



BRIEFING PAPER

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Asylum seekers: the permission to work policy

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Summary

The current position

The policy restricting asylum seekers' rights to work in the UK has been under review since 2018.

The current position is that, generally, asylum seekers are not allowed to work. They can only apply for permission to work if:

- they have waited over 12 months for an initial decision on their asylum claim or for a response to a further submission for asylum; and
- they are not considered responsible for the delay in decision-making.

The Home Office is unable to provide data on the number of asylum seekers granted permission to work.

Permission to work only allows asylum seekers to take up jobs on the UK's shortage occupation list. Those jobs are at 'graduate level' or above.

Permission to work expires once a final decision has been made on the asylum claim (that is, when there is no further opportunity to appeal).

Asylum seekers' dependent family members cannot apply for permission to work.

Two recent judicial review cases have found aspects of the Home Office's policy guidance unlawful. This is because it fails to recognise the possibility of making exceptions to the general policy to restrict permission to work to shortage occupation list jobs. The Home Office must now review its guidance, but the judgments do not imply that a broader change of policy on restricting permission to work is required.

Calls to change the policy

The UK's permission to work policies have attracted criticism for over a decade. NGOs, trade unions, churches, and some Parliamentarians, amongst others, have called for change.

The current policy has been described as providing an "illusory" right to work for most asylum seekers in practice. This is because of the effect of the shortage occupation list restriction.

Campaigners tend to focus their demands on:

- reducing the length of time for becoming eligible to apply for permission to work (commonly, to six months);
- lifting the shortage occupation list restriction; and
- allowing refused asylum seekers to work, if there is a temporary obstacle preventing their departure from the UK.

Suggested advantages of extending asylum seekers' rights to work include that it would:

- benefit the UK economy and reduce costs to the taxpayer;

- ease some of the difficulties that asylum seekers can face during the asylum process, such as social and economic exclusion, de-skilling, low self-esteem and poor mental health;
- improve asylum seekers' integration and employment prospects in the event of a positive asylum decision; and
- reduce asylum seekers' vulnerability to destitution and exploitation as an illegal worker.

People who support more restrictive policies tend to raise concerns that more favourable rights might act as a 'pull-factor' to the UK. Asylum rights campaigners counter that there is little credible evidence to support this belief.

International comparisons

UK policy is more restrictive than those in several comparable countries. This is because of the combination of the 12-month waiting period for eligibility to work and the shortage occupation list rule.

EU law requires Member States to grant asylum seekers access to their labour market after they have been waiting for nine months for a decision on their claim. Member States can apply more favourable provisions and/or grant access to the labour market subject to conditions (and many do). Beyond the EU, Canada and Australia allow asylum seekers to work immediately; in the USA they are eligible to work after six months.

1. What rights to work do asylum seekers have?

1.1 In a nutshell

As a general rule, asylum seekers are not allowed to work in the UK.¹

They can only apply for permission to work if:

- they have waited for over 12 months for an initial decision on their asylum claim; or they have been refused asylum but have submitted further submissions for asylum over 12 months ago; and
- they are not considered responsible for the delay in decision-making.²

UK Visas and Immigration (UKVI), which is part of the Home Office, considers applications for permission to work.

If granted, permission to work only allows asylum seekers to take up jobs on the UK's [shortage occupation list](#).³ It does not allow them to set up a business or work in a self-employed capacity. Nor does permission extend to any family members who are attached as dependants to the person's asylum claim.

Permission to work expires once the asylum claim has been finally determined (meaning, when there is no more opportunity to appeal). People who are granted permission to remain in the UK are then allowed to work in any occupation. Those whose asylum claims are refused are not allowed to work and are expected to leave the UK.

Home Office policy does support asylum seekers volunteering (as opposed to undertaking 'voluntary work') whilst in the UK.

How many people are given permission to work?

The Home Office is unable to provide data on the number of asylum seekers granted permission to work, because the information is not held in a reportable format.⁴

It also does not routinely publish data on the average length of time taken to resolve asylum applications.

