

ILPA information sheet

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Legacy Cases 8 – Cases Not Concluded

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In July 2006, the Home Secretary (then John Reid MP) announced an asylum “legacy” (or backlog) of around 450,000 cases. He said that this would be cleared within five years. Those five years have now passed.

There have been seven information sheets on “Legacy Cases” previously. This eighth information sheet on the legacy provides information about cases that remain not concluded.

The previous information sheets

The previous seven information sheets on “Legacy Cases” provide background information. Now, at the end of the five years in which the legacy was to be cleared, some of the information is no longer correct. Most importantly, the Case Resolution Directorate no longer exists. Most of the cases that have not been concluded are now dealt with by a new and smaller unit at the UK Border Agency. This is called the Case Assurance and Audit Unit (see below).

What is a legacy conclusion?

The Case Resolution Directorate (now closed) was set up to conclude all the legacy cases within five years. In September 2008, the Directorate confirmed that conclusion meant one of the following:

- a grant of indefinite leave to remain
- an enforced removal or voluntary departure
- a closure of the case for one of five reasons

These five reasons for closing a case (that would count as a conclusion) were:

- it was confirmed that the person had already left the country
- it was confirmed that the person had before July 2006 been granted status in the UK
- it was confirmed that the case was incorrectly identified as being in the backlog in July 2006 (the April 2007 “Legacy Cases” information sheet explains what cases were correctly in the backlog)
- the person was an European Union national and the person had been notified that it was assumed he or she was no longer pursuing his or her asylum claim
- it was confirmed that the case file or record was a duplicate (e.g. because the Home Office had incorrectly opened two asylum files, which may happen where a non-English name has been incorrectly written into English using different spellings)

How many cases have been concluded and how?

The latest figures given to and published by the Home Affairs Committee show that as at 31 January 2011, 361,000 cases had been concluded. Of these:

- 161,000 had been granted leave to remain in the UK
- 129,000 had been closed as errors in the UK Border Agency records
- 35,000 had been removed
- 19,500 were cases of European Union nationals that had been closed
- 8,500 were closed because the file or record was a duplicate
- 8,000 were closed for other (unspecified) reasons

A further 40,500 cases were currently being treated as closed by having been put in a “controlled archive” (see below).

The figure of 161,000 of those granted leave to remain in the UK does not indicate what form of leave was given. In particular, it does not indicate how many were granted limited leave to remain. It is known that the UK Border Agency has more recently sought to close some legacy cases by grants of discretionary leave for three years. This is not consistent with the original intention by which indefinite leave to remain was to be the conclusion by way of grant (see above). Where a person is only granted limited leave, the case cannot properly be treated as concluded. This is because the person (who in a legacy case will have already been in the UK many years) will at the end of the limited period again need to have his or her case considered. Granting limited leave (e.g. discretionary leave) does not close the case, it merely delays the time for concluding the case for a few more years. (It is understood that the majority of the 161,000 are grants of indefinite leave to remain).

The remaining cases (and who is dealing with them)

When the Case Resolution Directorate closed, most of its cases were passed to a new and smaller unit called the Case Assurance and Audit Unit. This unit has the following contact address:

Case Assurance and Audit Unit
Department 87
PO Box 306
Liverpool L2 0QN
Email: CAAU_enquiries@ukba.gsi.gov.uk

Legacy cases that were previously dealt with by Case Resolution Directorate teams in the UK Border Agency’s Scotland and Northern Ireland region and Wales and South West region have not been transferred to the new unit. The teams in these regions have been retained, and continue to deal with their pre-existing cases. Some legacy cases were never dealt with by the Case Resolution Directorate. The most significant group of these were cases dealt with by the Criminal Casework Directorate (which generally deals with cases where someone has served a prison sentence in the UK). It continues to deal with its pre-existing legacy cases.

The controlled archive

When the UK Border Agency has tried unsuccessfully for at least six months to find or make contact with a person whose case is among the legacy cases, the case is put in what the UK Border Agency called a ‘controlled archive’. It is intended that, before the case is put in this archive, as much work as can be done is done to order the file and make it ready for concluding the case. The file should then be quickly available if and when the UK Border Agency again locates or makes contact with the person. It is understood there are now more than 80,000 cases in this archive.