationalities and Borders Act 2022 the media narrative around queer refugees has had any influence on UK government policy. It does this by laying out the baseline UK LGBTQ+ asylum seeker legislative and UK civil service guidance and analysing UK newspapers in a media data analysis of mainstream UK media websites to see if there is any media influence on legislation or guidance post-enactment of the NBA 2022. These findings indicate there was no discernible influence on UK government policy towards LGBTQ+ asylum seekers by mainstream UK news media (Mainstream media for this research is defined as national newspapers with large website traffic, such as *The Guardian*, *The Times*, and *The Daily Mail*. These sources were chosen due to their digital footprint and searchability, which enabled textual analysis of the content) post-enactment of the NBA 2022 on 28 April 2022. In addition, the doctrinal analysis shows that the UK government is both opaque about LGBTQ+ asylum statistics and the outcome of Stage 1 asylum decisions, making it difficult to judge what sources influence these decisions and data. This makes it difficult for the UK media to cover these stories with clarity unless a claimant waives their right to anonymity, or a leak happens. Given the available data, it is also apparent that there has been a year-on-year decrease in LGBTQ asylum appeals, suggesting that while the media narrative may not be influencing policy, the New Plan itself may be having a chilling influence on LGBTQ asylum claims. More research over a longer period of time is required to explore this.



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1. Introduction

This explorative paper examines the doctrinal approach the UK Home Office took in 2023 to LGBTQ+ asylum seekers arriving on British shores, and then conducts a media data analysis of UK newspaper websites to see if press coverage has influenced the treatment of LGBTQI+ refugees. Within the context of this paper, newspapers are considered media. This work draws on Singer's queer refugee research [1] (p. 239), using her critique of the system to analyse the approach taken by the Home Office under the New Plan for Immigration.

LGBTQ+ asylum claimants face complications with their claims upon entry into the UK due to the bureaucratic nature of the system and the plurality of queer identities that may not neatly fit into definitions outlined by the Home Office. These assumptions are based on a UK-centric idea of queer lives, whereby the Home Office expects claimants to be able to

parse their personal experiences in English for the system to be able to understand. There are also issues of authenticity and perceived honest identities, as many queer claimants hide their non-conforming identities in their home countries for fear of persecution, arrest, or even death. This paper considers the realities of this within the British asylum system, especially the fact that while on paper, rights should be protected either in detention or within supplied accommodation, where in reality, many queer asylum seekers face hostility, or perceived hostility, from staff, inmates, and other asylum seekers with whom they share accommodation.

This paper asks if there is a discernible influence by the media's narrative about asylum seekers on government policy towards LGBTQI+ asylum seekers post-28 April 2022. Geographic region influences the media discourse around asylum policy and semantics [2], while in the wake of the Syrian civil war, there was an increase in securitisation narratives [3]. There is a clear need to assess if LGBTQ+ asylum seekers are discussed in the media including newspapers, while also assessing if that media discourse is influencing UK government policy, as media framing dynamics could impact public opinion and governmental policy [4–6].

Influence is a complex term to unpack, as often there is no one source that completely influences policy decisions at a national level. There is a need to study not only the reflections of pre-existing socio-political realities [7], but also those going into shaping the narratives of the other [8,9]. Influence in the case of refugee legislation could take the form of ministerial announcements, retraction of key parts of legislation, additions to bills making their way through the UK parliament, or changes to civil service guidelines. The UNHCR points out that while the press may not directly change policy, the UK press has shaped how refugees are discussed and perceived by the UK public [10] (pp. 10–12). There is also an overlap between policy and doctrinal approaches to asylum seekers, with policy potentially influencing how asylum seekers are treated by the UK courts [11,12]. For this reason, *discernible influence* is chosen to frame the data analysis because this allows for partial influence beyond any outright change in UK governmental policy.

This makes media data analysis an important tool for discerning the public mood [13], because media increasingly influences systems of power and knowledge [14,15]. This is especially pertinent if a causative link can be found on the influences on queer asylum seekers' lives. However, unless an MP, Minister, or Judge explicitly states that the media has influenced their decision-making processes, at best, assessing influence is a correlative process. Influence on policy is always complicated to track, as there is always a multitude of influences shaping any governmental decision-making process. Influence was chosen in this instance to see if there was any causative link between the media and queer refugee lives. As will become apparent, there appears to be a paucity of mainstream newspaper commentary on LGBTQ+ refugees since the NBA 2022 was given Royal Assent, meaning that there was no discernible influence on British government policy by the media.

Doctrinally, this paper establishes what the 2023 baseline UK doctrine is towards LGBTQ+ asylum seekers, defining where the legal boundaries lie for queer asylum seekers in the UK, how the UK handles queer asylum claims, and under what conditions those claimants are treated if they are detained by the State. There is a need to bring data analysis into legal discourse, drawing in an interdisciplinary approach [16]. In doing so, the aim is to clarify the UK's legal intent compared with the actuality of media perception. This takes the form of primary legislation and UK civil service guidelines.

In using newspaper media data analysis, this paper draws on notions of power inherent in the controlling of narrative, namely, who controls the narrative can dictate and control the lives of those it shapes. For LGBTQ+ asylum seekers the narrative is shaped by English language publications handed out by the UK government, by English-

speaking civil servants within the Home Office, and by UK-educated jurists who decide their claims [17]. Foucault's notions of sex as power [18] (p. 128) hold true with those who assess and adjudicate asylum claims making snap decisions about a claimant's fundamental identity based on their own lived experiences. Foucault argues that the State is able to frame sexual minorities based on the State's perception of that minority, which highlights the precarity minorities find themselves in when dealing with the UK civil service. Layered into this is Foucault's second observation that power is diffuse, with individual civil servants influencing the decision-making process.

