

Returning failed asylum applicants

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EXECUTIVE SUMMARY



1 Asylum applicants whose applications have been rejected and who have no appeal outstanding have no legal right to remain in the United Kingdom. Failed applicants are expected to leave the United Kingdom voluntarily or be subject to removal action. In 2003-04, the Home Office reported that 13,625 failed asylum applicants (17,855 including dependants), were either removed from the United Kingdom or were known to have left voluntarily. In the same year some 34,735 people were estimated to have been unsuccessful in their asylum application.¹ In September 2004 the Government set the Home Office's Immigration and Nationality Directorate an overall target that by the end of 2005 the rate of removal should exceed the number of newly unsuccessful applications per month.² In 2004-05 the number of applications fell by 25 per cent compared to 2003-04, while the number of failed asylum applicants removed, or choosing to return voluntarily, each month fell by 11 per cent to 12,110.

2 The Home Office's Immigration and Nationality Directorate (the Directorate) is responsible for assessing applications for asylum. Applicants have to show that they meet criteria laid down in the 1951 United Nations Convention relating to the Status of Refugees. Applicants whose application to stay in the United Kingdom is turned down by the Directorate can appeal to an adjudicator and, if necessary, to a higher court. Those whose application has been rejected cannot be removed while an appeal is still outstanding, except where the application is certified as clearly unfounded and the applicant can only exercise their right to appeal from abroad. The Directorate has responsibility for removing asylum applicants without permission to stay in the United Kingdom at the end of the process. The majority of enforcement work is managed from a network of 32 enforcement and removal offices located across the country.

3 For those who do not leave voluntarily, the enforced removal of failed applicants presents significant practical challenges for the Directorate. Those who have been in the country for some time may have settled into their local community and have made a life for themselves and their dependants. Many applicants may not be willing to go. Some will disappear from their last known address, making it more difficult for the Directorate to find them. In addition, some applicants may raise further legal issues

which have to be cleared before removal can go ahead. For those that are arrested and detained and for whom there are no legal barriers to removal, difficulties obtaining emergency travel documents can thwart removal, and two-thirds of failed applicants are from countries which require emergency travel documents to be obtained from the relevant embassy.

4 Applicants for asylum are not allowed to work in the United Kingdom while their application is being considered.³ Families may receive support until they are removed.⁴ Single adult applicants' eligibility for accommodation and financial support from the Directorate's National Asylum Support Service ceases when their appeal rights are exhausted. Some may be eligible for further support where they cannot return voluntarily or be removed immediately. Those who choose not to return voluntarily must find their own means of financial support.

5 In 2003-04, the Directorate spent £1.89 billion on its immigration and nationality operations, including £1.07 billion spent on the National Asylum Support Service, which provides accommodation and financial support to asylum applicants. In the same year, the Directorate spent £285 million (including overheads) on supporting voluntary return, detaining immigration offenders, enforcing removal and other immigration enforcement work - 15 per cent of the Directorate's total spend. In addition, Her Majesty's Prison Service spent £15 million on the detention of immigration offenders prior to their removal. The Directorate estimates that some £308 million of the money spent on supporting asylum applicants in 2003-04 was attributable to failed asylum applicants awaiting removal from the United Kingdom.

Overall conclusion

6 The prompt departure or removal of applicants refused permission to stay in the United Kingdom plays an important part in maintaining the integrity of the asylum process. Prompt departure reduces the cost of supporting failed asylum applicants and potentially reduces the incentive for those without a valid claim to come to the United Kingdom.

¹ In 2003-04 51,330 applications were refused and some 16,595 successfully appealed against their initial refusal.

² The new removals target is defined as being met where the number of removals is as great as the predicted number of newly unsuccessful applications, which is calculated by applying the historic rate of refusal of applications and dismissal of appeals to the number of new applications per month.

³ Applicants whose application is not decided within a year are allowed to work. This applies to a small number of people each year.

