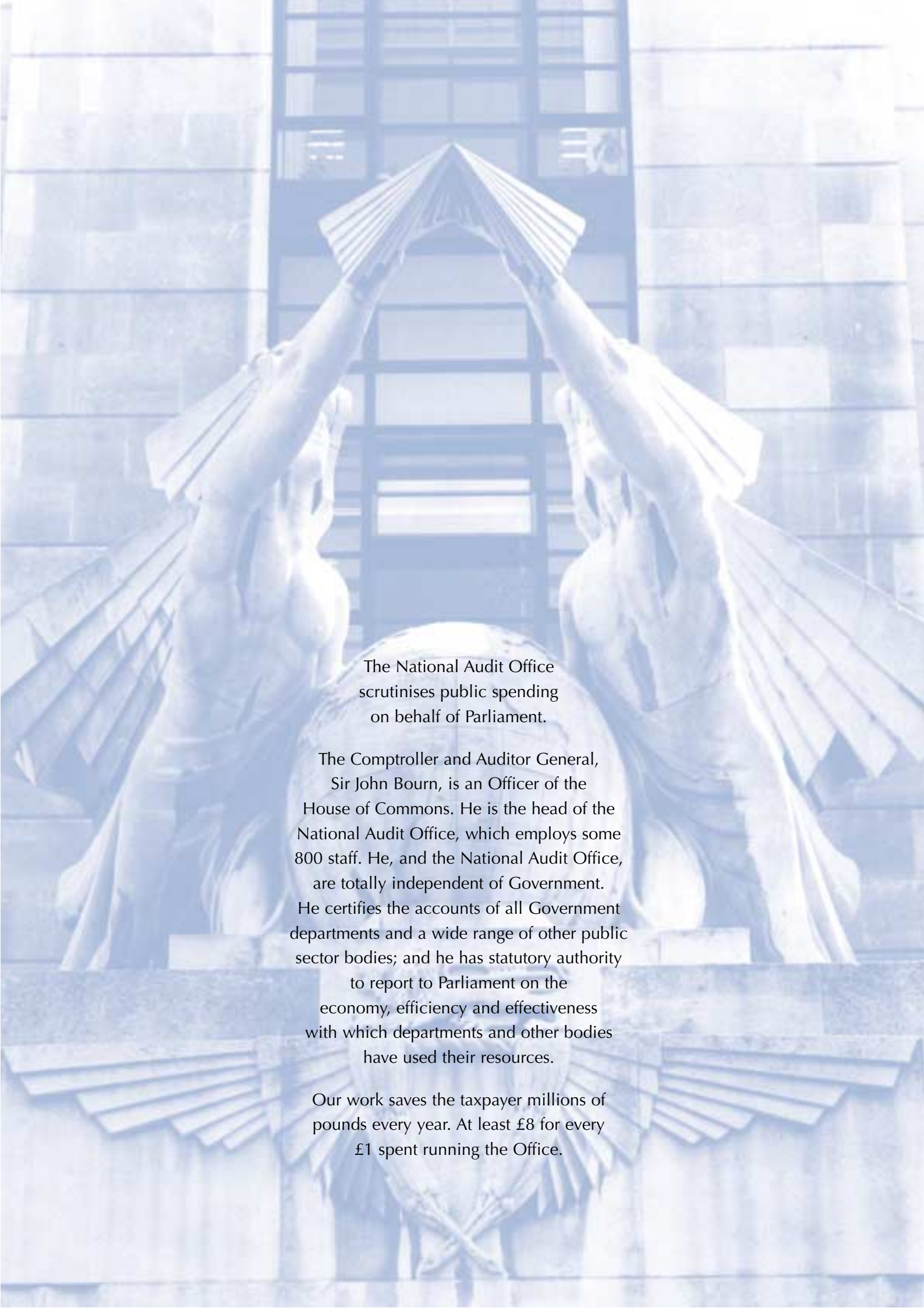


Improving the Speed and Quality of Asylum Decisions

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 535 Session 2003-2004: 23 June 2004





The National Audit Office
scrutinises public spending
on behalf of Parliament.

The Comptroller and Auditor General,
Sir John Bourn, is an Officer of the
House of Commons. He is the head of the
National Audit Office, which employs some
800 staff. He, and the National Audit Office,
are totally independent of Government.
He certifies the accounts of all Government
departments and a wide range of other public
sector bodies; and he has statutory authority
to report to Parliament on the
economy, efficiency and effectiveness
with which departments and other bodies
have used their resources.

Our work saves the taxpayer millions of
pounds every year. At least £8 for every
£1 spent running the Office.

Improving the Speed and Quality of Asylum Decisions



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 535 Session 2003-2004: 23 June 2004

LONDON: The Stationery Office
£11.25

Ordered by the
House of Commons
to be printed on 22 June 2004

This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

John Bourn
Comptroller and Auditor General

National Audit Office
22 June 2004

The National Audit Office study team consisted of:

Paul Wright-Anderson, Jill Goldsmith,
Tracey Payne and William Hotopf under the
direction of Peter Gray.

Additional assistance was provided by
Funke Ajibade, Fiona Anderson and Paul Galpin.

This report can be found on the National Audit Office
web site at www.nao.org.uk

**For further information about the National Audit Office
please contact:**

National Audit Office
Press Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Tel: 020 7798 7400

Email: enquiries@nao.gsi.gov.uk

© National Audit Office



Contents

Executive summary	1	Part 3	
Recommendations	2	Reducing the number of outstanding cases	29
Background and analysis	3	(i) The action taken by the Directorate and Appellate Authority to reduce the number of outstanding cases	29
Main conclusions	5	(ii) The lessons to be learned from managing the backlogs	30
Detailed findings	8		
Part 1		Part 4	
Asylum in the United Kingdom	11	Improving the quality of initial decisions	37
Refugees and asylum applicants	11	(i) The Directorate's scrutiny of asylum applications	37
The number of asylum applications has risen substantially but is now falling	11	(ii) The Directorate's arrangements for monitoring the quality of its initial decisions	41
Most applicants are refused initially, but more are granted asylum after appeal	14	(iii) The action that could be taken by the Directorate to further improve its performance	42
The Directorate processes asylum applications and the Immigration Appellate Authority hears asylum appeals	15		
The cost of processing asylum applications	17	Appendices	
What we did	17	1. What happens to asylum applicants while they are waiting for decisions and the results of appeals?	47
Part 2		2. Flowchart of the asylum decisions and appeals process	48
Processing new applications	19	3. Unit Costs 2002-03	50
(i) The timeliness of the Directorate's arrangements for dealing with new applications	19	4. Study methods	51
(ii) The timeliness of the Appellate Authority's arrangements for dealing with appeals	24	5. The additional costs incurred in leaving applications unactioned	54
		6. Asylum systems in other countries	56

executive summary

- 1 In 2003, 49,370 people applied for asylum in the United Kingdom. Amongst its other responsibilities, the Home Office's Immigration and Nationality Directorate (the Directorate) is responsible for deciding these applications, and for supporting applicants during the process. Its objective is to process applications efficiently, focusing the asylum system on those genuinely fleeing persecution by taking speedy, high quality decisions. Speedy initial decisions, and decisions on any subsequent appeals, also reduce the cost of the asylum process, mainly through reductions in support and accommodation costs, and allow the Directorate to take action to remove those applicants who fail to gain asylum or short-term protection.¹ The Directorate spent £1.86 billion in 2002-03 on all its operations, including £1.07 billion in providing accommodation and financial support to asylum applicants and their families.²
- 2 There were 12.6 million admissions of foreign nationals from outside the European Economic Area to the United Kingdom in 2002. In the same year, 26,560 people (known as port applicants) lodged an asylum application at a port or airport. Applications for asylum lodged by people already in the United Kingdom, known as in-country applicants, totalled 57,570. The data on asylum applications has been drawn from statistics published by the Home Office. At the request of the Prime Minister, we were asked to audit the reliability of the statistics appearing in the Home Office's quarterly Asylum Statistics. The results of our audit have been published separately³ and the data and conclusions in this report should be read in the context of the outcome of that audit.
- 3 The Directorate is required to examine whether applicants have a "well-founded fear of persecution" as defined by the 1951 Convention and interpreted through UK case law. Policy guidance is prepared by senior officials in the Directorate as to the criteria to be taken into account when exercising judgement and on Her Majesty's Government's attitudes to the nature of regimes in different countries. This guidance is adjusted from time to time under Ministerial Direction as necessary. But within this guidance, there remains a good deal of latitude for the judgement of individual caseworkers, who have much to consider as well as the examination of many different documents. This opens up the process to possible error, appeals and delay. A more simple system might enable significant savings to be made, but would generally require changes to current government policy, so is outside the remit of this report. This report does, however, consider the scope to improve processes within current policies and systems, focusing on the speed of initial decisions and appeals, and the quality of initial decisions.

¹ The Directorate grants "Humanitarian Protection" or "Discretionary Leave" to applicants that it recognises to be in need of short-term protection. Before April 2003, short-term protection was known as "Exceptional Leave to Remain".

² Further details of the support available is provided in Appendix 1.

³ *Asylum and migration: a review of Home Office statistics, HC 625, Session 2003-04.*

Recommendations

We recommend:

To reduce the amount of "down time" in processing applications:

- i** The Directorate should draw more upon lessons to be learned from the fast track procedures and from systems overseas, for example by conducting interviews earlier in the process; reducing the elapsed time normally allowed for considering applications; and despatching decision letters more quickly once the decision is reached.
- ii** The Directorate should make maximum use of the capacity available for processing applications via its fast track procedures. The Directorate, for example, should keep staff responsible for screening applications regularly informed of the types of cases suitable for fast track processing and review cases periodically to ensure that the sifting process is working effectively.
- iii** When implementing any new arrangements it has to improve the timeliness of the appeal process, the Appellate Authority should draw, for example upon the lessons to be learned from Harmondsworth where a fast track appeal process has been introduced.
- iv** The Appellate Authority should make better use of the capacity of all its court centres, particularly those centres currently underutilised for immigration purposes, for example by further sharing of spare capacity with other courts.

To improve the management of backlog cases:

- v** The Directorate and Appellate Authority should draw up contingency plans to enable them to increase their processing capacity quickly should they be faced with a rapid increase in the number of applications in the future.
- vi** The Directorate should keep better information on cases should backlogs build up and use this information to decide how to tackle the backlogs. Key data should include the age of the case, the applicant's country of origin and other data on the nature of the application, for example whether there are any dependants.
- vii** The Directorate should evaluate promptly any new information it receives from third parties regarding potentially fraudulent applications.

To improve the quality of initial decisions:

viii The Directorate should strengthen its quality assurance arrangements by:

- regularly analysing the reasons for initial asylum decisions being overturned and using the results to keep individual caseworkers informed of decisions taken on their cases;
 - investigating the reasons for any differences between the appeals allowed rates for applicants from different countries and taking action to address any systemic weaknesses in how cases are considered;
 - introducing supervisory review prior to initial decisions being despatched for those types of application most frequently overturned at appeal, for example applications involving particular nationalities;
 - expanding the random sample of refused applications examined by staff from the Treasury Solicitor's Department to provide a much greater degree of independent scrutiny and feedback on internal procedures; and
 - expanding the random sample covered by the Directorate's quality assurance process of applications where asylum has been granted at the initial stage. The sample should include a majority of the grants made annually at this stage. Case files should document reasons in sufficient depth to support the decision.
- ix** The Directorate should provide more training to caseworkers at the induction stage; provide more specialist training once they have experience; and update their knowledge and skills. Particular issues to cover in more depth could include: the preparation of refusal letters; understanding of human rights issues; the handling of certain types of cases, for example involving minors or victims of rape; and recent developments in the law on asylum.
 - x** The Directorate should build up the expertise of caseworkers by encouraging some to specialise more in dealing with applications from particular countries, regions of the world or types of cases - particularly categories involving a significant number of cases. Improved quality assurance arrangements should provide a sufficient guard against caseworkers becoming "case hardened".
 - xi** The Directorate should update its country information more frequently, sometimes daily, reflecting the rate at which country circumstances are changing and the number of applications likely to be received, to enable its caseworkers to take account of the latest position within the countries of origin.

Background and analysis

- 4 Asylum applicants accounted for a small percentage of the 27 million foreign nationals entering the United Kingdom in 2002 (**Figure 1**).

1 Admissions to the United Kingdom, 2002¹

Asylum applicants account for a small percentage of the 27 million foreign nationals entering the United Kingdom.

Total Admissions to the United Kingdom	
Admissions of British citizens	62.3 million
Admissions of other European Economic Area nationals ¹	14.4 million
Admissions of non-European Economic Area nationals (see box below)	<u>12.6 million</u>
Admissions of foreign nationals	27.0 million
Total Admissions	<u>89.3 million</u>
(An unknown number of foreign nationals entered the UK illegally)	



Admissions of non-European Economic Area nationals	
Admissions with a passport only	11.0 million
Admissions requiring entry clearance documentation, including visas	1.6 million
Total admissions	<u>12.6 million</u>
Temporary Admission granted on lodgement of asylum application	26,560 ²

NOTE

- 1 The European Economic Area includes European Union member states and Iceland and Norway.
- 2 Asylum claims were also made by another 57,570 people who had been admitted to the UK with a passport or through entry clearance or who had entered illegally. There were 84,130 claims in total.

Source: Control of Immigration Statistics 2002 (including the International Passenger Survey). These statistics have not been independently validated by the National Audit Office.

- 5 To be granted asylum, applicants must have a well-founded fear of persecution as defined by the 1951 United Nations Convention relating to the Status of Refugees. Figures for applications made in 2002, where most appeals have now been heard, suggest that 9 per cent of the 84,000 applications made were granted asylum by the Directorate at the initial stage with 20 per cent granted short-term protection, and a further 9 per cent had appeals allowed against initial decisions to refuse asylum.⁴ Comparisons with other countries are complicated by the differing approaches adopted, for example, for granting permission to stay in general not just for reasons of asylum. In Canada, nearly 50 per cent of applicants are granted asylum by the end of the process. In Germany, out of the initial decisions made in 2001, 7 per cent of applicants were granted asylum and a further 21 per cent were granted lesser forms of protection. In the Netherlands, 25 per cent (in 2003) were granted recognition (on the grounds of either the Refugee Convention, the Human Rights Convention, humanitarian protection, the situation in country of origin or family reunification).
- 6 Applicants who are refused outright or who are refused asylum but granted short-term protection may have the right to appeal against the Directorate's initial decision. Appeals are heard by independent adjudicators, who are members of the judiciary at a level broadly equivalent to district judge. The Immigration Appellate Authority (the Appellate Authority) supports the adjudicators, who determined 81,725 appeals in 2003. The Appellate Authority is part of the Tribunals Group within the Department for Constitutional Affairs (formerly the Lord Chancellor's Department). Unsuccessful appellants may be granted leave for a further appeal to the Immigration Appeal Tribunal. Ultimately, applicants who are refused asylum or short-term protection are expected to leave the United Kingdom or else be subject to removal action. In 2002-03, the Immigration Appellate Authority spent £101 million on dealing with all appeals from immigration and asylum cases.
- 7 Applicants for asylum are not usually allowed to work in the United Kingdom while their application is being considered. Applicants can apply for financial support and accommodation whilst their application is being considered. In 2002-03, the average cost of processing an application at the initial decision stage, including associated support and accommodation costs, was estimated to be £3,380. Similarly, the average cost of an appeal up to the adjudicator stage was an estimated £4,520. These figures include average support and accommodation costs estimated by the Immigration and Nationality Directorate to be around £147 for each week an application is in the process.⁵
- 8 This report examines the Directorate and the Appellate Authority's arrangements for processing asylum applications, focusing on the speed of initial decisions and appeals, and the quality of initial decisions.



⁴ Successful ("allowed") appeals may result in grants of asylum or short-term protection, or appeals by the Home Office to the Immigration Appeal Tribunal.

⁵ This estimate is an average across all applicants. Some applicants may not require accommodation or support whilst others will require support for themselves and their dependants.

Main conclusions

- 9** The numbers of people seeking asylum in the UK were at the highest recorded levels between 1999 and 2002, before almost halving in 2003. The high levels of applications led to a large backlog of cases awaiting an initial decision and subsequently to an increasing volume of appeals (both relatively and absolutely); and the recruitment of more staff, who were asked to handle asylum cases with, in our view, a basic level of training - and certainly less than the German and Dutch immigration departments, for example, give their staff. Furthermore, turnover of staff, drawn by rapid promotion to better paid jobs elsewhere in the Directorate and some outside the Civil Service, meant that the Department was putting more recruits into the "frontline". The Directorate, however, considers that whilst its training for caseworkers could be improved, its existing programme has been "fit for purpose" and that the results of its own quality assurance, suggesting that 80 per cent of decisions on sampled cases are fully effective or better, support this.
- 10** The challenges faced by the Directorate have been exacerbated by the large number of claims for asylum by people who have already entered this country legally in another capacity, as a student for example, or illegally. Some of these cases will be unfounded but can be the hardest to deal with because such applicants are more likely to have gained knowledge of how the system works.
- 11** Since 2000, the Directorate has improved the speed of its asylum decision making, principally by recruiting more staff and streamlining its processes. Figures kept by the Directorate and Appellate Authority suggest that the number of outstanding asylum applications and appeals stood at 63,700 in December 2003, comprising 24,500 undecided applications, 12,000 appeals lodged with the Directorate but not sent to the Appellate Authority, 15,500 awaiting appeal to an adjudicator and 11,700 appeals awaiting determination by the Immigration Appeal Tribunal. At 24,500 the number of undecided applications at the initial stage is now substantially less than the peak of 125,000 at the end of 1999, owing to the high volume of decisions made by the Directorate and assisted by a downturn in the number of applications since the beginning of 2003. The Directorate has introduced a range of measures which have helped, in part, to reduce the number of applications, including changes to border controls and restricting eligibility for support. The Directorate expects the number of undecided applications to continue to fall until routine work-in-progress levels are reached before the end of 2004, assuming the level of new applications and rate of decision making at March 2004 are maintained.



- 12** Processing applications quickly has depended on having the right decision making capacity in place and on addressing bottlenecks. The longer applications are left waiting for a final decision, the greater the cost to the taxpayer in support and accommodation costs. Some applicants, for example, caught in the backlogs have had to wait months, and some cases years, for their claims to be decided. Our analysis, based on unit cost estimates prepared by the Directorate and the Department for Constitutional Affairs alongside this examination, suggests that it can be more cost-effective to recruit additional caseworkers to take decisions quickly at the initial stage than leave them undecided provided there is sufficient capacity at the appeal stage to tackle the number coming through, and provided support is stopped for those whose claims are refused or they are removed. With sufficient staff and infrastructure to tackle cases as they arose between 2000 and 2003, we have estimated that the costs of support borne by the taxpayer might have been significantly reduced. Deploying sufficient staff and infrastructure would, however, have required substantial practical issues to be addressed, particularly in the early years and the Directorate notes that much of the cost of support is fixed in the short term. Families are supported beyond the refusal of their claims to the point of removal. There is an important lesson to be learned here for public bodies in general. Decisions over what capacity to maintain, and the associated costs, need to take account of the potential additional costs that may be incurred on other budgets, in this case support and accommodation costs, should administrative capacity fall short of the incoming volume of work.
- 13** In this instance, the Directorate expanded its operations significantly in 2000 and 2001, for example more than doubling the number of caseworkers from 355 to 769 between August 2000 and February 2001, with the Appellate Authority also expanding its capacity. These actions brought down the backlog and reduced costs. The Directorate considers that it would not have been able to expand its capacity to the extent required to clear applications as they came in, due to practical limits on recruiting and training staff and building up support infrastructure. The Appellate Authority told us that it had expanded its capacity in stages. In its view, limits on the availability of judiciary and interpreters - without compromising standards - would not have allowed the required capacity to be achieved in one go. If the Directorate had maintained the rate at which cases were being progressed in 2001 for longer, the backlog could have been reduced to work in progress levels more quickly. We estimate that if the rate at which cases were being processed at the initial stage had been maintained at 2001 rates into 2002, possibly for no more than six months, and the appeals and removals capacity had been available to deal with the increased flow, additional costs of up to £200 million might have been avoided. The Directorate judged that it needed to build up its removals capacity. In its view, if caseworkers had been retained on clearing initial decisions the costs saved would have been offset by the additional costs of not removing failed asylum applicants. These costs include direct costs (families who remain on asylum support until removal), and indirect costs - the Directorate believes that increasing removals has a deterrence effect on potential asylum applicants with unfounded claims coming to the United Kingdom in the first place. In the Directorate's view it is therefore difficult to assess with any confidence the financial impact of a decision to invest heavily in decision-making at the expense of other aspects of the process.

- 14** Over the last two years, the Directorate and Appellate Authority have sought to work together more effectively to target investment at key bottlenecks in the system, at both the initial decision stage and appeal, and more recently at the removal stage. This has allowed the Directorate to test out new fast track processes and to improve its management of the end-to-end process. However, we estimate that further reductions to the annual cost of processing asylum applications of at least £21 million could be made without cutting the time spent by caseworkers in processing applications. For example, the Directorate could interview applicants sooner, 33 days after their date of application rather than the average of 48 days, which would potentially save £17 million, based on 2003 application levels. More savings could be made if improvements in the quality of decision making fed through as reductions in the number of appeals. Both these savings and the savings associated with clearing backlogs would in part also depend upon the Appellate Authority processing any appeals lodged and the Directorate removing families whose applications had failed.
- 15** As the number of undecided applications approaches normal work-in-progress levels, the Directorate and Appellate Authority may decide to redeploy some of their existing resources to other priorities. Future management of processing capacity, including staff, equipment and office space will, however, need to remain sufficiently flexible to respond promptly should world events again lead to a rise in the number of applications. The Directorate and the Appellate Authority consider that they have learned from experience, and have sought to build in flexibility and improve resilience to better manage an increase in the numbers of asylum applications. The Appellate Authority expects to achieve this, for example, with a better balanced judicial complement using fixed term and salaried part-time contracts, a network of hearing venues and through the expertise it has developed in coping with recent volumes.
- 16** The drive to reduce processing times should work in step with efforts to improve the quality of decision making at the initial stage. The challenges faced by caseworkers, however, should not be underestimated. Many applicants do not possess any form of identification, some deliberately, whilst some, with harrowing stories, need to be treated with special sensitivity. Case example A below provides an example of the complexity of cases that caseworkers have to decide. The cases examined by us suggested that caseworkers had carried out the main checks expected. Our work, nevertheless, found a system where some caseworkers require more training for the scale of the task they face. Pressure to meet processing targets, the complexity of some cases and a lack of clear ownership within the process for decisions once the case is passed onto the next stage sometimes lead to issues having to be resolved unnecessarily at the appeal stage. With around three-quarters of applicants refused asylum at the initial stage appealing against the decision, around one-fifth of them successfully, significant costs are incurred in adjudicators addressing weaknesses arising at the front-end of the process. Measures to drive up quality within the Directorate have been in place for the last two years. A number of further initiatives have been in train since the beginning of 2004 including an action plan which comprises, for example, measures to test the competency of new caseworkers and strengthen quality assurance arrangements.

Case example A

The complexity of making decisions on asylum applications

Mr A from Somalia claimed that he feared persecution for his political activities and that his human rights would be breached if he were returned to Somalia because he would be tortured and killed. He claimed to have been an official of a party since the early-1990s that had fought alongside the Ethiopian army, aiming to establish a new government. He was then captured and tortured by a rival group before being released and fleeing to the UK. He had no passport and told the Directorate that Somalia, which does not have a functioning government, does not issue them.

At the two-hour asylum interview conducted through an interpreter, the caseworker asked Mr A nearly 100 questions covering his political activities and other aspects of his claim. The caseworker had to consider how much of the claim was to be believed and whether the believed elements amounted to a well-founded fear of persecution. In refusing the application, he said that he did not believe that Mr A had been so involved in political activities from the early 1990s as claimed and did not believe he had been detained and tortured. He provided some examples that placed doubt on Mr A's credibility.

Mr A then appealed against the decision to refuse asylum. In his written determination following the appeal hearing, the adjudicator expressed dissatisfaction that neither the Home Office nor Mr A had really explored the factual background in the kind of detail required. He considered that the country information did not descend to the detail required where an applicant's accuracy is challenged. He found that against a background of a chaotic and volatile country situation Mr A's case was unreliable and superficial in certain respects. The adjudicator also did not believe that Mr A had been detained and tortured or faced any risk more than the ordinary risk inherent in the civil war situation. He dismissed the appeal.

Source: National Audit Office case study sample of new applications (Case 8)

Detailed findings

The Directorate and Appellate Authority have reduced the time taken to process applications

- 17 Over the last two years, the Directorate and the Department for Constitutional Affairs have taken a range of actions aimed at reducing the number of asylum applicants in the asylum process and, over time, to reduce the total costs of asylum support. These include: measures to reduce the intake of asylum applications; the introduction of fast track processes; and additional resources to improve the asylum process. Since 2002-03, funding has been provided by a Single Asylum Budget, and the Directorate and the Department are dependent on success in reducing asylum support costs to be able to allocate funds to sustaining these initiatives.
- 18 Since 2000, the Directorate has made a determined effort to improve the speed of its asylum decision making. In 2002-03, 74 per cent of relevant applications received an initial decision within the Directorate's target of two months compared to 61 per cent of relevant cases in 2001-02; and, more recently, 80 per cent of applications made between October and December 2003 were decided within two months. Around 9 per cent of applications now receive an initial decision within a few days using the Directorate's fast track procedures which are suited to more straightforward cases.

