



What happens to those crossing the Channel illegally?

Illegal Immigration: MW 480

1. Illegal Channel crossings in small boats are becoming more frequent. So far, 2020 has seen well over 4,000 detected arrivals in contrast to just under 1,900 in 2019. There was a record of 235 people detected arriving in a day in August 2020 (see our [Channel Tracking Station](#)).¹

- Paragraphs 2 to 5 of this paper deal with what occurs in the **Channel**.
- Paragraphs 6 to 9 deal with **immigration offenders** who do not claim asylum.
- Paragraphs 10 to 27 deal with the ‘majority’ who claim **asylum**.
- Paragraphs 28 to 34 deal with **removals**.

In the Channel

2. In most cases, if migrants are picked up in UK waters they are taken to the UK, and if they are picked up in French waters they are taken to France. In early 2019, the UK government signed an agreement with the French government which contains a commitment that migrants encountered will be taken to the nearest safe port.²

3. However, even if migrants are found in French waters, a Minister suggested that they can sometimes attempt to ‘dictate’ to their ‘rescuers’ that they should be taken to the UK.³ Footage taken in May this year showed a French naval vessel accompanying a dinghy from French waters into British waters. After this, the government confirmed that ‘in some cases, French boats will remain with migrants if they refuse rescue’.⁴ The government claimed the French Navy was following international law in this practice, saying: **“It would be illegal to intervene with the boat.** Instead, the navy is committed by law to save lives at sea, and consequently shadows boats that are at risk.”⁵

4. As for those ‘rescued’ in international waters, the government has stated the following: “The decision... is a matter for the Coastguard who are responsible for that rescue zone and the master of the ship which has picked them up. Usually persons will be taken to the nearest safe Port or the home Ports of the rescuing vessel (particularly if a Lifeboat) but there are many factors which could come into play such as any immediate medical or welfare issues’.⁶

5. Ex-interim head of the UK Border Force Tony Smith has said: “[Migrants] have seen that if you can get close to a British vessel, then essentially you are **guaranteed** to be taken into one of our ports and you are pretty well **guaranteed**... to be taken into the UK system.”⁷

Upon arrival

Initial steps taken by authorities upon landing

6. For those not intercepted, primary arrival points include Dungeness, south-west of Folkestone, and St Margaret's Bay, north-east of Dover. If those arriving are 'intercepted', either by Border Force or another UK vessel, they are taken ashore for 'processing'. Boats are often brought to the Port of Dover. From there, the occupants may be taken to the Kent Intake Unit, near the car ferry terminal.

What happens to those illegally crossing the Channel who do not claim asylum?

7. Those crossing the Channel in a clandestine manner and who remain undetected may try to avoid the authorities and may go on to work illegally in the UK's shadow economy. Illegal working penalties for employers suggest the largest share are in London. When such individuals arrive they join what is estimated to have become the largest population of unauthorised migrants in Europe - between 800,000 and 1.2 million in 2017.⁸

8. The few crossing the Channel who are detected but who do not claim asylum may be detained but will usually be given temporary release, in accordance with Paragraph 21(1), Schedule 2 of the Immigration Act 1971 (as amended). They appear to have formed a significant portion of the 80,000 people who did not have permission to stay in the UK in September 2016 and who were living amongst the general public while being obliged to report regularly to the Home Office (failed asylum claimants forming the other portion). Half of the 80,000 lived in London; over 50,000 were deemed to have absconded in late 2016.⁹

Why are more illegal entrants not held in detention until removal?

9. The government has said: “Detention plays a key role in securing our borders and maintaining effective immigration control.”¹⁰ Despite this, the government has significantly reduced the size of its detention estate, reducing its costs by £40 million (21%), while it is also detaining people for a shorter time. The number of such individuals who are being detained has fallen from 2,925 in 2016 to just under 900 as of March 2020.¹¹

What happens after those illegally crossing the Channel enter the asylum system?

10. Under the 1951 Geneva Convention, asylum seekers must show that:

- They have a well-founded fear of persecution in their home country
- The persecution is for one of the five reasons specified in the Convention: race, religion, nationality, membership of a particular social group or political opinion
- They would be at risk of persecution if they were returned

11. Someone may also be considered for humanitarian protection. To be successful, an applicant needs to establish that they would face a real risk of serious harm if returned to their country of origin. A majority of

those arriving across the Channel claim asylum¹², although the government have declined to confirm the numbers of arrivals that do so, suggesting that the reason for this is because 'breakdowns of asylum claims by method of arrival or type of claim are not routinely published'.¹³ Claimants can do so immediately after arrival. This will lead to an initial interview before being released. They will subsequently have another in-depth interview with a caseworker (lasting 2.5 hours or so, possibly over Skype).