⁴ The 2004 Asylum (Treatment of Claimants etc) Act enabled the Directorate to cease to provide support to families who are not co-operating in the organisation of their removal, and this is being piloted from December 2004, prior to national roll-out.

7 The Directorate has increased its removal capacity but the number of people removed or returning voluntarily each month (an average of 1,000 applicants per month in 2004-05, excluding dependants) is still less than the number of unsuccessful cases in the same period (an average of 2,150 per month, excluding dependants). Whilst the Directorate undoubtedly faces some significant practical challenges in effecting the removal of failed applicants, we concluded that overall:

- the application, support and enforcement processes have operated as largely separate systems, leading to poor communication and co-ordination within the Directorate, thereby reducing the prospect of quick removal of newly failed applicants;
- bottlenecks in the removal process have limited the Directorate's removal capacity. The recent expansion in the number of detention places and work to improve the administration of requests for emergency travel documents will help;
- the Directorate has lacked adequate management information leading to insufficient control over how resources are deployed against its various objectives, although it is now collecting information on the operations its staff undertake; and
- insufficient effort has been made by the Directorate to promote the option of assisted voluntary return amongst applicants, but it is working to improve communications about voluntary return.

We estimate that our recommendations for improving the efficiency and effectiveness of the removal process could release resources worth some £28 million⁵ per year which could be used to increase numbers of returns.

8 Quicker removal is needed to reinforce any deterrent effect that might arise from the faster processing of applications. In some cases this will release resources currently used in providing continuing support. The longer applicants stay in the United Kingdom the more likely they are to settle into the community, making it more difficult for them to leave, and for the Directorate to locate and remove them. The actual number of failed asylum applicants still in the United Kingdom is not known and therefore the number of people due for removal is not known. But with a maximum potential pool of between 155,000 and 283,500 as at the end of May 2004, the

Directorate will have to continue to strike a balance between removing applicants whose cases have recently reached the end of the appeal process and older cases. The Directorate, nevertheless, needs to place much greater emphasis on removing a larger proportion of new cases within a specified period of reaching the end of the appeal process.

9 In February 2005 the Government announced, in its new Five Year Strategy on Immigration and Asylum, that it would be introducing a new process for considering asylum applications, with an increase in the number of applications handled in fast-track processes and more applicants held in detention while their application is determined.

Detailed findings

On estimating the number of failed applicants due for removal

10 The Directorate has difficulty estimating the number of failed applicants to be removed. Between 1994 and May 2004, a maximum of 363,000 applications for asylum were unsuccessful. Over the same period the Directorate reported that it had removed 79,500 failed asylum applicants.⁶ This suggests that the maximum number of failed applicants due for removal is 283,500 while the Directorate's database records some 155,000 as being due for removal at that time. Some failed asylum applicants leave the country of their own accord. The Directorate has no system for collecting information on their number, but has started to deploy electronic security checking of passengers departing from the United Kingdom on certain routes.

11 The Directorate has improved the completeness and accuracy of data held on its database of asylum cases, but our work suggested that large numbers of older cases remain for which the details recorded were not complete. There is a risk that some older cases not recorded as "appeal rights exhausted" are still in receipt of support and are not being considered for removal. The number of applicants supported by local authorities has reduced to 5,700 by December 2004. And, the Directorate is reviewing older cases to ensure that support has been stopped in those cases where the applicant is no longer eligible and to pursue removal where appropriate.

⁵ This represents £9.9 million from increasing the number of voluntary returns (paragraph 3.5); £2.5 million from increasing the number of arrests made at reporting centres (paragraph 3.21); and £15.5 million from reducing the length of time detainees are held in detention (paragraph 4.11).

⁶ The dependants of these applicants were also removed, but the Directorate did not record these removals before April 2001 and so dependants are not included in the comparison.