- 19** Around three-quarters of refused applications go to appeal, and over half of those appeals take more than four months to be determined.⁶ The Appellate Authority has significantly increased the rate at which appeals are decided, from 1,600 to around 6,800 per month between 2000 and 2003 by recruiting additional adjudicators and expanding court capacity. Most of the new court facilities are well used although there is some scope to improve usage rates at three or four centres.
- 20** For applications not processed via one of the Directorate's fast track routes, our work suggests that there is still elapsed time when no activity occurs on some applications. The Directorate's introduction of fast track procedures, including the Appellate Authority's introduction of a fast track appeals process, has illustrated how, with innovative thinking, the overall process can be significantly shortened for straightforward cases. As already described, as backlogs begin to fall and resources become available, our work suggests that further time, and hence support costs, could be saved.
- 21** The time taken to process individual appeals depends upon the number of appeal stages engaged. In 2003, whilst initial decisions on new applications took an average of 63 days, appeals to the adjudicator took an average of 169 days (including 90 days before the Directorate passed the appeal to the Appellate Authority), and the relatively small proportion of appeals that went all the way to the Tribunal (where permission was given) took another 235 days on average.
- 22** Since April 2003, the Appellate Authority and the Directorate have adopted a revised target - to process 60 per cent of applications through the system, including both tiers of appeal, within six months of the original asylum application. The target allows two months to reach the initial decision plus four months for the appeal stages. The Directorate told us that it and the Appellate Authority had processed 63 per cent of applications made between April and September 2003 within the six months. The Government announced in October 2003 its intention to introduce legislation to move to a single tier of appeal, with the majority of appeals heard and decided by a single judge. Provisions to this effect are in the Asylum and Immigration (Treatment of Claimants, etc) Bill currently before Parliament.

Improving the quality of initial decisions

- 23** In recent years around a fifth of all appeals have been allowed, above the rate of 15 per cent expected by the Directorate. Whilst over 80 per cent of the Directorate's work meets its own quality targets and standards, our sample of case files and refusal letters identified weaknesses in the way that some of the applications are processed, including basic errors of fact and unclear language, and a lack of ownership amongst caseworkers for the final decision once the case is passed on to the next stage.
- 24** One of the steps that the Directorate has taken to improve the quality of its decisions has been to reinstate in February 2004 its minimum academic requirements (2 "A" Levels and 5 GCSEs, including English) for new asylum caseworkers at the Executive Officer grade. The Home Office had previously withdrawn the minimum academic requirements for all generalist grades in November 2000 in favour of an alternative competency-based approach and psychometric tests to help meet the Department's overall recruitment needs and to increase the diversity of applicants.

⁶ Figures relate to cases reaching the appeal stage during 2003, and not a cohort of applications.

- 25** The Directorate could improve performance by preparing caseworkers better for making decisions; reviewing some decisions more frequently before they are despatched; and improving the feedback provided to caseworkers on the outcome of appeals. Each new caseworker receives an initial 11 days of training followed by a minimum of 11 days with mentoring and support before caseworkers are allowed to decide cases on their own, provided their supervisors are content they have the skills to do so. Initial training is relatively short compared with Germany and the Netherlands, for example, where the caseworkers receive around three months (or six months where new caseworkers have not already had legal training) and 40 days training respectively. Whilst systems for deciding asylum applications differ from country to country, with implications for the level of training required, lessons could be learned from elsewhere. Our work identified a number of areas where continuing training for caseworkers should be considered including developments in asylum law, preparation of refusal letters and human rights.
- 26** The Directorate's case is normally put at appeal hearings by presenting officers. The presenting officers outline the main arguments for refusing asylum and cross-examine the applicant and other witnesses. The Directorate aims to attend 95 per cent of hearings. However, the Directorate has not had sufficient numbers of presenting officers to attend the increased number of asylum appeal hearings. Adjudicators reported that presenting officers generally added value to appeal hearings helping to identify the key issues at stake, highlighting inconsistencies in the evidence submitted by the applicant and helping to explain the Directorate's arguments for refusal. In 2003, the Directorate introduced more regular recruitment campaigns for presenting officers. However, in February and March 2004 the Directorate was still not represented at respectively 30 per cent and 17 per cent of asylum appeal hearings. In the absence of presenting officers there is an increased risk that some appeal cases might be allowed without the Home Office case being fully considered. Increasing representation by presenting officers at appeal should contribute to a better performance at appeal by the Directorate.
- 27** It is possible that improving the quality of initial decisions could persuade some applicants, or their representatives, that their application has been fairly considered and reduce the likelihood of an appeal being made. However, it is not possible to forecast with certainty what impact these improvements might have on the overall cost of the appeal process, if any. Every one percentage point reduction in the proportion of applicants appealing, around 54 per cent of all applicants, could save around £3 million per year in support and operational costs, based on 2003 application levels.



Part 1

Asylum in the United Kingdom

Refugees and asylum applicants

1.1 The United Kingdom is a signatory to the 1951 United Nations Convention relating to the Status of Refugees (the Refugee Convention). To be accepted as a refugee in the UK, an applicant must first apply for asylum (see box). The Home Office's Immigration and Nationality Directorate (the Directorate) assesses asylum claims on the basis of the individual circumstances of each case including the applicant's credibility, the current political situation in their country, evidence of the country's human rights record and, if applicable, medical evidence of torture and abuse. An applicant has to show that they meet the criteria laid down in the Refugee Convention. In addition, an applicant may claim that their basic human rights⁷ would be infringed were they to be returned to their country of origin.

What is a refugee?

A refugee is a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; 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. (1951 United Nations Convention relating to the Status of Refugees⁸).

An asylum applicant (or "asylum seeker") is someone who has applied for asylum or protection under either the 1951 Refugee Convention or the 1950 European Convention on Human Rights.

1.2 The Home Office commissioned research on the factors that lead asylum applicants to choose the UK in preference to other destinations which suggested that the principal aim of asylum applicants is to reach a place of safety, with a number of factors influencing choice of final destination.⁹ These factors include the presence of friends or relatives, their belief that the UK is safe, tolerant and democratic, previous links between their country and the UK, and the English language. A report from the Home Affairs Select Committee in 2001¹⁰ suggested that other factors making the UK more attractive than other countries included slow decision making on asylum cases and a lack of an efficient removal system for people refused asylum. **Figure 2 overleaf** illustrates the top ten countries of origin of asylum applicants in 2003.

The number of asylum applications has risen substantially but is now falling

1.3 The number of asylum applications made in the UK fluctuates significantly. The 84,130 applications in 2002 was the highest level on record and two-and-a-half times higher than in 1994 (**Figure 3 overleaf**). To put UK asylum figures in context, the United Nations High Commission for Refugees (UNHCR) reported that there were 10.4 million refugees in the world at the beginning of 2003, including 2.5 million Afghans who were living mainly in Pakistan and Iran.

⁷ Incorporated into UK law by the Human Rights Act 1998.

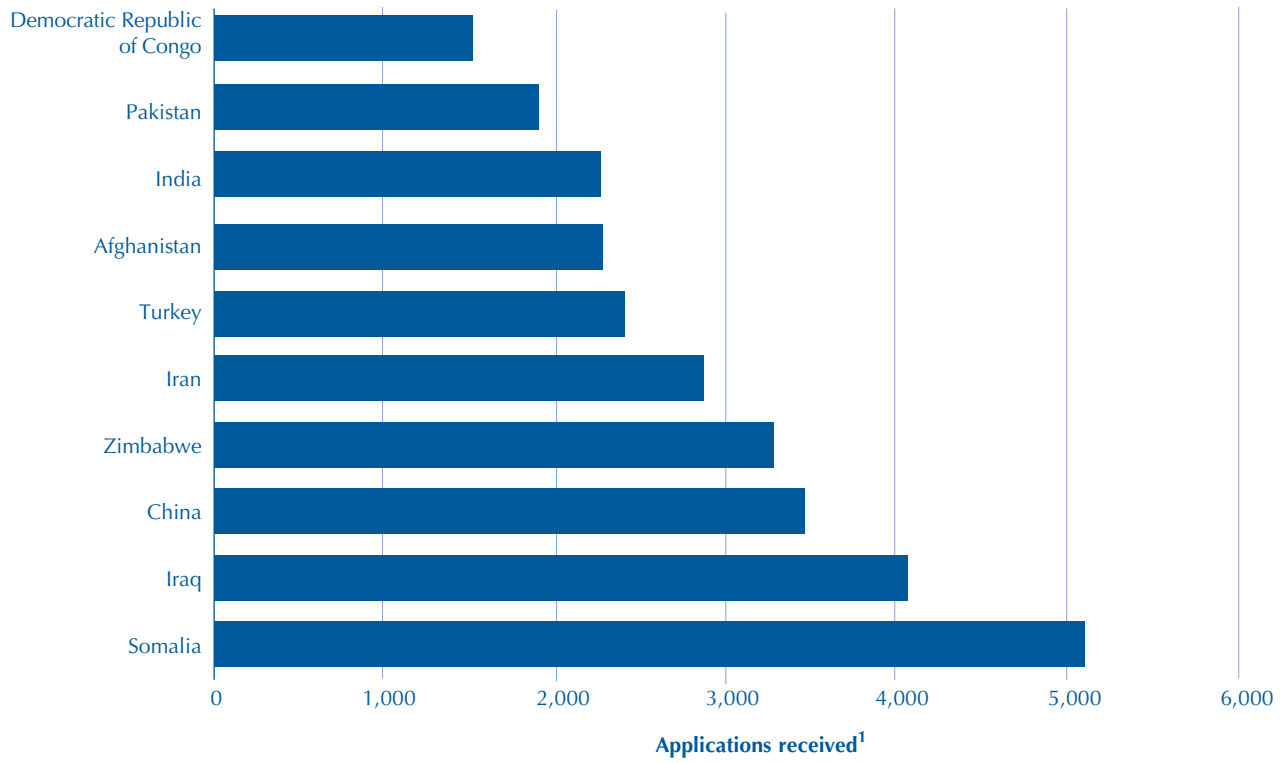
⁸ The 1951 Convention applied only to people who were refugees as a result of events before 1951. The 1967 Protocol relating to the Status of Refugees extended the Convention to all emerging refugee situations. Unlike other human rights instruments that came later, there is no monitoring mechanism that examines countries to see whether they are complying with their obligations under the Convention. It is up to the signatory States to implement their commitments faithfully.

⁹ *Understanding the decision-making of asylum seekers*, Vaughan Robinson & Jeremy Segrott, 2002.

¹⁰ *Border controls*, Home Affairs Committee, 1st Report Session 2000-01.

2 Top ten countries of origin of asylum applicants, 2003

The principal countries of origin accounted for 29,135 applications in 2003.



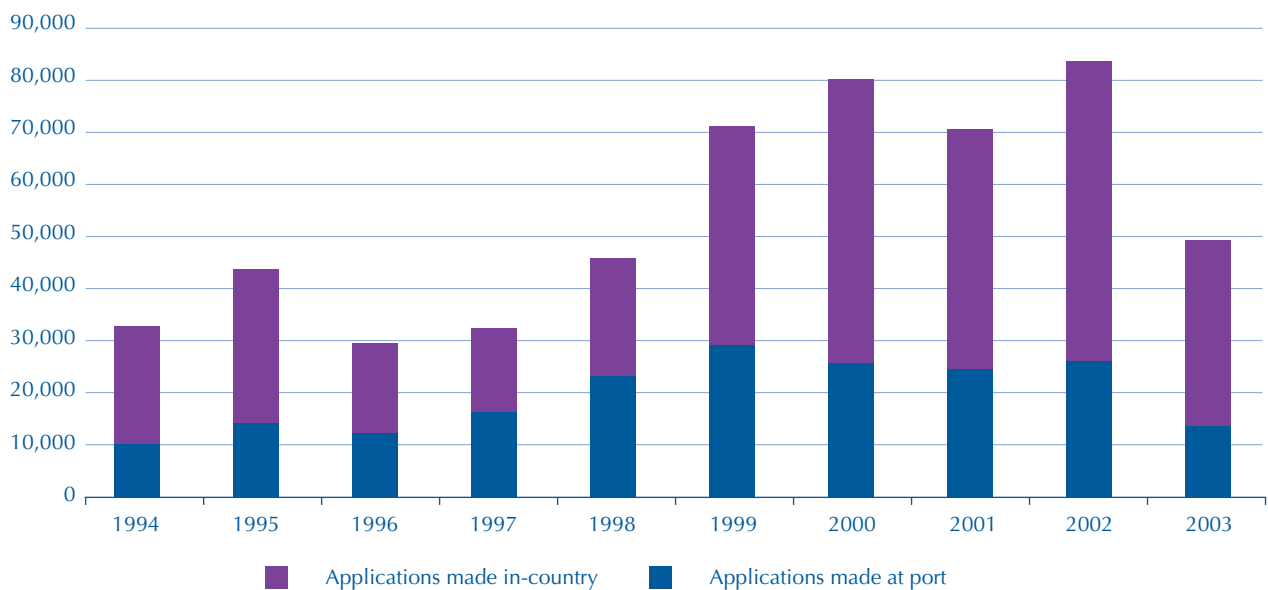
NOTE

1 These figures show the number of principal applicants but not their dependants.

Source: National Audit Office analysis of Home Office Asylum Statistics

3 Asylum applications in the United Kingdom, 1994 to 2003

Asylum applications in 2003 fell significantly below the high levels of 1999 to 2002.



Source: National Audit Office analysis of Home Office Asylum Statistics

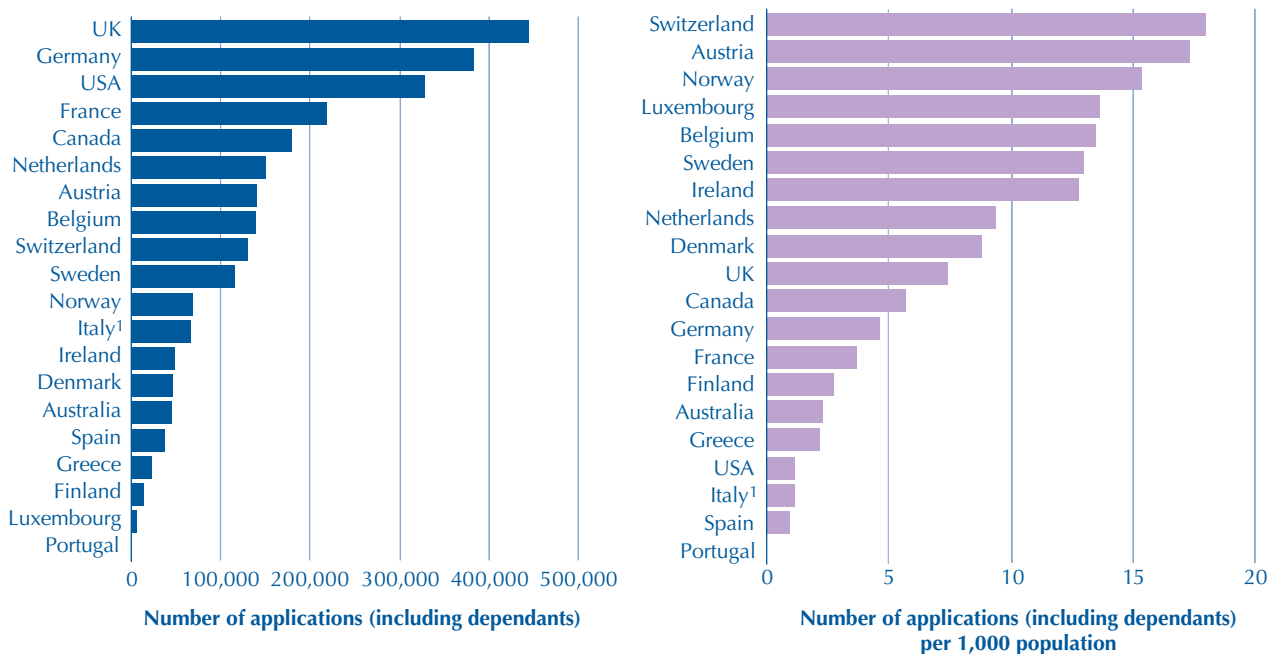
- 1.4 High numbers of asylum applicants present challenges for any country to process and support but migrants, including asylum applicants, also provide benefits. Home Office research¹¹ has suggested that although migrants have mixed success in the labour market, the broader fiscal impact of migration in general is likely to be positive.
- 1.5 During the five years between 1999 and 2003, the UK had more asylum applications (including dependants) than any other European country or the United States, Canada or Australia. However, in terms of its population the UK received fewer applications than some of these countries. **Figure 4** shows that, out of 20 comparable countries, the UK received the 10th highest number of applications in terms of its population (7.4 per 1,000 people).
- 1.6 In February 2003, the Government set a target to halve the number of asylum applications by the end of September 2003 compared with October 2002. The Home Office achieved this target, with the number of applications falling from 8,770 in October 2002 to 4,225 in September 2003 and the downward trend has continued. There were 49,370 applications in 2003, the lowest number since 1998, and the Home Office reported that they were accompanied by 11,680 dependants. The 2002 White Paper Secure Borders,

Safe Haven developed the Government's approach to immigration and asylum and the Home Office has since introduced a number of measures aimed at reducing the number of asylum applications. These measures include: new visa regimes; transit visas for some travellers who wish to transit the United Kingdom; the closure of the Red Cross Centre at Sangatte; establishment of border controls abroad ("juxtaposed controls"); new detection equipment at borders; restrictions in asylum support; faster asylum processes; and, restrictions in appeal rights for some applicants.

- 1.7 Our review of Home Office asylum and migration statistics, conducted alongside this review, concluded that there was no clear statistical evidence that the reduction in the number of asylum applications has had any significant impact on other forms of migration. The review also concluded that reductions in the number of asylum applications could be explained, in part, by measures taken by the Department to manage down the intake of asylum applications, alongside other wider trends. As part of the review, a team from University College London (UCL) analysed data on the number of asylum applications received by 17 Western European countries in 2002 and 2003. The UCL team found that, like the United Kingdom, most other Western European countries also experienced a decline in the number of

4 Asylum applications in 20 countries, 1999 to 2003

Between 1999 and 2003, the UK had the highest number of asylum applications among 20 comparable countries, but only the 10th highest level per 1,000 of the population.



NOTE

1 The numbers of applications received by Italy in 2003 are not available, so figures for Italy are understated.

Source: National Audit Office analysis of Home Office Asylum Statistics and UNHCR statistics

11 Migration: an economic and social analysis, Glover, Gott, Loizillon et al, 2001.

asylum applications over the period 2002 to 2003.¹² No other country in this group experienced as large a reduction as that of the United Kingdom, however, and only Portugal had a percentage reduction greater than that of the United Kingdom.

Most applicants are refused initially, but more are granted asylum after appeal

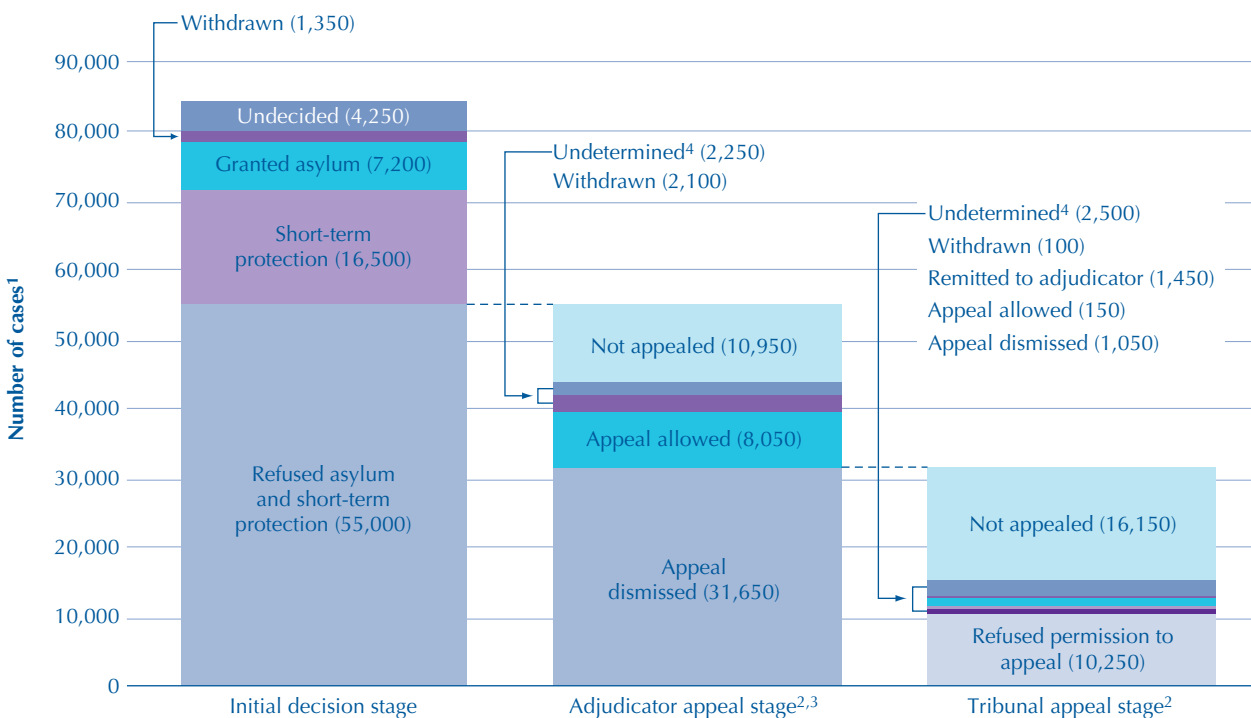
1.8 The Directorate decides asylum applications based on its assessment of the conditions in the countries of origin and the likelihood that applicants will be persecuted if they are returned. There are three possible initial outcomes for asylum applicants.

- **Refugee status (asylum)** - is recognised under the Refugee Convention for those with a well-founded fear of persecution. Refugees are allowed to "settle" in the UK with no restrictions on the time they are permitted to remain.

- **Short-term protection**¹³ - is granted for a limited period of time to those unsuccessful asylum seekers who nevertheless have a need for international protection or have other compelling reasons for not being removed. Unaccompanied children who do not qualify for asylum are usually granted short-term protection for three years or until their 18th birthday, whichever is shorter. Applicants granted short-term protection for more than 12 months may appeal against the decision not to grant them asylum.¹⁴

5 The outcome and status of asylum applications made in 2002, as at May 2004

The majority of asylum applicants in 2002 were refused, most of whom lodged appeals. By May 2004, around 6 per cent of the applicants were still progressing through the appeal process. Around 15,050 (18 per cent) have been granted asylum or have had appeals allowed.



NOTE

- 1 The figures are rounded to the nearest 50. While the figures are broadly consistent with the cohort analysis in the published bulletin Asylum Statistics United Kingdom 2002. However, owing mainly to timing differences, they are not identical to published statistics.
- 2 The analysis of Adjudicator and Tribunal appeals includes only appeals from applicants refused both asylum and short-term protection. Some applicants granted short-term protection can and do appeal against the decision to refuse asylum - these cases are not included in the analysis.
- 3 The analysis of Tribunal appeals includes only those appeals lodged by applicants. In addition, the Tribunal has determined 1,000 appeals brought by the Home Office, of which 350 were allowed and 300 were remitted to adjudicator for reconsideration - these cases are not included in the graphic.
- 4 "Undetermined" appeals are where appeals have been lodged but have not yet been decided by an adjudicator or by the Tribunal. Some of the adjudicator appeals will not yet have been passed to the Appellate Authority.

Source: National Audit Office analysis of the Directorate's databases

¹² "Asylum and migration: a review of Home Office statistics", HC 625, Session 2003-04 (paragraphs 6 and 14).

¹³ Since April 2003, this is known as Humanitarian Protection or Discretionary Leave. Before then, the Directorate granted Exceptional Leave to Remain.

¹⁴ Under the Nationality, Immigration and Asylum Act 2002 (section 83) applicants who have been either refused asylum or refused asylum but granted short-term protection exceeding one year may appeal, whereas applicants refused asylum but granted short-term protection for less than one year have no right of appeal.

- **Refusal** - applicants who are refused are informed that they will be removed. They may appeal against the refusal.

1.9 **Figure 5** shows the current status and outcomes to date of the asylum applications made in 2002. Of the applicants that had completed the process by May 2004, 15,050 (18 per cent) had been granted asylum or had appeals allowed, and 16,500 (20 per cent) had been granted short-term protection at initial decision. Another 9,000 were awaiting initial decisions (4,250) or appeal outcomes (2,250 awaiting Adjudicator outcomes and 2,500 awaiting Tribunal outcomes), so the number of applicants granted asylum and short-term protection will increase. Until 2003, applicants gaining protection were often granted four years Exceptional Leave To Remain after which they would, upon application, usually be granted indefinite leave to remain. Since April 2003, the Directorate reported that its normal policy has been to grant initial protection for no more than three years and to grant further leave (whether limited or indefinite) after that only where an applicant still qualifies for such leave at the time of their subsequent application.

1.10 The majority of asylum applicants are granted neither asylum nor short-term protection. Decisions made in most years since 1994 have been to grant some form of

status to between 20 per cent and 30 per cent of applicants (**Figure 6**). Increases in the underlying rates occurred in 1999, due to the situation in Kosovo, and in 2002, because of the problems in Iraq and Afghanistan.