It does publish data on the number of asylum applications awaiting an initial decision by duration.⁵ The Home Office's [Migration Transparency Data](#) provides a breakdown of pending asylum applications by waiting

Asylum seekers can only apply for permission to work if they have been waiting for over 12 months for an asylum decision; if granted, they can only work in one of the shortage occupations

¹ But people who already have an immigration status giving permission to work can work whilst waiting for an asylum decision, if they apply before their previous status expires : GOV.UK, UKVI Guidance '[Working in the UK while an asylum case is considered](#)', 21 February 2014 (accessed 30 June 2020)

² Immigration Rules (HC 395 of 1993-4 as amended), [paragraphs 360 – 360E](#)

³ The Shortage Occupation List details the jobs which the Government recognises struggle to be filled by sufficient numbers of workers from the resident workforce. It currently covers jobs at 'graduate level' or above, in line with the current policy on skilled work visas.

⁴ [PO 1776](#) [on Asylum: Employment], answered on 14 January 2020

⁵ See Immigration statistics November 2020, [Asylum and resettlement datasets](#)

time. This shows the number of cases (main applicant only) awaiting an initial decision at the end of each quarter, and the age of these cases at that point in time.

The latest figures show that at the end of September 2020, 48,102 cases were awaiting an initial decision, of which 21,392 cases had been waiting 12 months or longer.⁶

The Home Office is currently developing a new service standard for asylum decision-making. Until October 2018 there was a published service standard to decide 98% of straight-forward asylum applications within six months. But the number of cases deemed to be non-straightforward quickly increased, so that target was abandoned in order to focus on clearing the backlog of older cases, the most vulnerable to and those in receipt of the greatest level of support.⁷

Practical information

Various Home Office publications on GOV.UK provide more detailed information about how this policy is applied:

- *Guidance, 'Working in the UK while an asylum claim is considered'*, 21 February 2014
- *Asylum Instruction, 'Permission to work and volunteering for asylum seekers'*, 31 December 2020

1.2 December 2018: the policy is under review

The May Government's December 2018 White Paper *on the UK's future immigration system*, confirmed that the policy was under review:

10.14 Furthermore, we recognise the importance of work when it comes to physical and mental wellbeing, building a sense of wider contribution to our society, and for community integration. That is why the Government has committed to listening carefully to the complex arguments around permitting asylum seekers to work. We are considering all the evidence to ensure that our policy of right to work safeguards the integrity of both our asylum and immigration systems.⁸

This policy has been under review since December 2018

PQs answered by the Johnson Government have confirmed that the policy review is still ongoing.⁹ They have also identified some reservations about relaxing the current restrictions:

Asylum: Employment: Written question - 33521

Q Asked by [Jim Shannon](#)

To ask the Secretary of State for the Home Department, if she will make it her policy to grant asylum applicants (a) the right to work

⁶ Source: Home Office, [Migration transparency data: Immigration & Protection data November 2020](#), table Asy_02

⁷ [PO 41060](#) [on Asylum: Applications], answered on 11 May 2020

⁸ HM Government, [The UK's future skills-based immigration system](#), Cm 9722, 19 December 2018

⁹ E.g. [PO 60877](#) [on Asylum], answered on 22 June 2020

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after six months waiting for a decision on their application and (b) access to English language classes from application.

A Answered by: [Chris Philp](#)

Answered on: 31 March 2020

(...)

It is important to distinguish between those who need protection and economic migrants, who can apply for a work visa under the Immigration Rules. Our wider immigration policy would be undermined if migrants could bypass work visa routes by lodging unfounded asylum claims.

Asylum seeker right to work is a complex issue and is under review. It is crucial we take the time to get this right. We are listening carefully to the arguments and considering the evidence put forward on the issue. Work on the review is ongoing.

(...)