12 The Directorate has difficulty maintaining contact with applicants not detained while their application is processed and following refusal of their application. Applicants may be required to report to a reporting centre or the police as a condition of entry to the United Kingdom, but applicants who already had leave to enter the country, for example because they had a visa, have not been required to report. When trying to find applicants to enforce their removal, the Directorate often finds that they are not living at the last known address. The Directorate is trialling the use of alternative approaches to maintaining contact with applicants, including electronic tagging, and introducing a case management strategy to manage asylum applicants' cases more tightly through to integration or removal.

On taking prompt action to remove failed applicants

13 Some 7 per cent of recorded returns in 2003-04 were of failed asylum applicants who had chosen to leave the country, and 16 per cent were assisted voluntary returns. The latter receive reintegration assistance, including, for example, training and access to education in their home country. The Directorate needs to do more to raise the profile of the assisted voluntary returns programme amongst applicants. At around £1,100 per departure, assisted voluntary returns are less costly than enforced returns. Take-up has increased from some 1,200 in 2001-02 to 2,800 in 2004-05 including dependants. Whilst many failed applicants may have no interest in leaving voluntarily, we found only limited championing of the assisted voluntary return option amongst the Directorate's local enforcement offices and removal teams. Since August 2004 the Directorate has been working to improve the availability of information on voluntary return through its website, its staff and others with whom asylum applicants may come into contact.

14 The Directorate has removed more easily applicants who are in detention when their right to remain in the United Kingdom is exhausted – because their case is fast-tracked, or because they have been detained on criminal grounds or considered under the procedure for applicants arriving from a safe third country. Between April 2003 and the end of July 2004, 62 per cent of applicants dealt with via the Harmondsworth fast-track procedure and refused asylum were returned.⁷ Similarly between November 2002 and June 2004, 68 per cent of applicants from countries presumed to be safe who were detained while their application was decided at Oakington Reception Centre

were returned. The Directorate has not kept records of the number of people detained on immigration grounds following the end of their criminal sentence who have been released from detention and not removed.

15 The Directorate has been slow to remove newly failed applicants who have lived in the community while their application for asylum has been considered. For example, the Directorate found that in a sample of 800 non-detained applicants exhausting their appeal rights in February and March 2004, only 3 per cent were removed within three months. From our analysis of data from the Directorate's database, CID, on average, of those unsuccessful applicants removed in the period June 2003 to May 2004, removal took place 403 days after applicants' appeals had been completed.

16 To help speed up removal, enforcement processes need to be better integrated with the application process. Our examination of the removal of failed asylum applicants not held in detention identified a number of areas where improvement is needed:

- newly failed asylum cases need to be passed more promptly to enforcement offices for removal;
- enforcement offices need to review those due for removal and make more arrests at their reporting centres;
- the preparatory work needed to effect removal needs to be started earlier so that it takes place before the cessation of support; and
- the Directorate needs to obtain more information on the comparative cost and performance of local enforcement offices.

17 The approach the Directorate uses to deal with applicants whose cases are decided in its fast-track procedures could be used as a model for better removal processes. In part, the removal record at Harmondsworth reflects the fact that applicants are held in detention. The process at Harmondsworth could, however, offer lessons for the management of those applicants not held in detention during the application process, in particular arising from better case management and greater continuity amongst the staff handling individual cases. The Directorate reported that in 2004 it had started trialling better case management approaches and in 2005 started to introduce a new process for considering asylum applications, which builds on the fast track process.

⁷ The fast-track process applies to straightforward applications from male applicants without dependants.

On whether the Directorate has sufficient capacity to meet its targets

18 With increased resources the Directorate increased the number of failed asylum applicants removed from the United Kingdom by 52 per cent between 2000-01 and 2003-04 from 8,960 to 13,625 (excluding dependants). The average cost per removal has remained broadly the same, at £10,100 in 2003-04.⁸ To make better use of its capacity, the Directorate has been reviewing a number of potential bottlenecks within the system.

