

## **New asylum model**

### **1. Background**

In February 2005, the UK Government published a five-year strategy for immigration and asylum.<sup>1</sup> The strategy outlined a proposal to develop a New Asylum Model (NAM). The focus of the new asylum model would be a faster, tightly managed asylum process with an emphasis on removing applicants whose claims have been rejected. The Home Office began implementing the NAM in May 2005 and aims to process all asylum seekers within the new model by December 2006.

This briefing provides an overview of the NAM and outlines some of its likely implications for asylum seekers in the UK. It draws on the limited information that has been provided by the Home Office to date.

### **2. NAM overview**

#### **2.1 The New Asylum Model**

The NAM is characterised by three processes:

- i. Segmentation
- ii. Fast track processing
- iii. Case ownership

#### **(i) Segmentation**

During an asylum seeker's initial screening interview, immigration officers will assign the case to one of nine asylum processes, called segments, based on the characteristics of the asylum claim. Segmentation determines the processing, management and support pathways of each individual case, thereby determining:

- the speed at which a person's asylum claim is processed;
- when they will have their initial interview;
- whether they will be assisted to access legal advice;
- the type of accommodation that a person is required to occupy (for example, highly supervised accommodation blocks, flats close to reporting centres or remote accommodation);
- how and when a person is required to report to the Immigration Service, that is, whether this will be by voice recognition or weekly or daily attendance in person. Increasingly this may also include 'tagging' – the compulsory wearing of an electronic monitoring device

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<sup>1</sup> *Controlling our borders: Making migration work for Britain* - five-year strategy for asylum and immigration  
[www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf](http://www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf)

on the ankle. Compliance with these requirements will be a condition of continuing NASS support.

Here are the nine segments:

<b>Segment</b>	<b>Definition</b>
1. Third country	People who the Home Office believes have or could have applied for asylum in a third country and are therefore deemed ineligible for asylum in the UK.
2. Children, accompanied and unaccompanied	People who are under the age of 18 years and who arrive with or without families. They require social services and Immigration Service assessments and are accommodated either by social services or with their families.
3. Potential non-suspensive appeal (NSA)	People from one of the 15 designated 'safe' countries to which applicants are returned before any appeal has been heard in the UK, as well as any case that has been individually certified as NSA <sup>2</sup> . It is intended that some in this segment will not be detained (see below – <i>2.2 Implementation</i> ).
4. Late and opportunistic, low barriers to removal	People who have had a period of leave, and (a) had their extension refused and subsequently applied for asylum; or (b) been found to be working unlawfully, arrested and subsequently applied for asylum.
5. Late and opportunistic, high barriers to removal	Unclear
6. High priority, low barriers to removal	Not yet defined
7. High priority high barriers to removal	Not yet defined
8. Standard priority, low barriers to removal	Not yet defined
9. Standard priority high barriers to removal	Not yet defined

IND may create a tenth segment called 'better founded' for asylum seekers with strong claims that can be determined through an accelerated procedure. IND is consulting the UNHCR on how such a segment might work.

## **(ii) Fast track processing**

The NAM uses a fast track procedure that has been previously piloted in Harmondsworth detention centre and the North West Pilot<sup>3</sup>. The assessment process is accelerated by

<sup>2</sup> Applicants whose cases are certified as NSA may only appeal against a negative decision from outside the UK.

<sup>3</sup> The North West Pilot was a scheme to run accelerated procedures in a non-detained context. The pilot was run in Liverpool beginning in December 2004.

removing the statement of evidence form (SEF) process and by reducing the time between the initial interview and the initial decision from two months to two weeks. The NAM fast track process started in May 2005 in Yarl's Wood detention centre and in June 2005 for other non-detained asylum seekers.

### **(iii) Case ownership**

The NAM introduces a single case owner model. The case owner is responsible for an asylum seeker throughout the process – from application to the granting of status or removal. Under the current system, asylum decisions are made by executive officers. Under the NAM, case owners will be 'higher executive officers' (HEOs), whose roles and responsibilities will include:

- Producing case management plans for each claimant to ensure that their case is processed within the stipulated time scales.
- Moving cases from one segment to another if they have been inappropriately allocated (this process remains unclear).
- Making case decisions, handling appeals, ensuring appropriate support and reporting arrangements, arranging re-documentation, and handling removals casework.

Asylum seekers will increasingly receive the decision on their claim in person when reporting to their case owner. Detention will be possible at the final decision stage if the decision is for the person to be removed.

Casework teams will be established in the seven major dispersal cities: Birmingham, Glasgow, Leeds, Liverpool, London, Manchester and Newcastle.

