



University of  
**Nottingham**  
Human Rights Law Centre

# **Streamlining the Asylum Process: An Evaluation of Recent Reforms**

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## Executive Summary

To address the UK's growing asylum backlog, on 23 February 2023, the Home Office announced the introduction of the streamlined asylum process. Under the streamlined asylum process, people from five nationalities awaiting an initial decision on their asylum claim would be sent a questionnaire. Protection could be granted on the basis of the questionnaire and without the need for an interview, giving 'decision-makers increased flexibility over the process of making asylum decisions, in the interest of making the accurate and high quality decisions as quickly as possible.'<sup>1</sup>

Using a combination of sources, this report evaluates the first six months of the streamlined asylum process, exploring the impact of the process on people seeking asylum and the legal organisations and charities supporting them. The report considers five questions:

1. To what extent is the streamlined asylum process an effective way of enabling decision-makers to make high-quality, accurate decisions?
2. To what extent does the streamlined asylum process enable efficient decision-making, thus contributing to reducing the asylum backlog?
3. What is the impact of the streamlined asylum process on people seeking asylum?
4. What is the impact of the streamlined asylum process on the refugee sector?
5. Are there any outstanding issues with the streamlined asylum process and, if so, how should these be resolved moving forward?

This report finds that, in pursuit of its goal to reduce the asylum backlog, the Government has made decisions that appear to have prioritised quick decision-making over high-quality decision-making. However, in doing so, the Government has created a process that risks being less efficient in the longer term, due to the need to respond to and manage requests for extensions, deal with people challenging inaccurate withdrawals of their asylum claim or seeking to make fresh asylum claims, and respond to legal challenges if a person's asylum claim is rejected. Ultimately, by prioritising short-term quickness, the Government has created a process that both undermines its stated goal of making high-quality, accurate decisions and that might prove less efficient in the longer term.

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<sup>1</sup> Home Office, *Streamlined asylum processing* (version 3, 16 August 2023) 4, <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1179736/Streamlined\\_asylum\\_processing.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1179736/Streamlined_asylum_processing.pdf)> accessed 6 October 2023 (*Streamlined asylum processing* version 3).

The streamlined asylum process should not be evaluated purely through the metric of efficiency. It is also important to consider the human cost of this policy, both for people seeking asylum and for the people working to support them. The streamlined asylum process has caused significant anxiety and stress for people seeking asylum, overloaded an already struggling legal aid sector, and could potentially contribute to a longer term erosion of the legal aid sector by exacerbating the factors that cause practitioners to cease performing immigration work.

Earlier consultation with the refugee sector could have addressed many of the issues identified by this report before they arose. Due to known issues with the Home Office's capacity to make decisions on asylum applications, which were in the process of being resolved but had not yet been remedied when the streamlined asylum process was announced, there was no need for the policy to be rolled out at pace. Indeed, a slower and more careful implementation of the streamlined asylum process might have been more efficient in the long term. By engaging in consultation with the refugee sector, the Home Office could have identified and addressed potential issues proactively, rather than reactively.

While it appears that the Home Office is making some changes to the ongoing operation of the streamlined asylum process, there remains a number of outstanding issues that the Home Office need to address as a person's application progresses through the asylum system. In particular:

1. **Withdrawals:** Where people with withdrawn asylum claims would like to claim protection in the UK, the Home Office should adopt a flexible approach to reinstating their claims.
2. **Inconsistencies and credibility:** Decision-makers should consider the effect that the streamlined asylum process might have had on creating inconsistencies in a person's account when assessing the credibility of a person's asylum claim.
3. **Immigration legal aid:** To create a fair and efficient asylum system, the UK Government must place greater emphasis on investing in its domestic asylum processes, including the immigration legal aid system.
4. **Support:** People granted refugee status must be able to access adequate support, including to prevent homelessness following their exit from asylum support accommodation.
5. **Data collection:** The Home Office needs to give greater consideration to the collection and publication of reportable data on new policies, to enable these policies to be monitored and evaluated as they are implemented.

## Introduction

In recent years, the number of people waiting for a decision on their application for asylum in the UK has been growing. At the end of December 2022, 166,300 people were awaiting an asylum decision, including 161,000 people who were awaiting their initial decision.<sup>2</sup> Delays in asylum decision-making have multiple negative consequences. Living in a state of prolonged uncertainty regarding the future has the potential to cause physical and psychological health issues for people seeking asylum.<sup>3</sup> Further, the asylum backlog impacts other parts of the UK's immigration system, for example, by increasing demand for asylum support accommodation, necessitating the use of hotels and other forms of accommodation to house people awaiting a decision on their case.

On 13 December 2022, Prime Minister Rishi Sunak announced his intention for the Government to clear the 'legacy' backlog of asylum claims by the end of December 2023.<sup>4</sup> On 23 February 2023, the Home Office announced the introduction of the streamlined asylum process,<sup>5</sup> giving 'decision-makers increased flexibility over the process of making asylum decisions, in the interest of making the accurate and high quality decisions as quickly as possible.'<sup>6</sup> Under the streamlined asylum process, people from five nationalities awaiting an initial decision on their asylum claim would be sent a questionnaire.<sup>7</sup> Protection could be granted on the basis of the questionnaire and without the need for an interview,<sup>8</sup> ostensibly enabling the Home Office to make decisions at a much faster rate.

While welcoming news that the Government was committed to reducing the asylum backlog and processing applications more quickly,<sup>9</sup> immigration lawyers and charities expressed a

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<sup>2</sup> Home Office, Immigration statistics year ending December 2022, 23 February 2023, tables Asy\_04 and Asy\_D03 <<https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022>> accessed 6 October 2023.

<sup>3</sup> See eg Angela Burnett and Tracy Ndovi, 'The Health of Forced Migrants' (2018) *British Medical Journal* 363, 3; Charlotta van Eggermont Arwidson, Jessica Holmgren, Kristina Gottberg, Petter Tinghög and Henrik Eriksson, 'Living a Frozen Life: A Qualitative Study on Asylum Seekers' Experiences and Care Practices at Accommodation Centres in Sweden (2022) 16 *Conflict and Health* 47.

<sup>4</sup> HC Deb 13 December 2022, vol 742, col 887. The legacy backlog comprises 92,601 asylum applications that were made before 28 June 2022.

<sup>5</sup> Home Office, *Streamlined asylum processing* (version 1, 23 February 2023) (*Streamlined asylum processing* version 1).

<sup>6</sup> Ibid 4.

<sup>7</sup> Ibid 4.

<sup>8</sup> Ibid 16; see also Immigration Rules (5 October 2023) para 339NA.

<sup>9</sup> See, eg, Vicky Tennant, 'UNHCR Comment on the Announcement of UK Measures to Address the Asylum Backlog' (UNHCR, 23 February 2023) <<https://www.unhcr.org/uk/news/unhcr-comment-announcement-uk-measures-address-asylum-backlog>> accessed 6 October 2023; Open Letter re: Remedying the "Asylum Questionnaire" (1 March 2023) <<https://ilpa.org.uk/wp-content/uploads/2023/03/Open-Joint-Letter-RE-Remedying-the-Asylum-Questionnaire-01.03.23-1.pdf>> accessed 6 October 2023; Sheona York, 'Are the new asylum questionnaires fit for purpose?' (*Free Movement*, 2 March 2023)

number of concerns about the streamlined asylum process. These included that the questionnaire sent to people seeking asylum was overly complex, that there was insufficient capacity among lawyers to assist people to complete the questionnaire, that a person's asylum claim would be withdrawn if they did not return the questionnaire within 20 working days, and that the process was introduced without consultation with the sector.<sup>10</sup> An open letter to the Home Secretary, signed by 180 individuals and organisations, urged the Government to 'rethink its plan and to remedy it'.<sup>11</sup>

This report evaluates the first six months of the streamlined asylum process, exploring the impact of the process on people seeking asylum and the legal organisations and charities supporting them. This report focuses on the streamlined asylum process that applies to adults, and not the streamlined asylum process for children that was introduced on 16 March 2023.<sup>12</sup> The report considers five questions:

1. To what extent is the streamlined asylum process an effective way of enabling decision-makers to make high-quality, accurate decisions?
2. To what extent does the streamlined asylum process enable efficient decision-making, thus contributing to reducing the asylum backlog?
3. What is the impact of the streamlined asylum process on people seeking asylum?
4. What is the impact of the streamlined asylum process on the refugee sector?
5. Are there any outstanding issues with the streamlined asylum process and, if so, how should these be resolved moving forward?

This report finds that, in pursuit of its goal to reduce the asylum backlog, the Government has made decisions that appear to have prioritised quick decision-making over high-quality decision-making. However, in doing so, the Government has created a process that risks being

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<<https://freemovement.org.uk/questionnaires/>> accessed 6 October 2023; Liz Barratt, 'Streamlining the Asylum Process' (*Bindmans*, 7 March 2023) <<https://www.bindmans.com/knowledge-hub/blogs/streamlining-the-asylum-process/>> accessed 6 October 2023.

<sup>10</sup> See, eg, Open Letter re: Remedying the "Asylum Questionnaire" (n 9); York (n 9). On the final point, the Home Office later advised that 'In order to achieve [the Prime Minister's commitment to clear the backlog], we were required to establish this policy at pace. Any use of further questionnaires will consider your feedback': Letter from Robert Jenrick in response to Open Letter (2 May 2023) <<https://ilpa.org.uk/wp-content/uploads/2023/05/Robert-Jenrick-reponse-to-joint-open-letter-re-Remedying-the-Asylum-Questionnaire-020523.pdf>> accessed 6 October 2023.

<sup>11</sup> Open Letter re: Remedying the "Asylum Questionnaire" (n 9).

<sup>12</sup> The streamlined asylum process for children applies to children from Afghanistan, Eritrea, Sudan, Syria and Vietnam. See Home Office, *Streamlined asylum processing for children* (version 2, 3 August 2023) <<https://www.gov.uk/government/publications/streamlined-asylum-processing-for-children-caseworker-guidance>> accessed 6 October 2023.

less efficient in the long term. Furthermore, the streamlined asylum process has caused significant anxiety and stress for people seeking asylum, overloaded an already struggling legal aid sector, and could potentially contribute to a longer term erosion of the capacity of the legal aid sector. While it appears that the Home Office is making some changes to the ongoing operation of the streamlined asylum process, earlier consultation with the refugee sector could have addressed many of these issues before they arose. Furthermore, there remains a number of outstanding issues that the Home Office must address as applications progress through the UK's asylum system.