12. Those claiming asylum after crossing the Channel will be included in the annual average total of 26,000 asylum applications per year since 2010. For context, 8,000 per year between 2005-2014 were claims by illegal migrants after the person had been discovered by the authorities, although this number may have gone up.¹⁴ Another 3,500 entered on a student visa and subsequently went on to claim asylum (the largest number from Pakistan) - based on figures from 2011-2015.¹⁵

How many asylum claimants are there and how long do they wait?

13. The National Audit Office suggests that the total number of asylum seekers in the UK is around **150,000** - although it is unclear whether this figure includes a portion of failed claimants.¹⁶ In year ending March 2020, 51,900 people were waiting for an initial decision on their asylum claim. This will not include those conducting what may be a lengthy appeal. About 10,000 appeals are lodged per year.

How and where are asylum claimants housed?

14. Asylum seekers are '**immediately**'¹⁷ given somewhere to live if they qualify. This could be in a flat, house, hostel or bed and breakfast, paid for by taxpayers and usually provided by private contractors. The majority are in low-cost housing in urban areas such as Glasgow, Birmingham, Stoke, Cardiff and Middlesbrough. The Home Office tells asylum seekers it is unlikely they will be given accommodation in London or the South-East.

15. Responsibility for housing asylum seekers was taken away from local authorities in 2012 and given to companies Serco, G4S and Clearsprings under deals with the Home Office known as Compass contracts. G4S managed 5,000 properties in the Midlands, East of England and Yorkshire and Humber from 2013 but its two contracts ended in August 2019. **Serco, Clearsprings and Mears were awarded new contracts to provide housing for ten years, starting from September 2019.** The total value was £4 billion.¹⁸

- Serco's contract (valued at £1.9 billion and starting from September 2019 for 10 years) is to provide housing in the North-West, the Midlands and in the East of England. They house about 20,000 asylum seekers.
- Clearsprings manages accommodation in Wales, the South of England and London. The contract is valued at £1.1 billion, starting from September 2019 for ten years.
- Mears has a contract for Scotland, Northern Ireland, North East and Yorkshire and the Humber, valued at £1 billion and starting from September 2019 for 10 years.

16. Some have claimed this accommodation can be 'infested with vermin, insecure, damp and dirty'. The Home Office says that where the housing falls short of required standards they take action against providers, including financial deductions worth millions per year.¹⁹ A Home Office minister also told Parliament in May that the government had procured **4,000 single hotel rooms** to assist with housing initial asylum seekers during the Covid crisis.²⁰ In total 48,000 people are housed under various asylum support arrangements, including an estimated 17,000 failed asylum seekers. The largest number of

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claimants in a single region (around 11,000) are housed in the North-West.²¹

What else are claimants given?

17. Around 50,000 asylum seekers and failed asylum seekers receive £37.75 per week for each person in the household to pay for essentials like food, clothes and toiletries while they wait for a decision. However, in early June 2020 the Home Office announced an increase in Asylum Support from £37.75 a week to £39.60 per week.

18. For those whose claim is outstanding, cash is loaded onto a debit card (ASPEN card) each week. The recipient can also use the card in a cash machine. In addition, as the Home Office has made clear, claimants are given: free prescriptions for medicine, free dental care for teeth, free eyesight tests, help paying for glasses, free NHS care and free education for children and may also get maternity payments.²²

19. At the end of March 2020, a total of 44,200 asylum seekers in the UK were being given taxpayer support under the main assistance provision - Section 95 of the Immigration and Asylum Act 1999. The majority (83%) of the 44,000 were located in England, with smaller numbers in Scotland (9%); Wales (7%); Northern Ireland (2%). 2,577 others were in receipt of support to asylum seekers on a short-term basis while their application for section 95 support was being considered. Nearly 4,100 failed asylum seekers received support under Section 4 of the 1999 Act in the year to March 2020.²³

20. Failed asylum claimants can also be given support if they qualify under the Immigration and Asylum Act 1999, including payments for provisions and free housing. Although the Immigration Act 2016 'repealed' one of the key provisions in the 1999 law that allowed this, this rule - specifically section 4(2) - appears to remain on the statute books. In fact, the government issued guidance on its operation shortly after the rule was meant to have been repealed in early 2018.²⁴ A number of failed claimants are also provided support under Section 95.

