

**Investigating the “guarded fortress”:
bureaucratic opacity in UK asylum administration**

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Table of Contents

List of Figures.....	6
List of Tables	7
Abstract	9
Acknowledgements	10
Chapter 1 Introduction.....	12
1.1. Background and motivation.....	13
1.2. Investigating the “guarded fortress”: Research Aims and Questions	16
1.3. Research parameters	18
1.4. Disciplinary debates.....	20
1.5. Thesis contributions.....	22
1.6. Asylum determination in the UK.....	23
1.6.1. International legal context	23
1.6.2. National legislative and policy context.....	25
1.6.3. Contemporary developments	27
1.6.3.1. Nationality and Borders Act 2022	28
1.6.3.2. The Rwanda Policy.....	30
1.6.3.3. The Illegal Migration Act 2023	31
1.6.4. Asylum administration in the UK.....	32
1.6.4.1. The asylum backlog.....	35
1.7. Structure of the Thesis	36
Chapter 2 On bureaucracy.....	39
2.1. Administrative decision-making.....	40
2.1.1. Normative models of decision-making.....	41
2.1.2. Bureaucratic rationality	43
2.1.3. The influence of New Public Management	44
2.2. Bureaucratic knowledge production: practices and regimes	48
2.2.1. Technical rationality	48
2.2.2. Bureaucratic knowledge practices	49
2.2.2.1. Classification	50
2.2.2.2. Documentation.....	51
2.2.2.3. Datafication.....	53
2.2.2.4. Quantification	54
2.2.3. Bureaucratic knowledge regimes.....	57
2.3. Understanding bureaucracies: power, justice, violence.....	58

2.3.1.	Bureaucracies and colonial ordering	58
2.3.2.	Bureaucratic justice	60
2.3.3.	Bureaucratic violence	61
2.4.	Approaching bureaucracies	63
2.4.1.	Bureaucracy at the ‘street-level’	63
2.4.2.	Institutional approaches	66
2.4.3.	Infrastructural approaches	68
2.5.	Opaque bureaucracies	70
2.6.	Conclusion	72
Chapter 3	Researching opaque institutions.....	75
3.1.	Developing a methodology.....	76
3.1.1.	Socio-legal studies	76
3.1.2.	Critical realism and social constructionism	77
3.1.3.	A methodology of multiple ‘encounters’	78
3.1.4.	Epistemic accountability and responsibility in knowledge production	82
3.2.	Methods	84
3.2.1.	Freedom of Information Requests	84
3.2.2.	Qualitative interviews.....	87
3.2.2.1.	Gaining access	90
3.2.2.2.	Insider/ outsider status	93
3.2.3.	Parliamentary hearings and Hansard	94
3.2.4.	Observations	95
3.3.	Methodological reflections	96
3.3.1.	Researching in a culture of secrecy	96
3.3.2.	Freedom of (some) Information.....	99
3.3.2.1.	General Exemptions: s.12(1) and (2) FOIA	102
3.3.2.2.	General Exemptions: s.31(1)(a) and (e) FOIA	103
3.3.3.	Looking at negative space	105
3.4.	Conclusion	106
Chapter 4	Management consultancies – technical support or designing protection?	109
4.1.	Prioritising Asylum Customer’s Experience.....	110
4.1.1.	The Asylum and Protection Transformation Programme	111
4.1.2.	PACE: A Productivity Taskforce	112
4.1.3.	Newton Europe	113
4.1.4.	Timeline of involvement.....	115
4.2.	Newton Europe and the Asylum Modelling Suite	118

4.2.1.	The Asylum Initial Decision Model	118
4.2.2.	From documentation to datafication	122
4.2.3.	<i>Who</i> is designing <i>what</i> ?	124
4.2.4.	Improving “data visibility”	127
4.3.	“We noticed we couldn't find it too”	129
4.3.1.	Tactics of obfuscation	129
4.3.2.	‘Crib Sheets’ and ‘Exec Summaries’	133
4.4.	Streamlining processes, removing bottlenecks, and improving “the decision flow”	137
4.4.1.	Logistification of asylum	137
4.4.2.	Order and efficiency for whom?	139
4.5.	Conclusion	142
Chapter 5	Asylum Caseworkers – Home Office resource and “production unit”	143
5.1.	Legitimising value of data	144
5.1.1.	Productivity metrics	145
5.1.2.	Individual Contribution Expectations	147
5.2.	Shifting the goal posts	151
5.2.1.	Goal displacement	151
5.2.2.	Removing ‘barriers’ and ‘blockages’: the schematisation of asylum	152
5.2.3.	Impact on asylum caseworkers	157
5.3.	The tactics of institutional opacity	159
5.3.1.	The (un)making of secrecy	159
5.3.2.	Hiding, obfuscation, and ignorance	160
5.3.3.	Knowledge curation practices	163
5.4.	Asylum caseworkers as “production units”	164
5.4.1.	“The lowest paid civil servants in the civil service”	164
5.4.2.	Relational dimensions of institutional opacity	166
5.5.	Conclusion	167
Chapter 6	Immigration Practitioners – “Emailing Into the Void”	170
6.1.	The landscape of advice provision	171
6.1.1.	Legislative changes	171
6.1.2.	Attacks on the immigration legal profession	172
6.1.3.	Patchwork provision	173
6.1.4.	Burnout and secondary trauma	174
6.2.	Supporting an asylum claim	175
6.2.1.	Practitioner as “translator”	176
6.2.2.	Gaining trust	177

6.2.3.	Evidential requirements	178
6.2.4.	Silences	179
6.3.	Breakdown of communications and strategic obfuscation	180
6.3.1.	Communication breakdown.....	180
6.3.2.	“Fighting an uphill battle”	183
6.3.3.	Weaponising information.....	184
6.4.	Becoming the face of incompetence.....	185
6.4.1.	Communicating delays	185
6.4.2.	Reluctant justification.....	188
6.4.3.	Impact on the client – practitioner relationship	189
6.5.	Tactics of everyday resistance	190
6.5.1.	“I have a contact....”.....	191
6.5.2.	Pooled knowledge.....	191
6.5.3.	Supportive professional network or collective resistance?.....	192
6.6.	Conclusion	193
Chapter 7	Conclusion: Bureaucratic opacity in UK asylum administration	195
7.1.	Researching opaque institutions	195
7.2.	Tactics and consequences of institutional opacity	197
7.3.	Bureaucratic opacity	200
7.4.	Bureaucratic opacity and structural harm	203
7.5.	Research limitations and avenues for future research	205
Bibliography.....		207
Appendix A – Freedom of Information (FOI) Requests.....		241
Appendix B - Interviews.....		244
Appendix C – Interview Schedules		246

List of Figures

Figure 1: Excerpt from FOI 75200 (a).....	87
Figure 2: Call-out for participants, Our Home Office campaign.....	91
Figure 3 Screenshot from the Home Affairs Select Committee HC 822, 26 October 2022.....	94
Figure 4: Excerpt from FOI 75200 (b).	101
Figure 5: ‘Vision Statement’, PACE Project Brief (FOI 78941).	112
Figure 6: Asylum Initial Decision Model (FOI 75633).....	120
Figure 7: Excerpt from FOI 75200 (c).....	131
Figure 8: Excerpt from FOI 75200 (d).	132
Figure 9: Excerpt from FOI 2024/01323 (a).....	133
Figure 10: Excerpt from FOI 2024/01323 (b).	136
Figure 11: Barrier busters created by Newton Europe. In: Neal, 2024: 78.	153

List of Tables

Table 1: Features of the Three Justice Models (Mashaw, 1983: 31)	41
Table 2: Additional Models of Administrative Justice (Adler, 2003: 333).....	46

Abstract

In 2021, chronic delays across the asylum system left the UK Home Office in administrative and political turmoil. The following year, a promise to ‘clear the backlog’ spurred a period of rapid legislative and administrative change. Obscured from view, an assemblage of public and private actors worked to streamline casework, increase the productivity of decision-makers, and ensure the ‘effective’ functioning of the asylum system. However, a veil of secrecy concealed the nature and extent of these administrative developments. Notwithstanding increased scrutiny, the Home Office remained opaque, appearing to all as “a guarded fortress”.

In this thesis, I use the production of opacity as the point of analytical departure from which to develop a multi-perspectival critique of asylum determination in the UK. I use Freedom of Information requests, qualitative interviews, and analyses of Parliamentary committee hearings, to probe the tactics and consequences of institutional opacity with regards to administrative design, the role of frontline asylum caseworkers, and the experience of immigration practitioners supporting asylum applications.

The contributions I present in this thesis are threefold: methodological, empirical, and theoretical. Studying an opaque institution with the tools of critical security studies – tracing opacity’s effects, practices, and dynamics – I explore alternative methodologies for manoeuvring through hard-to-access institutions. The empirical findings presented detail the nature and extent of management consultancy involvement in UK asylum administration, problematise the drive for efficiency gains, and highlight the experiences of immigration practitioners in a time of increased hostility towards so-called ‘lefty lawyers’. Finally, I develop a theorisation of bureaucratic opacity which is comprised of structural, epistemic, and relational dimensions. I demonstrate how opacity is produced through both contemporary bureaucratic structures and bureaucratic knowledge practices, and argue that the production of opacity structures power relations between the Home Office and those with whom it interacts.

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Chapter 1 Introduction

In November 2022 I spoke with Ruairidh¹, a legal adviser at a charity supporting refugees and asylum seekers in the East of England. From our short time together, it was clear that he was incredibly busy. Throughout our 90-minute conversation, his phone rang multiple times, Outlook alerts buzzed, and clients dropped in and out of his office to talk about their cases. By way of explanation, he told me that he was responsible not only for supporting applications to the Home Office, but also for co-ordinating adults' wellbeing activities. This demanding workload meant he spent a lot of time pulled in multiple directions; it also meant he spent a lot of time trying to get in touch with the Home Office.

Of all his many responsibilities, Ruairidh told me that dealing with the Home Office was one of the most challenging. He explained, "that's the most like, frustrating thing about the Home Office is just like... it's so opaque, you just can't get any answers". Indeed, long silences, delays, and a lack of contact information combined with unintelligible and illogical bureaucratic processes meant that finding the information he needed was a Sisyphean task. This opacity made the Home Office seem both elusive and sinister – as he told me, "[it's] like a guarded fortress or something".

Ruairidh is not alone in this assessment. The Home Office's management of asylum applications has long been characterised as an absurd caricature of bureaucratic excess that "Kafka would have enjoyed" (Lord Scott in *Chikwamba v Secretary of State for the Home Department* [2008] UKHL 40). The asylum process in the UK is renowned for requiring excessive documentation, while unprecedented delays mean applicants wait years for their cases to conclude, and inconsistent and unsubstantiated decisions confuse the process of asylum determination and, at times, oblige applicants to engage in a prolonged and tiresome appeals process. Yet, above all, the Home Office's Asylum Operations is perhaps most Kafkaesque in its pervasive culture of secrecy. Described as both an insular and paranoid administration, for over a decade the Home Office has been rebuked as "the UK's most opaque and unhelpful bureaucracy" (Thomas, 2011: 53).

In this thesis, I draw together multiple encounters with "the guarded fortress" to develop new insights into the Home Office's Asylum Operations. Building my methodological approach around the observation that "a refusal to reveal information... make[s] the state and their actions legible in ways that officials do not foresee" (Campbell, 2017: 13), I use the production of opacity as the point of departure through which to present a multi-perspectival critique of asylum determination processes in the UK. I present the analysis in this doctoral research project around three analytical entry-points in which the production of opacity structures an encounter in the contemporary asylum bureaucracy and

¹ Interview with Ruairidh (pseudonym), OISC Level 2 adviser. 23 November 2022.

use it as a lens through which to explore (i) administrative design, (ii) the role of frontline asylum caseworkers, and (iii) the experience of immigration practitioners supporting asylum applications².

Through these three empirical chapters, I explore how opacity is produced through both contemporary bureaucratic structures and bureaucratic ‘knowledge practices’ (Wissink, 2020), as well as highlighting how the production of opacity shapes the relationship between the Home Office and those with whom it interacts. In so doing, I offer novel empirical insights into the Home Office’s Asylum Operations, as well as methodological and theoretical contributions to socio-legal studies that can be applied to the study of other opaque institutions. I locate this methodological approach to socio-legal research in the synthesis of anthropological and sociological literature which focuses on bureaucratic affects (Hoag, 2011, 2014; Griffiths, 2014; Bhatia and Canning, 2021) with a developed literature which untangles questions of secrecy (and secrecies) and opacity in large immigration bureaucracies (Aradau and Perret, 2022; Muller and Welfens, 2023; Glouftisios, 2024b; Stavinoha, 2024). This conceptual understanding of opacity drawn from these perspectives influenced my chosen research design, in which a multi-perspectival approach is adopted through which insights are generated by piecing together cracks, leakages, and disclosures (Hoag, 2011; Walters, 2021).

To introduce the subsequent analysis, this chapter proceeds as follows: First, I outline the background and motivation for conducting this research, relay the development of my methodological approach, and introduce my research aims and questions. Following this, I set out the research parameters, situate this thesis within its disciplinary debates, and explain the empirical, methodological, and theoretical contributions that I have made in this project. Then, I contextualise the analysis by introducing the political and legislative framework for asylum determination in the UK. To conclude the chapter, I give an overview of the structure of the thesis and review the seven chapters.

1.1. Background and motivation

Prior to embarking on this research in 2020, I worked in a support role at a small human rights charity in London. In this role, I often saw examples of poor-quality and unsubstantiated asylum decisions. Applicants who had an initial asylum claim refused would seek guidance and support from the charity prior to attending an asylum appeal. The asylum refusal letters they had received from the Home Office were often littered with errors including spelling mistakes, mis-applied copy and paste, factual inaccuracies, and limited – if not completely inappropriate – sources for Country of Origin Information.

In the decision letters that applicants received, it was clear to see that Home Office asylum caseworkers repeatedly refused to believe their narratives of persecution. Caseworkers would cite small or inconsequential internal inconsistencies as justification for refusal, and persistently question the

² The rationale behind choosing these three perspectives is outlined in section 1.3. *Research parameters* below.

plausibility and veracity of the applicants' narratives. The consequence of this was that applicants would then wait years for their cases to conclude, caught up in a prolonged and tiresome appeals process. Crucially, these long delays had a significant impact on the applicant's physical and mental wellbeing. I therefore began this doctoral research project in October 2020 with the following question: what happens inside a Home Office asylum decision-making unit to lead to such poor quality decisions? I was particularly interested in the work of decision-makers – asylum caseworkers – as 'street-level bureaucrats' (Lipsky, 1980; Borrelli, 2021; Bhatia, 2020b; Liodden, 2020), whose role it is to interview and assess applicants for asylum.

My interest stemmed from a developed body of socio-legal literature which highlights that caseworkers' application of the law is necessarily influenced by the bureaucratic environment in which they operate. Importantly, this work argues that refugee status determination is 'a social undertaking'; it is guided by the organisational context in which individual decision-makers work (Liodden, 2020). This means that in order to develop understanding surrounding the decision process, it is important not only to analyse the legislative and policy frameworks which guide refugee status determination, "it is also necessary to explore the finely tuned mechanisms that shape the decisions of those who assess claims for asylum" (Liodden, 2020: 646). Tone Maia Liodden (e.g., 2019, 2020), for example, highlights the necessity of an approach that looks beyond the application of the law or the role of the judiciary. As she recognises, individual asylum caseworkers operate as part of a broader (mundane) organisational structure and are therefore subject to its influence. These include, for example, the processes they follow, the technology they use, their moral and ideological presumptions (and that of their co-workers), and the workplace pressures which they face (Thomas, 2011).

This understanding of the asylum determination process is paradigmatic of socio-legal investigations which locate the contours of the administrative law in the decision-making of frontline administrators tasked with delivering government policy (Mashaw, 1983; Thomas, 2023). As Simon Halliday (2004: 87) writes, "an exploration of the decision-making environment is important because it situates individual decision-making practices within broader contexts that influence, structure, and inform the use of discretion on the ground". Such analyses seek to interrogate how policy is designed and implemented, the structures, processes, and practices which support its application, and the impact of policy decisions and legislative developments on service users or external stakeholders.

In understanding the 'realities' of the law through empirical investigations into its application in practice (Galligan, 2006), these analyses explore and explain how administrative processes necessarily shape and mediate the application of legislative provisions (Halliday, 2021). As such, this understanding recognises that asylum determination 'in practice' hinges on the bureaucratic structures which mediate and impact upon the decision-making processes of individuals assessing applications (*ibid.*). This makes

understanding the UK's asylum bureaucracy of critical analytic importance to understanding asylum determination in the UK.

However, while this literature is more developed in European contexts, there are – to the best of my knowledge – no ethnographies of asylum decision-making units (DMUs) in the UK³. Instead, accounts of first-instance asylum decision-making focus on decision letters themselves (Amnesty International, 2004, 2013; Freedom From Torture, 2019; Schuster, 2020), the affective value of decisions as bureaucratic documents (Darling, 2014), or the harmful impact that poor-quality decisions have on individuals applying for asylum (Canning, 2017; Bhatia, 2020a, 2020b; Meier and Doná, 2021). Where ethnographies of UK asylum determination processes do exist, they concentrate on first and upper tier immigration tribunals as opposed to Home Office DMUs – see, for example, the work of Robert Thomas (2008, 2011, 2022), John Campbell (2017, 2019, 2020), Nick Gill (2019, also with Jo Hynes, 2021), and Jessica Hambly (2019, also with Nick Gill, 2020). What happens ‘inside’ the Home Office’s Asylum Operations remains opaque.

An attempt to explore “the guarded fortress” was therefore the starting position of this doctoral research project. While I recognised at the outset that getting ‘in’ to the Home Office would not be simple, I had an existing plan for research access that was contingent both on my previous workplace – who had previously conducted some training for Home Office caseworkers – and on a supervisor who had worked with the Home Office on a project previously. I therefore felt prepared to embark on this project with limited, but available, access to the Home Office. However, the successive lockdowns during the COVID-19 pandemic and one of my supervisors leaving the institution for another eventually shut down these routes that had been available to me. By mid-2021, the Home Office instead remained as a “guarded fortress”.

Indeed, the ability to conduct empirical investigations into administrative law ‘in practice’ is increasingly challenging. A restrictive research environment comprised of limited access and nebulous public/ private partnerships (Adelmant and Tomlinson, 2023) makes it increasingly difficult to explore “the finely tuned mechanisms” (Liodden, 2020: 646) which shape the frontline decisions of individual

³ Here, I am making a distinction between Asylum Operations (UKVI) DMUs and other Home Office departments with which asylum applicants may encounter during the application process. For example, Ana Aliverti (2021, 2023) has conducted extensive ethnographic research with Immigration Enforcement, Sarah Turnbull (2017); Mary Bosworth (2019, 2024); Federica Infantino (2022); and Dominic Aitken (2024) (among others) have conducted ethnographic research into Immigration Removal Centres (IRCs), and Nick Gill (2016) has looked at the directorate responsible for Asylum Support. Likewise, Olga Jubany (2011, 2017) has conducted ethnographic research with the Asylum Screening Unit at the border. The ‘street-level bureaucrats’ she was immersed within do not, however, assess substantive asylum claims. For all those mentioned, their troubles and perseverance with accessing these Home Office sites have been explored at length in their various publications.

caseworkers. In the case of the Home Office's Asylum Operations, the lack of research access into the administrative departments which deliver first-instance determination processes (DMUs) makes understanding how 'the law' becomes 'practice' increasingly complex. The Home Office is, for all, "a guarded fortress", and its opacity forecloses some opportunities or avenues for exploration into how justice in asylum determination processes might be achieved.

1.2. Investigating the "guarded fortress": Research Aims and Questions

Yet, rather than abandoning the Home Office as a site of analytical inquiry, the approach I take in this thesis represents a departure from the want to 'reveal the secret' of asylum decision-making (Stevens and Forsythe, 2023) to a research design which engages with opacity as an object of study itself. Indeed, based with a "guarded fortress", I wondered: in what way(s) can opaque institutions such as the Home Office be understood and interpreted?

The first aim of this doctoral research project, therefore, concerns how to research the "guarded fortress" of the Home Office. The key question here is: **which methodologies are useful for manoeuvring through opaque institutions?** This research question structures the next two chapters of this thesis: *Chapter Two: On Bureaucracy* and *Chapter Three: Researching Opaque Institutions*. In this part of the thesis, the aim is to broaden the methodological and conceptual tool-kit of socio-legal studies in order to attend to the opacity inherent in contemporary administrative institutions.

Having reviewed relevant literature to discover how other researchers had grappled with the concept of opacity inherent in large bureaucratic institutions, two particularly salient approaches emerged: critical security studies and the anthropology of bureaucracy. In critical security and migration studies, scholars have started to hold their analytic gaze on the process of *making something secret* (Walters, 2021). Rather than viewing secrecy as a 'problem', such an approach views it as "a set of organising and structuring principles whose investigation would shed new light on the wider logics, structures, and processes of modern states and societies" (*ibid.*: 6). In this way, this literature suggests that the production of opacity can be a useful analytic lens through which to explore the "people, places, and experiences" which lie out of reach (*ibid.*: 4). This orientation is particularly relevant to the study of opaque institutions such as the Home Office, where research access is limited, and knowledge is restricted.

This position functions to work cohesively with a developed body of literature on the anthropology of bureaucracy. Anthropologists who study bureaucracy direct attention to the fact that bureaucratic modes of organisation exist as part of a wider social milieu (Zacka, 2017), and argue that bureaucratic structures, knowledge, and documents establish the 'relation between words and things' necessary for the implementation of regimes of control (Hull, 2012). Importantly, this theoretical position underpins the methodological one, and "challenges the policy-practice rubric by destabilising the 'outcome' and

disarticulated bureaucratic event, as the primary object of analysis” in favour for a more *relational* ontological approach (Hoag, 2011: 86).

This builds on the understanding of critical migration and security studies that recognises that opacity and obfuscation are concepts which are dynamic, multi-faceted, and situated (Stevens and Forsythe, 2023) and gives primacy to the ‘performed and performative’ nature of opacity and obfuscation (Glouftisios, 2023). Both perspectives digest the way(s) in which the production of opacity structures power relations between those on the ‘inside’ and the ‘outside’ (Hoag, 2011; Lemke, 2022) and, in sum, this orientation recognises opacity in administrative organisations as a productive and dynamic set of practices and social relations (Stevens, 2023).

In this thesis, I synthesise the key theoretical and methodological contributions from these two fields to develop a methodological approach for socio-legal studies consisting of multiple ‘encounters’ with bureaucratic opacity. The central premise is that studying the production of opacity can help elicit insights into the administrative structures of the Home Office’s Asylum Operations which support asylum determination procedures. Moreover, that a cohesive picture can be developed through piecing together numerous perspectives which appear throughout the bureaucratic process. This relational theorisation of opacity recognises the need to ask, ‘what is opacity *here*? what is opacity *now*?’ (cf. Walters, 2021: 8)⁴, as the primary analytic driver through which to explore the administration of asylum applications.

This methodological approach has necessarily shaped the questions which structure the second aim of this project, in which I position the production of opacity, and opacity’s effects, as a critical standpoint through which the Home Office’s Asylum Operations can be better understood.

As such, the second aim of this thesis is addressed through the question: **what are the tactics and consequences of institutional opacity? (a) for administrative design (b) for asylum caseworkers, and (c) for immigration practitioners.** Here, I employ a multi-perspectival approach to asylum administration by drawing on three different angles through which asylum administration can be critiqued. The rationale behind choosing the three perspectives in this analysis – consultants, caseworkers, and practitioners – is discussed in section 1.3. *Research parameters* below.

The methodological decisions have necessarily influenced the methods chosen to conduct this research. In this thesis, I utilised qualitative research methods to develop understanding. I used Freedom of Information (FOI) requests as a data collection tool. In so doing, I recognise that my use of FOI requests also serves to develop the contours of opacity in the public revealing of new information in the form of research data (Luscombe and Walby, 2017; Walby and Luscombe, 2021). Because of this, throughout my analysis I attend to the situated nature of this data production method and use FOI requests not only

⁴ Walters asks (at 2021: 8): “What is secrecy here? What is secrecy now?”

as a source of data, but also the process of requesting (time, emotions, redactions) as a data source in itself. In addition to the use of FOI requests, I conducted qualitative interviews with civil servants and legal practitioners to elucidate their different experiences and perspectives. Finally, I conducted qualitative analyses of parliamentary committee meetings as a data collection method. Watching the hearings and then analysing the transcripts is useful in understanding not only how ‘inside’ information is presented, but also what is obfuscated or hidden in these public forums (Glouftsiou, 2024b).

1.3. Research parameters

In this next section, I clarify some key research choices and concretely determine the scope of the analysis. At this juncture, it is important to stress that the aim of this thesis is not to develop an authoritative account of the Home Office’s Asylum Operations. The multi-perspectival view of the asylum administrative process which I present in this thesis is drawn from three analytical vantage points and thus is, by its nature, partial. However, each of these perspectives contributes new empirical insights into the administration of asylum applications in the UK and, when read together, these partial insights help to develop a theorisation of bureaucratic opacity. Furthermore, I have chosen to develop my analysis around three discrete phases of the determination process – the design of processes, their implementation, and their effects. The rationale behind this is that it can collate a holistic image of the ‘journey’ of the asylum decision process.

I will first explain why I focus on three key perspectives in this analysis – management consultants, asylum caseworkers, and immigration practitioners. My decision to focus on management consultants is grounded in a lacuna in understanding about how consultancy firms influence administrative design in the contemporary asylum bureaucracy. There is a growing recognition of the role of private sector actors in the management of migrant populations through the outsourcing of visa services, detention, deportation, and accommodation (see, for example, Lemberg-Pedersen, 2013; Naranjo and Molnar, 2020; Bigo, 2022; Darling, 2022; Brewer, 2023). This extends to the role of private sector technology consultants in designing systems for Home Office case processing (Narita, 2023).

In the European context, the role of management consultants in these spaces has been investigated by critical migration scholars (Vianelli, 2022; Stavinoha, 2024). In particular, Luděk Stavinoha (2024) – also with Apostolis Fotiadis (2020) – has identified management consulting firms as key but under-researched actors in the contemporary asylum bureaucracy. While the Home Office employs management consultancy firms to aid its operational delivery (National Audit Office, 2023b; Home Office, 2024a), little has been discussed about this work in the extent academic literature. This is despite contemporary public law scholarship increasingly problematising the role of consultants in UK public administration (Adelmant and Tomlinson, 2023; Benish, 2023). Consequently, I decided to focus on the role of management consultants in the administrative design of asylum caseworking in the UK. This represents a synthesising of administrative law and critical migration studies scholarship that has not

been applied to asylum determination processes in the UK, and therefore represents a useful avenue of research approach to explore further.

Second, I decided to focus on asylum caseworkers as the second perspective in this thesis. It is my contention that asylum caseworkers are the focal point around which the asylum determination process hinges. Certainly, as Jerry Mashaw (1983: 16) recognises, with any large administrative apparatus it is with “routine administrative action by low-level administrators... that 100 percent of bureaucratic implementation begins, and most of it ends”. As ‘street-level bureaucrats’ (Lipsky, 1980), caseworkers’ interpretation and application of the “open textured” legal rules which govern eligibility criteria for asylum (Thomas, 2011: 37) shape how this legislative framework materialises in practice. While ‘street-level’ bureaucrats working on refugee status determination processes have been discussed in the European context (e.g., Dahlvik, 2018; Liodden, 2020), their experiences are underexplored in the UK context due to a lack of research access. Therefore, I posit that this novel methodological approach might be useful in providing further insights into this usually closed space.

Third, I chose to focus on immigration practitioners as exemplary of an ‘external stakeholder’. As with many research projects, the trajectory of inquiry changes and evolves throughout the process as new avenues for exploration and consideration emerge. In August 2021, I was accepted to undertake a three-month ESRC⁵ research placement at a local law centre in Norwich. Here, I had the opportunity to train as an OISC-regulated⁶ immigration adviser, a role which I continued for the following three years alongside my PhD research. The impact of this professional journey on the progression and direction of my PhD research cannot be underestimated. For one, it made me want to learn more about the experiences of immigration practitioners’ supporting asylum applications – seeing in my manager the depth and breadth of experience navigating the many administrative requirements of the Home Office. But also, on a more personal level, it cemented my interest in the bureaucracy of the Home Office. My work at the law centre gave me a first-hand experience of the Home Office’s Kafkaesque bureaucracy in all its complexities, and it solidified my desire to challenge, subvert, and demystify its power. As such, because of this experience and the professional networks which I had gained through my placement and ongoing immigration advice work, I decided to focus one area of analysis on the role of immigration practitioners.

In making these research choices, I recognise that there are multiple other stakeholders for whom this question could be directed. Most notably, asylum applicants themselves. My decision to not interview asylum applicants for the purpose of this project has both ethical and practical dimensions impacted by the COVID-19 pandemic, and which are outlined in full in *Chapter Three: Researching Opaque*

⁵ The Economic and Social Research Council.

⁶ Office of the Immigration Services Commissioner. Regulation via the OISC is one way in which to qualify as an immigration practitioner in the UK.

Institutions. Consequently, an investigation into the consequences of bureaucratic opacity on other stakeholder groups – asylum applicants, support organisations, activists, etc. – is an area which could be explored in further research.

1.4. Disciplinary debates

Having outlined some of the central research choices I have made, I will now situate this research in conversation with existing disciplinary debates around asylum administration in the UK. This is a socio-legal investigation into administrative law ‘in-action’. Socio-legal investigations into administrative organisations are concerned with both ‘internal’ administrative law (front-line decision-making, mechanisms of administrative or internal review, appeal processes) and ‘external’ administrative law (ombudsmen, public law mechanisms of redress, government audits) (Daly and Tomlinson, 2022).

Studies of ‘internal’ administrative law focus on how decision-making occurs in practice to understand more fully the contours of administrative law ‘in-action’ (Thomas, 2022, 2023; Halliday, 2023). Such a perspective recognises that the implementation of the law cannot be disentangled from the administrative structures which support its application. Socio-legal studies of asylum determination procedures can focus on the experiences of front-line administrators, the mechanisms of appeal (tribunal), the decision letters as documents, the impact of decisions on asylum applicants, or on other stakeholders (Gill *et al.*, 2019; Hambly, 2019; Campbell, 2020).

These analyses have had a significant impact upon the design and development of this project. In particular: relating to ‘where’ the analytic focus is held (at the level of policy implementation), an understanding that multiple stakeholders can help to provide insights into administrative processes (e.g. caseworkers, civil servants, and legal practitioners), as well as a recognition that it is of significant interest to explore the ‘internal’ structures which support the application of the law (e.g. administrative structures, mechanisms of accountability, development of policies, and administrative processes) (Tomlinson and Thomas, 2023). Socio-legal analyses also speak to some broader questions relating to both transparency and accountability, both of which I explore throughout the thesis. In particular, I contribute to an ongoing debate in administrative law scholarship surrounding ‘insourcing’ in contemporary models of public administration and explore the limits of performance metrics as mechanisms of bureaucratic accountability (Adelmant and Tomlinson, 2023; Benish, 2023).

Yet, while this research is socio-legal in nature, there are aspects of the disciplinary debates which are outside the scope of my analysis. For example, I do not address the mechanisms of redress which are available to individuals seeking asylum. Namely, I do not talk to the role of the tribunal (including immigration judges, Home Office Presenting Officers, interpreters, clerks), nor do I address the use of Judicial Review. The reasons for this are both practical and related to research design.

First, the first 18-months of this research project were conducted during successive COVID-19 lockdowns. At this point, I did not want to make observational research a key method for collecting data, since it was unclear as to when the courts would resume sitting full-time. I therefore did not want to risk the project becoming non-viable through lack of access. Second, as noted above, to engage with all actors involved in the tribunal setting would make the project too broad for the temporal restrictions placed on PhD funding and research. Expanding the analysis to include these other actors could instead be a viable and useful avenue for future research. Third, I have decided not to look at the use of Judicial Review (JR) in asylum administration because (a) not all applicants are able to lodge a judicial review challenge – this is almost entirely dependent on access to legal aid (Wilding, 2023c, 2023b), (b) OISC-regulated advisers are not able to submit JR challenges and therefore this would split my participant group, and (c) because many practitioners advised that JR in asylum cases often works as a procedural tactic – “PAP them” (Leila)⁷ – rather than substantive intervention (for more on this, see *Chapter Six: Immigration Practitioners – “Emailing into the Void”*).

In addition to the socio-legal literature, this thesis is influenced by a growing body of literature exploring ‘Border Criminologies’ and ‘Border Zemiologies’ – criminological and zemiological analyses of sites of bordering (Canning, 2017, 2021; Bhatia, 2020b; Meier and Doná, 2021). These analyses dissect the various harms and acts of (state) violence that are present in the administrative apparatus that structures asylum determination processes in the UK. Including, for example, sites of detention and deportation, temporary accommodation as well as the impact of poor decision-making on applicants seeking asylum and the criminalisation of asylum seekers in the UK (De Genova, 2013, 2020; Bosworth, 2019; Aitken, 2024). This body of literature was influential in identifying the myriad ways in which social harms materialise through the asylum determination process in the UK (Canning and Tombs, 2021).

Nevertheless, while a lot of the literature which supports this thesis is criminological, it ought not to be read as a strictly criminological thesis. Most significantly, I do not engage in this thesis with the impacts of these harms/ violence on asylum applicants themselves, nor do I engage with questions of punitiveness, sites of punishment, or discourses of ‘illegality’. While these are crucial areas of critical inquiry, they remain outside the scope of this analysis.

⁷ “PAP them” in this context refers to submitting a Pre-Action Protocol letter. The PAP letter is submitted by a Claimant (applicant or their legal representative) to the defendant (the Home Office) setting out the case (the grounds for review) and allowing the defendant to respond, explain, or overturn their decision. It is the first step in the JR process (Public Law Project, 2022). As explored in *Chapter Six*, immigration practitioners often submit these to prompt the Home Office to look at an ongoing case, rather than in the hope that it will lead to substantive change.

1.5. Thesis contributions

The contributions I present in this thesis are threefold: methodological, empirical, and theoretical. First, I explore alternative methodologies for manoeuvring through hard-to-access administrative institutions. Studying an opaque institution with the tools of critical security studies – tracing opacity’s effects, practices, and dynamics – I combine interviews and documentary analyses with FOI disclosures and analyses of the disclosure process itself. In drawing upon reflexive and meta-analytical techniques, this thesis contributes to the study of legal processes by approaching them through the lens of the production of opacity. This represents a novel approach to studying administrative institutions within the field of socio-legal studies, and I suggest that this methodological approach can be useful for investigations into other opaque institutions. While this analysis is focused on the Home Office’s Asylum Operations, this approach could be of relevance to other secretive administrative institutions, including but not limited to, other governmental departments such as the Department for Work and Pensions (DWP).

Second, I utilise this alternative methodological approach to develop new insights into asylum determination processes in the UK. The empirical findings presented in this thesis draw on and complement contemporary debates in socio-legal studies surrounding relationships of ‘insourcing’ (Adelmant and Tomlinson, 2023; Benish, 2023), as I detail – for the first time – the nature and extent of management consultancy involvement in UK asylum administration. In problematising the drive for efficiency gains, I contribute to an ongoing discussion surrounding the legitimising value of data in the management of migration. In so doing, I attend to the ‘performative’ role of this data, and the opacity produced by its utilisation. I additionally highlight the impact of institutional opacity on actors who engage with the contemporary asylum bureaucracy. I contribute to socio-legal analyses of asylum decision-making in the UK by giving voice to the legal practitioners who support asylum claims. In a context in which attacks on the immigration legal profession have become commonplace, including the deliberate targeting, harassment, and intimidation of immigration and asylum practitioners during the riots of summer 2024, this represents a timely contribution to the literatures on both law and emotion and the various stakeholders involved in legal processes.

Third, I develop a theorisation of bureaucratic opacity which is comprised of structural, epistemic, and relational dimensions. I demonstrate how opacity is produced through both contemporary bureaucratic structures and bureaucratic knowledge practices, and argue that the production of opacity structures power relations between the Home Office and those with whom it interacts. The argument which I propose is that bureaucratic opacity can materialise on multiple levels, reflecting the fact that ‘bureaucracy’ is both an administrative form and an analytical concept (Olsen, 2006). Bureaucratic opacity has a *structural* dimension, reflecting how contemporary models of public administration work to obfuscate ‘hidden’ actors which form part of the contemporary assemblages. Bureaucratic opacity has an *epistemic* dimension relating to how bureaucratic knowledge practices function to both conceal

and obfuscate phenomena. Bureaucratic opacity has a *relational* dimension, such that the effects and impacts of opacity operate as another form of ‘bureaucratic oppression’ (Thomas, 2022) engendered within the bureaucratic form.

Having outlined the research motivation, aims, and questions as well as providing an overview of the key contributions I make, the next part of this chapter outlines the legislative and administrative context of asylum determination in the UK. While the following section does not seek to present an authoritative guide to the development and implementation of refugee law in the UK, in it, I map out the relevant legal frameworks through which the subsequent thesis can be read.

1.6. Asylum determination in the UK

The asylum determination process falls at a critical juncture between law, policy, and practice. It draws on a multiplicity of legislative and administrative sources and the rules which govern it are therefore both “highly detailed and complex” (Thomas, 2011: 34). While the eligibility criteria for refugee status and the rights afforded to refugees are outlined in international refugee law, the interpretation of key provisions is reliant on national and international Human Rights law (Yeo, 2022a), and states determine the applicable standards and processes for refugee status determination through their national policy so long as it remains within the bounds of their international legal obligations (Harvey, 2000). At the ‘front-line’ of the determination process, asylum caseworkers apply set rules to individual cases in accordance with the relevant guidance⁸ produced and issued by the administration.