## Methodology

This report draws on three key sources of information to understand how the streamlined asylum process has been operating in practice. These sources have been triangulated against each other to enhance the robustness of this report's findings.<sup>13</sup>

First, the report has collected and analysed secondary sources that provide insights into the operation of the streamlined asylum process.<sup>14</sup> Where appropriate, this report has also had recourse to secondary sources that describe challenges facing people seeking asylum and the immigration legal sector more generally.<sup>15</sup>

Second, to supplement this analysis, the author interviewed four individuals about their experiences assisting people in the streamlined asylum process. Three of the interviewees provided immigration advice to people in the streamlined asylum process, either as lawyers or as OISC immigration advisors. The fourth interviewee worked at a charity that had contact

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<sup>13</sup> On triangulation as a method of ensuring research validity generally, see Tom Clark, Liam Foster, Luke Sloan and Alan Bryman, *Bryman's Social Research Methods* (6th edn, Oxford University Press, 2016) 364.

<sup>14</sup> Including Greater Manchester Immigration Aid Unit, 'Home Office asylum streamlining plans: Impact in the North West' (26 May 2023) <<https://gmiau.org/home-office-asylum-streamlining-plans-impact-in-the-north-west-updated/>> accessed 6 October; Holly Grey and Claire Garret, 'The asylum questionnaire: experiences of supporting people through the UK's new streamlined asylum process' (*Refugee Law Initiative*, 27 April 2023) <<https://rli.blogs.sas.ac.uk/2023/04/27/the-asylum-questionnaire-experiences-of-supporting-people-through-the-uks-new-streamlined-asylum-process/>> accessed 6 October 2023; Immigration Law Practitioners Association (ILPA), 'ILPA's Response to the ICIBI's Call for Evidence: An Inspection of Asylum Casework' (9 June 2023) <<https://ilpa.org.uk/ilpas-response-to-the-icibi-call-for-evidence-an-inspection-of-asylum-casework-9-june-2023/>> accessed 6 October 2023; Public Law Project, written evidence to the Public Accounts Committee Inquiry on the Asylum Transformation Program, TAP0005 (10 July 2023) para 18 <<https://committees.parliament.uk/work/7726/the-asylum-transformation-programme/publications/written-evidence/>> accessed 6 October 2023.

<sup>15</sup> Including Jo Hynes, *Overstretched & Unsustainable: A Case Study of the Immigration and Asylum Legal Aid Sector* (Public Law Project, April 2023) <<https://publiclawproject.org.uk/resources/overstretched-unsustainable-a-case-study-of-the-immigration-and-asylum-legal-aid-sector/>> accessed 6 October 2023; Jo Wilding, *No Access to Justice: How Legal Advice Deserts Fail Refugees, Migrants and Our Communities* (Refugee Action, May 2022) 12 <<https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>> accessed 6 October 2023.

with people in the streamlined asylum process. The individuals interviewed worked in different geographical regions across England.

Third, the report considered official information on the UK asylum system. The report had recourse to publicly available statistics on the asylum backlog.<sup>16</sup> To supplement this information, the report made a series of Freedom of Information requests to the Home Office. The requests asked for information including copies of the letter and questionnaire being sent to people under the streamlined asylum process. The requests also asked for statistics about the progress of cases through the streamlined asylum process, including:

The total number of people who have been sent a questionnaire pursuant to the Government's streamlined asylum process;

The number of people in the streamlined asylum process who have been granted protection status – both in total, and the number of people by nationality;

The number of people in the streamlined asylum process whose application for protection has been refused – both in total, and the number of people by nationality;

The number of people in the streamlined asylum process whose asylum claim has been withdrawn – both in total, and the number of people by nationality;

Information on the length of time taken from a completed questionnaire being received by the Home Office to a decision to grant or refuse protection status being made.<sup>17</sup>

The Home Office advised that it was not able to provide any of the requested statistical information because '[w]e do not capture the level of information required to address the points raised in your request in a readily reportable format; therefore to extract this data, we would need to investigate each application separately, and study all relative case notes made within.'<sup>18</sup>

It is unacceptable that the Home Office is not recording statistics relating to the streamlined asylum process in a readily reportable format. Without this data, it is not possible to statistically investigate whether the process is meeting its stated aim of making 'accurate' decisions 'as

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<sup>16</sup> Home Office, Immigration statistics year ending June 2023, 24 August 2023, tables Asy\_D02 <<https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables>> accessed 6 October 2023.

<sup>17</sup> Letter from the author to the Home Office (30 July 2023).

<sup>18</sup> Letter from the Home Office to the author (22 August 2023); Letter from the Home Office to the author (20 September 2023). See also Robert Jenrick, UK Parliament Written Questions and Answers, Question UIN 185791 (23 May 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-05-18/185791>> accessed 6 October 2023; Robert Jenrick, UK Parliament Written Questions and Answers, Question UIN 198337 (7 September 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-09-07/198337>> accessed 6 October 2023.



quickly as possible.<sup>19</sup> The lack of available data on the streamlined asylum process also prevents this report from being able to ascertain the extent to which the concerns raised in this report – including about the withdrawal of asylum claims and factors that might impact on decisions to grant protection status – are supported in case statistics. Put simply, statistical data would greatly assist in determining whether or not the streamlined asylum process is an effective policy intervention. The Home Office's inability to make this data publicly available prevents independent scrutiny of the streamlined asylum process, in contradiction to the Government's commitment to openness, transparency and accountability.<sup>20</sup>

## Overview of the Streamlined Asylum Process

The streamlined asylum process applies to 'manifestly well-founded claims awaiting an initial asylum decision'.<sup>21</sup> Five nationalities were initially identified for inclusion in the streamlined asylum process on the basis that they all had asylum grant rates of over 95%: Afghanistan, Eritrea, Libya, Syria and Yemen.<sup>22</sup> The streamlined asylum process applied to nationals from these countries who claimed asylum prior to 28 June 2022.<sup>23</sup> This was subsequently extended to individuals who claimed asylum prior to 7 March 2023.<sup>24</sup> Additionally, due to violence occurring in Sudan, the streamlined asylum process was extended to include nationals from Sudan who made claims on or after 28 June 2022 and entered or arrived in the UK before 7 March 2023.<sup>25</sup>

Under the streamlined asylum process, people seeking asylum are sent a questionnaire. Depending on their responses to the questionnaire, a person can be granted protection status without the need for an interview.<sup>26</sup>

Initially, applicants were told in the instructions accompanying the questionnaire that a legal representative could complete the form for them. However, they were also told, 'If you do not have a legal representative, you can complete the questionnaire yourself. You do not need to have any knowledge of the asylum system; we only need you to explain why you are claiming

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<sup>19</sup> *Streamlined asylum processing* version 3 (n 1) 4.

<sup>20</sup> See, eg, UK Government, 'Open Government' (31 January 2022) <<https://www.gov.uk/government/collections/open-government>> accessed 6 October 2023.

<sup>21</sup> *Streamlined asylum processing* version 3 (n 1) 4.

<sup>22</sup> Ibid 7.

<sup>23</sup> Ibid 3.

<sup>24</sup> Ibid 3.

<sup>25</sup> Ibid 7. Note that pre-28 June 2023 claims are being processed in the normal manner.

<sup>26</sup> Ibid 17; see also Immigration Rules (5 October 2023) para 339NA.

asylum. Assistance might also be available from parties such as local refugee organisations.<sup>127</sup> In response to a Freedom of Information request, the Home Office provided this report with a ‘SAP letter’ template, which appears to be an updated version of the letter sent to people in the streamlined asylum process.<sup>128</sup> According to that template, dated 27 June 2023, people are now instructed that ‘An immigration advisor (sometimes called a solicitor or legal representative) can give you advice on your claim.’<sup>129</sup> However, the latest version of the Home Office’s Streamlined Asylum Processing Guidance maintains the position that ‘It is generally considered that the questionnaire can be completed by claimants without the need to consult a legal representative.’<sup>130</sup>

The questionnaire must be completed in English. The initial version of the letter sent to applicants advised that, ‘If you do not speak, write or understand English, you can use online translation tools. What you provide us with doesn’t need to be perfect: we can always ask you for further details either by writing to you or ringing you to collect further information, or by inviting you to an interview. A friend who does understand English can also assist you to explain why you are claiming asylum, but they must not provide you with immigration advice.’<sup>131</sup>

Applicants were initially told they had 20 working days to complete the questionnaire, with the option of applying for an extension if required.<sup>132</sup> Currently, applicants are told they have 30 working days to complete the form, with Home Office decision-makers instructed to issue a reminder after 20 days if an applicant has not yet replied.<sup>133</sup> If an applicant does not return their questionnaire within the required timeframe, their asylum claim may be withdrawn.<sup>134</sup>

Based on the information provided in the questionnaire, a decision-maker is permitted to grant protection status without proceeding to interview. If the information in the questionnaire is insufficient to enable a decision-maker to grant protection status, then an interview will be held.<sup>135</sup> Under the policy, three types of interviews are envisaged: a ‘targeted interview’ to ascertain an applicant’s nationality, lasting 30-45 minutes in length; a ‘shorter interview’ to

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<sup>127</sup> Streamlined asylum process letter template (23 February 2023, copy on file with the author).

<sup>128</sup> Streamlined asylum process letter template (27 June 2023, provided by the Home Office to the author on 7 September 2023).

<sup>129</sup> Ibid.

<sup>130</sup> *Streamlined asylum processing* version 3 (n 1) 12.

<sup>131</sup> Streamlined asylum process letter template (23 February 2023) (n 27).

<sup>132</sup> Ibid; *Streamlined asylum processing* version 1 (n 5) 11.

<sup>133</sup> Streamlined asylum process letter template (27 June 2023) (n 28); *Streamlined asylum processing* version 3 (n 1) 11–12.