How many asylum seekers are detained?

21. It is unknown how many asylum claimants are currently among the 890 or so in detention but the number is thought to be small. The government confirmed in April 2020 that 'there is no-one currently detained and going through the Detained Asylum Casework process. **The majority of asylum claims are processed in the non-detained system**, with claimants living in the community. Only a minority of claimants are detained whilst their claim is considered and almost all of those who have their claim considered in detention only claim asylum after being detained for removal'.²⁵ The government has a stated intention of reducing the use of detention, despite saying it is vital for carrying out enforcement.

Which nationality are those illegally crossing the Channel?

22. It was recently revealed that the largest share (57%) of those who have been intercepted making an illegal crossing since January 2020 (266 out of 463) were of **Iranian** nationality (however these figures understate the number of arrivals since those undetected cannot be included for obvious reasons).²⁶ Second place went to Iraqi nationals and third place to Syrians. However, the numbers of those crossing the Channel who are originally from countries such as Chad, Sudan, Eritrea, Mali and Egypt appear to have been increasing.

What happens to those who claim asylum and succeed?

23. Once a claim for protection has been granted, refugee status means a residence permit for five years. The holder can then apply to settle permanently and may bring further dependants.

24. One asylum case-worker has said decision-makers sometimes take the 'easiest' route to a decision 'homing in on just one reason rather than considering whether the whole story adds up. In this case the application is likely to be approved, when perhaps it shouldn't be' (*BBC* interview with an anonymous case-worker). Most two-and-a-half hour interviews are carried out in person but a growing number are conducted over Skype, along with an interpreter. In such circumstances, it can be difficult to read the applicant's body language, making scrutiny that much harder. Cases are often rushed (it is rare to have time to fully read files before interviews, said the case-worker) and some interviewers reportedly fail to ask 'key' questions. Interviewers are given just 'two weeks' training.²⁷ Asylum staff also have high turnover - more than a quarter of those with decision-making responsibility quit over a six-month period.²⁸

25. There may also be issues with asylum claims being made in the latter stages when those with no right to be here are facing the prospect of removal. In June 2020 it was revealed in a National Audit Office report that the Home Office had pointed to an 'increase in abuse' of the system. For instance, Immigration Enforcement cited 'an increase in individuals making **late or spurious claims** for asylum while in detention, claiming for medical reasons or that they are victims of modern slavery. It believes many of these claims are **used to delay removal** but noted in 2019 that it did not have a strategy across the work of Immigration Enforcement and the rest of the Department to mitigate the **abuse** or to **tackle the backlogs being caused by associated delaying tactics**. We have not seen any systematic analysis designed to help the Department understand why claims are increasing, or to rule out if Immigration Enforcement's own actions might have contributed to the increase'.²⁹

Aren't France and Belgium considered to be safe countries?

26. France and Belgium are relatively safe and prosperous countries with well-developed asylum systems. The truth is that those crossing the Channel are not directly arriving from places from which they require refuge. It is an established principle (for instance in the EU Dublin Agreement) that someone should normally have their asylum claim examined in the first EU country they enter.³⁰

What happens to those who claim asylum but are rejected?

27. About 13,000 asylum claims have been rejected each year since 2010.³¹ **The number of failed asylum seekers who were branded 'subject to removal action' has risen since 2011 from 24,700 to 39,900 in 2019.**³² The total number of enforced removals of failed asylum seekers fell from 6,400 in 2009 to 1,800 in 2018. On average, over 60% of those refused asylum or some other form of international protection since 2004 were not recorded as having departed the UK.³³ Unable to work legally, many failed asylum seekers work in the black economy. There are also difficulties removing those with no right to be here who do not possess a valid passport (e.g. to Iran) because the receiving state needs to agree to them being returned. In 2019, it was revealed that the taxpayer has paid more than £10 million over five years on 'phantom' flights to remove failed asylum seekers that were abandoned before take-off due to legal challenges.³⁴

What is the process for removing those illegally arriving via the Channel?

28. Those with no right to be in the UK are liable for removal to their country of origin. Although the government said recently that it remains 'committed to removing... those who violate our immigration rules',³⁵ the number of returns of those with no right to be here (excluding foreign national offenders) has fallen from 36,500 in 2010 to just under 14,000 in 2019 (this includes both enforced and voluntary returns).³⁶ As of May 2020, all returns to countries of origin had been put on hold during the Covid-19 crisis.³⁷ However, In mid-August it was reported that Britain has re-started Dublin returns to EU states.