1.6.1. International legal context

The development of the asylum system in the UK can perhaps be best understood within its broader context of international refugee law, wherein the key concepts of ‘asylum’ and ‘refugeehood’ originate (Stevens, 2004). The international system of refugee protection is grounded in the provisions of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (henceforth, the 1951 Convention). Developed in response to the number of refugees in Europe following the second world war, Article 1A (2) of the 1951 Convention defines a refugee as a person who:

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

⁸ Relevant guidance in this context refers to the Asylum Policy Instructions (known as APIs), available at: <https://www.gov.uk/government/collections/asylum-decision-making-guidance-asylum-instructions>

While initially this definition only referred to individuals who were displaced due to events occurring before 1 January 1951 (Hathaway, 2021), the 1967 Protocol expanded the eligibility of refugeehood by removing the temporal and geographic limitations of the 1951 Convention. Of relevance to this thesis, the *pacta sunt servanda* principle contained in Article 26 of the Vienna Convention on the Law of Treaties means that States Parties to the 1951 Convention – such as the UK – are obligated to implement the provisions of the 1951 Convention “effectively and in good faith” (Harvey, 2000: 28). This means that States Parties to the 1951 Convention ought to provide, among other things, access to an effective mechanism for refugee status determination (*ibid.*)⁹.

Here, it is important to recognise that the individual rights afforded to refugees in accessing determination procedures come into direct conflict with states’ discretion to control who can remain within their physical territory (Thomas, 2011). As such, the 1951 Convention “impinges on sovereignty” by obligating state parties “to admit, assess and possibly retain those who arrive at the border seeking refugee protection” (Dauvergne, 2013: 22).

The most significant point of tension is found in the obligation to uphold a principle of *non-refoulement* (Article 33), which prescribes, broadly, that refugees should not be returned (*refouler*) “to any country where he or she is likely to face persecution, torture, or other serious ill-treatment” (Goodwin-Gill and McAdam, 2021: 467). Thus, the obligation to provide access to a determination procedure also “implies a further obligation” of temporary admission until “the state has assured itself their return to a third country or to their country of origin would not be in breach of Article 33”¹⁰ (Harrison *et al.*, 2021: 917).

⁹ Here it is important to note that the interpretation of the 1951 Convention has not developed as one cohesive whole. Instead, regional differences emerge as national and international courts and institutions negotiate the definitional boundaries of key provisions. The discrepancy which arises between country contexts has been called both a ‘refugee roulette’ (Kallinosis, 2017) and a ‘postcode lottery’ (Spencer, 2016), highlighting how the lack of consistency between states’ interpretation of the 1951 Convention has significant and often undesirable consequences for individuals seeking protection.

¹⁰ There are notable exceptions to this principle outlined in the 1951 Convention. Importantly, Article 33 (2) states that refugees for whom there are reasonable grounds for regarding as a danger to national security or who have been convicted of a “particularly serious crime” cannot avail themselves of protection against *refoulement*. This provision was latterly capitalised upon through the introduction of the Nationality and Borders Act 2022, see section 1.6.3.1. *Nationality and Borders Act 2022* for further explanation.

1.6.2. National legislative and policy context

In the UK, it falls primarily to Part 11 of the Immigration Rules¹¹ to “‘legislate’ for asylum-related matters” (Stevens, 2004: 77), under a “subjective procedure built around the exercise of executive discretion” of the Secretary of State (Feller, 2001: 590). The Immigration Rules outline the process for asylum determination¹² including the consideration of applications, the provisions for dependents, and the conditions of leave for those granted refugee status, as well as the conditions for those granted humanitarian protection and other forms of limited leave to remain.

However, the ability to make an asylum application in the UK is contingent on an individual being present in the territory. Indeed, it is not possible for an individual seeking asylum in the UK to apply while they are in their country of persecution, or at any point along their migratory journey. It is also not possible to apply for entry clearance to access the UK for the purpose of seeking asylum. Put simply, it is not possible to apply for an ‘asylum visa’.

Entry clearance to the UK is governed by the Immigration Act 1971¹³, which provides the grounds in which an individual may seek entry to the UK for the purposes of work, study, to join family, or for a visit¹⁴. Each route is ‘legislated’ for through the Immigration Rules, which outline the suitability, eligibility, and validity requirements for the making of each of these applications¹⁵ as well as the

¹¹ As outlined in *Pearson v IAT* [1978] Imm AR 212 and confirmed in *Odelola*, the Immigration Rules “are not delegated legislation or rules of law, but rules of practice for the guidance of those who administer the Act” which have a status “well beyond that of normal administrative guidelines” (Clayton, 2019: 32). *SSHD v Pankina and others* [2010] EWCA Civ 719 confirmed that the rules are not subordinate legislation, and that “the arrangements for their creation are ‘not merely unusual but unique’” (para 13). As secondary legislation, the Rules are amended by statutory instrument and changes to the Immigration Rules are frequent.

¹² While the 1951 Convention relates explicitly to *refugee status determination*, I have chosen to use the term *asylum determination* in this thesis when discussing this process because, in the UK, the Immigration Rules “now treat an asylum applicant as a person who either makes a request to be recognised as a refugee under the Refugee Convention or who otherwise makes a request for international protection” such as humanitarian protection or some other form of discretionary leave to remain (Harrison *et al.*, 2021: 914).

¹³ British citizens with right of abode automatically have the right to enter and remain in the UK and therefore are not subject to the conditions and requirements as outlined in the Immigration Act 1971. Eligibility and suitability requirements for British citizenship are outlined in the British Nationality Act 1981, as amended by the Nationality and Borders Act 2022. It is not possible for a British citizen to apply for asylum in the UK, so I have precluded any consideration of British nationals from my subsequent analysis.

¹⁴ s. 1(4) Immigration Act 1971.

¹⁵ These requirements are outlined in the relevant Appendices to the Immigration Rules.

countries subject to visa requirements¹⁶. The scope and detail of each of these routes is outside the bounds of this thesis, yet it is crucial to recognise that this complex arrangement of secondary legislation functions to narrowly structure who is allowed in and out of the UK in accordance with government policy¹⁷.

Over the past two decades, the depth and breadth of the conditions which govern admission, permission to stay, and removal, has expanded exponentially alongside a growing securitisation of the border and criminalisation of irregular border crossings. Importantly, this is not limited to the expansion of immigration law. Rather, a plethora of administrative¹⁸ and criminal conditions are now included within this complex legislative architecture and contemporary legislative developments in asylum policy are perhaps most notable for the increasing entanglement of immigration and criminal law (Yuval-Davis, Wemyss and Cassidy, 2019; Goodfellow, 2020; Yeo, 2020).

The imposition of carrier sanctions¹⁹, overseas migration screening, biometric indicators, and enhanced security screening, translate the techniques and logics of risk and security to the management of human mobility, such that transnational movement has become increasingly securitised (Amoore, 2006; Salter, 2006; Dauvergne, 2013; Bello, 2022). Concurrently, an expansion of policies of ‘crimmigration’ (Stumpf, 2006; Hernández García Cuauhtémoc, 2014; Franko, 2019) such as criminal penalties for ‘illegal entry’²⁰ and the possession of fraudulent documentation²¹ signal “a rapid move away from ‘due

¹⁶ Appendix Visitor: Visa National List. Many critical legal scholars have noted that the visa national list disproportionately features countries from the global south, or from countries where there are a large number of refugees (Stevens, 2004). The government is able to add countries to the visa national list through statements of changes to the Immigration Rules. This is often done in a reactive manner. For example, in July 2023 (HC 1715), the HO imposed a visa restriction on Timor-Leste because of "a sustained increase in the number of Timorese nationals arriving at the UK border as non-genuine visitors with the intention to fraudulently claim EU Settlement Scheme status".

¹⁷ Those who already have ‘protection status’ (e.g. a refugee who is being resettled in the UK under a UNHCR resettlement programme) are eligible to enter and remain in the UK, although they do need to apply for settlement under Appendix Settlement Protection after a period of five years. Those with protection status are able to bring family members to the UK under the family reunion routes (Appendix Family Reunion (Protection) and Appendix Child staying with or joining a Non-Parent Relative (Protection)).

¹⁸ For example, immigration (administrative) offences such as using deception on an immigration application impose non-criminal penalties such as re-entry bans of up to 10 years on applicants. The rules relating to alleged deception, false information, and mistakes are outlined in Part 9 of the Immigration Rules.

¹⁹ Part II Immigration and Asylum Act 1999 as amended by Schedule 8 Nationality, Immigration and Asylum Act 2002 and s.76 Nationality and Borders Act 2022.

²⁰ s.24 Immigration Act 1971, as amended by s.40 NABA..

²¹ s.3 Forgery and Counterfeiting Act 1981.

process’ and towards embracing a ‘crime control’ model of the criminal process” (Bhatia, 2020a: 39). Thus, although the 1951 Convention imposes an obligation on states to not impose penalties on claimants “on account of their illegal entry or presence” provided they show good cause (Article 31), in practice, there exists a “formidable range of obstacles to prevent legal and physical access to territory and to criminalise individuals once they have arrived” (Feller, 2001: 589)²².

The material consequence of these changes is that people seeking safety are effectively forced to resort to dangerous journeys to reach the UK in order to claim asylum. At the time of writing, the ‘Small Boats Crisis’ is the most visceral articulation of the reduction in legal routes to entry. The ‘Small Boats Crisis’ refers to the journeys of many thousands of refugees who reach the UK via the English Channel by small (and often fatally overcrowded) boats from France. The human cost of this legal architecture cannot be overstated. In the first week of October 2024 alone, five people including one two-year-old child died while attempting to reach the UK via a ‘Small Boat’ (Cole and Pradier, 2024). As many critics have pointed out, the reduction in ‘safe and legal’ routes to access the UK has no effect on the need for individuals to migrate, it just forces people to choose more dangerous options.

In summary, critical legal scholars have long advised that states’ discretion in refugee status determination procedures is often leveraged to prioritise exclusionary practices over humanitarian considerations (Harvey, 2000; Stevens, 2004) and the compatibility of these legislative measures with the protection framework outlined in the 1951 Convention is therefore “tenuous” (Feller, 2001: 589).

1.6.3. Contemporary developments

While this complex legislative architecture has a long history, the last three years have seen an increased pace of change. During the time in which I was writing this thesis, there were three notable developments to the legal framework supporting asylum determination in the UK: the Nationality and Borders Act 2022 (NABA), the Rwanda Policy, and the Illegal Migration Act 2023 (IMA). Indeed, the UK’s departure from the EU in 2021 not only led to the end of free movement rights for EU nationals²³ but, as Mayblin et al. (2024: 256) identify, the UK’s departure from the EU also created “a political

²² s.31 of the Immigration and Asylum Act 1999 introduced a statutory defence to prevent the wrongful conviction of refugees for the possession or use of false documents. However, many scholars have pointed out that the scope of the defence is too narrow and therefore many refugees are still criminalised in breach of Article 31 (Harrison *et al.*, 2021; Taylor, 2024).

²³ The UK’s departure from the EU ended free movement rights for EU nationals as well as nationals of Switzerland, Norway, Iceland and Liechtenstein, and their family members who may be non-EU nationals.

opportunity for the far right within and outside the Conservative Party to reimagine UK immigration and asylum policy”²⁴.

While it is not necessary to outline these developments in extended detail, and many of these developments were never fully implemented, below I have summarised some of the key points so as to provide the tumultuous legislative context in which I was conducting this PhD research. This shifting legislative landscape is referenced at length in the empirical chapters of the thesis, most significantly in *Chapter Six: Immigration Practitioners – “Emailing into the Void”*.

1.6.3.1. Nationality and Borders Act 2022

The basis for many of these developments was the New Plan for Immigration. Published in March 2021 under the tenure of Priti Patel as Home Secretary, the New Plan for Immigration established the policy platform through which the government in the UK would “address the challenge of illegal immigration... through comprehensive reform of our asylum system” (Home Office, 2022b). In it, the government committed to an “overhaul” of “the UK’s decades old domestic asylum framework” to stop people “frustrat[ing] their removal by filing an asylum claim” (*ibid.*).

This policy was operationalised through the Nationality and Borders Act (NABA) which received royal assent and became law on 28 April 2022. NABA introduced several key changes to the refugee status determination procedures in the UK including to administrative processes²⁵, decision-making practices, and the rights afforded to refugees. It also served to further criminalise asylum applicants. Three key aspects of this legislation are discussed below²⁶.

First, s.12 NABA introduced a two-tier asylum system such that refugee status was differentiated according to the mode of arrival; Group One and Group Two status. Group Two refugees, who had arrived ‘irregularly’ – for example, on a ‘Small Boat’ – were instead granted ‘temporary refugee permission’ instead of refugee status. This new form of differentiated status gave only 30 months of

²⁴ Although the Conservative party are no longer in government, and the Rwanda Policy (see below) is no longer in effect, this trend is continuing under the government of Kier Starmer.

²⁵ These changes to administrative processes include requiring applications to be made at a designated place (s.14 NABA), augmenting the provisions for age assessments (s.49-57 NABA), removing certain appeal rights (s.28 NABA) and fast-tracking cases through Priority Removal Notices (s.20-25 NABA)

²⁶ NABA also introduced a range of additional reforms relating to nationality (Part 1), but I have not included these as they do not directly affect the asylum determination process.

leave to remain (LTR) in the UK, with an option to settle in the UK only after 10 years of lawful residence, rather than five years²⁷.

Second, s.32 NABA reduced the scope for recognition as a ‘Convention’ refugee by increasing the standard of proof. While the *burden* of proof lies with the applicant to evidence that they are a refugee, the *standard* of proof is determined in national legislation. Prior the implementation of NABA, an applicant would need only to prove that there was a ‘reasonable degree of likelihood’ that they faced persecution. However, for claims submitted on or after 28 June 2022, the establishment of material facts was disentangled from evaluation of future risk of harm, such that the establishment of material facts is now assessed in accordance with the higher ‘balance of probabilities’ (Home Office, 2023a). The evaluation of future risk of persecution remains on the lower ‘reasonable degree of likelihood’ for all applications (*ibid.*)²⁸. The changes introduced by NABA divided the determination process such that cases were referred to as either being in the ‘legacy’ (pre-NABA) or ‘workflow’ (post-NABA) cohorts. This had a particularly significant impact on the developments of targeted administrative developments, such as the PACE caseworking scheme, explored at length in *Chapter Four: Consultants*.

Third, NABA introduced two new criminal offences of ‘illegal arrival’²⁹ and the ‘facilitation of illegal arrival’³⁰. These new offences augmented the existing powers under the Immigration Act 1971 by making it a criminal offence to *arrive* without entry clearance, and increasing the sentencing threshold from 6 months to 4 years (Taylor, 2024). In combination with this change, s.38 NABA reduced the threshold at which an individual is considered to have committed ‘particularly serious crime’³¹ and as such may be precluded from refugee protection. Thus, while policies of ‘crimmigration’ preceded the previous Conservative administration, NABA was notable for how it almost entirely removed refugees and asylum seekers from a space of humanitarian protectionism and into a criminalised sphere (Goodman and Speer, 2007).

²⁷ In July 2023 differential treatment for the ‘Group One’ and ‘Group Two’ refugees was rescinded by statutory instrument in a change to the Immigration Rules (HC 1496). This occurred after I concluded my interviews with immigration practitioners and so there remains discussion of ‘Group One’ and ‘Group Two’ status in the analysis in this thesis.

²⁸ In this context, real risk is clarified in *Sivakumaran v. SSHD* [1987] UKHL 1 as “even a 10 per cent chance of being shot, tortured or otherwise persecuted”.

²⁹ s.24 Immigration Act 1971, as amended by s.40 NABA.

³⁰ s.25 Immigration Act 1971, as amended by s.41 NABA.

³¹ See footnote 10, this chapter, relating to Article 33 (2) 1951 Convention.

1.6.3.2. The Rwanda Policy

The “third country asylum processing policy” or ‘Rwanda Policy’ is a process through which “individuals identified as being in the UK illegally, or seeking asylum after arriving illegally, are relocated to a safe third country” for asylum processing (National Audit Office, 2024: 4). The policy was the centrepiece of Suella Braverman’s tenure as Home Secretary.³²

Legislated for through the NABA (and latterly, the Illegal Migration Act 2023) in combination with the Migration and Economic Development Partnership with Rwanda (MEDP), the Rwanda Policy enables the Secretary of State to declare asylum claims submitted on or after 28 June 2022 as inadmissible³³ and outside the scope for consideration under the UK’s Immigration Rules³⁴. This means, the Home Office will either seek to return the applicant to the designated ‘safe third country’ or, crucially, to another country entirely³⁵. This policy covered anyone who arrived in the UK via so-called ‘illegal’ routes since 1 January 2022³⁶. For these changes to take effect, the UK is dependent on individual agreements with third countries considered ‘safe’. In April 2022, alongside the introduction of NABA, the Home Office signed the MEDP with Rwanda to facilitate such third-country processing. Should a refugee become recognised following a determination in Rwanda, then Rwanda – not the UK – would become their ‘host’ state.

In November 2023, after a lengthy appeals process, the UK Supreme Court found that sending refugees to Rwanda was unlawful due to the risk of *refoulement* (*AAA (Syria) and others v SSHD* [2023] UKSC 42). As a response, the previous Conservative administration introduced the Safety of Rwanda (Asylum and Immigration) Act 2024, which received royal assent on 25 April 2024. This new act effectively bypassed the decision of the Supreme Court by obligating every decision-maker to “conclusively treat

³² Braverman famously told attendees at the Conservative Party conference, “I would love to have a front page of *The Telegraph* with a plane taking off to Rwanda, that’s my dream, it’s my obsession” (Dearden, 2022).

³³ s.15 and s.16 NABA inserted a new Part 4A into the Nationality, Immigration and Asylum Act 2002. A claim is inadmissible where an applicant is an EU citizen (s. 80A Nationality, Immigration and Asylum Act 2002) or has an (often tenuous) connection to a safe third country (s.80B). Notably, this declaration of inadmissibility is discretionary and so it is still subject to judicial review – the Secretary of State “may declare” such a claim inadmissible (s.80B(1)).

³⁴ Unless any exceptional circumstances arise (Nationality, Immigration and Asylum Act 2002 s.80B(7))

³⁵ On account of no decision being made on the application, there are no rights of appeal (Nationality, Immigration and Asylum Act 2002 s.80B(3)).

³⁶ According to Home Office guidance, claims made before 28 June 2022 *may* be liable to inadmissibility proceedings under paragraphs 345A-B of the archived Immigration Rules (Home Office, 2024e: 13).

the Republic of Rwanda as a safe country”³⁷. Following the general election in July 2024, the new Labour government announced they will no longer be pursuing the Rwanda policy.

No asylum seekers were ever relocated to Rwanda to have their claim considered. Yet, many were sent letters of intent informing them that they were in the ‘Rwanda cohort’, and as such were liable for detention and removal. As the charity Medical Justice (2024) have shown, people were held in detention for up to 50 days pending a flight to Rwanda, many of whom had complex and severe mental and physical health conditions which worsened in long periods of detention. This culminated in “alarmingly high suicide risk levels, deterioration and harm” (*ibid.*: 6). I conducted my interviews during this legal challenge and discuss the impact of this long and protracted process and the impact on applicants in *Chapter Six: Immigration Practitioners – “Emailing into the Void”*.

1.6.3.3. The Illegal Migration Act 2023

The Illegal Migration Act (IMA) 2023 received royal assent in July 2023. As outlined in the introduction to the IMA, the aim of this legislation is to “prevent and deter illegal migration”³⁸ – in particular, stopping the ‘Small Boat’ crossings. The IMA augmented the existing ‘inadmissibility’ provisions by placing a legal duty on the Home Secretary to remove anyone arriving to the UK “in breach of Immigration controls”³⁹ if, in travelling to the UK, “they passed through or stopped in”⁴⁰ a country considered to be ‘safe’⁴¹. This applied to all arrivals to the UK on or after 7 March 2023⁴², when the Act was first introduced to Parliament. For unaccompanied children, this duty applies once they reach the age of 18.

As Colin Yeo (2024: 243) outlines, this duty to remove imposed by the IMA effectively “abolishes the entire domestic asylum system” since refugees who arrive on or after 7 March 2023 by irregular means will “either be removed to Rwanda or left in permanent limbo within the United Kingdom”. As discussed above, the imposition of numerous obstacles which effectively reduce access to ‘safe and legal’ routes to enter the UK as an asylum seeker means that this provision impacted the vast majority of refugees.

The provisions of the IMA were never fully implemented, nor were they operable until the signing of the Safety of Rwanda Act in 2024. I conducted the last of my interviews just as the IMA was introduced to parliament in Bill form. The shifting legislative landscape became a central concern of the

³⁷ s.2(1) Safety of Rwanda (Asylum and Immigration) Act 2024.

³⁸ s.1(1) Illegal Migration Act 2023.

³⁹ s.1(2) Illegal Migration Act 2023.

⁴⁰ s.2(5) Illegal Migration Act 2023.

⁴¹ The list of countries considered to be safe is found in s.80AA Nationality, Immigration and Asylum Act 2002.

⁴² s.2 Illegal Migration Act 2023.

practitioners I interviewed during this stage, as they struggled to stay abreast of all of the changes impacting asylum determination processes. I explore these frustrations in *Chapter Six: Immigration Practitioners – “Emailing into the Void”*.

1.6.4. Asylum administration in the UK

Having outlined the legal framework, the following section situates the research in its contemporary administrative context. Despite outlining *who is* a refugee, the 1951 Convention does not provide for the type of procedures which ought to shape refugee status determination. As outlined in the UNHCR guidance, it is instead “left to each Contracting State to establish the procedure that it considers most appropriate, having regard to its particular constitutional and administrative structure” (UNHCR, 2019: 42).

Through a vast administrative infrastructure headquartered at Lunar House in Croydon and with tentacles across the UK, the Home Office is the government department responsible for asylum determination. A large and complex government department, the Home Office is (at present⁴³) structured into a web of ‘missions’, ‘capabilities’, ‘delivery groups’, and ‘commands’ (National Audit Office, 2023a; Neal, 2024). Within this complex administrative form, Asylum and Protection (part of the ‘Customer Services Capability’) is responsible for running both the asylum system and refugee resettlement programmes and, within Asylum and Protection, Asylum Operations is responsible for the administration of upwards of 120,000 applications for asylum per year (Home Office, 2024g). A “large scale, heavily staffed” agency (Thomas, 2011: 51), Asylum Operations is archetypal of many public institutions tasked with the management and delivery of a large number of individual caseworking decisions in that it is structured in line with a bureaucratic model of organisation.

In the UK, first-instance asylum determination⁴⁴ is administrative in nature (Thomas, 2011). Located in 16 decision-making units (DMUs) across the UK in Belfast, Cardiff, Durham, Glasgow, Leeds, Liverpool, Manchester, Mersey, Lunar House (Croydon), Newcastle, Sheffield, Solihull (Neal, 2024) and a recently opened office in Stoke, Home Office asylum caseworkers decide on applicants’ eligibility for refugee status (or humanitarian protection) in accordance with international legal norms, national

⁴³ The Home Office is notorious for going through departmental change and as such the organisational structure is often in flux.

⁴⁴ In using the term ‘first-instance’, I am distinguishing between first level of the claim process – initial decisions on asylum applications – as opposed to the asylum appeal process which takes place at the Asylum and Immigration Tribunal (both the First-tier and Upper Tribunal) and is judicial in nature. It is also worth highlighting again at this juncture that it is possible to submit Public Law challenges in the form of Judicial Review. In *Chapter Six – Immigration Practitioners: “Emailing into the Void”*, I discuss practitioners’ use of the JR process, but I do not discuss the substance of JR decisions in my analysis.

caselaw, primary legislation, and the UK's immigration rules. To do so, they undertake a holistic assessment of all relevant factors relating to a case, drawing on information gathered at a substantive asylum interview⁴⁵, oral and written testimonies from the applicant, supplementary documentary evidence, and information relating to their Country of Origin Information⁴⁶ (COI) (van der Kist, Dijkstra and De Goede, 2019; van der Kist, 2022).

The asylum determination process is, itself, split into two distinct stages of 'fact-finding' and evaluation of future risk (Thomas, 2011). Through the substantive asylum interview and review of supplementary evidence⁴⁷, caseworkers gather and assess which elements of the claim they consider to be relevant to both experiences of persecution and future risk thereof (Anderson, 2021).

In the fact finding stage, caseworkers must determine whether the applicant has a characteristic which would cause them to fear persecution for one or more Convention reason and then, indeed, whether they do in fact face persecution (Home Office, 2023a: 25). This step includes identifying the material facts of a claim and assessing credibility (and reliability) of evidence presented in support of the claim, as well as deciding whether (a) the harm that the applicant fears amounts to persecution, (b) whether the harm they fear is for a Convention reason, and (c) whether the claimant in fact fears persecution (*ibid.*). This 'fact-finding' phase structures and draws upon evidence gathered at the substantive asylum interview, as well as incorporating documentary and COI evidence. To summarise, Colin Yeo (2022b) isolates the key questions posed by caseworkers at this stage as: Will it happen? (credibility and COI evidence); What will happen? (persecution); and Why will it happen? (Convention reason).

As part of this fact finding stage, caseworkers make an assessment of the applicants' veracity; this is called the credibility assessment. Although credibility in this context should not be treated as having "some special technical meaning" (Underhill LJ in *MN and IJU v SSHD* [2020] EWCA Civ 1746), an assessment as to the credibility of the claim is inherently difficult and forms a central nexus around which this determination process revolves. A negative assessment of credibility often forms the

⁴⁵ At the time of data collection, most asylum caseworkers worked in accordance with an 'interview-decide' model, which means that the same caseworker who conducts the substantive asylum also makes the decision (Neal, 2021: 41). However, it is important to note that the Home Office moved away from this interview-decide model in mid-2023 to streamline asylum decision-making (for more, see *Chapter Four: Consultants*). The Streamlined Asylum Process (SAP) removed the substantive asylum interview from the claim process (as in the case for those issued an Asylum Questionnaire) and the Concise Interview Project (CIP) additionally shortened the interview by removing from it the "credibility challenge" (Home Office, 2023b; Neal, 2024).

⁴⁶ For those who are stateless, this is information relating to their country of habitual residence.

⁴⁷ While decision-makers engage in 'fact-finding', the burden of proof is on the applicant to demonstrate how and why they ought to be declared a refugee.

foundation to the refusal of asylum claims in the UK (Memon, Vrij and Bull, 2003; Amnesty International, 2013; Rider, 2014).

At the evaluative stage, caseworkers are then required to make an assessment as to whether the applicant faces a risk of persecution or serious harm should they return to their country of habitual residence. At this point, caseworkers also assess whether internal relocation or a subsidiary form of protection is more appropriate. For an applicant to be declared a refugee, a caseworker needs to be satisfied that (a) the claimant has a subjective fear of persecution or an apprehension of future harm, and (b) objectively, there is a real risk of the claimant's fear being well founded (Home Office, 2022a).

Prior to the implementation of the Nationality and Borders Act 2022, an applicant would only need to prove that there was a 'reasonable degree of likelihood' that they faced persecution. Latterly, s.32 NABA codified the assessment approach into a Stage One and Stage Two approach wherein the establishment and assessment of material facts was disentangled from the evaluation of future risk. In this model, for claims submitted on or after 28 June 2022, Stage One is assessed in accordance with the higher 'balance of probabilities' standard of proof (Home Office, 2023a).

In February 2023 the Home Office introduced a new 'Streamlined Asylum Processing' policy and application process. The process enabled the Home Office to "accelerate the processing of cohorts of claims which are generally manifestly well-founded" (Home Office, 2023b: 7) by allowing decision-makers to take decisions on claims without conducting an in-person substantive asylum interview. To facilitate this process, adults from Afghanistan, Eritrea, Libya, Syria, and Yemen who arrived in the UK before 7 March 2023 and had submitted an asylum claim (but had not yet attended a substantive interview) were sent a questionnaire to complete (Neal, 2024). This became known as the 'Asylum Questionnaire'. The Asylum Questionnaire was sent to all eligible asylum applicants in English, and claimants were required to return the questionnaire within 20 working days. Should a claimant not return the questionnaire, the Home Office would treat the asylum claim as withdrawn under Paragraph 333C of the Immigration Rules.

The introduction of the Asylum Questionnaire was met with both shock and frustration from the asylum practitioner sector, who accused the Home Office of not working productively with civil society partners (this is something the Home Office latterly admitted at the Public Accounts Committee: 2023: Q120). Furthermore, many highlighted the significant risks involved in the decision to only distribute the form in English – namely, the lack of available interpreters and an at-capacity legal advice sector. The Asylum Questionnaire was later augmented to include a 30-day return window (with the Home Office caseworker issuing a reminder after 20 days), and an application process for issuing further extensions

(Home Office, 2024f). For adult applicants from Iran who applied for asylum between 28 June 2022 to 7 March 2023, the Asylum Questionnaire is now accessible as an online platform⁴⁸.

1.6.4.1. The asylum backlog

The pre-eminent concern surrounding the asylum system during the time in which I conducted this research was the so-called ‘asylum backlog’. By December 2022, an awareness of a growing ‘backlog’ of initial asylum decisions had been simmering for some time. Home Office official statistics show that the backlog in decisions started to rise as early as 2018 (Home Office, 2024d), in 2019 whistle-blowers warned that the backlog was “humongous” (Hill, 2019), and by 2021 representatives of the Home Affairs Committee showed alarm that the asylum backlog was increasing exponentially (Home Affairs Committee, 2021b).

While Home Office officials pointed to resourcing challenges, the impact of the pandemic, and lack of investment in technology (Rycroft at Home Affairs Committee, 2021b: Q215), there was a recognition that the Home Office had, by 2021, allowed the situation “to spiral out of control” (Patrick Grady MP at HC Deb 7 July 2021. vol. 698, c. 248WH). Indeed, by mid-2021, the asylum backlog had become a “chronic” administrative issue for the Home Office (Yeo, 2024b: 244), reminiscent of the “bad old days when people were talking about the Home Office not being fit for purpose” (Stuart McDonald at Home Affairs Committee, 2021b: Q214).

The UK’s departure from the EU in January 2021 focused the interest of the media on this escalating administrative concern. The ‘broken asylum system’ became the object of unrelenting negative media coverage, embodying the ‘failure’ of successive Conservative governments to ‘take back control’ of the UK’s borders (Mayblin *et al.*, 2024). Propagating dehumanising and criminalising discourses surrounding those seeking safety in the UK (Bhatia, 2018), these media narratives led to increased “noise” over the effective functioning of the asylum system (Linda)⁴⁹ and coalesced around a trifecta of ‘small boat arrivals’, increased spending on asylum hotels, and the ever-expanding backlog of initial asylum decisions. This complex interplay of administrative, political, and fiscal concerns became framed as “a major political and social crisis” (V. Taylor, 2024: 1) and, as Colin Yeo (2024b: 246) suggests, by the end of 2022, the asylum backlog had become a “public policy and political disaster of epic proportion”.

The media concern coalesced around the increasing spending on temporary asylum accommodation and asylum support which, for the year 2022-23 reached £3.6 billion (NAO, 2023: 20). For activists and advocates, the appalling state of temporary accommodation and the increasingly long time it was taking

⁴⁸ <https://www.gov.uk/guidance/questionnaire-continue-your-asylum-claim>

⁴⁹ Interview with Linda and Sam, government auditors. 5 July 2023.

for decisions to be made was seen as a form of structural violence against people in the asylum system, where inadequate accommodation and food led to a plethora of interconnected harms and had significant and far-reaching consequences for mental and physical health and wellbeing (Bhatia and Cavalcanti, 2024).

Repeated pledges to clear and ‘abolish’ the backlog in initial asylum decisions came to dominate the political landscape for the previous Conservative administration and became emblematic of former Prime Minister Rishi Sunak’s time in office. Indeed, as I discuss at length in *Chapter Five: Caseworkers*, it is against this background that (then) Prime Minister Rishi Sunak made his first major speech on immigration in December 2022. Framed as a “five-point plan” through which he would ‘tackle’ the problem of “illegal migration” (Sunak, 2022), he committed to establishing a unified Small Boats Operational Command to police the channel, to increase raids on unauthorised working, reduce the use of hotels as contingency accommodation, and establish an agreement with the Albanian government to facilitate the removal of Albanian asylum seekers. He also pledged to “abolish the backlog of initial asylum decisions” by December 2023 (*ibid.*).

The pledge of ‘abolish’ the backlog became a central unifying nexus around which many policy developments were structured. The pledge to clear the backlog also provided the basis for many of the legislative and administrative developments discussed in this thesis, including, for example NABA, the PACE caseworking scheme, the Streamlined Asylum Policy, and the introduction of the Asylum Questionnaire discussed in *Chapter Four: Consultants*. It is against this backdrop of political and administrative turmoil that much of the subsequent analysis is based.

1.7. Structure of the Thesis

This thesis is comprised of seven chapters and ought to be read in two parts, reflecting the two distinct research aims. In the first part of the thesis, I introduce the research and develop the novel methodological approach which will structure the thesis. This is the focus of Chapters One – Three, and comprises the literature review, development of the conceptual framework, and the methodology chapters. In the second part, I apply my methodological approach – of multiple encounters with opacity – to the three viewpoints, or perspectives, through which to generate new insights into the asylum determination process: administrative design, implementation, and external responses. I then reflect on the research process and draw some overall conclusions. This provides the substance for Chapters Four – Seven and includes the three empirical chapters and the conclusion. An overview of each of these chapters is given below.

In *Chapter Two: On bureaucracy*, I review the relevant theoretical and empirical literature in order to develop a conceptual scaffold for the subsequent analysis. This chapter explores normative and paradigmatic frameworks for administrative decision-making – arguing for an understanding of asylum

determination processes as following that of contemporary bureaucracy. I then identify and explain the knowledge practices which structure this bureaucratic form: documentation, datafication, and quantification. Following this, I attend to the relevant socio-legal literature in order to understand how academics have approached empirical analyses of bureaucratic work, focusing on ‘street-level’, institutional, and infrastructural approaches. Recognising the dearth of socio-legal literature exploring (the production of) opacity in contemporary administrative structures, I conclude the chapter by expanding my analytic gaze to consider relevant literature in critical migration and critical security studies. Synthesising the literature with that of socio-legal studies, I present a methodological approach to studying socio-legal institutions that questions, ‘what is opacity here? what is opacity now?’ (cf. Walters, 2021) across different stages of the bureaucratic process.

This methodological orientation is explored further in *Chapter Three: Researching Opaque Institutions*. In this chapter, I concretely outline the methodological approach I have taken and the qualitative methods that enabled me to conduct the subsequent empirical analysis. It is in this chapter that I introduce how and why I use a methodological approach that considers both the data disclosed and the disclosure process itself (Walby and Luscombe, 2021) and, in the section, ‘looking at negative space’, I reflect on the successes, challenges, and frustrations of a methodology of opacity.

The three empirical chapters which follow approach the tactics and consequences of opacity from three different perspectives, and they each begin with a moment in which opacity was (un)made or where the effects of opacity were made legible. The aim of structuring the thesis through these three analytical entry-points is that it is through these three empirical chapters is a theory of bureaucratic opacity composed of epistemic, structural, and relational dimensions.

In the first chapter, my analysis begins with an omission at a Home Affairs Committee meeting where it was revealed that a management consultancy firm supported the design and development of a novel caseworking programme. This chapter explores the structures of the contemporary asylum bureaucracy and the hidden assemblages which form its contemporary iteration. Drawing on 18-months of data collection in the form of Freedom of Information (FOI) requests, qualitative interviews, and analyses of Home Office transparency documents, this chapter looks at the role of management consulting firm Newton Europe in the design and development of a major caseworking programme: Prioritising Asylum Customer’s Experience (PACE). In tracing the interventions of Newton Europe across this core programme, the findings presented in this chapter detail – for the first time – the nature and extent of private consultancy involvement in asylum administration in the UK. In the analysis, I explore how hidden actors – such as management consultants – both develop and obfuscate asylum decision-making processes in the UK and I identify how relationships of ‘insourcing’ produce opacity in contemporary public administrations.

The second chapter begins with a critique by a current asylum caseworker (James) that the quantification of asylum decision-making is an inappropriate measurement for success. The focus of the chapter is thus on how institutional opacity is produced in the production and circulation of legitimising knowledge. Centred on the use of productivity metrics to measure asylum caseworkers' performance, I critically analyse the legitimising function of this data and question what is revealed and concealed about asylum determination processes through their use. This chapter attends to the production and circulation of knowledge and (non)knowledge in the management of migration. Drawing on instances where secrecy around asylum caseworking is made and (un)made in public forums (Glouftsiou, 2024a), I move beyond a legal analysis which questions secrecy as a barrier to transparency and accountability, to exploring secrecy as something which is "generative with regards to affects and energies" (Walters, 2021: 20).

The third chapter begins with an immigration practitioner (Kevin) reflecting on the difficulties he faced in contacting the Home Office. In it, I draw on 15 qualitative interviews with immigration practitioners to show how practitioners experience the bureaucratic opacity of the Home Office in their everyday work and untangle opacity's emotional and affectual impacts. Here, I show that a lack of communication coupled with erratic decision-making, long silences, and delays manifests in confusion, frustration, and exhaustion for immigration practitioners. I demonstrate that this heightens an already adversarial relationship between practitioners and the Home Office, and risks practitioners appearing as the "face of incompetence" by their clients. However, despite these challenges, this chapter demonstrates the ways in which practitioners employ a politics of knowledge exchange to facilitate solidarity and resistance, challenging the obfuscation engendered in asylum decision-making processes. Problematising opacity as a breakdown in communication and strategic obfuscation, this chapter details how practitioners are both affected by but also subvert and manoeuvre creatively through the bureaucratic opacity of the Home Office.

