

United Kingdom



The Refugee Forum (2010)
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The United Kingdom's Asylum System

Introduction

The United Kingdom (UK) asylum system is notorious for its complexity. Asylum seekers must navigate a refugee system with three different types of protection, each with a different set of criteria and rights and obligations. They are also subject to a multi-step, lengthy application procedure, beginning with eligibility screening, followed by an interview, and potentially followed further by up to six levels of appeal and judicial review. Throughout this process, most asylum seekers are entitled to limited financial support. However, some categories of asylum seekers are left destitute. Successful asylum seekers are only entitled to temporary protection for a period of five year terms. After the five years elapses, they may then apply for permanent protection.

In addition to its complexity, the UK asylum system has been criticized for its poor initial decisions. The asylum system is managed by the UK Border Agency (UKBA). Each case is assigned to a UKBA official (Case Owner) who oversees the case from the initial interview and decision. Critics allege that these Case Owners are poorly trained and are influenced by institutional biases. A high number of initial decisions rendered by the Case Owners are overturned and returned for rehearing.

Although the UKBA has stated that its objective is to provide a system that is “fast, fair and firm”,¹ it has been moving towards a system that effectively expedites, limits or discourages asylum claims. For example, it has recently created a fast track procedure for asylum seekers that are deemed to be a flight-risk or that have “straightforward claims.” These asylum seekers are detained and their claims are decided very quickly. Critics allege that these fast track procedures result in a significant number of errors.

Moreover, like other European countries, the UK has restricted effective access to its asylum system through measures such as overseas interdiction, carrier sanctions, the European Schengen Agreement, imprisonment for the use of false documents and aggressive detention policies for some asylum categories. Still, on average, the UK receives more than three times as many asylum seekers as Canada.

Critics of Canada's refugee system point to the UK's lower acceptance rates as evidence of Canada's excessive generosity. However, the UK system is, as discussed above, complex, lengthy, and at times, unfair, and as result, often excludes legitimate refugees. Furthermore, UK has been less successful than Canada at removing failed asylum seekers.

¹ Home Office UK Border Agency (UKBA), White Paper: *Fairer, Faster and Firmer: A Modern Approach to Immigration Control* (London: Crown Copyright, 1998).

1. Types of Protection

The United Kingdom offers 3 different types of refugee protection:

1) Asylum under the 1951 United Nations Refugee Convention

Asylum is principally granted under the 1951 U.N. Convention. To merit protection under the Convention, claimants must meet the criteria set out in the Convention definition of a refugee: they must (1) be outside their country of origin (2) have a well-founded fear of persecution (3) due to reasons of race, religion, nationality, political opinion or membership in a particular social group and (4) are unable or unwilling, by reason of their fear, to secure protection from their country of origin. The entire definition is available at: <http://www.unhcr.org.au/basicdef.shtml>

Convention Refugees (CRs) are at first granted temporary protection for a period of five years. They can also apply to have their spouse and children under the age of 18 join them in the UK. During this five year period, the UKBA may review a CR's case if the CR has acted in a way that violates the Convention or if the conditions in the CR's home country have changed. In some instances, the CR's status may be revoked and the CR may be issued a deportation order.²

When the five year period of temporary protection elapses, CRs may apply to renew their temporary residence permit or may apply for permanent residence (Indefinite Leave to Remain). The UKBA will then decide to grant them permanent status, extend their temporary status, or revoke their temporary status depending on the current conditions in their countries of origin.³

Prior to 2005, the process of securing permanent protection was simpler. Claimants who were recognised as CRs were automatically granted permanent residence (Indefinite Leave to Remain). Under this former regime, the status of CR was more secure, rendering integration somewhat easier.⁴

2) Humanitarian Protection

Asylum seekers who do not meet the criteria under the 1951 U.N. Refugee Convention may qualify for Humanitarian Protection ("HP"). Under the *Immigration Act*, HP may be granted to asylum-seekers who face a serious risk to their life or person in their home countries.

