

Supplementary written evidence submitted by the Home Office (CHA0054)

1. We are writing with further information and clarifications following the evidence session of 3 September 2020. We trust you find this information useful.

Asylum claims

2. In the session you asked for a comparison between the decrease in asylum claims from 2020 Quarter 1 to Quarter 2 and the increase in small boats claims from Quarter 1 to Quarter 2. The table below sets out the number of people claiming asylum broken down into claims following arrival following a channel crossing in small boats and other claims.

Table 1 – Asylum claims Q1 to Q2 2020

Number of asylum claims	2020 Q1	2020 Q2	Difference
<u>Overall (including dependants) Of</u>	10,569	5,789	- 4,780
which small boats arrivals	460	1,997	+ 1,537
Non-small boats arrivals	10,109	3,792	- 6,317

3. Therefore, the drop in asylum claims from non-small boats arrivals is equivalent to 4.1 times the increase in small boats arrivals.
4. You also asked about the number of asylum claims as a percentage of the UK population. The most recent Office for National Statistics estimate of the UK population at 66,796,800. In the year ending June 2020 there were 40,591 asylum claims¹, (0.06%) of the population.
5. As we set out at the session, the majority of arrivals coming to the United Kingdom that we have made an initial decision upon have been identified as not being for the United Kingdom and subject to return to an EU Member State under the Dublin Regulations. We have provided further information on how we determine this below.
6. Based on current data on arrivals to 30 June, which aligns with the information already shared with the committee.

¹ This the number of claims made by main applicants and their dependants; and the number of UASC claims. A small number of individuals may have made more than one claim.

Table 2 - Small boat arrivals between 01 Jan 2018 and 30 June 2020²

Arrivals	4,613				
Claimed asylum	4,562				
Initial Decision Breakdown					
Grant	429				
		Asylum	419		
		Humanitarian Protection	10		
		UASC leave	-		
Refused	1,284				
		Not for UK to consider	1,131		
		Following substantive consideration	153		
Other	34				
No decision	2,815				
	Refused	Of which, Appealed	Appeal allowed	Appeal dismissed	Appeal ongoing
	153	113	43	40	20
			Allowed (non-asylum)	Withdrawn by appellant	
			1	1	
			Withdrawn by Home Office		
			7		
			Consent Order Granted		
			1		

2

These statistics have been taken from a live operational database. As such, numbers may change as information on that system is updated.

Asylum Data is included where the Asylum case is recorded within 2 days before or 14 days after the encounter. Where there is no Asylum Claim listed either the person does not have one or the date difference is more than this.

Where a person has more than one small boat encounter they will appear more than once in the data.

Asylum outcome is based on the initial decision.

Dependants and main applicants are included in this data.

Data has been limited to 30/06/2020 in line with published statistics.

Encounters and Applications closer to 30/06/2020 will have had less time for a decision and appeal.

Disputed claims to be children

7. The Committee asked whether it is right to say that someone in the 20 to 25 age bracket, in their physical appearance, would be 99% likely to establish that they were a child?
8. The following table is from published statistics on age disputes where the Home Office has challenged that an asylum claimant is under 18.
9. Given that some disputes arise and are resolved in different time periods from the initial asylum claim, it is not simple to make a comparison. However, it is clear from these statistics that hundreds of claims to be children are treated as adults following resolution and the Home Office is right to raise these in 46% of cases over the last two years.

Table 3 – Age disputes (all asylum claims)

Age Dispute	2018 Q3	2018 Q4	2019 Q1	2019 Q2	2019 Q3	2019 Q4	2020 Q1	2020 Q2	Total
Raised	240	290	291	148	170	189	125	31	1484
Asylum application raised in quarter	222	269	251	126	147	170	103	28	1316
Existing asylum application	18	21	40	22	23	19	22	3	168
Resolved	205	219	229	149	211	209	110	25	1357
18+	105	150	101	54	65	84	56	12	627
Less than 18	100	69	128	95	146	125	54	13	730

Arrivals with a family connection

10. The Committee asked about how many arrivals have family connections in the United Kingdom. It is not possible to provide figures for this because information relating to family connections is not captured in a way which is reportable through our management information.
11. The Committee should also be aware that information on family connections may not be provided to the Home Office by the claimant at all during the claim for asylum and therefore it would not be possible to provide a conclusive answer.

Operation Sillath

12. The Committee asked for further details on “Operation Sillath”. Operation Sillath is the designation given by UK Visas and Immigration to small boat

arrivals in order to track, manage and report on the cohort of small boat arrivals from 1st January 2018 onward.