Finally, in *Chapter Seven: Conclusion* I bring together the key themes from the thesis and outline the contribution that this thesis makes to academic research on asylum administration. My central argument in this thesis is that bureaucratic opacity can materialise on multiple levels (structural, epistemic, relational), reflecting the fact that 'bureaucracy' is both an administrative form and an analytical concept (Olsen, 2006).

Chapter 2 On bureaucracy

The first aim of this thesis is to explore alternative methodologies for socio-legal studies which can help generate insight into ‘opaque’ institutions. Consequently, the aim of this literature review chapter is to synthesise the existing academic work on frontline administrative decision-making to develop a conceptual framework suitable to support such an approach. This task includes understanding how frontline decision-making is organised, the normative and cognitive frameworks that inform administrative design, and the actors which inhabit the administrative form.

To begin, I suggest the Home Office’s Asylum Operations should be understood as a contemporary bureaucracy. After reviewing the relevant socio-legal literature which discusses organisational paradigms for first-instance administrative decision-making (e.g., Mashaw, 1983; Adler, 2003; Thomas, 2011; Arvind, Halliday and Stirton, 2024), my contention is that asylum determination in the UK has its “intellectual foundations” (Thomas, 2011: 51) and substantive realities in bureaucratic model of organisation.

I therefore highlight that it is of critical importance to recognise the significance of technical rationality as the ‘cognitive technique’ (Mashaw, 1983) undergirding this bureaucratic model. In the section *Bureaucratic knowledge production: practices and regimes*, I demonstrate that technical rationality has a significant influence on the development of bureaucratic ‘knowledge practices’ (Wissink, 2020, 2021). Drawing on a developed literature in legal anthropology, critical legal studies, and critical migration studies, I present four key ‘bureaucratic knowledge practices’ (*ibid.*) which help to elucidate the cognitive frameworks underpinning asylum determination procedures. Incorporating into my review the critical perspectives of Aníbal Quijano, Walter Dignolo, and Michel Foucault, I note that bureaucratic knowledge is socio-culturally situated and reflect on the role of (immigration and asylum) bureaucracies as tools of coloniality and racial ordering (Berda, 2022).

In the following section, *Understanding bureaucracies: power, justice, violence*, I look at three dominant themes drawn from the literature which situate determination processes in a wider social context: bureaucracies and colonial ordering, bureaucratic justice, and bureaucratic violence. To conclude my conceptual mapping of contemporary bureaucracy, I then address the means of enforcement used to support bureaucracy as a ‘legitimised system of dominance’ (Morrison, 1995). Here, I introduce the concept of bureaucratic violence drawn from contemporary criminological literature (Canning, 2017; Barassi, 2021; Bhatia and Canning, 2021). Having done so, I illustrate that the contemporary asylum bureaucracy is imbued with structural, epistemic, and relational dynamics.

In the second part of this chapter, I review existing socio-legal scholarship to understand the different ways in which immigration and asylum bureaucracies have been approached in the relevant academic literature. The aim of this section is to develop an understanding of bureaucratic implementation that moves beyond a normative analysis. Here, I introduce the ‘street-level’ approach (Lipsky, 1980;

Borrelli, 2021; Halliday, 2021), the institutional approach (Campbell, 2017; Hamlin, 2022), and the infrastructural approach (Sullivan, 2022; Valverde, 2022; Infantino, 2023b). As I discuss in the chapter, these three approaches have utility for my research in offering an understanding of bureaucratic action which is fluid, flexible and open to contingency (Zacka, 2017). They are also useful in accounting for the increasing entanglements of public and private interests in the contemporary asylum bureaucracy.

In the third and final part of this chapter, I address a gap in understanding ‘opaque’ bureaucratic institutions through a socio-legal lens. Thus, recognising that opacity is under-explored in the extant socio-legal literature, I turn to a burgeoning literature in critical migration and critical security studies which deals with opacity, obfuscation and secrecy in contemporary bordering regimes (Aradau and Perret, 2022; Glouftsiou, 2023, 2024b; Stavinoha, 2024). Demonstrating how and why a relational ontological understanding of opacity could be useful for socio-legal investigations, I outline how and why researching bureaucracies from the standpoint of opacity can generate useful insights into otherwise ‘hidden’ spaces. I conclude this chapter by positing a relational ontological approach to socio-legal research that is structured through the questions, ‘what is opacity *here*? what is opacity *now*?’ (cf. Walters, 2021: 8)⁵⁰.

2.1. Administrative decision-making

In the first part of this chapter, I develop a conceptual framework through which to understand asylum determination processes in the UK. I begin by looking at paradigmatic understandings of frontline administrative decision-making found in the relevant socio-legal literature.

I take as my starting point the three models for frontline decision-making outlined in Jerry Mashaw’s (1983) *Bureaucratic Justice*. I then explore and explain the model of particular relevance to this thesis: bureaucratic rationality. Following this, I place this understanding in conversation with the work of Michael Adler (2003) and Simon Halliday (2004). Acknowledging the influence of New Public Management (NPM) on the contemporary administrative process, I stress that the ‘cognitive technique’ of “information retrieval and processing” (Mashaw, 1983: 26) still provides the dominant epistemology undergirding first-instance asylum determination processes in the UK, notwithstanding the development of traditional ‘Weberian’ characteristics. To conclude this section, I propose that asylum determination processes in the UK ought to be considered as following a contemporary bureaucratic model.

This conceptual mapping is important not only for developing a framework for contemporary bureaucratic structures, through which relevant bureaucratic ‘knowledge practices’ can be identified

⁵⁰ Walters asks (at 2021: 8): “What is secrecy here? What is secrecy now?”

(Wissink, 2021), but also for understanding the political/power relationships imbued in the production of bureaucratic knowledge (Zetter, 1991)⁵¹.

2.1.1. Normative models of decision-making

In his highly influential account of the US Social Security Association's handling of disability claims, *Bureaucratic Justice*, Jerry Mashaw (1983) sought to develop cohesive models for evaluating frontline administrative decision-making. Recognising three dominant strands of critique made of the departments' handling of administrative claims, Mashaw identified three separate normative paradigms – or models – reflecting different ways in which administrative organisations should or could be organised. These models are *bureaucratic rationality*, *professional treatment*, and *legal/moral judgement*⁵² (Table One). As outlined by Mashaw, each of these three models, or normative paradigms, for decision-making have their own legitimising values, primary goals, structural logics, and cognitive techniques:

Table 1: Features of the Three Justice Models (Mashaw, 1983: 31)

<i>Dimension/ Model</i>	<i>Legitimizing values</i>	<i>Primary Goal</i>	<i>Structure/ Organisation</i>	<i>Cognitive technique</i>
Bureaucratic Rationality	Accuracy and Efficiency	Programme Implementation	Hierarchical	Information Processing
Professional Treatment	Service	Client Satisfaction	Interpersonal	Clinical application of knowledge
Moral Judgement	Fairness	Conflict Resolution	Independent	Contextual Interpretation

In Mashaw's outline, each of these models "is coherent, plausible, and attractive", such that they are "competitive rather than mutually exclusive" (Adler, 2003: 330). This means that a degree of *pluralism* exists between the approaches such that 'trade offs' are made between each of the three models

⁵¹ This is of particular relevance to my discussion on productivity metrics and bureaucratic accountability in *Chapter Five*.

⁵² Notably, when using this framework, Michael Adler (2003) and Robert Thomas (2011) both substitute 'moral' for 'legal judgement'. As Adler (2003: 329) writes, "the association of fairness with one of the models... and the implication that the other two models are 'unfair' is unfortunate".

continually within administrative organisations in practice⁵³. Of particular relevance to this thesis, Mashaw suggested that the vast majority of administrative agencies organise frontline decision-making in accordance with the model of bureaucratic rationality.

Indeed, Robert Thomas (2011), writes that asylum determination in the UK can be seen to incorporate all three of these ‘models’ at different stages of the determination process (Thomas, 2011). He posits that initial decision-making on asylum applications is organised in accordance with the ‘bureaucratic’ model. Government policy is articulated through the Immigration Rules, direction on entitlement is given to caseworkers through instructions and guidance documents (APIs), and thus policy is implemented by individual asylum caseworkers in line with fixed rules and procedures. Asylum decision-makers form the “agency’s operating core” (*ibid.*: 52) and are managed in a strict hierarchy of middle managers and a senior directorate. Asylum caseworkers collate and review documentary evidence relating to the applicants’ case and relevant country information; their skill “arises not from any particular professional knowledge, legal or otherwise, but from their ability to apply the rules” (*ibid.*). However, he acknowledges that the appeal process switches to the legal framework, adjudication being the responsibility of an immigration judge. At the same time, the determination process is reliant – to a significant extent – on professional expertise through the medium of medico-legal reports and country guidance information. Each of these actors bring to the process “a different model of adjudication... which in turn espouse competing legitimising values” (Thomas, 2007: 51).

There are two key aspects of Mashaw’s model of bureaucratic rationality to highlight at this stage. First, according to Mashaw, the legitimising value of bureaucratic rationality is both accuracy and efficiency. In this context, ‘accuracy’ refers to being cases determined against the “legislatively specified goal” (Mashaw, 1983: 25); the “legitimising force” flowing “from its claim to correct implementation of otherwise legitimate social decisions” and the implementation of government policy for which there is a mandate (*ibid.*: 26). Within Mashaw’s framework, ‘efficiency’ refers to the “attempt to realise society’s preestablished goals in some particular substantive domain while conserving... resources from the pursuit of other valuable ends” (Mashaw, 1983: 25).

Furthermore, Mashaw (1983) isolates the general ‘decisional technique’ of bureaucratic organisation as “information retrieval and processing” (*ibid.*: 26). He latterly calls this the ‘cognitive technique’ of the bureaucratic model of organisation. As will be discussed at length in section 2.2.1. *Technical rationality*, below, I suggest this ‘cognitive technique’ not only impacts how decision-making is organised, but it also shapes how the structures of bureaucratic organisation are formed, and processes developed.

⁵³ The impact of these ‘trade offs’ on administrative justice is outlined in section 2.3.2. *Bureaucratic Justice*, below.

Indeed, I suggest that the term ‘cognitive technique’ is representative of the epistemological model for bureaucratic organisation⁵⁴.

2.1.2. Bureaucratic rationality

At this point, it is worth explaining at length the theoretical model of bureaucratic rationality employed by Mashaw in his analysis. Here, he draws extensively on the theorisation of bureaucracy by Max Weber.

The seminal account of bureaucratic organisation is found in *Economy and Society* by Max Weber, German sociologist and ‘grand theorist of modernity’ (Du Gay, 2000: 4). As it appears today, *Economy and Society* is a cohesive tome comprised of multiple sketches and essays, disrupted by ill-health and later his death prior to completion in 1920. Weber’s “most ambitious and theoretical work”, *Economy and Society* investigates the development and growth of the modern administrative apparatus (Morrison, 1995: 212); the culmination of a period of academic exploration throughout which Weber turned his mind to developing a theory of legitimate rule/domination, and in which he disaggregated the various systems and structures of domination⁵⁵ from questions of ‘power’.

The objective of Chapter Three of *Economy and Society* is to understand the nature of bureaucracy through a methodological approach termed the ‘ideal-type’, a conceptual pattern which is used to provide a clarifying model of complex social action, akin to a “picture of events which approximates the reality... under certain conditions of its organisation” (Morrison, 1995: 271). The utility of such a methodological approach is held in its supposed exposition through an elucidation of their essential elements, enabling comparison (Weber, *Objectivity*: 90). The longevity of Weber’s ‘ideal type’ as a framework through which to understand the administrative organisations is such that Weber’s rational-legal model remains the “primary template for the description, measurement, and comparison of bureaucratic structures and practice” (Berda, 2022: 34).

⁵⁴ Adler (2003) substitutes ‘cognitive technique’ for ‘mode of decision-making’, in which he suggests a bureaucratic model of organisation is concerned with ‘applying rules’. However, as I will demonstrate below, this fails to grasp the paradigmatic consequences of ‘cognitive technique’/ ‘information retrieval and processing’.

⁵⁵ The use of rule or domination in the English translation of the German *herrschaft* is contested – some (e.g. Tribe in his 2019 translation) use ‘rule’, whereas others (Morrison, 1995; Whimster, 2003) use ‘domination’ to relate to the rule/ domination of those who have accepted their subordination through a belief in the legitimacy of power. I have chosen to follow Morrison (1995) in using ‘domination’ rather than rule, since “the term *herrschaft* encompasses an entire system of dominance and subordination supported by means of enforcement” and is thus best represented through ‘domination’ (Morrison, 1995: 283). In *Economy and Society*, Weber outlines his tripartite classification of domination – charismatic, traditional, and rational-legal – alongside ‘mechanics of classification’ and their sources of legitimacy (Tribe, 2019).

Weber considers bureaucratic organisation the ‘purest’ iteration of rational-legal domination (*Economy and Society*, Chapter 3 §4), technically the most rational means of exercising authority, and the basis of the Western (democratic) state (Morrison, 1995). Weber’s description of the bureaucratic mode of organisation is lengthy, and consequentially a detailed critique of each of the characteristics is outside the scope of this thesis. However, Christopher Pierson (1996) provides a useful overview as isolated around the following four features:

1. Bureaucratic administration is conducted in line with fixed rules and procedures, within the parameters of a clearly established hierarchy and demarcated official responsibilities.
2. The power of the civil service rests upon its specialised knowledge and ‘expertise’ because access to employment is dependent upon knowledge of specialised administrative procedures.
3. Bureaucratic management is based upon on a knowledge of written documents and depends upon the impartial application of general rules to particular cases.
4. Civil servants do not act in a personal capacity, but as the occupier of a particular public office.

Notably, Weber asserted that: “it is primarily the capitalist market economy which demands that the official business of public administration be discharged precisely, unambiguously, continuously, and with as much speed as possible” (Weber, *Economy and Society* pp.973-5 in Whimster, 2003: 248).

The four features of Weberian bureaucracy that Pierson presents are therefore useful in identifying and describing ‘bureaucratic’ organisations: highlighting the various actors, hierarchies, and materiality which exhibit their form. However, Barbara Townley (2008) suggests that a significant misconception as to the value of *Economy and Society* is that it offers a ‘prescriptive model’ of bureaucratic organisation.

Indeed, contemporary literature on the anthropology of bureaucracy suggests that ‘prescriptive’ analyses of bureaucracy foreclose avenues for research (Heyman, 2004; Hoag, 2011) by focusing on questions such as: do bureaucratic organisations function in practice as Weber’s ‘ideal type’ appears in theory? Instead, there is a distinction to be made “between the bureaucratic form and a bureaucratic rationality that underpins it” (Townley, 2008: 65). Rather than identifying or describing features in bureaucratic organisations, the value to be found in Weber’s work is in his identification of ‘technical rationality’ as its guiding epistemology. I therefore explore this further in section 2.2.1. *Technical rationality*, below.

2.1.3. The influence of New Public Management

Mashaw’s tripartite framework for administrative decision-making has been both highly influential and dominant within socio-legal literature (e.g., Thomas, 2011; Hamlin, 2014; Ryan, 2023). However, Michael Adler (2003) advances Mashaw’s normative paradigms to account for contemporary iterations

of public administration. Indeed, one of Adler's central contributions to socio-legal literature on administrative decision-making is a recognition of new paradigms for justice⁵⁶ in contemporary administrative structures. Most notably, how an ethos of *managerialism* has impacted contemporary administrative structures.

Indeed, it is important to place both Mashaw and Weber's theorisation of bureaucracy in their contemporary social contexts and recognise that their work preceded much contemporary social and ideological developments. By the mid-1980s, bureaucratic organisation had become "variously criticised" for failing to save costs, having a "vested interest in the maintenance and expansion of existing structures" and for "being insulated from competitive pressures to become more efficient" (Adler, 2003: 333). This led to the development of New Public Management as a new paradigm for public administration.

New Public Management (NPM) is an overarching concept used to describe both an administrative philosophy and a broadly coherent set of ideas and developments in public administration which were introduced in the latter part of the 20th century (Barzelay, 2001). This new approach to public management "was founded on a trenchant critique of bureaucracy as the organising principle within public administration" (McLaughlin, Ferlie and Osborne, 2001: 9), a concern with the capability of public institutions to ensure efficient provision of public services, and the perceived disempowerment of service 'users'.

Broadly, NPM refers to the application of institutional economics to public management, as well as a series of macro- and micro-level developments concerning a drive for efficiency, competition, downsizing and decentralisation, outsourcing, monitoring of output controls, and the introduction of performance management techniques drawn from the private sector (Flynn, 2001). As Drechsler (2014: 8) outlines, such developments were considered:

symbiotic with and based on a neo-liberal understanding of state and economy. The goal, therefore, is a slimlined, minimal state in which any public activity is decreased and, if at all, exercised according to business principles of efficiency.

Central to this reinvention of public administration was a series of assumptions surrounding the epistemological primacy of objective methods (Humphrey, 1994; Gendron et al., 2007), the transfer of business principles and management practices from the private into the public sector (Henman, 2010), and a belief that market-style competition would increase the efficiency and cost-effectiveness of public services (Chacón, 2022). Furthermore, the edicts of NPM suggest that "the planning, management, and provision of public services" is increasingly seen as something which can be "negotiated between... the government, the voluntary and community sectors, and the private sector" (McLaughlin, Osborne,

⁵⁶ I discuss administrative justice in section 2.3.2. *Bureaucratic justice*, below.

and Ferlie, 2001: 10). Notably, one of the key outcomes is the intertwining of private sector actors into these public administrative structures.

The influence of managerialist logics on contemporary bureaucracies has been explored in the work of Johnny Darling. For example, in 2016, and later in 2022, Darling discusses the privatisation of asylum dispersal accommodation under the Commercial and Operating Managers Procuring Asylum Support (COMPASS) project as a pivotal juncture for the inclusion of the private industry in the asylum apparatus (Darling, 2016, 2022). Mapping the implications of what he terms ‘the enforced (im)mobility’ of asylum seekers through dispersal, Darling traces how the neoliberal logics of market competition, economic efficiency, and ‘contractualism’ are reshaping the provision of asylum accommodation and, notably, the implications this has for the contemporary asylum bureaucratic structures. Employing neoliberalism as a lens through which to understand the developments engineered in the COMPASS project, Darling argues that the contracting-out of asylum is a form of neoliberal governmentality which redefines asylum accommodation as a private, technical, or managerial concern (*ibid.*).

To understand the implications of these developments for the organisation of frontline government administration, it is again useful to turn to the work of Michael Adler (2003). In ‘A Socio-Legal Approach to Administrative Justice’, Adler (2003) suggests that the influence of NPM on frontline administration has promoted new *managerialist*, *consumerist*, and *market* paradigms for public administration. As he outlines in his paper, each of these come with their own mode of decision-making and legitimising values (*Table Two*). Importantly, it is argued that these models operate alongside – and sometimes overtaking – the paradigm of Weberian bureaucracy in contemporary administrative institutions.

Table 2: Additional Models of Administrative Justice (Adler, 2003: 333).

<i>Model</i>	<i>Mode of decision-making</i>	<i>Legitimizing Goal</i>	<i>Mode of Accountability</i>	<i>Characteristic remedy</i>
Managerial	Managerial autonomy	Efficiency gains	Performance indicators	Publicity
Consumerist	Consumer participation	Consumer satisfaction	Consumer charters	‘Voice’ and/ or compensation
Market	Matching supply and demand	Profit making	To owners/ shareholders	‘Exit’ and/ or (public) court action

The influence of these new paradigms for public administration has been demonstrated in the work of Tone Maia Liodden (2019). In her 2019 research into the Norwegian asylum system, Tone Maia

Liudden draws attention to the impact of managerialist logics on the asylum determination process. On this, she writes: “as part of a [NPM] trend in the Norwegian welfare state, the government began to introduce goals and result measures to increase the performance of the UDI (Norwegian Directorate of Immigration)” (Liudden, 2019: 250). This means that increased *productivity* and the *production of asylum cases* had become a central organising principle and legitimising value of the asylum directorate.

An understanding of these (newer) legitimising values is therefore helpful in analysing contemporary developments in asylum determination processes. Certainly, the goal of ‘efficient’ processing of asylum applications has become politically salient in recent years due to the political and social ‘crisis’ of the asylum decisional ‘backlog’ (Taylor, 2024; Yeo, 2024b). Indeed, as explored in this thesis, many administrative developments including the Streamlined Asylum Process, the Asylum Questionnaire, and the Prioritising Asylum Customers’ Experience (PACE) caseworking scheme, are all predicated on a focus on ‘efficiency gains’, ‘productivity outputs’, and ‘user experience’. An understanding of the influence of managerialism on contemporary bureaucratic design is therefore of critical importance for this thesis.

There does exist, however, a question of how to refer to these developments. Simon Halliday (2004) would suggest that rather than the *managerialist*, *consumerist*, and *market* paradigms, these models are better understood as one model of *New Public Management*. Based on the empirical findings in this project, I would agree with Halliday (2004) that the *managerialist* and *consumerist* paradigm are often used interchangeably, for example, by invoking the language of ‘consumer/ customer satisfaction’ (legitimising value, *consumerist*) alongside ‘efficiency gains’ (legitimising value, *managerialist*) and performance indicators (mode of accountability, *managerialist*)⁵⁷. As such, I will follow Halliday in using the singular concept of NPM to encapsulate these developments.

However, importantly, while some argue that these developments mean that the dominant theories of public management “depart from Weber’s classic bureaucratic model of public administration rooted in government command and control” (Clarke and Craft, 2017: 488), crucially, I would argue that such interventions share the same cognitive techniques as Weberian bureaucracy. Grounded in the same cognitive techniques of information retrieval and processing, these still stress efficiency, cost-reduction, and operate within an epistemic framework of technical rationality. Admitting that the increasing entanglement of private sector values and processes into public administration altered a Weberian bureaucracy of contemporary public administration, it is also recognised that such abstraction, quantification, and categorisation which provide the hallmarks of NPM also function to “vastly expanded bureaucracy’s dominion.” (Lea, 2021: 60). Indeed, what is important is that this technical

⁵⁷ This is explored at length with regarding to the Prioritising Asylum Customer’s Experience (PACE) programme in *Chapter Four*, especially in section 4.4.2. *Order and efficiency for whom?*

“rationality that persists, if not more so, when the organizational form identified as bureaucracy undergoes many changes” (Townley, 2008: 65). Thus, following Halliday (2004: 123), who would view the managerialist model as “a contemporary gloss on Mashaw’s bureaucratic rationality”, I propose that these developments are better understood as representative of a *contemporary* model for bureaucracy.

2.2. Bureaucratic knowledge production: practices and regimes

To introduce this chapter, I situated asylum determination processes within a normative paradigm of contemporary bureaucracy. I identified the decisional model as building on a Weberian paradigm of bureaucratic rationality and acknowledged the influence of New Public Management (NPM) on its contemporary iteration. In this next section, I focus on how this normative paradigm influences the development of bureaucratic knowledge practices and bureaucratic knowledge regimes (Hoag, 2019). In so doing, I highlight the political/power relationships imbued in the production of bureaucratic knowledge (Zetter, 1991)⁵⁸.

To begin, I show how technical rationality impacts the development of four key bureaucratic knowledge practices: classification, documentation, datafication, and quantification. As will be demonstrated below, understanding these key knowledge practices is crucial for understanding how information is processed within the contemporary asylum bureaucracy. It is therefore crucial for understanding how the asylum determination process functions *in practice*.

2.2.1. Technical rationality

Technical rationality⁵⁹ is the predominant epistemology of modernity and “the dominant regulative principle” (Du Gay, 2000: 4) shaping the cognitive needs of bureaucratic structures (Mashaw, 1983). As Barbara Townley succinctly notes, technical rationality is “the underlabourer allowing bureaucratic structures to function” (Townley, 2008: 46); it is the “internal norm that motivates [asylum] administration” and the “substantive standard of administrative action” (Thomas, 2022: 6).

Technical rationality is “a way of thinking and living that elevates the scientific-analytical mindset and the belief in technological progress over all forms of rationality” (Balfour, Adams and Nickels, 2020: 28). This epistemological framework legitimates a “means-end rational calculation by reference back

⁵⁸ This is of particular relevance to my discussion on productivity metrics and bureaucratic accountability in *Chapter Five*.

⁵⁹ For some ‘instrumental rationality’, ‘formal rationality’, or ‘bureaucratic rationality’ is preferable. However, in line with Balfour, Adams and Nickels (2020), I have chosen to use ‘technical rationality’ in this thesis. Elsewhere in Weber’s work, he explored other forms of rationality including ‘practical rationality’, ‘theoretical rationality’, and ‘substantive rationality’ (Kalberg, 1980). He considered ‘technical rationality’ to apply to bureaucracies, wherein bureaucracy constituted “a substantive ethical domain in its own right” (Du Gay, 2000: 4).

to universally applied rules, laws, or regulation”⁶⁰ (Kalberg, 1980: 1158), eschewing “subjectivity and instead pursuing ‘norms of impersonality’” (Gill, 2016: 32). Indeed, Weber considers bureaucracy to adhere to the principle of *sine ira ac studio* (without hatred or passion); the more perfectly bureaucracy develops, the more completely it succeeds in eliminating from official business love, hatred, and all purely personal, irrational, and emotional elements which escape calculation (Morrison, 1995). Because of this, many theorists who study Weber’s work suggest that bureaucracy runs on “calculable rules” which makes it “congruent with the ‘peculiarity of modern culture’” (Whimster, 2003: 209)⁶¹.

Crucially, a technical rationality is “that which allows things *to become known*: the construction of written documents and files; the identification of spheres of application; the construction and application of rules” (Townley, 2008: 52. Emphasis added). This makes the construction and evaluation of information the central nexus of bureaucratic thought and action; as Weber wrote: “bureaucratic administration means rule through knowledge... factual knowledge gathered from the documents in which it deals” (*Economy and Society*, Ch 3§5). It is therefore of critical importance to understand the production, circulation, and cognition of bureaucratic knowledge.

2.2.2. Bureaucratic knowledge practices

Bureaucratic knowledge practices refer to the ways in which administrative agencies collect, sort, understand, and administer information/ data or ‘knowledge’ pertaining to the subjects of a government department (Wissink, 2020, 2021). For example, data relating to asylum applicants, detainees, or victims of trafficking. It is through these practices of gathering, identifying, and constructing knowledge that social phenomena are transformed into ‘rationally organised action’ (Townley, 2008) and individuals are made “intelligible, actionable objects of policy-making” (Scheel, Ruppert and Ustek-Spilda, 2019: 579).

In this section, I demonstrate that, information ‘retrieval’ and ‘processing’ (Mashaw, 1983) encapsulate a plethora of bureaucratic knowledge practices (Wissink, 2020) including classification, documentation, datafication, and quantification; four ‘knowledge practices’ which have emerged from my review of the relevant literature.

⁶⁰ In this context ‘means’ refers to methods or techniques, while ‘ends’ refers to the goals, results, or desired outcomes of action (Morrison, 1995). Notably, Weber suggested that ‘technical rationality’ has a unique and significant impact on the ethics of decision-making within administrative organisations, since “a technical orientation to means and ends always rules out decision making in terms of values” (Weber in Morrison, 1995: 298).

⁶¹ For a discussion on modernity see, section 2.3.1. *Bureaucracies and colonial ordering*, below.

2.2.2.1. Classification

Classification is a cognitive method for organising and controlling information/ data. Grounded in technical rationality, classification is the organisation of social phenomena such that information is collected and administered into categories that are defined by pre-ordained and ‘objective’ standards – and is therefore removed of subjective interpretation (Lugones, 2007). For example, ‘personal information’ is understood as a collection of categories – age, gender, sexual orientation, etc. – which are considered to hold intrinsic meaning outside of the person to whom the information relates.

This has particular relevance for immigration and asylum bureaucracies. As Johnny Darling (2011) notes “immigration controls and border practices have been used throughout history as a means to both categorise and order populations and assert the authority of the state” (*ibid.*: 263). In *(B)Ordering Britain* (2020), Nadine El-Enany explores the pre-eminence of classification within the immigration bureaucracy – wherein she argues that ‘refugee’, ‘economic migrant’, and ‘asylum seeker’ are understood as essentialist identities under immigration law.

This is shown in the work of Roger Zetter (1991). Zetter understands the categorisation of ‘refugee/ non-refugee’ as a state-centred definitional practice of ‘bureaucratic labelling’, arguing that this cognitive technique is imbued with processes of “stereotyping, conformity, designation, identity disaggregation” and reflective of a “political/power relationship” (*ibid.*: 39). Importantly, he writes that “far from clarifying an identity, the label conveys, instead, an extremely complex set of values, and judgements which are more than just definitional” (*ibid.*: 40). In the context of asylum determination, he argues, the conference of the label ‘refugee’ thus functions to structure access in a manner which is non-participatory. As he summarises: “labelling is a process of designation” (*ibid.*: 45).

This bureaucratic knowledge practice brings with it a long history of colonialism. For example, Yael Berda (2022) writes: “population classification” was “the centrepiece of colonial ordering and the maintenance of rule” in British colonies (*ibid.*: 57). She outlines that, while “at first, ethnologies and ethnographies were the colonial forms of knowledge that were used to separate between good, revenue-generating subject and undesirables”, the imposition of bureaucracy into colonial states “introduced a nomenclature of racial hierarchies into the administrative structure, transforming Weber’s imaginary universalistic prerequisite of ‘without scorn and bias’... into a complex system that matched sets of rules to specific populations” along dictates of “racial hierarchy” (*ibid.*). Importantly, this “population management... requires[s] processes of simplification, individualisation, standardisation, and homogenisation” (*ibid.*): ‘racial ordering’ required the bureaucratic model of organisation to function.

As many critical legal scholars have shown, the UK’s immigration legislative architecture is grounded a (post)colonial history and therefore cannot be understood without placing it within a history of racialising immigration controls (Mayblin, 2017; El-Enany, 2020). Certainly, it has long been suggested that the development of immigration and asylum legislation in the UK itself reads as a historical account

of the dispossession of, and discrimination against, “black would-be entrants” (Clayton, 2019: 8) and argue that the UK’s complex immigration and asylum architecture is both reflective of, and reproduces, racialised inequalities. Indeed, Monish Bhatia (2020a: 38) has suggest that successive government policies are intentionally “designed to manage/ filter out racialised ‘others’ due to their perceived lack of belonging to the (imagined) national community” and operationalised through “Britain’s hostile immigration control machinery” (Bhatia, 2020b: 278).

2.2.2.2. Documentation

According to Weber, rational norms dictate that all administrative acts be put into writing and that documents are intrinsic to the state’s capacity to obtain knowledge of society (Amit and Kriger, 2014). Consequently, the bureaucratic knowledge practice of classification is enacted through the practice of documentation.

The critical function of documentation is “to make populations legible to bureaucratic administration and amenable to the techniques of state officials” (Berda, 2022: 57; also Scott, 2021). The centrality of documents and documentation to bureaucracy is such that “the image of the clerk with a pen in his hand is the enduring image of bureaucratic work” (Gupta, 2012: 149) and the “document has remained the very image of formal organisational practice” (Hull, 2012: 256). This has meant that the materials of bureaucracy – cases, paper, forms, and files – have been a central object of academic inquiry into bureaucratic organisations and processes (Hoag, 2011, 2019; Heyman, 2012).

However, the practice of documentation does not only reflect these classificatory regimes. As Colin Hoag (2019: 21) writes, “bureaucratic categories... produce subjects rather than merely describing them” and the act of documentation establishes the ‘relation between words and things’ necessary for bureaucracies effectively to implement regimes of control. (Hull, 2012). Indeed, as Aisling Ryan (2023: 693) outlines, “records situate us in space, place and time... and offer constructions of the legal person in the eyes of the State that is constituted through the paperwork that the State holds about us” (*ibid.*: 694). This has led some to suggest that central function of bureaucratic documents is their ‘generative capacity’ (Tyner, 2018).

Indeed, Akhil Gupta (2012: 143) stressed the centrality of documentation to the bureaucratic form to such an extent that he argued the state itself was “constituted through writing” and contemporary anthropological scholarship suggests that bureaucratic documents are not “neutral purveyors of discourse” but instead are “mediators that shape the significance of the signs inscribed on them and their relations with the objects they refer to” (Hull, 2012: 253). Forms, files, case notes, stamps, databases, and datasets are “part and parcel of the legal order as well as the system of legitimacy and compliance” (Morrison, 1995: 292).

The ‘generative’ role of bureaucratic documents was additionally shown by Wissink (2020, 2021) in her analyses of Dutch deportation units. In her research, Lieke Wissink (2021) sought to understand what made the act of deportation possible. To do so, she conducted six months of ethnographic research in a deportation unit through as part of which she traced so-called ‘file practices’. Here, she follows “the transformation that the files underwent, the translations these files incite, and the relations that file trajectories mobilise” (*ibid.*: 260-261). In her research, Wissink demonstrates the way in which individuals who are liable to deportation *become* ‘deportees’ when their (non)belonging is constructed through the file practices of ‘street-level bureaucrats’⁶². Her central thesis is that “[bureaucratic] files become a ‘political’ means of producing ‘documentary objectivity’ concerning the bureaucratic individuality of the deportee” (*ibid.*: 257). In this way, the file becomes the mechanism through which an individual can be re-imagined and translated into a pre-existing classificatory regime. As Wissink concludes, this example of a deportation unit helps to illuminate “the widely acknowledged ability of bureaucracies to categorize as a way to translate between law and reality” (*ibid.*: 268).

However, this image of the ‘legal person’ also presupposes the possibility of a non-legal or illegalised person. For instance, Carbone, Gilliland, and Montenegro (2021) critique the ability of state actors to ‘weaponize’ documentation requirements. Completing empirical research following the Windrush scandal⁶³, their work illustrates “a range of complexities, contingencies, and inherent power relations” which emerge when individuals have no ‘documentary’ proof (*ibid.*: 11). They suggest that this has a particular impact on asylum seekers, for whom a lack of documentation is structurally leveraged to preclude individuals “from being able to carry or produce acceptable records that they need to actualise and enable their human rights” (*ibid.*)⁶⁴.

⁶² For more on ‘street-level’ bureaucrats see section 2.4.1. *Bureaucracy at the ‘street level’*, below.

⁶³ The ‘Windrush scandal’ refers to a moment in contemporary British history in which many long-term British residents who moved to the UK between 1948 and 1973 (Williams, 2020) were incorrectly classified as “illegal” immigrants because they did not have any proof of residency status. The outcome of this scandal was that many were denied access to primary and secondary healthcare, the right to work, or access to their bank accounts. Some were also detained and deported. It latterly emerged that the Home Office was responsible for destroying their proof of status.

⁶⁴ The challenges associated with providing ‘documentary proof’ that Carbone, Gilliland, and Montenegro (2021) identified are just as prevalent in the digitised era. Many contemporary scholars point out that the risks associated with this are only increasing through the proliferation of digital status documents, for example under the EU Settlement Scheme (Tomlinson, 2019b). As Craig Robertson (2014) identifies, datasets are now used to ‘verify’ status in the same way as the presence of a physical document had done previously. In an era in which AI and other automated decision tools are increasingly used to verify identity, it is increasingly important to interrogate the structures used to administer such checks.

2.2.2.3. Datafication

Here it is important to note that documentation in the Weberian sense has surpassed ‘the written document’ as medium. Indeed, any discussion of Weber’s intellectual legacy needs to reckon with the fact that it is historically and socially situated (Du Gay, 2000; Townley, 2008). It is therefore unsurprising that these Weberian features would have adapted, developed, and become outmoded with the passing of time. Certainly, contemporary models of public organisation incorporate many features that Max Weber would not have been able to comprehend – let alone incorporate – in his original ‘ideal type’ bureaucracy.

In the contemporary immigration bureaucracy, one key development is the digitalisation⁶⁵ and datafication of migration management (Scheel and Ustek-Spilda, 2019; Witteborn, 2022a)⁶⁶. As Saskia Witteborn (2022) writes in ‘Digitalization, Digitization and Datafication: The "Three D" Transformation of Forced Migration Management’, documentation has evolved in the contemporary era such that ‘big data’ such as “quantification, statistics, and big data analytics are key to migration management and to producing knowledges about mobilities” (Witteborn, 2022: 161). Consequently, datafication, with its historical roots in “needs of population management” has emerged as a central bureaucratic knowledge practice (Flensburg and Lomborg, 2023: 1542).

Central to these new digital tools is the granularity and depth of the data which can be collected. Critical legal scholars have looked to the collection of biometric data as a contemporary example of this paradigm. The term ‘biometrics’ refers to a discrete and unique measurement of part of the body including, for example, fingerprints or iris imaging (Franko Aas, 2013: 35). Biometric data is uploaded to vast datasets and cross-referenced and assessed with each new application or border crossing, generating ‘hits’ and ‘matches’ which are used to restrict or enable entry to territories, as well as to administrate programmes in UNHCR camps (Madianou, 2019).