<sup>134</sup> *Streamlined asylum processing* version 3 (n 1) 12; see also Immigration Rules (5 October 2023) para 333C.

<sup>135</sup> *Streamlined asylum processing* version 3 (n 1) 17; see also Immigration Rules (5 October 2023) para 339NA.

‘establish a small number of key issues’, lasting no longer than two hours; and a substantive interview, where more substantial information is needed than can be obtained in a targeted or shorter interview.<sup>36</sup> No decision to refuse a protection claim will be made unless a person has had a substantive interview.<sup>37</sup>

## The Necessity and Availability of Immigration Advice

### The Necessity of Immigration Advice

The questionnaire used for the streamlined asylum process has the peculiar distinction of both overwhelming a person with questions that need to be answered while simultaneously providing insufficient guidance on how a person should respond. The questionnaire is prefaced by a cover letter and five pages of instructions on completing the questionnaire. These instructions contain a list of 42 questions that the Home Office requests applicants ‘please explain’ as the questions ‘are important to answer in your response.’<sup>38</sup> Meanwhile, the questionnaire itself, after asking questions about a person’s family members, addresses in their country of origin, and criminality or security issues, simply instructs a person to ‘Please provide the details of your asylum claim in the space provided below, using the questions above as a guide.’<sup>39</sup>

Interviewees variously described the questionnaire as ‘not straightforward or simple’,<sup>40</sup> and ‘very intimidating’ for people seeking asylum.<sup>41</sup> One interviewee raised concerns about the lack of direction given by the questions on the questionnaire:

What's not made totally clear in the questionnaire is that the two key elements that people need to satisfy [to receive protection] is that they can prove their identity and that they can prove their nationality. And that's not made transparent in this application process... The fact that the forms are just open boxes rather than giving subsections for people to cover is unhelpful because people will have to guess, what's the Home Office looking for?<sup>42</sup>

As such, contrary to the Government’s assertion that people did not need the assistance of a legal representative to complete the asylum questionnaire themselves,<sup>43</sup> it is clear that most

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<sup>36</sup> *Streamlined asylum processing* version 3 (n 1) 19–20.

<sup>37</sup> *Ibid* 20.

<sup>38</sup> Streamlined asylum process letter template (23 February 2023) (n 27).

<sup>39</sup> *Ibid*.

<sup>40</sup> Interview with Participant 3 (18 August 2023).

<sup>41</sup> Interview with Participant 4 (21 September 2023).

<sup>42</sup> *Ibid*.

<sup>43</sup> *Streamlined asylum processing* version 3 (n 1) 12.

people would benefit from being assisted by a lawyer or immigration advisor to complete their questionnaire.<sup>44</sup> One interviewee explained that, while ‘someone could fill [the questionnaire] in really well and they’d be fine, other people might not. You just don’t know.’<sup>45</sup>

Assistance with completing the questionnaire is particularly important to ensure continuity between a person’s initial screening interview, questionnaire, and anything said at an interview, preventing any adverse conclusions being drawn as to credibility. Sheona York, writing for *Free Movement*, explained that ‘Many in the sector are already aware of the need to ensure that mistakes made in screening interviews are corrected without delay. It is unclear how and if the Home Office will rely on information from the questionnaires further down the line, or in the tribunals. Where the onus is on the individual to make their case well, in writing, in English, in only 20 days, the stakes are high.’<sup>46</sup> One interviewee explained:

I think one of the worries that we have as lawyers is that everything’s based on credibility or like 90% of decisions are based on credibility. So if a client fills it in themselves, but English isn’t their first language, maybe a friend’s done it, or they’ve used Google Translate, and they’ve put something in that isn’t correct, then how do we know that in the future the Home Office won’t use that against them? I had clients say to me, “I’m really anxious. I want to get this sent off. Can I do it myself?” And we always said no, like we want to do it with you. We want to make sure that it fits your screening interview and it fits the statement that we’ve already sent.<sup>47</sup>

In response to an open letter from individuals and organisations working in the refugee sector, the Minister for Immigration, Robert Jenrick dismissed concerns about adverse credibility inferences. Referring to the Home Office’s *Assessing Credibility and Refugee Status Guidance*,<sup>48</sup> he stated that ‘when considering evidence there is a distinction between minor errors in translation and core discrepancies which impact upon someone’s credibility. This will be taken into account when deciding all these claims on a case-by-case basis. If there is any information that needs clarifying, then an interview may be conducted.’<sup>49</sup> However, Home Office guidance continues to advise that internal consistency is a fact relevant to credibility,

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<sup>44</sup> All of the interview participants expressed concerns about whether people seeking asylum could complete the questionnaires themselves. See also Open Letter re: Remedying the “Asylum Questionnaire” (n 9); Greater Manchester Immigration Aid Unit (n 14).

<sup>45</sup> Interview with Participant 1 (3 August 2023).

<sup>46</sup> York (n 9).

<sup>47</sup> Interview with Participant 1 (3 August 2023).

<sup>48</sup> See Home Office, *Assessing Credibility and Refugee Status in Asylum Claims Lodged Before 28 June 2022* (version 10, 28 June 2022) <<https://www.gov.uk/government/publications/considering-asylum-claims-and-assessing-credibility-instruction>> accessed 6 October 2023; Home Office, *Assessing Credibility and Refugee Status in Asylum Claims Lodged On or After 28 June 2022* (version 13, 28 September 2023) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1186715/Assessing+credibility+and+refugee+status+post+28+June+2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1186715/Assessing+credibility+and+refugee+status+post+28+June+2022.pdf)> accessed 6 October 2023.

<sup>49</sup> Letter from Robert Jenrick in response to Open Letter (n 10).

and that an applicant's 'oral history, written statements and any personal documents relating to the material facts of the claim should be coherent and consistent',<sup>50</sup> with limited appreciation of the ways in which the streamlined asylum process might exacerbate the potential for inconsistency in a person's asylum claim. Further, Jenrick's response fails to engage with the practical experiences of people working in the sector, who have observed that significant weight is given to an applicant's credibility. In the words of one interviewee, 'If people have written information that is at odds with their first interview, for example, then it's very difficult for them to recover that ground.'<sup>51</sup> Therefore, despite Jenrick's attempts to downplay concerns about inconsistencies and credibility, the point remains that legal assistance would be highly beneficial for people completing their questionnaires.

## The Availability of Immigration Advice

Despite the necessity of immigration advice for ensuring that people are able to put forward their best case in an asylum questionnaire, people seeking asylum have experienced significant hurdles to accessing immigration advice. The implementation of the streamlined asylum process has been significantly impacted by the immigration legal aid shortages that exist throughout England and Wales. The Greater Manchester Immigration Aid Unit voiced concerns that in their region, 'Simply put, there are not enough immigration legal aid representatives to assist [the large number of people receiving questionnaires] within these short timeframes.'<sup>52</sup> Holly Grey and Claire Garrett, writing about their experiences at The Harbour Project, a refugee charity in Swindon, reported that 'Many people have experienced or are still experiencing struggles to contact their solicitor... In recent months, Harbour has observed that finding legal representation for persons claiming asylum has become increasingly difficult, with the announcement of the questionnaire only adding to this.'<sup>53</sup> These difficulties reflect broader difficulties in accessing legal aid for immigration matters. Dr Jo Wilding's 2022 report *No Access to Justice* found that 'that there is not enough free or low-cost immigration, nationality and asylum advice available, and this leaves people at risk of serious harm... Provision in England and Wales is not even adequate for first-time adult asylum applications, with a deficit of at least 6000 for asylum applications and appeals.'<sup>54</sup>

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<sup>50</sup> Home Office, *Assessing Credibility and Refugee Status in Asylum Claims Lodged Before 28 June 2022* (n 48) 48; Home Office, *Assessing Credibility and Refugee Status in Asylum Claims Lodged On or After 28 June 2022* (n 48) 48.

<sup>51</sup> Interview with Participant 4 (21 September 2023).

<sup>52</sup> Greater Manchester Immigration Aid Unit (n 14).

<sup>53</sup> Grey and Garrett (n 14).

<sup>54</sup> Wilding (n 15) 12. See also Hynes (n 15).

One interviewee explained the situation at her organisation when people received their questionnaires:

I'm one of two caseworkers in a small firm. We didn't really have any notice [the questionnaires] were coming out. I will generally have my calendar full for two weeks in advance. Then we suddenly receive all these questionnaires with the 20 day deadline. And that was quite stressful. How do you suddenly fit that in an already full calendar?<sup>55</sup>

Following the introduction of the streamlined asylum process, 180 individuals and organisations in an open letter to the Home Secretary warned that 'The Home Office has imposed short deadlines for responding – they are too short for a person who is unrepresented to find a legal representative and give sufficient instructions to respond to the form.'<sup>56</sup> The Immigration Law Practitioners' Association (ILPA) further reported that they were 'informed by many frontline organisations and pro bono advice services (with no disbursement funds for interpretation) that they were contacted by a large number of applicants without a legal representative, who were struggling to find a legal aid representative in the 20-day period to assist them to complete the questionnaire.'<sup>57</sup> This was the experience of one interviewee who worked at a charity that did not have a legal advice service:

At the moment in [my city], there's pretty much no one taking cases. There's one firm that, depending on what case you pitched to them, they might be able to take something on if it's urgent, but that's the only one. We've contacted solicitors in [City A – one hour away] and they had capacity so we started referring clients and then they called us again and said "that's it, now we've run out of capacity". But clients are desperate for solicitors. We have so many people who aren't represented and we do help with tickets to get them to [City A or City B – one and a half hours away] but even further afield, the capacity is very limited. It seems that the lawyers are now saying, does this client live in [City B]? Because they are probably realising that we're sending a lot of clients their way. We've reached a point where you just have to say to people, keep calling, keep trying. They're doing everything they can, but there just seems to be nowhere for them to turn at the moment.<sup>58</sup>

## The English Language Requirement

In response to questions about the requirement for the form to be completed form in English, Robert Jenrick has stated that 'It is standard practice for the Home Office to communicate with asylum seekers in English. We also require that all correspondence and responses are

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<sup>55</sup> Interview with Participant 1 (3 August 2023).