Like Convention Refugees, those who are granted HP status have the right to remain in the UK for five years and to apply for their spouse and children under the age of 18 to join them. During this five year period, the UKBA may review an individual's HP status if the individual has acted in a way that violates the Convention or if the conditions in the individual's home country have changed. The UKBA may then decide

² UKBA, "Successful applications" (London: Crown Copyright, 2007), <http://www.bia.homeoffice.gov.uk/asylum/outcomes/successfulapplications/> ["Successful applications"].

³ UKBA, "Applying for settlement in the United Kingdom" (London: Crown Copyright, 2007), <http://www.bia.homeoffice.gov.uk/ukresidency/settlement/> ["Applying for settlement"].

⁴ "The asylum process" (London: Refugee Council, 2009), <http://www.refugeecouncil.org.uk/practice/basics/process.htm> ["The asylum process"].

to leave the HP status in place, change the HP status to Discretionary Leave to Remain (“DLR”), or revoke the HP status and require the individual to leave the country. After the five years have elapsed, individuals with HP status may apply to remain indefinitely in the UK and will be allowed to do so if they are still in need of protection.⁵

3) Discretionary Leave to Remain

If asylum-seekers do not qualify for Convention Refugee (CR) or Humanitarian Protection (“HP”) status, the UKBA may grant them Discretionary Leave to Remain (“DLR”) under the *Immigration Act*. DLR is granted for a period of three years or less to an asylum-seeker who:

- makes a claim under article 3 or article 8 of the European Convention of Human Rights;
- is an unaccompanied child;
- is excluded from refugee status or HP because of criminality or security reasons;
- demonstrates particularly compelling reasons why they should not be deported.⁶

At the end of three years, the UKBA will review the case and, in some circumstances, may extend DLR for a further three years. After an individual has had DLR status for six years, the UKBA may then either grant them permanent residence or deport them. Once again, the UKBA will base their decision on the current conditions in the individual’s home country. The UKBA will not grant permanent residence if the individual was ineligible for refugee status for reasons of criminality or national security. In this case, the individual must leave the UK.

Both HP and DLR were introduced on April 1, 2003. These categories were intended to replace the former category of Exceptional Leave to Remain (“ELR”), which was perceived as overly generous. The UK government has [explicitly promoted](#) the regime under HP and DLR as more restrictive.

Like HP and DLR, ELR was granted to those who did not qualify for refugee status but could not be returned to their home countries. Reasons barring removal included compelling compassionate or humanitarian grounds, the United Kingdom’s obligations under the European Convention on Human Rights, the inability of a country to give proper reception to unaccompanied children, and delays of seven years or more in decision-making that were not the asylum seeker’s fault. ELR could be granted for up to a four year period at a home officer’s discretion. At the end of this four year period, an individual could apply for permanent residence (Indefinite Leave to Remain).⁷

⁵ “Applying for Asylum” (London: Refugee Council, 2008), <http://languages.refugeecouncil.org.uk/pdf/English/Applying_for_asylum-English.pdf> [“Applying for Asylum”].

⁶ “UK asylum law and process,” *Navigation Guide* No. 3 (London: Information Centre about Asylum and Refugees (ICAR), 2007), <<http://www.icar.org.uk/?lid=6997#1>> [*Navigation Guide*].

⁷ “Migration Trends 9.4: A Review of Exceptional Leave to Remain and Humanitarian Protection” (Guildford: Migration Watch UK, 2003), <http://www.migrationwatchuk.com/archive/migration_trends/exceptional_leave_to_remain.asp> [“Migration Trends”].

2. The Asylum Process

All asylum seekers are screened for eligibility by the Immigration Service of the United Kingdom Border Agency (UKBA) of the Home Office. If they meet the eligibility requirements, they are then referred to their “Case Owner,” an official of the UKBA that is responsible for overseeing their case from beginning to end. The Case Owner will then render the initial asylum decision. This initial decision may be followed by as many as six levels of appeal and judicial review.⁸

1) Access to Asylum

Some individuals with genuine asylum claims never reach the UK due to border controls. The UK requires citizens of certain countries, including Afghanistan, China, Somalia, and Iran, to obtain a visa prior to traveling to the UK. It ensures that carriers, such as airlines, enforce this regime by imposing heavy fines on those carriers that bring improperly documented passengers into the UK. In addition, UK immigration officers operate in overseas airports to prevent passengers with false documents from boarding aircraft bound for the UK.⁹