Amoore (2006) terms the collection of such data within the immigration infrastructure the ‘biometric border’, noting: “the turn to digital technologies, data integration... and the exercise of biopower such that the body itself... becomes the carrier of the border as it is inscribed with multiple encoded boundaries of access” (*ibid.*: 347 - 348). This has been otherwise named ‘corporealism’ by Salter (2006);

⁶⁵ Here, it is important to note that the move to digitise public services offered through administrative organisation such as the Home Office has functioned to change how individuals interacts with state bureaucracies (Tomlinson, 2019a; Adelmant and Tomlinson, 2023). As Meers, Halliday and Tomlinson (2024: 120) write, “the increasing digitalisation of welfare bureaucracy means that the face of the state is now increasingly not a bureaucrat, letter or phone call, but an online user interface”. This is particularly pertinent in the contemporary Home Office, where the EU Settlement Scheme represented the first foray into digital status (Tomlinson, 2019b), and the roll-out of the eVisa system articulates its continuation.

⁶⁶ This is of particular relevance to *Chapter Four: Consultants*.

the “management of international populations through biopolitics” (*ibid.*: 184). As Olwig *et al.* (2019) write in their book, *the Biometric Border World*, this socio-technical practice is grounded in an assumption that the collection of biometric data is a ‘neutral’ mechanism of identification and verification. However, the use of biometric technology raises serious ethical “concerns regarding bias, data safeguards, data-sharing practices with states and commercial companies” as well as the risk of “experimentation with untested technologies among vulnerable people” (Madianou, 2019: 581).

In addition to the collection of biometric data, the processing of other personal data in large administrative data sets has come to define the contemporary asylum bureaucracy. Indeed, because of the developments in the technologies of documentation there has been an increasing focus on databases and datasets as objects of analytical inquiry, particularly at the intersection of critical migration and Science and Technology Studies (STS). For example, Kaelynn Narita (2023) has researched the Atlas caseworking tool, a digital database used by the Home Office in their administrative processes, while Valdivia, Aradau, Blanke, and Perret (2022) have focused on the European Agency for Large-Scale Information Systems (eu-LISA), Wissink (2021) on Eurodac, and Dijstelbloem (2021) on the Schengen Information System (SIS) and other “novel global infrastructures” which facilitate the “the extraction, exchange, and analysis of vast amounts of data” (Sullivan, 2022: S32).

Importantly, these new digital tools – datasets, algorithms, databases, biometrics – often serve a new and predicative function, aligning with an ideological drive to managing im/mobility through “the discursive deployment of risk” (Amoore, 2006: 339). Crucially, this invites private sector actors who have perceived ‘expertise’ to collaborate in determining and reducing migrant(ion) ‘risks’ and supporting targeted ‘solutions’ into this definitional space (Stavinoha and Fotiadis, 2020; Infantino, 2023a; Stavinoha, 2024). Indeed, data analytics firms “compete as vendors of migration statistics” by promising “large-scale yet granular analytics that could provide directions for existing policy priorities based on risk management and control” (Taylor and Meissner, 2020: 276). In *Chapter Four*, I discuss the practice of datafication as well as the influence of private sector actors.

2.2.2.4. Quantification

The final bureaucratic knowledge practice which I will outline is that of quantification. According to Weber, bureaucracy represents “the functional triumph of the administrative machine”, the ability “to optimise efficiency through the dehumanisation of the process” (Whimster, 2003: 209). In this context, this means the “objective discharge of business... according to calculable rules and ‘without regard for persons’” (Weber in Whimster, 2003: 248). Josiah Heyman (2004: 488) suggests that this is a central characteristic of bureaucracy; that it is an “impersonal” instrument of power. The ‘impersonality’ of bureaucratic organisations is understood to come from both how information is administered as well as how the organisation interacts with the bureaucratic subjects.

The quantification of phenomena is understood when the subject of bureaucratic operation “can, and are, reduced to a set of quantitative measures” (Bauman, 1989: 102), and is a central logic underscoring bureaucratic thought and action. Indeed, the predisposition for quantitative processes of analysis is grounded in technical rationality, whereby quantitative data provide the most ‘objective’ basis upon which to base decisions (Balfour, Adams and Nickels, 2020). Of particular note to this thesis, the quantification of phenomena in contemporary immigration and asylum bureaucracies is catalysed through the datafication and digitisation of migration processes. This has been shown, for example, in the empirical work of Saskia Witteborn (2022), wherein she traces the ways in which new technology such as blockchain facilitates the ‘abstraction and quantification’ of migrant bodies utilised by the BAMF (the Federal migration agency in Germany) in order to increase “efficiency due to automated process management” (Witteborn, 2022: 164). David Graeber (2012, 2015) conceptualises this interpretative process as that of ‘schematisation’; wherein social phenomena are reduced “to preconceived mechanical or statistical formulae” (2012: 119).

David Graeber (e.g., 2012, 2015) believed that the ethics and practices of bureaucracy were expanding outside the boundaries of large administrative organisations. Indeed, he thought that the normative framework which shaped administrative organisations had become so enmeshed in contemporary existence that classificatory and evaluative paradigms were impeding on everyday life. He called this the establishment of a ‘culture of evaluation’. In his critique of contemporary (Western) society, Graeber suggested that bureaucratic knowledge practices represent a process of essentialism tantamount to the ‘rationalisation of existence’. Meticulously talking through the modern need to ‘schematise’ all aspects of the social world – from board games to personal performance – Graeber suggests that the infiltration of bureaucratic knowledge practices on everyday life has engendered a quiet transformation in how we ‘imagine’ and engage with the social world, or what that ought to look like. This, he feared, was a cause for concern⁶⁷.

A lynchpin of Graeber’s concern was the ever-increasing “gathering, accumulation, and analysis of individual data” (Barassi, 2021: 239). Nowhere is this better reflected than with the contemporary successes of the management consulting industry, “the bastard child of Frederick Taylor’s ‘scientific management’” (Khalili, 2022). Humphrey (1994: 157) argues that belief in management consultants is not based in an understanding of their technical capacity nor knowledge base, but instead on “a considerable article of faith” in the scientific method. As Gendron *et al.* (2007: 127) write: the ‘multi-

⁶⁷ Paul Du Gay (2000), however, suggests that Bauman and Graeber have both misinterpreted Weber in his analysis, offering an alternative suggestion that ‘bureaucracy’ was only ever intended to apply in the specific social setting of administrative organisations and that such auspices of a ‘schematised’ existence and suppressed humanity ought not to be heeded or considered valid.

site laboratories' of consultants "enable them to appeal to (apparently) robust, experimentally based, and contextually free, knowledge".

Another, crucial, outcome of the quantification of phenomena is that of dehumanisation. The 'dehumanisation' is also seen to manifest in the *structures* of bureaucratic organisations. Perhaps the most influential piece of academic writing on this is Zygmunt Bauman's (1989) *Modernity and the Holocaust*. The central question occupying this work is how bureaucrats were able to conduct atrocities on an unprecedented scale, and its central thesis is that the increase in the physical and/or psychic distance between the act and its consequences, facilitated through both the epistemological framework (quantification) and structures of organisation (both the adherence to strict hierarchy and the division of tasks/ labour into siloes), explicitly functions to obliterate moral responsibility through the production of distance. In his critique, Bauman looks extensively to the work of Hannah Arendt and the notion of the 'Banality of Evil' (1963), which details how bureaucratic 'file practices' (Wissink and van Oorschot, 2020) can help facilitate mass murder by alienating decision-makers from the violence of their decisions (Caswell, 2010). Bauman builds on this analysis and articulates and explains this phenomenon through the 'production of moral distance' engendered within the cognitive techniques, organisational structure, and technologies of bureaucracy.

Bauman's thesis has been particularly salient in the context of the asylum bureaucracy. For example, in *Nothing Personal?* (2016), Nick Gill compiles an empirical study of the British asylum system focused on the production of indifference. The book seeks to comprehend what Gill sees as the "gruesome feat" of the Home Office's management of asylum seekers - the ability "to engender, within employees, levels of indifference that allow them to overlook the suffering of subjects right before their eyes" (Gill, 2016: 4). Anchored around the death of Mr Alois Dvorzac, an 84-year-old man who died in 2013 while restrained at Harmondsworth Immigration Removal Centre, *Nothing Personal?* seeks to pick apart the particularities of indifference displayed by Home Office employees, whose "level of unconcern and... disregard" he views as "qualitatively distinct from public indifference" (Gill, 2016: 3).

Similarly, in 'The Detention of Asylum Seekers as a Crime of Obedience' – an extended piece of research into immigration officers at ports of entry – Leanne Weber (2005) conducted interview-based qualitative research with immigration officers to discern the driving factors behind "a greater willingness to detain" on the part of Home Office workers (Weber, 2005: 91). Through her empirical research, Weber distinguished between those who are "personally absent from the decision-making process of which they are a part" and may be "indifferent to, genuinely unaware of, or otherwise blind to" the harm they cause, and interviewees who "actively embrace and reinforce occupational norms" (*ibid.*: 91).

However, not all theorists agree that bureaucracy functions to eliminate all agency from the bureaucrats within. Building on street-level analyses⁶⁸ which acknowledge the individual agentic capabilities of caseworkers, in ‘The Permission to be Cruel: Street-Level Bureaucrats and Harms Against People Seeking Asylum’, Monish Bhatia (2020) argues that this essentialising argument functions to obfuscate the ‘volitional agency’ of individual caseworkers in the subjugation and exclusion of asylum seekers. Bhatia argues that caseworkers enact state harms through their strategic action and inaction. Drawing on Balfour, Adams and Nickels' (2020) *Unmasking Administrative Evil*, Bhatia argues that street-level bureaucrats who enact state power “inflict cruelty” on asylum seekers both “through their strategic actions and inactions” (Bhatia, 2020b: 277). Therefore, rather than viewing street-level bureaucrats as viewing asylum seekers with “ethical indifference” (Bauman, 1989: 103), Bhatia argues that they are complicit by virtue of being “unwilling to deviate from formal procedures to alleviate the harms affecting people seeking asylum” (Bhatia, 2020b: 277).

2.2.3. Bureaucratic knowledge regimes

At this juncture, it is important to introduce the concept of bureaucratic knowledge regimes. The generative role of documentation makes it of critical importance to ask: who is labelling whom in the contemporary asylum bureaucracy? And to what effect? Indeed, while it has long been recognised that bureaucratic documents such as forms and files play a fundamental intermediary role in creating numerical or statistical representations of individuals (Gupta, 2012), in the contemporary asylum bureaucracy, this function can best be illustrated by the rise of ‘data visualisation’. Indeed, anthropologists have shown that “bureaucratic knowledge is not produced from an omniscient, god’s-eye perspective, but rather in situated and dialogic encounter with clients and other intermediaries (Hoag, 2019: 20).

Many critical migration scholars have argued that the investigations into the digitalisation of migration ought to include critique of novel data practices. This includes untangling the complex interplay between these large data sets and ‘imaginaries’ or visualisations of migratory movements (Stavinoha, 2024). On this, it is worth outlining what Scheel, Ruppert, and Ustek-Spilda say in full (2019: 579):

...what is known, negotiated, and targeted as migration is mediated by a plethora of data practices, including registering, enumerating, counting and estimating to storing, cleaning, imputing, extrapolating and anticipating. These data practices, while often framed as matters of technocratic expertise, are of course political, sustaining the knowledge regimes that inform and shape migration policies, border regimes and migration management.

David Graeber (2015) and Veronica Barassi (2021) refer to this ‘generative’ power as the ability to make something ‘socially true’. It is here that a Foucauldian critique on power/knowledge is useful because

⁶⁸ For more on this see section 2.4.1. *Bureaucracy at the ‘street-level’*.

it allows for an analysis which de-centralises ‘power’ as belonging to an absolute entity (e.g. a sovereign) and instead dissects its multiple forms, dynamics, and effects. Thus, drawing on ‘big data’ to essentialise migrant “socio-economic and political realities and subject positions” (Parker and Vaughan-Williams, 2012: 729), ‘digitalization, digitization and datafication’ of biometric and other data (Witteborn, 2022) functions to shape what is known or unknown about migration. In turn, this ‘knowledge regime’ informs policy and practice.

This has particular significance with regards to the role of private sector in the administrative design process. Indeed, this is further complicated by the process of ‘datafication’ (Scheel, Ruppert and Ustek-Spilda, 2019; Aradau and Perret, 2022), in which the power of these knowledge practices is held in their definitional ability and their role in forming a ‘knowledge regime’ (Scheel and Ustek-Spilda, 2019). Certainly, as Colin Hoag (2019: 19-20) summarises:

bureaucracies are consummate producers of knowledge, defined by their paperwork and charged with generating the statistics that Foucault... saw as fundamental to state power, as well as lending credence to forms of expertise that produces specific types of subjects.

Contemporary scholarship in socio-legal studies has started to unpick this phenomenon, holding a critical gaze on the construction of these ‘data categories’ such as ‘vulnerability’ (Adelmant and Tomlinson, 2023). Furthermore, critical management studies would further add to these analyses by questioning the growth, acceptance, and pervasiveness of the scientific ‘truth-claims’ by management consultants. Here, it is suggested that these ‘truth-claims’ are entangled with the performance of experts’ outputs – reports, models, equations – and a faith in the ‘myth of objectivity’ (Humphrey, 1994; Christensen and Skærbæk, 2010). I expand this debate in *Chapter Four: Consultants*, attending to the central question – ‘who’ is designing ‘what’?

2.3. Understanding bureaucracies: power, justice, violence

In the following three sub-sections, I review the relevant literature which seeks to understand the operation of bureaucratic models in action. The aim of including these three perspectives is to highlight how bureaucratic structures impact upon those with whom they interact. It is this relational understanding of bureaucratic structures which complements the epistemic understanding outlined above.

2.3.1. Bureaucracies and colonial ordering

Many critical scholars highlight that the bureaucratic ‘cognitive techniques’ and ‘knowledge practices’ used to administrate asylum claims are socio-culturally situated and central to the establishment of power relations in and through bureaucratic structures. In synthesising the relevant academic literature in both critical legal and critical migration studies, I demonstrate that it is important not only to look at “information retrieval and processing” as a “decisional technique” (Mashaw, 1983: 26), but also that it is important to consider which (and whose) knowledge is considered to be ‘factual knowledge’? and

which isn't? how is information retrieved? how it is information processed? and by whom? This reflective discussion will help ground the empirical analysis with reference to administrative design.

Indeed, it is of critical importance to recognise the significance of technical rationality as the 'cognitive technique' (Mashaw, 1983) undergirding bureaucratic organisation, especially for immigration and asylum bureaucracies. Namely, it is worth highlighting that the development of this epistemological position is located in a specific social and cultural setting. Decolonial scholars Aníbal Quijano and Walter D. Mignolo argue that the development of the grounding epistemological position for modernity (and therefore, bureaucracy) can be located temporally with the "conjunction of knowledge and capital assumed in the sixteenth century" (Mignolo, 2007: 478) and is geographically 'Eurocentred' (Quijano, 2000), such that an 'objective' position within this framework refers to an understanding of the world "only from the perspective of [white] Western Christian Men" (Mignolo, 2007a: 478).

As Balfour, Adams and Nickels (2020: 28) identify, this "positivist approach to understanding the world in a so-called 'objective'⁶⁹ manner" with its origins in seventeenth-century Enlightenment thinking, shapes a bureaucratic 'ethos' of control. Perhaps the clearest exploration of this situated rationality was given by Zygmunt Bauman in *Modernity and the Holocaust* (1989). As part of his central thesis, he wrote (*ibid.*: 18):

the bureaucratic culture... prompts us to view society as an object of administration, as a collection of so many 'problems' to be solved, as 'nature' to be 'controlled', 'mastered' and 'improved' or 'remade', as a legitimate target for social engineering, and in general a garden to be designed and kept in the planned shape by force.

The want to 'improve' nature was a cornerstone of contemporary philosophical thought, whereby the superiority of man over nature was assumed and increasingly pursued through rapid industrialisation. This is described latterly by Bauman as a 'crusading-proselytising practice' (*ibid.*: 173)⁷⁰. It is therefore vital to attend to the *function* of bureaucratic characteristics which shape large administrative organisations: "they are a means to an end, ways of carrying out the work of shaping and controlling other human beings" (Heyman, 2004: 488.).

⁶⁹ A critique of the nature of 'objective' decision-making within this paradigm has been presented by those who would argue that Weber's sociological approach "ascribed a unity, autonomy and primacy" to Western religion and culture (Nafissi, 1998: 183), engendering both an 'internalist' research agenda and propagating a particular 'tunnel history' (Blaut, 2000).

⁷⁰ Here, it is important to note that while Bauman provides a convincing and forceful account of the way in which Jews were 'Othered' and the Holocaust was enabled by the cognitive techniques of bureaucracy, Bauman's analysis fails to engage with coloniality and the influence on bureaucracy/ modernity on other racialised populations.

Both Quijano and Mignolo argue that technical rationality not only remains “the dominant regulative principle” (Du Gay, 2000: 4) shaping the cognitive techniques of administrative structures, but that it has also facilitated “a colonisation of the imagination of the dominated” (Quijano, 2007). Quijano saw the ‘weight’ of coloniality in the “constitution of the European paradigm of modernity/rationality” which, crucially, impacts upon the production of knowledge through the dominance of certain cognitive techniques (*ibid.*: 172).

As such, the bureaucratic model of organisation brings with it a history and a present of coloniality which cannot be disentangled from their analytic form (Mignolo, 2007; Quijano, 2007). When I discuss the characteristics of bureaucracy with regard to first-instance asylum determination, it is always with the knowledge that they are functioning to effect control – “‘mastered’ and ‘improved’ or ‘remade’” (Bauman, 1989: 18) – over the populations whose applications they assess.

2.3.2. Bureaucratic justice

Second, frontline government bureaucracies such as the Home Office carry out a defined function – to process claims as accurately and efficiently as possible. Literature in the field of administrative law would therefore stress the importance of understanding whether these claims are processed with due regard to *justice*. Dominant in socio-legal analyses of bureaucracies, the administrative justice approach is concerned primarily with “the nature and quality of decision-making within frontline administrative agencies” (Halliday, 2021: 729). While the “precise meaning of ‘administrative justice’ is contestable and fluctuates over time, context, and place” (Hertogh *et al.*, 2022: xvi), there is a broad consensus that administrative justice entails both *procedural fairness* (the process of decision-making) as well as *substantive justice* (the outcome) (Adler, 2003). The resultant framework, therefore “provides a set of goals or values that are useful to understanding bureaucratic decision-making processes” (Liodden, 2019: 244).

The premise for administrative justice research is a presupposition that “a behavioural understanding of how administration operates must also be placed against the normative values that prescribe how administration should operate” (Thomas, 2022: 19). Notably, within socio-legal research, administrative justice is used to refer to both “the justice of government administration” – i.e., frontline decision-making, including administrative or internal review – and “the justice system that concerns itself with government administration” – i.e., tribunals, judicial review, and the role of ombudsmen (Halliday, 2021: 742). However, the most developed of these approaches is held in the latter approach (see, for example, Creutzfeldt and Kirkham, 2020; Gill *et al.*, 2021).

For those engaging with the former, analyses draw heavily upon Mashaw’s (1983) models for administrative justice outlined in *Bureaucratic Justice*. Mashaw’s central thesis is that each model for frontline decision-making (bureaucratic, professional, legal) provides its own conceptualisation of, and

framework for, justice. Yet, the extent to which any decisional model can promote administrative justice is dependent on compromises as evident in the functioning of the decision-making system (Thomas, 2011). As Michael Adler (*ibid.*: 331) summarises, the administrative justice inherent in any instance of decision making is therefore “not represented by the procedural principles associated with the single model that best describes that form of decision making but, rather by trade-offs between each of the models”. The administrative justice in determination processes, therefore, is in many cases dependent on the relative strength of normative values espoused by different actors involved in the determination processes.

While this project ought not to be read as an administrative justice thesis, the extent to which the administrative developments introduced to ‘clear the backlog’ of asylum decisions are *just* does occupy discussion. Moreover, inspired by an administrative justice approach to bureaucratic organisations, a central contestation of this work is that “how policy is administered is just as, if not more, important” than analyses of substantive law and policy developments (Tomlinson and Thomas, 2023: 3).

2.3.3. Bureaucratic violence

Finally, as noted above, bureaucracy is the ‘purest’ iteration of rational-legal domination (*Economy and Society*, Chapter 3 §4) and technically the most rational means of exercising authority. It is therefore important to question the ‘means of enforcement’ used to support bureaucracy as a ‘legitimised system of dominance’ – how do these means of enforcement materialise? How might they be understood? Weber suggested that the “coercive apparatus of the state has successfully appropriated the monopoly of physical force”⁷¹ (Weber in Axtmann, 1998: 32) and, indeed, ‘enforcement’ in models of both charismatic and traditional domination is predominantly articulated through acts of physical violence.

Academics have therefore been long concerned with how these ‘means of enforcement’ appear in a rational-legal model of domination: i.e., how does bureaucracy ensure and perform its power? For models of rational-legal domination, it has been suggested that a ‘monopoly on violence’ (Graeber, 2015) appears as a “more nuanced and complex management” of life and death (Tyner, 2018: 27). Indeed, as Hannah Arendt (1970) famously explores in her essay *On Violence*, “those who wield power [through the bureaucracy] do not do so with guns, knives, or explosives but with pen, ink, and paper” (Arendt in Tyner, 2018: xiv).

Thus, faced with the materiality of bureaucratic action ‘in practice’ – paperwork, delays, impersonality, boredom – theorists began to look at how these mundane outputs function as the ‘means of enforcement’. This is not a violence which is sporadic, spectacular, nor instantaneous, but instead is “boring, humdrum, [and] omnipresent” (Graeber, 2012: 105). The arguments put forward – from slow

⁷¹ ‘Violence’ is sometimes used here instead of ‘force’.

violence (Nixon, 2011), to structural violence (Graeber, 2012, 2015; Gupta, 2012; Canning, 2017; Lemke, 2022), and bureaucratic violence (Näre, 2020; Barassi, 2021; Carbone, Gilliland and Montenegro, 2021) – demonstrate that the “coercive apparatus of the state” (Axtmann, 1998: 32) is found in “delays, barriers, irrational demands, oversights, dehumanizing abstractions, unspoken judgements, and lack of accountability” (Lemke, 2022). In practice, they suggest that rational-legal domination materialises through bureaucracy’s (often) mundane or banal everyday interactions and performances (Abdelhady, Gren and Joormann, 2020).

In order to fully capture the impact of this bureaucratised and structural violence, some authors have turned to a zemiological framework for explanatory theses for the asylum regime (Canning and Tombs, 2021; Soliman, 2021). This zemiological – or social harms – perspective centres the everyday harms faced by individuals throughout the course of their lives (Hillyard and Tombs, 2007). Its utility is found in the way in which it captures ‘everyday’ (non-spectacular) harms, harms that are separate but interconnected, and those that are inflicted by those in positions of power. This approach has been particularly salient in evaluating the harms engendered in and through immigration and asylum bureaucracies – harms which are often described as violent yet ‘banal’ (Arendt, 1963; Caswell, 2010; Innes, 2021) – as it shifts the parameters of criminological evaluation away from analyses of criminal or deviant behaviours, thus allowing greater interrogation of the harmful actions of the state.

For instance, Victoria Canning (e.g., 2017, 2021) takes an activist and experiential approach to highlight how interconnected harms inflicted on asylum seeking women through precariousness and uncertain legal status are exacerbated through enforced periods of waiting. Such analyses show how the “indefinite and yet temporary nature” (Griffiths, 2014: 2002) of the asylum process distorts and ‘steals time’ (Bhatia and Canning, 2021) from individuals who have already experienced serious harm and violence prior to accessing the asylum system. Indeed, as Meier and Doná (2021: 51) show in their analysis of qualitative interviews with asylum applicants, this indefinite augmentation of time can lead to appellants suffering from psychological distress due to the “‘endlessness’ of being stuck in the asylum system”. Criminological analyses which attend to the power dynamics inherent in the shaping and stealing of time have understood this as part of a broader paradigms of punitiveness and punishment, as the ‘compulsory’ waiting for the outcome on an application is irrevocably intertwined with the threat of refusal and subsequent confinement (detention) and removal (e.g., De Genova, 2020). This perspective is useful because it makes explicit the link between “those mundane bureaucratic practices” and the “violence that the practices... account for” (Wissink and van Oorschot, 2020: 3).

Contemporary sociological analyses of immigration bureaucracies also employ such an approach with reference to the ability of bureaucracies to “control and contort time” (Hoag, 2014: 411). These analyses have attended to how “migrant time is governed” (Bhatia and Canning, 2021: xvi) by the temporal dynamics of the Home Office and its immigration bureaucracy. For example, as Melanie Griffiths

(2021: 48) eloquently outlines, the Immigration Rules which structure immigration and asylum processes in the UK are imbued with “multiple senses of time: from bureaucratic, measurable time to a phenomenological sense of lived time, a linear and progressive time, a maliciously cyclical time, and time as a ‘commodity’ that can be saved up, lost and stolen”. The embedded nature of these rules allow *time* to be manipulated through the structures of the bureaucracy and function as “a technique of governance... through the fetishization of speed, temporal rewards and punishments, and ‘time hurdles’” (*ibid.*).

For all, the premise of the research is that “hierarchies and power relations” are produced by the Home Office in “differentiating the tempos of people’s lives” (Griffiths, 2021: 320). Indeed, as Griffiths (2014, 2021) has elsewhere argued, the ability of the Home Office to distort time through processes of either quickening or elongating is a fundamental part of their exercise of authority and exhibition of power over asylum seekers in the UK.

2.4. Approaching bureaucracies

In the first part of this chapter, *Administrative decision-making*, I outlined the normative framework for asylum determination processes in the UK. In this second section, I review how scholars in socio-legal studies have approached these structures empirically. I have framed this literature review around three different approaches drawn from the relevant literature: ‘street-level’ bureaucracy, institutional approaches, and infrastructural approaches.

2.4.1. Bureaucracy at the ‘street-level’

The first approach to immigration and asylum bureaucracies I address is that of ‘street-level’ bureaucracy. While the ‘ideal-type’ bureaucracy is helpful in identifying the normative model for bureaucracy, such an approach fails to recognise that the state ought not to be conceived of as a ‘unified’ decision maker (Dahlvik, 2018). Indeed, there is an increasing recognition that taking a normative approach has become “increasingly irrelevant, constituting an unrealistic and fetishised account of the asylum-screening process” (Jubany, 2017: 15). Therefore, many socio-legal researchers have turned to the decision-making of frontline caseworkers to understand the decision-making process ‘in action’. This literature functions to disrupt the prevailing conceptualisation of “bureaucratic decision making as primarily a rational activity” (Halliday, 2021: 728) by positioning micro-level analyses which centre frontline workers as ‘street-level bureaucrats’ (Lipsky, 1980).

The model for such an approach comes from Michael Lipsky’s (1980) work *Street-Level Bureaucracy: The Dilemmas of the Individual in Public Services*. In it, Lipsky presents a guiding epistemology through which to understand workers in the ‘front-line’ of public bureaucracies. As low-level public service employees whose work is defined by huge caseloads, shifting agency goals, and inadequate resources, street-level bureaucrats wield substantial discretionary authority and are required to interpret

policy on a case-by-case basis. From his empirical work with teachers, social workers, and other ‘frontline’ public servants in the United States, Michael Lipsky creates a conceptual scaffold upon which he demonstrates how individual workers become the ‘ultimate policymakers’ of a bureaucracy. The prevailing argument of *Street-Level Bureaucracy* is that the day-to-day working practices of street-level bureaucrats (often underpaid, overworked, and with a high ‘moral’ or ethical dilemma to their roles) are shaped through the constant negotiation of ethical, moral, and resource-driven contradictions, and the management of these contradictions impacts the operation of the bureaucracy at large. One crucial legacy of Lipsky’s work is that he argues that it is beneficial (or central) to our understanding of a bureaucracy to look to how frontline workers exercise their considerable amount of discretion to enact policy goals (Saltsman, 2014).

While many of the ideas included in *Street-Level Bureaucracy* existed in the wider literature on administrative institutions, they were not applied to frontline workers. This meant that, according to Maynard-Moody and Portillo (2010), *Street-Level Bureaucracy* fundamentally altered an academic understanding of bureaucratic rationality within large public administrations since it became the first piece of academic literature to suggest that the “potential perils of administrative discretion and judgement penetrate to the front line of governing” (*ibid.*: 253). ‘Street-level’ research regarding public administrators has shown that in enacting policies, individual civil servants are often confronted with inconsistencies and inherently contradictory sets of ideas, making bureaucratic work internally conflictive “even if this is not outwardly apparent because coherent narratives are constructed for the public” (Dahlvik, 2018: 4).

This literature “suggests that the Weberian ideal type of rational and legal order does not appropriately represent bureaucratic action” and shows how individual caseworkers “cope with the uncertainty that characterizes their job, especially driven by complexity, ambiguity of law, and ‘rule piling’” (Infantino, 2023: 5). These analyses seek to understand how organisational, cultural, and affectual relationships and environments impact upon the decision-making process. In so doing, this literature helps to further an understanding of how legal decision-making happens in practice and offers a new understanding of how the law is utilised and how policies are enacted by those ‘on the ground’. Therefore, in recognising not only the ‘ideal’ but also the lived and tangible reality of state bureaucracies, street-level analyses disrupt the Weberian model of an ‘ideal-type’ bureaucracy to acknowledge the individual agentic capabilities of caseworkers to which they relate (Bhatia, 2020b). In sum, these analyses situate *the bureaucrat in the bureaucracy*. This change in gaze disrupts the image of the ‘cold’ bureaucrat, a trope that neglects “the deeply embedded... emotional aspects impacting the everyday decision-making of state agents” (Borrelli, 2022: 1093; also Halliday, 2021).

A significant body of socio-legal literature has applied Michael Lipsky’s (1980) framework of street-level bureaucracy to immigration and asylum bureaucracies (e.g., Affolter, Miaz and Poertner, 2019;

Liodden, 2019, 2020; Kobelinsky, 2019; Gill and Good, 2019; Eule *et al.*, 2019; Borrelli, 2021; Wissink, 2021). Indeed, the use of the street-level bureaucracy framework has been particularly salient in recent years in migration research due to the high levels of discretion afforded to junior-level caseworkers and the significant emotional aspects of asylum caseworking. Such analyses add ‘textural depth’ to studies of immigration bureaucracies illustrating that “supposedly professional and disinterested” systems are in fact “ridden with emotions” and depend on “mobilising hope, anxiety, fear, despair and irritation, further underlined by heated political debates on migrants with precarious legal status” (Borrelli, 2021: 5).

The framework of street-level bureaucracy has been utilised in reference for border guards making decisions at ports of entry (Weber, 2002), as well as for consulate staff making decisions on visa applications (Alpes and Spire, 2014), and to immigration caseworkers operating within asylum or immigration bureaucracies (Eule *et al.*, 2019; Liodden, 2020; Borrelli, 2021). In isolating core facets of a caseworker’s working practice that affect the way in which this decision is made – e.g., working conditions, organisational socialisation, training, and their moral agency (Borrelli, 2021) – street-level analyses works in both explanatory and predicative contexts.

For example, Borrelli (2021) uses street-level analyses to demonstrate how entry clearance officers use “a mixture of individual habitus including values, positions and norms, which are at the same time shaped by and embedded in social interactions” (Borrelli, 2021: 584). Kalir and Wissink (2016) use it to understand how the ‘deportation continuum’ is legitimised in the Netherlands through the everyday actions of those working at the front line. The street-level framework is also useful because it is attuned to the way in which “implementers [of migration policy] are primarily driven by the desire to cope with limited resources, leading to routines, rationing services and other coping strategies” (Dörrenbächer, 2017: 1331).

One particularly influential ‘street-level’ analysis for this research is that of Tone Maia Liodden (2019). To empirically understand administrative justice in asylum determination processes, Liodden (2019) conducted interview-based research with 24 asylum decision-makers in the Norwegian Directorate of Immigration. Drawing on Thomas’ (2011) analysis and holding her critical focus on accuracy and fairness⁷², Liodden’s analysis demonstrates how a practice of ‘local justice’ emerges, through which “caseworking may establish an image of what a credible applicant looks like” (*ibid.*: 250). In so doing, she also identifies additional mediating factors which shape these decision-making processes, such as caseworkers’ perceptibility to and awareness of the broader media ‘debate’ around asylum decision-making, and the drive to be a ‘productive’ employee. As she eloquently writes: “a legal decision constitutes the final destination, but the law often does not provide much guidance along the way” (*ibid.*:

⁷² Here, Liodden defines fairness as “impartiality and equal treatment” (Liodden, 2019: 244).

258). Liodden's findings are of critical importance to an understanding of asylum determination processes as they problematise the concept of refugeehood as "a clear-cut, objective identity" (*ibid.*), and also show how 'equal treatment' can become a "proxy for justice in a context when it is hard to evaluate the accuracy of decisions" (*ibid.*: 259). This will be particularly relevant to my analysis of 'Crib Sheets' and 'Exec Summaries', introduced to facilitate efficiency gains in asylum processing (*Chapter Four*).

2.4.2. Institutional approaches

While the 'street-level' approach has been particularly influential for socio-legal analyses of immigration and asylum bureaucracies, the focus on frontline caseworkers alone is arguably a narrow conceptualisation of how administration functions in practice. Indeed, other socio-legal analyses have suggested that there are numerous other actors who influence the outcome of administrative decisions and therefore shape the contours of administrative law such as asylum determination processes. These include, for example, asylum applicants themselves, lawyers, judges, and activist and support networks, all of whom can have a significant impact on the determination process. Furthermore, in contexts in which research access is limited – for example at the Home Office – a focus on 'street level bureaucrats' may foreclose other avenues of exploration (see section 2.5. *Opaque bureaucracies* below).

Alternative approaches centre the institution as the central objects of analytical inquiry. Rebecca Hamlin (2014, 2022) outlines the utility of socio-legal analysis of refugee protection that engages empirically with the agencies which apply refugee law and related policies. She writes, "institutional analyses help us to understand how law works, not just 'on the books', but in action, because they involve an examination of both the formal rules and the informal agency culture that helps shape outcomes" (Hamlin, 2022: 2). Such analyses incorporate both historical and archival research on the institution itself, with empirical insights which discover how things 'really function' on the ground. Institutionalism, therefore, "is a method of social scientific research that places the institution at the centre of the study by assuming that institutions shape and constrain individual interests and behaviour" (*ibid.*).

The utility in such an approach comes from the way in which it can account for the separate agencies involved in refugee status determination – including, for example, the United Nations High Commissioner for Refugees (UNHCR). Of relevance to this thesis, Hamlin highlights the relevance of institutional approaches to what she calls 'RSD regimes'. Here, she refers to the 'hybrid' structures which support the process of refugee status determination – for example the administrative and judicial branches of refugee status determination in the UK.

Such a focus can be similarly evidenced in John Campbell's (2017) work *Bureaucracy, Law and Dystopia in the United Kingdom's Asylum System*. In his anthropological exploration into UK asylum

management, Campbell conducted an ethnography of the asylum process. To do so, he followed “the trajectory of asylum claims as they mov[ed] from the initial interview conducted by the United Kingdom Border Agency (UKBA) to a lawyer’s office and then to court” (*ibid.*: 2). Over a period of two years, he followed different ‘social actors’ – applicants, judges, Home Office Presenting Officers (HOPOs), experts, lawyers – as they traversed the institutional structures that shaped asylum determination in the UK. Crucially, he thought it integral to his research that he “understand the perspective of both individuals *and* institutions” which featured throughout this journey (*ibid.*: 3. Emphasis original). Importantly, this analysis assumes a broader approach to legal mechanisms, recognising how a multiplicity of actors inform and shape the final decision.

A key finding from Campbell’s analysis is that immigration practitioners (OISC-regulated advisers⁷³, solicitors, and barristers) are key actors in the determination process (Thomas, 2011; Hambly, 2019; Campbell, 2020; Wilding, 2023b). Responsible for shaping the “relational and contingent narratives of ordinary social life into a ‘rule-oriented’ one for the courts” (James and Killick, 2012; 442), asylum practitioners have a significant impact on the success or failure of asylum claims (Meili, 2013; Refugee Action and NACCOM, 2018; Campbell, 2020). In Campbell’s analysis, the significant role that practitioners play “in shaping the trajectory of asylum claims” (*ibid.*: 2) is evidenced and their role as part of the bureaucratic process is explained. However, despite this recognition there is a relative dearth of contemporary analyses into the role of immigration and asylum practitioners in the determination process. Furthermore, when the role of practitioners is highlighted, most of the extant research focuses on secondary traumatisation or workload pressures that they face (Baillot, Cowan and Munro, 2013; Graffin, 2019). I seek to address this gap in *Chapter Six: Immigration Practitioners – “Emailing into the Void”*.

However, despite the utility of this institutional approach, there remains a significant limitation with regards to adequate research access to the Home Office’s Asylum Operations. The Home Office is a notoriously opaque bureaucracy which is reluctant to engage with external (especially academic) researchers. For example, in *Asylum Screening from Within* (2017), Olga Jubany noted that borders and bordering sites (such as Home Office decision-making units) constitute ‘hard sites’, where ethnographic or ethnographically inspired research is limited in scope and depth. Part of the reason for this, she notes, is that “it is not in the state’s interest to reveal the procedures and frameworks that they believe would weaken systems of control” (*ibid.*: 19). Other reasons include the politicised nature of borders, and the myriad ethical dimensions of shadowing officers and caseworkers when they are interacting with (often) vulnerable applicants. Indeed, many academics who have conducted research on and with the Home

⁷³ Office of the Immigration Services Commissioner. Advisers at Level 2 and 3 can support asylum applications.

Office have noted the significant challenges they faced gaining access to these sites (see, for example, Bosworth, 2008; Campbell, 2017; Jubany, 2017; Aliverti, 2021; Infantino, 2022).