Who controls the narrative power surrounding LGBTQ+ asylum seekers matters because it shapes how those individuals are perceived within society [19–21]. A feminist approach to trafficking and asylum seekers enables a critique of economic structures and power narratives [22], including media and judicial narratives. Koçak points out that queer identities are as individual as the person themselves, and how each person self-declares comes down to a matter of upbringing, cultural normativity, exposure to queer identities, and an ability to express oneself in a given language. Indeed, queer refugees feel their queerness is a negotiated construct within their resettled countries [23,24], with normative narratives potentially rendering queer lives inviable or hyper-visible [25]. Fehrenbacher et al. highlight that even within queer trafficking literature there is minimal discussion about trans trafficking victims, something which is also neglected in the broader asylum literature [26].

While normative understandings of sexuality and gender in the UK have traditionally flowed from family, education, and religious sources, after the Labouchere Amendment as s.11 of the 1885 Criminal Law Amendment Act, queer sexuality has been controlled both through primary legislation and civil service guidelines¹. Alongside this, queer sensibilities help bring new perspectives to asylum seeker research [27]. Post 2000, while British society has been open to queer identities, the language and framing of those experiences are codified within English semantics that are not always apparent to non-English speakers.

Whatever the merits of the British Asylum system, whatever flaws and strengths have been legislated and mandated through civil service guidelines, enforcing a narrative control over the system based on a British assumption of what queer lives are, the asylum system potentially fails many vulnerable refugees. Indeed, many LGBTQI+ asylum seekers feel marginalised due to their intersectional identities [28]. Without sight of the first-stage asylum Home Office decisions, it is impossible to establish precisely what language is being used by claimants to define themselves and what language the tribunal expects to hear to allow a successful claim.

This narrative power carries through into the media discourse, as without transparent access to queer refugees at the first stage, the media is left to pick over those appeals cases that are publicly allowed to be reported by the second-stage appeals tribunal, as potentially judges can direct that the hearing to be held in private. Shalhoub-Kevorkian highlights that State framing of refugee narratives is often at odds with the actual experiences of refugees and asylum seekers [29] (pp. 9–12). Indeed, there is potential legal violence—the direct, structural, and symbolic violence that can be brought to queer bodies (Balaguera). While the wider migrant and refugee conversation within the media discourse focuses on small boats and refugees committing criminal acts, refugees actively going through the system are not usually covered by the mainstream press.

This paper focuses on mainstream newspaper media websites because their stories are both digitally accessible and are read by wider audiences. LGBTQ+ press such as Pink News, The Advocate, and Autostraddle do cover queer refugees on a regular basis, but their reach is limited by their implied target audiences. There is a need to differentiate between media for queer creators and media by queer creators [30], and much of the content

covering LGBTQI+ asylum seekers was created by outsiders looking in, meaning that even when queer asylum seekers are covered, they have limited narrative power. There is a larger piece of research that could cover these news sources, looking at how they both motivate and engage their readers in refugee activism and policy briefs.

Social media is not examined by this research because of the atomised nature of the platforms. In the period covered by the paper, both Meta and Twitter have undergone significant alterations to their base algorithms and user groups, meaning that any substantive attempts at quantifying who has engaged with what content and what influence that has had on policy is orders of magnitude more fraught than mainstream content. While there is potential merit in collating tweets and Facebook posts, the reality is that unless you have access to politicians' personal accounts, it is impossible to discern from the outside exactly what social media they are consuming.

This is why this paper combines the doctrinal analysis up to July 2023, which is the given narrative the UK government sought to project, with the overarching discourse present in the UK media, drawing on the narrative power of political discourse and media representation. In this combination, the perception of queer refugees was measured against the stories told by the media, leaving space for future research to engage with activists and refugees' personal narratives, as others have engaged with legal representation in UK asylum processes [31].

Quantifying this in any meaningful way is complex and difficult [1]. Quantitative data are not forthcoming because the UK government does not release the raw data to the media or researchers. Qualitative data are difficult to access both because of the anonymity of claimants during asylum claims processes and the reluctance of queer refugees to speak about their experiences for fear of being attacked or losing out on their claims.

Doctrinally, this means that much of the post-NBA 2022 case law and guidance is progressing based on pre-2022 guidelines and statutes such as the Equalities Act 2010 (EA 2010). My intention in breaking down the doctrine is to establish both a baseline understanding and the part that narrative plays in the decision-making process. What is necessary alongside the government guidance is to see the doctrine in action, pulling what available data the government supplies, and cross-referencing these with current academic research. The resulting picture is that while in principle British law respects LGBTQ asylum seekers' identities, the reality is that queer refugees face similar pressures to cis/hetero normative ones, alongside having to fight to have their queer identities respected at all points in the system. There is a need for vigilance against allowing a hegemonic understanding of identity to dominate, especially if it excludes vulnerable minorities seeking asylum in the UK [32] (p. 179), [33] and [34] (pp. 386–389).