29. The UK has participated in the EU's Dublin process since it was inaugurated in 1990. Its most recent iteration - Regulation 604/2013 (Dublin III) - decides which nation is responsible for processing asylum claims. The rules should have helped tackle 'asylum shopping' by those moving from state to state until reaching a preferred destination. However, the UK has taken **three times** as many asylum seekers from other EU states as it has sent back under the rules. The UK received 2,390 asylum seekers and returned 786 between 2017 and 2019.³⁸

30. Because those crossing the Channel in an unauthorised fashion are coming to the UK directly from EU states, a significant number of returns should be able to be undertaken as part of the Dublin process. Some may occur under Article 13(1) of the convention, which covers standard returns to the place where a person made their initial entry into Europe (whether crossing the land border in Greece or flying into Schengen). It is possible that other returns may occur under Article 13(2), which allows the UK to also return people to any member state where it can be shown the person has had a presence for a period of five months or more. This would help account for those that had been living in camps prior to coming to the UK and allow the UK to return them to France.

31. During the Covid-19 crisis, the vast majority of EU member states have temporarily paused accepting returns under the Dublin Regulations. The government says it is 'tracking' those who arrive via the Channel and 'where appropriate will seek to return them when routes are available'.³⁹

32. The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 revoke the Dublin Regulation from the UK's perspective. This legislation takes effect at the end of the current Brexit Transition Period (on 31 December 2020).⁴⁰ The UK and French governments are currently in discussion to find the best way to tackle crossings bilaterally.

How many of those crossing the Channel illegally are returned?

33. On 23 August 2019, the Prime Minister said: "We will send you back" if you come to the UK illegally across the Channel.⁴¹ Since then, more than 5,000 are estimated to have been detected arriving via this route.⁴² The government said in July that it had returned over 155 small boats arrivals back to Europe since January 2019 using the legal channels available, while 14 were returned to France and Germany in mid August. Still only a tiny fraction have been removed since last Summer.

34. However, on 19 July 2020 the Minister for Immigration Compliance was reported as saying: "*We are removing those who are making these illegal crossing from the UK. More than 160 people will be returned to Italy, Germany and France and return requests are in place for hundreds more.*"⁴³

14 August 2020

Notes

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9. Report by Independent Chief Inspector of Borders, 2019, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656588/An_Inspection_of_Home_Office_s_ROM_processes.pdf
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14. Written Parliamentary Answer, 2016, URL: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2016-01-11/HL4838/>
15. Written Parliamentary Answer, 2015, URL: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-12-03/HL4220/>
16. The National Audit Office said in a recent report: 'As at March 2020, the Department provided accommodation for around 48,000 asylum seekers, approximately 30% of the total asylum seeker population.' This would suggest a total asylum population of circa 150,000. P.13. URL: <https://www.nao.org.uk/wp-content/uploads/2020/07/Asylum-accommodation-and-support.pdf>
17. Evidence by Maddy Allen, Field Manager, Help Refugees to the Commons Home Affairs Committee, January 2019, URL: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/english-channel-crossings/oral/95434.pdf>
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30. *BBC News*, URL: <https://www.bbc.co.uk/news/uk-england-50813246>
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32. Home Office, Asylum Transparency data, URL: <https://www.gov.uk/government/publications/asylum-transparency-data-february-2020>
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34. *Daily Mail*, 2019, URL: <https://www.dailymail.co.uk/news/article-7200199/10m-bill-unused-flights-return-failed-asylum-seekers.html>
35. Written Parliamentary Answer, April 2020, URL: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2020-04-23/HL3389/>
36. Home Office returns statistics, URL: <https://www.gov.uk/government/statistical-data-sets/returns-and-detention-datasets>
37. Hansard, May 2020, URL: <https://hansard.parliament.uk/Lords/2020-05-06/debates/34B285A7-F1A0-4C18-AB8C-38A3F59CCDDF/web>
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39. Written Parliamentary Answer, June 2020, URL: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2020-06-02/HL5036/>

40. Parliamentary Written Answer, July 2020, URL: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-07-01/67519/>
41. *ITV News* Twitter, August 2019, URL: <https://twitter.com/itvnews/status/1164969074188783616>
42. See Migration Watch UK's 'Channel Tracking Station'. This is updated regularly, URL: <https://news.migrationwatchuk.org/2020/05/11/arrivals-via-deadly-and-illegal-channel-crossing-from-safe-countries>
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