## **2.2 Implementation**

On 1<sup>st</sup> June 2005, the Home Office advised on implementation of the initial 'segment' of the NAM. The Home Office announced further 'regional' implementation on 16<sup>th</sup> January 2006, as follows:

<b>Date</b>	<b>Segment</b>	<b>Process</b>	<b>Location</b>
11 <sup>th</sup> May	Fast track Yarl's Wood	Initially processing one case per day while aiming to process four cases per day by August	Yarl's Wood Detention Centre
20 <sup>th</sup> June	Potential NSA claims (non-detained) and 'late and opportunistic' claims needing accommodation (in Liverpool)	Aiming to process 10 cases each week. Applicants are accommodated in Liverpool by Accommodata <sup>4</sup>	Liverpool and Croydon
21 <sup>st</sup> June	Potential NSA and 'late and opportunistic' claims needing subsistence only support (in Croydon)	Aiming to process 10 cases each week.	Croydon

<sup>4</sup> Accommodata is a private contractor supplying accommodation for NASS clients in Liverpool.

April/May 2006	Unclear but not 'late and opportunistic' and potential NSA cases	Unclear	Solihull
April/May 2006	Unclear but not late and opportunistic and potential non-suspensive appeal cases	Unclear	Leeds

The time scales for fast track processing of the potential NSA and 'late and opportunistic' segments are as follows:

Segment	Process			
	Screening	Interview	Decision	Removal
Potential NSA	Day 0	Day 5	Day 11	Day 14
'Late and opportunistic'	Day 0	Day 5	Day 11	Appeal

In January 2006, the Government announced that it would be extending the NAM from April. New teams of case owners will be established in Solihull and Leeds to process existing and new asylum claims in the West Midlands and Yorkshire and Humberside respectively.

Apart from the fact that these segments would deal with existing as well as new claims, the announcement contained no additional information about the nature of the caseload. Crucially, it did not set out the overall size of the caseload for these offices, the process by which cases will be segmented and allocation or the procedural rules governing timings of interviews and decisions.

### 2.3 Legal advice

The NAM removes the statement of evidence form (SEF) process, which currently allows asylum seekers 10 days to prepare their asylum claim with the benefit of legal advice, with a decision within 2 months. In the first segments of the NAM the interview is on day 5 and the decision on day 11. The NAM therefore has implications for asylum seekers' ability to get access to legal advice in time.

Under the first segments of the NAM, the IND only facilitates access to legal advice for asylum seekers accommodated in Liverpool. IND facilitates access to legal advice for clients prior to their interviews. Access is through a rota system using two local immigration law firms.

Asylum seekers going through the NAM process in Croydon are simply given a list of legal representatives with devolved powers (i.e. legal representatives who can act on appeals without seeking the authority of the Legal Services Commission). The IND assumes that subsistence-only clients in the late and opportunistic segment will have been in the UK for some time prior to making an asylum application, and will therefore have had an opportunity to access legal advice before lodging their asylum claim.

Following discussions with stakeholders, IND have agreed to pilot a scheme to provide an appointment with a lawyer prior to interview for all cases going through the Solihull part of the NAM from April. They have undertaken to circulate proposals on how this would work.

### 3. The implications of the new asylum model

The full implications of the NAM for asylum seekers in the UK are not yet known, due to the scarcity of information provided by the Home Office to date. However, from the information already available, it is evident that there are significant implications for asylum seekers, for the way in which asylum decisions are made, and for those who provide client advice and information. The appendix to this briefing contains a chart illustrating a single segment along with our concerns relating to the various stages involved.

#### 3.1 Asylum decision-making

##### (i) Segmentation

The purpose of an asylum procedure is to identify those in need of international protection. We are concerned that the segmentation process may well undermine the basic and fundamental principle of standardised accessible procedures for all asylum seekers. A fair asylum system requires that all asylum seekers receive advice, adequate time to collect evidence and present their case and equal treatment with each case being tested on its individual merits. It is far from clear that these standards will be met under the NAM.

Segmentation prejudices the outcome of asylum claims before they are determined. This is most clearly evident in the segment labelled 'late and opportunistic' claims. The Refugee Council has urged the Home Office to abandon this pejorative terminology which wrongly assumes that the asylum claim is likely to be without foundation.

Where a case could be assigned to two or more segments, it is unclear which will take precedence. Moreover it is unclear what the mechanism is for switching from one segment to another and whether this will be at the discretion of the case owner or through a more formal appeal mechanism.

##### (ii) Speed of process and access to legal advice

The NAM procedures that have been implemented to date do not allow enough time for people to seek legal advice and adequately prepare their asylum claim. At the time of writing, we do not know whether more time will be allowed in the remaining segments because these have not yet been published, despite requests for the Home Office to do so.

The initiative to provide legal advice as a routine procedure prior to interview is most welcome but it needs to be taken further. Legal advisers should be able to attend interviews (and be paid for doing so) as they do within the fast track detained procedures. They should also be able to represent their clients at their appeal and should not be subject to any merits test. This would ensure that applicants are adequately represented throughout the procedure.