Currently around half of those who seek asylum in the UK are found not to need international protection. Therefore, rather than invest in integration for those who may not qualify for international protection, this Government's priority is to focus our efforts and resources to support those who most need it.¹⁰

1.3 How the policy has evolved over time

There have been various iterations of the policy over the past 20 years:

- **Until mid-2002**, asylum seekers could apply for permission to work if they had been **waiting for six months** or more for an initial decision on their asylum claim. The then Labour Government ended this policy concession on 25 July 2002. It argued that it was increasingly irrelevant, due to faster decision-making in the asylum determination process, and necessary to distinguish asylum from economic immigration categories.¹¹
- Between **late July 2002 and February 2005**, Home Office caseworkers had **discretion to grant permission to work in 'exceptional cases'**, although there wasn't published policy on what might those might be.
- In **February 2005** a new immigration rule was introduced allowing asylum seekers to apply for permission to work in the UK if they had been **waiting for over 12 months** for an initial decision on their case. The rule was introduced to comply with the 2003 European Directive on Reception Conditions for asylum seekers, which the UK had opted into.¹²
- The Home Office originally considered that refused asylum seekers who submitted further representations were not covered by the Directive. A Supreme Court determination in July 2010 disagreed.¹³ The Conservative-Liberal Democrat Coalition Government subsequently changed the Immigration Rules to

The policy has become more restrictive over the past 20 years

¹⁰ [PO 33521](#) [on Asylum: Employment], answered on 31 March 2020

¹¹ [HL Deb 25 July 2002 c107-8WA](#)

¹² [Directive 2003/9/EC](#), January 2003, OJ 2003 L 31/18, Article 11

¹³ *R (on the application of ZO (Somalia) and others) (Respondents) v Secretary of State for the Home Department*, [\[2010\] UKSC 36](#)

reflect the Supreme Court's judgment.¹⁴ At the same time, it introduced the current provision restricting asylum seekers to jobs on the shortage occupation list.

The rationale for the current policy

The 12-month waiting period for access to the labour market

The twelve-month waiting period for eligibility for permission to work was introduced in 2005, in order to bring UK policy into line with the provisions of the 2003 European Directive on Reception Conditions for asylum seekers.¹⁵ The Directive did not prevent signatory states from giving asylum seekers access to their labour market sooner. However, UK governments expressed concerns that to do so might act as a "pull factor" for migration to the UK.¹⁶

Governments have cited concerns that extending rights to work could encourage unfounded asylum claims

The Coalition Government exercised the UK's 'opt-out' rights so that it did not adopt the recast EU Directive on Reception Conditions for asylum seekers (which allows asylum seekers to seek permission to work after nine months' waiting for a decision). It decided that the Directive did not strike the right balance between the rights of asylum seekers and the needs of the UK and could encourage fraudulent claims.¹⁷

The shortage occupation list restriction

Currently, the shortage occupation list only includes jobs that are at 'graduate level' or above.¹⁸

They have been unwilling to give more favourable work rights to asylum seekers than other categories of migrant

The Coalition Government said that the bar on doing jobs outside the shortage occupation list was necessary to ensure consistency with broader immigration policies, and to deter unfounded asylum claims:

Restricting permission to work to jobs included on the shortage occupation list ... is consistent with wider migration and labour market policies, whose aim it is to direct foreign workers to jobs which cannot be filled by the resident work force and thereby offers the greatest value to the UK. It is also consistent with the recent steps taken to limit the number of economic migrants from outside the EU, indeed a more generous policy may encourage asylum applications from economic migrants who are deterred from applying through the PBS routes because of the limits.

It contended that it was reasonable to expect that some asylum seekers would have the necessary skills and experience to obtain employment in a shortage occupation:

UK Border Agency research shows that nearly half of newly recognised refugees held qualifications before coming to the UK and we believe that this can reasonably be expected to be the case for asylum seekers and failed asylum seekers. Further, the top ten nationalities recruited via the shortage occupation route from Nov 2008 to Aug 2009 include nationalities which appear prominently in our asylum and failed asylum seeker caseload, e.g.