<sup>56</sup> Open Letter re: Remedying the "Asylum Questionnaire" (n 9).

<sup>57</sup> ILPA (n 14) para 31.

<sup>58</sup> Interview with Participant 2 (8 August 2023).

returned in English so that decision-makers and other members of staff can consider the information that is submitted.<sup>59</sup> However, interviewees indicated that many of the people they worked with would not have sufficient English language skills to complete the questionnaire themselves.<sup>60</sup> One interviewee stated that ‘The fact that [the questionnaire] had to be in English was a real problem for a lot of people’,<sup>61</sup> while another interviewee explained:

But saying that you have to send this in English... it's not helpful when the majority of our clients are talking about something complex and don't have fluent English. I think lots of our clients do speak some English, but the nature of what they're having to say, it's so complicated that their English is not helpful.<sup>62</sup>

The Minister for Immigration, Robert Jenrick, has stated that ‘Where the claimant is unable to read and or write in English then they could choose to seek support with understanding the language through community links such as charity organisations, non-governmental organisations, friends, family, online translation tools and other networks.’<sup>63</sup> This advice is inappropriate in a number of respects. First, the Office of the Immigration Services Commissioner has stated that ‘only regulated legal advisers working at Level 2 and above can provide asylum advice to claimants completing the Asylum Claim Questionnaire.’<sup>64</sup> The open letter to the Home Office warned that ‘there is a very high risk that anyone attempting to assist someone to complete the questionnaire would stray into giving regulated advice. Immigration advice is defined in statute in very broad terms. A discussion with an individual seeking asylum about what information is relevant to a question will almost always involve immigration advice.’<sup>65</sup> There is a real risk that a person assisting an applicant to complete their asylum questionnaire may inadvertently stray into the realm of providing asylum advice, thus committing an offence. For this reason, one asylum charity decided it was too risky for them to provide translation assistance to people wanting to complete the questionnaire themselves:

A lot of people are also asking, “I just want somebody to translate my words, I'm not asking you to tell me what to write.” But obviously because of the [OISC] guidelines, it's so tricky. We've not

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<sup>59</sup> Letter from Robert Jenrick in response to Open Letter (n 10).

<sup>60</sup> Interview with Participant 1 (3 August 2023); Interview with Participant 2 (8 August 2023).

<sup>61</sup> Interview with Participant 4 (21 September 2023).

<sup>62</sup> Interview with Participant 2 (8 August 2023).

<sup>63</sup> Letter from Robert Jenrick in response to Open Letter (n 10).

<sup>64</sup> Office of the Immigration Services Commissioner, ‘Streamlined asylum processing: OISC position’ (24 February 2023) <<https://www.gov.uk/government/news/streamlined-asylum-processing-oisc-position>> accessed 6 October 2023.

<sup>65</sup> Open Letter re: Remedying the “Asylum Questionnaire” (n 9).

been able to do that for people... We've agreed that we will request extensions and send an email to the Home Office for clients, but we couldn't do anything else.<sup>66</sup>

Jenrick also suggested that people could use 'online translation tools' to assist with the completing the questionnaire. However, research indicates that online translation tools can display variable accuracy, particularly when asked to translate specialised terminology such as legal or medical jargon. In particular:

- A 2021 study exploring the accuracy of Google Translate when translating directions for use and counselling points for medical drugs into Arabic, Chinese (simplified) and Spanish found that accuracy rates varied from 38.2% accurate to 89.5% accurate.<sup>67</sup>
- A 2021 study exploring the use of Google Translate in emergency department discharge instructions found that accuracy rates varied from 55% accurate to 94% accurate.<sup>68</sup>
- A 2019 study exploring the accuracy of Arabic–English translation found that Google Translate can make 'lexical and syntactic errors which affected the quality of translation and caused the meanings of translations to be unintelligible.'<sup>69</sup>
- A 2015 study exploring the use of Google Translate to translate an airline's terms and conditions found that 'errors occur[ed] at three major levels: lexical, syntactical and discursive. The errors inevitably cause unintelligibility.'<sup>70</sup>

## Extensions to Complete the Questionnaire

The streamlined asylum process permits people to apply for an extension to the deadline to complete their questionnaire.<sup>71</sup> Home Office decision-makers are advised that 'It will normally be appropriate to accept such requests [for an extension] as long as the requested extension is proportionate for the task of completing the asylum questionnaire.'<sup>72</sup> The initial Streamlined

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<sup>66</sup> Interview with Participant 2 (8 August 2023).

<sup>67</sup> Bernadette R Cornelison, Sulaiman Al-Mohaish, Yizhou Sun and Christopher J Edwards, 'Accuracy of Google Translate in translating the directions and counseling points for top-selling drugs from English to Arabic, Chinese, and Spanish' (2021) 78 (22) *American Journal of Health-System Pharmacy* 2053.

<sup>68</sup> Breena R Taira, Vanessa Kreger, Aristides Orue and Lisa C Diamond, 'A pragmatic assessment of google translate for emergency department instructions' (2021) 36(11) *Journal of General Internal Medicine* 3361.

<sup>69</sup> Omar Osman Jabak, 'Assessment of Arabic-English translation produced by Google Translate' (2019) 2(4) *International Journal of Linguistics, Literature and Translation* 238.

<sup>70</sup> Tya Vidhayasai, Sonthida Keyuravong and Thanis Bunsom, 'Investigating the Use of Google Translate in Terms and Conditions in an Airline's Official Website: Errors and Implications' (2015) 49 *PASAA: Journal of Language Teaching and Learning in Thailand* 137.

<sup>71</sup> *Streamlined asylum processing* version 3 (n 1) 12.

<sup>72</sup> *Ibid* 12.



Asylum Processing Guidance indicated that requests for extensions of longer than 20 days 'are unlikely to be reasonable and proportionate unless exceptional circumstances are presented';<sup>73</sup> this was increased to 30 days in the most recent version of the guidance.<sup>74</sup> Further, while the initial version of the guidance provided no explicit reference to a person seeking an extension to obtain legal advice, subsequent versions of the guidance instructed that, 'if a claimant wishes to seek legal advice in order to provide information about their asylum claims or needs support completing the questionnaire in English then extension requests may be granted in order to obtain this if they are reasonable and proportionate.'<sup>75</sup>

Interviewees indicated that they had been able to obtain extensions when requested.<sup>76</sup> Nonetheless, interviewees expressed concern about the possibility that an extension would one day be denied. One interviewee recalled a situation where he was contacted by a client 'within three or four days' of the deadline for a questionnaire. He felt that 'asking for an extension at that stage was problematic because you don't know if you're going to get one. If you don't, then his application's dead. Yeah, so we had to fill it in.'<sup>77</sup> Another interviewee raised concerns about whether multiple requests for extensions would continue to be granted for applicants without a lawyer:

How long can we keep asking for extension? At the moment, we haven't tried a third extension for anyone, but we're not sure what the outcome will be if we do keep asking again. It seems to be that the first extension has been 20 days and the second one has been 10, which is obviously then a bit worrying because what's going to happen the next time? Neither of those are in any way a long enough scale. If you haven't found a solicitor by now, you're not going to by then. So yeah, that's difficult.<sup>78</sup>

## The Consequences of an Inadequate Process

Despite the availability of extensions, the deadline for the streamlined asylum process appears to be placing people under pressure to complete their questionnaire in the absence of a lawyer or immigration advisor. Holly Grey and Claire Garrett, in writing about their experiences at The Harbour Project, explained that the availability of an extension 'has been difficult for some to understand', with some people demonstrating 'nervousness around missing a Home Office

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<sup>73</sup> *Streamlined asylum processing* version 1 (n 5) 12.

<sup>74</sup> *Streamlined asylum processing* version 3 (n 1) 12.

<sup>75</sup> Ibid.

<sup>76</sup> Interview with Participant 1 (3 August 2023); Interview with Participant 2 (8 August 2023).

<sup>77</sup> Interview with Participant 4 (21 September 2023).

<sup>78</sup> Interview with Participant 2 (8 August 2023).

deadline.<sup>79</sup> One interviewee explained how the existence of the deadline was impacting peoples' decision-making processes:

A couple of people, even though we've advised them against it, have just decided to submit it themselves because they'd rather just get it sent in. I think the issue is the deadline really. If people knew that they had longer to complete this and they could do it with a solicitor, I think there would be less worry and people wouldn't be sending in things that aren't accurate. We are encouraging people don't send it in by itself unless you know exactly what you're doing. But obviously, we can't stop people. And I think there's just a panic there.<sup>80</sup>

There are three key risks flowing from peoples' inability to access immigration advice when completing the questionnaire. First, there is a risk that people who complete the questionnaire without immigration advice are not able to put their best case forward, leading to them ultimately being denied protection that they are entitled to. International research demonstrates the significance of ensuring that people are able to access legal advice when seeking asylum, finding that people are more likely to be granted asylum when they have legal representation.<sup>81</sup> An easy way to ascertain whether this concern is materialising in practice would be to compare the protection grant rates for nationalities in the streamlined asylum process with their grant rates through the government's standard asylum process. A decrease in protection grant rates for people in the streamlined asylum process would indicate that people have a lesser chance of receiving protection through the process, hinting at broader issues with how the process is functioning. However, the Home Office's inability to provide statistics about the streamlined asylum process in a readily reportable format makes it impossible to conduct this analysis.

Second, even if a person is not refused protection, people completing the questionnaire without immigration advice has the potential to erode efficiency gains from the streamlined asylum process. Following the announcement of the streamlined asylum process, the open letter to the Home Office warned the Government against encouraging people to complete the questionnaire without legal advice, advising that 'A poorly completed questionnaire will only result in the Home Office needing to seek more information or conduct interviews, defeating the aim of this policy: to make decisions swiftly without a substantive interview.'<sup>82</sup> This concern appears to have been borne out in practice. The media has reported that, while 75% of the

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<sup>79</sup> Grey and Garret (n 14).

<sup>80</sup> Interview with Participant 2 (8 August 2023).