How useful is it to separate queer asylum seekers from cis/heteronormative claimants? If the media narrative post-April 2022 is focused on small boats, accommodation barges, and raw numbers then surely those also influence queer refugees. The practical reality for claimants means that some of those coming over on small boats will be queer, though there is nothing in the media discourse suggesting this is a concern to journalists. The Ukraine War, Afghan evacuation, and continuing surge of small boats across the English Channel are the primary focus of immigration stories in the major newspapers², so until this trifecta abates, it is likely that queer stories will remain outside the interest of journalists.

Which brings us to organisations such as Rainbow Migration and Stonewall. Their advocacy for queer refugees has brought about two key pieces of research used in this paper. Their efforts to quantify LGBTQ+ refugee lives in the UK³ is a drop in the wide narrative, as there has been little to no media follow-up in the 14 months since April 2022 to dig deeper into queer refugee lives. Given the number of queer asylum seekers, there are plenty of stories to cover, and plenty of lives to present to the world. That those stories

are left out of the narrative, at least the narrative most British people engage with on a daily basis, suggests that either those stories hold no value to the press or the immigration system is set up in such a way to alienate claimants from the press as they go through the process for fear of being deported or harmed. It is likely a combination of the two, though as the analysis highlights it is probably media interest in the wider immigration debate that is preventing a more nuanced engagement with LGBTQI+ refugees.

This paper is the starting point for a wider ranging analysis of queer asylum seeker narrative discourse post the Royal Ascent of the NBA 2022. The doctrinal analysis provides a platform for future research to engage with queer lives, while also providing the background information for policy analysis and engagement.

2. Methods

This paper utilises two inter-disciplinary methods:

Legal doctrinal analysis of the post-NBA UK legal landscape affecting LGBTQ+ asylum seekers entering the UK. This forms the baseline of a newspaper analysis of any potential media influence on LGBTQ+ asylum cases and how those cases are perceived by the UK public.

A social media discourse analysis was not chosen for this research due to the time constraints involved. Given the breadth of social media users, it is likely that any future research would find fruitful sources for analysis. In addition, while social media may have provided search results that I could interrogate, it is impossible to see if a particular UK law maker or policy maker has seen a given post aside from them liking or reposting it. While it may be possible to analyse Hansard and other official government outputs to see if social media was mentioned, given the focus of this research, it would be impossible to prove or disprove that social media has had an influence on LGBTQ+ asylum seeker narratives in the UK. Indeed, any attempt to scrape data would only show you posts that include a particular key phrase and not account for the broader context within which the narrative sits. This is why I utilised mainstream media websites because I could use the same search terms on each site for consistency, and because they all have a far bigger daily footprint than any one social media account.

While there is no guarantee that any particular UK law maker or policy maker would have read a particular site, by using newspaper websites I can assess whether LGBTQI+ asylum seekers have narrative traction or their stories appeal to a broader audience due to the audience reach of the newspapers and the narrative power those institutions have in broader social dialogue. Individual article viewer count is held as private information by the website owners and is not publicly available data, meaning that it is not possible to publicly analyse precise engagement for a given article from publicly available information. What is knowable is that news stories by their nature will attract an audience given the nature of news media.

This approach is limited because it relies on my IP address to access the information I have analysed. If this research was conducted outside the UK, it may yield different search results, as could the use of a VPN. In addition, the search queries are limited to the ability of the search engine to parse each website's archives for requested content. Unless the writer and editorial team have explicitly coded the article for the search terms, any search is therefore limited by the search engine's ability to scrape the page. This means that as search algorithms improve, if this research were conducted at a future point, additional articles could appear in the search results. Conversely, if editors or owners decide to erase content from the archive then my search results could be a highwater mark.

2.1. Procedure

I chose to conduct a data analysis of UK media coverage of LGBTQ+ asylum cases in the UK post the royal assent of the NBA 2022 on 28 April 2022. This method draws on existing approaches to LGBTQI+ and other minority groups media data analysis [4,35–39]. This interrogated the semantics used to see what, if any, media coverage was given to an LGBTQI+ asylum seeker up to the day the data were captured. This method was chosen as it allowed comparison with the doctrinal review, situating it within the government's own narrative, which it shaped through laws, civil service guidance, and parliamentary debates accessed through Hansard.

2.2. Materials Used

The dataset was drawn from the following sources based on a search parameter of 29 April 2022 to 12 June 2023 to provide a range of UK political perspectives. They were chosen because of their broad readership, accessible websites, and standing within the UK. *The Independent*, *Sun*, and *Daily Mirror* were excluded due to the lack of search results relating to the search terms used. *The Times* and *Telegraph* are both behind paywalls, with the other three open access, meaning that readers must actively want to engage with *The Times* and *Telegraph* content. *The Daily Mail* and *The Telegraph* have historically reached a Conservative voting readership base, meaning that their portrayal of refugees potentially could have a significant influence on the Conservative government's policies towards LGBTQ+ issues.

- TheGuardian.co.uk
- TheTimes.co.uk
- TheTelegraph.co.uk
- *Daily Mirror*
- Dailymail.co.uk

The search terms used were as follows:

- Gay asylum seeker.
- Lesbian asylum seeker.
- Transgender asylum seeker.
- LGBTQ asylum seeker.
- Gay refugee.
- Lesbian refugee.
- Transgender refugee.
- LGBTQ refugee.

These search terms were chosen to cover the broadest range of queer identities within the LGBTQ+ spectrum. The caveat is that they cover a British understanding of queer identities discernible by British writers, meaning that any queer identities that fell outside these boundaries may not have been covered in the search parameters of the websites I used. This is especially true for the *transgender* search term which can cover trans, transsexual, transgender, non-binary, and other gender non-conforming identities.

