



The Organisation of Asylum and Migration Policies

Factsheet: United Kingdom

1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in the United Kingdom, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the UK National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*, as at **January 2009 and updated as at December 2011**. The Report was based on desk research; key sources were the public websites of the UK Border Agency and Home Office and from the Home Office Intranet. Statistics were provided by Home Office Migration Statistics.

2. Overview of organisation of political, legislative and institutional framework

2.1 The political system and institutional context

The Home Office is the government department responsible for immigration and asylum policy in UK. The UK Border Agency (UKBA), an executive agency of the Home Office, is responsible for the operational implementation of asylum and migration policy. Key actors in the immigration process are the Secretary of State for the Home Office (generally known as the Home Secretary) who is supported by the Minister of State for borders and immigration. Other actors include Immigration Officers, Entry Clearance Officers and case owners (who are civil servants in the Home Office). The Migratory Advisory Committee provides independent advice to the Government on migration issues, and the Independent Family Returns Panel provides advice on family returns. The First and Upper Tribunal Immigrations and Asylum Chambers, under the Ministry of Justice, handle appeal cases.

2.2 The legal framework

Migration and asylum are governed by a complex network of laws and practices. The foundation of the current legal framework is the Immigration Act 1971 and the Immigration Rules made under it. There are also a large number of additional legal acts that apply to different areas of asylum and migration law (for example, the British Nationality Act 1981).

3. Development of migration and international protection systems

Asylum and migration systems in the post-war years focused primarily on the migration of Commonwealth citizens; initially encouraged to fill post-war labour shortages, such migration was progressively discouraged in accordance with labour market changes and shifts in public opinion. From the late 1980s to the early 2000s, legislation and policy focused on asylum, to address considerable growth in asylum applications. Since then, effective use of technology, proactive border control and new legislation have substantially reduced the number of people claiming asylum. The current policy focus is on simplifying the law and streamlining processes, and since 2008, a Points-Based System (PBS) for work-based migration has operated, which aims to simplify routes of entry for work and study to the UK with a view to the needs of the labour market. From 2010 onwards, the focus has been on reducing net migration and abuse of the immigration system.

4. Organisation of policy

4.1 Overview of migration and international protection policy

For migration, prior entry clearance is required for visa nationals and visitors for more than six months, granted by an Entry Clearance Officer. Non-visa nationals, staying for six months or less also require entry clearance. At the border, all arrivals are seen by a UKBA Border Force Officer. Visitor categories include: general visitor (e.g. tourist), family visitor, business visitor, sports, entertainer and special visitor (e.g. children, private medical patients). Requirements must be met and stay is generally for up to six months. The UK PBS consolidates approximately 80 existing work and study application routes into five tiers: highly skilled migrants (Tier 1); skilled migrants with a job offer (Tier 2); low-skilled workers (Tier 3, currently suspended); students (Tier 4); and youth mobility and temporary workers (Tier 5). Points are scored against a range of attributes (e.g. age, qualifications and previous earnings), English language ability and available maintenance. Applicants in Tiers 2, 4 and 5 must provide a Certificate of Sponsorship. Asylum applications can be made at point of entry or in-country to the UKBA. The asylum process begins with a screening interview, which determines the processing route. A single case owner deals with every aspect of the claim after the screening to conclusion. The outcome may be a Grant of Asylum, Humanitarian Protection, Discretionary Leave or Refusal. Refused applicants have a right of appeal. An asylum applicant can apply for a Judicial Review of his/her case at any point in the process.

In relation to legal residence, the main routes for settlement include family, most worker routes under Tier 1 and Tier 2 of the PBS, third-country nationals who have formed a relationship with an EU national and individuals granted settlement before entering. There is generally no right to settlement for Tier 5 visa holders. A person either recognised as a refugee or given Humanitarian Protection receives a residence permit for five years, and following a period of five years' continuous residence it is possible to apply for Residency or Indefinite Leave to Remain. All applicants are required to have passed courses in English and life in the UK. British citizenship is one of six different forms of British nationality. Only British citizens have an automatic right to live in the UK and to apply for a passport.

The PBS ensures that entry into the UK (for purposes other than visiting) and labour market participation are highly interlinked, and under Tiers 1, 2 and 5, entry is dependent on employability or being employed. The PBS is the only route via which third-country nationals can extend their stay beyond the length of time attached to their current immigration status. Asylum applicants do not have permission to work while awaiting a decision on their claim; however, there is an exception for those who have been awaiting a first instance decision for more than 12 months.

Return assistance is offered via the Voluntary Assisted Return and Reintegration Programme (VARRP) managed by the International Organization for Migration (IOM). Third-country nationals who reside in the UK illegally are offered assistance through the Assisted Voluntary Return for Irregular Migrants programme (AVRIM), operated by the UKBA in partnership with IOM. An illegal immigrant or failed asylum applicant who does not return voluntarily, may be removed on the direction of an Immigration Officer. Detention can be authorised in case of deportations.