<sup>81</sup> Michael Kagan, 'Frontier Justice: Legal Aid and UNHCR Refugee Status Determination in Egypt' (2006) 19(1) *Journal of Refugee Studies* 45; Andrew I Schoenholtz and Jonathan Jacobs, 'The state of asylum representation: Ideas for change' (2001) 16 *Georgetown Immigration Law Journal* 739.

<sup>82</sup> Open Letter re: Remedying the "Asylum Questionnaire" (n 9).

asylum questionnaires were returned to the Home Office within the required timeframe, only 10% of the forms were ‘properly completed’.<sup>83</sup> A report by the National Audit Office states that, ‘In early May 2023, Home Office staff raised concerns that the rate and quality of questionnaire returns were lower than their assumptions.’<sup>84</sup>

Third, as people become increasingly desperate for legal advice, they might find themselves vulnerable to exploitation or abuse. People who are unable to gain representation funded by legal aid might look to incur debts in order to pay for private legal representation, placing them at risk of financial exploitation.<sup>85</sup> Further, asylum seekers are vulnerable to exploitation by unscrupulous legal advisors. There is a risk that, as people become increasingly desperate due to the streamlined asylum process’ looming deadline and their inability to secure legitimate representation, the streamlined asylum process might inadvertently create conditions leading to an increase in black market immigration advice.<sup>86</sup>

## The Risk of Withdrawal

### A Lack of Clarity Surrounding Withdrawals

Initially and throughout the implementation of the streamlined asylum process, there has been a significant lack of clarity concerning the procedure that will be applied regarding the withdrawal of a person’s asylum claim.

The initial version of the Streamlined Asylum Processing Guidance stated that, ‘Should the claimant not return the Asylum Questionnaire in the time period provided, the asylum claim *may* be treated as withdrawn under Paragraph 333C of the Immigration Rules’.<sup>87</sup> In response to concerns raised about withdrawals,<sup>88</sup> Robert Jenrick stated that:

The rationale of Paragraph 333C of the Immigration Rules and the Withdrawing Asylum Claims policy is to have a clear process to manage asylum claims from those who explicitly inform us they no longer wish to pursue their protection claim in the UK, as well as those who are non-compliant and have absconded to avoid engaging with the asylum process. In addition to the initial questionnaire and the subsequent 10-working days extension (where required), the Home

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<sup>83</sup> Matt Dathan, ‘Paperwork errors and “greedy lawyers” gum up fast track asylum process’, *The Times* (London), 10 May 2023.

<sup>84</sup> National Audit Office, *The Asylum and Protection Transformation Project* (16 June 2023) para 3.11 <<https://www.nao.org.uk/reports/the-asylum-and-protection-transformation-programme/>> accessed 6 October 2023.

<sup>85</sup> Open Letter re: Remedying the “Asylum Questionnaire” (n 9).

<sup>86</sup> Ibid; Interview with Participant 4 (21 September 2023).

<sup>87</sup> *Streamlined asylum processing* version 1 (n 5) 12 (emphasis added).

<sup>88</sup> See Open Letter re: Remedying the “Asylum Questionnaire” (n 9).

Office will contact claimants and their legal representatives, including issuing reminders, using all the contact methods available such as email and phone.<sup>89</sup>

Jenrick added that, for people 'who have been unable to respond the questionnaire, for example, because they did not receive it and it was through no fault of their own, their asylum claim will not be withdrawn.'<sup>90</sup> The Home Office reportedly stated at its Asylum Stakeholder Engagement Group that, if a person does not complete the questionnaire, their claim would not be regarded as implicitly withdrawn by virtue of non-return of the form.<sup>91</sup> However, in version 2 of the Streamlined Asylum Processing Guidance, the Guidance was amended to state that 'if all attempts have been unsuccessful in engaging the claimant' then the person's asylum claim 'will normally be treated' as withdrawn.<sup>92</sup> Version 3 of the Guidance contains a further amendment, namely that if all attempts have been unsuccessful in engaging the claimant, then the person's asylum claim 'must' be treated as withdrawn.<sup>93</sup> Paragraph 333C of the Immigration Rules permits a decision-maker to treat an application as implicitly withdrawn on a number of grounds, including if an applicant 'fails to complete an asylum questionnaire',<sup>94</sup> and if an applicant 'fails to maintain contact with the Home Office or provide up to date contact details',<sup>95</sup> and the most recent version of the Home Office's Withdrawing Asylum Claims policy permits a Home Office caseworker to treat a person's asylum claim as implicitly withdrawn where a person has 'fail[ed] to complete an asylum questionnaire as requested by the Home Office within the agreed timeframe, without a reasonable explanation', as long as the caseworker has attempted to contact the person 'at least once on all possible contact methods available'.<sup>96</sup> In contrast, the current letter being sent to people in the streamlined asylum process instructs recipients that 'Your asylum claim will not be withdrawn based on the failure to return the question alone.'<sup>97</sup>

As such, there remains a significant lack of clarity between various documents as to the approach being taken by the Home Office regarding withdrawals. While some documents

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<sup>89</sup> Letter from Robert Jenrick in response to Open Letter (n 10).

<sup>90</sup> Ibid.

<sup>91</sup> Public Law Project (n 14) para 18.

<sup>92</sup> Home Office, *Streamlined asylum processing* (version 2, 26 July 2023) (*Streamlined asylum processing* version 2) 12.

<sup>93</sup> *Streamlined asylum processing* version 3 (n 1) 12.

<sup>94</sup> Immigration Rules (5 October 2023) para 333C(b)(iii).

<sup>95</sup> Ibid para 333C(b)(i).

<sup>96</sup> Home Office, *Withdrawing asylum claims: Asylum policy instruction* (version 8, 7 August 2023) 18 <<https://assets.publishing.service.gov.uk/media/652e5599d86b1b00143a50ca/Withdrawing+asylum+claims.pdf>> accessed 24 October 2023 (*Withdrawing asylum claims*).

<sup>97</sup> Streamlined asylum process letter template (27 June 2023) (n 28).

suggest that an asylum claim will only be withdrawn in a limited number of circumstances, other documents indicate that the Home Office has broad powers to treat an asylum claim as implicitly withdrawn. Individuals without legal representation and refugee charities are particularly affected by the lack of clarity concerning when an asylum claim will be withdrawn; because these individuals might not be aware of concessions made by the Home Office regarding withdrawals, they are likely to take the threat of withdrawal at face value.

## Withdrawal Trends

The Home Office is not recording data about the streamlined asylum process in a readily reportable format.<sup>98</sup> As such, it is not possible to say how many people in the streamlined asylum process have had their claims withdrawn. When interviewees were asked about whether they had heard of claims being withdrawn, one interviewee stated that he was aware of one person whose claim had been withdrawn,<sup>99</sup> while another interviewee knew of a woman who had received a letter asking whether she was happy for her claim to be withdrawn, which she had been advised not to sign.<sup>100</sup>

The Home Office does provide statistics on the number of withdrawals for people going through the asylum process more generally.<sup>101</sup> When the general data on withdrawals for people from Afghanistan, Eritrea, Libya, Syria and Yemen is examined, there has been an increase in the number of withdrawals in the first two quarters of 2023 for all nationalities except for Yemen (see Table 1; Figure 1). However, it is not possible to determine how much of this increase is attributable to the operation of the streamlined asylum process and how much is attributable to other factors.<sup>102</sup>

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<sup>98</sup> Letter from the Home Office to the author (22 August 2023); Letter from the Home Office to the author (20 September 2023).

<sup>99</sup> Interview with Participant 3 (18 August 2023).

<sup>100</sup> Interview with Participant 2 (8 August 2023).

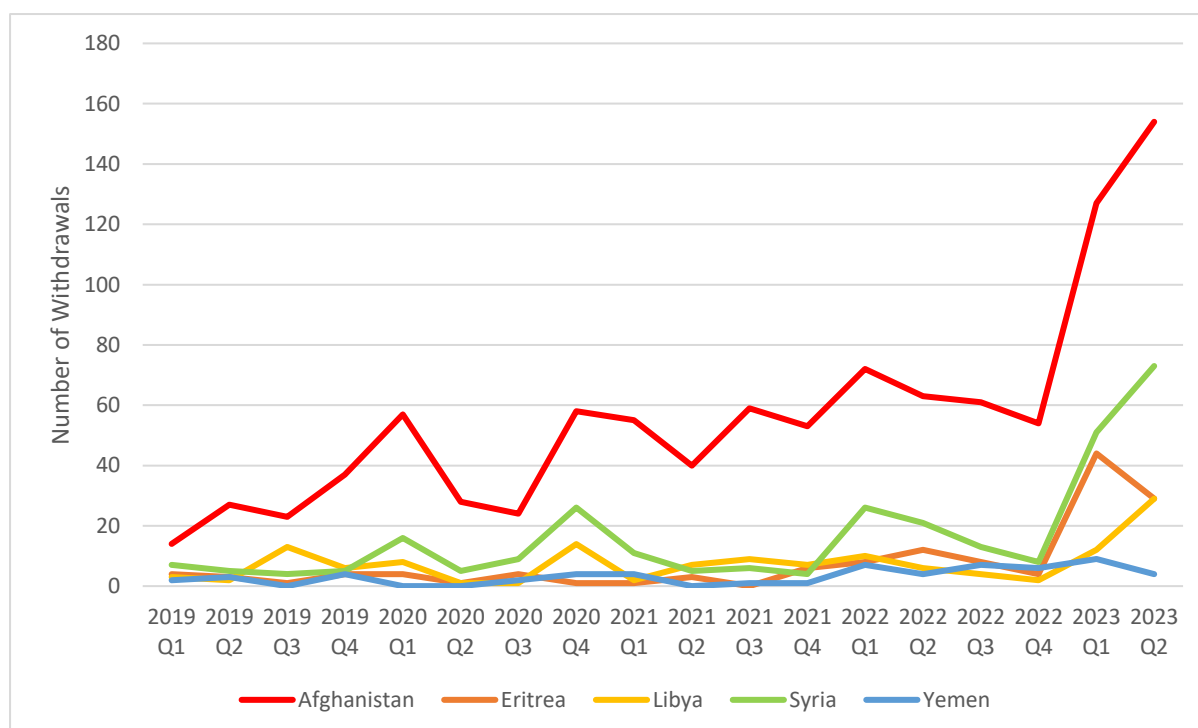
<sup>101</sup> Home Office, Immigration statistics year ending June 2023, 24 August 2023, tables Asy\_D02 <<https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables>> accessed 6 October 2023.