Influence was assessed by analysing UK government speeches in the House of Commons, responses provided to the Home Affairs Select committees overseeing the Home Office, changes to any upcoming legislation, and amendments to civil service guidance.

The doctrinal analysis was capped on 1 July 2023, and any changes to UK legislation and civil service guidance post this date have not been considered.

2.3. Data Analysis

The data analysis consists of analysing the search terms to establish the number of articles covering LGBTQI+ refugees, which can then be compared to the Hansard record to see if any of the content was mentioned in Parliamentary debates.

3. Current State of LGBTQ+ Asylum Legal Doctrine in the UK

This Section examines UK primary legislation and civil service guidance with respect to LGBTQ+ asylum seekers. During the debate over the Nationalities and Borders Act 2022, the issue of LGBTQ+ refugees was raised by numerous opposition MPs to force the British government to respond on record⁴. Home Office Minister Tom Pursglove deflected the issues surrounding LGBTQ+ immigrants, stating that the UK would abide by its international obligations to LGBTQ+ refugees⁵. Yet, during the government's response, it was clear that there was no explicit consideration made to LGBTQ+ refugees or immigrants when the legislation was drafted, though Home Office's Equality Influence Assessment did refer to the lack of available data for sexual orientation⁶. Gender identity was not explicitly mentioned during the debate, though Mermaids⁷ did submit written evidence at the committee hearing stage⁸.

The enacted version of NBA 2022 s30(3) and (4) outlines that a person with an innate characteristic that a person should not be forced to renounce is covered by the Act, which theoretically could cover trans* individuals seeking asylum in the UK. s30(5) covers sexual orientation without clarifying what explicitly this means, leaving it up to judges to interpret.

To provide clarity for asylum caseworkers, the UK Home Office has issued guidance to help their work. Gender is covered in a set of 2018 guidelines⁹, with separate gender identity guidelines from 2011¹⁰. The gender guidelines do not explicitly include any trans*-related guidance, though does refer to the EA 2010¹¹ which includes gender reassignment in Part 2 s.7. What is interesting is that the UNHCR guidance the UK draws on explicitly splits apart gender and sex, stating that gender is a social construction and is not innate or static¹². Within the UNHCR homosexuality is also considered within a gendered construct. Gender identity guidance makes it clear that a transgender woman may be vulnerable as both a woman and a transgender person, the same for trans* men. Thus, potential trans and LGB claimants can also be considered under gender-related guidance.

The 2011 guidelines lay out the reasons why claimants may make an asylum claim based on gender identity, which can overlap with sexual orientation where appropriate:

- Threat of execution.
- Forced sterilisation.
- Forced castration.
- 'Corrective' rape.
- Domestic violence.
- 'Honour based violence'.
- Forced sex-working.
- Harassment.
- Threats of harm.
- Vilification.
- Intimidation.
- Psychological violence.
- Family and personal laws.
- Gendered dress codes.
- Discriminatory medical processes.
- Exclusion from education and employment¹³.

However, “Issues about gender identity may inform an assessment of whether one of the five Convention grounds applies”¹⁴, meaning that gender identity is framed through either race, nationality, membership of a particular group, or political opinion. It complicates trans* and gender nonconforming claims, with an interviewer deciding on a claimant’s gender identity, with an emphasis on empathy and understanding of a claimant’s home circumstances¹⁵. The Home Office also stated¹⁶ that great care needs to be taken considering the UNHCR’s 2008 guidance on sexual orientation and gender identity¹⁷.

This leaves LGBTQI+ claimants with a set of guidelines drawn from UK and international law that leave significant discretion in the hands of those deciding the claims. ES 2010 and NBA 2022 suggest that LGBTQI+ claimants should have their identities protected under UK law, though the actuality of those claims requires further examination to see the guidance in action.

The most recent set of UK Home Office data is for refugees’ year ending June 2022¹⁸ with around 1% of asylum seekers claiming persecution based on their LGB identities, based on the Home Office’s assessment of claims: 64% of those claims were successful on the first attempt, with a further 50% of LGB claimants successful on appeal. However, the Home Office advises that while an LGBTQ+ element was present in these claims, applicants were not required to disclose their sexual orientation when applying for asylum. This means that the data do not reflect confirmed sexual orientation. While these data would suggest that the Home Office collates data on LGB refugees, the Independent Chief Inspector of Borders and Immigration highlighted in 2020 that the Home Office needs to improve its data collection for sexual and gender minorities¹⁹.

Methodologically accessing asylum caselaw in the UK is limited because first-tier Home Office decisions are not publicly available²⁰. This means that the only caselaw we have available to analyse are appeal decisions. In addition, many of the un/recorded claims have the following disclaimer in the decision: “No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court”. This complicates research into LGBTQ+ asylum claims, especially any external media reporting of those claims, as it becomes hard to effectively track media scrutiny of the asylum process.

In total, since digital records were collated, Table 1 shows the following appeals data have been provided by the Home Office²¹:

Table 1. Home Office Tier 2 appeal decisions for LGBTQI+ claimants.