¹⁴ [Cm 7929 of 2010-11](#)

¹⁵ [Directive 2003/9/EC](#), January 2003, OJ 2003 L 31/18, Article 11

¹⁶ See for example [HL Deb 3 April 2014 c1114](#)

¹⁷ [HL Deb 3 June 2013 cWA101](#)

¹⁸ This reflects the skills threshold for the predecessor to the Skilled work visa category. Although the skills threshold for skilled work visas has changed to RQF levels 3-5 (A-level or equivalent), the Johnson Government has decided against making any changes to the Shortage Occupation List at this stage.

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India, China, Zimbabwe, Pakistan, and Nigeria. It is reasonable therefore to expect that some asylum seekers and failed asylum seekers will have the necessary experience and qualifications to obtain employment in a job in a shortage occupation.¹⁹

The High Court upheld the policy as lawful in 2013.²⁰

The Coalition Government consistently rejected calls to review or reconsider the restrictions during the 2010-15 Parliament, maintaining that asylum seekers should not have enhanced access to jobs in the UK over skilled non-EEA national workers.²¹

More recently, the courts have found that the Home Office's associated policy guidance fails to identify the discretion available to the Home Secretary and officials to depart from the shortage occupation list restriction (discussed in section 3.2 of this briefing).

Preventing refused asylum seekers from working

Similarly, successive governments have been resistant to calls to allow refused asylum seekers to work if they are temporarily unable to leave the UK through circumstances beyond their control. They have suggested that to do so could undermine the removal process.

Lord Taylor of Holbeach's response to a Written PQ in July 2014 explained:

Failed asylum seekers whose appeal rights have been exhausted are not allowed to work because they do not need our protection, have no right to remain in the United Kingdom and are required to leave. Our policy must maintain the distinction between those who need our protection and those seeking to work here. Allowing refused asylum seekers to work, even where removal is difficult, would send the wrong message and undermine the removal process by creating an incentive to frustrate removal.²²

Governments have argued that allowing refused asylum seekers to work would undermine efforts to remove them from the UK

¹⁹ Home Office, IA HO0017 Impact assessment: Permission to work for asylum seekers and failed asylum seekers, 26 July 2010

²⁰ [\[2013\] EWHC 1494 \(Admin\)](#)

²¹ See, for example, [HL Deb 10 July 2013 cWA45](#); [HL Deb 24 July 2014 cWA194](#)

²² PQ [HL1457](#) [on Asylum: Employment], answered on 30 July 2014

2. Why restrict rights to work? 'Pull-factor' arguments

In justifying the general policy restrictions over the years, successive UK governments (and other supporters) have emphasised concerns that more favourable rights could result in an increase in asylum applications.

They commonly point to perceived risks of 'asylum shopping' (people choosing to claim in the UK rather than elsewhere because they believe that the reception conditions here are more favourable) and a potential increase in applications from so-called 'economic' migrants whose primary motivation for coming to the UK is to work rather than seek safety.²³

The Government maintains that it is desirable to maintain a clear distinction between asylum and economic (i.e. work visa) routes of entry to the country. The concern, as expressed in an answer to a PQ in March 2020, is that "our wider immigration policy would be undermined if migrants could bypass work visa routes by lodging unfounded asylum claims".²⁴

These concerns are reflected in the current Home Office policy guidance:

The policy objectives in restricting permission to work for asylum seekers and failed asylum seekers whilst their claim is considered are to:

- ensure a clear distinction between economic migration and asylum that discourages those who do not need protection from claiming asylum to benefit from economic opportunities they would not otherwise be eligible for
- prevent illegal migration for economic reasons and protect the integrity of the asylum system so that we can more quickly offer protection to those who really need it (...)²⁵

Opponents argue that there is little evidence to support the idea that relaxing the restrictions would have a pull-factor effect. A report by the Lift the Ban campaign coalition (discussed further in section 3) contends:

... there is not one piece of credible, published evidence to support the long-term validity of this premise. On the contrary, those studies that do exist – including one commissioned by the Home Office – show that there is little to no evidence of a link between economic rights and entitlements and the destination choices of those seeking asylum. (...). Similarly, research has shown that the introduction of restrictions on the right to work has had no impact on the volume of asylum applications and that asylum applications do not decrease when unemployment in host countries increases. In fact, many people are unaware prior to arrival that they will be unable to work whilst waiting for a decision on their asylum claim. This is borne out by the results of

It has been argued that allowing more favourable rights would encourage more asylum applications

²³ For the previous Labour government's position, see for example [HC Deb 14 January 2010 c1086-7W](#)

²⁴ [PQ 33521](#) [on Asylum: Employment], answered on 31 March 2020

²⁵ Home Office, *Asylum Instruction, 'Permission to work and volunteering for asylum seekers'*, 31 December 2020

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the survey carried out by Lift the Ban coalition members. Of the 246 people who responded, 72% told us that they had not known prior to arriving in the UK that people seeking asylum are not allowed to work. Only 16% told us that they had been aware of this before their arrival.²⁶

It is also argued that the experience of other European states does not suggest that more generous employment restrictions increase the number of asylum applications received.

Critics of the current policy further contend that people who do not need international protection and simply want to work in the UK are more likely to live and work in the UK 'under the radar', rather than claim asylum and hope for a delay in decision-making so they can get a temporary right to work.²⁷

²⁶ Refugee Action/Lift the Ban coalition, [Lift the Ban: Why giving people seeking asylum the right to work is common sense](#), July 2020, p.8

²⁷ Refugee Action/Lift the Ban coalition, [Lift the Ban: Why people seeking asylum should have the right to work](#), October 2018

3. Calls to relax the restrictions

3.1 The Lift the Ban coalition

The UK's policies have attracted longstanding criticisms, including from NGOs, trade unions, churches and Parliamentarians.²⁸ The [Lift the Ban](#) coalition of organisations is currently campaigning on this issue.

The campaign is calling for asylum applicants and their adult dependents to be given full access to the UK's jobs market if they have been waiting six months or more for a decision on an initial asylum claim or further submission for asylum.

Over 200 civil society organisations, businesses, local authorities, faith organisations and others have endorsed the campaign. Members include many not for profit organisations in the migration/human rights sectors, the CBI, Adam Smith Institute, Unison, NASUWT, TUC, Ben & Jerry's, Oxfam, Amnesty International, Bright Blue and the Methodist Church.

A report published by the campaign in July 2020 (updating a previous version published in October 2018) sets out counterarguments to the 'pull-factor' concerns. It also identifies a range of positive arguments for relaxing the right to work restrictions.

Briefly, it suggests that a policy change would:

- Strengthen people's chances of being able to integrate into their new communities
- Allow people seeking asylum to live in dignity and to provide for themselves and their families
- Give people the opportunity to use their skills and make the most of their potential
- Improve the mental health of people in the asylum system
- Help to challenge forced labour, exploitation, and modern slavery.²⁹

It also highlights the results of a skills audit carried out with 283 asylum seekers in May 2020. This found that just under half of respondents' previous occupations would have defined them as 'critical workers' and that 1 in 7 respondents had previously worked in health or social care.³⁰ The authors argue:

Campaigners argue that relaxing the restrictions would bring benefits to asylum seekers and the UK economy and taxpayer

²⁸ See, for example, Joint Committee on Human Rights, [The Treatment of Asylum Seekers](#), HL 81-I/HC 60-I of 2006-07, 30 March 2007, paras 120-122; Independent Asylum Commission [Deserving Dignity: How To Improve The Way We Treat People Seeking Sanctuary](#), 28 August 2008, Executive summary (page 1) and page 34; Still Human Still Here, [January 18 2009](#); TUC, 'Why asylum seekers should be allowed to work – FAQs', 11 October 2009 (accessed on 17 April 2015); [Report of Parliamentary Inquiry into Asylum Support for Children and Young People](#), 20 January 2013

²⁹ Lift the ban coalition, [Lift the ban: Why giving people seeking asylum the right to work is common sense](#), July 2020, p.3, July 2020 (emphasis removed)