2) Eligibility for Asylum

The Immigration Service of the UKBA may find Asylum seekers to be ineligible to apply for asylum on the following grounds:

- 1) **The use of false documents:** Under section 2 of the *Asylum and Immigration Act 2004*,¹⁰ foreign nationals who use false documents to enter the U.K. are ineligible to apply for asylum and may face a sentence of up to two years in prison. If an adult accompanies a child without valid documentation, the adult may face prosecution. Children over the age of 10 may also be prosecuted. This provision is particularly controversial, because many refugees are unable to obtain valid travel documents.
- 2) **Serious criminality:** Serious criminality and a danger to the community are presumed where a sentence of at least two years was imposed in the UK, or, if the conviction was outside the UK, a sentence of at least two years was imposed and could have been imposed if convicted in the UK of a similar offence.¹¹
- 3) **Security screening:** The UK screens asylum seekers for security risks through its e-Borders program. This program uses advanced

⁸ “Applying for Asylum,” *supra* note 5.

⁹ Sile Reynolds and Helen Muggerridge, “Remote Controls: how UK border controls are endangering the lives of refugees” (London: Refugee Council, 2008), <<http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/researchreports/Remote%20Controls.pdf>>.

¹⁰ *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* (U.K.), 2004, c. 19 [Asylum and Immigration Act 2004].

¹¹ *Nationality, Immigration and Asylum Act 2002* (U.K.), 2002, c. 41, s. 72 [Nationality, Immigration and Asylum Act 2002].

technology such as an iris recognition system, maintains databases of individuals who pose a “security risk”, and keeps electronic records of entry and exit from the UK.

- 4) **Passage via a “safe third country”:** All countries within the European Economic Community are designated by U.K. as safe countries (this is set out in Schedule 3 of the *Asylum and Immigration Act 2004*).¹² Asylum seekers who have passed through a safe country en route to the U.K. are ineligible to apply for asylum. They will not receive a substantive interview and will be returned to the safe country through which they passed on their way to the UK.
- 5) **Claimant’s home country is designated as a safe country:** Under section 94 of the *Nationality, Immigration and Asylum Act 2002*,¹³ asylum claims from countries that are deemed to be safe may be certified as clearly unfounded. Asylum seekers whose claim has been determined to be clearly unfounded are likely to have their claim refused. They also have no right of appeal; their only recourse is judicial review.

The Safe Country List, also known as the Asylum “White List,” has undergone changes since 2002. It now includes Albania, Bolivia, Brazil, Ecuador, Ghana (males only), India, Jamaica, Macedonia, Moldova, Mongolia, Nigeria (males only), Serbia, Kosovo, South Africa, and The Ukraine. The current list can be found at <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/theappealsprocess/guidance/nsaappeals.pdf>

2) Making the Asylum Decision

If applicants meet the eligibility requirements, the Immigration Service of the UKBA will then assign them to a processing stream based on the characteristics of their case. This stream will determine the speed at which cases will be processed, the frequency with which applicants must report to the Immigration Service, the funding available for legal assistance, and the type of accommodation provided for applicants. More information on the different streams for processing asylum applications is available at: <http://www.publications.parliament.uk/pa/ld200304/ldselect/ldcom/74/7414.htm>.

The Immigration Service will also assign applicants to their Case Owners who will oversee their case from the initial interview through to a grant of asylum, an appeal, or deportation. The Case Owner reviews the applicant’s case materials, interviews the applicant, and renders an initial decision. If the decision is negative, the Case Owner must provide the applicant with written reasons.

Many organizations, including the United Nations High Commissioner for Refugees and the Refugee Council, have criticized initial asylum proceedings on the following grounds:

- The lack of quality interpretation services
- The lack of available legal representatives

¹² *Asylum and Immigration Act 2004*, *supra* note 10.

¹³ *Nationality, Immigration and Asylum Act 2002*, *supra* note 11.