<sup>102</sup> See generally Nadia O Mara, 'Briefing: Why and How is the Home Office Treating More Asylum Claims as "Withdrawn"?' (*Free Movement*, 26 July 2023) <<https://freemovement.org.uk/briefing-why-and-how-is-the-home-office-treating-more-asylum-claims-as-withdrawn/>> accessed 31 July 2023.

**Table 1. The number of asylum claims withdrawn for people from Afghanistan, Eritrea, Libya, Syria and Yemen from 2019 to 2023**

Year	Quarter	Afghanistan	Eritrea	Libya	Syria	Yemen
2019	Q1	14	4	3	7	2
2019	Q2	27	3	2	5	3
2019	Q3	23	1	13	4	0
2019	Q4	37	4	6	5	4
2020	Q1	57	4	8	16	0
2020	Q2	28	1	1	5	0
2020	Q3	24	4	1	9	2
2020	Q4	58	1	14	26	4
2021	Q1	55	1	2	11	4
2021	Q2	40	3	7	5	0
2021	Q3	59	0	9	6	1
2021	Q4	53	6	7	4	1
2022	Q1	72	8	10	26	7
2022	Q2	63	12	6	21	4
2022	Q3	61	8	4	13	7
2022	Q4	54	4	2	8	6
2023	Q1	127	44	12	51	9
2023	Q2	154	29	29	73	4

**Figure 1. The number of asylum claims withdrawn for people from Afghanistan, Eritrea, Libya, Syria and Yemen from 2019 to 2023**



## The Consequences of Withdrawals

There are real concerns about the accuracy of the information held by the Home Office. The Public Law Project have cautioned that 'the Home Office is unreliable at logging changes of

address and regularly posts documents to the wrong address,<sup>103</sup> creating a risk that a person's asylum claim will be treated as withdrawn because they never responded to a questionnaire that they never received in the first place. The Public Law Project further observed that 'some people are receiving reminders to return the questionnaire but had not yet received the questionnaire itself or a response to their extension request.'<sup>104</sup> A member of ILPA indicated that they had returned a client's questionnaire to the Home Office, but the Home Office had no record of having received that questionnaire.<sup>105</sup> Similarly, one interviewee explained that the Home Office had lost her client's questionnaire:

I had one guy. We sent the questionnaire back in March to the Home Office. I chased up the application a couple of months later, and the Home Office just said they didn't have his questionnaire. So now his thing's been delayed by another three months. And you think well, where's it gone? What's happening?<sup>106</sup>

When a person's asylum claim has been inaccurately withdrawn, that person will still be present in the UK and, in most cases, will still be in need of protection from persecution. Therefore, while the withdrawing of asylum claims may make it seem like the asylum backlog is reducing,<sup>107</sup> it does not alter the actual number of people in the UK in need of protection. Further, there is a risk that inaccurate withdrawals will create more work for the Home Office in the longer term, as the Home Office will have to deal with people challenging their withdrawal or seeking to make a fresh asylum claim.

## Other Process-based Inefficiencies

### Creating Additional Work

An issue that was raised early in the streamlined asylum process was that some people who received questionnaires had already provided the Home Office with a substantial amount of information regarding their asylum claim. Questionnaires were sent to all eligible people without any consideration of the existing information held by the Home Office on an applicant's behalf.<sup>108</sup> ILPA reported that 'questionnaires have been sent to claimants who have previously

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<sup>103</sup> Public Law Project (n 14) para 22.

<sup>104</sup> Ibid para 16.

<sup>105</sup> ILPA (n 14) para 36.

<sup>106</sup> Interview with Participant 1 (3 August 2023).

<sup>107</sup> See generally Sonia Lenegan 'Look closer: Our summary of the latest Home Office statistics' (*Free Movement*, 24 August 2023) <<https://freemovement.org.uk/look-closer-our-summary-of-the-latest-home-office-statistics/>> accessed 6 October 2023.

<sup>108</sup> ILPA (n 14) para 27.

submitted evidence of their identity, PIQs, witness statements, and/or who have been substantively interviewed'.<sup>109</sup>

The streamlined asylum process thus required legal representatives to complete a questionnaire containing information that had already been provided to the Home Office or else risk the withdrawal of their client's asylum claim. One interviewee explained that the streamlined asylum process effectively 'demanded on a very short timetable that I provide the Home Office with information that my client has already provided them with on multiple occasions',<sup>110</sup> while another interviewee explained that she was asked to complete questionnaires for people whom she had already submitted 'a full statement and a preliminary information questionnaire and all of the client's documents'.<sup>111</sup>

At first I took the approach of well, I can just say see attached witness statement, see previously submitted evidence. Then the Home Office responded with "no, you have to answer every question in the questionnaire." And you're thinking, well, we've already given this information. I think I then ended up having to go back and amend quite a few questionnaires where I just took the client statement and copied and pasted it into the questions. It was a waste of my time, a waste of the client's time... We'd given all this evidence a year ago, and they were asking us to answer these stupid questions.<sup>112</sup>

Legal Aid initially advised lawyers to append their clients' previous statements to the questionnaire and cross-reference to it when completing the form. However, in response to this practice, a Home Office decision-maker told lawyers that, 'as the witness statement pre-dates the asylum claim questionnaire, we are unable to accept it as answers to the asylum claim questionnaire. We ask that you address the questions within the asylum claim questionnaire so your client has the best opportunity to address all aspects of their claim so that their claim could be expedited and that there will be no need for a substantive interview'.<sup>113</sup> The Home Office eventually relented from this position and enabled immigration advisors to append documents to the questionnaire. Indeed, in the current version of the letter sent to applicants in the streamlined asylum process, people are advised that, 'If you have previously returned a completed Preliminary Information Questionnaire (PIQ) or witness statement, please complete the questionnaire online and state in the appropriate section that information

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<sup>109</sup> Ibid para 24.

<sup>110</sup> Interview with Participant 3 (18 August 2023).

<sup>111</sup> Interview with Participant 1 (3 August 2023).

<sup>112</sup> Ibid.

<sup>113</sup> Diane Taylor, 'Home Office accused of building delays into plan to speed asylum claims', *The Guardian*, 30 March 2023 <<https://www.theguardian.com/uk-news/2023/mar/30/home-office-accused-of-building-delays-into-plan-to-speed-asylum-claims>> accessed 6 October 2023.



is available in the PIQ/witness statement'.<sup>114</sup> While it is encouraging that this issue has been remedied, the manner in which the questionnaire was rolled out had the impact of creating a significant and arguably unnecessary workload for a sector that is already experiencing massive capacity issues.

Furthermore, not only was this duplication inefficient for legal practitioners, but it also had the potential to negatively impact people seeking asylum. One interviewee explained:

People like my client are being asked for information that they've already provided to the Home Office, and that's distressing and upsetting. They're disclosing very, very upsetting and distressing things, for example, experiences of torture, and they're having to go through it again and again and again. I'm aware from psychiatric reports that I've obtained that this experience can be retraumatising, repeating the experience in a non therapeutic environment. And so it's very upsetting for a person to have to repeat their story again and again and particularly upsetting when you feel like you're not being listened to any other times that you're repeating it.<sup>115</sup>

## **Difficulties Communicating with the Home Office**

Interviewees also expressed frustration that the Home Office's systems were making their jobs harder, rather than easier. Since December 2022, legal representatives have been asked to use 'asylumcustomercommunicationshub@homeoffice.gov.uk' to correspond with the Home Office. However, the poor management of this email inbox is causing confusion among representatives, with some emails going unacknowledged while other emails receive multiple, contradictory replies.<sup>116</sup> One interviewee explained the issues with the email address:

Now it's all going to the same email address and you'll often get a response one day and then you'll get a different response two days later because the caseworkers haven't seen that someone else has already replied to your e-mail. So you'll get one response saying, "yes, no problem, this has been updated and added to your client's file", and then two days later you'll get a response saying, "we've received your documents, however, we don't have you as the representative on file, so please send us a letter of authority." So you constantly get one response from the Home Office and then two days later something different.<sup>117</sup>

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<sup>114</sup> Streamlined asylum process letter template (27 June 2023) (n 28).

<sup>115</sup> Interview with Participant 3 (18 August 2023).

<sup>116</sup> ILPA (n 14) paras 36–39.

<sup>117</sup> Interview with Participant 1 (3 August 2023).

## The Overall Speed of the Process

Initially, concerns were raised that the streamlined asylum process was not facilitating decisions ‘as quickly as possible’.<sup>118</sup> In May 2023, the Greater Manchester Immigration Aid Unit indicated that none of the people they had assisted to complete a questionnaire in February had yet received a decision on their asylum claim.<sup>119</sup> In June, a member of ILPA reported that, despite ‘promptly return[ing] all the Questionnaires in full and with significant details’, they were ‘still waiting [for] responses to these two months on.’<sup>120</sup> By the time this report conducted interviews in August, there were indications that some people were starting to receive decisions,<sup>121</sup> although one interviewee indicated that his client was still waiting for an outcome.<sup>122</sup> The situation was summarised by one interviewee as ‘Decisions are being made, but it doesn’t seem like they’re being made particularly quickly.’<sup>123</sup>

Interviewees indicated that the time taken processing asylum questionnaires was frustrating given the short deadlines that applicants were expected to meet. One interviewee explained that after she had submitted the questionnaire, ‘it felt like radio silence for two months where we didn’t hear anything. And you think, well, what was the point? Why do I have to meet your deadline if you aren’t going to provide any sort of time frame?’<sup>124</sup> Another interviewee indicated that the Government’s messaging had raised expectations among people seeking asylum:

Receiving the questionnaire along with the media messaging that the backlog is going to be cleared by the end of the year... creates an expectation in people who’ve been waiting very long time for their asylum claim to be decided. Some people think, “Okay, well, I’ve been to my solicitor, I’ve done the questionnaire”, and they expect that this streamlined process will result in a decision very quickly and in most cases it simply doesn’t. The delays continue.<sup>125</sup>

Alongside the introduction of the streamlined asylum process, the Home Office has been working to increase its decision-making capacity, including by recruiting more caseworkers to assist with determining asylum claims.<sup>126</sup> However, there is an issue with the sequencing of these measures. It was unnecessary for the Home Office to apply such a strict deadline to the

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<sup>118</sup> *Streamlined asylum processing* version 3 (n 1) 4.