Search Term	Total Since 2013	Total Prior to NBA	Total After NBA Royal Assent 28/04/22
Lesbian	238	227	11
Gay	696	645	51
Bisexual	170	153	17
Transgender	45	43	2
Gender identity ¹	277	261	16
Sexual orientation	468	431	37

Total number of appeals since the UK Home Office started to record appeals in 2013 until 10/06/2023. ¹ Gender identity and sexual orientation show up on around 20% of the claims where gender identity is included in the claim, making it difficult to get an accurate handle on claims where only gender identity was the primary reason asylum was sought.

Given the nature of asylum claims and the COVID-19 lockdown period, it is not possible to infer if the NBA 2022 has had an influence on asylum claims involving LGBTQ+ claimants. As Table 2 shows, there are fewer, on average, appeals post-NBA 2022 by

LGBTQ+ asylum claimants than there were before the act gained Royal Assent. However, any claims appealed during the period of this research were almost certainly under the pre-NBA 2022 framework.

Table 2. Percentage of appeals made after the NBA 2022 gained Royal Assent up until 10/06/2023.

Search Term	Since 2013	Total After NBA Royal Assent 28/04/22	Percentage Since 28/04/22
Lesbian	238	11	4.62%
Gay	696	51	7.32%
Bisexual	170	17	10%
Transgender	45	2	4.44%
Gender identity	277	16	5.78%
Sexual orientation	468	37	7.91%

These data show that in the 14 months after the NBA 2022 was given Royal Assent, there have been fewer appeals lodged that included LGBTQ+ semantics in the appeal text. While there is no definitive reason why there are lower percentages, the New Plan and Home Office policy may account for some of the discrepancies. There are a lot of factors involved regarding the number of claims. There was already a backlog of claims pre-Covid, which was exacerbated by the pandemic. The Home Office stopped serving decisions for people based on contingency accommodation for a period of time as they had a policy in place to only serve decisions to people in dispersal accommodation (since scrapped), which had a knock-on effect on appeals. The Home Office also piloted schemes to assess people from high grant rates on questionnaires, which again will have an influence on appeals. Further research is required to assess the reasons behind the potential decline.

It should be noted that under the New Plan, HM Government [40] viewed the appeals process as causing delays and wasting court resources²². Under the New Plan, the intention was to strengthen the well-founded fears of persecution test, placing the fear on the balance of probabilities, meaning that LGBTQI+ asylum seekers would have to prove on the balance of probabilities both their identity and the risk of persecution²³. Powell and Rifath point out that “prior to the 2022 Act, asylum seekers were required to prove their claims to ‘a reasonable degree of likelihood’” [41], a relatively low standard which was changed under the Act. This means that the politicised nature of the New Plan would make it more complicated and difficult for LGBTQ+ asylum seekers to gain temporary protection in the UK. The data potentially bear this out, though without access to the first stage of the asylum process, it is impossible to say with any certainty.

Alongside the lack of clarity in the Home Office data is the lack of longitudinal or in-depth qualitative research on LGBTQ+ asylum seekers and their experience of going through the asylum system. Harvey highlights that what evidence is available about LGBTQ+ asylum seekers points to a system that does not account for their needs or make them feel able to be themselves in the system²⁴. This lack of data, combined with the paucity of recorded cases, makes any analysis of LGBTQ+ asylum cases in the UK complicated and open to supposition [42].

Nottingham MP Nadia Whittome raised the issue of accommodation during the NBA 2022 debate²⁵, using Parliamentary privilege to bring Stonewall’s 2016 report²⁶ into record. The UK has a two-tier approach, with asylum seekers living in the community and in detention, with few safeguards for asylum seekers once they are in indefinite detention [1] (p. 239). As the UK government does not publish details of the number of LGBTQI+ refugees held in detention [1] (p. 239), no systematic or quantitative research can be carried

out on LGBTQI+ refugees once they enter the asylum system. Singer further points out that while British law has enshrined sexuality and gender as protected characteristics, the actual lived experiences of LGBTQI+ asylum claimants are often more fluid and dynamic than those making the decisions allow for [1] (p. 240).

The decision to detain refugees is made by the Home Office, not by a judge or other independent agent of the State²⁷, and this is made within the Home Office's legal framework that under certain circumstances can be challenged by way of judicial review. Yet, as there is no face-to-face vetting, liberty can be deprived purely on a paper-based exercise with no judicial oversight of this process²⁸. This means that if LGBTQI+ claimants are unable to satisfy the person reviewing their claim that their gender or sexuality is as they describe, there is a risk that they will be detained by the Home Office. This compounds the issue of personal narratives and who has the power to control those narratives. If the assessor has a particular idea of what queer lives ought to be, then they potentially are able to overlay that idea onto all claimants they assess. Due to the inscrutable nature of this process, LGBTQI+ refugees are therefore left exposed to the caprices of the system.

Once in custody, a question then arises about the duty of care provided to detainees by His Majesties Prison Service (HMPS). Singer²⁹ and Stonewall both highlight that LGBTQ+ detainees feel they hide their identities while in custody for fear of further violence from other detainees. The Prison Service has a common law duty of care to all detainees, reinforced by Article 2 of the Human Rights Act³⁰, including protection from bullying, abuse, and physical harm³¹. In addition, the Home Office issued guidance to all Prison Governors stating that all prison estate staff, including those working in removal centres, must abide by the EA 2010 and respect detainees' protected characteristics³², though it should be noted that immigration detention in the UK is privatised.