This limitation was acknowledged by Campbell in *Bureaucracy, Law and Dystopia in the United Kingdom's Asylum System* and Campbell's experience trying to organise research access to the Home Office is replicated in that of other researchers. For example, Olga Jubany, in *Screening Asylum in a Culture of Disbelief* (2017) documents how her research journey comprised of false-starts, ignored emailed, and retracted approval. Indeed, she notes that, "more than three years after starting with the access procedures, the first positive response arrived from a senior port officer willing to be interviewed on an anonymous basis" (*ibid.*: 21). She reflects (*ibid.*):

[the Home Office] appeared to be purposefully avoiding granting access to proceed with the interviews and the participant observation, without ever giving a clear answer as to why. Two years after I had begun the process of formally gaining access to the field, the UNHCR informed me that they had been 'advised' by the Home Office to 'lessen' their support for my research and fieldwork and withdrew their backing for the research⁷⁴.

Gaining access for the purpose of research is, therefore, recognised to be a "lengthy and arduous process" (Jubany, 2017: 20). The capacity to conduct in-depth institutional research into the Home Office's Asylum Operations is therefore highly contingent on time – something that is outside the bounds of PhD research. I introduce techniques through which to understand and challenge this opacity in section 2.5. *Opaque Bureaucracies*.

2.4.3. Infrastructural approaches

Furthermore, a focus on the institution additionally negates contemporary developments in public administration whereby a broader assemblage of (often hidden) actors have significant influence. Indeed, the need to look beyond the state and consider the role of the private sector in analyses of the contemporary immigration bureaucracy has become increasingly apparent. Academics across multiple disciplines draw attention to the 'business of migration control' (Bloom, 2015) and the assemblage of public and private actors involved in the management of migrant populations through the outsourcing of visa services, detention, deportation, and accommodation (see, for example, Lemberg-Pedersen, 2013; Naranjo and Molnar, 2020; Bigo, 2022; Darling, 2022; Brewer, 2023).

For example, Infantino (2022) has explored the privatisation of deportation and detention as a way in which states 'outsource legitimate violence' by using private contractors to operate key aspects of the

⁷⁴ It is, I think, also important to note that both John Campbell and Olga Jubany's experiences getting 'in' to the Home Office are from earlier iterations of the Conservative regime. As outlined in the contextual overview at the start of this chapter, a racist anti-migrant sentiment has only become more intense, and the Home Office more insular since then. It will be interesting to see whether this changes under the contemporary Labour government.

immigration bureaucracy. She notes the qualitative difference that the inclusion of private actors has on the immigration bureaucracy: how the relationship is not only transactional but encourages or co-opts the state into approaching the immigration bureaucracy as a ‘managerial concern’ because of its relationship with the private sector. In a similar vein, Helen Brewer (2023) introduces the conceptualisation of the ‘asylum industrial complex’ to explore both the state and private sector actors who, in her words, come to benefit from the expansion of ‘for-profit’ provision in asylum services such as deportation sites and dispersed accommodation. Brewer highlights the centrality of private actors in the contemporary asylum infrastructure of the UK. She writes, “private contracting holds the Asylum-Industrial complex together, structuring the system through chains of ideological and transactional relationships” (Brewer, 2023). Petra Molnar (2021) additionally highlights the use of smart border technologies developed by private companies, in which states look to private actors to “[set] the stage for what is possible” (Molnar, 2021: 112), while Didier Bigo (2022) links border security to digital ‘solutions’, teasing out the influence of private sector interventions in the migration management space. Here, the focus is held on how the private sector comes to influence the state by providing ‘innovative’ solutions to pre-defined ‘problems’.

Because of this, a new approach in socio-legal studies has emerged adopting an infrastructural theoretical lens (Sullivan, 2022; Valverde, 2022; Infantino, 2023b; Narita, 2023). This approach has its genesis in the convergence of critical migration and Science and Technology Studies (STS) but has found particular salience in socio-legal analyses of asylum and immigration bureaucracies. This approach is particularly useful when understanding the intersection of private and public interests and the various actors in the bureaucratic process. As Mariana Valverde (2022) writes, an infrastructural approach to law is particularly relevant in the wake of NPM developments to public administration, since the advent of ‘Public Private Partnerships’ and an increasing entanglement of public and private interests have necessitated a reconsideration of how law and legal processes are developed, implemented, and upheld. In the UK context, for example, Kaelynn Narita (2023) has introduced the concept of the ‘digital Hostile Environment’, a border infrastructure which brings together public and private interests in the multi-modal design and delivery of policies of the so-called hostile environment.

A legal approach to infrastructures is further developed in the work of Gavin Sullivan (2022). Sullivan develops a novel methodological approach for socio-legal research grounded in actor-network theory and its relational ontology. The central contribution of his paper is a re-orientation of socio-legal studies to an “infra-legalities approach” which “focuses on data infrastructures as key sites of enquiry, empirically mapping the socio-technical elements through which they are composed and highlighting their effects” (*ibid.*: S33). Of relevance to this research, Sullivan (*ibid.*: S42) suggests that untangling “infrastructures in this way draws attention to local structure making sites where knowledge is produced to map their connections and ordering practices”, this “offers insights into how power asymmetries are forged, demystifying relations of violence”.

A key criticism I raise in this thesis is the nebulous role of private/ public relationships in the contemporary asylum bureaucracy. An infrastructural approach therefore holds particular relevance to my analysis. Certainly, while many contemporary scholars demonstrate an urgent need to consider the private sector in immigration and asylum bureaucracies, they largely rest on what Benish (2023) calls the public/private binary wherein the state and the private sector are closely entangled but, crucially, remain separate.

Yet, the extent to which the public/private binary remains an appropriate model through which to understand contemporary bureaucratic structures is starting to come into question as contemporary developments in public administration mean that ‘outsourcing’ is increasingly replaced by ‘insourcing’ (Adelmant and Tomlinson, 2023). As Adelmant and Tomlinson (2023) recognise, contemporary public administration is notable for its intertwining of consultants into government, resulting in an administrative entanglement of private sector consultants and civil servants working alongside each other in hybrid teams (Adelmant and Tomlinson, 2023: 202). Consequently, they argue, it is necessary for socio-legal researchers to situate analyses within a theoretical prism that transcends the existent public/ private divide. As Benish notes, “a hybrid reality cannot be handled by a binary approach” (Benish, 2023: 234); private sector actors are increasingly part of the legal infrastructure (Sullivan, 2022). As such, the need to problematise the role of consultancy firms as part of a legal infrastructure has become increasingly pertinent. One such actor is management consultancy firms, who are invited in order to help ‘maximise efficiency’ throughout the asylum process (Stavinoha and Fotiadis, 2020; Vianelli, 2022).

The need to consider consultants as actors in the contemporary asylum bureaucracy was highlighted by Luděk Stavinoha (2024, also with Fotiadis, 2020) who evidences through documents obtained via Freedom of Information request the pivotal role that consultancy firm McKinsey & Co played in the wake of the so-called refugee ‘crisis’ in 2015. Through an extensive investigation into the role that McKinsey played in managing the ‘hotspot’ regime on the Greek islands, Stavinoha shows that management consultants are critical actors in “scripting policies, disseminating ideas within policy-making circles, and transposing distinctly corporate managerial techniques and datafied logics into public bureaucracies tasked with managing cross-border mobility” (Stavinoha, 2024: 327). Indeed, despite their growing significance in UK asylum management, the role of consultants as an actor in the legal infrastructure of asylum determination has been under researched in contemporary literature on immigration and asylum bureaucracies in the UK. I contribute and expand upon this debate in *Chapter Four: Consultants*.

2.5. Opaque bureaucracies

The literature review above isolates key approaches to bureaucracy that are drawn from the relevant literature. Their utility is found in isolating the multiple actors involved in the bureaucratic process, and

identifying that bureaucracies are a contested site of social action. Together, these approaches highlight the need to look beyond a normative analysis of bureaucratic work to understand the process of asylum determination ‘in practice’. However, absent from these analyses are extended theoretical and empirical works which engage with the opacity engendered in bureaucracies. In particular, how to understand or approach bureaucratic opacity. It is here that literature in critical security and migration studies can help fill the gap and offer some solutions.

In the introduction to *State Secrecy and Security: Refiguring the Covert Imaginary*, William Walters poses the following questions (2021: 4):

How do we research areas of state activity that are regulated by laws and cultures of official secrecy?
How do we study knowledges, objects and events that have been governed to minimize their exposure to public scrutiny? How do we do ethnographies if certain people, places, and experiences are out of reach?

Here, Walters addresses the same lacunae in socio-legal literature on immigration and asylum bureaucracies.

Contemporary literature in critical security studies that engages with borders, border management, and border bureaucracies, has turned increasingly to opacity and obfuscation as markers through which the contours of administrative practice can be traced. In so doing, researchers draw extensively on a developed body of secrecy literatures, which look at “secrecy and disclosure practices” (Stevens, 2023: 5) and wrestle with the myriad ways in which large immigration bureaucracies conceal information about their internal mechanics; exploring the limits of transparency and the process of concealment (or ‘hiding’ (Glouftsiou, 2024b)) as well as the subjectivation and objectivation inherent in bureaucratic ‘knowledge practices’ (Tazzioli, 2020) and the production of (non)knowledge (Aradau, 2017; Scheel, 2021; Aradau and Perret, 2022). Where access to phenomena is restricted, such an approach proposes secrecy more as a methodological tool, than a barrier to overcome (Muller and Welfens, 2023).

Notably, these analyses employ a conceptual understanding of secrecy which recognises it as something other than the “absence of knowledge” (Stevens and Forsythe, 2023: 6). While secrecy and secrecy practices are found in negative spaces and concealed data they are, too, created by “leakages and disclosures” (ibid.: 14). Indeed, this conceptual framework recognises the analytic significance in the process of making something secret and these analyses hold a focus on secrecy “from the angle of the constitutive practices, objects, and effects” (Walters, 2021: 4). Similarly, this literature engages with both ignorance and (non) knowledge as a socially constructed practice; ignorance is both a “productive asset” and a “strategic ploy” (Stel, 2016: 1402). Importantly, this literature emphasises dynamism in both data collection and analysis – attending to, for example, to “the production of uncertainty, ambiguity and confusion about a policy or practice” (Glouftsiou, 2024b: 729. Emphasis added). Thus, instead of understanding secrecy, opacity, ignorance, and obfuscation as static phenomena, this

conceptual framework highlights the ways in which they are produced, contested, performed, and emergent (Stevens, 2023).

For instance, William Walters (2021) suggests that it is important to re-orient the focus of research from the hermeneutics of the secret to how secrecy is performed, maintained, or dismantled. As Stevens and Forsythe (2023: 10) explain, such an approach means that: the “conceptual task is thus no longer to ‘reveal’ or unearth the hidden secret, but instead to see the roles played by both secrets and secrecy-as-process, understanding how they operate, how they become productive, and why they are deployed”. This approach to research recognises that these understandings of secrecy are socially and culturally situated, and thus “change depending on the processes through which it is performed” (Glouftsiou, 2024a: 6).

Crucially, this approach to secrecy ascribes weight to both the human and the non-human actors in the production and performance of secrecy and secrecy practices, and attends to the various “practices, institutions, and technologies through which secrecy is (un)made” (Glouftsiou, 2024a: 6). It also gives analytical weight to the temporal dynamics of secrecy research (Stevens, 2023; Stevens and Forsythe, 2023), recognising that understanding can emerge in “an uneven and piecemeal manner through heterogenous sources and mechanisms” (Walters, 2021). Finally, this approach situates the researcher in the research process – questioning how processes of revealing and (un)making secrecy that occur in the research process function to forge the public record (Walby and Larsen, 2012).

I contend that this conceptual and theoretical understanding of secrecy and opacity is useful for broadening the scope of socio-legal analyses such that *opaque* bureaucracies can be investigated, too. The approach is then explored in greater length in *Chapter Three: Researching Opaque Institutions*.

2.6. Conclusion

To conclude this chapter, I synthesise the main findings from these sections to present the conceptual framework for researching opaque bureaucracies that I have utilised in this thesis. The review of bureaucratic models of organisation presented in the first part of this chapter has four central findings.

First, I demonstrated that while Weberian bureaucracy is not a prescriptive model for organisation but is instead an ‘ideal type’, the foundational epistemic framework of technical rationality identified in this model does structure how contemporary bureaucracies are designed and operate, notwithstanding technological developments. This means that the cognitive technique of ‘information retrieval and processing’ (Mashaw, 1983) undergirds how information is gathered, sorted, and processed within contemporary bureaucratic structures. I argued that this understanding is central to understanding how asylum determination occurs in practice. For example, through the designation of ‘refugeehood’.

Second, having identified how knowledge practices – classification, documentation/ datafication, and quantification – function to form bureaucratic knowledge regimes, I isolated why it is important to question *which actors* are involved in these knowledge curation practices. With reference to the contemporary bureaucratic form, where there is an increasing entanglement of public/ private actors in supporting the processing of bureaucratic information, I argue it is important to always question *who* is designing *what*?

Third, I argued that the cognitive framework for bureaucratic organisation is inherently intertwined with modernity/ coloniality. Indeed, the drive to ‘categorise’ and order subjects of bureaucratic operation cannot be disentangled from colonial histories, especially the racialising management of populations. I noted the significance of this history on immigration and asylum bureaucracies, drawing attention to the work of critical legal scholars in the field of immigration and asylum law.

Fourth, I recognised that contemporary bureaucracies do not operate in a silo, and that an assessment of their operation has been made with regards to both justice and violence. This embodied response to bureaucratic work recognises the impact that contemporary bureaucracies have on those with whom they interact. When read together, the findings of this literature review argue for a holistic understanding of bureaucracy that attends to its structural, epistemic, and relational dimensions, and one which recognises the various state and non-state actors in the bureaucratic process.

Having developed a conceptual framework through which it is possible to understand the bureaucratic structures supporting asylum determination processes, I then reviewed existing socio-legal scholarship to understand the different ways in which immigration and asylum bureaucracies have been approached in the relevant academic literature. I gave precedence to the ‘street-level’, institutional, and the infrastructural approaches. While they each attend to different aspects of the bureaucratic form, these three approaches have utility for my research in offering an understanding of bureaucratic action which is fluid, flexible and open to contingency (Zacka, 2017). They are also useful in accounting for the increasing entanglements of public and private interests in the contemporary asylum bureaucracy.

In the third and final part of this chapter, I addressed a gap in understanding ‘opaque’ bureaucratic institutions through a socio-legal lens. Isolating a methodological lacuna in socio-legal investigations, I set out an argument for approaching bureaucracies from the standpoint of opacity. Drawing on literature in the field of critical security studies which engages with secrecy and secrecies, the third section of this chapter introduced alternative conceptual frameworks for understanding opaque institutions. My contention here, is that it is productive to use opacity as the point of analytic departure through which insights into asylum administration can be gleamed. In so doing, I draw on a methodological approach that recognises the value of opacity in settings of (bordered) penalty – including prisons, detention, and removal centres – as well as literature in the field of security/ critical border studies that attends to secrecy’s productive, performative, and emergent effects. To do so, I

suggest an approach to socio-legal research that is structured through the questions, ‘what is opacity *here*? what is opacity *now*?’ (cf. Walters, 2021: 8)⁷⁵. This methodological orientation, and my research process, is explored further in *Chapter Three: Researching Opaque Institutions*.

⁷⁵ Walters asks (at 2021: 8): “What is secrecy here? What is secrecy now?”

Chapter 3 Researching opaque institutions

The aim of the previous chapter was to develop a theoretical and empirical base upon which to scaffold a new approach for socio-legal research into opaque institutions. To do so, I developed a conceptual framework for contemporary bureaucratic structures through which relevant ‘bureaucratic knowledge practices’ could be identified. I then reviewed existing socio-legal literature which investigates immigration and asylum bureaucracies through ‘street-level’, institutional, and infrastructural approaches. Recognising the dearth of literature exploring (the production of) opacity in socio-legal studies, I reviewed relevant literature in the field of critical migration and critical security studies which engages with concepts of secrecy, opacity, and obfuscation (Walters, 2021; Glouftsiou, 2024b; Stavinoha, 2024). Having done so, I introduced a methodological approach to socio-legal studies which uses opacity as the point of departure.

In this chapter, I develop this approach and demonstrate how I have applied it to the study of asylum determination processes in the UK. To start, I introduce socio-legal research and the ontological and epistemological positions I hold. Following this, I outline the methodological approach I have taken in this thesis. Framing this methodological approach as a combination of ‘encounters’ with opacity (Haraway, 1988; Hoag, 2011), I outline the utility of a multi-perspectival approach to institutions where research access is limited. In so doing, I document how and why I moved from “the methodological and epistemological struggle to ‘reveal’ the secret” of asylum decision-making (Stevens and Forsythe, 2023: 13) to probing what is revealed and concealed about asylum processing, by whom, and to what effect.

In the second part of this chapter, I provide an overview of the four methods of data collection I used in this thesis: qualitative interviews, Freedom of Information (FOI) requests, analyses of parliamentary committee hearings, and courtroom observations. Also in this section, I review my process of data collection including how I approached sampling, gaining access, and data analysis. This overview establishes the grounding for the analyses in the three substantive chapters.

In the third and final part of this chapter, I reflect holistically on my research process and identify some of the challenges I faced in conducting this research. In the section, *Researching in a culture of fear*, I discuss the challenges faced in researching opaque institutions and reflect on some key ethical considerations that emerged throughout the research process. Then, in *Freedom of (some) Information*, I critique transparency mechanisms in the UK and the ways in which the FOI process can be leveraged as a tool of obfuscation (Luscombe and Walby, 2017). Following this, in section *Looking at negative space*, I reflect on the successes, challenges, and frustrations of a methodology centred around opacity.

3.1. Developing a methodology

3.1.1. Socio-legal studies

The administration of asylum applications occurs at a critical juncture of law, policy, and practice. It therefore can be approached from a plurality of angles from multiple disciplinary perspectives.

Doctrinal studies, for example, focus on the interpretation and application of refugee law in different national contexts. Such analyses concern questions such as ‘who is a refugee?’, ‘who is entitled to protection?’, and whether administrative justice ideals are realised in national systems for refugee determination. By contrast, socio-legal analyses of asylum determination seek to uncover the social context of law, including aspects such as the lived experiences of both refugees and decision-makers who are assessing their claims for protection. As outlined in the preceding chapter, this methodological orientation necessitates an approach to researching asylum determination that looks beyond legislative framework. Focusing on the internal structures of government and how policy is implemented in practice, socio-legal investigations into ‘internal’ administrative law aim to gain valuable insights into the everyday workings of government departments (Daly and Tomlinson, 2022; Thomas, 2022, 2023).

Alternatively, sociological studies of the law look at the role of institutions in the decision-making space. These inquiries seek to understand how organisations structure violence, shape social relations, and enact control over individuals seeking protection (Griffiths, 2012, 2021). Criminological studies are interested in the contours and effects of violence, too, and are additionally concerned with penalty and punishment in the immigration and asylum regime (Franko Aas, 2007; Bosworth, 2019; Carvalho, Chamberlen and Lewis, 2019; Campos-Delgado, 2021). Anthropological studies of immigration and asylum bureaucracies explore the role(s) of affect, emotion, identity, and meanings are produced and ascribed through the bureaucratic process (Graham, 2002; Cabot, 2012; Hoag, 2014, 2019).

As reviewed in the previous chapter, each approach has utility for and has influenced the development of this thesis. However, of particular relevance to this research is a socio-legal approach which recognises that asylum status determination is ‘a social undertaking’; it is guided by the organisational context in which individual decision-makers work (Liodden, 2020). A socio-legal approach to asylum determination understands that it is important not only to analyse the legislative and policy frameworks which guide refugee status determination, “it is also necessary to explore the finely tuned mechanisms that shape the decisions of those who assess claims for asylum” (*ibid.*: 646).

Creutzfeldt, Mason and McConnachie (2019: 4) suggest that social-legal research is “a way of seeing, a way of recognising the mutually constitutive relationship between law and society”. The goal of socio-legal research is often to engage with the social reality of legal structures or understand both the law and its application as part of a wider social context. The impetus for socio-legal research is to look beyond the ‘black letter’ of the law to examine the operation of the law in formal or informal contexts

– for example the decision-making of government officials who administer the law, or through ethnographic research with judges or lawyers to study the everyday practices of legal work (Banakar and Travers, 2005). This methodological approach expands the frame of socio-legal inquiry “to include the nature and workings of administrative... bodies, the objective being to understand how institutional and organisational factors influence their practical operation” (Galligan, 2006: 29).

3.1.2. Critical realism and social constructionism

Socio-legal analyses of asylum administration are therefore concerned with the intersections of bureaucratic structures, practice, and affects, as well as individuals’ experiences and understandings of the law and conceptions of ‘refugeehood’. Recognising that these key concepts are both socially situated and liable to change, such analyses ascribe to epistemological and ontological perspectives which reflect interpretivist and collective understandings of phenomena.

The philosophical assumptions that underpin this piece of socio-legal research are critical realism and social constructionism. Critical realism is an “emancipatory approach to research” that is both “naturalistic” and “interpretive... concerned with understanding meanings which people attach to phenomena” (Snape and Spencer, 2003: 3). Critical realism is often understood as a prism through which it is possible to see that “reality exists independent of the human mind regardless of whether it is comprehensible or directly experienceable” (Levers, 2013: 2) but is “only *knowable* through... socially constructed meanings” (Snape and Spencer, 2003: 16. Emphasis added). Critical realism is distinct from both the realist/positivist and idealist/interpretivist paradigms as both “referentiality and objectivity are possible, though always partial” (Nightingale and Cromby, 2002: 710). While it is understood that there is no way of accessing an ‘objective reality’ (Haraway, 1988), by holding a critical realist approach it is inferred that there exists some ‘shared lived experience’ (O’Leary, 2004). In other words, we might make meaning, but “the world is not simply a blank page upon which [we] write” (Hoag, 2011: 84, cf Haraway, 1988). In addressing socio-legal research, therefore, a critical realist approach allows for analyses that interrogate the influence of law on society (and vice versa) by moving beyond positivist and doctrinal analyses (Hamlin, 2022).

Social constructionism posits that meaning and knowledge are socially created and that jointly constructed understandings of the world form the basis of a subjective reality. This position attests that these constructs are “shaped and constrained by embodiment, materiality, socio-cultural institutions, interpersonal practices and their historical trajectories” that are fundamentally “structured by, and reproducing structures of, power” (Nightingale and Cromby, 2002: 706). This means that any new knowledge produced is “marked by colonial pasts and neo-colonial presents; it is racialized, gendered, sexualized, and classed” (Faria *et al.*, 2020: 1100). However, this does not mean that knowledge is any less valid when produced in this vein. Rather, by unpacking the epistemological assumption of the

researcher it is possible to develop a transparency in method that furthers the validity of research findings (Bottoms, 2008).

Crucially, a social constructivist position to phenomena posits that we construct a reality through agreed and shared meaning that is dependent on historical, political, and social contexts – often shaped by the dominant social group and the influence of social norms (Morrison, 1995; Nightingale and Cromby, 2002). Such a perspective allows for a critical analysis of bureaucratic processes because it attends to the fact that a bureaucracy is both accomplished and shaped by social actors working within it – for example, individual caseworkers – but also is bound by a set of social rules and norms. This means that an approach that interrogates both the norms and rules of the bureaucracy alongside the perspectives of those who inhabit and interact with it, can bring forward new knowledge and understanding of the bureaucracy and bureaucratic knowledge practices therein.

Finally, a social constructivist position remains attuned to both the social and the legal applications of categories. As Kimberlé Crenshaw (1991: 1296) argues, “a large and continuing project for subordinated people... is thinking about the way power has clustered around certain categories and has been exercised against others”. For example, the term ‘asylum seeker’, while not a legal category, has transcended legal application and emerged as the dominant construct that represents the ‘other’ (Lynn and Lea, 2003) within a new “illegal migration frame” (Bhatia, 2018: 183). In understanding that the utility of legal categories can become structured by – and reproduce structures of – power, a social constructivist position for socio-legal research also understands the implication for law-in-practice outside of a doctrinal context.

3.1.3. A methodology of multiple ‘encounters’

With these epistemological and ontological positions in mind, it is therefore appropriate to develop a methodological approach to researching the Home Office’s Asylum Operations which is contingent on, and reflects, this overarching theoretical paradigm. Here, I suggest it is important to turn to the ‘partial perspectives’ approach offered by Colin Hoag (2011).

In ‘Assembling Partial Perspectives: Thoughts on the Anthropology of Bureaucracy’, Colin Hoag (2011) reviews and reflects on existing scholarship on bureaucracies (including his own work on immigration bureaucracies) through the prism of Donna Haraway’s 1988 article ‘Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective’. He suggests that “bureaucracy is in many ways a first cousin to science” (Hoag, 2011: 84) and, because of this, in researching bureaucracy academics are likely to fall victim to similar binaries in their work that Haraway identified in the sciences. Whereas Haraway identified ‘all of nothing extremism’ in scientific thought – noting that science is considered to be *either* objective or subjective – analyses of bureaucratic thought and action tend to coalesce around a series of binaries: function/ disfunction, formal/ informal,

passion/ dispassion, policy/practice. Hoag suggests that the challenge for researchers of bureaucracy is to look “for those aspects of the bureaucratic ecology that complicate the legal realism of bureaucratic discretion” so that it is possible to “talk about bureaucracies without allowing bureaucratic ideals to predetermine the analysis” (Hoag, 2011: 58).

Hoag argues that one way of in which it is possible to disrupt such a paradigm is by building a research design which centres the affective qualities and values of bureaucratic organisations. Here, he builds on the work of Monique Nuijten (2003) who calls for the study of bureaucracy as a *process*, rather than a *product*. For example, Hoag suggests it would be a useful avenue for research to think “through prospection and indeterminacy in bureaucratic worlds” (Hoag, 2011: 87), or to centre the production (and severance) of hope in the bureaucratic process. As reviewed in the previous chapter, one salient example of this in the context of immigration and asylum bureaucracies is with reference to the ability of bureaucracies to “control and contort time” (Hoag, 2014: 411) – see, for example, Griffiths (2014, 2021, 2021), Canning and Bhatia (2021), and Meier and Doná (2021). As Hoag (2011: 86) outlines, “taking this kind of bureaucratic waiting into consideration challenges the policy-practice rubric by destabilising the ‘outcome’ and disarticulated bureaucratic event, as the primary object of analysis”. With reference to this thesis, such an avenue for exploration would coalesce around the *production* of opacity and the relational dynamics that such a production entails.

Second, Hoag suggests that in foregrounding an ‘assemblage’ of multiple perspectives, it is possible to navigate discussing bureaucratic structures and action without giving primacy to one normative perspective on bureaucratic life. In this way, Hoag’s methodological framework functions draws directly from Donna Haraway’s concept of ‘situated knowledge’ (Haraway, 1988) which argues for researchers to actively complicate the masculine ‘gaze from nowhere’ that underpins ‘objective’ views on science. In her article outlining a feminist approach to science, Haraway builds on the work of researchers from feminist and post/ de-colonial traditions who argue that ‘forms of knowing’ have historically been built predominantly by the advantaged and are largely monocultural in nature (Icasa and Vasquez, 2018; Srikrishna, 2020: 4). For feminist researchers, this refers to the production of knowledge as male knowledge (Harding, 1987).

Hoag’s transposition of this notion of ‘situated’ perspectives on bureaucratic life aims to further an awareness of the “contingency, partiality, and co-produced nature of bureaucratic knowledge” (Hoag, 2011: 86). In so doing, he reminds researchers that the concepts undergirding binaries such as function/ disfunction, formal/ informal, passion/ dispassion, policy/practice are also constructions. They are constructed, in part, by the actors who participate in the bureaucratic form, and they are also constructions of the researcher. The incorporations of a plurality of ‘perspectives’ actively resists the conception that such normative frameworks are ‘from nowhere’ (Haraway, 1988).

As such, Hoag (2011) applies this theoretical approach in Haraway's work to understanding bureaucracy as a subject. He suggests that it would be beneficial for researchers to assemble partial perspectives to bureaucracy, thereby accounting for the multiplicity of actors who work together to construct its form. For example, 'street-level bureaucrats', managers, service users, and other stakeholders. I have found this approach to be particularly salient in designing this socio-legal research project, especially with the knowledge of the various infrastructures which support the development and implementation of determination processes. As such, I have chosen three perspectives which reflect different stages of the asylum determination process: administrative design, policy implementation, and the experiences of external stakeholders. The rationale is that these three perspectives can illuminate different angles on the central problem of asylum determination processes. In choosing to foreground these three perspectives, I attend to the role of management consultants, asylum caseworkers, and immigration practitioners.

Furthermore, this relational ontological approach drawn from the synthesis of multiple perspectives is particularly relevant to studies of *opaque* institutions. This is because of the situated nature of concepts such as secrecy, opacity, and obfuscation. Indeed, as best described by Georgios Glouftisios (2023: 1658): "secrecy is both performed and performative. It is crafted within different socio-material contexts, and it produces specific effects relating to those contexts". The relational ontology of secrecy was explored at length by William Walters in *State Secrecy and Security: Refiguring the Covert Imaginary* (2021) where, in order to capture its "polymorphous and multifaceted" nature (*ibid.*: 7), he proposed a 'flat ontology of secrecy'.

It is this 'flat ontology' of secrecy which I synthesise with Hoag's methodology of partial perspectives in order to develop the methodological approach of 'multiple encounters with opacity' utilised in this thesis. As such, it is worth outlining his approach in full (Walters, 2021: 16):

A flat ontology of secrecy means that we start with cases involving some form(s) of secrecy and proceed in a way that is thickly descriptive. Rather than impose upon our case standard metaphors like veiling or buried truths, we examine how operations related to secrecy contour knowledge, politics, and power. It means that we attend to the unique configurations of our cases. One consequence of taking a flat ontology is that we treat exposure not as an obvious event that is somehow explained by a prior situation of secrecy but an event that is itself complex, comprising actors and elements that have to be explained as social processes.

The key aspects of this flat ontology of secrecy are, therefore, the beginning of analyses with a thick description of a 'situation' or 'controversy', where opacity is "problematized, governed, contested, shaped and reshaped, made and unmade in milieux... in some form or another" (Walters, 2021: 7). Crucially, the researcher ought not to impose understanding of opacity on to the situation but to seek to find *in what way[s]* a situation produces opacity and the *relational effects* of this opacity – including how the production of opacity structures power relations between those on the 'inside' and the 'outside'

(Hoag, 2011; Lemke, 2022). The utility of this flat ontology of secrecy is that it can help to develop insights into shared phenomena by piecing together multiple ‘encounters’ to develop a cohesive whole. In this way, it also serves to disrupt the ‘gaze from nowhere’ (Haraway, 1988). The central contestation is that, through a combination of multiple encounters, understanding can be developed even when access is limited or restricted. It therefore could be of critical use in understanding the Home Office’s Asylum Operations.

Crucially, this flat ontology of secrecy ascribes weight to both the human and the non-human actors in the production and performance of secrecy and secrecy practices, and attends to the various “practices, institutions, and technologies through which secrecy is (un)made” (Glouftisios, 2024a: 6). It also gives analytical weight to the temporal dynamics of secrecy research (Stevens, 2023; Stevens and Forsythe, 2023), recognising that understanding can emerge in “an uneven and piecemeal manner through heterogenous sources and mechanisms” (Walters, 2021). Where access to phenomena is restricted, such an approach proposes secrecy more as a methodological tool, than a barrier to overcome (Muller and Welfens, 2023). Following Muller and Welfens (2023) ‘(Not) Accessing the Castle’, I use the process of obfuscation as a critical analytic tension through I move away from “the methodological and epistemological struggle to ‘reveal’ the secret” (Stevens and Forsythe, 2023: 13) of asylum decision-making and instead consider what is obfuscated about the asylum decision-making process, how this occurs, and the effects of this obfuscation.

To summarise, in this thesis, I have synthesised Hoag/Haraway’s approach on situated knowledges in bureaucratic research with the approach to researching opaque institutions drawn from critical migration and security studies. The result is a methodology of ‘multiple encounters with opacity’. I used this methodology to answer my second research aim: **what are the tactics and consequences of institutional opacity? (a) for administrative design (b) for asylum caseworkers, and (c) for immigration practitioners.**

Each chapter of this thesis begins with an analytical entry-point which constitutes an ‘encounter with opacity’. Each chapter highlights the role of a different actor who participates with, or engages in, the contemporary asylum bureaucracy: management consultants, Home Office asylum caseworkers, and immigration practitioners supporting asylum applications. Through exploration of the encounter and the opacity produced therein, my contestation is that an understanding of the Home Office’s Asylum Operations can be developed even where research access is limited. This represents a novel approach to socio-legal research, one which can be utilised in other administrative institutions where research access is limited.

3.1.4. Epistemic accountability and responsibility in knowledge production

Having outlined my methodological approach, and before providing an overview of the methods used and the journey of my research process, I will now turn to issues of epistemic accountability and responsibility in knowledge production. A feminist approach to research emphasises the significance of epistemic accountability and responsibility in conducting social research. I will address my understanding and commitment to epistemic accountability and responsibility within this thesis by framing these considerations around two main points of concern - problematising ‘speaking for/ to’ (Alcoff, 1991) with regards to research on borders and migration, and the responsible construction of new knowledge.

The differentially permeable and dynamic iterations of contemporary state bordering processes have been widely acknowledged (Rumford, 2006) with reference to the “qualitatively different experiences of social ordering and exclusion” inherent in transnational im/mobility (Franko Aas, 2007: 284). This makes the process of encountering bordering processes – such as the asylum administrative infrastructure – imbued with numerous subjectivities of which the individual applying for asylum or negotiating the bordering estate will be the expert upon, as well as a plethora of associated power dynamics. Thus, before proceeding, I want to explain why I decided not to interview asylum applicants as key stakeholders in this PhD research, and how I see it as a direct reflection of the breadth and focus of the thesis.

In *Gendered Harm and Structural Violence in the British Asylum System* Victoria Canning (2017) addresses the politics of voice in academic research relating to refugees and asylum seekers. She notes that as the political landscape surrounding asylum in the UK has become increasingly one of criminalisation, research interest in the lives and experiences of asylum seekers has proliferated. Such research is largely grounded in a critical social scientific tradition which finds salience in people’s lived experience and uses qualitative and narrative methods to understand the lives of those in the UK’s asylum system. However, while the drive to conduct such research often arises from a place of solidarity, sympathy, and support, the consequence of this knowledge production can also be a form of voyeurism; depicting, rather than challenging, the precarious situation of asylum seekers and entrenching, rather than dismantling, the structural factors which produced these conditions of ‘bare life’ (Agamben, 1998).

Moreover, when the researcher is situated in the context of UK Higher Education, these dynamics are even more apparent. As Canning (2017) notes, due to the structural conditions in which research in the UK is conducted and funded, these personal and experiential narratives of the asylum process risk becoming the ‘knowledge’ of the researchers central to their re-tellings. When this happens, the voices of (activist) asylum seekers remain hidden as footnotes in the resultant PhD theses and publications. Indeed, as Hyab Teklehaimanot Yohannes (2023: 4) has elsewhere written, this risks the “pained bodies and poignant stories” of asylum seekers in the UK becoming the “sites of knowledge production and

units of analysis” for researchers. In so doing, the researcher and “the researched” remain “entangled in asymmetrical power relations and positionalities in which the former acts as a knower and the latter as that which is to be known” (*ibid.*: 9). Not only does this pose ethical and conceptual problems, but Nagar and Ali (2003: 6) suggest such analyses “remain theoretically and politically impoverished in the absence of close scrutiny and critiques by those... in whose interest we want to advance”.

Moreover, the aim of this thesis is not to provide an experiential account of the asylum administrative process. Rather, to understand how asylum decision-making processes are obscured and the effects of this obfuscation. To locate this knowledge, therefore, I have sought the experience of those who help to (re)produce and (co)construct bureaucracy and bureaucratic processes. It is hoped that, in line with Alcoff’s (1991: 28) directive to “reconceptualise ideas as traversing (almost) freely in a discursive space, available from many locations”, the knowledge that is produced can be submitted to a wider knowledge base that also includes the perspectives, knowledge, and understanding of those with lived experience of the asylum administrative structures in the UK.

Finally, the drive to ensure integrity in knowledge production also posits “epistemic accountability and responsibility... in the production and use of knowledge” (Bloch, 2020: 454). Indeed, “one must also look at where the speech goes and what it does there” (Alcoff, 1991: 26) and the way in which knowledge is produced and reproduced. Michel Foucault (1977) noted that academics ought to be attuned to the proliferation of the research and their consequential contribution to a ‘regime’ of truth. He said, “‘truth’ is linked by a circular relation to systems of power which produce it and sustain it, and to effects of power which it induces, and which redirect it” (*ibid.*: 14). Natasha Saunders (2017) locates this consideration within the paradigms of both refugee status determination process, and the development of Refugee Studies as a discipline. By tracing the development of ‘refugee studies’, she notes how academic research and knowledge production about ‘refugees’ and refugee-ness has had the (unintended) consequence of providing scientific “rationale and legitimacy for the creation of restrictive asylum policies”, including restricting access to territory and reforming asylum processes (*ibid.*: 92).

It is with this in mind that I want to ensure that my research does not function to reify administrative categories utilised by states for the purpose of regulating migrants and mobility by representing them as “established an unquestionable” (Jacobsen and Gilmartin, 2020: 70). Undoubtedly this is a risk. As Akhil Gupta (2012: 66) writes:

Fieldwork on state bureaucracies inevitably draws researchers into complicity with the reification of the state. To the extent that the categories, terminologies, and representations of state officials slip into our analytical vocabulary we become complicit in perpetuating and legitimising the classificatory schemes used by bureaucrats.