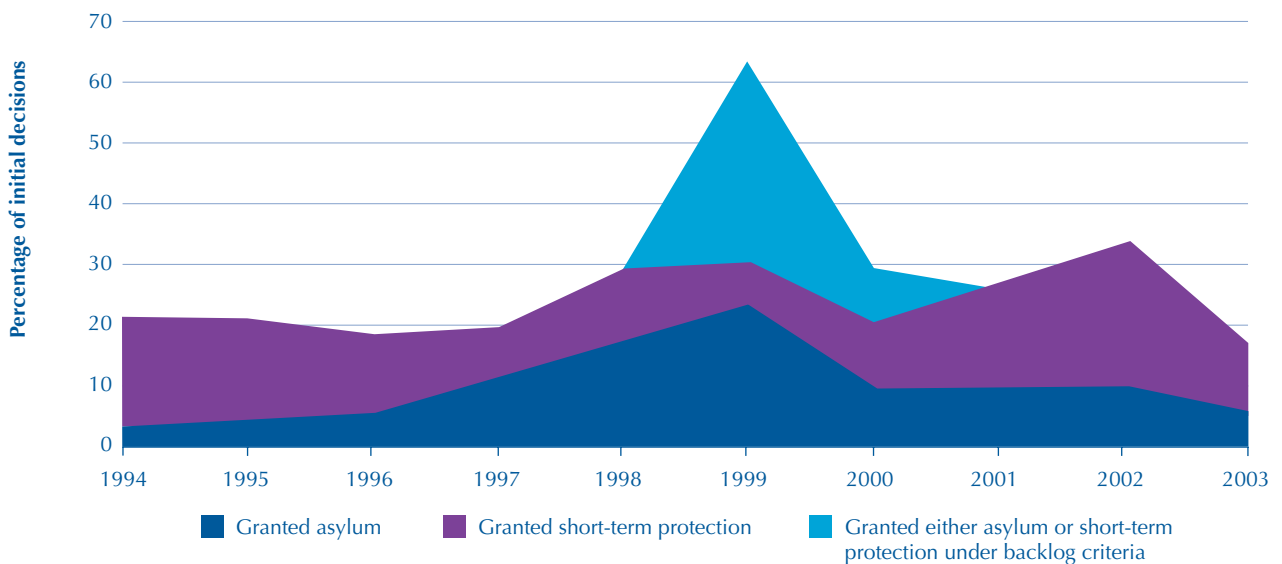
The Directorate processes asylum applications and the Immigration Appellate Authority hears asylum appeals

The role of the Directorate

1.11 People claiming asylum must lodge their applications with the Directorate either on arrival at a UK port or within the UK at one of the Directorate's offices. The ports with the highest level of applications are at Dover, and at Heathrow and Gatwick Airports. However, around two-thirds of applications are made from within the UK, by people who arrived in the country illegally but undetected or who were visiting the UK (for example with family visitor, student or tourist visas). These "in-country" applications include people who have been in the UK for some time or who have only sought asylum once they have come to the authorities' attention, for example through police or immigration operations.

6 Initial decisions to grant status on asylum applications, 1994 to 2003

Most years, around 20 per cent to 30 per cent of asylum applicants' initial decisions are either to grant asylum or short-term protection.



NOTE

- 1 Applications decided in 1999 and 2000 included cases that were decided using special criteria for clearing a backlog of applications made before 1996. Applications outstanding since before July 1993 were normally granted short-term protection, and the Directorate considered applications made in the period July 1993 to December 1995 taking account of compassionate and exceptional factors, normally granting short-term protection for four years.

1.12 The Directorate's asylum objective is to process applications efficiently, focusing the asylum system on those genuinely fleeing persecution by taking speedy, high quality decisions. The main stages in the decision making process include:

- **Screening interview.** Applicants for asylum are required by law to make their applications in person at their port of entry or at one of the offices of the Immigration and Nationality Directorate. The Directorate then screens applicants. The aim of the screening interview is to obtain personal information, to provide information to the applicant, to decide whether to provide support, and to obtain information to assist the decision making process.
- **Submission of evidence.** In the majority of cases¹⁵, the applicant is required to submit a Statement of Evidence Form (SEF) within 10 working days of their screening interview. Failure to submit the SEF by the due date usually results in the refusal of the application on the grounds that the applicant has not established his or her claim for asylum. Applicants can obtain legal advice on completing their claim (although the Directorate considers that it is not necessary for them to do so) - if applicants have insufficient resources, they can obtain legal aid. Some applicants choose to submit medical evidence as part of their claims.
- **Substantive interview.** The applicant is usually interviewed by a caseworker at the Directorate's offices in either Croydon, Liverpool, Harmondsworth or Oakington. The applicant may be accompanied by a legal advisor.¹⁶ The aim of the interview is to verify the evidence already submitted, gather any other facts relevant to consideration of the asylum claim and address any outstanding questions that might have a bearing on the final decision. Interviews usually last from one to one-and-a-half hours, but may take longer.
- **Decision.** The decision on the application is taken by a caseworker. The decision is usually delivered to the applicant by post, but is served in person, or to the legal representative, at Oakington and Harmondsworth. Further details of the application process are provided at Appendix 1.

1.13 With the rise in applications over the last decade, asylum is now the costliest part of the Directorate's business. Its other main activities are: operating immigration controls at ports; deciding applications for visas, work permits and for British nationality; considering applications from visitors to extend their stay or change their status; detecting and removing immigration offenders; and, developing immigration policy and law. The Directorate employs around 14,100 staff, and spent £1.86 billion in 2002-03 on all its operations, including £1.07 billion in supporting asylum applicants. Since 2002-03, the Single Asylum Budget has provided the funding for the asylum system and support costs. The Budget is shared between the Directorate and the Department for Constitutional Affairs.

Asylum appeals

1.14 Applicants who are refused asylum have a right to appeal against the Directorate's decision. Applicants cannot be removed from the UK while they have an appeal outstanding, unless they are from one of the 24 countries¹⁷ that the Directorate considers to be generally safe and it certifies their applications as "clearly unfounded" using powers introduced by the Nationality, Immigration and Asylum Act 2002. These are known as "Non-Suspensive Appeals" cases.

1.15 Appeals are heard by independent adjudicators who are members of the Judiciary. The adjudicators are supported by the Immigration Appellate Authority (the Authority) which is part of the Tribunals Group within the Department for Constitutional Affairs. The appeal process can involve a number of consecutive stages.

- **Immigration Adjudicator.** Adjudicators hear and determine appeals against the Directorate's decisions. The appellant and the Directorate submit written evidence and oral evidence is normally heard before the adjudicator who then determines the appeal. As at December 2003, there were 583 Adjudicators (172 of them full-time), and most of the hearings are held in 12 appeal hearing centres, with satellite courts assisting, across the UK.

¹⁵ Applicants are not required to submit Statement of Evidence Forms where their applications are to be decided in fast track processes (Oakington, Harmondsworth and other Non-Suspensive Appeals cases) or where they attend the Dover Induction Centre.

¹⁶ Since May 2004, legal representation at interview is no longer assisted by legal aid for claims decided outside the fast track processes at Harmondsworth and Oakington.

¹⁷ Albania, Bangladesh, Bolivia, Brazil, Bulgaria, Cyprus, Czech Republic, Ecuador, Estonia, Hungary, Jamaica, Latvia, Lithuania, Macedonia, Malta, Moldova, Poland, Romania, Serbia + Montenegro, Slovakia, Slovenia, South Africa, Sri Lanka and Ukraine.

- **The Immigration Appeal Tribunal.** The Tribunal hears and determines appeals, from either the asylum applicant or the Directorate, against adjudicators' determinations. Appellants must first apply on paper to a single Tribunal member for permission to appeal to the Tribunal. In most cases, permission is not granted. As at December 2003 there were 108 Tribunal members, including 56 lay members.
- **Statutory review.** Where appellants are refused permission to appeal to the Tribunal, they may challenge that decision by applying for a statutory review. A statutory review involves a High Court judge considering an application on the papers.
- **Higher courts.** A very small number of appeals against Tribunal decisions are heard by the Court of Appeal and the House of Lords or are subject to judicial review.

In 2002-03, the Immigration Appellate Authority spent £101 million on dealing with all appeals from immigration and asylum cases.

1.16 The Government has introduced legislation, the Asylum and Immigration (Treatment of Claimants etc) Bill, to move to a single tier of appeal, with the majority of appeals heard and decided by a single judge. The legislation also provides for limited access to the Higher Courts.

The cost of processing asylum applications

1.17 According to the Directorate's estimates in 2002-03 it cost £3,380 (see Appendix 2) to process an asylum application at the initial decision, including legal aid costs. An appeal to the Adjudicator costs £4,520, including legal aid. These cost estimates were specially prepared for the National Audit Office by the Directorate and the Department for Constitutional Affairs. We reviewed their workings.

1.18 Whilst an application is being considered, including any appeal, the applicant may apply for financial support only (if they are able to live with family or friends) or financial support and accommodation. Some applicants choose not to apply for support and some are refused support because they did not apply for asylum as soon as reasonably practical. Applicants for asylum are not allowed to work in the United Kingdom while their application is being considered. The weekly cost of support depends on the applicant's personal circumstances and whether they have dependants. The rates for financial support are set at 70 per cent of social security benefits for adults and 100 per cent for children. The combined cost of accommodation and financial support averages around £147 per week per applicant. More details on applicants' entitlements are set out in Appendix 3.

What we did

1.19 In 2000, the Committee of Public Accounts¹⁸ reported that the backlogs of cases (asylum and other types) awaiting processing had caused enormous personal distress to hundreds of thousands of applicants and their families.

1.20 We examined progress made by the Directorate and the Immigration Appellate Authority. In particular, we examined:

- the timeliness of the Directorate's decisions on new asylum applications and the Appellate Authority's determination of appeals (Part 2 of this Report);
- the efforts made to reduce the number of outstanding cases (Part 3 of this Report); and
- the quality of the Directorate's initial decisions (Part 4 of this Report).

The research methods used during the study are described in more detail in Appendix 4.



Part 2

Processing new applications

2.1 This part of the report examines:

- i) the timeliness of the Directorate's arrangements for dealing with new applications; and
- ii) the Appellate Authority's arrangements for dealing with appeals from recent applicants.

i) The timeliness of the Directorate's arrangements for dealing with new applications

The Directorate has significantly increased the proportion of new applications decided within the two-month target for reaching an initial decision

- 2.2 The Directorate has given priority to new applications for asylum over older cases even though the latter may have been kept in a backlog for some time. Older cases have been dealt with by the Directorate when spare processing capacity becomes available. The Directorate is carrying out Government policy that taking faster decisions on new applications is more likely to: deter people with unfounded claims from coming to the United Kingdom; reduce the period of uncertainty for applicants with well-founded claims; and, reduce the cost of the asylum process, principally through savings on the cost of supporting applicants and their dependants.
- 2.3 The Directorate's performance in reaching an initial decision on new applications exceeded its target in 2002-03, with 74 per cent (49,997) of new applications¹⁹ (67,717) decided and served within two months. Analysis of the Directorate's quarterly performance against the two-month target (**Figure 7 overleaf**) shows that it has significantly improved its performance since Autumn 2001.

2.4 This improvement is attributable mainly to an expansion in the Directorate's ability to deal with the volume of incoming applications. The number of caseworkers increased from 355 in August 2000 to a peak of 769 in February 2001 and by May 2003 the number stood at 462. Through direct recruitment and redeployment of staff from other parts of its operations, the Directorate achieved the increase in staff despite some caseworkers moving on owing to promotions and other moves. In addition, the introduction of fast track procedures for certain applicants - discussed further below - has made a significant contribution.

2.5 Our review of Home Office asylum and migration statistics, conducted alongside this examination, identified some weaknesses in the data on the timeliness of initial decisions²⁰. Data on which asylum decisions are despatched to applicants are sometimes recorded before official decision letters have been sent out, overstating the Home Office's performance against its target. By contrast, in 17 per cent of the 103 decision cases we tested, despatch dates had not been recorded despite the decision letters having been sent out. At least half of these cases had been despatched within the Home Office's target period. Their omission meant that the statistics understated the Home Office's performance although not by enough to affect significantly the Home Office's achievement of its timeliness target in 2002-03.

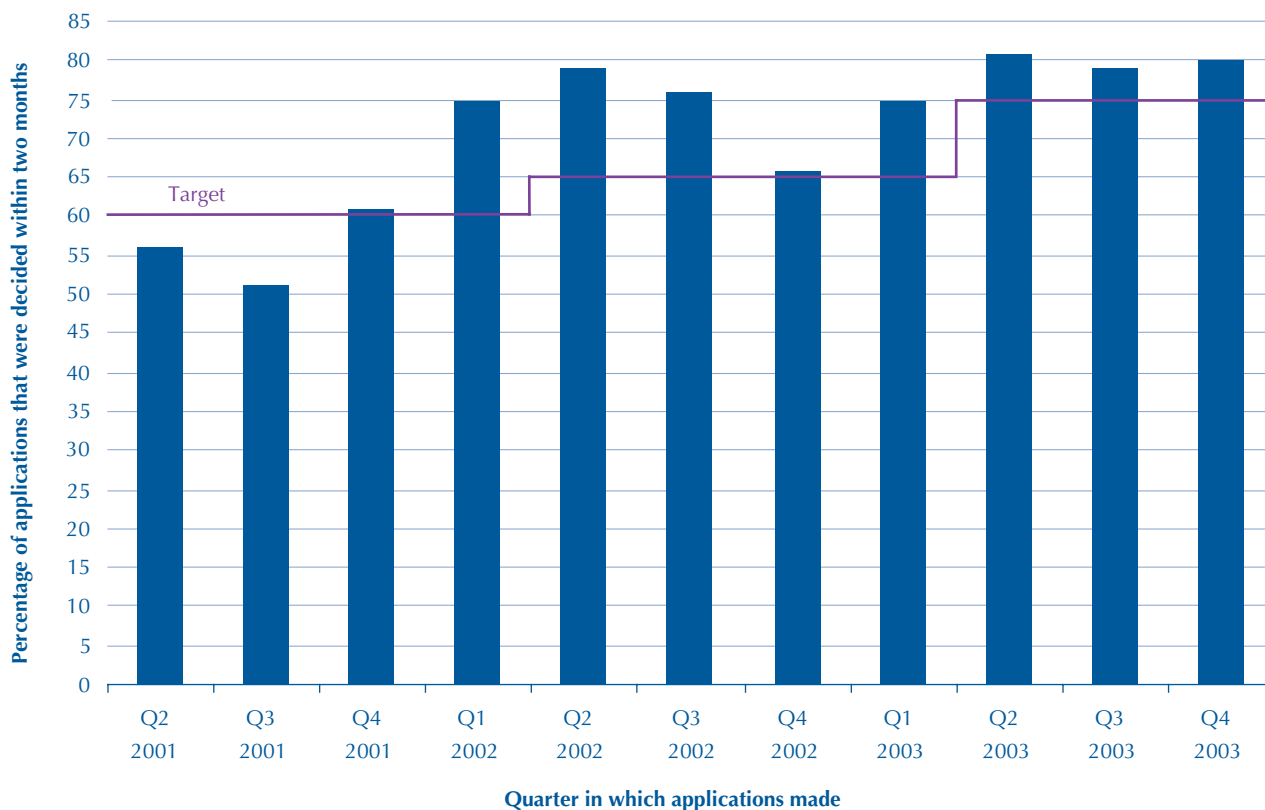
2.6 The two-month target does not include all new applications, for example where the applicant may have entered the United Kingdom via a third country within the European Union. In these instances, the Directorate may seek to remove the applicant under the terms of the Dublin Convention 1990 to the relevant third country to decide their application, known as third country cases. Between April 2001 and December 2003, 30,900 cases (17 per cent of all cases) fell into this category. These attempts at removal, however, are not always successful and therefore may have to be processed in the United Kingdom but are not counted towards the timeliness target. This issue is considered further in paragraph 3.12.

¹⁹ "New applications" excludes: those cases where, under the Dublin Convention, the Directorate has approached other states who may be responsible for processing the applications; applications from Iraqis that were being processed in the period 1 February 2003 to 31 May 2003; and applications that are withdrawn.

²⁰ "Asylum and migration: a review of Home Office statistics", HC625, Session 2003-04 (paragraphs 1.28 to 1.30).

7 Timeliness of decisions on applications, April 2001 to December 2003

An increasing proportion of new asylum applications are decided within two months of the date of application.



NOTE

The two-month target was introduced in April 2001.

Source: National Audit Office analysis of Home Office Asylum Statistics

The introduction of fast track procedures has helped reduce processing times for some applications

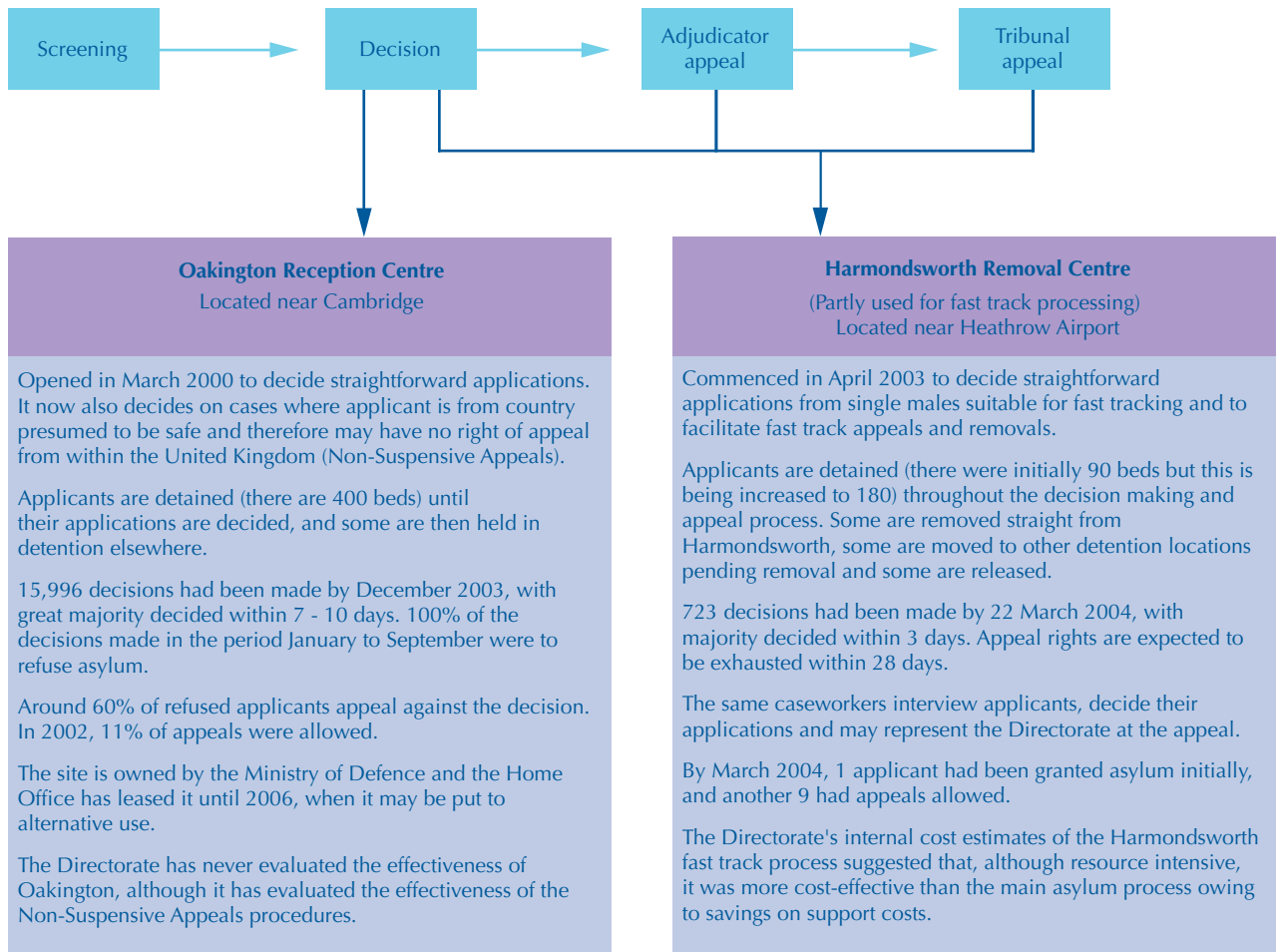
2.7 The Directorate operates two fast track centres, at Oakington and Harmondsworth (**Figure 8**), where applicants are detained. In 2003, 9 per cent of all applications were processed via one of the fast track options, a similar proportion to 2001 and 2002. The principal purpose of Oakington is to fast track applications from countries presumed to be safe²¹, although it also decides other applications. Oakington provides a fast track procedure for reaching an initial decision within 10 days. The process was subject to legal challenge but, in October 2002, the House of Lords judged that it was lawful to detain asylum applicants for a short period of time for the purpose of

making a quick decision on their claim. By December 2003, around 16,000 decisions had been made at Oakington in timescales faster than the main process. The Directorate learned from Oakington in designing the end-to-end process operated at Harmondsworth since April 2003. At Harmondsworth, the procedures encompass the initial decision and appeal stages (which are provided for in legislation), and take three days to reach a decision followed by fast track appeals taking four days at the adjudicator level. By 22 March 2004, 421 (58 per cent) of cases decided at Harmondsworth had been removed from the United Kingdom. There is no reliable comparable information on the removal of applicants whose applications were decided at Oakington.

21 Those appearing on the Non-Suspensive Appeal list.

8 Fast track processes

The Directorate operates two fast track centres for processing applications, both of which run significantly faster than the main process.



	Main process	Oakington	Harmondsworth
Initial decision	61 days (target) ¹	8 days (average)	3 days (average)
Adjudicator appeal	122 days (target) ²	83 days (average) ³	6 to 7 days (average)
Tribunal appeal		Not known	8 days (average)

NOTES

- The time target in 2002-03 was to decide 65 per cent of cases within 2 months (61 days), and was achieved in 74 per cent of cases.
- The time target in 2002-03 was to complete 65 per cent of appeals within 4 months (122 days), and was achieved in 43 per cent of cases.
- Non-suspensive appeals cases do not have appeals within the UK. Reported average time is for other cases decided at Oakington between January 2003 and March 2003 and with appeals completed by December 2003.

Source: National Audit Office analysis of the Directorate's management information

Some improvements could be made to the arrangements for identifying potential fast track cases

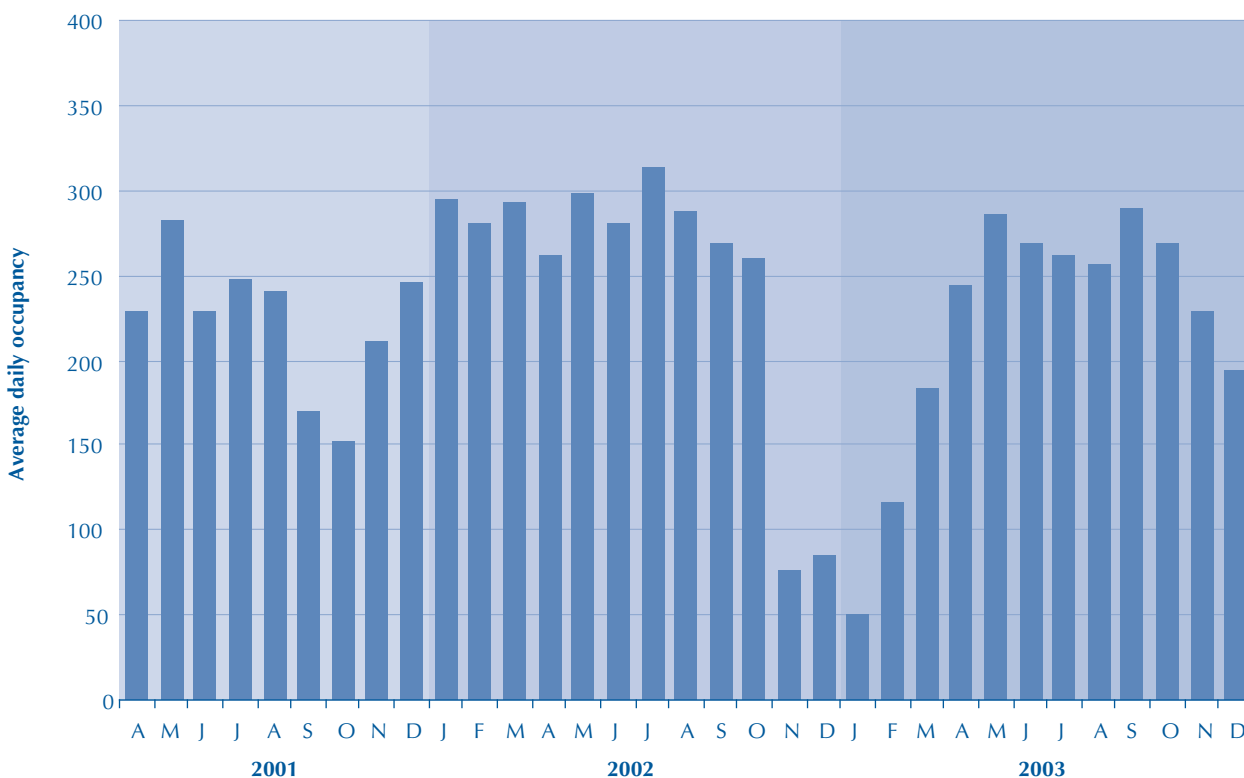
2.8 The processing capacity at Oakington has not always been fully utilised. **Figure 9** shows occupancy at Oakington over the period April 2001 to December 2003 was typically between 200 and 300 people, compared to its maximum of 400 people at any point in time. Our interviews with screening officers at ports and the Asylum Screening Unit in Croydon suggested that some staff were unclear which applicants were suitable for Oakington and so did not refer all potential cases. The Directorate's highest priority for places at Oakington is for applicants from countries that

it presumes safe, and it sends around 80 per cent of them to Oakington. However, it does not send sufficient other straightforward cases to Oakington to make full use of its capacity.

2.9 There have also been some logistical difficulties in moving some claimants from screening locations to Oakington and Harmondsworth, for example the Directorate has not been able to organise reliable transportation of suitable applicants from Croydon to Harmondsworth. The Directorate is re-examining the criteria for fast tracking and seeking ways to overcome the logistical difficulties by introducing ad hoc solutions in advance of improved permanent contract arrangements.