##### (iii) Quality of decision-making

The information provided to date about the NAM gives no indication that the quality of decision-making will improve. Indeed, the new mechanisms give rise to additional concerns about IND's ability to make correct decisions on asylum claims within such tight time scales. While we welcome the decision to employ staff of a higher grade as case owners in the NAM, IND should also ensure that case owners are accredited, as recommended by UNHCR in its

Quality Initiative Project report on the Home Office decision making process.<sup>5</sup> It is anomalous that legal representatives contracted by the Legal Services Commission must be accredited but that there is no similar requirement for IND decision-makers. A commitment has been given in principle to introduce such an accreditation scheme but it clearly will take time to achieve this and there is no timetable to do so, nor criteria upon which to accredit caseworkers.

### 3.2 Implications for vulnerable asylum seekers

The Refugee Council is concerned that these new procedures will impact negatively upon vulnerable people and prevent them from having an opportunity to adequately present their asylum claims. Our concerns include the following:

- **Women** may find it difficult to disclose particularly sensitive elements of their asylum claims in the short time scales provided. They may be unable to access adequate advice and may not have sufficient time to obtain the advice and build the confidence necessary to apply for asylum separately from their spouse. It is unclear whether the asylum policy instructions on gender have been considered by the Home Office when drawing up the NAM, and it is not clear how the NAM will ensure that the instructions on gender are adhered to.
- **Children** who have had their age disputed may be detained before their age has been established. It is unclear what safeguards will be put in place to ensure that children are not detained.
- **Victims of torture** may receive insufficient support. Tight time scales and a lack of legal representation may hamper asylum seekers' ability to obtain medical evidence to support their claim.

Placing vulnerable groups within a very fast procedure, often in highly supervised accommodation, without access to impartial support and advice, is likely to cause considerable confusion and trauma. The Refugee Council does not believe that such a system is conducive to a fair and balanced procedure that aims to provide protection to those who require it.

### 3.3 Support implications

It is also unclear how existing social support structures established through the National Asylum Support Service will be replicated under the NAM. Given the speed with which asylum seekers' cases are being processed, it is apparent that their support needs may be overlooked in the desire to process their claims quickly. Current experience of the NAM in Liverpool suggests that healthcare provision and access to independent advice are inadequate. Further, asylum seekers being processed under the NAM appear not to have been informed of their segment in writing, only verbally. This limits their ability to challenge the segmentation decision, as well as the associated accommodation and reporting requirements. To date, many asylum seekers having their applications processed under the NAM have not understood what their segment means and what implications it has for the

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<sup>5</sup> The full reports are on the Home Office website at [http://www.ind.homeoffice.gov.uk/ind/en/home/about\\_us/reports/united\\_nations\\_high.html](http://www.ind.homeoffice.gov.uk/ind/en/home/about_us/reports/united_nations_high.html)

way their claim will be processed. Failure to provide information to the client on their segmentation could also be a breach of the Government's duty to provide information under the EU Reception Directive<sup>6</sup>.

#### 4. Refugee Council recommendations

On the basis of the limited information available about the NAM, the Refugee Council recommends the following to the Home Office:

1. IND should immediately publish a clear business plan for the NAM outlining its plans for further development, definitions and criteria for the further segments, and the training and accreditation of staff.
2. All applicants should have adequate time to seek legal advice and properly prepare their claims prior to an initial screening interview. The time scales within the existing SEF procedure (namely 10 days in which to complete and return an application form) are the very minimum that are acceptable. We urge the Home Office to extend the time scales introduced for the first segments. Time scales should not be affected by judgements as to how easy it will be to remove an asylum seeker should their claim be rejected.
3. All applicants should be provided with legal advice before they are interviewed and throughout the procedure.
4. All accelerated procedures should be designated as fast track, allowing for legal representation at the interview. Legal representation should also be available for appeals and should not be subject to any merits test.
5. The term 'late and opportunistic' is judgmental and should be dropped.
6. The 'better founded' segment should be developed and implemented as a priority.
7. The Home Office should urgently address the issue of accreditation of case owners as recommended by the UNHCR Quality Initiative.
8. Procedures need to be sufficiently flexible in order to protect vulnerable applicants. Guidance on the use of this flexibility should be written down in the form of a flexibility document to ensure that it is transparent and consistent.
9. The Home Office should urgently clarify the role of the case owner in facilitating clients' access to asylum support provision, specifically in Leeds and Solihull, before implementation begins.

Richard Lumley  
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<sup>6</sup> Also reflected in Part 11B of the Immigration Rules

## Appendix: NAM process for 'late and opportunistic' cases