However, I am here emphasising a commitment to actively not legitimise processes or practices of the asylum bureaucracy through their interrogation. Rather, the aim is to produce an analysis that critiques the bureaucratic structure which shape asylum administration in the UK.

3.2. Methods

In the first part of this chapter, I outlined the epistemological and ontological basis I hold. I then articulated how I have synthesised the methodological approaches of Colin Hoag and William Walters in order to present a methodology of multiple encounters with opacity, and demonstrated why it holds utility in researching institutions where research access is limited. Following this, I outlined how I approached issues of epistemic accountability and responsibility in knowledge production, with explicit attention to research on processes on border and bordering.

In this second section, I provide an overview of the methods I used in this thesis to answer my second research questions: **what are the tactics and consequences of institutional opacity? (a) for administrative design (b) for asylum caseworkers, and (c) for immigration practitioners**

In order to develop understanding, I used multiple methods of qualitative data collection in conducting this research: Freedom of Information (FOI) requests, qualitative interviews, analyses of parliamentary committee meetings, and courtroom observations. Each of these methods supported the development of my analysis in different ways, and therefore not all methods were used for all sections of my analysis. For example, I focused my chapter on ‘administrative design’ on FOI requests and did not use FOI requests to further my analysis of Home Office caseworkers or immigration practitioners. My data collection process, including gaining access, ethical considerations, sampling, and data analysis, is outlined below. Ethical approval for this research project was presented to the UEA Research Ethics Committee, and granted on 23 March 2021⁷⁶.

3.2.1. Freedom of Information Requests

The first method of data collection I used in this thesis is Freedom of Information (FOI) requests. This method of data collection has particular utility for understanding aspects of administrative design.

Under the Freedom of Information Act 2000 (FOIA) any person in the UK is entitled to be informed in writing by the public authority whether it holds specified information outlined in the request (s 1(1)(a)). The Act gives “a general right of access to information... which includes both a right to be told whether information exists and a right to receive information” (Lee, 2005: 3). The statutory provisions held in the Act thus gives researchers a unique opportunity to access raw data from public authorities before it is screened by the government or public authority (Savage and Hyde, 2014). Key sources of data that

⁷⁶ An amendment to the research design (ETH2122-1420), was approved on 22 March 2022.

can be accessed include administrative rules and regulations, codes of conduct, standing orders, directive, memorandums of understanding between departments, departmental memos, and statistical information used to inform decision-making (although only once a policy has been formulated or decision made) (Walby and Larsen, 2012). Moreover, all communication relating to any of the above can also be requested, subject to any identifying personal information being redacted (Lee, 2005).

Despite the potential of FOI requests as a method for socio-legal research they have not been extensively utilised and remain largely in the purview of journalists (and some historians). Walby and Larsen (2012) outline their significance for social scientists in particular who aim to understand the ways organisations and public authorities change over time and argue that they ought to be considered essential for researchers who are looking to disrupt “government discourses, policies and practices” (*ibid.*: 32). Nevertheless, some analyses of immigration bureaucracies have started to use FOI requests increasingly as a method.

Pertinent to this research, it has been demonstrated that data obtained through FOI requests provides a valuable insight into both document management and information brokering processes (Walby and Larsen, 2012; Calavita, 2010), and therefore that FOI requests are a useful “tool for studying bureaucratic organisation” (Lee, 2005: 12). For, in seeing ‘first-hand’ how information is compiled, shared, redacted, coded, and used in the day to day working of the state, it is possible to glean not only what is seen as valuable, but also begin to piece together the operationalisation of bureaucratic modes of implementation. Lee (2005) also emphasises that FOI requests are illustrative in understanding how the state reacts to and co-creates new social phenomena, since “being able to explore how official bodies respond to new phenomena might help to make clearer how social problems come to be socially constructed” (*ibid.*: 10). Thus, they are particularly useful for understanding administrative design.

Indeed, following the successful interventions of Stavinocha and Fotiadis (2020) and Stavinocha (2024) in uncovering the hidden role of McKinsey & Company in asylum processing in Greece, I chose to use FOI requests both as a method and as an active methodological tool with which to understand the perspective of administrative design (*Chapter Four: Consultants*). Here, I follow Walby and Luscombe (2021) in considering both the data disclosed and the “disclosure process” itself. This facilitates a socio-legal analysis which considers the Home Office’s compliance with its legal obligations in tandem with (a) the process of obtaining information and (b) the response letters from the Home Office as sources of data with analytic value.

This necessarily impacts the production of opacity, and it is worth recognising at this juncture that FOI requests as a method shapes, problematises, and resists secrecy in-practice. On this, Walters (2021) writes, “a research practice like the freedom of information request not only relies upon but also partly forges the public record” (*ibid.*: 11). In this way, FOI requests are a useful tool through which it is possible to trace and reflect the contours of opacity, but they also actively work to define new boundaries

and structures of opacity itself. It is therefore important to attend to both disclosures and the process of requesting as of analytic importance (Walby and Luscombe, 2021). In such a way, my analysis draws upon the temporal, affectual, and material dimensions of requesting data, as well as the documents produced as data sources.

Between 2 November 2022 and 14 February 2024, I submitted 19 FOI requests to the Home Office and three FOI requests to the Crown Commercial Service regarding management consultancy involvement in caseworking schemes. A list of all FOI requests submitted can be found in Appendix A. This includes three requests submitted for an Internal Review and two complaints to the Information Commissioner's Office (ICO). I based my FOI requests on partial disclosures peppered throughout Home Affairs Committee meetings and information garnered through interviews with a current asylum caseworker (James), an unnamed senior official at the Home Office⁷⁷, and two auditors who had recently conducted work at the Home Office (Linda and Sam)⁷⁸. As I uncovered data and internal documents through FOI disclosures, I additionally submitted 'meta-requests' (Walby and Larsen, 2012) for the internal email communication about the handling of my requests.

These 'meta-requests' produce additional documents in the form of PDF logs of email communications, and they are useful sources of data for how they reveal internal discussions about the disclosure process – for example, whether documents are held, how civil servants understand and interpret the grounds of the FOIA, and whether there is any reluctance to disclose. A screenshot of a document generated through a 'meta-request' is given in Figure One as an example (overleaf).

It is important to note at this juncture that submitting FOI requests is a time-intensive and laborious process, especially when requests are refused or delayed. For example, on 6 February 2024 I submitted FOI 2024/01323 relating to internal communications regarding previous requests 2023/06770 and 2024/00659. By 11 April 2024, I had not had a response from the Home Office, and it was therefore in breach of its statutory duty. On 7 May 2024 I submitted a complaint to the ICO (Case Reference: IC-305141-V8R5). The ICO upheld my request and sent a 10-day notice to the Home Office directing them to respond to my original request on 4 June 2024. On 8 August 2024, I received the data from the Home Office. At this point, six months had passed from my original request. My request was upheld without challenge, and the Home Office had simply used *time* as a tactic through which to delay my accessing the data (this is explored in greater detail in *Chapter Four: Consultants*).

⁷⁷ Interview with senior Home Office official. 24 April 2023. They requested a pseudonym not be used and all direct quotes have been approved for use.

⁷⁸ Interview with Linda and Sam, government auditors. 5 July 2023.

From: <REDACTED>
Sent: 06 February 2023 12:43
To: <REDACTED>
Subject: RE: FOI Connie Hodgkinson Lahiff

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Both

Further to this and in relation to an FOI by the same person, have you guys had any direct communication with David Neal, the Chief inspector?

He met with some of the team on 7th September in Leeds, and I've seen feedback that shows that <REDACTED> has promised to send him something. Do you have a record of what was sent please, if anything?

I'm not sure if this would fall within our remit of FOI seeing as Mr Neal and yourselves are both third parties.

Thanks

<REDACTED>

Figure 1: Excerpt from FOI 75200 (a).

3.2.2. Qualitative interviews

The second method of data collection I used was qualitative interviews. For this research, I interviewed Home Office caseworkers (former and current), other Home Office staff, civil servants, and legal practitioners⁷⁹. I conducted 22 interviews in total, each of which lasted between 45 and 90 minutes. A list of all these interviews can be found in Appendix B. The aim of these interviews was “to learn about the traditions and perspectives which guid[e] the collective decision making of [a] disparate group of people” (Rumgay, 1995: 207) by seeing the world ‘through their eyes’ (O’Leary, 2004).

Semi-structured interviews use a format whereby key questions are asked, but the interviewer “is free to alter their sequence and to probe for more information” (Fielding, 1993: 136). It is understood that “interviewer effects must be acknowledged and controlled” in order to ensure the validity of the findings (*ibid.*: 145). During my interviews, a semi-structured interview schedule acted as a prompt to support an interaction which was more conversational in style. The interview schedules can be found in Appendix C. For Home Office staff, my framing and understanding of the questions in my interview schedule was informed by research into the use of discretionary powers of street-level bureaucrats (Lipsky, 1980; Eule *et al.*, 2019; Wissink, 2020), as well as organisational subcultures and decision-

⁷⁹ Following Wilding (2023), throughout the thesis, references made to ‘lawyers’ or ‘practitioners’ refers in total to solicitors, OISC-regulated caseworkers, and barristers.

making (Jermier *et al.*, 1991; Weber, 2005; Bierschenk and Olivier de Sardan, 2019), and explorations into models of responsibility (Hamilton, 1978; Luban, Strudler and Wasserman, 1992; Schlenker *et al.*, 1994). The interviews, therefore, aimed to find out how Home Office administrators conceptualise their own responsibility, and by extension, how this influences their use of discretionary powers and affects their decision-making processes. For practitioners, my interview schedule was based on research that focuses on how practitioners' exercise their role (Hambly, 2019; Wilding, 2023b) as well as the affectual and emotive impact of immigration practice (Piwowarczyk *et al.*, 2009; Baillot, Cowan and Munro, 2013; Graffin, 2019). The interview schedule also developed as I conducted more and more interviews over a period of six months, allowing me to draw out some of the key themes which emerged after a few interviews – including communications, silences, and opacity – in later interviews.

For all interviews, non-random (purposive) and snowball sampling were used throughout this research project. Non-random samples ensured that people with commensurate experience are included in the study. It is acknowledged that any form of purposive sampling has the potential to produce an atypical sample, since unlike random sampling “where everyone in the target population has an equal chance of being selected” (Jacobsen and Landau, 2003: 196), purposive sampling is driven towards a particular population. However, it is widely acknowledged that for purposive samples “selection is done with the goal of representativeness in mind” (O’Leary, 2004: 109).

For Home Office caseworkers, other Home Office staff, and civil servants, my sampling remit was wide, reflecting an acknowledgement that only seeking to interview Home Office asylum caseworkers would be overly restrictive. As such, I decided to focus on those who had experience or knowledge of the asylum determination process. This included, of course, Home Office asylum caseworkers (both former and current), but also other administrators or employees who supported, developed, or reviewed the caseworking process. For practitioners, I only approached those who supported asylum applications. However, I did not only approach those who supported first-instance asylum applications and included barristers who supported at appeal. My decision to do so was grounded in an understanding that barristers also worked with, and saw, the decision-making apparatus of the Home Office.

While all practitioners interviewed for this research supported asylum applications, they supported immigration applications, too, and at times would refer to other decision-making units in the Home Office by way of comparison or to provide context e.g., the homelessness team, the Domestic Violence concessions team, or the EUSS and resolution centre. This reflects the varied workloads of the practitioners engaged in this research and was also used and as a narrative tool of practitioners through which they could invoke a shared understanding. However, the focus of both this analysis and the conversations with practitioners remained on asylum decision-making – rather than immigration applications and support – and where other teams are referred to, this remains as a point of comparison from which to learn more about the asylum decision-making.

The limitations with the quality of the sample are recognised and fall into two interconnected categories: size of the sample and representativeness of the sample. First, with regards to Home Office administrators and employees, the difficulties in accessing potential participants (outlined in section 3.2.2.1 *Gaining access*, below) means that the sample size is smaller than initially intended. Despite the multiple routes of access attempted, this is necessarily a limitation to this research project and risks the data being non-representative. To mitigate this limitation, I have triangulated the data by including in my analyses the perspectives of Home Office asylum caseworkers from secondary reports on asylum caseworking – such as from the ICIBI and NAO – and incorporating direct quotations from journalistic news articles. The first-person perspectives gained from these alternative sources have been used to support the conclusions drawn from primary data collection (for example, see section 5.4.2. *Relational dimensions of institutional opacity*).

Second, it is recognised that those who engaged with this research project are self-selecting and therefore will not be fully representative of the populations included in this study. This is because the motivation to engage with the research project will necessarily impact the data which are collected. This limitation applies to both Home Office administrators and employees, and to the legal practitioners interviewed for this project. With regards to the latter, it is also important to note that most of the practitioners with whom I was engaged were both encouraging of the research and committed to working at free-to-access advice centres, or via Legal Aid contacts in law centres. This leaves the possibility that the sample may not be representative of all immigration practitioners supporting asylum applications and instead may capture those who are more politically engaged. It is further recognised that these representatives supported only a sub-set of asylum applicants in the UK – for example, not all asylum applicants will qualify for either free advice or Legal Aid – and that the experiences of those supporting asylum applicants who can afford paid-for representation may be different. However, despite this limitation, I actively sought to include a geographical spread of practitioners, especially focusing on representatives from both in and outside of London.

In order to ensure that participants gave their informed consent to participate in the study – wherein participants are competent, autonomous, not deceived, coerced or induced when they decide to participate in the study (O’Leary, 2004) – a participant information sheet with the aims and methodologies of the research was distributed to potential participants (in paper form, or digitally, by email) alongside an accompanying consent form. Copies of the consent form are held securely, both in paper form and in a password protected folder. The aims and methodologies of the research were made available to potential participants, and in providing informed consent to participate in the study, participants agreed to their data being used for the purpose of research, including publications (books/ journal articles) and conference presentations, both preceding and superseding the PhD.

Interviews were recorded, subject to the participants' agreement, and transcribed initially using CaptionEd and latterly checked and edited by hand. All my interviews were conducted in this way except for one interview, where the recording was damaged for the first half, and so handwritten notes have been used to supplement the missing data. Data analysis followed an inductive and interpretive tradition, whereby open coding first uncovered and discovered themes that run through the raw data. This was conducted by hand on printed copies of the transcripts. Following this initial process, during a second round of coding, I collated key themes into groups and sub-themes on ExCel. I then, mapped this 'analytic schema' (Fielding, 1993) on to NVivo in a third round of analysis, where the interview data was supplemented by data gathered from other sources. The NVivo file then became the primary source of data which I referred during the writing process.

3.2.2.1. Gaining access

To gain access to participants, I used snowball sampling. Snowball sampling draws subjects from a particular section of the community through formal and informal networks (Jacobsen and Landau, 2003). While this holds the potential for producing non-viable results in some circumstances – for example, Jacobsen and Landau (2003) urge caution when using snowball sampling for research on displaced persons in refugee camps, because the sample tends to “be similar in certain ways – sharing a social network... belonging to the same religious group or interacting with a particular NGO” (*ibid.*: 196) – for the purpose of recruiting participants with fixed professional identity it is considered a useful sampling method.

Gaining access to Home Office participants was a lengthy process, beset by numerous obstacles. I approached the recruitment process through informal and formal channels at the Home Office, through contacting the Public and Commercial Services (PCS) Union, directly contacting caseworkers through LinkedIn, advertising on Twitter, and direct email contact with senior Home Office staff. After many months of recruitment, I succeeded in arranging interviews with one current asylum caseworker, two former asylum caseworkers, one former civil servant at the Home Office's Digital, Data and Technology (DDAT) team, one senior director in operations at the Home Office, and two government auditors who had worked extensively with the Home Office's Asylum Operations. Since this was a lengthy and convoluted process, a brief overview of this process of recruitment – and the time it took – is given below.

In September 2022, at the PCS-led demonstration against the Rwanda Policy at the Royal Courts of Justice, I met with a former asylum caseworker who worked at the Home Office in the New Labour administration through informal contacts established throughout the day. They consented to be interviewed. Between October 2022 and March 2023, I was in contact with the representative from the Public and Commercial Services (PCS) Union who represents caseworkers, with whom I had been

introduced via email following the RCJ rally in September 2022. However, after contacting their membership, they were unable to find someone who was willing and able to participate in the research.

In September 2022, having made a connection with the Our Home Office campaign group, and interviewed the founder in September 2022, they subsequently advertised the project through a call-out via the 'Our Home Office' Twitter page and email list. Despite gaining attention, this didn't lead to any new participants.

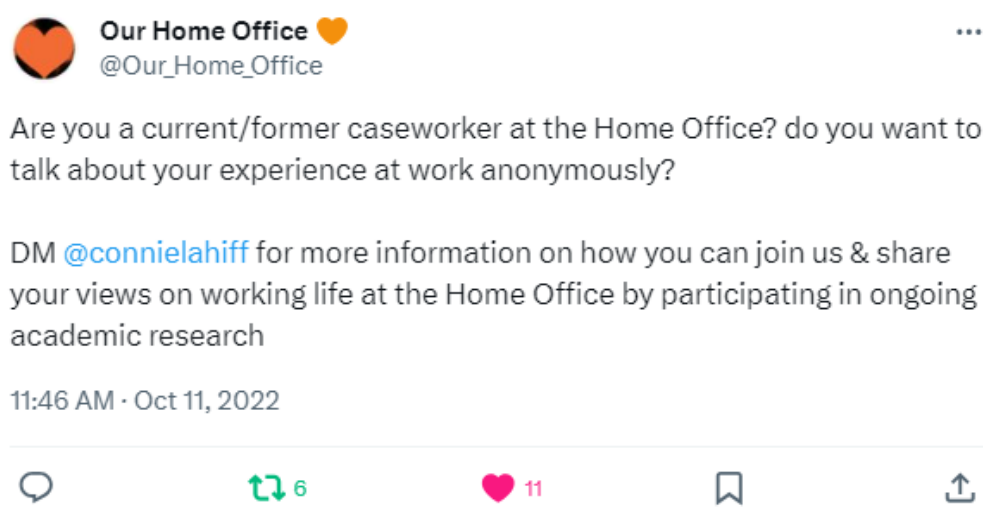


Figure 2: Call-out for participants, Our Home Office campaign.

In October 2022, I contacted 41 asylum caseworkers through LinkedIn with a questionnaire about their experiences at work. This survey contained an option to participate in future research in the form of a semi-structured interview. Of these 41 invitations, one caseworker completed the questionnaire but declined to participate in future research, and one responded to me directly via LinkedIn messenger to say he would be interested but had been explicitly forbidden to engage in any external research.

In November 2022, through a connection held by my previous supervisor who had moved to a different institution, I was able to advertise a call-out in the Home Office's internal French network mailing list. However, this too did not bring forth any participants. Later in November 2022, I was introduced to another former Home Office caseworker (now immigration practitioner) through an immigration adviser I had interviewed for my PhD research. This resulted in another extensive but off-the-record interview in December for 'background' purposes. In December 2022 I did end up reaching a current asylum caseworker. After a month of connecting via WhatsApp to gain trust, they agreed to be interviewed in January 2023 (for a reflection on my engagement with this participant, see section 3.3.1. *Researching in a culture of secrecy*, below).

In addition to informal channels, I also decided to reach the Home Office through more official routes. This included writing letters to decision-making units requesting an interview and research access, sending numerous emails to the public enquiries and Press Office mailbox, weekly calls to the general

switchboard, a long back and forth email exchange with a Personal Assistant to a Director General (that ended up going nowhere), sending numerous letters to the Director of Asylum and Protection (via email and in the Post to Lunar House), engaging at length with their Personal Assistants and deputy chief of staff (to little success). None of the 18 letters I sent were ever answered. However, I did eventually get directed to the stakeholder engagement address, and with the assistance of signed letters from SeNSS (the ESRC Doctoral Training Partnership that funded this research) to pursue that avenue of access. In March 2023, nearly 18 months later, a Home Office source recommended I email the Permanent Secretary of the Home Office, Sir Matthew Rycroft, directly. From this, I was able to arrange an interview with one of the senior civil servants responsible for operations management in Asylum Operations. Within the space of a week, the letter was answered, and an interview date scheduled for three weeks' time in April 2023.

In June 2023, following the publication of the report 'The asylum and protection transformation programme' (NAO, 2023), two auditors agreed to be interviewed for my project in July 2023. They were able to provide a useful perspective on both the Asylum and Protection Transformation Programme (APTP, see *Chapter Four*), and the Home Office's Asylum Operations. Notably, despite having several informal chats and building a good relationship with inspectors from the Independent Chief Inspectorate of Borders and Immigration (ICIBI), my request to interview inspectors was refused due to the fragility of the relationship between the ICIBI and the Home Office⁸⁰.

My experience gaining access to individuals in the Home Office reflected acutely on the opacity which pervades the institution (e.g., Gill, 2016). As will be demonstrated below, the stark difference between the opacity of the Home Office and the willingness with which practitioners would give their time to be interviewed was noticeable.

I gained access to potential participants who were immigration practitioners through mutual networks, snowball sampling, via emails to Law Centres and through call-outs disseminated by the Immigration Law Practitioners' Association (ILPA) – of which I am a member through my voluntary work as an OISC-regulated immigration adviser.

Between October 2022 and April 2023, I conducted 15 semi-structured interviews with immigration practitioners from across the UK. My sample included three OISC Regulated advisers, nine immigration solicitors, and three immigration barristers. Seven of the nine solicitors interviewed were based in local Law Centres, one worked for a not-for-profit organisation, and one for a private firm⁸¹. While only one solicitor worked in a for-profit firm (Conor), four had previous experiences in for-profit immigration

⁸⁰ The fragility of this relationship was made extremely clear when, in February 2024, David Neal the former Independent Chief Inspector of Borders and Immigration was dismissed from his post.

⁸¹ All names included in this chapter (and thesis) are pseudonyms in order to ensure anonymity for participants.

firms which they spoke to in the interviews (Aur  lie, Leila, Hannah, and John). Two OISC-regulated advisers worked in charities (Kevin and Ruairidh), and one worked at a Law Centre (Cecily). One barrister combined Legal Aid work with private practice (Sophia), one worked on only Legal Aid funded cases (Craig), and one operated a direct-access model (initial help and representation) outside of Legal Aid (Nicole).

All practitioners I interviewed supported asylum applicants in a legal capacity – either to at the initial claim phase, to submit further evidence, or at appeal. For two sets of interviews, I travelled to local law centres and was ‘put up’ for the day, with a room into which advisers could come and have a chat with me. This was arranged through the service manager or other senior members of staff prior to my visit.

3.2.2.2. Insider/ outsider status

At this juncture, it is important to focus on epistemic accountability in knowledge production when researching a field in which you have a degree of access or familiarity. While I do not have ‘lived’ experience of the asylum determination process, I do have familiarity with the role of immigration practitioner. It is therefore important to reflect on how this might affect data collection and analysis. Throughout the research process, I was training and practicing as an immigration adviser at a local law centre. During an information conversation with a barrister, I mentioned my training and, as recorded in my fieldnotes, ‘he says – ‘oh so you know’ and changed tone to be more open’ (Morning session, Taylor House Thursday 12 January 2023).

This interaction made me think about my own positionality more deeply, how my identity was understood when conducting interviews. I became acutely aware that my role as ‘researcher’ and ‘practitioner’ was continually defined and re-defined by myself and others. Throughout my interviews this phrase “you know” was raised time and again by practitioners throughout the research process. This assumed familiarity also meant that during the interviews practitioners were more likely to use acronyms – EUSS, MAP, HOPO – something which I had to make sure to ask them to explain again for clarity. This led to some questions about whether there were assumed shared assumptions they were making about my understanding of opinions.

But, as time went on, and by being alert to this in my fieldnotes, I was able to negotiate this role confusion (Asselin, 2003) more effectively. Indeed, as Millora *et al.* (2020) note, PhD researchers continually negotiate multiple positionalities through time and space (Millora, Maimunah and Still, 2020). Reflecting on my own positionalities thus highlighted a need to look beyond the insider-outsider binary to engage with both researcher subjectivity and the socially constructed meaning of professional identity (Burns *et al.*, 2012). Moreover, ultimately, I believe that some shared understandings allowed for greater credibility when approaching potential participants.

3.2.3. Parliamentary hearings and Hansard

The third method of data collection that I used was a discourse analysis of parliamentary hearings and house debates. As Georgios Glouftisios (2024a: 3) notes, “hearings and inquiries can be useful for researchers since they provide an opportunity to follow debates and discussions during which state actors are asked to give an account of their work and respond to questioning”. Indeed, parliamentary hearings provide an opportunity to gather material about the decision-making of bureaucracies in a manner which would usually be restricted – especially regarding the work of the civil service.

Hearings are useful for how they can help understand the technical, organisational and legal complexities around the policies or practices being debated” Glouftisios (2024a: 3). As William Walters (2019) notes, such hearings are useful sites for understanding how bureaucratic opacity is sustained and developed, as the various actors involved in their production engage in acts of concealment, revelation, denial, deception, and concealment. It is therefore a fruitful methodological approach to understand how opacity is both curated and sustained.

For this thesis, I watched and made notes on ten Home Affairs and Public Accounts select committee meetings between 2021 and 2024 in which asylum administration, the work of the Home Office, or the work of the Home Secretary was discussed. These are available to watch online via the Home Affairs and Public Accounts Committee sites on the government webpages (Figure Three).

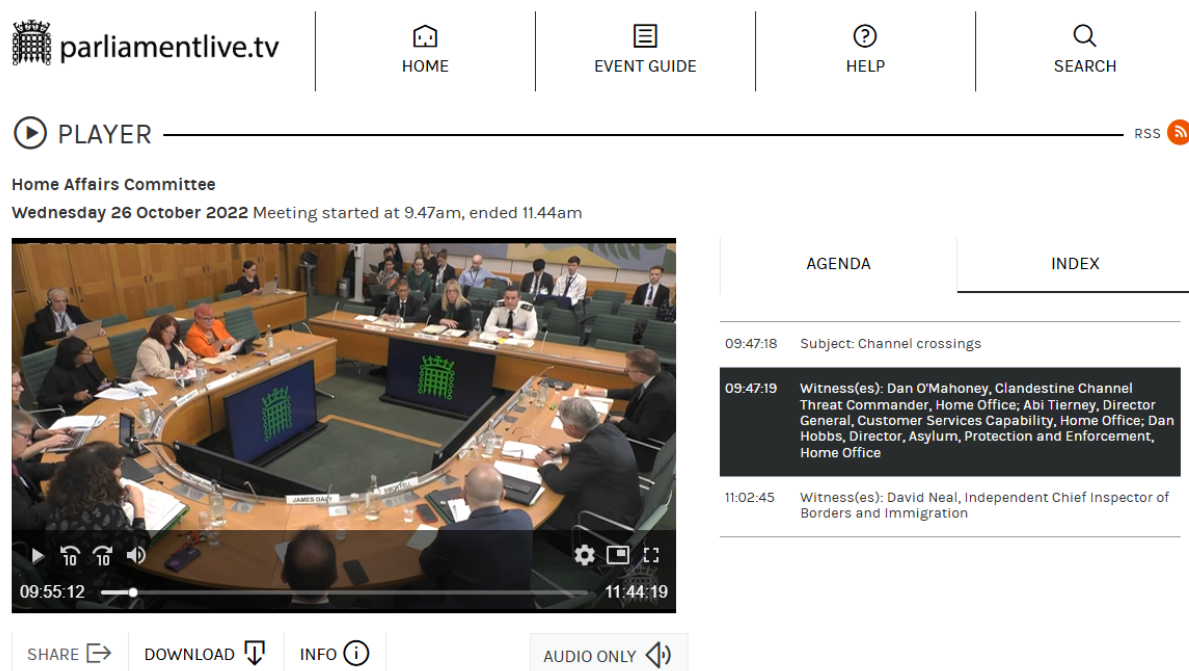


Figure 3 Screenshot from the Home Affairs Select Committee HC 822, 26 October 2022.

The hearings cover administrative and policy decisions and include a variety of speakers that are accountable to the Home Affairs and Public Accounts select committees. These officials include the

Permanent Secretary (Sir Matthew Rycroft) and Director Generals (e.g., Abi Tierney and Patricia Hayes) as well as ministers from the Home Office (e.g., Suella Braverman and Tom Pursglove) (see below).

To analyse this data from these hearings, I downloaded the transcripts from the hearing and coded them thematically on NVivo, alongside official communications between Home Office ministers and officials and members of the Home Affairs Committee meeting that are publicly available and related to this project, and material from Hansard.

To supplement this data, I also conducted an online archival search for relevant material on Hansard. To do so, I searched for key phrases such as “asylum”, “asylum administration”, “asylum backlog”, “asylum decision-making”, “PACE”, and “asylum caseworker” between January 2021 and January 2024 (inclusive) and downloaded the text files where any of these key phrases were mentioned. This left a total of 16 debates to code thematically and analyse in conjunction with the transcripts from the committee meetings. The data from Hansard and from my analysis of the committee meeting informed my analysis on both administrative design and implementation, especially in garnering an insight into how caseworkers (and their productivity metrics) are presented by senior officials in public forums.

3.2.4. Observations

The final method I used in this PhD research was courtroom observation, and the strengths and utility of this method is outlined below. When planning this research project, I included courtroom observation in my research design because it provides an opportunity to record asylum ‘decisions-in-action’, as Home Office Presenting Officers work to defend the initial decision making of their colleagues. In this way, observational research provides a unique opportunity to compare the courtroom action to reported behaviour as “observational studies... attempt to document what people actually do, rather than what they say they do.” (O’Leary, 2004: 172).

Observation as a method is a “more systematic and formal process than characterizes everyday life” (Angrosino, 2007: 53) and is used in a social scientific context to obtain “information on the fabrics and dynamics of a situated activity” (Layder, 1993: 116). The recording of observations in fieldnotes needs to transcend what is said, where it was said and at what time to include rich description in fieldnotes (O’Leary, 2007) that capture “feelings, impressions, anxieties, and irritations” (Faria *et al.*, 2020: 1103); “posture, glances, timbre of voice, silences, flushes, crying, outbursts of laughter, and the smell of sweat” (Dahlberg, 2009: 184). The reliability of observational research occurs from systematic recording and analysis of data during repeated observations over time, and the combination of observational research with other methods.

I completed two weeks of observational research between December 2022 and April 2023, at Taylor House tribunal service in London, observing between one and three lists a day. I observed primarily

asylum lists, although there were some human rights cases interspersed. I was also able to shadow the judges and gained insider knowledge through extended conversations with them. The periods of observation provided a more in-depth understanding of both the presentation of the Home Office asylum letter and the reflections of the judges, but also an opportunity to observe the legal advisers “at work”. Moreover, being at the tribunal offered up the space and time to engage with legal practitioners, judges, observers, and interpreters – enabling ad hoc conversations and observations in an informal manner.

However, while this research method was useful in providing an atmospheric understanding of asylum determination in practice, and the informal conversations with judges and barristers during my time at the courts were certainly helpful in illuminating some of the issues concerning opacity in the asylum bureaucracy, my use of observational research as a primary method of data collection was limited and it did not substantively advance the understanding of this PhD research.

Indeed, while I had initially planned to use observational research as the initial method of data collection – allowing for a process of ‘scoping’ – the consecutive COVID-19 lockdowns meant that access to the tribunals was only available from late 2022, after I had already started my interviews. Moreover, many of the professional actors involved in the tribunal process (e.g. HOPOs, barristers, judges, interpreters) are primarily concerned with the appeals process, rather than initial decisions. This meant that the extent to which observations at the immigration tribunal could answer the tactics and consequences of institutional opacity for administrative design, or for asylum caseworkers, was limited. Furthermore, the tactics and consequences of institutional opacity for immigration practitioners were best explored through qualitative interviews (see section 3.2.2. *Qualitative interviews*, above).

3.3. Methodological reflections

Having outlined both the development of my methodology and my choice of methods, the remainder of this chapter constitutes a thematic overview of key ethical and methodological reflections which emerged throughout the research process. First, I discuss the difficulties and ethical implications of doing research in a pervasive culture of secrecy. Following this, I outline how FOI requests shape the contours of institutional opacity. To conclude this chapter, I reflect on some of the successes and challenges of a methodological approach focused on opacity.

3.3.1. Researching in a culture of secrecy

As has been stressed throughout this thesis so far, the Home Office is an opaque institution and research access is incredibly limited. Furthermore, when the Home Office does grant access, there are considerable limitations on what and how research is conducted, all of which poses considerable ethical questions.

In existing criminological literature, this has most clearly been described with reference to research access in the detention estate. For example, the work of Mary Bosworth (e.g., 2014, 2019; and elsewhere with Kellezi, 2017) provides valuable insight into these sites of ‘power and punishment’, but she, too, notes the difficulties of gaining access to such sites. Moreover, Bosworth and Kellezi (2017: 125) write that, for all their investigations, “data analysis, interpretation and dissemination we were (and indeed, continue to be) dependent on the Home Office and the custodial firms”. The securitisation of bordering sites brings with it innumerable questions relating to ‘freedom’ of academic researchers to do independent research when access is so closely entangled with questions of permission. As Laura Cleton (2023: 8) writes of the Dutch asylum bureaucracy, access is granted at points so as to ‘narrate legitimacy’, placing the researcher in an often-uncomfortable position of reproducing knowledge for the state.

Furthermore, as was highlighted in my own overview of recruitment processes, the culture of resistance within the Home Office to engage with academic researchers means that access is often a combination of luck (Kalir, 2019), existing professional relationships (for example, by having worked in the department previously) (Cleton, 2023), or through the utilisation of an existing research network.

However, because of this, there are also some considerable ethical challenges when engaging with members of staff who *do* decide to engage with academic researchers. As noted by Nick Gill (2016), there is a pervasive culture of fear and distrust amongst Home Office employees concerning communication with ‘outside’ actors. As such, affirmations of anonymity and commitments to ensuring individuals were not identifiable remained front and centre of the research process, where it was acknowledged that Home Office employees might be concerned that participation in the research could have a negative impact upon their employment. To mitigate this risk, participants were made explicitly aware that pseudonyms will be used and that commitments to the confidentiality of participants will extend to the removal of all identifying personal information at the point of data collection.

Indeed, both previous caseworkers who I spoke to told me about the fear they recognised in speaking ‘out’. The working environment was referred to as ‘unbelievably pressurised’, noting ‘everybody has to sign the Official Secrets Act’. As such, they both requested specifically to have their data used ‘for background only’. They are therefore only identified as ‘anonymous former caseworker’ in this thesis.

The ethical implications of engaging with asylum caseworkers became increasingly obvious to me as my project progressed. For example, once I had made access with a current caseworker (James) and built trust such that they felt comfortable engaging in the research, it became clear that there were significant risks associated with participation. During the interview they mentioned that they didn’t reveal where they worked to those with whom they were not incredibly close with – for example, by

putting a different role on their Tinder biography⁸². While they were eager to try and find some other people to be interviewed for my PhD project, and were genuinely keen to assist with the research, it was apparent that they were not comfortable ‘linking’ themselves to this project. This materialised, for example, in them suggesting to a potential interviewee that I was a ‘family friend’ when pitching participation.

Of course, this placed me in a slippery ethical situation. Not only had the potential interviewee been contacted under false presences – a misleading explanation of my relationship to James – but also made it extremely clear how much risk James was under, or perceived himself to be under, in engaging with me for the purpose of this research project. I subsequently did not get in touch with this additional contact. However, explaining this ethical quandary to my original contact at length meant that we were able to further develop trust between us, as they understood and reflected upon this decision.

Moreover, reflecting on this process additionally revealed something about how this culture of secrecy instils a level of fear and apprehension among Home Office staff. This was best reflected in my interview with Ben. In September 2022 I interviewed Ben⁸³ on Zoom. Ben had recently left the Home Office following his suspected involvement in the newly founded campaign group, ‘Our Home Office’. The group formed to resist the Home Office’s decision to process asylum applications in Rwanda (Anon. *The Guardian*, 2022), and the Home Office suspected that Ben helped orchestrate some of the groups’ actions. During our conversation, Ben told me about how he found out he was put on administrative leave:

They don’t really know what’s going on... they’ve got snippets of something... and so they’ll make accusations, they’ll make things as broad as possible to say ‘we think you might be... you know suspected of’ blah blah blah... and some of that might be ridiculous and you’re like, ‘well that’s clearly not what’s happened’ but you don’t know that’s not what’s happened [laughs]... erm... and so like accusing me of internal fraud which could be a criminal offence and things.. and I’m like... that’s not what’s happened, but you don’t understand that that’s not what’s happened...

In his own words, “they like to throw accusations around and scare you as much as possible, it’s standard Home Office –... [practice], is ... they... I guess they lean... like unintentionally, like it’s a sort of an implicit thing... they lean on their own incompetence to scare you...”. Through this interaction, it became resounding clear to me how the culture of secrecy operated both outside of and, crucially, within the Home Office itself. Ben talked about a secretive aura around his dismissal – they had “snippets”, they threw “accusations” around, and they leant on their “incompetence” to confuse and to frighten him. This reflection certainly illustrates how the Home Office knowingly leverages its own culture of secrecy

⁸² Interview with James, Home Office asylum caseworker. 5 January 2023.

⁸³ Interview with Ben, former Home Office civil servant. 22 September 2022.

for a performative effect. As Ben admitted, he was never sure what they knew, or what they might do, and that is what frightened him.