- The limited role allowed to a legal representative
- The limited preparation time allowed to legal representatives
- The inadequate training for Case Owners in basic legal skills
- The lack of reliable country information used by Case Owners
- The lack of supervisory quality controls on asylum decisions

For these reasons, these organizations allege that too many initial decisions are poorly decided. This is reflected in the high number of asylum decisions that are sent back for rehearing. For example, in 2006, 22% of asylum decisions were overturned at the first level of appeal¹⁴ and an additional 29% of cases were overturned at the second level of appeal.¹⁵

3) Appeal and Judicial Review of the Initial Decision

The system of appeal is complex. There is a two stage appeal system within the Asylum and Immigration Tribunal. In addition, there are potentially total of 5 levels of appeal and Judicial Review proceedings.

First Appeal

Applicants who receive a negative initial decision may appeal to the Asylum and Immigration Tribunal (“AIT”). Either an immigration judge or a panel of legally qualified individuals will preside over the appeal. At this first appeal, applicants are given an in-depth hearing and are usually permitted to have legal representation and make oral comments.¹⁶ The appeal may be based on issues of both fact and law, meaning that the AIT can reconsider the substance of the initial UKBA asylum decision.¹⁷ If the appeal is allowed, the case is sent back to the UKBA for a new interview and decision.

Second Appeal

If their first appeal fails, applicants may pursue a second stage of appeal within the AIT. The structure of the second appeal will depend on the number of decision-makers who presided over the first stage of appeal.

Where the first appeal was decided by fewer than three members, either party may request a Reconsideration Order of the initial UKBA decision on an error of law.¹⁸ A Senior Immigration Judge will review the request for reconsideration.¹⁹ If the Senior Immigration Judge grants the request, the AIT will be ordered to

¹⁴ Kerry Benett, Tina Heath and Richard Jeffries, Home Office Statistical Bulletin, *Asylum Statistics United Kingdom 2006*,

<<http://www.homeoffice.gov.uk/rds/pdfs07/hosb1407.pdf>> [“Home Office Statistical Bulletin”].

¹⁵ *Ibid.* at 54.

¹⁶ Robert Thomas, “Evaluating tribunal adjudication: Administrative justice and asylum appeals” (2006) 25:3 L. S. 462 at 466.

¹⁷ See generally *ibid.* at 468.

¹⁸ UKBA, “Onwards rights of appeal,” *Policy and Law* (London: Crown Copyright, 2009),

<<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/theappealsprocess/guidance/onwardrightsofappeal.pdf?view=Binary>> at 3 [“Onward Right of Appeal”].

¹⁹ *Ibid.*

reconsider its previous appeal decision by hearing the case again.²⁰ If the AIT finds a material error of law on reconsideration, it must decide whether to allow or dismiss the appeal against the initial UKBA asylum decision.²¹ If the second appeal is dismissed, applicants may apply for permission to appeal to the Court of Appeal for reconsideration.²²

Where the first appeal was decided by three or more members, either party may appeal on a point of law to the Court of Appeal with permission of the AIT. If the AIT refuses permission to appeal, the party may ask the Court of Appeal's permission to appeal on a point of law.²³

High Court

If the AIT refuses a request for reconsideration, the High Court can review the AIT's decision on an error of law.²⁴ If the High Court finds that the AIT made an error of law, the High Court makes a Reconsideration Order.²⁵ If the High Court finds that the AIT did not make an error of law and refuses to make a Reconsideration Order, then there are no further rights of appeal.²⁶

Court of Appeal

A party to the High Court appeal may appeal to the Court of Appeal, with permission of the AIT, or, where the AIT has refused, with permission of the High Court on a point of law.²⁷ The Court of Appeal may affirm the AIT's decision, send the case back to the AIT, substitute their decision for that of the AIT, or affirm, vary or give directions.²⁸

House of Lords and the European Court of Human Rights

The decision of the Court of Appeal may be appealed, with permission, to the House of Lords. An unsuccessful case before the House of Lords may be appealed to the European Court of Human Rights (ECtHR).²⁹

Judicial Review

²⁰ *Ibid.* at 13.

²¹ *Ibid.*

²² *ICAR Statistics Paper 2: Decision Making and Appeals Process* (London: ICAR, 2009), <www.icar.org.uk/download.php?id=529> at 6 [*ICAR Statistics Paper 2*].

