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Sir Robert Chote
Chair
UK Statistics Authority

By email only

15 June 2023

Dear Sir Robert,

I write, with some regret, to raise fresh concerns about Ministers' use of official statistics on the asylum backlog. These concerns are related to, but separate from, the issues raised late last year in my letter to you and in your helpful and informative response.

Firstly, on Monday of this week, the Home Secretary told the House that "the asylum initial decision backlog is down by 17,000".

The 'asylum backlog' refers – according to the Home Office's own definition – to 'cases awaiting an initial decision'. According to the most recent quarterly statistics published by her Department – the backlog constitutes '133,607 cases (relating to 172,758 people)' as of 31 March 2023.

Our reading of the figures suggests that the backlog has gone up, not down.

Asked to explain the Home Secretary's claim, the Home Office pointed to an 'ad-hoc statistical release' published on 24 April and updated on 5 June. But these monthly data tables prove that - whether you compare the current number to the previous month or the previous quarter - the size of the backlog has risen, not fallen.

Equally, on 8 March the Prime Minister [told](#) the House of Commons that:

'As a result of what we have done, there are now 6,000 fewer people in the asylum case load backlog.'

This appears to be another inaccurate statements to Parliament which is contradicted by their own official data.

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Therefore please could you give an opinion on the following questions:

- Is the view of the UK Statistics Authority that these comments by the Prime Minister and the Home Secretary were inaccurate?
- Is it your view that Ministers should be using their own Government's definition – and the long-standing definition – of the asylum backlog, which is 'cases awaiting an initial decision'?

This brings me to my second concerns relating to the Government's introduction of the so-called 'legacy backlog'.

Since I wrote to you in December, the Home Office has made changes to the way it measures and reports on the asylum backlog. As far as I can see, the rationale for these changes has not been publicly explained. My concern is that these changes – together with multiple conflicting statements from Ministers about efforts to deal with the backlog – pose a clear risk of seriously undermining public confidence in the government's use of official statistics.

The key issue relates to the Prime Minister's commitment last December to 'abolish' the backlog of unresolved asylum cases. Following the Prime Minister's statement in December, both he and the Home Secretary stated that the commitment to 'abolish' the asylum backlog in fact relates only to cases dating to before 28 June 2022. Yet, as stated earlier in this letter, this wording does not marry up with the official government definition.

The government has recently started to refer to these cases as the 'legacy backlog'. The problem is that the term 'legacy backlog' appears to be a recent invention of Ministers, and the quarterly statistics released by the Home Office made no distinction between claims made before or after 28 June 2022, until the most recent release of 25 May 2023. In that release, no explanation was given for the reasons why the Department decided to change this way it reports data on outstanding asylum cases.

The only argument, of which I am aware, that could theoretically be made to support the creation of a new category of 'legacy' asylum cases is that significant changes to the way in which asylum claims are categorised and processed came into effect on 28 June 2022, pursuant to provisions in Section 12 of the Nationality and Borders Act 2022. Section 12 was brought into effect by changes to the Immigration Rules made in May 2022, which [confirmed](#) that the differential treatment of asylum claims would apply to claims made on or after 28 June 2022.

However, just last week the Home Office [announced](#) its decision to 'pause' implementation of these measures. In light of this decision, the basis for continuing to differentiate between claims made before and after 28 June 2022 appears non-existent.

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In spite of this, Ministers have continued to explain the separate reporting of cases in the asylum backlog, based on whether they dated from before or after 28 June 2022, with reference to changes in the rules for processing claims which came not effect on that date.¹ Even if one took such arguments at face value before last week's announcement, I cannot see how they are of any relevance now that the relevant changes to the immigration rules have now been suspended.

It is my understanding that the Code of Practice for Statistics requires government departments to explain the reasons for any changes in methodology or reporting, particularly in the context of the obligations to publish statistics that are accurate and relevant to members of the public. I have not been able to find any such explanation for the Home Office's recent reporting changes in the public domain. Notably, the 'user guide' published by the department alongside its regular releases of immigration statistics has not been updated to reflect these changes.

I would therefore be grateful if you could offer an opinion on whether or not this change in the way asylum backlog data is reported meets the obligations set out in the Code of Practice for Statistics to publish the most relevant, appropriate data, and to ensure consistency of published data over time?

I would be grateful if you would look into these matters and send me your comments, including your responses to the specific questions above.

If you have any questions about this enquiry, please do not hesitate to contact me.

I look forward to hearing from you.

Kind regards,

Stephen Kinnock
Member of Parliament for Aberavon
Shadow Minister for Immigration

¹ On 14 June 2023, the Secretary of State [told](#) Parliament's Home Affairs Committee that 'it is very typical and proper to define a legacy backlog; that is when the NABA came into force.' She later repeated the argument, saying: 'I would say that we have a case load of cases, and you have to define them in different ways. There are different rules that apply to different cases'.



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