What appears to be robust protections are at the discretion of those enforcing those rights. The narrative discourse guiding what information is provided to the wider public and what information is held back by the British State influences all aspects of this doctrinal analysis. There is no escaping the fact that without first-tier decisions, full demographic data, and access to detainee narratives without State oversight, any doctrinal mapping will be missing significant chunks. The lack of first-tier decision data is especially problematic, as it means that any attempt to analyse claimant background, history, and intersectional identity is limited to what the appeals panel put in their report. We as researchers are asked to trust the UK government's own analysis and data at face value, when the lived experiences of claimants who have spoken out about their experiences have clouded the government's desired narrative.

While on paper the UK government states it wants the prison estates to abide by the EA 2010 and HA 1998, the reality is that asylum seeker rights are in the hands of those who enforce them and write the guidance. The same goes for the tribunal process and the House of Commons Committees. The reliance on guidelines shaping outcomes becomes apparent in Select Committee reports, with scrutiny over the enforcement of those guidelines often only in the hands of MPs³³. It is the narrative power held by civil servants that is most apparent in the data, or lack thereof. The UK government has hidden the true state of LGBTQI+ refugee claimants from the scrutiny of the press and academic research. As such, while it is possible to glimpse an idea of the reality of the system, the data are inherently flawed by design. Consequently, any objective conclusions are impossible to reach by intent, with only supposition possible.

4. Media Data Analysis Results

This research is prefaced on the understanding that within the UK, since 28 April 2022 when the NBA 2022 gained Royal Assent, there has been much media coverage and

discussion about immigration due to small boats arriving off the southern coast of the UK carrying migrants and potential refugees across the English Channel. This paper specifically looks at LGBTQI+ content, analysing if that content has any political context, and whether it had any discernible influence on the UK government's treatment of queer asylum seekers in the UK. Table 3 provides the results of the keyword search.

Table 3. Newspaper search results.

Newspaper	Total Stories	Political Context	Relates to an Asylum Claim in the UK
<i>The Guardian</i>	8	1	1
<i>The Times</i>	3	2	1
<i>The Mirror</i>	2	0	1
<i>Daily Mail</i>	3	0	2
<i>The Telegraph</i>	0	0	0

Each of the newspapers searched has in-depth coverage of the New Plan, written under politics, news, editorial, and letters sections amongst others. However, when it came to covering LGBTQ+ asylum seekers and refugees the picture is different. Five newspapers were searched using the terms outlined in the methods: *The Guardian*, *The Times*, *The Telegraph*, *The Daily Mail*, and *The Mirror*. Of those five, only *The Telegraph* had no articles show up using their internal search engine based on those search terms. Not a single one of the stories referred to the New Plan in relation to LGBTQI+ refugees.

A total of 16 articles yielded key search terms used on the five websites:

While three of the articles explored the political narratives of LGBTQI+ lives outside of the UK, and what potentially might cause a person to flee their home country due to their sexuality or gender identity, none of the three were in relation to UK governmental policy.

The five stories directly relating to queer asylum claims covered two lesbians, one gay man, and one trans man (in two different newspapers). Only one story in *The Guardian* covered the removal of an LGBTQI+ asylum seeker from the UK. *The Times* and *The Daily Mail* both covered the asylum claim of a Qatari trans royal, with the remaining two stories personal narratives of queer asylum seekers in the UK. What is interesting is that all the stories were empathetic towards their subjects, with both sides of the political spectrum showing compassion in their rendition of the stories.

Only one story was featured in a dedicated immigration and asylum section, in *The Guardian*, which referred to a lesbian who had successfully applied for asylum. Photography, books, fiction, club culture, Home Office, home affairs, lifestyle, world news, and general news all featured stories relating to queer asylum seekers. Only four stories were found in newspaper news sections, either domestic or international.

Fifty percent of the stories had a UK focus or were written about claimants already in the UK. The other 50% either covered a global view of LGBTQ+ asylum seekers or stories featuring individual asylum seekers. Table 4 shows the breakdown of stories within the UK and overseas.

On analysing individual articles, the following LGBTQI+ search terms occurred across the 16 articles with Table 5 showing the following frequencies:

Table 6 highlights an almost even spread between lesbians, gay men, and trans folk. With such a small sample size and a diverse array of stories and personal narratives, it is not feasible to draw any direct conclusions from the data other than that these three groups within the LGBTQI+ umbrella have narratives newspapers seek to cover. None of the stories covered non-binary or intersex issues or covered claimants under 18. Lesbians

as a single group garner the most coverage, though both gay men and trans men are given particular focus in personal narratives.

Table 4. Newspaper stories covering LGBTQI+ asylum seekers in the UK and overseas.

Newspaper	Total Stories	UK Narrative	Overseas Narrative
<i>The Guardian</i>	8	3	5
<i>The Times</i>	3	2	1
<i>The Mirror</i>	2	1	1
<i>Daily Mail</i>	3	2	1
<i>The Telegraph</i>	0	0	0

Table 5. LGBTQI+ key terms used in newspaper articles.

Key Terms	Used in Article	Frequency
LGBTQI+ Community	1	6.25%
LGBTQI+ asylum seekers	2	12.5%
Trans woman	2	12.5%
Flamboyant young man	1	6.25%
Gay man	4	12.5%
Lesbian	7	43.75%
Gay men	1	6.25%
Queer	2	12.5%
LGBTQ+ Groups	1	6.25%
Openly gay	1	6.25%
Anti-trans bills	1	6.25%
Transgender	2	12.5%
LGBTQI+ organisations	1	6.25%
Trans people	1	6.25%
Anti-gay	1	6.25%
LGBTQI+ community	1	6.25%
Trans Man	1	6.25%
Gender identity	1	6.25%

Table 6. Key term data analysis.