²³ *Ibid.*

²⁴ *Ibid.* at 7-8

²⁵ See the *Asylum and Immigration Act 2004*, *supra* note 10, s. 26(6)(2)(a). Also note that time limits for bringing the application to the High Court are 5 days for claimants who are in the UK, and 28 days for claimants who are outside the UK. It is difficult for claimants to meet time limits, especially considering the lack of access to legal aid funding. The application is determined only by the applicant's written submissions.

²⁶ "Onward Right of Appeal," *supra* note 18 at 3.

²⁷ The further appeal will be brought to the High Court where the appeal was decided in England or Wales, the Court of Session where the appeal was decided in Scotland, and the High Court in Northern Ireland where the appeal was decided in Northern Ireland: See *Nationality, Immigration and Asylum Act 2002*, *supra* note 11 ss. 103(B)(1), 103(B)(2), 103(B)(5).

²⁸ *Ibid.* at s. 103B(4). *Ibid.*, 103(B)(4). Directions are prescribed under s. 87.

²⁹ ICAR, "Asylum Appeals Process" (London: ICAR, 2007), <<http://www.icar.org.uk/download/Appeals.pdf>> at 8 ["Asylum Appeals Process"].

The asylum seeker may appeal for Judicial Review of any decision by a public authority that was improperly made.³⁰ If the applicant's asylum claim is clearly unfounded,³¹ the applicant's only recourse is judicial review.

3. Asylum Statistics

- 1) **Annual refugee claims:** The UK receives more than three times as many asylum claims as Canada. However, these statistics are difficult to compare since the UK counts family claims by their principal applicant only whereas Canada counts family claims by each family member in addition to the principal applicant.³²

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
UK	32,500	46,015	71,160	80,315	71,025	84,130	49,405	33,960	25,710	23,610
Canada	18,818	19,680	24,502	29,310	34,565	25,892	23,248	18,958	14,667	16,525
Ratio	1.73	2.34	2.90	2.74	2.05	3.25	2.13	1.79	1.75	1.43

- 2) **Acceptance Rates:** UK acceptance rates are lower than Canada's. However, the difference between the two is not so great when accounting for the subsidiary forms of protection that the UK offers, such as ELR, HP, and DL.

i. UK

The average acceptance rate of initial asylum decisions from 2001 – 2006 is 7.77%

Year	1999	2000	2001	2002	2003	2004	2005	2006	Average 2001-2006
Rate of Initial Acceptance of Asylum	23.2%	9.5%	11%	10%	5%	3.7%	7.1%	9.8%	7.8%
Rate of Initial Acceptance of ELR/HP/DL	7.3%	10.5%	22%	21%	9.8%	10.4%	10.6%	8.9%	13.8%
Rate of Asylum Acceptance after appeals	--	--	20%	19%	15%	13%	17%	17%	16.8%
Rate of ELR/HP/DL acceptance after appeals	--	--	22%	21%	11%	11%	11%	9%	14.2%

³⁰ "Onward Right of Appeal," *supra* note 18 at 4.

³¹ *Nationality, Immigration and Asylum Act 2002*, *supra* note 11, s. 94(2).

³² Statistics can be found online at United Nations High Commissioner for Refugees (UNHCR), "Statistics" (Geneva: UNHCR, 2009), <<http://www.unhcr.org/pages/49c3646c4d6.html>> ["Statistics"].

ii. Canada

The average acceptance rate of initial asylum decisions from 2001 – 2006 is 47%

Year	1999	2000	2001	2002	2003	2004	2005	2006	Average 2001-2006
Rate of Initial Acceptance of Asylum*	58%	58%	58%	46%	42%	40%	44%	47%	47%

*Acceptance rates do not include withdrawn, abandoned or other claims.

4. Detention

The legal basis for detention is found in Schedule 2, “Administrative Provisions as to Control on Entry Etc.” of the *Immigration Act 1971*.³³ The use of detention has become more prevalent in the past few years.³⁴ When detention is not used, sometimes electronic tagging is used to monitor the whereabouts of asylum seekers.