³⁰ Lift the ban coalition, [Lift the ban: Why giving people seeking asylum the right to work is common sense](#), July 2020, p.12, July 2020

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As the UK seeks to build back better from Covid-19 and protect itself from the consequences of an unprecedented economic crisis, lifting restrictions on the right to work for people seeking asylum would both ensure the UK benefits from the expertise of a diverse workforce and provide significant savings for the public purse.³¹

Drawing on its own calculations and previous public opinion research, the campaign also argues that such a policy change would command widespread public support, and benefit the UK economy:

We demonstrate how a change in policy could benefit the UK economy, through net gains for the Government of £97.8 million per year.

We also present evidence to show that a change in policy would be popular amongst the UK public, with 71% agreeing that people seeking asylum should be allowed to work.

The report estimates that changing the current policy could generate £97.8 million per year for the UK Government in additional tax revenues and savings. It explains:

This is based on the amount that the Government would save by not having to provide subsistence (cash) support to people, plus the extra money received by the exchequer through payroll contributions from income tax and National Insurance. It should be noted that these two elements only show the short-term financial benefits of lifting the ban, as longer-term savings would also accrue when people are better able to integrate, speak the language, and support themselves, including in the period after receiving refugee status when many find themselves homeless, having fallen through the gap between two support systems.³²

The report also sets out a low-end estimate of an annual net benefit of £22.9 million per year (based on 25% of asylum seekers working full time on the national minimum wage after waiting six months for an asylum decision) and a high-end estimate of £356.9 million per year (based on 100% of asylum seekers working on the national average wage after six months).³³

3.2 Scope to exercise discretion: recent successful legal challenges

Two recent judicial review cases have found aspects of the Home Office's policy guidance on permission to work for asylum seekers to be unlawful. One challenge was brought by a recognised victim of trafficking who had been waiting for over a year for a decision on an asylum claim.³⁴ The other challenge was brought by an asylum seeker

³¹ Lift the ban coalition, [Lift the ban: Why giving people seeking asylum the right to work is common sense](#), July 2020, p.3, July 2020

³² Lift the ban coalition, [Lift the ban: Why giving people seeking asylum the right to work is common sense](#), July 2020, p.18, July 2020

³³ Figures based on the number of people waiting more than six months for an initial decision as at March 2020. See [the report](#) for further details of the figures used as a basis for the costings.

³⁴ [\[2020\]EWHC 3487 \(Admin\)](#)

with a complex immigration history whose asylum claim dates from 2016.³⁵

In short, the outcome in both cases was that the Home Office's policy guidance for caseworkers is unlawful to the extent that it fails to recognise the possibility of making exceptions to the general policy to restrict permission to work to shortage occupation list jobs. The Home Office must now review the policy guidance, but the judgments do not imply that a broader change of policy on restricting permission to work to shortage occupation list jobs is required.³⁶

3.3 Recent Parliamentary interest

2019-21 session

Members from opposition parties moved amendments to the *Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2019-21* seeking to reduce the waiting time for permission to work at Committee and Report stages, but they were not voted on.³⁷

The [Asylum Seekers \(Permission to Work\) Bill 2019-21](#) is a Private Members' Bill proposed by Carol Monaghan. It proposes granting asylum seekers permission to work after they have been waiting for six months for a decision on their claim. Its Second reading is scheduled to take place on 5 February 2021.

Previous sessions

Two Private Members' Bills seeking to extend asylum seekers' rights to work were proposed during the 2017-19 session. Neither progressed to Second Reading stage. See: Catherine West's [Ten Minute Rule Bill](#) and Christine Jardine's [Presentation Bill](#).

A short [Westminster Hall debate on Asylum seekers: right to work](#), in the name of Dame Caroline Spelman, took place on 24 October 2018.