Determination of third country responsibility

13. The Committee asked how we determine third country responsibility of those arriving in small boats. The Dublin III Regulation is the long-standing mechanism between EU Member States to determine responsibility for examining asylum claims. It is not a route for individuals to ask the UK to admit them but is an inter-State mechanism that allows claimants to be transferred into and out of the UK where responsibility for examining an asylum claim lies with the UK or with another EU Member State or Associated State (Iceland, Norway, Switzerland and Liechtenstein).
14. It is an established principle that those in need of protection should seek asylum in the first safe country that they enter. This principle is reflected in European Union law in the Dublin Regulation, which provides that an asylum claim made in the European Union (or Iceland, Norway, Switzerland and Liechtenstein) will be considered in one of those countries.
15. The Regulation's approach for determining responsibility is based on the basic principle that the State most responsible for the applicant's presence in the territory covered by the Dublin Regulation should be responsible for dealing with any asylum claim. This is usually, but not always, the first state that the applicant entered, or the first in which the asylum claim was lodged. It is not open to an asylum claimant to choose which country their claim should be considered in.
16. Article 13(1) sets out the responsible State shall be that where the applicant made his or her first illegal entry into the territory of a Dublin State across an external border, provided the asylum claim is made within 12 months of the date of that illegal entry.
17. Article 13(2) sets out that where a State cannot or can no longer be held responsible on the basis of Article 13(1), the responsible State is that where the individual has entered the territories of the Dublin States irregularly (or the circumstances of entry cannot be established) and it can be shown that the applicant has been living in the State for at least five consecutive months ('tolerated illegal presence'). If the applicant has been living for periods of time in several Member States, each of at least five months, the Member State where the applicant has been living most recently shall be responsible. Where the applicant has been living for a cumulative period of five months across several Member States the criteria in Article 13(2) will not be met.

18. Full guidance on Dublin III Regulation was published on 14/08/2020 and can be found via the link below:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797216/Dublin-III-regulation-v2.0ext.pdf

19. New guidance was published on the inadmissibility criteria under Article 13.2 of the Dublin Regulations in April 2020 and then updated in August 2020.

<https://www.gov.uk/government/publications/inadmissibility-third-country-cases>

20. Inadmissible claims are those where we treat asylum claims made in the UK as inadmissible if the claimant has:

- suitable protection in another safe country from where they would not face refoulement (that is, the country would not force the claimant to return to another country where they would be at risk of harm or persecution)
- travelled through or has a connection to another safe country which is not their own, on the basis that the claimant has, or could have, lodged their asylum claim there

Cost of returns

21. The Committee asked for further information on the cost of returns. The majority of returns take place on commercial scheduled flights. Where a chartered flight is required, the Home Office procures the use of chartered aircraft through a broker to ensure competitive pricing and access to different aircraft and contractors depending on the requirements of the operation. This blended approach provides the best value for money option for the taxpayer. We are unable to disclose the details of these costs as they are commercially sensitive.

Monitoring those returned from the United Kingdom

22. The Committee asked how we monitor individuals being returned from the United Kingdom, including how many small boats arrivals have previously been returned from the UK.

23. The UK is under no obligation to monitor the treatment of asylum seekers who have returned to the EU Member State responsible for their claim. They are, by definition, foreign nationals who have been found, as a matter of law, not to need the UK's protection, and who have no legal basis of stay in the UK and who are being returned to countries subject to the EU common European Asylum system and ECHR.

24. Article 18 of Dublin III sets clear obligations on the responsible (receiving) State. The responsible State shall examine the claim, the first step being

the registration of a new claim according to national procedures. For Individuals with a previous claim in the responsible State, Dublin III provides that they re-join the asylum procedure where they left off. It would be inappropriate for the UK to assume any ongoing responsibility for them when they returned to another Member State.

25. Returns are only undertaken when the Home Office and where applicable the courts deem it is safe to do so and this has been agreed with the Member State. Under the Dublin III process, the time and place of flights have been carefully worked through between the UK and receiving Member States by mutual agreement. All people being returned are handed over to the relevant authorities on arrival.
26. There are instances of people who have previously been returned and who have attempted to re-enter the United Kingdom by the small boats route. From October 2018 to June 2020 there have been 28 instances where people who have returned to a safe country have re-entered the United Kingdom. We will attempt to prosecute any individual who attempts to 're-enter' the United Kingdom illegally under section 24 of the Immigration Act 1971. Between April and June this year, 5 individuals were prosecuted for these offences.²

Legal ability to return people to other European Countries

27. The Committee asked about the ability to return individuals after the transition period ends. During negotiations, we made a sincere offer to the EU regarding readmission of asylum seekers to the EU. In the absence of securing an EU arrangement on this issue we will look to work with individual countries to support future return processes.
28. It is in our mutual interest to protect and control our shared borders, and our relationship with our near neighbours will always remain an important part of our strategy. The first safe country concept is a long-recognised part of international asylum procedures.
29. We have already made changes to the Immigration Rules to ensure that when the UK is no longer subject to the Dublin III Regulation, there will be continuity in our legal powers to treat cases as inadmissible if they involve a claimant who has travelled through the EU (under Rule 345).
30. With regards to our preparations for leaving the EU, the department continues to work hard to prepare for the end of the transition period and this remains a top priority. The department continues to build on these preparations which were undertaken in 2019 to give us a high state of

² Both figures are provisional management information that is subject to change. It has not been assured to the standard of Official Statistics.

readiness before we exited the EU on 31 January 2020. The Home Office is planning for all potential outcomes during the transition period.

Future policy

31. The Committee asked about future policy and legislation in this area. The rise in organised criminal gang-facilitated crossings has put this issue into sharp focus and while the United Kingdom will continue to offer protection to those who need it, we are, developing plans to reform our policies around illegal migration and to prevent abuse of the system and the criminality associated with it.
32. The Home Office has been looking at a whole host of measures to bring innovation into our system, as part of this we are consulting with stakeholders and ensuring those plans adhere to our Policy Assurance Framework. Further detail will be set out in due course.
33. We hope this provides further useful information and context to the evidence we provided.

Tyson Hepple
Director General, Immigration Enforcement

Abi Tierney
Director General, HM Passport Office and UK Visas & Immigration

November 2020