9 Occupancy of Oakington Reception Centre, April 2001 to December 2003

Oakington has operated below its full capacity of 400 places.



NOTES

- 1 There are 430 beds at Oakington, but a planning agreement with the local authority limits its capacity to 400 people. To allow for applicants en route or departing from Oakington, the Directorate considers its operational capacity to be 360 people.
- 2 The low occupancy level from November 2002 to January 2003 was due to the Directorate's decision that Oakington should handle only Non-Suspensive Appeals cases in this period.

Source: National Audit Office analysis of the Directorate's management information

Some applications are not suitable for the existing fast track procedures, but there may be scope for further shortening of the standard processing procedures

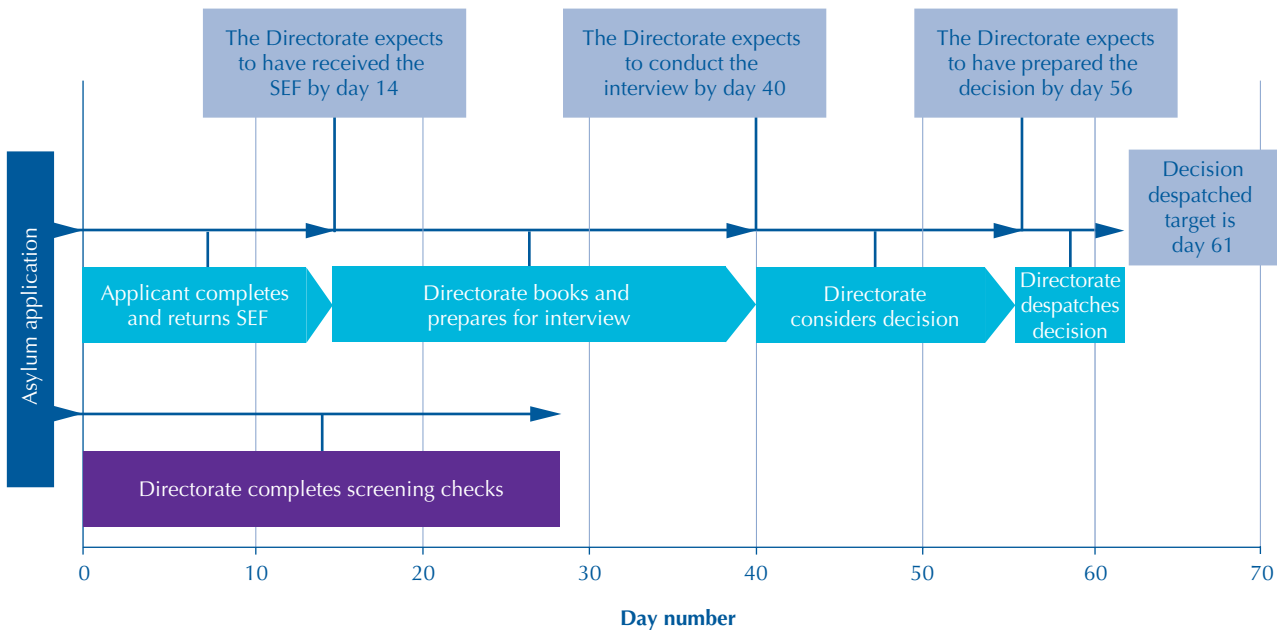
2.10 Some applicants are unsuitable for the existing fast track procedures at Oakington and Harmondsworth because of the complexity of their case, their age, health or the composition of their family group. Cases outside the fast track processes are usually processed by Directorate staff based at offices in Croydon and Liverpool. The standard procedures for dealing with applicants are designed with the intention of meeting the two-month target for most applications (Figure 10), although complex cases are expected to take longer.

2.11 The Directorate has made some significant improvements to its procedures, for example better monitoring of progress made with new applications. Our examination suggests that further improvements to the standard decision making process could be made:

- **Substantive interviews with asylum applicants could be conducted earlier.** Under the standard procedure, the Directorate gives at least two weeks notice of interviews to allow applicants sufficient time to obtain legal representation, if they wish to do so, and to have received notification of interview even if they have changed address. However, many applicants will already have received legal advice prior to submitting their written evidence. If interviews were booked at the time applicants made their application this would reduce the elapsed time built into the process.

10 The two-month decision process

There are four key stages to the decision process.



NOTE

1 We found that in the period July to September 2003, the average time taken to reach each stage of the decision process was broadly in line with the Directorate's expectations, with the exception of interviews which were complete by day 48 on average.

Source: National Audit Office

- **The elapsed time allowed to reach a decision could be reduced.** Under the fast track procedures, the Directorate expects caseworkers to prepare their decisions in one day (Harmondsworth) or three days (Oakington) respectively following interview. Under the standard process, on average²² caseworkers interview applicants 48 days after their initial application and take another 8 days (they are allowed up to 16 days, to allow for high caseloads per caseworker) to finalise their decisions. In some cases, applicants or their representatives provide more information to the Directorate, but the Immigration Law Practitioners' Association told us that their members had difficulty in contacting caseworkers. Compared to the average of around 9 hours spent by caseworkers on each application (1 hour in preparation, 1½ hours in interview, and 6 hours for the decision and its documentation) there is scope to reduce the elapsed time taken. Reducing the time span to decide all applications by 17 days, through a combination of earlier interviews (by 15 days) and earlier decisions (by 2 days), £19 million²³ a year would potentially be saved based on the 2003 application levels.²⁴
- **The Directorate could send decision letters more quickly.** For applications made in the period July to September 2003 the Directorate took an average of four days to send out completed decision letters. A reduction in the time between the completion and the despatch of the decision to 2 days would save support costs averaging around £2 million based on the 2003 application levels.²⁴
- **The Directorate could improve the quality of information it collects on why some cases fail to meet the two month deadline.** We examined 24 applications where the target had been missed to identify the causal factors. Our analysis suggested the delay was unavoidable in 9 (38 per cent) of the cases. Most commonly, the problems were caused by delays in arranging interviews or there was no clear reason for delay. The Directorate told us that the booking of some interviews was delayed because some outlying offices had been slow in passing on internal documentation. **See box** for an example of a delay.

Case example B

Failure to despatch a refusal letter had financial consequences for the Directorate

Mr B arrived from Russia and claimed asylum in September 2002. He was interviewed and the caseworker prepared a refusal letter in November. However, the letter was never sent, the Directorate noting in January 2003 that the case had been "overlooked". The application was then put into backlog stores, until it was decided at the end of 2003. Mr B then lodged an appeal in January 2004. In the meantime the applicant's family had arrived in the UK in June 2003 and were being supported by the Directorate.

Source: National Audit Office sample of backlog applications

- 2.12 The Government plans to introduce accommodation centres on a trial basis to house applicants while their applications are considered and appeals determined. The new centres are intended to facilitate the decision making process by redesigning existing processes, improving contact with applicants, improving arrangements for integrating refugees into the community and improving the arrangements for removing failed applicants. The opening date of the first trial accommodation centre, near Bicester, is uncertain and will not be for at least another year. The planned capacity of the new trial centres, currently 3,000 places in total, will represent a relatively small proportion of the total likely number of asylum applications. The Directorate will therefore need to continue to operate its existing decision processes at significant volumes for the foreseeable future, subject to the outcome at the pilot sites.
- ii) **The timeliness of the Appellate Authority's arrangements for dealing with appeals**
- 2.13 The Appellate Authority has responsibility for ensuring that the capacity of the appeal process is sufficient to handle the demands made upon it and that its resources are used efficiently and effectively. Once started appeals take time, requiring the preparation of formal legal submissions, the attendance of legal representatives at the hearing and the availability of an adjudicator to hear the case and a suitable place for this to happen. For those cases that proceed to appeal, currently around 54 per cent²⁵ of all applications, the appeal stages take much longer than the initial decision stage (**Figure 11**). As well as the cost of the adjudicator hearing, estimated at £2,540 per case in 2002-03 including legal aid, the cost of support during this stage averaged £1,980.

²² Based on the period July to September 2003.

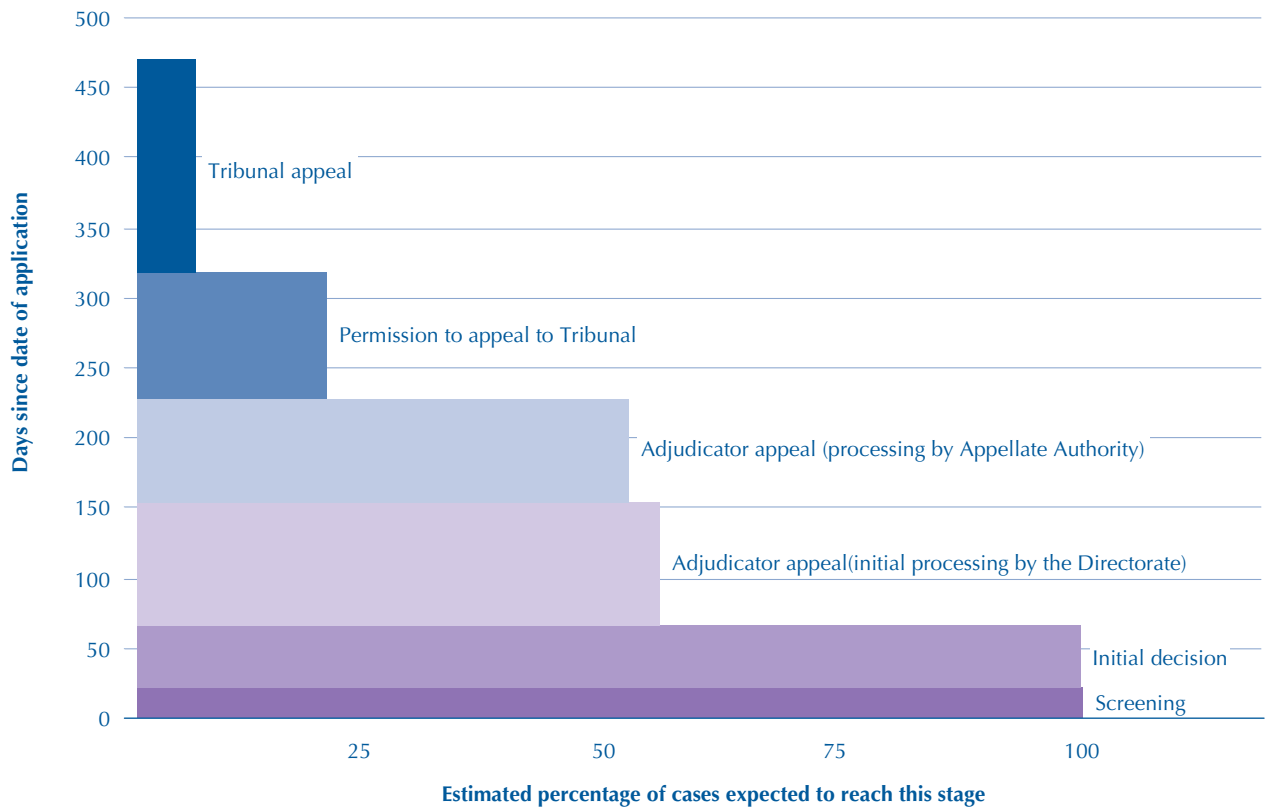
²³ £17 million relates to earlier interviews and £2 million relates to earlier decisions.

²⁴ Cost savings are based on the assumption that time savings could be sustained through the rest of the process and on the assumption that the levels of applications and decisions remain at 2003 levels, although the number of asylum applications made does fluctuate significantly. Savings would be less if the continuing fall in applications so far during 2004 is sustained.

²⁵ Based on those applying in 2002, and sourced from Home Office Asylum Statistics 2002.

11 Average time taken to complete stages of the asylum process, 2003

Initial decisions on new applications were made in 63 days on average in 2003, but the appeal stages took much longer.



NOTE

Average times are based on new applications and appeals reaching the milestones during 2003, and not on a cohort of applications.

Source: National Audit Office analysis of the Directorate's management information

2.14 Unlike the Immigration and Nationality Directorate which has direct managerial responsibility for its caseworkers, the Appellate Authority has no direct managerial authority over adjudicators or members of the Immigration Appeal Tribunal, both of which are judicial functions. The Appellate Authority works in partnership with the judiciary to help ensure the smooth running of the appeals system.

The Appellate Authority missed its targets for determining appeals in 2001-02 and 2002-03

2.15 Between April 2001 and March 2003, the Appellate Authority sought to determine 65 per cent of appeals, through both the Adjudicator stage and the Immigration

Appeals Tribunal, within four months²⁶ of the appeals being received by the Authority. The Authority failed to meet its target, achieving 43 per cent of cases in each of the two years. During this period, the Authority expanded its capacity substantially and increased its throughput. However, it still received more appeals than it had planned for. These figures, however, did not fully represent the elapsed time in the system. The measure used excluded the time between the appeals being lodged with the Directorate, as the applicants are required to do, and the appeals being passed to the Appellate Authority. The Directorate and the Authority agreed the rate at which appeals passed from the Directorate to the Authority on the basis of resources available to the end-to-end system.

26 The target was revised from 17 weeks (4 months less 3 days) in 2001-02 to 4 months in 2002-03.

2.16 For 2003-04, the Appellate Authority and Directorate adopted a joint target - to process 60 per cent of applications through the system, including both tiers of appeal within six months of the original asylum application. The target allows two months to reach the initial decision - as discussed in the previous section - plus four months for the appeal stages. The new target continues to provide an incentive for the Directorate to make initial decisions quickly but creates a new incentive for it to pass appeals on quickly to the Appellate Authority. However, the likelihood of a case meeting the target will depend on the number of appeal stages engaged by the applicant. Cases where decisions are not appealed are very likely to meet the target and cases where appeals proceed no further than the Adjudicator stage are also likely to meet the target. The relatively small proportion of cases, however, where the applicant applies for permission to appeal to the Tribunal are more likely to miss the target

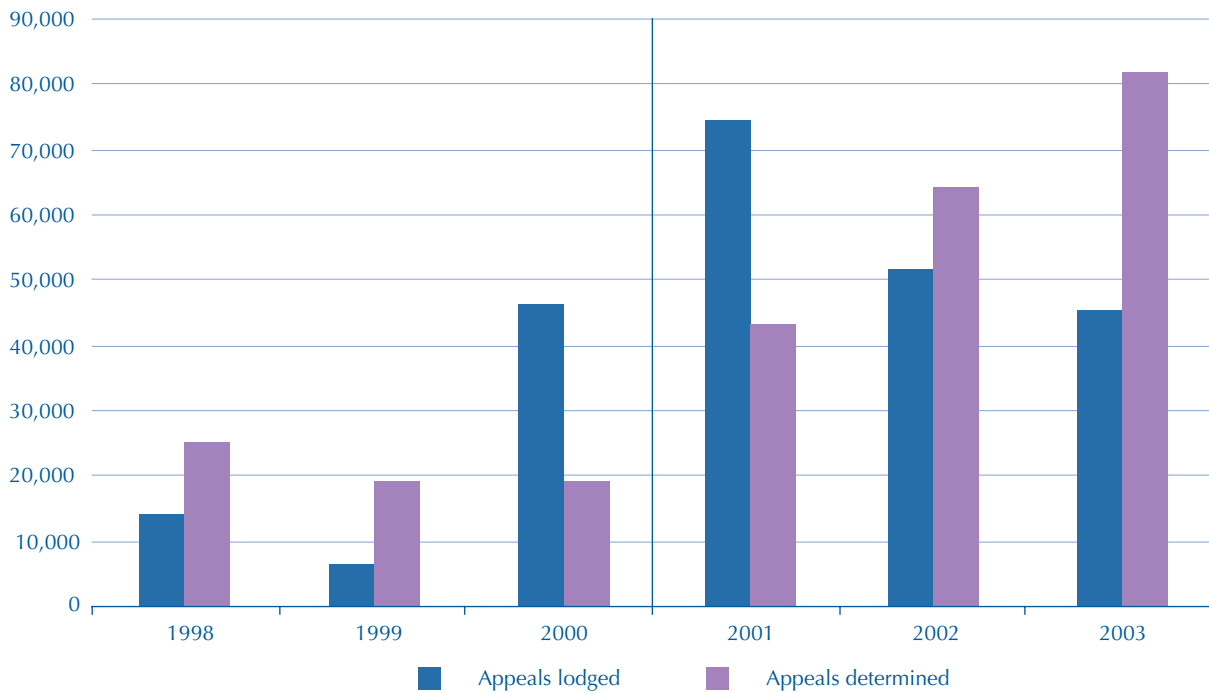
- data available suggests that gaining a decision on permission to appeal to the Tribunal alone took an average of about 88 days in 2003. The Directorate told us that it and the Appellate Authority had processed 63 per cent of applications made between April 2003 and August 2003 within the six months.

The Appellate Authority has increased its capacity to deal with appeals

2.17 The Authority has increased its capacity to process appeals. Between 1998 and 2001 the number of appeals rose sharply but has since dropped back (**Figure 12**). Between July and December 2003, for example, the Authority determined an average of nearly 7,000 appeals a month, compared to the average of 1,600 per month in 2000.

12 Appeals lodged and appeals determined, 1998 to 2003

Since 2000, the Appellate Authority has significantly increased the number of appeals determined.



NOTE

The numbers of appeals lodged before 2001 were prepared using manual counts and are believed to be less reliable than subsequent data.

Source: National Audit Office analysis of Home Office Asylum Statistics

2.18 The measures taken by the Authority to increase its capacity have included:

- recruiting more adjudicators - full-time adjudicators increased in number from 70 in June 2001 to 172 in December 2003 (a 146 per cent increase) and part-time adjudicators increased from 330 to 411 (a 25 per cent increase) over the period;
- expanding courtroom space - opening five new appeal hearing centres, making 12 in total, and using space in satellite venues (total courtrooms available increased from 104 in January 2002 to 145 in December 2003); and
- making better use of court time - adjudicators hear more cases per day and fewer hearings are now adjourned, falling from 28 per cent of hearings in August 2001 to 16 per cent by December 2003.

While courtroom capacity in London and some other centres is well used, capacity in other centres is underutilised

2.19 In 2003, courtrooms used by the Appellate Authority were used on 83 per cent of the available days. **Figure 13 overleaf** shows the utilisation rates of the 12 main appeal hearing venues during the year. Most of the centres are well-used, with seven centres used on over 90 per cent of the available days. But four new centres (with 44 courtrooms) in Bradford, North Shields, Manchester and Stoke were underutilised. The Appellate Authority told us that it needs a geographical spread of hearing centres to serve its client base - asylum applicants dispersed around the country by the Directorate - and therefore it expects variations in

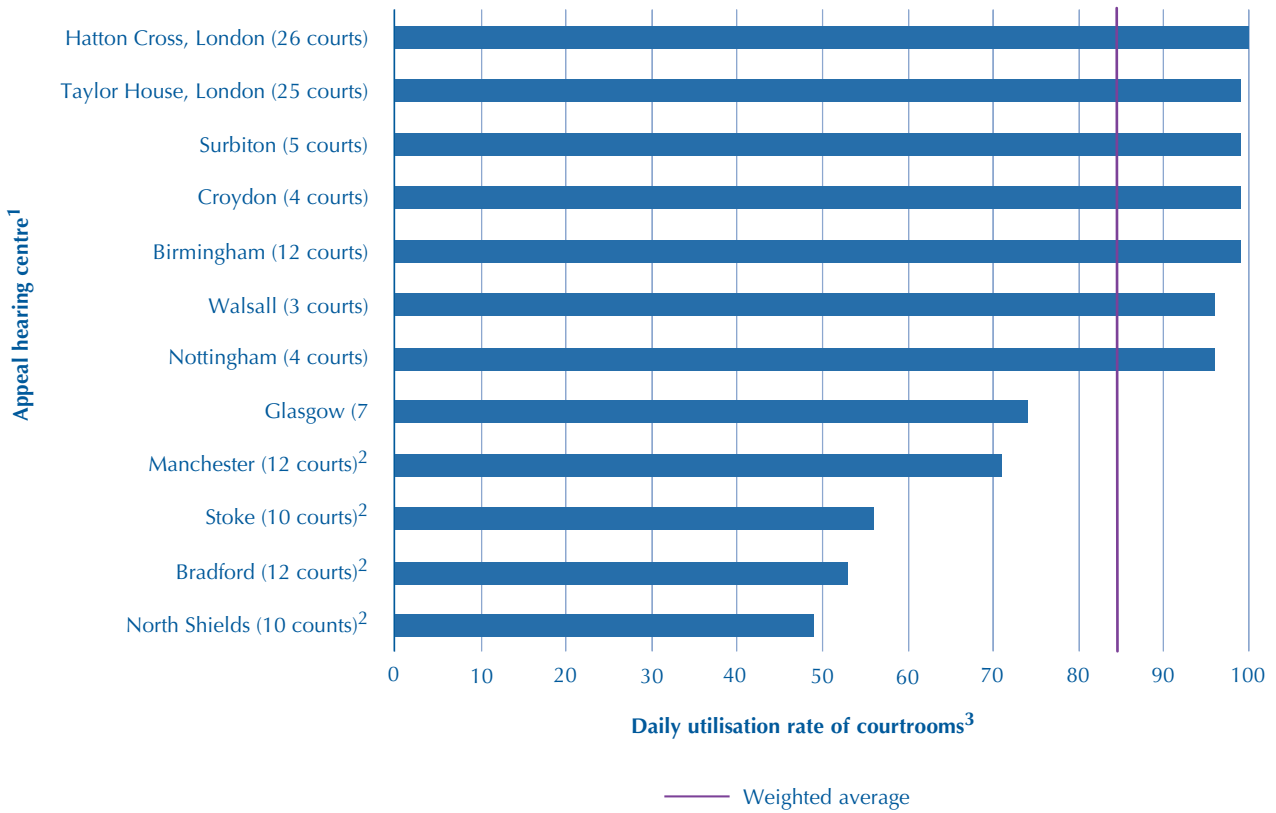
utilisation. It attributes the low utilisation rate at the least used centre, at North Shields, in part to the dispersal of fewer asylum applicants to the North-East than the Appellate Authority had anticipated. In response, since August 2003 the Authority has shared the centre with the County Court and it is making arrangements for the Magistrates' Court to join them. Even allowing for these sharing arrangements (they are included in Figure 13) utilisation rates were low at some centres. Since 2003, the Authority has done more to share facilities at Stoke hearing centre and other locations with other tribunals and panels.

Failed applicants for asylum, or short-term protection, are expected to leave the United Kingdom or be removed

2.20 In most cases, the asylum process ends when the applicant is either granted asylum or short-term protection or leaves the United Kingdom. It is therefore important for the integrity of the whole system that failed applicants are removed if they do not depart of their own volition. The Directorate faces a number of challenges in trying to remove failed asylum applicants including the difficulty of tracing applicants, dealing with further legal hurdles (such as new asylum applications from family members), personal circumstances (such as illness or marriage), and reaching agreement with other countries to provide new travel documents to their own nationals and take them back. The number of principal applicants removed increased from 8,980 in 2000 to 12,490 (17,040 including dependants) in 2003.

13 Utilisation of the Appellate Authority's main appeal hearing centres, 2003

Most appeal hearing centres are well used although some were less well used than others.



NOTES

- 1 These 12 centres accounted for 90 percent of the capacity available in 23 locations in December 2003.
- 2 The centres at Bradford, Manchester, North Shields and Stoke were opened during 2003.
- 3 The daily utilisation rate of courtrooms represents the number of courtrooms that were used each day (including those loaned to other services) as a percentage of courtrooms available for use. A courtroom that is used for any part of a day is counted as fully utilised, as is a courtroom that is loaned to another service for any part of a day. The "weighted average" daily utilisation rate of the appeal hearing centres is the average weighted by the number of courtrooms.

Source: National Audit Office analysis of the Appellate Authority's monthly management information

Part 3

Reducing the number of outstanding cases

3.1 This Part of the report examines:

- i) the action taken by the Directorate and Appellate Authority to reduce the number of outstanding cases; and
- ii) the lessons to be learned from managing the number of cases awaiting decisions or appeal hearings.

i) The action taken by the Directorate and Appellate Authority to reduce the number of outstanding cases

3.2 Figures kept by the Directorate and Appellate Authority suggest that the number of outstanding asylum applications stood at 63,700 in December 2003, comprising 24,500 undecided applications, 12,000 appeals lodged with the Directorate but not sent to the Appellate Authority, 15,500 awaiting appeal to an adjudicator and 11,700 appeals awaiting determination by the Immigration Appeal Tribunal. The number of applications awaiting an initial decision has fallen from a peak of 125,000 in 1999 (**Figure 14 overleaf**) reflecting, in the main, the fact that the number of initial decisions has exceeded the number of new applications in each year since 2000, except 2002 (**Figure 15 overleaf**).

3.3 In October 2003, the Government announced that families who had applied for asylum before 2 October 2000 would be considered for permission to remain indefinitely in the United Kingdom. The Directorate estimates that this decision will affect up to 15,000 families at all stages of the asylum process, thereby reducing the number of cases (some have initial decisions or appeals outstanding and others have exhausted their appeal rights) by around the same number. The Directorate expects this decision to save money on the cost of support and legal aid. Applications in the backlog that do not meet the criteria announced for this exercise will have to wait for their case to be processed in the normal way.