4.2 Links with other policies

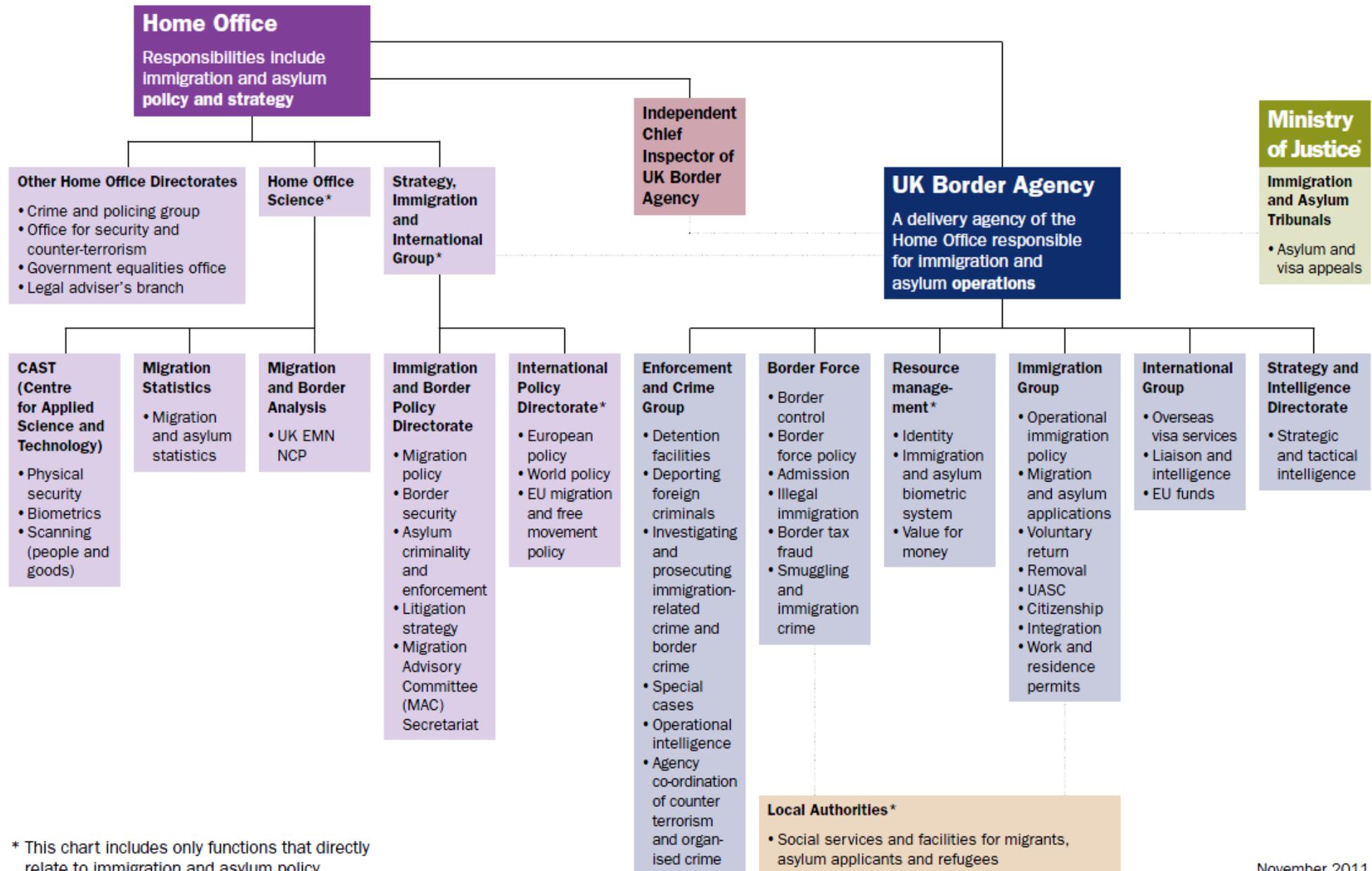
Asylum and migration systems are inter alia linked to the Foreign and Commonwealth Office (FCO), on managing migration for the benefit of the UK; the Department for International Development (DFID), on poverty reduction for poor migrants and impact on developing countries; the Department for Communities and Local Government (DCLG), on community cohesion and integration; and the Department for Business, Innovation and Skills (BIS) on flexible systems for business.

5. Analysis of asylum and migration systems

Recent policy has focused on five key objectives: controlling and limiting net migration; strengthening borders and minimize abuse of migration routes; fast-track asylum decisions; ending detention of children for immigration purposes; reducing cost and improving customer service. Strategic policy functions were removed to the Home Office in 2011, leaving operational policy functions with UKBA.

ANNEX: Institutional Chart for United Kingdom

Institutional Framework for Immigration and Asylum Policies in the United Kingdom



* This chart includes only functions that directly relate to immigration and asylum policy