During Committee Stage of the *Immigration Bill 2015-16* (as then was), Labour moved an amendment to allow asylum seekers to apply for permission to work after waiting for a decision on their claim for six months, and abolish the shortage occupation list requirement. It was rejected by nine votes to seven.³⁸

At Lords Report Stage, peers voted 280 votes against 195 in favour of a similar amendment, which was backed by Lord Alton of Liverpool, Lord Rosser, Baroness Hamwee and Lord Paddick.³⁹ The clause did not have Government support and was rejected when the Bill returned to the Commons.⁴⁰ A more modest amendment moved by Lord Alton of

There has been consistent interest in the issue in Parliament in recent years

³⁵ [JR/1414/2020](#)

³⁶ The issues identified in the determinations were not addressed in the [most recent version of the policy guidance, v9.0](#) published on 31 December 2020.

³⁷ NC 13, [Public Bill Committee Proceedings: 18 June 2020](#); Amendment 36, [Report stage Proceedings: 30 June 2020](#)

³⁸ [PBC Deb 10 November 2015 c465](#)

³⁹ [Division No. 1, HL Deb 9 March 2016 c1336-9](#)

⁴⁰ [Division No. 250, HC Deb 25 April 2016 c1255-7](#)

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Liverpool, which would have enabled asylum seekers to apply for permission to work after they had waited nine months for a decision on their asylum claim, was also rejected in the Lords.⁴¹

The issue also received considerable attention in the House of Lords during the passage of what became the *Immigration Act 2014*.

A Home Affairs Committee 2013 inquiry into [Asylum](#) concluded that the current policy is “restrictive and confusing”, but did not go so far as to call for it to be changed.⁴²

⁴¹ [Division No. 2, HL Deb 26 April 21016 c1071--4](#)

⁴² Home Affairs Committee, [Asylum](#), HC 71 of 2013-14, 11 October 2013, para 79

4. What do other countries do?

In accordance with the EU's recast Reception Conditions Directive, EU Member States must allow asylum seekers to work if they have waited for over nine months for an initial decision on their asylum claim and are not responsible for the delay.⁴³

Member States are free to apply more favourable conditions, and some do.⁴⁴ For example, **Spain** allows asylum seekers to work six months after lodging an asylum application. It does not impose additional requirements or sector-specific restrictions.

In some Member States access to the labour market is subject to conditions, as is permitted by the Directive.

For example, in **the Netherlands**, asylum seekers can work after six months, but they cannot work more than 24 weeks in a 12-month period. Asylum seekers in **France** can work after six months but are subject to the same rules on issuing temporary work permits as other third-country nationals. Sector-based shortages are a relevant consideration. Asylum seekers in **Austria** can take up work after three months but are subject to a labour market test which prioritises employment of Austrian, EU and legally resident third-country nationals. They are also limited to quota-based seasonal work opportunities in certain sectors.

Denmark, Ireland and the UK had opt-outs to the recast Directive. However, **Denmark** allows asylum seekers to work after six months.

Ireland changed its policy on asylum seekers' employment rights in 2018. It has now opted-in to the Directive and allows asylum seekers to apply for permission to work after nine months.

Ireland originally cited concerns about a possible 'pull-factor' effect on asylum applications as the reason for opting out. It changed position in 2018, after the Irish Supreme Court found that its open-ended ban on employment was unconstitutional.

Beyond the EU, asylum seekers in **Canada** can usually apply for a work permit immediately after their asylum claim has been lodged.⁴⁵ The **USA** allows permission to work after six months.⁴⁶

Most comparable states allow asylum seekers to work sooner than the UK albeit sometimes with conditions attached

⁴³ Article 15, [Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection \(recast\)](#)

⁴⁴ Information taken from country reports from the [Asylum in Europe Information Database](#) and New to Denmark website, '[Conditions asylum seekers must meet in order to work](#)' (accessed on 11 August 2020)

⁴⁵ Canada.ca, Immigration and citizenship/refugees and asylum '[Claiming asylum in Canada - what happens?](#)' (updated 11 April 2020; accessed 11 August 2020)

⁴⁶ USCIS, '[Humanitarian/Asylum](#)' (updated 8 June 2020; accessed on 11 August 2020)

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