3.4 Since July 2003, the Directorate has had two teams, comprising around 30 caseworkers, dedicated to deciding older outstanding applications. In addition, other teams will process applications in the backlog when the flow of new applications allows. If the number of new applications were to remain at the March 2004 level - a level that was low compared to recent years - the number of outstanding cases would be reduced to what the Directorate terms "work in progress" levels towards the end of 2004, around 8,000 to 10,000 cases at the initial decision stage. The Directorate expects that some cases will always take longer than others to decide, for example where the political situation in the country of origin may be turbulent but temporary or where the Directorate has to wait for medical evidence. The Appellate Authority's forecast for its work-in-progress at the end of 2004 is for between 24,000 and 27,000 cases. The Authority reported, however, these estimates were affected by what might happen to judicial listing and sitting patterns which were changing at the time of this report.

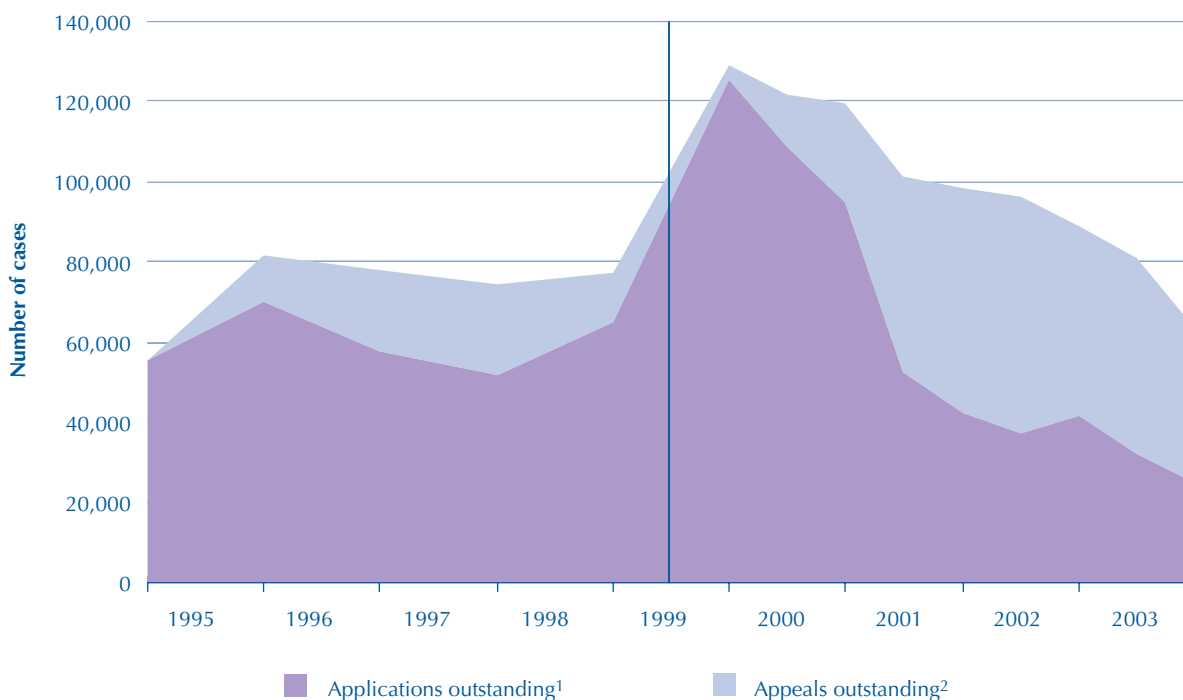
The Directorate has recently introduced arrangements to process applications to extend permission to stay

3.5 From 2000 to 2003, the Directorate has refused asylum but granted short-term protection to around 69,000 applicants²⁷. Most commonly these applicants were not at risk of persecution but, owing to the situation in their home country, it was not safe to return. In other instances, the applicants had been under 18 years old and unaccompanied when their application was decided. Periods of protection granted ranged from a few months to four years. Once their period of protection has expired, people must leave the United Kingdom or apply for an extension. The Directorate has policies on the circumstances in which it extends short-term protection. Until 2003, applicants gaining protection were often granted four years Exceptional

27 7,210 applicants in 2003, 20,135 in 2002, 20,190 in 2001 and 21,820 in 2000.

14 Undecided asylum applications and appeals, 1995 to 2003

The backlog of asylum applications and appeals peaked in 1999 at 129,000 cases, and stood at over 60,000 cases in December 2003.



NOTES

- 1 Applications outstanding includes some cases that were being worked. It excludes secondary casework such as the Directorate's reconsideration of flawed initial decisions. Numbers of applications outstanding before 2000 are not directly comparable with later years because methods of collecting data were less reliable in earlier years.
- 2 Appeals outstanding includes some appeals that have been listed for hearing or heard but not decided. The backlog of appeals prior to 2000 may be under-stated owing to incomplete information at the Directorate.

Source: National Audit Office analysis of Home Office Asylum Statistics

Leave To Remain after which they would, upon application, usually be granted indefinite leave to remain. Since April 2003, the Directorate reported that its normal policy has been to grant initial protection for no more than three years and to grant further leave (whether limited or indefinite) after that only where an applicant still qualifies for such leave at the time of their subsequent application.

3.6 By December 2003, when the Directorate started to review the applications to extend short-term protection, it had accumulated around 4,700 applications awaiting a decision. It initially allocated 20 caseworkers to this work. In May 2004, the Directorate increased the staffing to 35 to enable it to process the remaining 3,500 applications awaiting a decision. The Directorate reported that it will deploy more resources as necessary until work in progress levels are achieved.

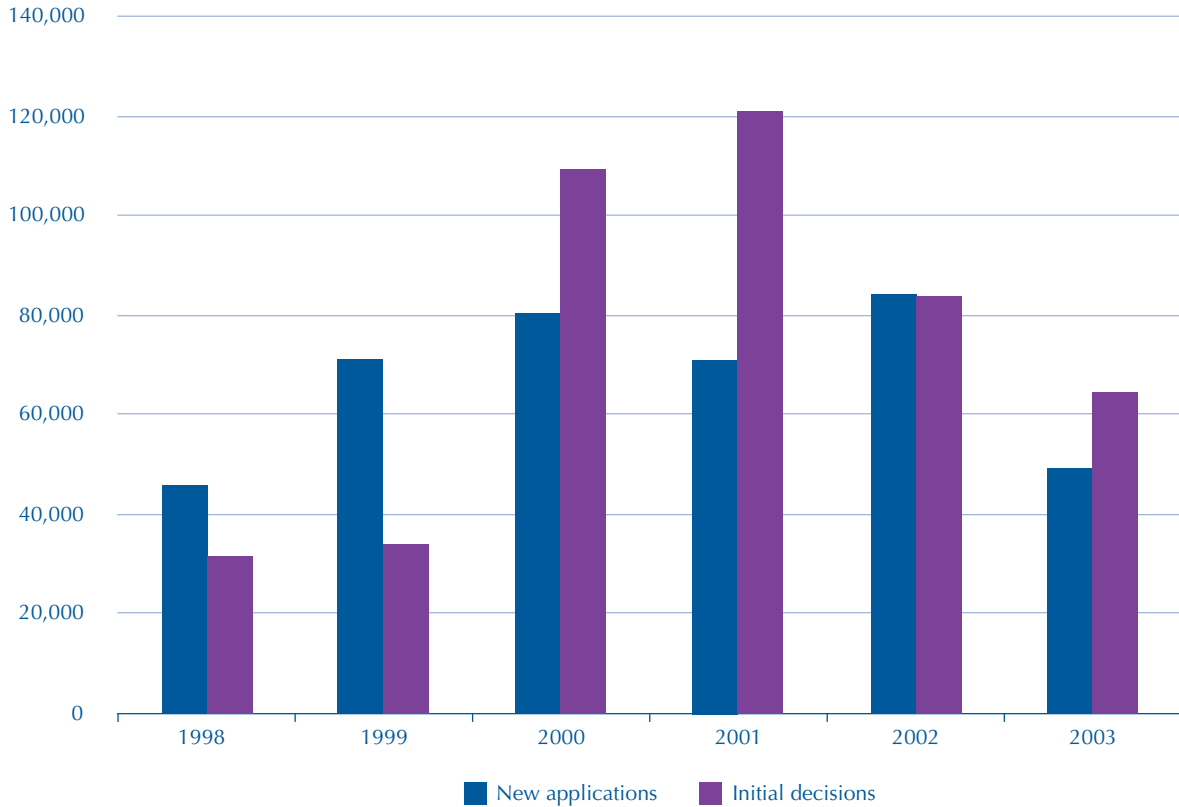
ii) The lessons to be learned from managing the backlogs

The delays in dealing with applications incurred significant extra costs for the taxpayer, created uncertainty for applicants and resulted in additional complications for the Directorate

3.7 The rapid rise in the number of outstanding applications in 1999 (Figure 14), prompted by a rapid increase in the number of applications for asylum, created problems for the Directorate and Appellate Authority and for the individuals whose lives were affected. Although more than half of outstanding applications were cleared within 18 months, some other cases took years to clear. The volume of initial decisions taken increased in 2000 and 2001 but fell back in 2002. The reduction in initial decisions in 2002 reflected a decision to reassign some

15 Applications and initial decisions, 1998 to 2003

Since 2000, the Directorate's decision making capacity has been sufficient to keep up with the number of new applications and to reduce its backlogs.



Source: National Audit Office analysis of Home Office Asylum Statistics

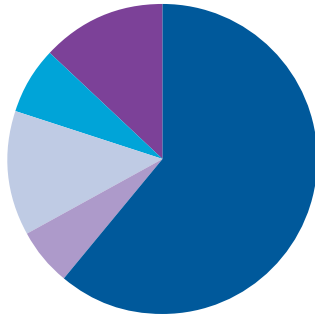
caseworkers to removals casework. Data collected manually by the Directorate in August 2002 suggested that there were 3,200 undecided applications in the backlog from before 1998, 3,000 from 1999 and 5,400 from 2000. Since 2002, the Directorate has reduced the number of older cases. Thirteen per cent of all cases processed in 2003 were over two years old (**Figure 16 overleaf**). Some very old cases may still be outstanding. While their application is being considered, applicants are not usually allowed to seek employment, may be unable to choose where they live in the United Kingdom, and travel abroad may result in the Directorate deeming their application to be withdrawn.

- 3.8 The Directorate incurs additional accommodation and support costs from backlogs. At 2002-03 rates and taking account of the cost of dependants, these costs are equivalent to an average of around £7,690 for each year an application is left outstanding. The ability of the decision making process to respond quickly if needed to increasing applications can have significant financial implications. If there had been sufficient staff and

infrastructure to tackle cases as they arose between 2000 and 2003 around £500 million in additional costs to the taxpayer could have been avoided assuming refused applicants still eligible for support were removed. Deploying sufficient staff and infrastructure would however have required substantial practical issues to be addressed, particularly in the early years. In practice, the Directorate expanded its operations significantly in 2000 and 2001 (Figure 15), for example more than doubling the number of caseworkers from 355 to 769 between August 2000 and February 2001, with the Appellate Authority also expanding its capacity. These actions brought down the backlog and reduced costs. The Directorate considers that it would not have been able to expand its capacity to the extent required to clear applications as they came in, due to practical limits on recruiting and training staff and building up support infrastructure. The Appellate Authority told us that it had expanded its capacity in stages. In its view, limits on the availability of judiciary and interpreters - without compromising standards - would not have allowed the required capacity to be achieved in one go.

16 Age of applications decided, 2003

The majority (61 per cent) of decisions completed in 2003 were made within two months of application, while 13 per cent were made more than two years after the application was originally made which reflects the Directorate's efforts to clear some of its backlog cases during 2003.



- Up to 2 months (61%)
- More than 2 and up to 6 months (6%)
- More than 6 months and up to 12 months (13%)
- More than 12 months and up to 2 years (7%)
- More than 2 years (13%)

NOTE

The age of applications decided is based on the decision dates rather than the decision dispatched dates (normally several days later) which are not all recorded on the database.

Source: National Audit Office analysis of the Directorate's management information

3.9 The rate at which the Directorate processed applications at the initial stage was, however, scaled back during 2001 to enable some caseworkers to be transferred back to asylum removals work. If the rate at which cases were being processed at the initial stage had been maintained at 2001 rates into 2002, and the appeals and removals capacity had been available to deal with the increased flow, additional costs of up to £200 million might have been avoided. The Directorate judged that it needed to build up its removals capacity. In its view, if caseworkers had been retained on clearing initial decisions the costs saved would have been offset by the additional costs of not removing failed asylum applicants and consequently a reduced deterrence effect. There are a number of factors that affect the precision of any estimates of additional costs, including the difficulty of estimating the extra costs to be incurred in processing applications and appeals faster, and the need to allow for some family cases whose applications are refused not being removable, yet still entitled to support. Details of both our supporting calculations are provided at Appendix 5.

3.10 As cases age they become more complex to deal with (see box plus case studies). The applicant may no longer be in contact with the Directorate - although they are obliged to keep the Directorate informed of their address. The political situation in the country of origin may alter, and the personal circumstances of applicants may change. In many instances, applicants who are in the United Kingdom for some time will begin to establish themselves in their local communities. If they are then refused asylum it becomes more difficult for them to leave and for the Directorate to remove them.

Examples of complications arising from delay in dealing with applications

Our analysis of 65 backlog cases illustrated the additional complications that arise for both applicants and the Directorate if applications are not considered promptly.

- i In seven cases, applicants' dependants arrived while their applications were being processed. New arrivals incur additional support costs for the Directorate and can cause further delays where spouses or children subsequently apply for asylum in their own right. Prompt refusals of asylum will not necessarily stop relatives arriving but it may make it less likely.
- ii In two cases, there was independent medical evidence that applicants had suffered mental illness in part as a result of delays in the asylum process (case example C). And in a third case (case example D), delay had taken place against a backdrop of illness within the applicant's family.
- iii Delays can have significant administrative consequences, for example in one case the applicant had attended a substantive interview but no decision had been taken. The case was added to the backlog. (case example E).

Case example C

Delays contributing to an applicant's ill health

Mr C from Russia applied for asylum in April 2000. He had still not been interviewed by December 2002 when his NHS consultant wrote to the Directorate to report that Mr C had been in hospital suffering from severe depression. The consultant reported that Mr C's long separation from his family and uncertainty about his future was having a detrimental effect on his mental health. The applicant later attended an interview but it was cancelled owing to his ill health. The Directorate refused asylum in December 2003.

Case example D

An applicant who has experienced serious delay

Mr D, from the Middle East, arrived in the UK with his family and claimed asylum in October 1996. He was interviewed within a month but no decision was made. His legal representative wrote to the Directorate on four occasions to provide further information. The case was delayed in part because, between October 2001 and August 2002, the Directorate was investigating the possibility of removal to a safe third country. His wife is now suffering from health problems. The Directorate refused Mr D asylum in September 2003. However, he and his family may now be entitled to permission to remain indefinitely in the UK under the concession announced by the Government in October for some family cases more than three years old.

Case example E

An applicant who was interviewed but not given a decision

Ms E from Tanzania first applied for asylum in 1994 and was quickly refused. During 1995, the Directorate's decision was upheld by the adjudicator and the Immigration Appeal Tribunal and Ms E returned to Tanzania. In 1999 she flew to Heathrow and claimed asylum. The Directorate interviewed her that year and was considering refusing asylum when work on the case ceased. Ms E was eventually refused asylum in February 2004.

Source: National Audit Office sample of backlog applications

3.11 Some cases will have taken longer to decide because special factors, for example medical referral, that have necessarily delayed a decision. The Directorate has introduced mechanisms to track cases through the initial decision making process so that any lack of progress can be identified, challenged and remedied. The Directorate reported that without the pressure from a large backlog of cases awaiting decision, the likelihood of less straightforward cases remaining unactioned without good reason would, in its view, be less in future.

Adequate procedures need to be in place to tackle those applications which do not count towards the achievement of time targets

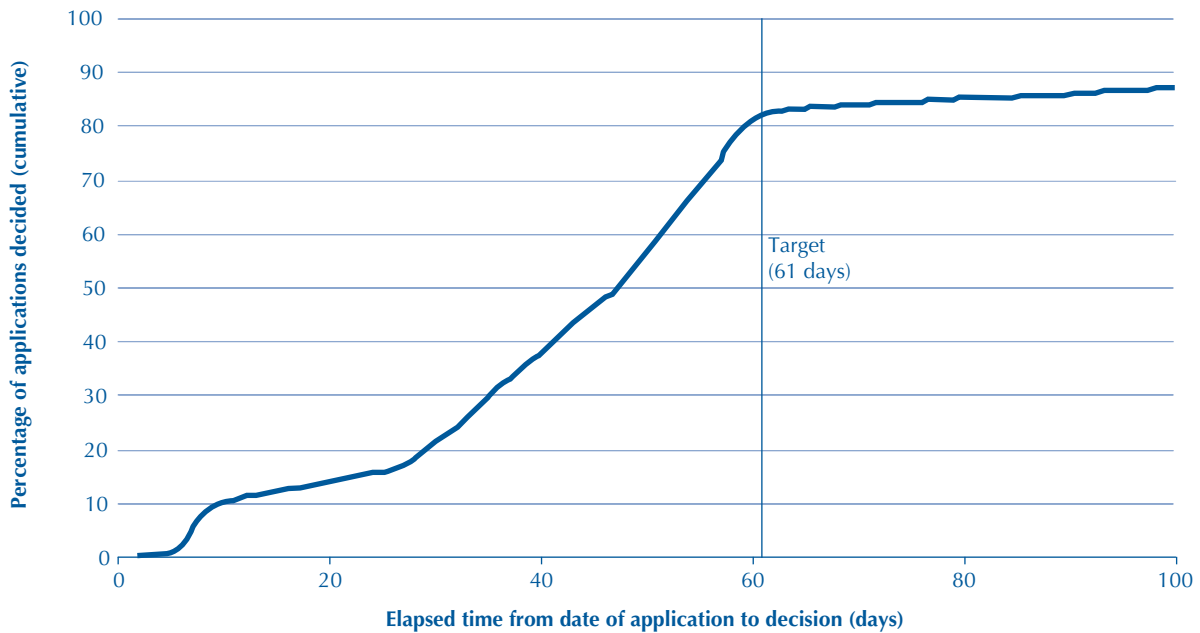
3.12 There are a number of lessons to be learned for the management of future backlogs should the rate of future applications begin to rise again. Our work suggested that the focus on time targets for processing applications provided an overriding objective for caseworker teams to speed up the process. There is also a need, however, to have adequate procedures in place to ensure that applications falling outside these targets, or outside the definition of the target, are given consideration and that an adequate service is provided to the applicant. At the time of our examination, outstanding applications at the initial stage had remained undecided for a variety of reasons:

- **Cases that had failed to meet the two-month processing deadline, often because they had raised complex issues, no longer counted towards the main performance target and therefore did not receive the same priority.** Caseworkers told us that their focus was very much dealing with the new applications within the two-month target. There are internal targets at the four- and six-month points for cases that miss the two-month target. Our analysis suggests that the Directorate tends to decide a lot of cases in the period immediately before the two-month deadline but that, once the target is missed, there is a slowdown in the rate at which cases are decided (**Figure 17 overleaf**). Our review of case files suggested that some cases raising more complex issues were left for a considerable period if significant caseworker input was likely to be required. For example, one of the backlog cases that we examined was an Iraqi man with a speech impediment. The impediment caused difficulties at the interview in November 2000, and the caseworker put the case on one side rather than make alternative arrangements to verify the evidence submitted in the applicant's Statement of Evidence Form. The Directorate later noted that the case should be decided by November 2003, but it had still not done so by April 2004.
- **Cases initially expected to be removed to a third country for processing, but which subsequently have to be processed within the United Kingdom.** The Dublin Convention 1990 and its replacement, the Dublin Regulation 2003, provide a mechanism for establishing which of the participating states is responsible for considering asylum applications made on their territory. It is commonly invoked where an applicant has previously claimed asylum in another participating state or had a reasonable opportunity to do so²⁸. In third country cases, the Directorate usually seeks to remove the applicant to

28 The "Dublin" criteria of responsibility in order of importance are: recognition as refugee of family member; valid residence permit or visa; proven entry to a participating state; first state in which asylum application was made.

17 The impact of the two-month target on how long the Directorate takes to make decisions on new applications (January to June 2003)

Once cases have missed the 61-day target, the Directorate shows less urgency in completing their decisions on new applications.



NOTE

The step rise in decisions made in under 10 days represents cases fast tracked at Oakington.

Source: National Audit Office analysis of the Directorate's management information

the relevant country to decide the application. However, prior to the new Regulation, fewer than 10 per cent of these cases had led to a refusal of asylum in the UK on third country grounds, usually because the third country is unable to confirm, or disagrees, that it is responsible for deciding the application. As a result, the processing of a large number of applications was delayed. Between April 2001, when the processing target was introduced, and December 2003, 30,900 applications (17 per cent of all applications) were excluded from the target for this reason²⁹. Of the applications made within this period, the average processing time was 164 days for those that had been completed, with 33 per cent still undecided by June 2003. In two of our 23 in-depth case studies, the applicants were fingerprint matched in April 2003 to another European state. One was refused asylum on third country grounds in September 2003, but the other applicant had not been refused asylum or even been interviewed as part of the main asylum decision process by March 2004. The Directorate expects that the new Regulation will result in an improvement in the success rate of its third country referrals.

■ **There have been significant delays in reconsidering decisions that may have been flawed.** Where the Directorate acknowledges that the way in which it made its initial decision was flawed - most commonly where it has erroneously refused an application on non-compliance grounds - it is obliged to reconsider its decision. However, the Directorate's reconsideration of such cases is not included in its performance target. The Home Office carried out analysis on our behalf that identified that the Directorate had agreed to reconsider around 20,400 initial decisions made in the period 2000 to 2002 which related to applications in the same period. By December 2003, it had reconsidered around 15,400, taking an average of around 340 days from the date of the original decision. An example of the handling of a flawed decision is shown below.

²⁹ The Home Office's Asylum Statistics record in a footnote that performance against the two-month target excludes third country cases which may be the responsibility of other states under the Dublin Convention.

Case example F

A flawed decision that has not yet been reconsidered

Mr F, an Afghan, entered the UK with six members of his family and applied for asylum in August 1999. The Directorate issued his Statement of Evidence Form (SEF) in April 2001 and, when it failed to be returned on time, refused Mr F for non-compliance. In June 2001, Mr F lodged an appeal arguing that he had submitted the SEF on time. The Directorate found that it had in fact received the SEF within the deadline, and agreed to withdraw its decision in September 2001. However, it failed to notify the applicant so he applied for a judicial review. The Directorate advised the applicant to withdraw his judicial review and it had to meet additional legal costs of £2,000. The Directorate interviewed the applicant in September 2002 but, by July 2003, had not decided the claim. Mr F and his family may now be entitled to stay in the UK under the terms of the recent Government concession to families who had submitted an asylum application before October 2000.

Source: National Audit Office sample of backlog applications

- **Applications have sometimes been delayed because the Home Office suspends the processing of applications from some nationalities.** The suspension of the process has occasionally occurred during volatile periods in some countries. Most recently, between February and May 2003 the Home Office halted the processing of decisions involving applicants from Iraq and the Chief Immigration Adjudicator agreed to the request for adjournment of all appeals involving Iraqis. The Directorate has since taken steps to prevent a large backlog of Iraqi applications accumulating. In the period July to December 2003, it received 1,275 applications from Iraqis but decided 3,475 Iraqi applications.

3.13 Our examination highlighted a number of areas where the Directorate could improve its management of future backlog cases³⁰:

- **The Directorate needs to improve the quality of information available on the composition of the cases placed in the backlog.** The Directorate has been unable to extract reliable information from its IT systems on the age of cases, the nationalities involved or other key data on the nature of the application including, for example, whether there are any dependants involved. Information on the age of backlog cases was collated manually in August 2002 following a resource intensive exercise and was reconciled to the IT systems.

- **The Directorate needs, for the bulk of applications, a clearer strategy for deciding which cases should be dealt with first and ensuring that cases are progressed.** Whilst the Directorate has recently given priority to processing applications from people from Iraq following the fall of Saddam Hussein, it is not in general selective about which cases are taken first from the Directorate's archive. From time to time, cases involving people held in detention, applicants where there are known security risks and cases that are the subject of ministerial correspondence have been given priority by the Directorate. However, the number of such cases is usually very small. The approach adopted reflects, in part, the lack of ready information on the nature of the cases held in the backlog.
- **The Directorate needs to strengthen its arrangements for evaluating reports from third parties of fraudulent applications.** Whilst cases are held in the backlog, the Directorate may receive new evidence, whether from the applicant, their legal representative or third parties. Our examination suggested that this information tended to be placed on file rather than evaluated at the time of receipt. Amongst the 65 backlog cases we examined, four contained evidence from third parties that the claims could be fraudulent but no action was taken in any of these cases (see case examples G and H). The information in these instances had been received in June 2000, January 2001, March 2003 and July 2003. The Directorate told us that its emphasis had been on clearing the backlog of applications at a time of high levels of new applications, and it considered that it would not have been cost-effective to deploy its resources on evaluating new information on backlog cases. The Directorate does have a Multiple Applications Unit that specialises in determining multiple applications from the same person. Some of these are found to be fraudulent, and it liaises with the Immigration Service who will prosecute perpetrators where it is practicable to do so.

³⁰ Listing and case management of appeals are judicial decisions, so they are not covered by this report.

Case example G

A possibly fraudulent applicant whose case was not prioritised

Mr G applied for asylum in December 1998, claiming to be a Rwandan fleeing from racial violence and murder. When he lost his identity papers in January 2001, they were found by a member of the public and returned to the Directorate together with some emails from another claimed Rwandan applicant that provided information on common Rwandan phrases, provinces and villages. An immigration officer questioned Mr G about this matter and noted on the file that he had no doubt that this was a fraudulent claim. Mr G subsequently completed and returned his Statement of Evidence Form as required, but the Directorate had still not interviewed him by July 2003. He was eventually refused asylum in April 2004.