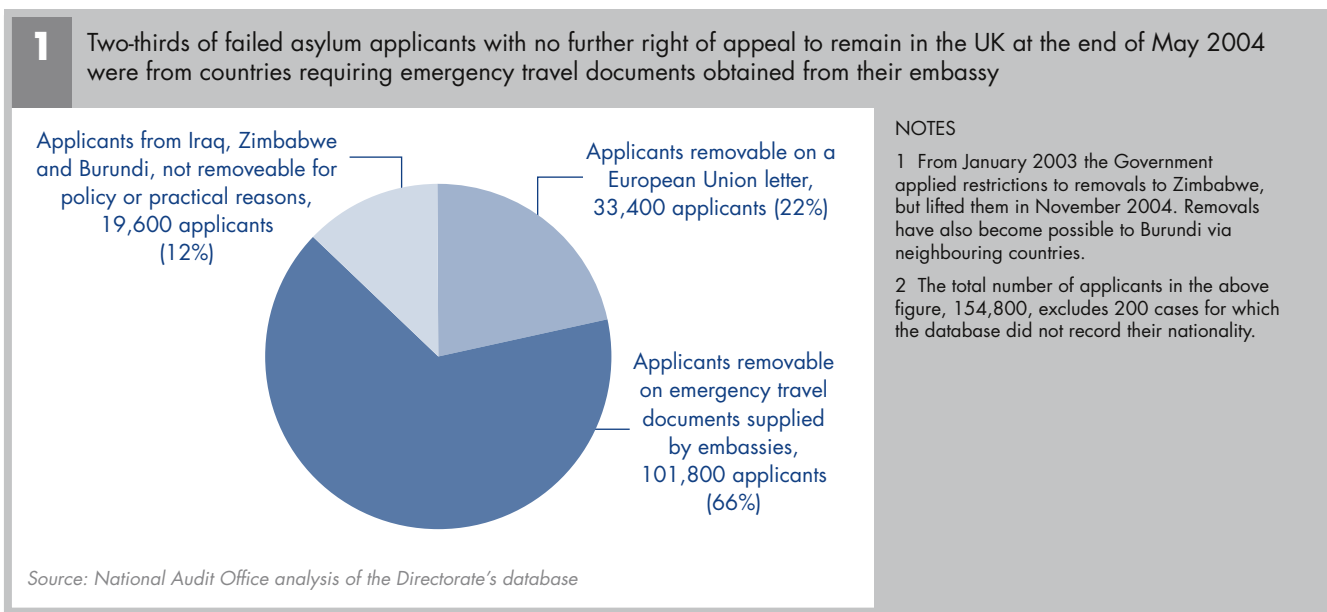
Use of detention places

19 Our interviews with local enforcement staff suggested that the availability of detention places was one of the key factors constraining their ability to improve the throughput of removals. The Directorate’s planned increase in capacity of the detention estate was hampered by a major fire at Yarls Wood in February 2002 and a disturbance at Harmondsworth in July 2004. In 2003-04 the Directorate achieved 77 per cent occupancy rate in its detention estate, but the average number of removals per bedspace was less than one per month. The Directorate, however, had increased the capacity of its detention estate to 2,750 places by March 2005, from an average of 1,900 over the three years 2001 to 2004. By December 2004 following improvements to the management of detention by a new Detention Review Board, operational units considered that detention spaces were no longer a constraint on their activities.

20 The increase in detention beds will enable an increase in removals of some 340 to 375 failed asylum applicants and their dependants each month, as well as an increase in use for other illegal immigrants. This is some 40 per cent of the increase required to meet the new target of the monthly rate of removals exceeding the number of new failed applications by the end of 2005, based on the number of new applications remaining at the reduced monthly rate achieved in March 2005. To meet the target the Directorate will therefore also need to increase the number of removals not requiring detention, such as voluntary returns, or to increase the numbers of failed asylum applicants removed per bedspace in removal centres.