Following my interactions with James and Ben, as well as the two former caseworkers, I decided to restructure my research design to both remain ethical – I didn't want to put anyone's job at risk – and to be realistic with access. This meant I then only approached the Home Office through official channels from March 2023. While this may have limited my final sample, I am comfortable in my decision that this was the most ethical route forwards. It will be interesting to see in the future whether data collection at the Home Office under the new Labour government would be any more open in engaging with academic researchers.

3.3.2. Freedom of (some) Information

In this next section, I discuss the use of Contracts Finder and FOI requests as a data collection method. While the substantive findings gained through my FOI requests are woven in to the empirical chapters, I use this section to reflect on how my data collection highlighted the ways in which mechanisms for increased transparency – such as Contracts Finder and FOI requests – can, and do, reflect the contours of opacity in contemporary public administration.

In 'Neither opaque nor transparent: A transdisciplinary methodology to investigate datafication at the EU borders' Valdivia *et al.* (2022) employ what they term a 'data feminist' approach to researching opaque border and security practices. Drawing on publicly available contract information and procurement records for the European Border and Coast Guard Agency (Frontex) and the EU Agency for the Operational Management of Large-Scale IT Systems (eu-LISA), they draw together a database of procurement opportunities through which they can make visible the hidden and trace the often-covert interconnections and relationships of private firms which support the EU border infrastructure. The benefits of this approach include a visual representation of procurement opportunities, from which patterns can be drawn out and analysed, as well as engaging in an act of resistance: making visible what is often hidden.

I began my data collection from a similar standpoint, wanting to use publicly available data to map the spending of the Home Office surrounding the administration of asylum applications. However, the impenetrability of the Home Office exists notwithstanding numerous mechanisms introduced to facilitate greater accountability across government. One such mechanism is Contracts Finder website. Contracts Finder was launched alongside the Public Contracts Regulations 2015, requiring the majority of UK public sector procurement awards above £10,000 for central government bodies to be published (Crown Commercial Service, 2018). Its purpose is to allow users to view and search opportunities that are currently open to tender, pipelines of potential procurement activity and awarded contracts (*ibid.*). There is a legal requirement and policy commitment to publish award notices, including redacted

contracts, wherein the requirement to publish a contract in full applies to all new contracts for the supply of goods, services and works issued from 1st January 2011 (Cabinet Office, 2012).

During the data collection process it became immediately apparent that the Contracts Finder website is not an accurate source of information regarding private consultancy involvement. First, the Contracts Finder website returns inconsistent data. On one day, the search parameters would return one data set, and this would be different the second. This phase of data collection was therefore plagued with comparison, cross-referencing, and inconsistencies. The second major obstacle was the incompleteness of the data returned. Often, no details relating to a contract would be uploaded, it was rare that ‘associated tender and contract documents’ would be provided in full or multiple ‘bridging’ contracts would be listed with an estimated value. This meant that when an opportunity was found, it was not disclosed in full. As research progressed, it became clear that this pattern of non-disclosure was both commonplace and problematic. As noted in an interview with government auditors, Sam and Linda, “we’d also I think looked for it on Contracts Finder... And we’d also not been able to identify the specific contract” (Sam)⁸⁴.

However, Contracts Finder is not the only source of publicly available data on government spending. In line with the government’s transparency obligations, they are required to publish their monthly spending over £25k. Therefore, I thought that I could mitigate the difficulties encountered through Contracts Finder by developing a document which maps all of the government spending over a certain amount. I did this for the period 2017 – 2022, by compiling all the published data into a new dataset. Following (Valdivia *et al.*, 2022), I then cleaned the data – for example, removing spelling mistakes, duplicates, and amalgamating categories that had been recorded differently (e.g. UKVI and UK Visas and Immigration and UK Visas & Immigration). I ‘cleaned’ the data on a separate tab in the original document, so as to ensure maximum transparency in process. This second tab of ‘clean’ data could then be used to develop pivot tables, e.g., spend by supplier, or spend by area. The results from these pivot tables were then possible to analyse.

While this is a useful source of information – and has been an incredibly useful tool when searching for the spend by specific suppliers – there are some significant limitations which presented themselves in the UK context that were not identified by Valdivia *et al.* (2022) in the EU context. For example, just as contracts were not uploaded to Contracts Finder, certain ‘classified’ spend is not recorded in the monthly spending reports. This was confirmed when submitting a FOI for another project, and also in ad-hoc communications with other civil servants about the procurement process.

Second, the recorded data that is published for transparency purposes does not contain comprehensive details about what the spend was for. For example, it is not possible to disaggregate only spend for

⁸⁴ Interview with Sam and Linda, government auditors. 5 July 2023.

asylum from within the overall spend for UKVI. Third, as was demonstrated by the contracts, some contracts were ‘held’ by the Crown Commercial Service and some by the Home Office. This means that the same exercise would need to be replicated for the CCS, too, in order to ‘catch’ any contracts and spend that was not accounted for in the Home Office report. Such a task would be gargantuan and fall outside the remit of this research. Thus, while Valdivia et al. (2022) found this method fruitful, piecemeal application of transparency obligations in combination with vague reporting complicity means that aside from creating a solid grounding and searchable database, it was not sufficient to rely on publicly available information.

This obfuscation of knowledge/ data necessitates the use of FOI legislation (FOIA) as a primary tool through which to understand the nature and extent of private consultancy use for administrative design at the Home Office. However, notwithstanding the time this process takes (see 3.2.1. *Freedom of Information Requests*, above), it became readily apparent that FOI legislation was also used by the Home Office in a manner which either frustrated disclosure or actively concealed information about consultancy use (Luscombe and Walby, 2017). See, for example, Figures Four, excerpt from data released under FOI 75200 relating to email communications. Here, the data loses its utility due to the redaction process.

From: <REDACTED>
Sent: 01 February 2023 09:38
To: <REDACTED>
Subject: RE: 72843 Connie Hodgkinson Lahiff - internal review - request for information to clear: COP Wednesday 1 February 2023

Hi <REDACTED> thanks for your email.

We <REDACTED> have not exchanged any information with David Neal about PACE. If we had done so it would have been through official channels via the <REDACTED>.

However, <REDACTED> and <REDACTED> <REDACTED>. But otherwise, it's a definitive “nil return” from us.

<REDACTED>

From: <REDACTED>
Sent: 31 January 2023 20:29
To: <REDACTED>

Figure 4: Excerpt from FOI 75200 (b).

Because of this, as Glouftis (2024b: 733) writes: mechanisms such as FOIA ought to be understood not as facilitating transparency, but instead “as mediators governing information flow, condition[ing] what is rendered visible and what comes to be obscured”. With this in mind, Luscombe and Walby

(2017) wrestle with the disjuncture between FOI in practice and what they term ‘the official account’ (Luscombe and Walby, 2017) in order to generate a theorisation of FOI as a mechanism of obfuscation and state secrecy. Their analytical framework is developed through an understanding of strategies of organisational secrecy and deception, in which the state gives the performance of complicity with FOI legislation and a ‘veil of legitimacy’ – a semblance of openness and transparency – but in fact do not facilitate a general right of access to information held by public authorities in line with the purpose of FOIA e.g., by disclosing incomplete and heavily redacted information in highly unworkable formats. Indeed, as Georgios Glouftsiou (2024a: 7) notes, such disclosures “can function as a strategy of public perception management, serving the goal of strategically and selectively releasing information”.

As such, it is possible to see FOI requests forging contours of secrecy and opacity, just as much as they enable greater insights into otherwise ‘hidden’ spaces. This understanding became central to my process of data analysis.

3.3.2.1. General Exemptions: s.12(1) and (2) FOIA

The second way the FOIA is leveraged to control the flow of information is through the use of generic exemptions. Two key areas which were repeatedly used by the Home Office are s12(1) and (2), and s. 31(1)(a) or (e). The Home Office relied extensively upon general exemptions under s.12(1) or (2) FOIA. These exemptions apply if the public authority considers the cost limit of £600 would be met⁸⁵. While s.12(1) and (2) were often used to justify non-disclosure of larger data sets⁸⁶, there were occasions in which the Home Office could be seen to use the ‘cost limit’ justification to frustrate the process or restrict disclosure of information.

For example, on 14 March 2023, I requested “the internal emails, MS Teams communication, memos, or other messages that relate the discussion of (a) FOI Request 72843 and (b) the Internal Review Request for FOI 72843” (FOI 75200). However, rather than complying with this request, the Home Office responded: “the information you have would require a manual trawl of emails and communication records which would exceed cost limits” (FOI 75200). In refusing the request and prompting the lengthy Internal Review process, the Home Office is seen to tactfully use the provisions of FOIA to frustrate access to information held. In doing so, rather than enabling greater transparency, it is possible to see how FOI legislation is used in a productive way to conceal information and produce opacity, as “government personnel often undermine the transparency effects that FOI is meant to create”

⁸⁵ Calculated at a rate of 24 hours work for an employee earning £25/ hour.

⁸⁶ e.g. ‘Part C of your request relates to a complex simulation model written in python, which analysts use to run scenarios... It would be very difficult to provide this analytical tool in a usable state and therefore, would reach the cost threshold to retrieve and extract the requested information’ (FOI 75149)

(Walby and Luscombe, 2021: 76). A consideration of this as a ‘tactic’ of opacity is given in section 4.5. “*We noticed we couldn’t find it too*” in Chapter Four).

3.3.2.2. General Exemptions: s.31(1)(a) and (e) FOIA

In addition to Section 12(1) and (2), another general exemption that was used extensively by the Home Office was Section 31(1)(a) and (e). Section 31(1)(a) and (e) exempts information from being disclosed if its disclosure under the FOIA would, or would be likely to, prejudice (a) the prevention or detection of crime and (e) the operation of the immigration controls. Of note, to qualify under s.31 exemptions, the ICO asserts that the prejudice claimed must be real, actual or of substance; “if the harm was only trivial, the exemption would not be engaged” (Information Commissioner’s Office, 2023b: 7). In undertaking this test, “the public authority must be able to demonstrate a causal link between the disclosure and the harm claimed” (*ibid.*: 8).

Despite the need to establish a causal link, it was clear from the responses to my FOI requests that, rather than responding to the individual request for information, the Home Office repeatedly uses generic or stock responses for the Public Interest Test for information which falls for consideration under s.31(1)(a) or (e). The most common example being (FOI 72843; FOI 72606):

If the information was released it could impact the Home Office’s effectiveness to process applications and could lead to a rise in fraudulent applications. It may also give way to a lack of confidence in the application process from those that have applied with genuine intent.

Although information was exempted under s. 31(1)(a) and (e), the rationale for refusal is enlightening and provides information, otherwise unknown, about how the Home Office ‘views’ the s. 31(1) qualified exemptions as they relate to the administration of asylum applications. Here, the utility of FOI requests as a mechanism through which to understand how the state reacts to and co-creates new social phenomena comes to the fore (Lee, 2005).

There are multiple ways in which the Home Office’s generic refusal under s.31(1)(a) and (e) demonstrates how the process of asylum administration is understood internally. The most prominent of these assumptions is that the Home Office is particularly concerned about the rise in ‘fraudulent’ applications. It is significant that at no point during any of my FOI requests did the Home Office “demonstrate a causal link between the disclosure and the harm claimed” (Information Commissioner’s Office, 2023b: 8). Instead, the Home Office was repeatedly constructing fraudulent (criminal) identities of prospective asylum applicants.

Such a discourse is evocative of a well-documented organisational culture of suspicion within the Home Office (see e.g. Bohmer and Shuman, 2018), wherein the Home Office assumes that applicants are ‘masquerading’ as asylum seekers (Campbell, 2017) and thus submitting ‘fraudulent’ claims for protection. This binary discursive frame of ‘fraudulent’/ ‘genuine’ applications is reasserted elsewhere

in the grounds for refusal: e.g., “it may also give way to a lack of confidence in the application process from those that have applied *with genuine intent*” (FOI 72843; FOI 72606: emphasis added). The ‘evasion’ of immigration controls, again, structures the rationale for rejection under s.31(1)(e), e.g. “[information] could be used by a determined individual to assess the effectiveness of... (UKVI) performance in relation to asylum casework, and specifically asylum applications... This would be valuable information to anyone seeking to compromise the asylum application process” (IR FOI 72843).

Furthermore, this discursive frame is particularly notable for the way in which s.31(1)(a) and (e) entangles and problematises issues of both immigration control and crime. For example, in the course of my data collection, the Home Office relied on s.31(1)(a) because it was considered that disclosing information about the PACE scheme⁸⁷ “would be likely to have a detrimental effect on the prevention or detection of crime” (IR FOI 72606). Importantly, when FOI releases are considered as ‘mediators’ used to condition “what is rendered visible” (Glouftsiou, 2024b: 733), it is possible to see how this become a construction of criminality.

For instance, in response to FOI 72779 to me, the Home Office gave the ‘stock’ response, but this changes when referring to the same document to the ICO. Excerpt from Decision Notice Reference: IC-220731-Q6Y6⁸⁸ illustrates this change in language well (paras 24 – 25. Emphasis added):

24. The Home Office advised the complainant: “The documents you have requested contain specific information on the asylum casework system. Disclosure would provide **would be criminals** with information as to how to navigate the immigration/asylum system [...]

25. It further explained to the Commissioner: “Some of the information requested for release would [also] provide an insight into the immigration system [...] disclosure of any Home Office evaluation material and quality **frameworks are likely to provide asylum seekers and potential asylum seekers** with access to information relating to specific areas of concern and sensitive information that they would not otherwise be able to view.

Here, “would be criminals” is substituted for “asylum seekers and potential asylum seekers” when speaking to a different audience. The substance of the remarks remains the same. Thus, in the examples that I have given above, it is clear that FOI requests sometimes serve to conceal just as much as they reveal. For example, through publication of data with lots of redactions, or completion of ‘the process’ but engaging with general exemptions. However, as I have outlined in the previous section, analysing *how* and *in what way* information is concealed can also be instructive. Indeed, the process of concealment – or obfuscation – becomes just as analytically significant. This is explored in greater length in *Chapter Four: Consultants*.

⁸⁷ The Prioritising Asylum Customer’s Experience (PACE) scheme is discussed in *Chapter Four*.

⁸⁸ Available to view at <https://ico.org.uk/media/4026288/ic-220731-q6y6-in.pdf>

3.3.3. Looking at negative space

In the final part of this chapter, I reflect on the successes, challenges, and frustrations with a methodology focused on opacity and obfuscation.

As I come to the close of this chapter and bring in some methodological reflections, it is worth noting that embarking on a methodology focused on opacity is inherently demoralising. For most of 2021 and 2022, I was consistently faced with setbacks and refusals when trying to engage with the Home Office. Letters unanswered, FOI requests refused, and interviews turned down. As noted by Jubany (2017), Gill (2016), and Campbell (2017), researching the “guarded fortress” of the Home Office can be a difficult and disheartening process. Furthermore, grappling with the redactions, exemptions, and evasions of the FOI process meant that I often felt exasperated in my inability to access documents or data, and concerned about the ability to do so within the temporal limitations placed on PhD fieldwork.

However, as Hiemstra and Conlon (2021: 667) write of conducting FOI-based research with Immigration and Customs Enforcement (ICE) in the United States:

state actors’ responses to information requests work to extend and coalesce multi-faceted state power, reveal a politics and ethics that reproduce this arrangement, and also highlight the continued significance of attention to absent presence for critical migration and border studies.

Thus, while these challenges (affects, and emotions) became a central feature of my research process, the absences, and silences, they speak to additionally became a central facet of my analysis. Indeed, as have made clear in the development of my methodology above, *the production of* opacity has become a pivotal focus of this PhD research.

Moreover, while this chapter has outlined a great deal of the limitations and closed doors that I encountered throughout this research process, it is also important to recognise some of the successes. As will become clear throughout this thesis, my determination to peer behind the closed door of the Home Office and my perseverance in doing so has materialised in the disclosures of previously unknown information about asylum determination processes. Most notably, the involvement of management consulting firm Newton Europe in the asylum decision-making space (outlined in: *Chapter Four: Consultants*).

In so doing, this thesis uncovers new knowledge about asylum caseworking and contributes to a broader body of literature which problematises the workings of the state – including how it inflicts both harm and violence. In this way, one of the greatest successes is the ability to mobilise mechanisms of redress – including the complaints procedure at the ICO – to hold the Home Office to account when they refuse to disclose information. The ability to do so in a public manner – through e.g. the decision noticed

published by the ICO, or in collaboration with other researchers as part of the Tracking Automated Government working group⁸⁹ – has been a positive and impactful outcome of this research.

3.4. Conclusion

The aim of this chapter was to outline the methodological approach I have taken in this thesis and to shed insight into the subsequent process of data collection. In detailing my methodological approach as one of ‘multiple encounters with opacity’, I outlined how and why I have decided to take the production of opacity as the point of departure through which to understand asylum determination processes in the UK. I explored how a relational ontological approach structured my research design, in which the three subsequent empirical chapters draw on a moment in which opacity is produced, with reference to (a) administrative design, (b) asylum caseworkers, and (c) immigration practitioners supporting asylum applications.

I then outlined the methods I have employed to understand the tactics and consequences of institutional opacity for each of these three standpoints. I explored how FOI requests can be a useful tool for developing insights into administrative design, but recognised how they also function to forge the public record and create opacity. I demonstrated how and why qualitative interviews are useful for elucidating the experiences of Home Office caseworkers, civil servants, and immigration practitioners alike, sketching an outline of my recruitment processes. In so doing, I attended to the numerous ethical implications which arose throughout my research process – including a growing recognition of a culture of fear and secrecy within the Home Office. Then, I showed how analyses of parliamentary committee meetings can provide insights into ‘internal’ spaces which are otherwise hidden and critiqued the utility of courtroom observation for my research project.

The final part of this chapter summarised some ongoing reflections on my research process. Through a review of my FOI requests, I demonstrated how the contours of opacity materialise in the release of information and highlighted how FOIA can be leveraged as a mechanism of obfuscation (Walby and Luscombe, 2021). I also reflected on some of the successes and frustrations of a methodological approach which engages with negative spaces. The analysis presented in this reflective section demonstrates the utility of a methodological approach that engages not only with the empirical and structural aspects of opacity as it appears in administrative institutions – how information is hidden or obscured – but also one which attends to the relational dimensions of this opacity. Indeed, in situating my experience as the researcher within this research design, I show how opacity can produce significant affects – despondency, hope, frustration, confusion. It is this recognition I incorporate into the subsequent empirical analysis.

⁸⁹ The TAG register is available at: <https://trackautomatedgovernment.shinyapps.io/register/>

To begin, I explore the tactics and consequences of institutional opacity with reference to administrative design of asylum determination processes. In the following chapter, I untangle how management consultancy firm Newton Europe contributes to the obfuscation of asylum decision-making processes in the UK.

Chapter 4 Management consultancies – technical support or designing protection?

On 26 October 2022 at the Home Affairs Select Committee on Channel Crossings, the Home Office introduced a new strategic direction for asylum decision-making: the so-called ‘PACE’ caseworking scheme. After a back and forth in which the productivity metrics of individual caseworkers were pitted against recruitment targets and the existing number of cases currently awaiting assessment, the (then) Chief Inspector of Borders and Immigration, David Neal, responded in an exasperated manner to a question from James Daly MP concerning the time it would take to clear the ‘asylum backlog’: “I don’t know. I cannot tell you that... Given the number of cases, how long will it take? This is what the consultancy firm came out with” (Home Affairs Committee, 2022b: Q143).

By the end of 2022, this comment remained the only public indication that asylum caseworking was supported or otherwise influenced by a consultancy firm. In their June 2023 report ‘The asylum and protection transformation programme’ the National Audit Office (NAO) briefly noted that the Home Office “engaged consultants, Newton, to support this work, on a contract worth £24 million” (NAO, 2023: 38). The same report referred to a visit to a decision-making unit in which auditors spoke to: “external consultants running the Prioritising Asylum Customers’ Experience (PACE) initiative” (*ibid.*: 47). This lack of clarity surrounding the involvement of consultancy firm Newton Europe and the nature of their engagement was prevalent within the department itself, with one asylum decision-maker telling me in January 2023: “... to be honest a lot of it was kept kind of hush hush, the only reason I knew they were Newton Consultants was because someone sent it in an email... it’s being sort of introduced as PACE and not Newton Consultants” (James)⁹⁰. To date, minimal information has been released about the involvement of consultancy firm Newton Europe in the asylum decision-making space⁹¹.

In this chapter, I use this obfuscation as a lens through which to explore the tactics and consequences of institutional opacity with reference to administrative design. This chapter empirically evidences the opacity engendered in contemporary relationships of ‘insourcing’ (Adelmant and Tomlinson, 2023), and I draw on the work of Stavinoha and Fotiadis (2020) and Stavinoha (2024) to critique the role of management consulting firms in the design and development of administrative processes supporting asylum determination in the UK. In highlighting the tactics through which the interventions of management consultancy firm Newton Europe are obscured, hidden, and made secret (Glouftsiou, 2024b), I make visible the challenge of ascertaining *who* is designing *what* in the contemporary asylum

⁹⁰ Interview with James, Home Office asylum caseworker. 5 January 2023.

⁹¹ In February 2024, the ICIBI published the report (Neal, 2024) in which they provide an indication as to the work of Newton Europe during this period, alongside interview data from Newton consultants themselves. While this report remains a valuable source of secondary data to support the subsequent analysis, it is relevant to the argument in this chapter to note that my primary data collection in the form of FOI requests and interviews preceded its publication.

bureaucracy. As I demonstrate throughout this chapter, this critique is important because it has significant and far-reaching consequences for understanding the administrative justice inherent in asylum determination processes in the UK.

This chapter is split into four sections. To begin, I introduce the PACE scheme and management consultancy firm Newton Europe; placing them within a broader context of the “hybrid assemblages” that form contemporary models of public administration (Adelmant and Tomlinson, 2023). Then, in section *Providing the “optimum package of interventions”*, I look at how data building and modelling conducted by Newton Europe supports the development of ‘knowledge regimes’ (Hoag, 2019; Scheel, Ruppert and Ustek-Spilda, 2019) undergirding administrative developments. I argue that a lack of clarity surrounding who designed what has potentially significant implications for ensuring accountability in administrative design.

Then, in *“We noticed we couldn’t find it too”*, I reflect on the ways in which Newton’s interventions in the decision-making space are obfuscated and use this obfuscation to highlight how non-state actors play a fundamental role in co-creating opacity surrounding asylum decision-making processes in the UK. Finally, to conclude the chapter, in section *Streamlining processes, removing bottlenecks, and improving “the decision flow”*, I show how management consultancy interventions support and sustain the ‘logistification’ of asylum management (Vianelli, 2022; Stavinoha, 2024). I argue that this decontextualises the process of asylum decision-making; a form of epistemic opacity engendered in the “hybrid assemblages” of contemporary public administration (Adelmant and Tomlinson, 2023). My central contestation is that this functions to obscure pervasive administrative *injustices* in the asylum determination process.

The analysis in this chapter is drawn from 59 original documents obtained through FOI requests, in combination with qualitative interviews with civil servants and analyses of transcripts of parliamentary committee hearings. Where I obtained original data via FOI, the Home Office reference number for my request will be indicated in parentheses – e.g. (FOI 72606). Figures and diagrams from the documents uncovered via FOI release have been inserted into the text for clarity. Here, I have also chosen to list them as additional figures, for example: *Figure 5: ‘Vision Statement’, PACE Project Brief (FOI 78941)*.

4.1. Prioritising Asylum Customer’s Experience

To provide a contextual overview for the subsequent analysis, in this first section, I introduce the Prioritising Asylum Customer’s Experience (PACE) scheme as part of the Asylum and Protection Transformation Programme (APTP). I also introduce management consulting firm Newton Europe. I then understand their relationship as one of ‘insourcing’ (Adelmant and Tomlinson, 2023); an arrangement which is paradigmatic of contemporary public administration.

4.1.1. The Asylum and Protection Transformation Programme

The Asylum and Protection Transformation Programme (APTP) was launched by the Home Office in 2021 to complement and support major legislative and policy developments including the New Plan for Immigration, the Nationality and Borders Act 2022 (NABA), the Migration and Economic Development Partnership with Rwanda (MEDP), the Prime Minister’s statement on ‘illegal migration’ in December 2022⁹², and the Illegal Migration Act 2023 (NAO, 2023). The purported aim of the APTP is to deliver “a modern Asylum and Protection system that is fair, supportive and efficient, where decisions made are right first time and customers in need of protection receive it quickly, and all are treated with dignity and respect” (*ibid.*: 24).

The APTP brings together numerous smaller projects and initiatives, grouped into two portfolios of work: (1) increasing the number of asylum decisions by redesigning processes, implementing new technology and improving staff retention; and, (2) increasing the supply of dispersal accommodation by working with local authorities, including improving management of Home Office accommodation (NAO, 2023). Traversing these two portfolios, the APTP has four core objectives, one of which is to improve “the customer journey” (*ibid.*: 7)⁹³.

As part of the APTP, the Home Office launched the PACE caseworking scheme. The PACE caseworking scheme was piloted at a decision-making unit in Leeds between 27th June and 15th August 2022 (FOI 72606) and focuses on the caseworking process after initial screening interview and before any appeals or resettlement (FOI 78941). This caseworking process includes the crucial steps of (a) conducting the substantive asylum interview and (b) deciding a claim, as well as any associated administrative requirements that constitute asylum caseworking such as transcribing interviews, checking documents, and uploading information to the Home Office IT systems.

The PACE caseworking scheme, therefore, is exemplary of developments in administrative design; where administrative design refers to the design and development of the administrative structures which support asylum determination processes. This includes the processes, practices, and organisational arrangements which support asylum caseworkers in the process of refugee status determination: i.e., *how* decision-making is organised. Understanding how these processes are developed is fundamental for providing insights into understanding how the law is administered in practice.

⁹² For more on (former) PM Rishi Sunak’s speech, see *Chapter Five: Asylum Caseworkers*.

⁹³ The other three objectives are: improving working experience; improving public and partner trust; and creating a flexible, sustainable, and efficient asylum system. For a critique of the language of ‘customer experience’, see the section 4.4.2. *Order and efficiency for whom?*

4.1.2. PACE: A Productivity Taskforce

The rationale undergirding the introduction of the APTP was the need to increase productivity across the entire asylum workforce. This was a particularly urgent concern for the Home Office in the context of the rapidly increasing ‘asylum backlog’ (Home Affairs Committee, 2022a)⁹⁴.

Productivity as a driving metric for the APTP has been used by senior Home Office staff interchangeably to refer to improvements made to both the asylum system (e.g. Dan Hobbs at Home Affairs Committee, 2021a: Q731 and Simon Ridley at Home Affairs Committee, 2023: Q167) and individual caseworkers (e.g. Tricia Hayes at Home Affairs Committee, 2021b: Q224). With regards to individual caseworkers, productivity metrics go beyond a “formal target-setting system” (Hayes, *ibid.*), and the productivity of an individual caseworker is considered to be translatable into a whole-system approach, wherein a more productive asylum *system* becomes the end-goal (Home Affairs Committee, 2022c: Q417). The centrality of optimising productivity as an organising metric in the APTP was confirmed by Tricia Hayes (former Second Permanent Secretary at the Home Office) who introduced a ‘Productivity Taskforce’ to process outstanding asylum cases at the Home Affairs Committee on 22 June 2022 (Home Affairs Committee, 2022c: Q415).

Vision Statement

The Prioritising Asylum Customer’s Experience (PACE) project aims to increase the productivity of the Asylum Casework teams to enable 4 decisions per decision maker per week. This will allow the capacity within Asylum Casework to meet the demand coming into the asylum process for new applicants (the “flow” cases) whilst providing some excess capacity to support clearing the cases that are already in the system as of 28th June 2022 (“legacy” cases).

The first phase of the PACE project will focus on getting to 4 decisions per decision maker per week (dpw) in a single decision making unit (DMU) through improved processes and support around culture and behaviours.

Figure 5: ‘Vision Statement’, PACE Project Brief (FOI 78941).

Consequently, increasing productivity is the principal concern of the PACE caseworking scheme. Indeed, as outlined in the Home Office Project Brief (disclosed with FOI 78941), the PACE pilot aimed “to establish new ways of working and opportunities to improve productivity” throughout the entirety of this asylum caseworking process. The scheme aimed to trial this “simplified and more efficient

⁹⁴ For a discussion on the use of productivity metrics introduced as part of the PACE scheme to signal the progress towards legacy backlog clearance, see *Chapter Five: Asylum Caseworkers*.

decision-making approach” and subsequently apply it “right the way across the decision-making community” (Abi Tierney at Home Affairs Committee, 2022b: Q104).

In the ‘Vision Statement’ for the PACE scheme (Figure Five, above), it is stated that the PACE project “aims to increase the productivity of the Asylum Casework teams to enable 4 decisions per decision maker per week” (FOI 78941). Latterly, the Project Brief notes “without increasing productivity, the financial pressure faced will increase, as well as providing a poor experience for customers” (*ibid.*). From its inception, the PACE scheme was supported by management consultancy firm Newton Europe (FOI 78941).

4.1.3. Newton Europe

Newton Europe are a mid-sized management consultancy firm who specialise in healthcare, manufacturing, adult social care, and aerospace. Unlike ‘the Big Three’ management consultancy firms (Mazzucato and Collington, 2023), Newton pride themselves on a boutique approach, working “hand-in-hand” with clients and delivering impact “at the coalface” (Newton Europe, 2023). Their website introduces their work as follows:

Our people are relentless in unearthing the information that matters, and rigorous in developing an understanding of the people and processes involved, from the coalface to the boardroom. Clarity is central to how we work. Our approach is not just about spreadsheets and mathematical skill: we help you see powerful truths about your organisation, so you know the actions we take together will be the right ones.

Within the public sector, Newton have been awarded numerous contracts in the NHS, adult social care, and the COVID-19 pandemic, most notably on a contract to increase ventilator production (Evans *et al.*, 2020). Newton’s extensive engagement within the public sector is not uncommon, as the logics of NPM enshrined in contemporary models of public administration allow for an increasing entanglement of public and private actors on government projects. This intertwining of consultants with government leads to the development of what Adelmant and Tomlinson (2023: 200) term “hybrid assemblages” which operate outside the public/private binary (Benish, 2023).

Adelmant and Tomlinson (2023) note that a pervasive skills shortage within the public sector means that the UK civil service is heavily dependent on contracted-in designers and consultants from the private sector to fulfil its vast demand for systems development. This leads to the formation and normalisation of ‘hybrid’ teams whereby, through a relationship of ‘insourcing’, consultants “are relied upon to ‘discover’ users’ needs and design appropriate solutions” (Adelmant and Tomlinson, 2023: 200). An interview with Ben⁹⁵, a former civil servant in Digital, Data and Technology (DDAT) at the Home Office, illustrated this cyclical relationship well:

⁹⁵ Interview with Ben, former Home Office civil servant. 22 September 2022.

... there's always a sort of ongoing relationship between the outsourced supplier erm... sort of building things according to what they think is feasible and what they can see as being requested from the specifications and there's a sort of symbiotic relationship between who's drawing up those specifications is often who is contracted out as well...

Crucially, this “symbiotic relationship” does not readily differentiate between the work of public and private actors. Not only does this pose issues for accountability – *who* designed *what* – but private actors' assimilation inside large state bureaucracies means that the very existence of these hybrid assemblages is often obscured from view.

In an article on the influence of private companies in public immigration bureaucracies, Federica Infantino (2023a) expands on this idea of a ‘symbolic relationship’ by identifying how and in what ways such relationships emerge. She suggests, “a network of personal contacts sustains informal interactions that, in turn, support informal influences when it comes to select services, products, and companies” (Infantino, 2023a: 842). Notably, she suggests that such dynamics are particularly linked to moments of perceived ‘crisis’. Here, she shows how such networks are leveraged across and through the public and private sectors to make sense of perceived problems and devise solutions. On this, she writes (*ibid.*: 7):

This case of solution-driven organisational change is characterised by two elements. (1) The scanning of solutions happens through informal interactions with private actors, who are particularly active in looking for opportunities to make solutions discoverable and available; (2) personal networks trigger informal interactions

In her analysis, Infantino talks to how “exceptional events, often depicted as crises, represent choice opportunities” for private sector involvement (*ibid.*: 8). Using the example of the asylum reception ‘crisis’ in Belgium in 2015/16, she demonstrates through extensive qualitative interviews with representatives from both the public sector and companies including VFS Global, TLS Contact, G4S, and SERCO, how the perceived ‘refugee reception crisis’ was both interpreted and leveraged by private firms as a mechanism through which they are able to offer suitable solutions.

While insourcing is therefore most prevalent with reference to IT systems development, the use of management consulting firms to solve pressing organisational and social crises is archetypal of contemporary models of public administration. Here, consultants' suitability is reliant on a belief that they are the “experts” in optimising productivity through their systematic, data heavy, approach to solving operational fissures with modern techniques of management (Humphrey, 1994; Mazzucato and Collington, 2023; Stavinocha, 2024). A belief in management consultants' ability to optimise productivity and quicken processes stems from their employment of the ‘logics of audit’: the ability to succinctly categorise and evaluate data and processes in a manner which is seen as both scientific and “value-free” (Gendron, Cooper and Townley, 2007).

Luděk Stavinoha (2024) suggests that the allure of consultants' expertise in both micro- and macro-level interventions relies on a belief that the "lean management doctrine" *alone* can optimise productivity, whereby the overall process is simplified into a chain of smaller parts and efficiency improved through the implementation of incremental adjustments (*ibid.*: 326). For instance, in their investigation into the role of private consultancy firm McKinsey & Co in the processing of asylum applications in Greece, Stavinoha and Fotiadis (2020) identify how management consulting firm McKinsey & Co were contracted to support during the so-called 'refugee crisis' due to their reputation for designing appropriately targeted "strategies" and their ability to "streamline processes". McKinsey's interventions were therefore predicated on them identifying a 'crisis' and offering an appropriate 'solution'.

It is possible to see this pattern of 'crisis-driven' procurement replicated in the original engagement with Newton Europe as a consequence of the focus on the asylum backlog. Indeed, the following preamble establishes the 'background to the requirement' for their original contractual arrangement relating to Asylum Operations (Contract Ref. CCCC22A03: paras. 3.1. – 3.4)⁹⁶:

As part of his new role, CDL [Chancellor Duchy of Lancaster⁹⁷] identified early on the critical importance of understanding the illegal migration system and process end to end, so that HMG⁹⁸ both understands its points of greatest vulnerability and can prioritise energy and investment in those areas that offer the biggest returns [...] In this context, discussions with Newton have explored how they can bring their skills and experience to meet CDL's requirement and capture, model and advise on the landscape set out above.

Here, the 'crisis' is identified as a lack of understanding about the 'illegal migration system', and Newton's "skills and experience" in data capture and modelling are identified as the appropriate solution. Notably, "discussions with Newton" point to the "scanning of solutions" (Infantino, 2023a: 843) and the leveraging of existing networks. This contract set the tone for Newton Europe's interventions in shaping the bureaucratic structures which support asylum determination in the UK.

4.1.4. Timeline of involvement

In January 2022, Newton Europe were awarded a contract valued at £499,978.00 for the Provision of Consultancy Services for Illegal Migrant Taskforce (Contract Ref.: CCCC22A03). The scope of the contract was to "provide high quality capacity modelling and analysis of the illegal migration system"

⁹⁶ Available at: <https://www.contractsfinder.service.gov.uk/notice/cd2e3d8a-7277-4dd4-a0a1-aa1af7b7bb48?origin=SearchResults&p=1>

⁹⁷ The Chancellor Duchy of Lancaster (CDL) is the highest ranking minister in the Cabinet Office, a minister for whom there is no portfolio. At the time of this contract, the CDL was Steve Barclay MP.

⁹⁸ His Majesty's Government.

(*ibid.*: 1.1) and to advise on “the optimum package of interventions that best improves overall performance” (*ibid.*: 6.1.2). The contract was procured for the period 31 January 2022 to 11 April 2022.

From June 2022, Newton Europe began to provide “external support” to the PACE project (FOIs 78941 and 2024/00659). They supported PACE by “working with teams across the country to see where processes could be improved” (Neal, 2024: 96). This involvement included designing “tools, products, and new ways of working to deliver enhanced productivity” for asylum caseworkers and the system in its entirety (*ibid.*). At this point, the priority for the Home Office became to speed up to meet “the demand coming into the system” (FOI 78941).

As part of this work, Newton Europe were procured to find “a quicker way to gather information and make a decision” (Linda). In January 2023, when I spoke to James – a current asylum caseworker – he summarised the work of Newton consultants as follows:

So the overview is essentially, we[’ve] had these external consultants come in under the banner of something called PACE [...] And they basically come in to ... see how we can speed up the decision-making process, to erm whittle down, what’s called the WIP or – basically – the backlog of cases.

Then, following the former Prime Minister’s speech in December 2022, Newton’s involvement with the asylum system evolved again in a flexible and iterative manner from this initial engagement alongside “decisions around where to prioritise effort” (Linda)⁹⁹.

On December 2022 in an oral statement to Parliament, (former) Prime Minister Rishi Sunak announced that his government “expect[s] to abolish the backlog of initial asylum decisions by the end of next year” (Sunak, 2022)¹⁰⁰. Shortly after Sunak’s initial announcement, a letter from the (former) Home Secretary Suella Braverman to the Home Affairs Committee on 29 January 2023 confirmed that the commitment of the Prime Minister to ‘abolish’ the backlog of initial asylum decisions referred to ‘legacy’ as opposed to ‘workflow’ cases (Braverman, public correspondence to the Home Affairs Committee, January 2023).