<sup>119</sup> Greater Manchester Immigration Aid Unit (n 14).

<sup>120</sup> ILPA (n 14) para 30.

<sup>121</sup> Interview with Participant 1 (3 August 2023); Interview with Participant 2 (8 August 2023).

<sup>122</sup> Interview with Participant 3 (18 August 2023).

<sup>123</sup> Interview with Participant 4 (21 September 2023).

<sup>124</sup> Interview with Participant 1 (3 August 2023).

<sup>125</sup> Interview with Participant 3 (18 August 2023).

<sup>126</sup> See Joe Tyler-Todd, Georgia Sturge and CJ McKinney, *Delays to Processing Asylum Claims in the UK* (House of Commons Library, Research Briefing, 20 March 2023, Number CBP 9737) 9–10.

return of asylum questionnaires when it did not have the capacity to process these questionnaires in a timely manner. Given that the Home Office was still in the process of increasing its decision-making capacity when the streamlined asylum process was announced, it would have been more sensible to adopt a slower approach to the rollout of the streamlined asylum process, enabling consultation with the sector, advance warning that questionnaires would be coming, and for questionnaires to be sent out gradually so as to avoid overwhelming legal organisations.

## **The Impact of the Streamlined Asylum Process on People Seeking Asylum**

### **The Psychological Impact**

Having to wait a prolonged period of time for a decision on whether or not protection is granted has the potential to negatively impact a person's physical and mental health.<sup>127</sup> Therefore, generally speaking, reducing the period people spend waiting for an asylum decision is likely to be a positive development. There have been some reports that people expressed a sense of relief once they had completed and submitted their asylum questionnaire.<sup>128</sup> However, because of the manner in which the streamlined asylum process was implemented and the lack of availability of legal aid, many of the people in the streamlined asylum process experienced significant and unnecessary amounts of stress and anxiety.

One interviewee observed that the streamlined asylum process had 'caused a lot of distress and confusion' among people seeking asylum,<sup>129</sup> while another interviewee explained that some of the people he saw were 'extremely anxious about the whole process'.<sup>130</sup> Holly Grey and Claire Garrett from The Harbour Project reported that, among their clients, 'Many people have experienced or are still experiencing struggles to contact their solicitor, leading to feelings of worry and stress.'<sup>131</sup> Similarly, an interviewee explained the stress of being unable to secure a lawyer:

There's one particular client that I last saw him last week and he's come in a number of times. He speaks relatively good English and he's been contacting solicitors constantly, but can't get a solicitor. We've now applied for two extensions for him, but he's told me every time he's come in, "I don't sleep at night, I can't sleep because I'm so worried about this." I've tried to reassure

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<sup>127</sup> See Burnett and Ndovi (n 3); Arwidson et al (n 3).

<sup>128</sup> Garret and Grey (n 14); Interview with Participant 1 (3 August 2023).

<sup>129</sup> Interview with Participant 2 (8 August 2023).

<sup>130</sup> Interview with Participant 4 (21 September 2023).

<sup>131</sup> Garret and Grey (n 14).

him we'll keep applying for these extensions, but it's still just another deadline and I think he's kind of lost hope that he is going to get a solicitor. He's been through all this trauma to get here and now it's like he just feels alone.<sup>132</sup>

It appears that a key reason for peoples' stress is the strict deadline for completion of the questionnaire and fear of what might happen if the questionnaire is not completed in time. Given what is known about the limited capacity of legal aid lawyers and the delays within the Home Office in processing asylum claims, it can be questioned whether the deadline continues to serve any useful purpose. A better approach might be to remove the deadline altogether from any further questionnaires sent to people for completion. This has the potential to produce a more efficient process; it eliminates the need for people to continue requesting extensions while seeking a lawyer, thus eliminating the need for the Home Office to monitor and respond to extension requests, while also reducing the anxiety caused by the need to comply with the deadline.

## Emerging Issue: Homelessness

Previously, after being granted refugee status, a person would have 28 days before they were required to leave their asylum support accommodation.<sup>133</sup> This gave people a period of four weeks to secure alternative accommodation. However, in July 2023, the Home Office reduced this period, giving newly recognised refugees just seven days to find new accommodation.<sup>134</sup> Over 140 refugee and homelessness organisations have expressed concerns about this change, observing that it was 'causing severe hardship for refugees' and reporting that a 'significant number' of refugees had been made homeless.<sup>135</sup> With the Home Office committed to clearing the asylum backlog before the end of the year, there is a large and growing number

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<sup>132</sup> Interview with Participant 2 (8 August 2023).

<sup>133</sup> Refugee Council, 'Thousands of new refugees face destitution and homelessness after being told to leave their accommodation at short notice' (6 September 2023) <<https://www.refugeecouncil.org.uk/latest/news/thousands-of-new-refugees-face-destitution-and-homelessness-after-being-told-to-leave-their-accommodation-at-short-notice/>> accessed 24 October 2023.

<sup>134</sup> Diane Taylor, 'Thousands of refugees could face homelessness after Home Office policy change', *The Guardian*, 15 August 2023, <<https://www.theguardian.com/world/2023/aug/15/thousands-of-refugees-could-face-homelessness-after-home-office-policy-change>> accessed 24 October 2023.

<sup>135</sup> Letter re: Changes to the move-on period for newly recognised refugees (5 September 2023) <<https://www.refugeecouncil.org.uk/latest/news/thousands-of-new-refugees-face-destitution-and-homelessness-after-being-told-to-leave-their-accommodation-at-short-notice/>> accessed 24 October 2023; see also Sammy Gecsoyler and Diane Taylor, 'Charities warn of refugee homelessness crisis in England this winter', *The Guardian*, 3 October 2023 <<https://www.theguardian.com/society/2023/oct/03/charities-refugee-homelessness-crisis-england-winter-right-remain-home-office-evictions-rough-sleeping>> accessed 24 October 2023.

of newly recognised refugees in need of accommodation, placing significant pressure on local authorities and the charitable sector.<sup>136</sup>

For many people, being granted refugee status would ordinarily be a moment of relief and celebration. However, this policy change makes already vulnerable people more vulnerable to destitution, homelessness and crisis. If the Home Office is committed to making quicker asylum decisions, it needs to be conscious of the flow-on effects from these decisions and ensure that adequate support is in place for the large number of people who will soon be recognised as refugees.

## **The Impact of the Streamlined Asylum Process on the Refugee Sector**

In a sector that is already struggling to keep pace with the significant need for its services, the streamlined asylum process has the potential to erode the capacity of the refugee sector in the longer term.

A report on the immigration legal aid sector generally described the situation facing immigration practitioners:

Young practitioners in the immigration and asylum legal aid sector face a barrage of overwork, financial unsustainability and serious emotional and wellbeing concerns... These issues have clear and worrying consequences for access to justice and the future of the immigration and asylum legal aid sector. Of those surveyed as part of this research, 33% said that in the next five years they anticipated that they would either take on less immigration and asylum legal aid work, or that they would leave immigration and asylum legal aid practice or legal aid practice entirely.<sup>137</sup>

One interviewee explained that the impact of the streamlined asylum process on lawyers was 'working outside your contracted hours because you're terrified that your clients are going have their claims treated as withdrawn, not taking on new work, and not providing the level of client care that you would otherwise want to provide to your clients.'<sup>138</sup> Another interviewee admitted that she had 'definitely worked a lot of overtime' in order to complete her clients' questionnaires by their deadlines.<sup>139</sup>

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<sup>136</sup> Letter re: Changes to the move-on period for newly recognised refugees (n 135).

<sup>137</sup> Hynes (n 15) 28.

<sup>138</sup> Interview with Participant 3 (18 August 2023).

<sup>139</sup> Interview with Participant 1 (3 August 2023).

It is well-documented that immigration legal aid services throughout the UK are insufficient to meet current demand.<sup>140</sup> By increasing the demands on the remaining providers, the streamlined asylum process has increased the risk that practitioners might become overworked, burned out, and choose to cease performing immigration legal aid work.

Interviewees also reported feeling discouraged with how the Government was treating immigration lawyers, both in relation to the streamlined asylum process and more generally.<sup>141</sup> One interviewee said:

When they're sending out questionnaires that say you can do this with your friend, or you can do this on your own, then it really discredits what we do... But it's not surprising and it feels like it's very much in line with the political rhetoric at the minute about immigration lawyers... It all fits in with how we're being painted and the image that politicians want to paint of us.<sup>142</sup>

Beyond the legal aid sector, the streamlined asylum process also impacted people working in the refugee sector more broadly. One interviewee explained the impact of the streamlined asylum process on her organisation and its employees:

This is Home Office work and obviously they know that people are going to come to charities who can't necessarily help them. Even just on staff and volunteers, it's really hard to see another thing that's causing our clients so much stress and worry... It does feel like it's been pushed on to charities to pick up the work... Yeah, I think it's caused a strain on organisations as well as the clients.<sup>143</sup>

## Expanding Questionnaire Usage

In May 2023, the use of questionnaires was expanded to legacy applicants from Iraq and Iran.<sup>144</sup> People from these countries have been sent letters inviting them to complete an online questionnaire about their asylum claims.<sup>145</sup> However, despite the similarities in procedure, these people are not part of the streamlined asylum process.<sup>146</sup>

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<sup>140</sup> See eg Wilding (n 15).

<sup>141</sup> Interview with Participant 1 (3 August 2023); Interview with Participant 4 (21 September 2023). See further ILPA, 'ILPA Statement on the Safety and Protection of Immigration Practitioners' (August 2023) <[https://ilpa.org.uk/wp-content/uploads/2023/08/ILPA-Statement-on-the-Safety-and-Protection-of-Immigration-Practitioners\\_August-2023.pdf](https://ilpa.org.uk/wp-content/uploads/2023/08/ILPA-Statement-on-the-Safety-and-Protection-of-Immigration-Practitioners_August-2023.pdf)> accessed 6 October 2023.