Case example H

A possible multiple applicant who has been interviewed but not decided

Mrs H and her children from Kosovo applied for asylum in May 1999. She was interviewed in June 2000. Also in that month, a shop faxed the Directorate with the information that they had detained her for shoplifting and found evidence that she was using three separate identities. The Directorate filed the information but had not taken any further action on this case by July 2003. Unless she has a criminal conviction, Mrs H and her family may now be entitled to permission to remain indefinitely in the UK under the new concession. The Directorate was not able to tell us whether it had identified Mrs H as a multiple applicant.

Source: National Audit Office sample of backlog applications



Part 4

Improving the quality of initial decisions

4.1 This Part examines:

- i) the Directorate's scrutiny of asylum applications;
- ii) its arrangements for monitoring the quality of its initial decisions; and
- iii) the action that could be taken by the Directorate to further improve the quality of its work on asylum applications.

i) The Directorate's scrutiny of asylum applications

4.2 The Directorate has to decide whether asylum applicants are refugees within the definition of the Refugee Convention. In many instances, caseworkers face a significant challenge in determining whether the rules governing asylum status are met. Much of the interview work and scrutiny of written evidence is aimed at confirming the applicant's country of origin, the basis of their claim and assessing the credibility of the applicant's case for gaining asylum.

4.3 The Directorate's task is complicated by a number of factors:

- **Many applicants do not possess any form of identification.** Whether it is an unavoidable consequence of their departure from their home country or because they seek to lodge false claims (or to frustrate removal), many applicants do not supply the Directorate with any form of identification. Some applicants are thought to come to the United Kingdom for economic reasons, and they may have been coached by their agents or others on how to make a convincing asylum application and advised to destroy their documentation. Only five of the 23 case study applicants we followed through the system had passports, although another five had national identity cards from their country of origin.

- **Some applicants need to be treated with special sensitivity, such as minors, or victims of torture and rape.** The Directorate does not normally carry out substantive interviews of minors and, during screening interviews, the minor must be accompanied by a responsible adult. The Directorate does not have special arrangements for interviewing victims of torture or rape (sometimes this information is not disclosed before the interview), but it aims to create an interviewing environment in which applicants are able to fully explain their situation. It will also accept medical evidence submitted on behalf of applicants by the Medical Foundation for the Care of the Victims of Torture or by others. The Directorate told us that about 10 per cent of applicants claim to have been tortured, and supporting evidence of torture is supplied in a minority of these cases.

- **Casework teams need to keep abreast of developments in a large number of countries.** To assess the credibility of the case submitted by each applicant, caseworkers need up-to-date knowledge of the situation in that country, sometimes in quite localised areas. In the first six months of 2003, applications were received from 146 nationalities, with individuals often speaking particular local dialects. Interviews are assisted by interpreters employed by the Directorate but there can be difficulties identifying the correct dialect. For information on the countries of origin, the teams rely on access to information on the Directorate's own country information database.

The Directorate has systems to check applicants' identities and nationalities

4.4 Asylum applicants are given "temporary admission" to the United Kingdom when they make their applications at ports, and other applicants are already in the country. The Directorate detains only a small proportion of applicants. It is therefore important for the Directorate to establish the identity and nationality of applicants and whether they present security risks.

4.5 The Directorate carries out identity and security checks early in the screening process and relies on four main sources of evidence:

- **Documentation and searches.** The Directorate asks applicants to show any personal documentation they have although, as we explain above in paragraph 4.3, many applicants carry no documentation. At ports, the Directorate's immigration officers search applicants' persons and baggage for clues as to their identity or nationality and they may search planes for any documentation that has been discarded. This source provides evidence in a minority of cases only.
- **Interviews.** At the asylum screening interview, the Directorate asks questions about the applicants' identity, family background, immigration history, and journey to the UK. It then checks the responses against its immigration records. Where it doubts an applicant's claimed nationality, the Directorate poses some additional questions at screening or substantive interview to help decide whether to believe the applicant. The Directorate also contracts specialists to examine audio tapes of some applicants using their native languages to identify their nationality (and sometimes even their home province). A small proportion of asylum screening interviews are subject to internal quality assurance testing, and the Directorate judges that the majority of its interviews are effective in identifying the applicant. However, an applicant without documentation or recent immigration history could still pose as someone else and not be found out.
- **Biometric information.** The Directorate obtains fingerprints and takes photographs of all applicants. It checks the fingerprints against its own database, the EURODAC database of asylum applicants in Europe and police databases. Biometric information sources provide reliable evidence, particularly where applicants have previously been fingerprinted, and they should become more effective in years to come as the fingerprint

databases become more comprehensive - currently, the great majority of overseas applicants for United Kingdom visas are not fingerprinted.

- **Liaison with other organisations.** The Directorate liaises with police forces and the security services with respect to individual, specific and general security threats. It invites police officers with responsibility for immigration liaison to attend particular asylum screening interviews. This important source of evidence can provide a control where there may be a security risk.

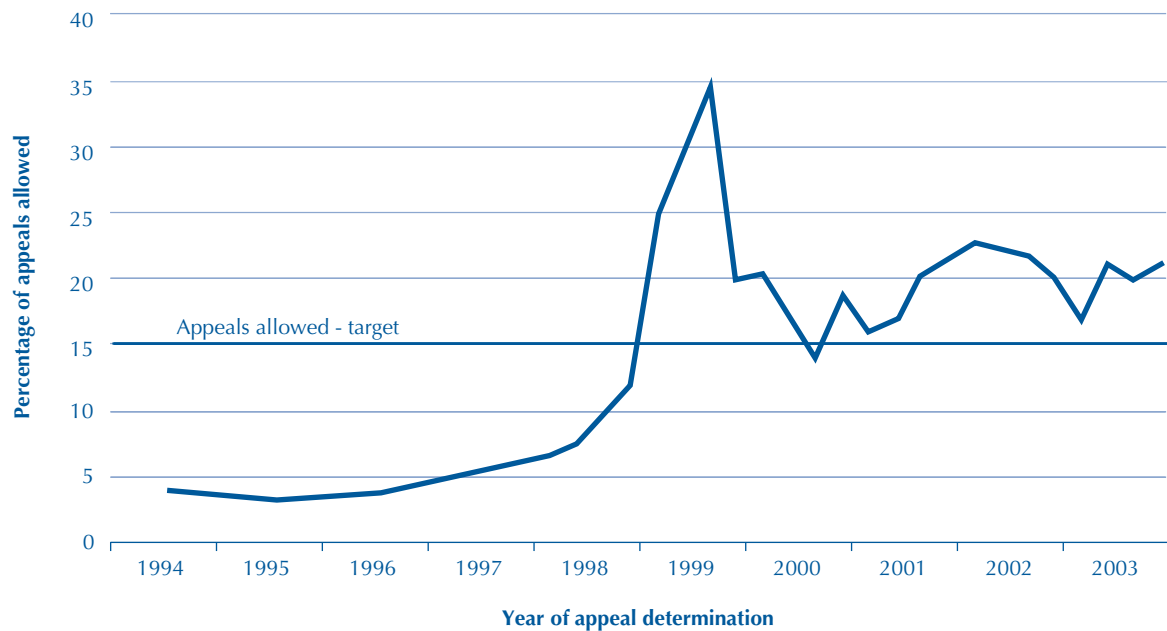
The proportion of appeals allowed has exceeded the Directorate's own target

- 4.6 One indicator of the reliability of the initial decision making process is the number of asylum appeals allowed³¹ by adjudicators. With the exception of applicants originating from countries presumed to be safe and those whose claims are declared to be "clearly unfounded", anyone who has been refused asylum will normally have an in-country right of appeal to the Immigration Appellate Authority. Since 1998, the number of appeals lodged has increased from 14,320 to a peak of 74,365 in 2001 reflecting, in part, the rapid increase in the number of applications. However, the proportion of initial refusals that are subject to appeal has increased from an estimated 65 per cent of applications made in 2000 and refused, to around 77 per cent of the applications made in 2002 and refused.
- 4.7 The Directorate's expectation is that at least 85 per cent of appeals against its initial decisions will be dismissed, equivalent to an appeals allowed rate of 15 per cent. **Figure 18** shows that the appeals allowed rate has however remained above 15 per cent for most of the last four years and is significantly higher than rates achieved in the 1990s. Some of the reasons for the increase are set out below in paragraphs 4.8 and 4.9.
- 4.8 Appeals may be allowed because of administrative weaknesses when the application was considered at the initial decision stage. Most of the initial interviews undertaken by caseworkers and witnessed by us were professional and sufficiently prepared. Our examination of case files and refusal letters identified weaknesses in some of the letters, including flawed tests of credibility, basic errors of fact and use of unclear language. Adjudicators we spoke to highlighted weaknesses in the Directorate's assessment of the credibility of some applicants, for example disbelieving an applicant's whole story because of inconsistencies in the account of their journey to the United Kingdom; a failure in some instances to properly address whether applicants' claims amounted to a reasonable likelihood of persecution if sent back; and mistakes in the drafting of refusal letters.

31 For these purposes, an appeal allowed occurs where an adjudicator overturns the initial decision by the Directorate and determines that the Directorate should grant asylum, or indefinite leave to remain in the UK on human rights grounds.

18 Appeals allowed against initial asylum decisions, 1994 to 2003

The percentage of asylum appeals allowed has consistently exceeded 15 per cent since 1999.



NOTE

- 1 The Directorate could not provide us with an explanation for the sharp increase in the rate of appeals allowed in 1999.
- 2 The number of appeals determined has grown substantially since 2000 (see Figure 12).

Source: National Audit Office analysis of Home Office Asylum Statistics

4.9 Several other factors can also influence a high rate of appeals allowed:

- The situation in the country of origin may have deteriorated between the time of the initial decision and the appeal hearing, prompting the appeal to be allowed - exacerbated by the delays in dealing with appeals in recent years. However, our data analysis suggested that delays in dealing with appeals had tended to reduce, not increase, the overall rate of appeals allowed, possibly because the situation in some countries of origin had improved.
- Adjudicators or the Immigration Appeal Tribunal may take a particular view on a point of law or type of case and this may lead to appeals succeeding, particularly if there is a delay in the Directorate responding by changing its policies or if there are a number of similar cases awaiting appeal hearings.
- An administrative weakness that contributed to the continuing high rate of appeals allowed from 2000 concerned the robust line that the Directorate adopted for refusing applications because applicants had failed to submit their Statement of Evidence Forms on time. In many instances the form had been returned but it had been lost or delayed within the Directorate's internal mail system. Our work suggested that the Directorate had since taken action to identify and reconsider such cases before they go to appeal.
- The introduction of the Human Rights Act in October 2000 increased the grounds upon which an appeal could be allowed. The Directorate told us that around 3 per cent to 4 per cent of appeals are allowed on human rights grounds alone, and prior to the Human Rights Act they would have fallen to be dismissed by adjudicators.
- A change in the mix of cases being heard at appeal. As explained in the following paragraph, some nationalities have higher rates of appeal allowed than others and the mix of nationalities changes over time. Also, introducing Non-Suspensive Appeals has reduced appeals from applicants with weak cases for asylum, in turn reducing the number of appeals dismissed.

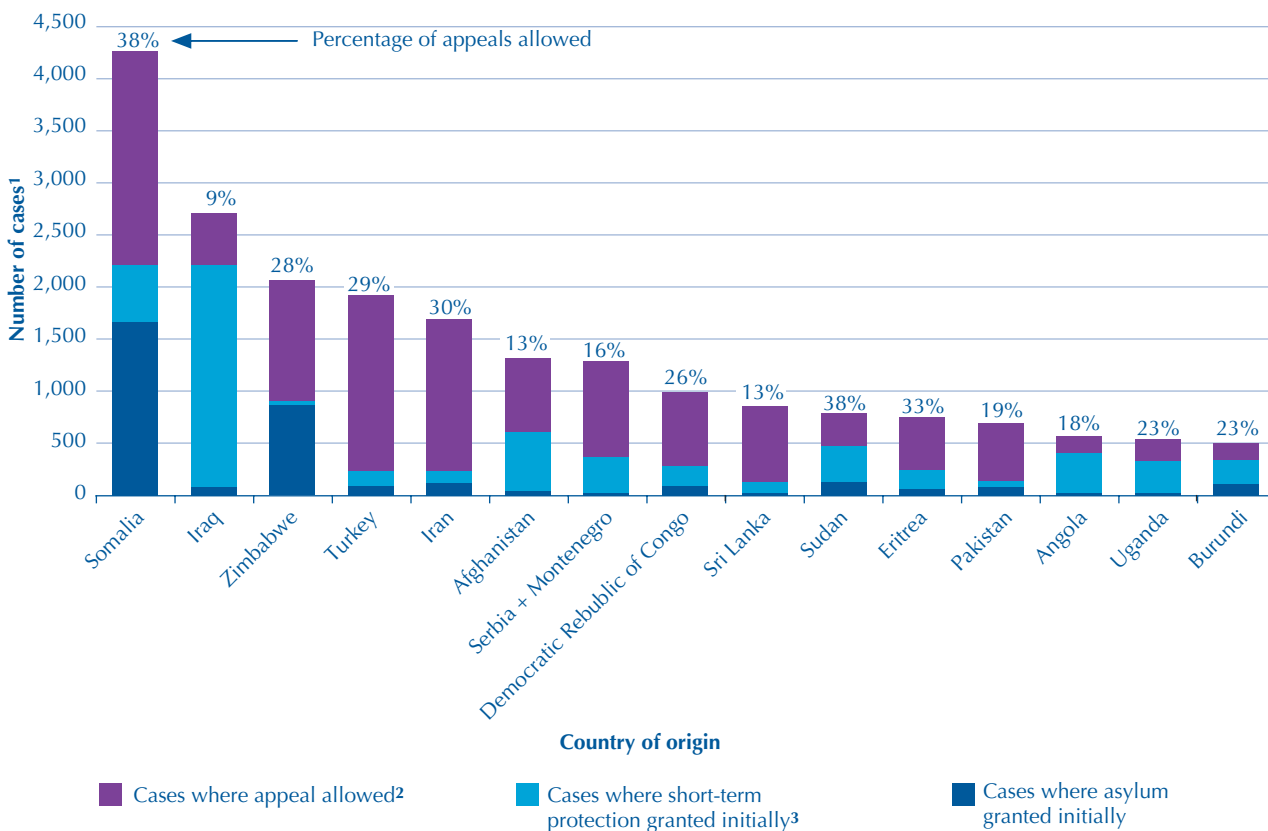
4.10 The appeals allowed rate varies between applicants of different countries. Our analysis of appeal decisions suggests that the appeals allowed rate is much higher for applicants from some countries than others, varying from 9 per cent for applicants from Iraq to 38 per cent for those from Somalia and the Sudan in 2003. However, the differences are more significant when the number of applicants winning their appeal is compared to the number granted asylum or short-term protection at the initial stage (Figure 19). During 2003, for example, the Directorate made initial decisions to grant asylum to 90 applicants from Turkey (and short-term protection to another 140 applicants) while another 1,685 people (29 per cent of appeals) from Turkey won their appeals against initial refusals. Our work suggests that similar variances were evident in 2002 and 2001, affecting, in most instances, the same range of countries.

4.11 In December 2002, the Directorate set up the Appeal Outcome Project to identify and address some of the factors contributing to the high proportion of appeals

allowed and the differences in the allowed rates between different countries. The Project involved groups of senior caseworkers, staff from the Country Information and Policy Unit and senior presenting officers meeting periodically to review the lessons to be learned. The data available suggests that the Project had some impact on reducing the appeals allowed rate for some countries. Figure 20 illustrates, for example, the factors influencing the percentage of appeals allowed for applicants from Zimbabwe, Iran and Ethiopia and the action taken. However, as the data for 2003 in Figure 19 illustrates, wide differences remain between countries. The Directorate considers that differences in allowed appeals rates between countries are influenced by a complex interplay of factors, including: the country situation; caselaw; resourcefulness of applicants (for example in producing expert reports); and the ease with which caseworkers can disprove the key issues of claims. An additional factor may be how reliably caseworkers are able to assess the credibility of applicants where, on the face of it, their claim is well-founded.

19 Grants of asylum and short-term protection and appeals allowed (for principal countries of origin), 2003

Some nationalities are far more likely to be granted asylum after appeal than they are to be granted asylum or short-term protection initially.



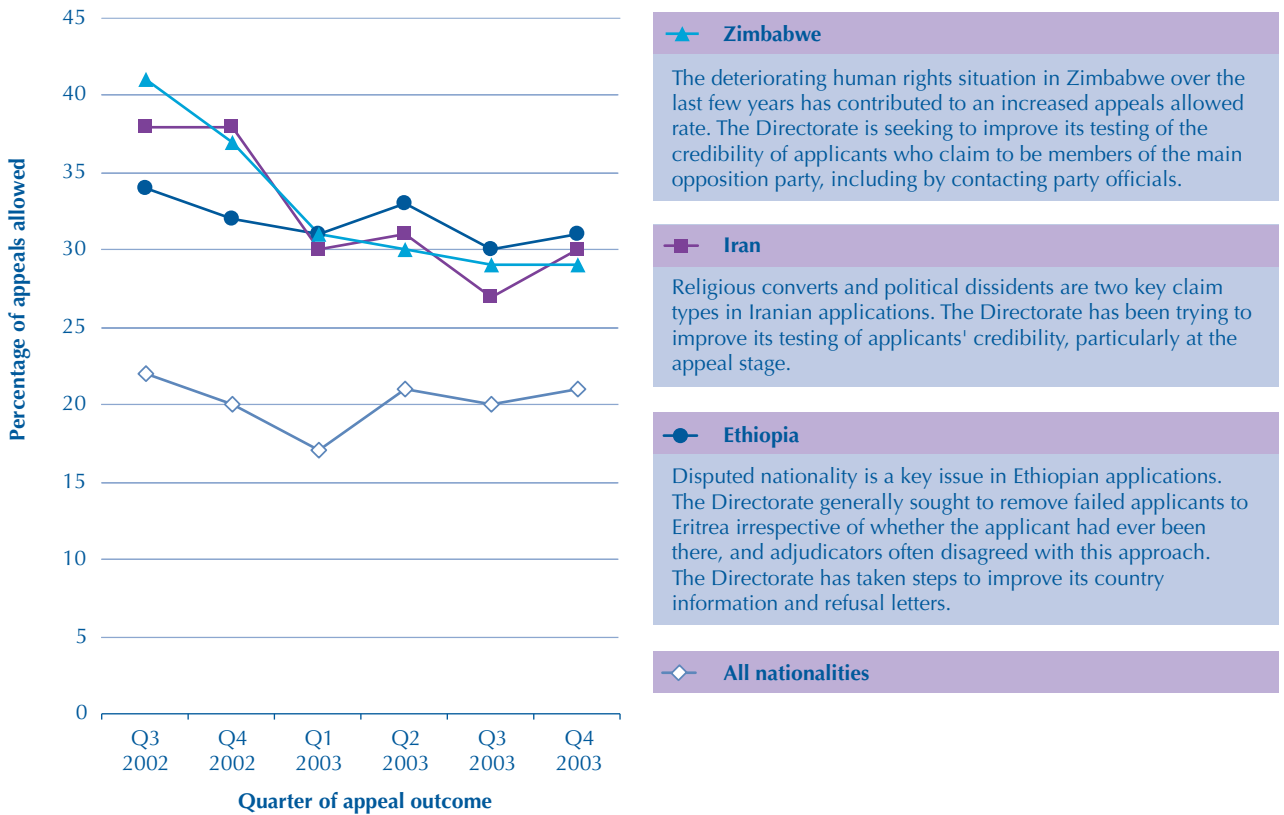
NOTE

- 1 The analysis is based on decisions in 2003, not a cohort of applications.
- 2 A small number of appeals allowed result in grants of short-term protection or are overturned by further appeals by the Home Office.
- 3 A small number of cases granted short-term protection initially are upgraded to asylum status following an appeal allowed (so the totals by nationality may contain a small element of double counting).

Source: National Audit Office analysis of Home Office Asylum Statistics

20 Allowed appeals for applicants from Zimbabwe, Iran and Ethiopia

The Directorate has identified, and is tackling, reasons for high appeals allowed rates for Zimbabwean, Iranian and Ethiopian cases.



Source: National Audit Office analysis of Directorate's management information and reports

ii) The Directorate's arrangements for monitoring the quality of its initial decisions

The Directorate's own quality assurance arrangements suggest that over 80 per cent of case files have been dealt with effectively

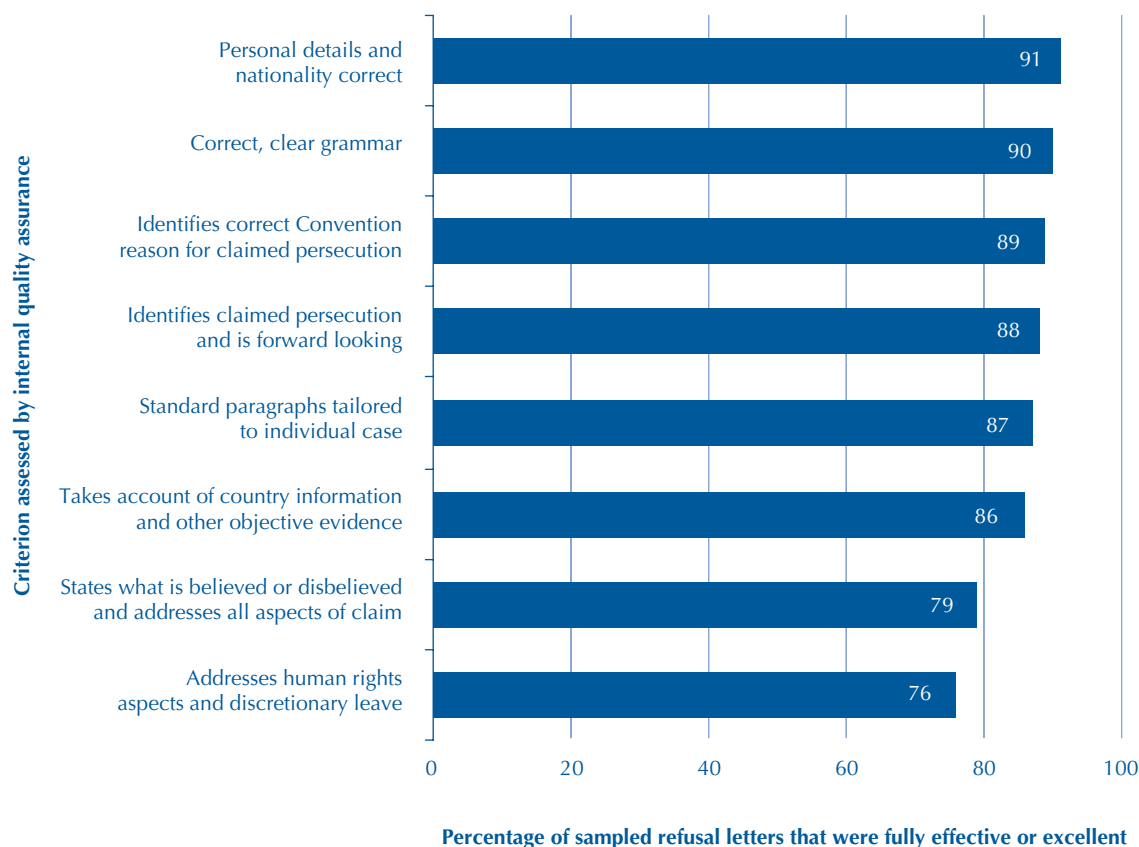
4.12 The Directorate's own quality assurance arrangements are intended to provide senior management with assurance on overall quality and identify areas of weakness that may need to be addressed. Each month, senior caseworkers randomly sample around 230 completed cases prior to despatch where asylum has been refused and assess whether the reasons for refusal set out in the letter to the applicant are justified and how well they have been expressed against a series of criteria, including for example whether the letter identifies and addresses the key details of the claim and whether it takes appropriate account of country information and other evidence. Separately, the Directorate has commissioned lawyers from the Treasury Solicitor's Department to review a sample of 300 completed cases each year and, since March 2004, to assess an additional annual sample of 60 decisions taken at Harmondsworth.

The Treasury Solicitor's Department and the Directorate are involved in ongoing discussions with a view to increasing the sample size in 2004. The Directorate is also currently discussing with UNHCR a process for them to examine a sample of decisions and interviews. UNHCR believes that its contribution will have a positive impact in the long run on the quality of the Directorate's initial decisions when supported by other measures.

4.13 For 2003-04, the Directorate has a Public Spending Agreement (PSA) target for 80 per cent of sampled decisions to be found by the Directorate and the Treasury Solicitor's Department to be fully effective or better. The target will increase to 85 per cent in 2005-06. Home Office officials responsible for monitoring progress expected that the target for 2003-04 would be reached. **Figure 21 (overleaf)** provides provisional results drawn from management information against the Directorate's criteria for 2003-04. The overall results of reviews by the Treasury Solicitor's Department in the first nine months of the year were similar to those of the Directorate. The case files assessed to be of lower quality do not necessarily indicate that the wrong decisions were taken - as illustrated in Figure 21, shortcomings often include poorly drafted refusal letters but the underlying analysis may be sound.

21 Quality assessments of the Directorate's decisions to refuse asylum, 2003-04

The effectiveness rate of the eight criteria ranged from 76 per cent to 91 per cent.