Key Term Groups	Used in Article	Frequency
LGBTQI+ Communities/orgs	4	25%
Lesbians	7	43.75%
Gay men	6	36.75%
Trans folk and issues	8	50%

With respect to seeing if there was any discernible influence on UK government policy based on these stories, there is zero evidence based on the methods to indicate that any of them had a discernible influence on UK refugee policy. Indeed, it is arguable based on

the diverse array of narratives presented that none of these stories was intended to have a policy influence. The majority of the stories have a human-interest angle, with only *The Guardian* and *The Times* covering global issues in a manner that could be deemed to have a policy angle. *The Telegraph* had zero articles covering LGBTQI+ refugees, indicating that the editorial team did not think them worth covering in the period examined by this paper.

In the 14-month scope of this paper, roughly 1.1 stories a month appeared across the five papers relating to LGBTQI+ refugees. Contextually, this sits against the near-daily coverage of small boats, asylum seekers, migrants, and UK government policy towards them. As such, the data suggest that while personal narratives from LGBTQI+ refugees have space within these five papers, the overarching narrative power still sits with the UK government to frame queer refugees' experiences and situational context.

After the website searches, I conducted a review of Hansard to see if any UK parliamentarian or Minister had raised the issues of LGBTQI+ refugees in the UK parliament post-April 2022. There were zero references to LGBTQI+ refugees over the period, meaning it was impossible to see if the limited newspaper coverage had had any bearing on government policy or decision making. While it would appear to be zero, it is impossible to infer a negative from the silence only that it appears to not have done so.

5. Discussion

Within the queer theory framework from the data analysis and search through Hansard, there appears to be no causative link between media reporting and political decision making with respect to LGBTQI+ asylum seekers post the introduction of the NBA. Indeed, the narrative power held by queer refugees is limited, with all the articles featuring them being about asylum claims, bar two human interest stories. Within what limited framing there was, lesbian and gay men have the majority of coverage with 11 articles, though given the limited number of articles, it is hard to draw any definitive conclusions.

Doctrinally there are clear LGBTQI+ narratives emerging through the UK's asylum system, the overwhelming majority of which are ignored by the mainstream media. Narrative power is held by the UK government because it refuses to disclose Tier 1 decisions to the general public, releasing only broad datasets which do not provide granular detail. As such, researchers are forced to rely on the Tier 2 appeal decisions, many of which are redacted or hold limited information through which to discern individual narratives. By not releasing or redacting the information, the UK government leaves an already vulnerable minority group at the mercy of government narratives that are shaped to suit their own ends.

From both the data provided by the Home Office and the media coverage, it appears that LGBTQI+ asylum seekers are not considered newsworthy enough for consideration in the media. While a handful of cases were covered, most queer refugee stories since April 2022 appear to be focused on global narratives in countries such as Iran, Kenya, and Australia.

As mentioned earlier, this research needs to be seen within the broader context of the UK's asylum and refugee policy. Both LGBTQI+ activists and mainstream news outlets in the UK such as the BBC and national newspapers have covered refugees in broad strokes. Research into queer refugees is fraught due to the closed nature of the asylum system, especially the first-stage tribunal process. This means that personal narratives are not always possible to obtain, and journalists need to build a level of trust with interviewees to get their stories out. This means that academics are reliant on those interested parties who either supply the data or have built a level of trust with refugees to get individual narratives out into the open.

Yet, it remains a point of contention that any of these personal narratives will influence policy in a discernible way with the UK government. Immigration in the current narrative

is driven by many factors, though as the UNHCR point out³⁴, it is the UK media that is driving the narrative and potentially the political discourse. This narrative power is in tandem with the UK government's own reluctance to be transparent about the processes and number of refugees in the system. How can either the press or academia account for LGBTQI+ asylum seekers if the data are not available and the narrative is hostile towards them?

There is a clear need for a larger piece of research that encompasses activist media, social media, and pre-2022 media sources to situate LGBTQI+ refugees in the refugee narrative. This paper highlights the paucity of both data and press interest in queer asylum seekers within the mainstream media sources examined, making research reliant on academics who have gained the trust of accessible refugees. While data cannot provide a complete picture, without adequate data sources, it is impossible to assess those narratives that are made public. One avenue of future research could be to perform a meta-analysis of the asylum Stage 2 claims to assess the narratives they tell.

Finally, it is telling in the breakdown of the stories that only five of the articles featured stories of asylum seekers going through the asylum process. The other eleven were from refugees who had completed that part of their journey or were from journalists contextualising the global situation for LGBTQI+ refugees. Is there an argument to be made for the over-dramatization of queer lives that the media plays up to its readers? Any story published in the media has an angle that the author and editorial team play, and the five news sources covered in this paper have their own political angle they wish to push with respect to refugees. That there was no overt hostility or negativity, even in *The Daily Mail*, towards queer asylum seekers suggests that while there might be a general disinterest in humanising narratives, the stories that are told are there to pique interest and garner clicks rather than to generate political influence.