<sup>142</sup> Interview with Participant 1 (3 August 2023).

<sup>143</sup> Interview with Participant 2 (8 August 2023).

<sup>144</sup> See Rajeev Syal, 'Home Office to fast-track thousands of Iraqi and Iranian asylum claims', *The Guardian*, 16 May 2023, <<https://www.theguardian.com/uk-news/2023/may/16/home-office-to-fast-track-thousands-of-iraqi-and-iranian-asylum-claims>> accessed 24 October 2023.

<sup>145</sup> Streamlined asylum process letter template (27 June 2023) (n 28).

<sup>146</sup> Ibid.

The expansion in the use of questionnaires is linked to the Home Office's introduction of 'cohorting' to help clear the asylum backlog.<sup>147</sup> The Home Office has grouped people with outstanding asylum or human rights claims into 'cohorts', with cohorts comprising single or multiple nationality groups 'with similarities based on the volume of claims (intake), grant rate, compliance rate, and proportion of those in receipt of asylum support.'<sup>148</sup> The use of cohorts is a 'key tool to develop decision-maker expertise'.<sup>149</sup> Questionnaires will be used '[f]or some cohorts' to gather information about asylum claims.<sup>150</sup>

The questionnaire provided to people from Iraq and Iran provides greater structure in helping people to articulate their asylum claims than the questionnaire used in the streamlined asylum process. In particular, rather than asking the broad question, 'Please provide the details of your asylum claim in the space provided below, using the questions above as a guide',<sup>151</sup> people from Iraq and Iran are asked specific questions to help them explain their need for protection. These questions include 'Have you ever been employed by the government, military, police, intelligence services, or private security companies?', 'Have you ever been called for military service?' and 'Which of these reasons best described why you fear returning to [Iraq or Iran]?', with applicants given 12 options to select from as well as an 'other' category.<sup>152</sup> This 'bespoke'<sup>153</sup> questionnaire for people from Iraq and Iran is a positive development, as it provides greater guidance to people completing the questionnaire, making it more likely that questionnaires will be completed to a high standard and supporting applicants to best communicate their reasons for seeking asylum to a decision-maker.

However, many of the issues that have affected the streamlined asylum process continue to be relevant to the use of questionnaires among other cohorts. People from Iraq and Iran remain at risk of having their asylum claim withdrawn if they do not complete their questionnaire in a timely manner. The letter sent to people from Iraq and Iran notifying them of the need to complete their asylum claim states that their 'asylum claim will not be withdrawn based on the failure to return the question alone',<sup>154</sup> and the Home Office's guidance on

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<sup>147</sup> Home Office, *Asylum decision-making prioritisation* (version 2, 6 October 2023) <<https://assets.publishing.service.gov.uk/media/652506e2aea2d00013219a75/Asylum+decision-making+prioritisation.pdf>> accessed 24 October 2023 (*Asylum decision-making prioritisation*).

<sup>148</sup> Ibid 6.

<sup>149</sup> Ibid 6.

<sup>150</sup> Ibid 7.

<sup>151</sup> Streamlined asylum process letter template (23 February 2023) (n 27).

<sup>152</sup> Iraq letter template (27 June 2023, provided by the Home Office to the author on 7 September 2023); Iran letter template (27 June 2023, provided by the Home Office to the author on 7 September 2023).

<sup>153</sup> *Asylum decision-making prioritisation* (n 147) 7.

<sup>154</sup> Iraq letter template (n 152); Iran letter template (n 152).

Asylum Decision-Making Prioritisation states that a person who does not return a questionnaire 'will be invited to an asylum interview to gather the relevant additional information, as required' and only '[p]ersistent failure to engage with this process may lead to an asylum claim being withdrawn.'<sup>155</sup> However, similarly to the streamlined asylum process, the Immigration Rules permits a person's asylum claim to be treated as implicitly withdrawn following the non-return of an asylum questionnaire,<sup>156</sup> and the Withdrawing Asylum Claims policy permits a Home Office caseworker to treat a person's asylum claim as implicitly withdrawn after they have attempted to contact a claimant 'at least once on all possible contact methods available' if that person has not responded or returned their questionnaire.<sup>157</sup> Thus, there remains a disjuncture between the narrow manner in which the Home Office says its withdrawal policy will be applied and the broad powers that Home Office caseworkers possess to withdraw asylum claims. This has the potential to both cause undue stress to people seeking asylum and the charities supporting them, but also to result in large numbers of withdrawals that may increase workloads in the future when people seek to challenge their withdrawals or make fresh asylum claims.

People from Iraq and Iran are given 30 working days to complete and return the questionnaire, with the possibility of applying for an extension.<sup>158</sup> As discussed above, the existence of this time limit has the potential to cause significant stress for people seeking asylum and can be unrealistic given the availability and capacity of legal advisors. The need for people to continually apply for extensions has the potential to increase workloads for immigration advisors and charitable organisations supporting people seeking asylum as well as the Home Office, and it is worth considering whether the 30 day deadline serves a useful purpose.

## Conclusion – Lessons Learned and Outstanding Issues

I think [the streamlined asylum process] was probably a great idea with the potential to do a lot of good, but it was executed terribly which led to stress for everyone involved... If a bit more time has been taken and a bit more consultation, it could have worked really well. And it's a shame. It's a shame that it was executed the way that it was.<sup>159</sup>

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<sup>155</sup> *Asylum decision-making prioritisation* (n 147) 7.

<sup>156</sup> Immigration Rules (5 October 2023) para 333C

<sup>157</sup> *Withdrawing asylum claims* (n 96) 18.

<sup>158</sup> Iraq letter template (n 152); Iran letter template (n 152).

<sup>159</sup> Interview with Participant 1 (3 August 2023).



The streamlined asylum process aimed to give ‘decision-makers increased flexibility over the process of making asylum decisions’, in order to make ‘accurate and high quality decisions as quickly as possible.’<sup>160</sup> However, in order to achieve its goal of reducing the asylum backlog, the Government have made decisions that prioritised the speed of decision-making over the accuracy and quality of decision-making. By unnecessarily rolling out the streamlined asylum process at pace, the Government created a process that risks being less efficient in the longer term, due to the need to continue to conduct interviews because some people have returned insufficiently completed questionnaires, to respond to and manage requests for extensions, to deal with people challenging inaccurate withdrawals of their asylum claim or seeking to make fresh asylum claims, and to deal with inevitable forthcoming challenges if a person’s asylum claim is refused. Ultimately, by prioritising short-term quickness, the Government has created a process that both undermines its stated goal of making ‘high-quality, accurate decisions’ and that might prove less efficient in the long run.

The streamlined asylum process should not be evaluated purely through the metric of efficiency. It is also important to consider the human cost of this policy, both for people seeking asylum and for the people working to support them. The streamlined asylum process has caused significant anxiety and stress for people seeking asylum, the large majority of whom have fled persecution and are seeking safety in the UK, potentially hampering therapeutic interventions aimed at helping people recover from trauma. Further, the streamlined asylum process has overloaded an already struggling legal aid sector and could potentially contribute to a longer-term erosion of the capacity of the legal aid sector by exacerbating the factors that cause practitioners to cease legal aid immigration work. One interviewee even raised concerns about the impact of the streamlined asylum process on people working for the Home Office, noting that ‘it must have been so stressful to be in the Home Office as well, and to have been one of those caseworkers or on the receiving end of that email inbox.’<sup>161</sup>

While it appears that the Home Office has been making some changes to the ongoing operation of the streamlined asylum process, earlier consultation with the refugee sector could have addressed many of the issues identified in this report before they arose. Due to known issues with the Home Office’s capacity to make decisions on asylum applications,<sup>162</sup> which were in the process of being resolved but had not yet been remedied when the streamlined asylum process was announced, there was no need for the policy to be rolled out at pace. Indeed, a slower and more careful implementation of the process might have been more

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<sup>160</sup> *Streamlined asylum processing* version 3 (n 1) 4.

<sup>161</sup> Interview with Participant 1 (3 August 2023).

<sup>162</sup> Tyler-Todd, Sturge and McKinney (n 126).

efficient in the longer term, by enabling issues to be identified and addressed proactively, rather than reactively.

There remains a number of outstanding issues that the Home Office needs to address with the streamlined asylum process. First is the issue of people whose claims have been withdrawn. As is shown above, it is difficult to know the magnitude of this problem. Regardless, to the extent that there are people who wish to pursue an asylum claim but for whatever reason have had their claim withdrawn, the Home Office should adopt a flexible approach to reinstating asylum claims. Under international law, refugee status is declaratory, meaning that a person becomes a refugee and entitled to protection against *refoulement* as soon as they meet the criteria in the Refugee Convention. The fact that a person's asylum claim was administratively withdrawn by a domestic government does not and cannot change this fact. Where there are people in need of protection, the UK cannot return them to their country of origin, and as such, the only sensible response is facilitating recognition of their refugee status through domestic processes.

Second, as questionnaire responses are processed and people are invited to interview, it is possible that inconsistencies might arise in a person's account of why they need protection, particularly for people who did not receive assistance from an immigration advisor when completing their questionnaire. Decision-makers should bear in mind the effect that the streamlined asylum process might have had on creating the conditions for inconsistencies to arise in a person's account when assessing the credibility of a person's asylum claim. Such discrepancies should not be taken as evidence of a lack of credibility.

Third, many of the issues associated with the streamlined asylum process have broader, systemic aspects. For the streamlined asylum process to function effectively, there must be a functioning immigration legal aid system. To create a fair and efficient asylum system, the UK Government must place greater emphasis on investing in immigration legal aid. Further, adequate support needs to be in place to help people when they are granted refugee status. In particular, serious efforts need to be made to prevent a potential homelessness crisis among recently recognised refugees.

Fourth, the extent of many of the concerns that this report has raised about the streamlined asylum process cannot be properly measured in the absence of statistical data. In future, the Home Office needs to give greater consideration to the collection and publication of reportable data on new policies, to enable these policies to be monitored and evaluated as they are implemented.