In 2007, the United Kingdom implemented a New Asylum Model that includes a fast track process for asylum seekers deemed unlikely to appear for their interviews and for asylum seekers with “straightforward claims.” “Straightforward claims” is a euphemism for “claims with a high possibility of refusal”. This sanitized language masks the legal issue of institutional bias. Asylum-seekers in the fast-track process are detained until a decision is made on their asylum claim.³⁵

This institutional bias is also reflected in the asylum acceptance rates for those detained under the fast-track process. 99% of asylum seekers that were detained had their claims refused initially and only 3-6% were granted asylum under appeal. This can be compared to success rates for asylum seekers that were not detained: 25% at the initial decision stage and 20 to 25% success on appeal. The UKBA aims to detain up to 30% of new asylum-seekers under this fast track process.³⁶

Concerns have been raised over the fast-track process. Namely, it does not permit asylum-seekers sufficient legal representation or time to prepare their asylum claim. Additionally, the detention facilities are substandard. Asylum-seekers that are detained are often mistreated, and the particular needs of female asylum-seekers, torture survivors and unaccompanied children are not taken into account. Furthermore, there is

³³ *Immigration Act 1971*, (U.K.), 1971, c. 77 [*Immigration Act 1971*].

³⁴ For example, as of December 2001, 1,545 persons were detained solely under *Immigration Act* powers in the UK.. 83% (1,280) of these people sought asylum at some stage. These numbers have grown as of September 2006 when 2,010 persons were detained solely under *Immigration Act* powers in the UK. 72% (1,455) of these people sought asylum at some stage. These figures exclude those detained in prison service establishments. See UKBA, “Control of Immigration: Statistics United Kingdom 2006” (London: Crown Copyright, 2007), <<http://www.official-documents.gov.uk/document/cm71/7197/7197.pdf>> at 6; UKBA, “Control of Immigration: Statistics United Kingdom, 2001” (London: Crown Copyright, 2002), <<http://www.homeoffice.gov.uk/rds/pdfs2/hosb1102.pdf>> at 13.

³⁵ ICAR, “Detention of Asylum seekers in the UK” (London: ICAR, 2007), <http://www.icar.org.uk/bob_html/04_iac_briefings/Detention_of_asylum_seekers_in_the_UK_June_2007.pdf> at 10 [“Detention of Asylum seekers”].

³⁶ *Ibid.*, 10-12.

no time limit on how long individuals can be detained. The Independent Asylum Commission reports a high level of suicide and self-harm by asylum-seekers in detention.³⁷

5. State support for Asylum-seekers

Under the 1951 U.N. Refugee Convention, refugees have certain rights to social assistance and fair treatment until their claim is decided. This includes financial support, access to employment, access to education, and access to legal services. The UK partially complies with their obligations under the Convention.

1) Employment

Asylum-seekers are not allowed to work unless they have been waiting for more than 12 months for a decision to be made on their case. There is no right of appeal if they are denied the right to work.³⁸

2) Financial Assistance and Housing

Only asylum-seekers who are found to be destitute are eligible for housing and financial support. Under s. 55 of the *Nationality, Immigration and Asylum Act 2002*,³⁹ asylum seekers may be refused support if they do not make an asylum claim as soon as reasonably practicable. Those asylum-seekers who are eligible for free housing cannot choose the part of the country to which they are sent. They are usually housed in initial accommodation for a few weeks and then transferred to longer term accommodation, which is not necessarily in the same part of the country as the initial accommodation. If asylum-seekers leave the accommodation provided, they are no longer eligible for free housing. After being granted asylum, asylum seekers have 28 days to leave the free accommodation regardless of whether they have alternate accommodation.⁴⁰

Financial assistance is provided by an agency called Asylum Support, which is part of the UKBA. Destitute adult asylum-seekers receive 70% and children receive 100% of the standard UK social assistance payments. Asylum-seeking families with children do not receive the full range of social assistance benefits available to low income British families with children. Cash assistance continues if asylum seekers appeal their initial asylum decisions but ceases if asylum seekers do not lodge an appeal. Failed asylum-seekers frequently receive limited financial support in the form of vouchers for specific supermarkets.⁴¹

³⁷ Independent Asylum Commission, *Deserving Dignity: The Independent Asylum Commission's Third Report of Conclusions and Recommendations* (London: Independent Asylum Commission, 2008), <<http://www.independentasylumcommission.org.uk/files/10.07.08.pdf>> at 16 [*Independent Asylum Commission*].