Source: National Audit Office analysis of the Directorate's management information

4.14 Whilst decisions to refuse asylum are often subject to appeal and therefore scrutiny, cases where asylum is granted are only likely to be scrutinised if picked by the Directorate's own quality assurance process. The Directorate each year tests a sample of cases where asylum has been granted. Between April and December 2003, it reviewed 123 cases and found 85 per cent of grant decisions to be fully effective. As there were 2,360 cases where asylum was granted, the sample examined during the quality assurance process looks to be small. Since May 2003, as part of its main sample of completed cases the Treasury Solicitor's Department has carried out an independent assessment each month of one or two decisions to grant asylum.

4.15 We examined a sample of 30 cases decided between November 2003 and January 2004 where the Directorate had granted either asylum or humanitarian protection. The Directorate was unable to find 7 of the case files within the time available. We found that 10 out of the

23 cases we tested included evidence that the decision had been reviewed by a senior caseworker. However, contrary to the Directorate's procedures, in one case there was no file note setting out why the caseworker had decided to grant asylum.

iii) The action that could be taken by the Directorate to further improve its performance

4.16 The Directorate's aim is to maintain and, whenever practical, to drive up the quality of its decisions and processes. As part of its strategy on decision quality, it has introduced an action plan to address a range of issues, including reviewing recruitment and training; strengthening its quality assurance, as already mentioned; and improving how casework instructions are maintained and accessed to ensure they are up-to-date and readily accessible.

- 4.17 Our work identified five areas where sustained action by the Directorate could further improve its performance:
- i) preparing caseworkers better for making decisions;
 - ii) supporting caseworkers in making decisions;
 - iii) reviewing decisions in some instances before they are despatched;
 - iv) ensuring that sufficient numbers of presenting officers are available to attend appeal hearings; and
 - v) improving the feedback provided to caseworkers on the outcome of decisions.

The Directorate should invest in more initial training and continuing training for caseworkers

- 4.18 The Directorate's caseworkers need the right skills and training to be able to make reliable decisions. When recruiting new staff as Executive Officers, until November 2000 the Home Office set a minimum academic requirement (two "A" levels and five GCSEs, including English). It then adopted a competency-based approach and psychometric tests to select candidates in order to meet the Department's overall recruitment needs and to broaden the diversity of applicants. Some of its new staff were university graduates. However, the Directorate found that some of the new caseworkers were less able to deliver properly considered decisions on complex asylum cases so, as part of the action plan to improve the quality of its work, it restored the minimum academic requirements for asylum caseworkers with effect from February 2004.
- 4.19 Each new caseworker receives an initial 11 days of training at the end of which they are tested to identify any weaknesses that might need to be addressed. This initial programme is then followed by 11 days of working on training and real cases (with support and mentoring). After the initial 22 days, new caseworkers are supported as necessary and can decide cases on their own, provided senior caseworkers are content with their progress. Once they have completed a three-day interviewing course, new caseworkers can also undertake their own interviews.

- 4.20 The initial training course covers a broad range of topics, for example ranging from the 1951 Convention on the Status of Refugees and Human Rights legislation to techniques for gathering evidence, using country information, assessing credibility, drafting letters, file management and dealing with family cases. Although different countries have different systems for considering asylum applications and these differences will have implications for the training required, we note that the Directorate spends less time on the initial training of caseworkers than its counterparts in other countries. In Germany, for example, many caseworkers have already completed law studies and then receive another three months training; caseworkers without legal training receive initial training lasting six months. In the Netherlands, caseworkers receive around 40 days initial training before they are allowed to decide their own cases; and they still cannot sign off their decisions unless they have been assessed as having reached an appropriate level of competence, which takes new caseworkers some 9 to 18 months to attain. However, we have seen no evidence to demonstrate that this additional training is any more effective than that provided by the Directorate in terms of the quality of their initial decisions or their robustness at appeal. As part of its action plan to improve quality, the Directorate intends to introduce tests to assess the competence of new caseworkers.
- 4.21 Once they have completed their initial training, the Directorate's caseworkers receive comparatively limited further skills training, probably no more than two days a year in most instances. However, the Directorate does, in addition, organise workshops periodically to address areas of weakness or change and invites external organisations from time to time to give presentations on specific issues. All caseworkers also have ready access to senior caseworkers for advice on more complex casework.

4.22 Our consultation with adjudicators, caseworkers and others suggested a number of areas where further training might be considered:

- Developments in asylum law - statute and case law changes frequently. Adjudicators we spoke to suggested initial decisions did not always keep abreast of recent case law, which could be due in part to the time lag between initial decisions and appeal outcomes. Although caseworkers are advised of changes by policy staff, workshops or presentations may help to ensure that caseworkers' understanding of asylum law is kept up-to-date.
- Preparation of refusal letters - an issue we identified in our sample and highlighted by adjudicators and external stakeholder groups.
- Human rights consideration is a complex element of some asylum applications - the lack of a course on this topic was criticised in 2002 by the Home Office's Audit and Assurance Unit and our analysis of the quality assurance results identified assessment of human rights claims as an area of weakness. In 2003, the Directorate carried out limited training of caseworkers on human rights issues and it is introducing a new course during 2004.
- Handling certain types of cases - there is currently no specific training available to deal with the difficult issues that may arise when dealing with more sensitive cases, for example involving victims of rape. Some of these issues are covered in initial training. The Directorate reported that caseworkers had also received talks on these issues from the Medical Foundation. In Germany, caseworkers are required to undergo specialist training before they can interview particular types of applicant such as minors, victims of torture and those suffering from traumatic shock. The Directorate has recently conducted a pilot that included training for the interview of minors.

The Directorate provides good support to its caseworkers in making decisions, but there is room for further improvement including, in particular, the quality of country information

4.23 Caseworkers need appropriate facilities to enable them to conduct their interviews effectively. Our observation of interviews suggested that the accommodation for conducting substantive interviews was appropriate and that interpreters with the necessary skills were generally available when required to provide support, provided the correct dialect needed was identified. However, caseworkers are expected to both ask the questions and to maintain a contemporaneous, verbatim transcript of the interview. In 1998, the Directorate evaluated the option of recording interviews and concluded that the benefits in improved quality of interview were outweighed by the increased cost of the interview process. More recently, the Home Office's Audit and Assurance Unit, in 2002, and the Directorate's Independent Race Monitor, in 2003, have recommended the Directorate reconsider this decision. Some of the caseworkers at our focus groups were very keen that interviews be recorded. We identified alternative approaches in other countries that we were told worked effectively:

- in the Netherlands, caseworkers use computers to make contemporaneous notes of interviews (and the computers also prompt some of the interview questions); and
- in Germany, interviews are not recorded verbatim (unlike in the UK, where the Directorate has committed to provide verbatim notes at the end of the interview) and caseworkers dictate their notes into dictaphones for typists to transcribe.

4.24 Caseworking teams have a degree of specialisation in dealing with applications from particular countries. The Directorate believes that, in order to meet its time target and to handle applications from 160 or more countries, it needs to maintain sufficient flexibility to deal with all types of applications. The Directorate also believes that dealing with a variety of nationalities helps prevent caseworkers becoming "case hardened", whereby caseworkers may prejudice applications where they contain similar details to other applications.

4.25 Caseworkers rely heavily on the Directorate's country information to help them assess the credibility of applicants. The information is prepared by the Directorate's Country Information Policy Unit (CIPU) drawing from a range of secondary sources about the situation in the country of origin. These sources include intergovernmental organisations (such as the United Nations), government sources (including the Foreign and Commonwealth Office), human rights organisations and press reports. Caseworkers can access most of the information via a database. Information relating to the most common countries of origin is also available on the Home Office's website. Our work alongside caseworkers suggested that caseworkers made effective use of the information when considering cases. Non-governmental organisations we consulted felt that the information collated should be compiled independently of the Directorate. Rather than establishing an independent documentation centre, the Government decided to build on existing arrangements by, in September 2003, introducing expert, external scrutiny of the country reports and the processes used to compile them. The new Advisory Panel commissioned its first independent reviews - of the Somalia and Sri Lanka country reports. Both reports, published in April 2004, were very critical of the overall quality of these country reports.

- The Sri Lanka review³² concluded that "while the report has some utility and should not be dismissed out of hand, substantial improvements are needed to make the report robust enough to be used in the determination of asylum cases."
- The Somalia review³³ concluded that there were "a number of questions about the overall quality of the work of CIPU...This could have a damaging impact on asylum claims if relied upon in evidence."

4.26 The Directorate responded by accepting some criticisms and making some changes to the country reports and to its procedures. It is also considering providing external training for country research staff. However, the Directorate did not wholly accept the conclusions reached.

4.27 Our work suggested that updating the information - every six months for 35 main countries of origin, with additional bulletins for around half of the main countries for example where the situation is changing - is not sufficiently frequent to reflect the situation in volatile countries. By way of comparison, the country information available to caseworkers in Germany is updated daily with relevant press reports. However, countries such as Germany and Sweden do sometimes

draw upon the Directorate's country information when processing their own asylum cases. For more up-to-date information, the Directorate's caseworkers can contact senior caseworkers who have specialised knowledge of country situations and the Country Information Policy Unit can provide information, for example from the Foreign and Commonwealth Office, for use in dealing with individual cases.

The Directorate could review more of its decisions before they are despatched

4.28 Until the beginning of 1999, all decisions were subject to supervisory review. Since then, in most instances, once cases are decided by experienced caseworkers they are not routinely reviewed by senior staff before being despatched. The main exception lies with applications which are rejected on the grounds that the country of origin is presumed to be safe and that the claim is clearly unfounded. In these cases, called Non-Suspensive Appeal cases, the applicant has no right of appeal from within the United Kingdom. Senior caseworkers are expected to review all such decisions before despatch - our sample confirmed this was happening. According to management information, in the region of 1,500 initial decisions had been certified as clearly unfounded under the Non-Suspensive Appeals procedures and served in the 12 months to 31st March 2004. By April 2004, only two appeals had overturned the Directorate's initial refusal to grant asylum.

4.29 The cost of review of all decisions by senior caseworkers prior to decisions being issued would be significant and it is not certain what impact review would have on the proportion of appeals allowed. In January 2004, the Directorate introduced peer review of all decision letters to eliminate minor drafting errors. The Directorate told us that some senior caseworkers do review some decisions made in relation to applicants from countries where the appeals allowed rate is high. However, our work suggested that these reviews were not systematic or carried out on a large scale. The Directorate is also considering whether to sample a cohort of cases and follow them through their interviews, decisions and appeals to learn lessons and provide feedback to caseworkers. However, it believes that increased review of decisions by supervisors would introduce considerable increased bureaucracy without significant increase in the quality of decisions. Given the continued high rate of appeals allowed, we consider that the Directorate could introduce more supervisory review to address common areas of weakness.

32 *Commentary on Home Office CIPU Sri Lanka Country Report of October 2003 (Christian Wolff, Nicholas Van Hear)* (<http://194.203.40.90/filestore/ACPI.2.3.doc>)

33 *Commentary on October 2003 CIPU Report on Somalia (Ms Awa Abdi, Professor Richard Black)* (<http://194.203.40.90/filestore/APCI.2.2.doc>)

The Directorate should ensure that sufficient numbers of presenting officers are available to attend appeal hearings

- 4.30 The Directorate's case is normally put at appeal hearings by presenting officers. The presenting officers, civil servants employed at Higher Executive Officer level, outline the main arguments for refusing asylum and cross-examine the applicant and other witnesses. Adjudicators reported that presenting officers generally added value to appeal hearings, helping to identify the key issues at stake, highlighting inconsistencies in the evidence submitted by the applicant and helping to explain the Directorate's arguments for refusal.
- 4.31 The Directorate aims to attend 95 per cent of hearings. However, the Directorate has been short of presenting officers. Where presenting officers do not attend hearings, the adjudicators have to rely on written evidence submitted by the Directorate and will not normally cross-examine witnesses. With the increase in appeal hearings, the Directorate has not had sufficient presenting officers to attend all asylum appeal hearings (**Case example 1**).

Case example 1

An appeal not attended by a presenting officer

In 2003, Mr I from Jamaica claimed that, as a homosexual, he would be persecuted if he was returned to his country of origin. The Directorate refused his application, concluding that his fears were not tantamount to persecution.

Mr I appealed to the adjudicator on asylum and human rights grounds. In his determination, the adjudicator noted that there was no presenting officer and that he could only ask questions of Mr I for the purposes of clarification. The adjudicator found him to be a credible witness and allowed the appeal. The Directorate has appealed against the decision.

Source: National Audit Office case study sample of new applications (Case 14)

- 4.32 In 2002, it had arranged for representation by Counsel at a daily rate of £600, compared to the then daily salary cost of under £100 for a presenting officer employed directly by the Directorate. For the 12 months to August 2003, the level of representation, for presenting officers and Counsel together, at appeals was 72 per cent. In 2003, the Directorate introduced more regular recruitment campaigns for presenting officers. Between April 2002 and April 2004, it increased the number of presenting

officers from 207 to 288. However, the Directorate was still not represented at 30 per cent of asylum appeal hearings in February 2004 and 17 per cent in March. The Directorate expects to raise its levels of representation as new presenting officers from the most recent recruitment campaign take up their posts and complete training. However, it told us that it still required more staff to meet its representation target and that it will be recruiting another 70 presenting officers by the end of 2004.

The Directorate could improve the quality of feedback provided to caseworkers following appeal hearings

- 4.33 About three-quarters of decisions to refuse asylum are subsequently challenged at appeal. However, apart from the Harmondsworth process, caseworkers are not involved in defending these appeals nor do they routinely receive direct feedback on individual appeal outcomes. Without a stake in the appeal process, there is a risk that caseworkers are not sufficiently accountable for their decisions. The caseworkers that we interviewed told us that they would welcome feedback. The Directorate has recognised this need for feedback from the appeals process and has introduced measures to provide more feedback.
- 4.34 The Directorate told us that delays in hearing appeals in the past had meant that caseworkers had often moved on before the appeal is heard. However, in April 2002, the Directorate had reviewed 118 determinations where the Directorate's initial refusal to grant asylum had been overturned. The results of the review highlighted for example weaknesses in assessing the credibility of applicants. Since March 2003, the Directorate has surveyed its presenting officers to identify common issues they may have with initial refusals for certain nationalities where there is a high rate of appeals allowed. The Directorate reported that more recently presenting officers have been asked to complete feedback forms for all nationalities. This information is drawn together to provide tailored feedback to caseworkers. In addition to this feedback, caseworkers are also given the opportunity, at least once or twice a year, to witness one of their own decisions in court. A presenting officer is on hand to explain the appeal process and offer focused feedback on the performance of their initial decision. Nevertheless, there are at present no arrangements to provide feedback on the outcome of individual cases on a more routine basis to individual caseworkers, although individuals can access information on the results of appeals if they wish but not the reasoning.

Appendix 1

What happens to asylum applicants while they are waiting for decisions and the results of appeals?

Induction of asylum applicants

When applicants first apply for asylum, the Directorate provides them with information on how it will process their claim and how to apply for accommodation and support. The Directorate is introducing an induction process to provide comprehensive information to applicants while they are accommodated for about seven days. The first induction centre opened in Dover in January 2002, with assistance from Migrant Helpline, a non-governmental organisation, and the second centre opened in Leeds in June 2003.

Accommodation and support

If they are destitute, applicants may apply for accommodation or financial support or both once they have claimed asylum. However, since January 2003 applicants who are destitute but do not have children and did not apply for asylum as soon as reasonably practicable may not be provided with any support. The Directorate's National Asylum Support Service (NASS) decides whether to provide support and, where the application is accepted, arranges accommodation and financial support.

Prior to April 2000, applicants were supported by the Department for Work and Pensions or local authorities. Although some applicants are still supported by these organisations, notably unaccompanied minors, most are now supported by NASS. With the exception of those who claimed asylum at ports before April 2000, applicants are not entitled to other social security benefits before they are granted asylum or other status allowing them to remain in the UK.

Support for families refused asylum continues until they leave the United Kingdom and support for other applicants ceases once they have been refused and exhausted their appeal rights. In addition, the Government has introduced measures in the Asylum and Immigration (Treatment of Claimants etc) Bill under which it would cease support for families that did not cooperate with the Directorate's removal process.

Financial support for adults is set at 70 per cent of the level of Income Support. Single adults receive £39 per week (£31 if under 25 years). The rate of support for children is 100 per cent of Income Support levels. A couple with one child receives £91 per week, increasing by £30 per additional child. Where NASS provides full board, support is reduced to £10 per person per week.

Employment

Until July 2002, applicants who had not received an initial decision within six months could apply for permission from the Directorate to seek employment. Since then, apart from in exceptional circumstances, applicants have not been allowed to take up employment until they receive a final decision on their application. Applicants who do work must pay tax and national insurance.

Use of public services

Applicants' dependant children and unaccompanied children are entitled to access to public education, including access to special schools on religious or linguistic grounds.

Applicants and their families are entitled to access to healthcare.

Family reunion

Asylum applicants are not entitled to bring their dependants to the UK while their claims are considered. Dependants who arrive during this period must apply to be allowed to stay as dependants. Applicants granted refugee status are entitled to family reunion, whereas applicants granted humanitarian protection are not entitled to reunion.

Events in the UK that can affect an application

Events in the United Kingdom can affect applications. In particular:

- Applicants may be refused asylum if they are convicted of a serious criminal offence (whereas those granted asylum or other leave to remain may lose their status if convicted). Judges may order their deportation on release, or the Directorate may decide to remove them.
- Applicants who marry a British citizen may choose to withdraw their applications and apply for permission to remain based on their marriage.
- Children born to applicants in the United Kingdom are added to applications as dependants, but they are not automatically British citizens. Their birth may provide grounds for allowing applicants to remain in the UK on humanitarian grounds.

Appendix 2



Date of Birth: 01/01/1974
 Nationality: Somali

Dear Mr A,

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Somalia. In order to qualify for asylum under the terms of the 1951 Geneva Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. The Secretary of State has considered whether or not you qualify for Humanitarian Protection in accordance with the published Home Office Asylum Policy Instruction on Humanitarian Protection, or, you have specifically raised issues under Articles 2, 3 of and/or Protocol 6 to the 1950 Rome Convention for the Protection of Human Rights and Fundamental Freedoms, (commonly referred to as the ECHR) which would constitute a claim for international protection, or, your claimed fear of persecution is such that we have chosen to regard this as a claim for international protection.
3. Furthermore the Secretary of State has considered whether you may be eligible for a grant of limited leave to enter or remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave.

Date of Birth: 01/01/1974
 Nationality: Somali

Dear Mr A,



Mr A
 Date of Birth: 01/01/1974
 Nationality: Somali

REF ID: A1234567
 Your Ref: 16 January 2004

Dear Mr A,

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Somalia. In order to qualify for asylum under the terms of the 1951 Geneva Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. The Secretary of State has considered whether or not you qualify for Humanitarian Protection in accordance with the published Home Office Asylum Policy Instruction on Humanitarian Protection. This is because, you have either asked for Humanitarian Protection, or, you have specifically raised issues under Articles 2, 3 of and/or Protocol 6 to the 1950 Rome Convention for the Protection of Human Rights and Fundamental Freedoms, (commonly referred to as the ECHR) which would constitute a claim for international protection, or, your claimed fear of persecution is such that we have chosen to regard this as a claim for international protection.
3. Furthermore the Secretary of State has considered whether you may be eligible for a grant of limited leave to enter or remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave.
4. Your claim for international protection is based upon your fear that if returned to Somalia, you would face mistreatment due to your political activities and contrary to Article 2 and 3 of the ECHR.

1. You have a well-founded fear of persecution in Somalia. In order to qualify for asylum under the terms of the 1951 Geneva Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. The Secretary of State has considered whether or not you qualify for Humanitarian Protection in accordance with the published Home Office Asylum Policy Instruction on Humanitarian Protection, or, you have specifically raised issues under Articles 2, 3 of and/or Protocol 6 to the 1950 Rome Convention for the Protection of Human Rights and Fundamental Freedoms, (commonly referred to as the ECHR) which would constitute a claim for international protection, or, your claimed fear of persecution is such that we have chosen to regard this as a claim for international protection.
3. Furthermore the Secretary of State has considered whether you may be eligible for a grant of limited leave to enter or remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave.

1 of 2

Flowchart of the asylum decisions and appeals process



Flow chart overleaf

Flowchart of the asylum decisions and appeals process

A foreign national may make an **application** for asylum at UK ports of entry or at the Directorate's offices within the UK. The Directorate expects genuine applicants to apply at the first opportunity.

The Directorate **screens** the applicant in order to obtain personal and other information, provide information to the applicant, decide whether to provide support, and check whether the applicant has previously applied for asylum in the UK or elsewhere - if elsewhere, they may be subject to removal to that country under the Dublin Regulation.

The applicant completes a **Statement of Evidence Form (SEF)** to provide the basis of their claim. Applicants in fast track processes and some of those who go to an induction centre do not complete a SEF and go straight to the interview stage. Other applicants who fail to submit the SEF on time may be refused asylum for non-compliance if they failed to establish their claim.

One of the Directorate's caseworkers carries out the **substantive interview** of the applicant to test the evidence already submitted and address any outstanding questions that might have a bearing on the decision. The interview is often carried out through an interpreter and the applicant is usually accompanied by a legal representative. Applicants who fail to attend may be refused asylum for non-compliance if they have failed to establish their claim.

Taking account of country information and the other evidence, the caseworker **decides** whether the applicant's case amounts to a "well-founded fear of persecution" for one of the reasons under the 1951 Refugee Convention. If not, the applicant may still be entitled to Discretionary Leave (most commonly where they are under 18) or Humanitarian Protection for a limited period of time. The caseworker dispatches a refusal letter to an applicant who has not been granted asylum. Where the applicant comes from a designated safe country, their application may be certified "clearly unfounded" under the Non-Suspensive Appeals procedures which prevents them exercising their right of appeal from within the UK.

If not granted asylum, the applicant may **appeal to an Immigration Adjudicator** of the Immigration Appellate Authority. The appeal must include all grounds, including human rights grounds. The applicant lodges the appeal with the Directorate which reviews the evidence and may decide to reconsider its initial decision. More commonly, the Directorate prepares a supplementary refusal letter.

The Adjudicator obtains written evidence and oral evidence at a hearing and then **determines** whether the appeal is allowed (i.e. found in favour of the appellant) or dismissed.

Where the appeal is allowed, the Directorate decides whether to grant asylum to the applicant or to **apply for permission to appeal to the Immigration Appeal Tribunal**. Where the appeal is dismissed, the applicant decides whether to apply for permission to appeal.

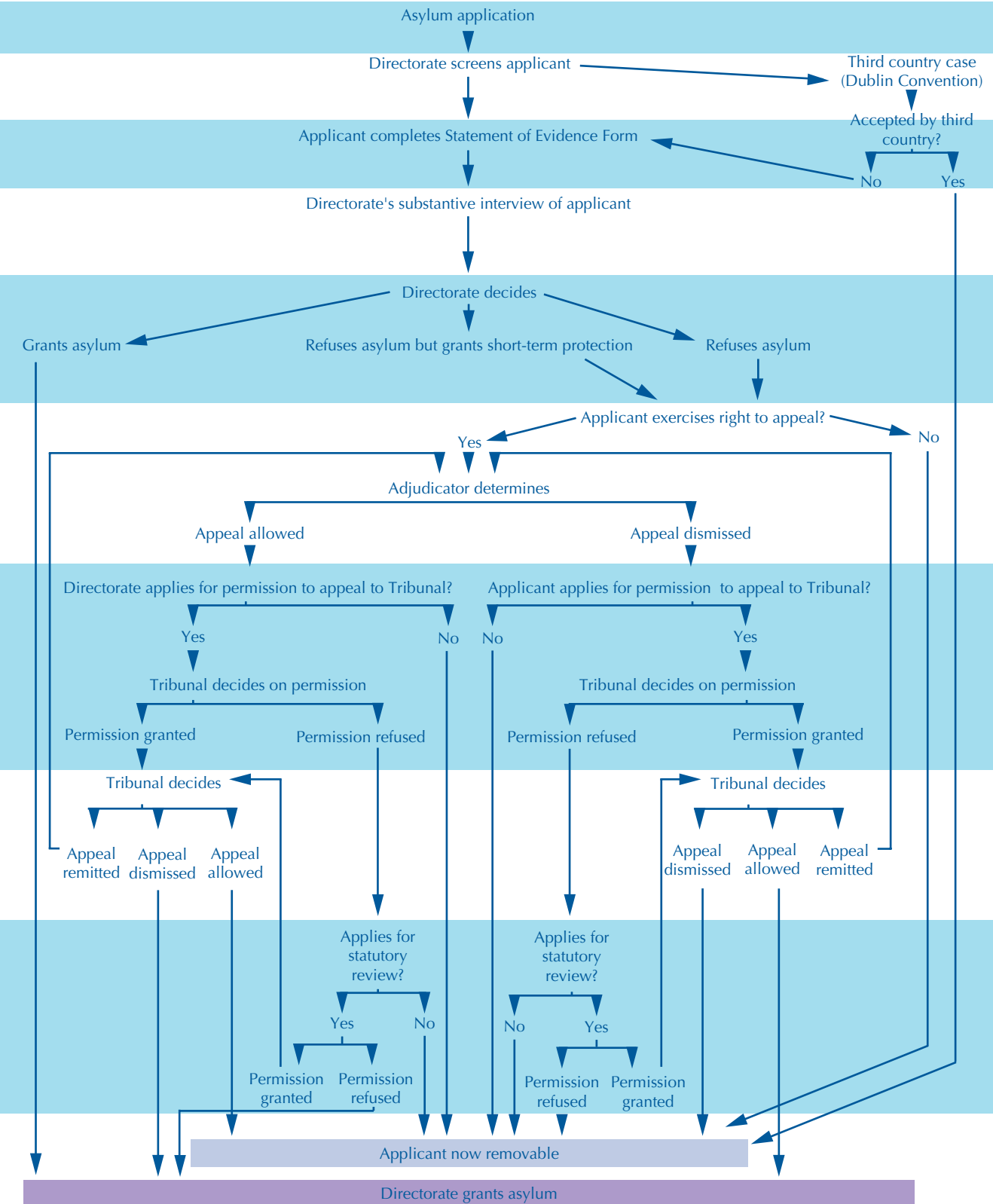
The Tribunal first decides whether to grant permission to appeal. Where permission is granted, there is then a hearing.