Preparing travel documentation

21 Many failed applicants do not have travel documents or any form of identification. Where no travel documents are available, the Directorate’s ability to remove failed applicants is frequently hindered by delays in taking action to obtain emergency travel documents and difficulties in obtaining documents from embassies. The Directorate may itself be able to prepare a valid travel document known as a European Union letter, provided the applicant comes from a country where this document is recognised. Two-thirds of the cases recorded as “appeals rights exhausted” on the Directorate’s database at the end of May 2004, however, were from countries for which travel documents are required from embassies and 12 per cent were from countries to which at that time the Directorate was not enforcing removals (**Figure 1**).



⁸ This represents the average cost of both voluntary and enforced returns. The unit costing exercise carried out by the Directorate (Appendix 2) shows that in 2003-04 the average cost of a voluntary return was £11,100 whereas the average cost of an enforced return was £11,000.

A specialist Unit within the Directorate is responsible for seeking travel documents from the embassies of countries not accepting European Union letters. In March 2004 the Unit took on average 17 days to forward applications for travel documents to the embassies of the 11 countries most frequently approached. The embassies took on average 53 days to provide the travel documentation – embassies often wish to make checks against records kept in their home countries.

22 The Directorate reviewed the work of the Unit in August 2004 and by November 2004 had reduced the time taken to forward documents to embassies to an average of seven days. Since 2003 the Government has been working to improve its arrangements with foreign embassies. By 2004, the United Kingdom had concluded bilateral readmission agreements with three countries⁹ and had established informal memoranda of understanding or similar arrangements with officials in a further five.¹⁰ The European Union is currently negotiating readmission agreements with nine countries, which the United Kingdom can opt into once agreed.¹¹

Arranging in-country and in-flight escorts

23 Weaknesses in the Directorate's contracts with suppliers for transporting failed applicants to and from detention and arranging in-flight escorts have contributed to delays in effecting removal. The Directorate has reviewed its contracts to address the problems:

- **Transport to and from detention.** Since November 1999 the Directorate has contracted with Wackenhut UK Ltd to provide transport for taking immigration offenders to and from detention. In July 2003 consultants commissioned by the Directorate advised it that making 23 provisional changes to the contract to address its changing needs, with prices and payments on that basis, had resulted in it over-remunerating the contractor for the in-country escort service over the period to December 2002. The Directorate started negotiations with Wackenhut (as it then was) in October 2002 to recoup some of the provisional payments made. The Directorate reached a settlement in January 2005 with GSL UK Ltd, who had taken over the contract and negotiations following the acquisition of Wackenhut UK Ltd by the Group 4 Falck group. The settlement provided for the Directorate to recover

£11 million for the period to December 2002 and to increase contract payments by £7.7 million for January 2003 to August 2004 to meet the contractor's costs in providing the service. Had it not made these changes since October 2002, the Directorate would have paid some £38 million more under the provisional changes previously made to the contract.

- **Arranging in-flight escorts.** The Directorate has contracted with Loss Prevention International Ltd (subsequently called LPI Services Ltd) to provide in-flight escorts for people it identifies as being likely to resist removal through disruptive behaviour, with the five year contract running from April 2000. At the time of our visits in early 2004 enforcement offices were reporting delays of up to eight to ten weeks in arranging overseas escorts. From April 2003 the Directorate reduced its requests for in-flight escorts from its contractor and then started to use additional suppliers for in-flight escorts. LPI Services Ltd disputed the changes the Directorate made to the operation of the contract and the price paid, and sought arbitration. Following an interim arbitration decision in March 2004, the parties agreed to mediation and reached settlement in July 2004. The agreement limited the services provided to the contracted number of escorted removals, 750, over the remainder of the contract to March 2005. The Directorate paid LPI Services Ltd £240,000 to settle the dispute. Had it not made these changes, the Directorate would have paid some £4.8 million more under the provisional expansion of the contract.