³⁸ Arabella Thorp, "Asylum seekers and the right to work" (London: House of Commons Library, 2009), <<http://www.parliament.uk/commons/lib/research/briefings/snha-01908.pdf>>.

³⁹ *Nationality, Immigration and Asylum Act 2002*, *supra* note 11.

⁴⁰ John Perry, The Chartered Institute of Housing, "Housing and Support Services for Asylum seekers and refugees: A Good Practice Guide" (York: Joseph Rowntree Foundation (JRF), 2005), <<http://www.jrf.org.uk/sites/files/jrf/1905018096.pdf>> at 27 ["Housing and Support Services"].

⁴¹ Refugee Council, "Applying for Asylum Support," (London: Refugee Council, 2009), <http://languages.refugeecouncil.org.uk/pdf/English/Applying_for_asylum_support2009English.pdf>.

3) Education

Children in the UK between the ages of 5 to 16 are required by law to attend school, regardless of their immigration status. Asylum-seekers are charged the same fees as other international students for post-secondary education, although universities have the discretion to lower asylum-seekers' fees to domestic fees.⁴²

4) Health Care

Asylum-seekers receive free health care through the National Health Service, which includes doctor appointments and hospitalization. Destitute asylum-seekers may qualify for free prescription medications, dental care, and eye glasses.⁴³

5) Legal Services

Only the following asylum seekers are granted government-funded legal representation: those who are detained through the fast track procedure, those who have mental difficulties, those who are unaccompanied children, and those who are considered a threat to national security.⁴⁴ Many lawyers have withdrawn their services, because the legal aid tariff is too low.

6. Removal of Refused Asylum-seekers

1) Number of Removals of Failed Asylum Seekers

Year	2000*	2001*	2002**	2003**	2004**	2005**	2006**
Removals (principal applicant)	8,980	9,285	10,740	13,005	12,585	13,730	16,330

* including voluntary departure

** including assisted returns and known voluntary departures following enforcement action

2) Number of Potential Removals:

Year*	2000	2001	2002	2003	2004	2005	2006
Potential Removals	62,720	89,115	54,305	55,890	44,070	24,730	17,050

⁴² "Asylum seekers: Europe's Dilemmas," *BBC News* (6 February 2001), <<http://news.bbc.co.uk/2/hi/europe/1156406.stm>>.

⁴³ Department of Health, "Asylum seekers and refugees" (London: Crown Copyright, 2009), <<http://www.dh.gov.uk/en/Healthcare/International/asylumseekersandrefugees/index.htm>>.

⁴⁴ *Independent Asylum Commission*, *supra* note 37 at 31.

(principal applicant)							
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* This statistic refers to the year of the asylum claim refusal, including cases reconsidered

Of the 347,880 failed asylum seekers who could have been removed, only 84,665 or 24% were removed between 2000 and 2006.⁴⁵

8. Legislative authorities for the Asylum system

The UK's asylum system is based on 6 different pieces of legislation. The *Immigration Act 1971* is the primary legislation.

Immigration Act 1971, (U.K.), 1971, c. 77

<http://www.uniset.ca/naty/ImmigrAct1971.htm> or
<http://www.britishcitizen.info/IA1971.pdf>

Asylum and Immigration Appeals Act 1993, (U.K.), 1993, c. 23, 1993

http://www.england-legislation.hmso.gov.uk/acts/acts1993/ukpga_19930023_en_1

Immigration and Asylum Act 1999, (U.K.), 1999, c. 33

http://www.legislation.gov.uk/acts/acts1999/ukpga_19990033_en_1

Nationality, Immigration and Asylum Act 2002, (U.K.), 2002, c. 41

http://www.opsi.gov.uk/acts/acts2002/ukpga_20020041_en_1

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, (U.K.), 2004, c. 19

http://www.england-legislation.hmso.gov.uk/acts/acts2004/ukpga_20040019_en_1

Immigration, Asylum and Nationality Act 2006, (U.K.), 2006, c. 13

http://www.england-legislation.hmso.gov.uk/acts/acts2006/ukpga_20060013_en_1

⁴⁵ Statistics for this section are taken from the "Home Office Statistical Bulletin," *supra* note 14 at Tables 1 and 9.