The Tribunal may dismiss or allow the appeal or remit it to the Adjudicator to hear it again.

If refused permission to appeal to the Tribunal, the Directorate or the applicant may apply for a **statutory review** of the decision to refuse permission, which may result in the Tribunal taking the appeal.

Very occasionally, appeals proceed to the Court of Appeal (or Court of Session in Scotland) and the House of Lords.

The decisions and appeals process ends either when the Directorate agrees to **grant asylum** (or short-term protection) to the applicant or when the applicant has become **removable** to his/her country of origin or a safe third country.



Appendix 3

Unit Costs 2002-03

This Appendix sets out the unit costs of the main stages of the asylum process in 2002-03, excluding the removal or return of applicants whose claims have failed. The costs include operational costs and the depreciation and interest related to capital expenditure. The costs include a share of all of the Directorate's overheads and some allocated overheads in respect of services provided by the central Home Office. The costs are based in part on estimates and samples.

The actual unit costs of individual cases will vary substantially, in particular because applicants take different routes through the process, with the process ending at different points. The time taken (and hence the support costs)

to process applications range, for example, from just one week to three years or more. In addition, the cost of dealing with an individual application will vary according to the number of dependants eligible for support. These calculations use an average weekly support cost, although the support costs of individuals range from nothing to large sums for some family groups. It is not appropriate to add the costs of the separate stages to produce an overall average cost (with the exception of screening and decisions, which are not clearly separate stages).

The Directorate and the Department prepared the calculations below, and their reasonableness has been reviewed by the National Audit Office.

Stage of process	Operational costs:		Legal Services Commission (Legal Aid)	Asylum support costs (including associated administration)	Total cost
	Immigration & Nationality Directorate	Department for Constitutional Affairs			
Screening	£360	£0	Not applicable	£320	£680
Decision	£1,490	£0	£1,010	£880	£3,380
Appeal to adjudicator	£630	£950	£960	£1,980	£4,520
Appeal to tribunal	Not separately identifiable	£300	£290	£2,230	£2,820 ³⁴
Judicial review	Not separately identifiable	£830	£1,790	Not separately identifiable	£1,910

³⁴ Excludes the Directorate's costs in preparation for, and representation at, the Tribunal.

Appendix 4

Study Methods

- 1 This examination used a number of study methods at each stage of the application process. Our conclusions are drawn from corroborative evidence taken together from these sources.

Case studies

Examination of case files

- 2 We sampled and examined 65 files that formed part of the Directorate's backlog of decisions and secondary casework, including older backlog cases, more recent backlog cases, cases awaiting reconsideration of flawed decisions and undecided cases subject to correspondence from Members of Parliament. Cases were examined against an audit programme to test the rigour of the Directorate's scrutiny and compile a case history for each application.
- 3 We also examined a stratified sample of 30 decisions made in the period November 2003 to January 2004 where the Directorate had granted either asylum or humanitarian protection. This sample was examined specifically to check whether the decision to grant asylum or short-term protection had been properly recorded.

Follow-through of applications

- 4 We also took a stratified sample of 20 asylum applications based on the location of the initial application and comprising a range of nationalities. We followed this sample through the system with NAO staff attending at each of the key decision making stages in the process up to appeal. The sample was used to scrutinise the rigour of the process, test actual practice against intended practice and gain an understanding of the practical challenges faced by caseworkers. In interpreting the evidence drawn from this sample, we have been conscious that the act of observing the process may have prompted some changes to normal practice.
- 5 The applications included in this sample were made at Dover, Heathrow Airport, Midlands Enforcement Office (Solihull) and the Asylum Screening Unit (Croydon). We followed these applications through the process, observing screening and substantive interviews and reviewing decisions made. We also interviewed the caseworkers who interviewed the applicant and who took the final decision. We also selected and followed an additional 3 applications that had gone to Oakington Reception Centre for decisions.
- 6 Details of the 23 applications are set out in the table below.

	Applicant	Date applied	Decision	Subsequent events
1	Iraqi man	25/03/03	No decision yet - third country action underway	None
2	Romanian man	25/03/03	Refused asylum for non-compliance, 19/05/03	None
3	Albanian woman	26/03/03	Refused asylum for non-compliance, 30/04/03	None
4	Russian man	27/03/03	Refused asylum, 02/05/03	None
5	South African woman	27/03/03	Refused asylum, 02/05/03	Appeal lodged, 09/06/03
6	Afghan man	28/03/03	Refused asylum for non-compliance, 08/05/03	Appeal dismissed 17/09/03 Refused permission to appeal to Tribunal, 12/12/03
7	Iraqi man	28/03/03	Refused asylum on third country grounds, 11/09/03	None
8	Somali man	28/03/03	Refused asylum, 13/05/03	Appeal dismissed, 19/11/03

	Applicant	Date applied	Decision	Subsequent events
9	Eritrean woman	31/03/03	Refused asylum, 22/05/03	Appeal lodged, 05/06/03
10	Ethiopian man	31/03/03	Refused asylum, 30/05/03	Appeal dismissed, 09/09/03 Refused permission to appeal to Tribunal, 25/11/03
11	Zimbabwean man	31/03/03	Refused asylum, 30/06/03	Appeal dismissed, 03/10/03 Refused permission to appeal to Tribunal, 09/03/04
12	Chinese woman	01/04/03	Refused asylum, 16/06/03	Appeal dismissed, 06/01/04
13	Chinese man	01/04/03	Application withdrawn, 01/04/03	None
14	Jamaican man	01/04/03	Refused asylum, 18/06/03	Appeal allowed, 28/10/03 Home Office was granted permission to appeal to Tribunal, 13/01/04
15	Ghanaian woman	02/04/03	Refused asylum, 22/05/03	Appeal dismissed, 28/08/03 Refused permission to appeal to Tribunal, 01/10/03
16	Columbian woman	03/04/03	Refused asylum for non-compliance, 16/05/03	Appeal dismissed, 02/02/04
17	Iranian man	03/04/03	Refused asylum, 21/05/03	Appeal dismissed, 03/11/03
18	Pakistani man	03/04/03	Refused asylum, 27/08/03	Appeal dismissed, 10/03/04
19	Turkish boy	03/04/03	Refused asylum but granted discretionary leave, 21/05/03	None
20	Vietnamese girl	03/04/03	Granted discretionary leave, 24/06/03	None
21	Jamaican man	07/05/03	Refused asylum and certified "clearly unfounded", 15/05/03	Removed, 22/05/03
22	Kosovan man	12/05/03	Refused asylum, 25/05/03 (previously applied in 1998 and removed 2003)	Appeal dismissed, 22/08/03 Removed, 10/07/03
23	Sri Lankan man	14/05/03	Refused asylum, 23/05/03	Appeal dismissed, 22/08/03 Refused permission to appeal to Tribunal, 30/09/03

Interviews and review of procedures

- 7 Within the Immigration and Nationality Directorate, we carried out semi-structured interviews of senior and working level staff in a number of areas, including: asylum screening; the Dover Induction Centre; Croydon Asylum Casework Group, Liverpool Asylum Casework Group, the Interpreters Unit (participating in an audit by the Home Office Audit and Assurance Unit); the Country Information Policy Unit; the Third Country Unit; caseworker training; quality assurance; Oakington Reception Centre; Non-Suspensive Appeals team; Harmondsworth Fast Track; end-to-end process team; Human Resources Directorate; Appeals Directorate; appeals outcome project team; and Presenting Officer Units. We also reviewed files and other information in most of these areas.

Within the Immigration Appellate Authority, we interviewed: the Chief Adjudicator; the Deputy Chief Adjudicator; two Regional Adjudicators; three Adjudicators; and senior management. We reviewed supporting documentation.

Data analysis

- 8 We undertook a range of data analysis using published Home Office Asylum Statistics (www.homeoffice.gov.uk/rds/immigration1.html), the Directorate's main asylum database (CID), and other internal management information produced by the Directorate and the Authority. The Home Office's Immigration Research and Statistics Section assisted us with part of this work.
- 9 Alongside this examination, the National Audit Office conducted a review of Home Office statistics, including asylum applications. The results of this review are published separately "Asylum and migration: a review of Home Office statistics" HC625, Session 2003-04. A copy is available on the National Audit Office website (www.nao.org.uk).

Focus groups

- 10 We held two focus groups of caseworkers and their supervisors and two focus groups of presenting officers and their supervisors. The aim was to obtain their views on how well procedures worked and where they thought improvements could be made.

Review of costing exercise

- 11 In consultation with us, the Directorate, supported by the Department, developed a unit cost model for the asylum process. We reviewed the unit cost information produced by the model for 2002-03.

Consultation with other organisations

- 12 We met representatives from key stakeholder organisations: Asylum Aid; Immigration Advisory Service; Immigration Law Practitioners' Association; Institute of Public Policy Research; Joint Council for the Welfare of Immigrants; MigrationWatch; National Association of Citizens Advice Bureaux; the Prime Minister's Delivery Unit; Refugee Council; Refugee Legal Centre; the Treasury Solicitor's Department; and, the United Nations High Commission for Refugees. We also obtained comments from Amnesty International UK and met a television journalist with experience in this field.

International comparisons

- 13 We contacted immigration authorities in Canada, Germany, and the Netherlands and obtained detailed information on their asylum performance and processes. We visited the authorities in Germany and the Netherlands and also met with the Swedish State Audit Office. Details of asylum systems in Canada, Germany and the Netherlands are in Appendix 6.

Review of research

- 14 We reviewed asylum research reports prepared by the Home Office's Immigration Research and Statistics Section, by academics and by other organisations.

Appendix 5

The additional costs incurred in leaving applications unactioned

Clearing applications more quickly can lead to savings in asylum support costs. In 2002-03 it cost an estimated average of £21 per day to support and accommodate an asylum applicant. If the backlogs that had developed in the system between 2000 and 2003 had been cleared significant support costs could have been avoided. There would have been, however, additional costs to both the Directorate and the Appellate Authority in trying to clear these cases. There would also have been significant practical challenges in trying to increase processing capacity within the Directorate and Appellate Authority to the level required. As shown below, we used two approaches to estimate the net financial impact of the backlogs.

1 Recruiting additional caseworkers from 2000

For this approach, the starting point in time is January 2000, when there was a backlog of 125,100 outstanding applications (Figure 14, page 42). The analysis is based on the Directorate recruiting and retaining sufficient numbers of asylum caseworkers in the period 2000 to 2003 to reduce the number of outstanding applications to work-in-progress levels (i.e. where applications take an average of two months to decide) by 2001. The number of appeals lodged would be similar overall to actual numbers lodged (with around 54 per cent of decisions appealed), but they would reach the appeal stage sooner.

Key assumptions:

- a The Directorate could have recruited, trained, supported and accommodated sufficient caseworkers, and then redeployed them (for example, to removals casework) once the numbers of applications had declined.
- b The Appellate Authority could have deployed sufficient resources (principally adjudicators, courtrooms and interpreters) to ensure that it processed appeals without creating any delays beyond those already present in the appeals process (i.e. asylum support costs would not be affected).
- c The unit costs of all decisions and adjudicator appeals would be at least as high as they were during 2002-03 (see Appendix 2).

- d Applicants proceeding through the process to the removal stage would either have their support stopped, would return to their country of origin voluntarily or would be removed.
- e) This model assumes that the measures taken have no impact on the intake of new asylum applications.

Outcome:

This table below shows the **estimated net financial savings (£ million)** that could have been achieved for different assumptions about increases in unit costs of decisions and appeals. The shaded area represents our estimate of the additional costs likely to be avoided from increasing resources to tackle backlogs promptly.

Owing to uncertainty over the effects of resource changes and faster decisions on the operational costs of decisions and appeals, this estimation is necessarily subject to uncertainty, for example whether families refused asylum and receiving support could be removed quickly. Based on the assumptions made, it suggests that additional costs of the order of **£500 million** were incurred.

Increase in unit cost of appeals

	0%	10%	25%	50%	100%
0%	1,000	970	910	820	640
10%	950	910	850	760	580
25%	860	820	770	670	490
50%	710	670	620	530	340
100%	420	380	330	230	50

Increase in unit cost of decisions

2 Maintaining the existing high levels of caseworkers from 2001

This approach differs to the first approach in the following ways:

- a It starts in January 2002, when there was a backlog of 42,400 outstanding applications and a relatively high number of caseworkers in post.
- b It assumes that the Directorate retained these caseworkers, only redeploying them once applications started to fall and backlogs were cleared.
- c The Appellate Authority could have deployed sufficient resources (principally adjudicators, courtrooms and interpreters) to ensure that it processed appeals without creating any delays beyond those already present in the appeals process (i.e. asylum support costs would not be affected).
- d The unit costs of decisions would be unchanged and that the operational unit cost of the adjudicator appeals would be between 10 per cent and 50 per cent higher than they were during 2002-03 (see Appendix 2). The productivity of caseworkers would remain at their 2001 levels (or additional caseworkers could be recruited).
- e Applicants proceeding through the process to the removal stage would either have their support stopped, would return to their country of origin voluntarily or would be removed.

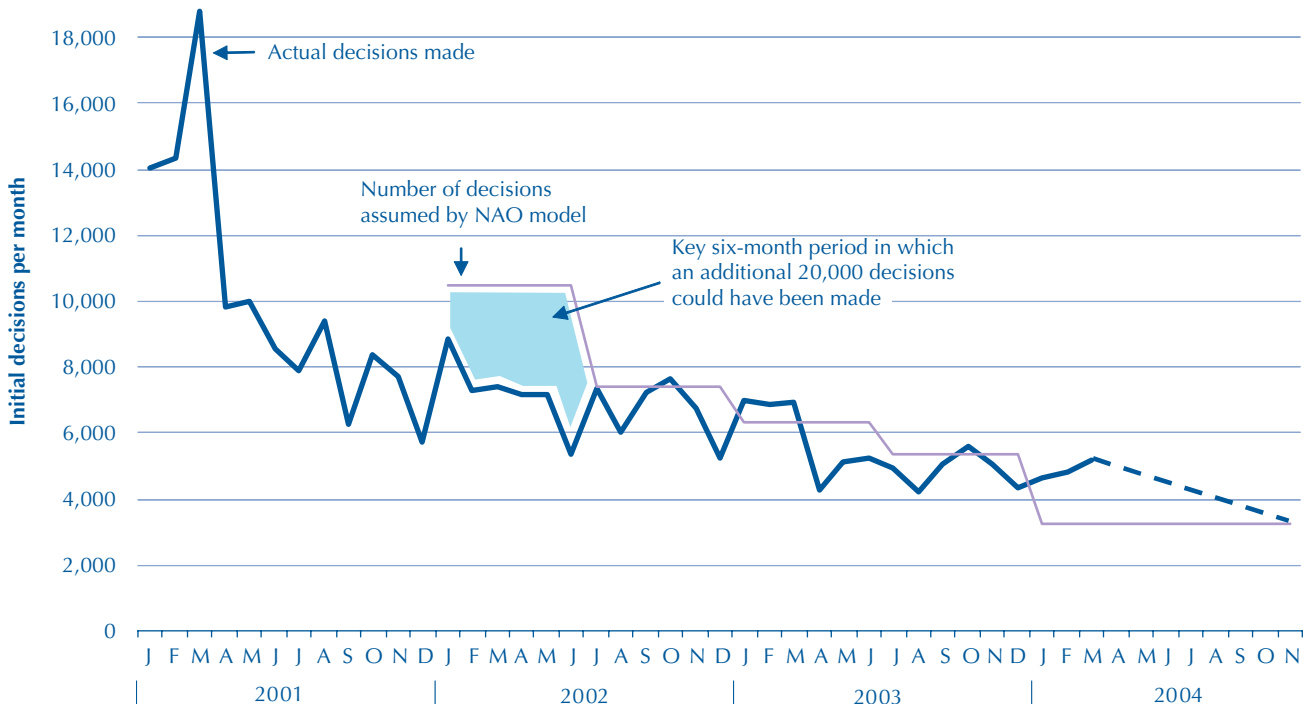
Outcome:

The graph below shows the actual level of decisions made each month from January 2001 by the Directorate and the number of decisions assumed by the NAO's model from January 2002. The key difference between the two occurs in the first six months of 2002 - if the Directorate had maintained caseworker resources and productivity at the 2001 levels, then it would have decided an additional 20,000 cases, thus bringing the backlog down to work in progress levels by July 2002.

The table below shows the estimated net financial savings (£ million) that could have been achieved for different assumptions about increases in operational unit costs of appeals. (Unit costs of decisions are not likely to have changed because the caseworkers were already in place). The shaded area represents our estimate of the additional costs that the Directorate could have avoided by retaining resources to tackle backlogs.

Increase in operational unit cost of appeals	0%	10%	25%	50%	100%
Financial impact (£ million)	240	225	200	165	90

With the unit cost of decisions unchanged but the unit cost of all appeals increasing by around 25 per cent, the estimated savings in the period 2002 to 2004 would be **up to £200 million.**



Appendix 6 Asylum systems in other countries

During the study we contacted immigration departments in three other countries to obtain information on how they process asylum applications and we obtained information from recent research published by the Home Office³⁵.

 <p>Germany</p>	 <p>The Netherlands</p>	 <p>Canada</p>
<p>In 2002 there were 71,100 applications for asylum in Germany, which were processed by the Bundesamt, a federal body.</p> <p>Airports operate a fast track procedure where applicants who either arrive from safe countries of origin or do not present proper travel documents are then subject to detention and accelerated consideration. Decisions are made within 48 hours of arrival. Applicants with "manifestly unfounded" claims have three days to appeal. The appeal is decided within two weeks by an administrative court. Further appeal is not subject to suspension of removal. Claims that are simply deemed "unfounded" have two weeks to lodge a suspensive appeal and then enter the normal appeals procedure.</p> <p>In the standard procedure, the Bundesamt first decide whether the applicant is from a safe third country (in which case the claim can be refused outright). The assigned caseworker then interviews the applicant and makes a decision. If refused, the applicant has access to up to three tiers of appeal.</p> <p>Out of first decisions by the Bundesamt in 2001, 7% of applications were granted asylum and a further 21% were given lesser forms of protection.</p> <p>Applicants are not generally detained during the process and may be provided with benefits and accommodation.</p>	<p>In 2003, there were 13,400 applications for asylum in the Netherlands. The Immigration and Naturalisation Service (IND), an agency of the Ministry of Justice, processes all applications.</p> <p>All applications are entered into the fast track process at one of three locations, and applicants are detained at Schipol Airport but not at the other two locations. Applicants are screened and substantively interviewed. If IND is able to decide the application within 48 working hours, as happened with 40 per cent of the applications in 2003, then there is no suspensive right of appeal against a refusal. (These cases are considered to be straightforward). All applicants that the IND intend to refuse asylum are first provided with a draft decision for comment.</p> <p>Applications refused asylum outside the fast track process have access to a two-tier appeal structure. The applicant may remain in the Netherlands during the first stage, but there is no automatic immunity from deportation during the second stage.</p> <p>Overall, in 2003 the recognition rate (on the grounds of either the Refugee Convention, the Human Rights Convention, humanitarian protection, the situation in country of origin or family reunification) was 25%.</p> <p>Most asylum seekers remain in government accommodation centres throughout the asylum process where they are not subject to restriction of movement. Asylum seekers receive a weekly allowance for food and clothing and have access to free schooling, medical care and legal advice. Those who abscond have their support stopped.</p>	<p>In 2003, 31,880 asylum applications were lodged with Citizenship and Immigration Canada (CIC). A claim for protection can be made at a port of entry or at a Canada Immigration Centre in Canada. Once an immigration officer decides that a claimant is eligible to be referred, the claim is sent to the Immigration and Refugee Board (IRB) for a hearing on the merits of the claim.</p> <p>The IRB is an independent body that administers a quasi-judicial tribunal process. Claimants present their case at a merits hearing before a single decision-maker. There is no appeal process, but failed applicants have the right to apply to the Federal Court of Canada for judicial review of any decision taken by the IRB or CIC.</p> <p>IRB has an expedited process for cases that appear manifestly well-founded. An IRB officer interviews the applicant and makes a recommendation about the claim. Favourable recommendations have to be approved by a member, and then asylum is granted. A full hearing is held if the claimant is not granted refugee protection at the expedited interview.</p> <p>Claims for protection may be based on three grounds (the "consolidated grounds"): Refugee Convention; danger of torture; and, risk to life or risk of cruel and unusual treatment or punishment. The acceptance rate at the IRB averages around 45%, including decisions on consolidated grounds. The CIC advised us that Federal Court jurisprudence has led to comparatively liberal interpretation of the Refugee Convention grounds.</p> <p>Although some asylum seekers are held in detention this is normally not the case. Those with claims pending do not have restrictions on employment and have access to a range of social services.</p>

35 An assessment of the impact of asylum policies in Europe 1990-2000, Roger Zetter, David Griffiths, Silva Ferretti and Martyn Pearl, 2003.

Reports by the Comptroller and Auditor General, Session 2003-2004

The Comptroller and Auditor General has to date, in Session 2003-2004, presented to the House of Commons the following reports under Section 9 of the National Audit Act, 1983:

		Publication date
Culture, Media & Sport		
Income generated by the Museums and Galleries	HC 235	30 January 2004
The National Endowment for Science, Technology and the Arts	HC 267	25 February 2004
The Royal Parks - An Executive Agency	HC 485	2 April 2004
Cross-government		
Managing resources to deliver better public services - Report	HC 61-I	12 December 2003
- Case studies	HC 61-II	12 December 2003
Increased resources to improve public services: a progress report on departments' preparations	HC 234	28 January 2004
Improving Procurement: Progress by the Office of Government Commerce in improving departments' capability to procure cost-effectively		
- Report	HC 361-I	12 March 2004
- Case Studies and International Comparisons	HC 361-II	12 March 2004
Defence		
Operation TELIC - United Kingdom Military Operations in Iraq	HC 60	11 December 2003
Major Projects Report 2003	HC 195	23 January 2004
The Management of Defence Research and Technology	HC 360	10 March 2004
Battlefield Helicopters	HC 486	7 April 2004
Education		
Early Years: Progress in developing high quality childcare and early education accessible to all	HC 268	27 February 2004
Connexions Service: Advice and guidance for all young people	HC 484	31 March 2004
English Regions		
Success in the Regions	HC 1268	19 November 2003
An early progress report on the New Deal for Communities programme	HC 309	11 February 2004
Environment, Food and Fisheries		
The UK Emissions Trading Scheme: A New Way to Combat Climate Change	HC 517	21 April 2004
Europe		
Financial management of the European Union: A progress report	HC 529	6 May 2004
Law, Order & Central Institutions		
Youth Offending: The delivery of community and custodial sentences	HC 190	21 January 2004
Criminal Records Bureau: Delivering Safer Recruitment	HC 266	12 February 2004
The Drug Treatment and Testing Order: early lessons	HC 366	26 March 2004
Health and Safety Executive:		
Improving health and safety in the construction industry	HC 531	12 May 2004
The Management of Sickness Absence in the Prison Service	HC 533	19 May 2004
Asylum and migration: a review of Home Office statistics	HC 625	25 May 2004
Visa Entry to the United Kingdom: The Entry Clearance Operation	HC 367	17 June 2004
Improving the Speed and Quality of Asylum Decisions	HC 535	23 June 2004

		Publication date
National Health Service		
Tackling cancer in England: saving more lives	HC 364	19 March 2004
Overseas affairs		
Department for International Development: Responding to HIV/AIDS	HC 664	18 June 2004
Public Private Partnership		
Refinancing the Public Private Partnership for National Air Traffic Services	HC 157	7 January 2004
Cambridge-MIT Institute	HC 362	17 March 2004
PFI: The STEPS Deal	HC 530	7 May 2004
London Underground:		
Are the Public Private Partnerships likely to work successfully?	HC 644	17 June 2004
London Underground PPP: Were they good deals?	HC 645	17 June 2004
Regulation		
Out of sight - not out of mind:		
Ofwat and the public sewer network in England and Wales	HC 161	16 January 2004
Evaluation of Regulatory Impact Assessments Compendium Report 2003-2004	HC 358	4 March 2004
Revenue departments		
HM Customs and Excise: Tackling VAT Fraud	HC 357	3 March 2004
The Recovery of Debt by the Inland Revenue	HC 363	24 March 2004
Trade and Industry		
Risk Management: The Nuclear Liabilities of British Energy plc	HC 264	6 February 2004
The United Kingdom's Civil Space Activities	HC 359	16 March 2004
Transport		
Strategic Rail Authority: Improving passenger rail services through new trains	HC 263	4 February 2004
Improving public transport in England through light rail	HC 518	23 April 2004
Network Rail - Making a Fresh Start	HC 532	14 May 2004

Greencoat is produced using 80% recycled fibre and 20% virgin TCF pulp from sustainable forests.



Published by TSO (The Stationery Office) and available from:

Online

www.tso.co.uk/bookshop

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Fax orders 0870 600 5533

Order through the Parliamentary Hotline

Lo-call 0845 7 023474

E-mail book.orders@tso.co.uk

Textphone 0870 240 3701

TSO Shops

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68-69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9-21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18-19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

£11.25

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,

London SW1A 2JX

Telephone orders/General enquiries 020 7219 3890

Fax orders 020 7219 3866

TSO Accredited Agents

(see Yellow Pages)

and through good booksellers



9 780102 928495