On the Directorate's arrangements for monitoring its performance

24 The ability of the Directorate to monitor how its enforcement resources are being used, and hence to manage its efficiency and effectiveness, has been hampered by weaknesses in its budgeting and financial systems. For 2004-05, the Directorate has agreed budgets for the Enforcement and Removals operation. However, it still cannot set and monitor expenditure against the various activities at enforcement office level. Nor does it have systems for recording how staff spend their time against the different objectives, for example asylum removal work, illegal working and other immigration offences.

⁹ Albania, Bulgaria and Romania.

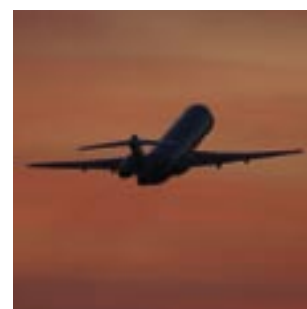
¹⁰ Afghanistan, India, Turkey, Sri Lanka, and Vietnam. Similar arrangements have also been established with the Somalian authorities.

¹¹ Sri Lanka, Morocco, Pakistan, Russia, Algeria, Albania, China, Turkey and Ukraine.



RECOMMENDATIONS

- i** Building on the lessons learned from the fast-track procedures, the Directorate should assign clearer responsibility and ownership to caseworkers for managing the return of newly failed applicants, including the speed with which applicants are returned.
- ii** The Directorate should introduce procedures for the identification and return of people whose limited leave to remain has expired.
- iii** The Directorate should encourage more voluntary returns by:
 - improving the information available to asylum applicants on the voluntary-assisted return programmes, through its staff, literature and website;
 - encouraging enforcement staff to promote the voluntary return option amongst those due for removal; and
 - establishing more extensive and effective contacts with community groups outside London and the South East who may be in contact with failed applicants.
- iv** The Directorate should better integrate the application, support and removal procedures, for example by:
 - referring newly failed asylum cases, including those who choose not to exercise their appeal rights, more promptly to enforcement offices for removal;
 - making use of reporting centres to help initiate removal action in a much higher proportion of cases; and
 - initiating the preparatory work needed to effect removal before the cessation of support.
- v** The Directorate should have sufficiently robust procedures in place to stop providing support to applicants who do not report to their reporting centre and to failed applicants when their statutory entitlement ends or they fail to co-operate with their removal.



- vi** The Home Office and the Foreign and Commonwealth Office should seek to increase embassies' commitment to facilitating the return of their nationals; and the Directorate should improve its management of requests for travel documentation, for example by:

 - working with embassies to understand their capacity to handle requests for documentation and identify ways of assisting their prompt processing of requests;
 - clearer prioritisation of requests; and
 - improved recording and reporting of progress on individual cases.
- vii** The Directorate should extend its measurement and reporting of the outcome of each year's asylum applications through to removal, to show the number of applicants, the number of applicants exhausting their rights of appeal, the number known to have left the country, and hence the number of applicants remaining in the country.
- viii** The Directorate should improve significantly the quality of performance and financial information it uses to help it work to increase the efficiency and effectiveness of its enforcement business. The Directorate should, for example, be able to:

 - monitor the proportion of its enforcement resources used at each enforcement office on asylum removal work, illegal working and other immigration offences;
 - monitor the time taken to complete the various stages of the removal process; and
 - compare reliably the cost and performance of its local enforcement offices.
- ix** The Directorate should reduce the time taken to remove the cases of failed applicants in detention for criminal offences, for example by:

 - reviewing all cases referred for early removal within a specified period;
 - encouraging voluntary return; and
 - dealing with travel documentation issues at the earliest opportunity.
- x** The Directorate should increase the number of removals achieved per bedspace in detention, for example by closer working with staff responsible for obtaining travel documents to prioritise cases.
- xi** To avoid a recurrence of the weaknesses in its contract management, the Directorate needs to work in closer partnership with its contractors, receive reliable information on performance, meet regularly to review performance and operational issues, and act quickly to resolve any emerging issues.