6. Conclusions

In conclusion, this paper sought to engage with two potential seats of narrative power over LGBTQI+ refugees in the UK. While the limited results from the newspaper searches can provide no discernible influence on UK government policy, it is telling from the doctrinal review that the UK government wishes to keep tight control over LGBTQI+ asylum seeker narratives in the UK. This is problematic on two levels academically. Firstly, and most obviously, it makes it hard for journalists to unpick the lived realities that queer refugees face in the UK. This makes it hard to write a coherent narrative beyond individual stories, which in turn makes any stories that are published in aspic of the wider narrative whole. Secondly, and most problematically, by relying on the UK government, data academics and journalists are forced to accept the data as given. While a degree of discretion is understandable for vulnerable claimants, the lack of Stage 1 asylum tribunal data makes it impossible to gain any objective insights into the system. The appeals process is only a partial snapshot of the narrative, with the power to deal with LGBTQI+ claimants remaining in the hands of inscrutable officials.

Influence is a nebulous concept, especially with respect to policy, yet with respect to asylum seekers, there needs to be accountability for the policies that are enacted. If the UK government is to be held accountable for their decisions, and civil servants held to account for their actions with respect to claimants, data and investigations are required to shine a light on the process. Without either, or by making these processes harder, the UK government is leaving the legal rights of LGBTQI+ refugees in a parlous state. Data alone are not a panacea to cure the maladies caused by the NBA 2022, but together with effective journalism and academic rigour, they could help shift the tone of the overarching narrative towards those that the current narrative seeks to disenfranchise.

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Notes

- ¹ Local Government Act 1988 Section 28, which forbade the promotion of homosexuality by local authorities, is the most recent attempt by the UK government to frame queer identities in the UK as abnormal and un-natural.
- ² *The Guardian* covered several news articles relating to queer and transgender Ukrainians in March and early April 2023, as well as covering the lives of queer Afghans in the post-American withdrawal era under the Taliban. Queer minorities are featured post-April 2022, though not with respect to asylum or refugee status in the sources used in this research.
- ³ Rainbow Migration Stories from LGBTQI+ people. 2023. Available online: <https://www.rainbowmigration.org.uk/stories-from-lgbtqi-people/> (accessed on 7 February 2025).
- ⁴ Hansard: Nationality and Borders Bill: LGBTQ+ People. 2022. Available online: <https://hansard.parliament.uk/commons/2022-02-02/debates/E395330F-1114-4391-9159-38F85F42F348/NationalityAndBordersBillLGBTQPeople> (accessed on 7 February 2025).
- ⁵ Ibid.
- ⁶ Home Officer. 2021. Available online: https://assets.publishing.service.gov.uk/media/614312fee90e0704352cbbf9/Nationality_and_Borders_Bill_-_EIA.pdf (accessed on 7 February 2025).
- ⁷ British charity that focuses on supporting and advocating for trans* youths.
- ⁸ Paliament.co.uk: Written Evidence submitted by Mermaids. 2021. Available online: <https://publications.parliament.uk/pa/cm5802/cmpublic/NationalityBorders/memo/NBB15.html> (accessed on 7 February 2025).
- ⁹ Home Office: Gender issues in the asylum claim. 2018. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699703/gender-issues-in-the-asylum-claim-v3.pdf (accessed on 7 February 2025).
- ¹⁰ Home Office: Gender Identity Issues in the Asylum Claim. 2011. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/257387/genderissueintheasylum.pdf (accessed on 7 February 2025).
- ¹¹ EA 2010.
- ¹² UNHCR GUIDELINES ON INTERNATIONAL PROTECTION: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees. 2023. Available online: (<https://www.refworld.org/docid/3d36f1c64.html>) (p. 3) (accessed on 7 February 2025).
- ¹³ Home Office 2011, pp. 5–6.
- ¹⁴ Home Office 2011, p. 10.
- ¹⁵ Home Office 2011, pp. 12–13.
- ¹⁶ Home Office 2011, pp. 14–15.
- ¹⁷ UNHCR: UNHCR Guidance Note on Refugee Claims Relating To Sexual Orientation And Gender Identity. 2008. Available online: <https://www.refworld.org/pdfid/48abd5660.pdf> (accessed on 7 February 2025).
- ¹⁸ Home Office: Asylum claims on the basis of sexual orientation. 2021. Available online: <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-june-2023/asylum-claims-on-the-basis-of-sexual-orientation-2022> (accessed on 7 February 2025).
- ¹⁹ Independent Chief Inspector of Borders and Immigration (2020) (p. 11).
- ²⁰ Gov.UK.: Immigration and asylum tribunal appeal decisions. 2023. Available online: <https://www.gov.uk/immigration-asylum-appeal-decisions> (accessed on 7 February 2025).
- ²¹ Some search results come back with gay, lesbian, and bisexual in the same case, so there is a small amount of overlap with the cases. Most of the cases are anonymous, meaning that it is not possible to find out the full demographic details of the claimants. This data was collected on 10/06/2023.

- 22 HM Government 2020 (p. 9).
- 23 Ibid (p. 22).
- 24 Harvey, L. LGBTQI+ people's experiences of immigration detention: A pilot study. 2023. Available online: <https://www.rainbowmigration.org.uk/publications/lgbtqi-peoples-experiences-of-immigration-detention-a-pilot-study/> (accessed on 7 February 2025).
- 25 Hansard 2022.
- 26 Stonewall: No Safe Refuge. 2016. Available online: https://www.stonewall.org.uk/system/files/no_safe_refuge.pdf (accessed on 7 February 2025).
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- 29 Ibid p. 248.
- 30 HRA 1998.
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- 33 House of Commons Home Affairs Committee (2019).
- 34 UNHCR 2015.

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