⁹⁹ This is latterly referred to as the ‘workflow’/ ‘flow’ backlog (as opposed to legacy, discussed in *Chapter Five: Asylum Caseworkers*). However, that the dichotomy of ‘workflow’ and ‘legacy’ somewhat over-simplifies the different ‘backlogs’ which emerged throughout 2023 because of the introduction of the Illegal Migration Act 2023 (IMA). As most of the data collection for this PhD occurred prior to the IMA coming into force, this will not be explored at this point in the analysis. It is worth noting that The Illegal Migration Act 2023 (Amendment) Regulations 2024 ended the prohibition of enabled the processing of asylum claims to resume where the IMA had previously prohibited a grant of leave (Lenegan, 2024).

¹⁰⁰ The goal to ‘abolish the backlog’ of decisions is explored in greater length in *Chapter Five: Asylum Caseworkers*.

Therefore, while prior to this announcement the ‘asylum backlog’ referred to *all* asylum cases, it latterly came to refer only to the “legacy” cases that are awaiting an initial decision on their asylum claim (Laidman, 2022; Gentleman, 2023). Such a move was castigated by opposition politicians who saw it as an exercise of creative statistics, with Yvette Cooper MP¹⁰¹ noting, “a backlog is a backlog, no matter how much the Government try to spin it away” (HC Deb 5 June 2023, vol. 733, c. 559). Consequently, the focus of the PACE scheme shifted in line with this new ministerial direction (Linda). As one consultant told the ICIBI, this change meant they pivoted from “designing change in peace time [to] change in a time pressured environment” (Neal, 2024: 118).

By the time the NAO report on the scheme was released in June 2023, Newton were seen as the “external consultants running the Prioritising Asylum Customers’ Experience (PACE) initiative” (NAO, 2023: 47) on a “contract worth £24 million” (*ibid.*: 32). Consultants from Newton Europe supported with clearing the asylum backlog through participation in both Operations MAKHU¹⁰² and BRIDORA¹⁰³ and remained working with the Home Office into (at least) early 2024.

In this introductory section, I provided the contextual overview of Newton’s engagement in the PACE scheme and the APTP. I now proceed to the main analytic focus of this in chapter in which I explore the tactics and consequences of institutional opacity with regards to administrative design. My central argument is that processes of administrative design are obscured, hidden, and made secret (Glouftsiou, 2024b) due to relationships of ‘insourcing’ (Adelmant and Tomlinson, 2023), and that this obfuscation necessarily impacts upon the realisation of administrative justice in asylum determination processes.

The remainder of this chapter is split into three main analytical sections. In the first, *Newton Europe and the Asylum Modelling Suite*, I look at the data building and modelling conducted by Newton Europe which supports the development of administrative systems. Here, I suggest that it is important to consider the development of the knowledge regimes (Hoag, 2019) that support and influence administrative change.

In the second section, “*We noticed we couldn't find it too*”, I discuss the nebulous role played by Newton Europe throughout 2022 and 2023 in supporting administrative interventions. I show how obfuscation is used as a tactic through which to create opacity surrounding management consultancy

¹⁰¹ Here, Yvette Cooper MP was speaking as Shadow Home Secretary.

¹⁰² Operation MAKHU is the internal name given by the Home Office for the processing of all remaining nationalities in the legacy WIP following the introduction of the Asylum Questionnaire and the consideration of “flow cases” (Neal, 2024: 6).

¹⁰³ Operation BRIDORA was the internal Home Office project name for the decision for two DMUs to exclusively focus on deciding asylum claims from Albanian nationals (February–May 2023).

involvement. My central contestation is that contemporary relationships of insourcing obfuscate *who* is designing *what* in the contemporary asylum bureaucracy.

Then, in the final section *Removing bottlenecks and improving “the decision flow”*, I discuss the ‘logistification’ of asylum (Vianelli, 2022), framing it as a form of epistemic opacity. My central argument is that the focus on the ‘decision flow’ negates a concern for asylum applicants. Throughout all three sections, I demonstrate the impact on achieving administrative justice in the asylum determination process.

4.2. Newton Europe and the Asylum Modelling Suite

In contemporary immigration and asylum bureaucracies, ‘data practices’ such as biometric processing, statistical analyses, and big data analytics have become key mechanisms by which states can produce knowledges about mobility (Stavinoha, 2024). The ‘knowledge regimes’ (Hoag, 2019) which these practices support are then used to inform ‘data driven’ interventions and novel administrative processes.

It is therefore beneficial to begin a critique of administrative design with a focus on the production and development of the data which undergird these administrative developments. In this context, it is crucial to consider: who (or what) is shaping or contributing to the production of contemporary knowledge regimes? How are they doing this? And what are the implications of their involvement? These questions are even more urgent in opaque spaces, in which the production of opacity necessarily functions to complicate how they can be approached or answered.

In this first section of this chapter, I seek to address these questions to understand the tactics and consequences of institutional opacity for administrative design. In it, I show how the ‘data building and modelling’ provided by Newton Europe is utilised to plan the decision-making infrastructure of Asylum Operations. I do this through close analyses of both the Asylum Initial Decision Model (FOIs 75149, 75633 and 76378) which ‘maps’ the decision landscape, as well as the ‘data modelling’ (FOIs 77659, 2023/04664, 2023/05041, 2024/00438) conducted by Newton Europe that is used to support organisational change. Throughout my analyses, I highlight how opacity is produced through relationships of insourcing, and how this functions to complicate how accountability might be achieved in the administrative design process.

4.2.1. The Asylum Initial Decision Model

Contemporary immigration and asylum bureaucracies increasingly use evaluative and predictive modelling tools as part of a migration management infrastructure. These tools function to ‘map’ or ‘plan’ the decision-making landscape through an assemblage of big data practices including through the gathering of biometric data and statistical analyses (Stavinoha, 2024). The knowledge acquired from

these models is then used to inform changes to administrative practice in contemporary immigration and asylum bureaucracies, wherein such changes are referred to as being ‘data driven’.

An example of a model providing so-called ‘granular’ insights (Aradau and Perret, 2022) is the Asylum Initial Decision Model (AIDM) (Figure Six, disclosed with FOI 75633; pp.120-121 this chapter). The AIDM is part of a larger redesign of the Asylum Modelling Suite, creating an analysis tool from which to “better inform decisions within the Asylum workspace” (Public Law Project FOI 73704, Annex A¹⁰⁴: 17). The AIDM models the ‘flow’ of cases through the Asylum Initial Decision process “on an ‘as-is’ basis... to enable ‘what-if scenarios’” taking in to account factors such as prioritisation of asylum cases, available resource, and time (*ibid.*: 17). The model, therefore, serves both an evaluative and predictive function in mapping the decision-making infrastructure for Asylum Operations.

¹⁰⁴ FOI 73704 (Public Law Project, 2023). FOI 73704 was submitted by the Public Law Project (PLP) as part of the Tracking Automated Government (TAG) working group, of which I am a member. The TAG register was launched in February 2023 and can be found at: <https://trackautomatedgovernment.shinyapps.io/register/>. The PLP requested copies of all the Analytical Quality Assurance (AQA) Board reviews of models, data analytics and other services used by the Home Office and conducted by the between 30 November 2020 and 30 October 2022. Original request: https://www.whatdotheyknow.com/request/aqa_assessments_of_home_office_s, The existence of the AIDM was noted in Annex A. As part of my data collection process, I then submitted three follow up requests to the Home Office regarding the AIDM and the Asylum Modelling Suite, leading to disclosure of the AIDM (Figure Eight, below) and the ‘model map’ used as part of Asylum Intake Scenario Projections (FOIs 75149, 75633 and 76378). My FOI requests are also listed on the TAG register.

Asylum Initial Decision Model - July 2022 - Data Flow

OFF SEN

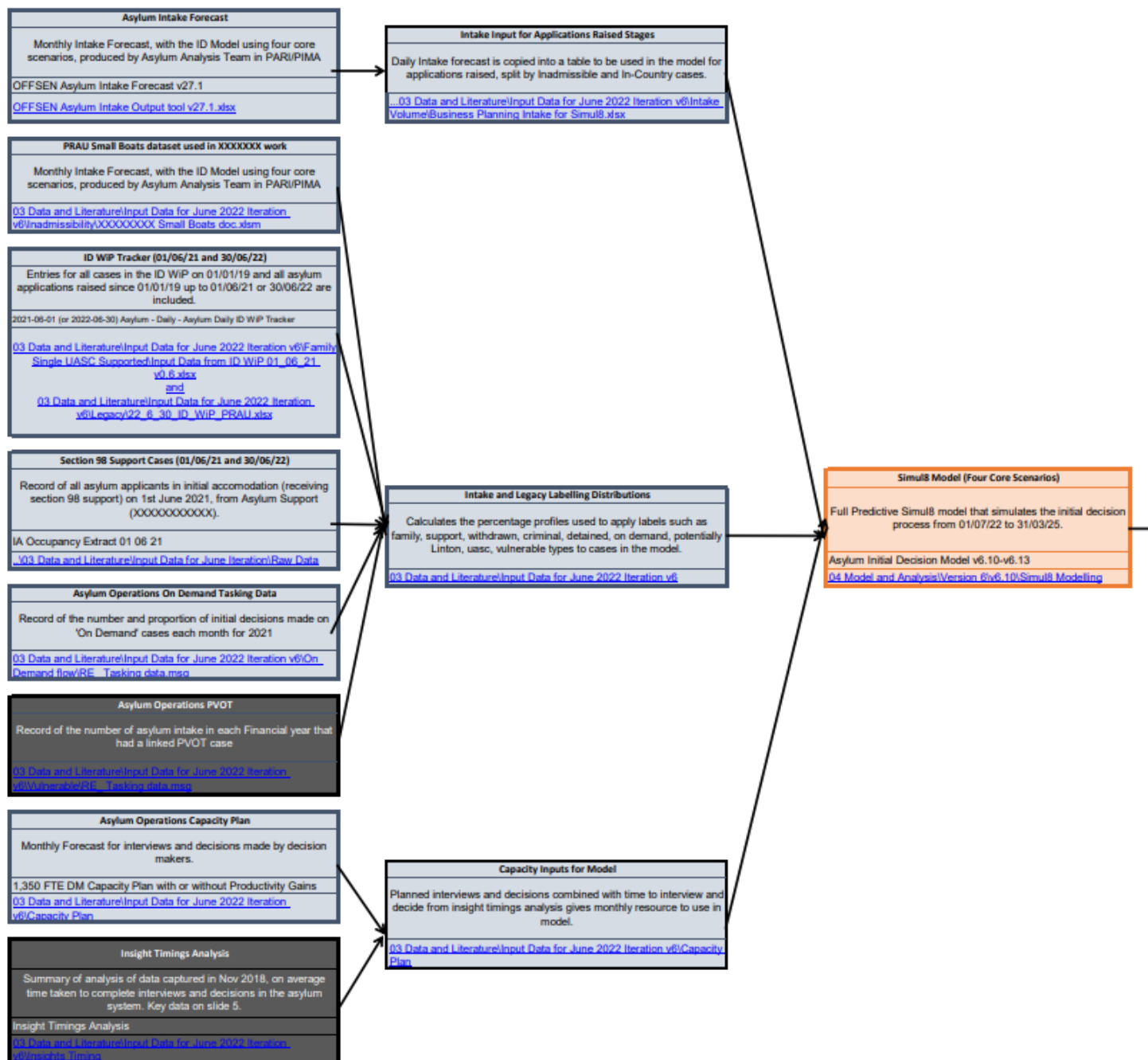
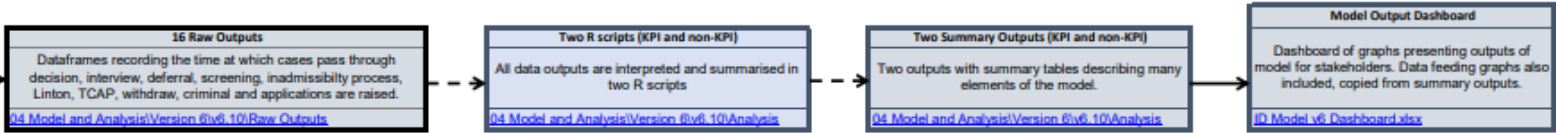
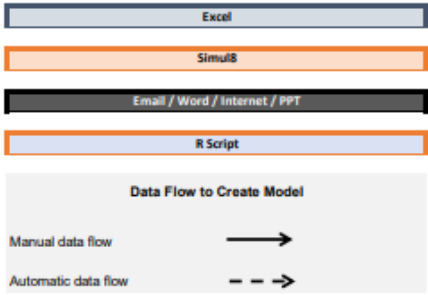


Figure 6: Asylum Initial Decision Model (FOI 75633).



The AIDM combines numerous datasets – including, e.g., the Work In Progress (WIP) tracker, the Asylum Operations capacity plan, and the intake forecast – in order to create a Simul8 Model to simulate the initial decision process from 01/07/22 to 31/03/25. The data is subsequently run through the programming language R, twice, to present a dashboard of graphs presenting outputs of the AIDM for stakeholders. As outlined in the AQA report (Public Law Project FOI 73704), the model will be designed to be ‘malleable to changes in process’ e.g., which cases are prioritised. Here, “cases will be routed out of a queue, by order of priority, to the asylum decision making activity” (*ibid.*). This practice of such predictive modelling is “grounded in the premise of control” (Witteborn, 2022: 166), wherein more ‘granular’ insights are seen as increasingly valuable for anticipating risk in the decision-making arena (Amoore, 2006).

I suggest that the AIDM ought not to be seen as merely ‘mapping’ the decision-making landscape. Instead, the use of such models enables the “production and circulation of knowledges that undergirds and legitimates particular state bordering practices and regimes” (Stavinoha, 2024: 327). In this way, a Foucauldian reading of the AIDM highlights how it contributes to the development of a ‘knowledge regime’ (Hoag, 2019) and is a building block upon which developments in administrative design are predicated.

Colin Hoag (2019) wrote that a Foucauldian perspective on bureaucracy recognised it as a ‘consummate’ producer of knowledge. Here, he referred to how the documents, stamps, statistics, and files all sought to support a power/knowledge regime shaping the relationships between both those inside/ outside and broader paradigms of control. Latterly, Scheel, Ruppert and Ustek-Spilda (2019) expanded this Foucauldian analysis to account for the ways in which ‘data practices’ in the contemporary immigration and asylum bureaucracy sustain the knowledge regimes upon which government policy and administration is predicated, wherein the “visualisation and circulation of data particulars become the main ways of technocratic operation and interpretation” (Witteborn, 2022: 169).

Importantly, this Foucauldian understanding makes explicit the ‘generative’ (Hull, 2012) role of these evaluative and predicative tools. Tools such as the AIDM not only reflect or map data/ knowledge, but they also play an active role in constructing it, too. Since this knowledge is the basis for ‘data driven’ changes in administrative design, this means that it is of critical importance to understand how these tools function and who creates them. With this understanding in mind, the following section traces how the AIDM explicitly functions to ‘make legible’ (Berda, 2022) the asylum decision-making landscape to inform ‘data driven’ interventions and new administrative processes, and I argue why an obfuscated site of knowledge production complicates how accountability might be achieved in the administrative design process.

4.2.2. From documentation to datafication

The AIDM contributes to the production of a ‘knowledge regime’ through the process of ‘datafication’. Flensburg and Lomborg (2023: 1451) write that the process of datafication entails “the collection, databasing, quantification and analysis of information” for the explicit purposes of knowledge

production and service optimisation. Crucially, this is not just the process of collecting data about individuals. Instead, it is the process “of *transforming* bodies, actions, and things into data that can be processed by algorithms” (Valdivia *et al.*, 2022: 2. Emphasis added). Datafication, therefore, is about making individuals and their data both understandable and malleable in order to be processed by the bureaucracy. In this way, datafication ought to be seen as a contemporary iteration of the bureaucratic knowledge practice of documentation, which functions “to make populations legible to bureaucratic administration and amenable to the techniques of state officials” (Berda, 2022: 57).

It is possible to illustrate this datafication process through the AIDM. Here, objective schemes of classification – ‘family, UASC, vulnerable’ and ‘priority cohorts’ (Figure 8, FOI 75633) – are synthesised with mechanical formulae in the form of R scripts and ‘various probability distributions’ in order to make legible (Berda, 2022) the otherwise ‘messiness’ of the asylum decision-making landscape. Consequently, through the AIDM, labels such as ‘family, support, withdrawn, criminal, detained, on demand, potentially Linton, UASC, vulnerable’ (FOI 76533) turn “migration-related realities into “objects of government” (Scheel, Ruppert and Ustek-Spilda, 2019: 582). Indeed, in contemporary iterations of bureaucratic organisation, in which the production and circulation of quantitative data plays a central role in the management of migration (Stavinoha, 2024), practices of quantification and the circulation of ‘data’ “endow otherwise diffuse social processes like migration with the quality of quantifiable objectivity by constituting them as countable “matters of fact” (Scheel and Ustek-Spilda, 2019: 667). In this way, the ‘Model Output Dashboard’ produced by the AIDM is subsequently used by the Home Office to manage the asylum decision-making landscape.

Notably, critical migration scholars would suggest that the production of this bureaucratic ‘knowledge’ also functions to reproduce both ignorance and non-knowledge (Aradau and Perret, 2022). Therefore, at this juncture, it is worth exploring the development of non-knowledge with regards to the AIDM. In ‘The politics of (non-)knowledge at Europe’s borders: Errors, fakes, and subjectivity’ (2022), Claudia Aradau and Sarah Perret employ a Foucauldian understanding of power/knowledge regimes to processes of datafication in migration regimes¹⁰⁵. They suggest that the rationale driving the development of such technological interventions is the contestation that there is insufficient knowledge with which to make (migrant) populations governable. In developing increasingly granular mechanisms through which to produce knowledge, they suggest that such datafied representation of life necessarily function to produce ignorance and non-knowledge; “a lack, an erasure or otherwise silencing of situated knowledges” (*ibid.*: 410).

Crucially, the production of non-knowledge has been understood as the obfuscation or intended suppression of knowledge that is otherwise available. As Scheel and Ustek-Spilda (2019) discuss, this production of ignorance can be a direct, and intended, consequences of the data practices of contemporary immigration and asylum bureaucracies. As such, the objective classificatory regimes through which applicants are transposed into ‘data doubles’ in the AIDM is one which is orderly,

¹⁰⁵ They call this power/knowledge/non-knowledge.

technocratic, and malleable to change. However, this arguably negates – or intentionally obfuscates – a much more complex reality in which individuals’ subjectivities and experiences of waiting for their asylum claim to be assessed is erased.

As part of this process, those applying for asylum are reproduced as ‘data doubles’ (Taylor and Meissner, 2020). This is done when they are given ‘case labels’ based on various probability distributions and disentangled from the data set (FOI 75633). Just as ‘objective’ classifications of individuals were used to make legible (racialised) populations by colonial bureaucrats (Berda, 2022), these ‘data doubles’ ought to be understood as “reassembled taxonom[ies] of difference categories” (Taylor and Meissner, 2020: 285) through which the asylum decision-making landscape is understood by Home Office administrators.

Because of this, the relationship of the ‘data subject’ or a ‘data double’ to “a concretized or ‘real’ individual is at best ambivalent” (Hudson and Percival, 2023: 11). In contrast to the applicants themselves, the data doubles presented in the AIDM can “much more easily be presented as predicable objects that inform policy decisions” (Taylor and Meissner, 2020: 285). The Model Output Dashboard is subsequently used as the basis for decisions relating to the asylum determination landscape including, for example, changes to processes of administrative design. The AIDM therefore sustains the production of a contemporary bureaucratic knowledge regime through the embedding of these classificatory regimes.

4.2.3. *Who is designing what?*

Having demonstrated how the AIDM functions as one tool in a broader assemblage which functions to produce a contemporary knowledge regime, I will now identify how relationships of ‘insourcing’ complicate how accountability might be achieved in the administrative design process.

In his critique of management consultancy involvement in asylum processing in Greece, Stavinoha (2024) makes explicit the need not only to consider the different actors responsible for knowledge production but also to identify how obfuscated sites of knowledge production complicate an understanding of asylum determination procedures. Building on his analysis, I now demonstrate how and why it is important to consider who is responsible for making these ‘data doubles’ legible (Berda, 2022). I then trace how relationships of insourcing build opacity into the administrative structures supporting asylum determination in the UK. My central argument is that, due to the central role of the AIDM in stratifying the asylum decision-making landscape for the purpose of improving efficiency and aiding administrative design, it is of crucial importance to consider who is shaping or contributing to the production of the knowledge regimes which scaffold these developments.

The proliferation of datafication as a knowledge practice within the contemporary asylum bureaucracy necessarily invites private partners into the public sphere. Certainly, Dennis Broeders and Huub Dijkstra (2016) have shown how the desire to ‘modernise’ immigration bureaucracies has hastened a relationship between states and private technology and consulting firms, wherein a belief in techno-

solutionism (Narita, 2023) supports an understanding that these firms can offer increasingly sophisticated insights with regards to the surveillance, prediction, and evaluation of migratory movements (Amoore, 2006; Bigo, 2022). Importantly, Taylor and Meissner (2020: 272) argue that the want of such technology by state governments has led to “the empowerment of commercial actors to construct migrants through statistics”. However, how, when, or where, commercial actors are ‘empowered’ to do so in practice is increasingly obfuscated through relationships of insourcing.

As part of their initial contract for the Provision of Consultancy Services for Illegal Migrant Taskforce (CCCC22A03), Newton Europe were instructed to model “the illegal migration and asylum systems as they operate within the UK” (*ibid.*: 5.1.1) and to “create a product that models and analyses the capacity and flows ... using it to provide advice on priority areas for improvement” (*ibid.*: 6.1.2.). This was latterly called the ‘capacity plan tool’. The AIDM, along with two other such models – the Asylum Intake Scenario Projections model and the Asylum System Volumes Model¹⁰⁶ – integrate the ‘capacity plan tool’ in order to run the simulations. This can be seen in Figure Six.

The enmeshing of the ‘capacity plan tool’ into the Asylum Modelling Suite has considerable implications for understanding how a bureaucratic knowledge regime is developed¹⁰⁷. Indeed, not only are there crucial elements that are unknown – and which are unknowable – about the nature and extent to which Newton Europe were involved in the design choices of the AIDM (Adelmant and Tomlinson, 2023), but the extent to which their choices in developing the ‘capacity plan tool’ support changes in administrative design also becomes increasingly unclear. When questioning the implication of an obfuscated site of knowledge production, it is useful to revisit the “generative capacity” of bureaucratic documents (Hull, 2012: 259), an understanding of which can go far to illuminate how private sector involvement in these datafication processes might complicate accountability in administrative design. To do so, I draw on the socio-legal analyses of Hull (2012) and Ryan (2023).

Matthew Hull (2012) writes that documents are what mediate between people and schemes of classification, and the interpretation of bureaucratic documents’ content plays a constructive role in how people are both classified and subjected to bureaucratic control. Having illustrated how the AIDM represents the move from documentation to datafication, I suggest that attention should therefore be given to *who* is interpreting this information or data and *what* the interpretations are achieving.

¹⁰⁶ The three tools were developed because “data flows across the asylum system insufficiently to support a microsimulation approach” and instead requires “discrete events simulation and stock and flow modelling” across the Asylum Suite (Public Law Project FOI 73704: 19).

¹⁰⁷ The longevity of the Asylum Modelling Suite and the ‘capacity plan tool’ developed by Newton Europe is confirmed by the signing of a later contract, ‘Illegal Migration System Performance Tool & System Thinking Accelerator’ in October 2023, to ‘develop and embed’ the ‘Illegal Migration System Performance Tool’ in the administration of asylum support and accommodation by the Home Office.

Available at: <https://www.contractsfinder.service.gov.uk/notice/a4f3ba87-3b79-49a8-a9be-95854bbf78ae?origin=SearchResults&p=1>

In ‘*The Form of Forms*’ Aisling Ryan (2023) connects the centrality of the design choices of a form to the outcome of a claim. In so doing, she highlights that a lack of space on a bureaucratic form for narrative can lead to a misunderstanding between applicant and the decision maker. She notes the gravity of such “misunderstandings in the flow of information”, stating a lack of understanding “can lead to significant human rights violations and damage the fabric of administrative justice” (Ryan, 2023: 696). Of central importance for Ryan is how the (lack of) narrative on the bureaucratic form generates a specific image of a ‘legal person’. She is inherently concerned with the transformation – and contradiction – which takes place between the applicant *in life* and the applicant *on the form*, and how only the applicant *on the form* is assessed by the decision-maker. As such, she draws explicit attention to the role of *interpretation* in the journey of a bureaucratic document.

Ryan’s understanding is grounded in the principles of administrative law that see the bureaucratic form as “one of the primary gateways through which people access their legal entitlements” (Tomlinson and Meers, 2022). In this sense, she theorises the bureaucratic form in an individualised context – one applicant, one decision maker. However, with regards to Newton’s involvement, I would suggest that there is a secondary level of analysis that builds on Ryan’s key thesis but concerns how the datafied image of an asylum seeker is produced and circulated. Instead of considering how individual applicants ‘on the form’ are assessed by decision-makers, it concerns how applicants ‘on the form’ are *interpreted* by internal and external actors in the contemporary asylum bureaucracy, fitted into “schemes of classification” (Hull, 2012), and used to model and develop future mechanisms of bureaucratic organisation.

Drawing classical Weberian analysis of the role of a bureaucratic document together with the perspective of Aisling Ryan can therefore help elicit an understanding of why Newton’s interventions ought to be considered as significant. The abstracted ‘image’ of the applicant (the ‘data double’) is interpreted by Newton consultants according to schemes of classification. This schematisation (Graeber, 2012) is then fixed to help develop those processes for the future. Crucially, this interpretation – a fundamental part of the mechanic of bureaucratic control through documentation – is not done by the Home Office alone.

As such, as the above analysis demonstrates, Newton’s interventions in the APTP reflects a novel development in how private actors are involved in asylum processing in the UK. Rather than outsourcing elements of the “asylum industrial complex” (Brewer, 2023), the Home Office has “insourced” (Adelmant and Tomlinson, 2023) how bureaucratic knowledge is generated and understood. Therefore, rather than just understanding Newton’s interventions as supporting the ‘mapping’ of the decision-making landscape, Newton’s interventions represent a novel development in the bureaucratic structures which support the administration of asylum applications in the UK. They serve the purpose of stratifying, quantifying, and categorising asylum seekers for the purpose of controlling and ordering the ‘illegal migrant flow’ (CCCC22A03: 7.1).

The way(s) in which this knowledge is used to inform administrative design is therefore of fundamental importance. It is to this that the following section turns.

4.2.4. Improving “data visibility”

The second intervention which I will explore is the role of Newton Europe in ‘data building and modelling’ to support legacy backlog clearance (FOIs 77659, 2023/04664, 2023/05041, 2024/00438). Here, I focus on the role of Newton in producing knowledge to guide administrative developments and further problematise their role in shaping bureaucratic knowledge regimes (Hoag, 2019).

On 23 February 2023, as part of the PACE scheme, the Home Office introduced a new ‘Streamlined Asylum Processing’ policy and application process. The rationale for doing so rests on the PM’s announcement to abolish the decision-making backlog, a commitment to “triple the productivity of decision-makers”, and an “intention to provide individuals with a decision on their claim in the most efficient way” (Home Office, 2023b: 4). The process enabled asylum caseworkers to “accelerate the processing of cohorts of claims which are generally manifestly well-founded” (*ibid.*: 7) by allowing decision-makers to take decisions on claims without conducting an in-person substantive asylum interview. To facilitate this process, adults from Afghanistan, Eritrea, Libya, Syria, and Yemen who arrived in the UK before 7 March 2023 and had submitted an asylum claim (but had not yet attended a substantive interview) were sent a questionnaire to complete (Neal, 2024).

Newton Europe began to work on the Streamlined Asylum Process including the asylum questionnaire “post-implementation in May 2023” (FOI 2023/04664) to “to support delivery of legacy backlog clearance” (FOI 2024/01633). As part of this, Newton consultants supported the “Streamlined Asylum Processing by data building and modelling” (FOI 2023/04664). This work was known internally as Operation MAKHU; “the internal name for the processing of all remaining nationalities in the legacy WIP and the consideration of flow cases” (Neal, 2024: 6). In this context, data building consisted of (FOI 2024/01633):

- Producing and supporting the use of the Enhanced Case Management tool.
- Collation of trackers into a central data store for generating key performance metrics.¹⁰⁸

Here, their work entailed improving “data visibility” across the Home Office’s Asylum Operations in order to facilitate the administrative transformations in the APTP (Neal, 2024: 97). This work was described as follows in the ICIBI report (*ibid.*):

Newton consultants played a key role in enhancing the management information (MI) available in Asylum Operations. They created weekly performance packs for senior managers and a fortnightly

¹⁰⁸ For more on the use of the Enhanced Case Management tool and the role of Newton Europe in developing productivity metrics, see *Chapter Five: Asylum Caseworkers*.

performance pack for DMU managers, which contained information regarding the work in progress queue (WIP), performance plans, and decision outcomes.

As noted in the ICIBI report, Newton worked with Op MAKHU leads in order “to ‘work out a sensible sequence’ for allocating cohorts¹⁰⁹ to DMUs” (Neal, 2024: 66). They were therefore instrumental in both (a) producing knowledge and (b) using this knowledge in order to support administrative change. Notably, as was highlighted in the most recent ICIBI report (Neal, 2024: 61):

Senior managers said that Newton were “liked by ministers and the top officers”, which meant that they could present information “in a nice modelling way ... and they get believed in a way that [Home Office officials] might not be believed.

It is, therefore, apparent that Newton consultants are integral in developing a landscape of knowledge through which asylum backlog clearance could be understood. As noted above, this production of knowledge ought to be considered a crucial scaffold upon which administrative design choices can be made. It is imbued with numerous design choices which will have necessarily impacted what is being seen, and “believed” (*ibid.*), by whom.

Here, the interventions of Newton Europe are archetypal of the interventions of management consultancy firms in contemporary bureaucracies. In his analysis of management consultancy involvement in Greece, Luděk Stavinoha illustrated the way in which the McKinsey’s data practices facilitated a “vision of an orderly asylum regime” (*ibid.*: 333). Through graphs, slides, packs, and data visualisation, he shows how the techniques of management consulting are leveraged to present an alternate image of a much more complex reality. In the case of Newton Europe in the UK asylum bureaucracy, it is possible to see how their interventions in Op MAKHU facilitates an ‘imaginary’ of WIP clearance upon which choices regarding administrative design are made. Once more, in producing this technocratic imaginary (Stavinoha, 2024), the question of what is omitted – or intentionally obscured – about asylum decision-making in practice is of critical importance.

Thus, it would be expected that there would be a degree of accountability in how such models are produced. Yet, despite supporting the management of the asylum decision-making space, when I questioned whether this has been reviewed internally, I was told the “data modelling provided by Newton Europe was not put to the Analytical Quality Assurance (AQA) Board for review” (FOI 2023/05041). This suggests that there is limited oversight with regards to what is being ‘believed’ and the impact this has on asylum decision-making processes. Indeed, the lack of information about Newton’s involvement means that the extent of their involvement in shaping processes for the future is unknown. To what extent it will be possible to tell *who* designed *what* in future iterations of the Streamlined Asylum Process or Op MAKHU is unclear, as the data modelling from Newton will be used to support future development.

¹⁰⁹ ‘Cohorts’ in this contexts means nationality groupings or types of claims.

Finally, it is of fundamental importance to recognise that the development and circulation of these knowledges do not occur in a vacuum. Instead, these models, packs, and flowcharts are developed so that “migrants are rendered knowable and legible so that borders can be made governable” (Aradau and Perret, 2022: 409). Despite management consulting articulating itself through virtues of being both scientific and “value-free” (Gendron, Cooper and Townley, 2007), the production of the ‘capacity plan tool’ and the ‘data building and modelling’ by Newton Europe has the explicit function of making bordering processes effective and therefore making borders *operational*. Instead of being considered ‘value-free’, the interventions of Newton Europe are explicitly political: supporting and making effective the bordering policies of the Home Office by optimising administrative design.

In this first analytic section of the chapter, I have demonstrated how holding a critical gaze on the production of knowledge regimes is instructive for understanding the process of administrative design. The next analytic section of this chapter looks at the administrative developments. In it, I focus on the obfuscation of Newton’s interventions as emblematic of how relationships of insourcing produce opacity around the development of administrative processes.

4.3. “We noticed we couldn't find it too”

In this second section, I explore the tactics and consequences of institutional opacity with regards to administrative design. I argue that relationships of ‘insourcing’ (Adelmant and Tomlinson, 2023) necessarily embed opacity into contemporary bureaucratic structures due to their nebulous and agile articulations. With reference to my empirical data, I show that – through tactics of obfuscation – the Home Office is able to conceal the nature and extent of management consultancy involvement in the design of the decision-making practices. I argue that one consequence of this opacity is a reduction in access to justice for asylum applicants.

4.3.1. Tactics of obfuscation

The entangled nature of Newton consultants within the Home Office between 2022 and 2024 meant that “you could ask that question about kind of who's doing what to Home Office staff and you would get six different answers as well” (Linda). Indeed, Newton consultants were increasingly moved from one Home Office project to another, making their involvement in the Home Office’s Asylum Operations both pervasive and wide-ranging¹¹⁰. Yet, while the ICIBI quoted Newton consultants extensively in their 2024 report on asylum caseworking, Newton consultants are *not* listed alongside ‘external stakeholders’ in their methodology. Instead, the only interviewees listed are “Home Office managers and staff from grades Administrative Officer to Senior Civil Servant”, “individuals who had ‘lived experience’ of the asylum process” and “legal stakeholders” (Neal, 2024: 28). The ‘symbiotic’ nature with which they are

¹¹⁰ This quote from the ICIBI report is instructive in this regard – “one of the consultants taken on to deliver the Prioritising Asylum Customers’ Experience (PACE) programme and increase efficiency in the asylum process had been appointed to support Op BRIDORA” (Neal, 2024: 59).

working and integrated in the structures of the Home Office mean that they evade classification as either ‘internal’ or ‘external’ contributors.

Furthermore, to date, no contract relating to Newton’s work under the PACE scheme has been made publicly available by the Home Office¹¹¹. Despite “running” the PACE scheme (NAO, 2023) and “supporting... Streamlined Asylum Processing” (FOI 2023/04664), I was told “the authority holds no direct contracts with Newton Consulting (Newton Europe)” (FOI 76745). When I questioned Linda (a government auditor) as to whether she had any knowledge of the contract for PACE “worth £24 million” (NAO, 2023: 32), noting its unavailability on Contracts Finder, she responded as follows: “The most official answer we can give you on that is yes, we noticed we couldn't find it too”.

However, through analysing the data gathered through my submission of FOI requests and ‘meta requests’, it is possible to understand the non-disclosure of contracts relating to Newton’s work under the PACE scheme as something other than the binary absent/ present. Instead, it is more instructive to understand this piecemeal disclosure of information relating to the interventions of Newton Europe as amounting to a tactic of ‘obfuscation’. Here, I draw upon Georgios Glouftsiotis’ (2024b) conception of obfuscation as described below (*ibid.*: 729):

Obfuscation... refers to the production of uncertainty, ambiguity and confusion about a policy or practice. Differently from hiding, obfuscation results from the disclosure of contradictory and misleading information.

Understanding the (non)disclosure practices in this way can help to attend to the way in which documents obtained through FOI requests “can function as a strategy of public perception management, serving the goal of strategically and selectively releasing information” (Glouftsiotis, 2024a: 7).

With reference to the availability of contracts, it is possible to see how uncertainty and ambiguity around the work of Newton Europe in the PACE scheme was promoted through practices of (non)disclosure. That obfuscation is a ‘tactic’ is evidenced through bureaucrats’ understanding and application of FOIA. Indeed, by tracing the narratives in the internal communications between Home Office bureaucrats, it is possible to see how they were trying to seek recourse to the exemptions in the FOIA in order to justify non-disclosure of any information regarding PACE. For instance, the interaction below shows how bureaucrats casually try and justify exempting information under the ‘time-limit’ exemption, s.12 as illustrated by Figure Seven, below¹¹².

¹¹¹ There are two contracts which have been made available to date (December 2024). These are the aforementioned ‘Illegal Migrant Taskforce’ and the ‘Illegal Migration System Performance Tool & System Thinking Accelerator’.

¹¹² Original request: FOI 72843, request for internal communications: FOI 75200.

From: <REDACTED>

Sent: 08 March 2023 17:21

To: <REDACTED>

Subject: RE: 72843 Connie Hodgkinson Lahiff - internal review - request for information; to clear as soon as possible please - COP Monday 6 March 2023 - urgent - 1st reminder

<REDACTED>

I'm not 100% sure I'm on the right lines, but if we think it's talking about all emails surrounding the PACE project and the review that took place prior to HASC in October, then we are talking about a lot of emails that would probably take days to collate, so would fall under the exception for time/cost. Forgive me if I'm on the wrong track.... its been a long day!

Thanks

<REDACTED>

Figure 7: Excerpt from FOI 75200 (c).

A similar pattern of behaviour emerged when trying to ascertain the contract under which Newton's work with the PACE scheme was conducted. In my original request for information about 'consultancy involvement' in PACE, the justification for non-refusal I was given was that the details of the consultancy involvement couldn't be disclosed because it was exempt under s.43(2) FOIA. This meant that "disclosure would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)" (FOI 72843).

However, in the internal documents I received, it is possible to read discussions between bureaucrats in the 'commercial' team. These end with the following decision: "There is insufficient information in the question posed by the requester to be able to identify the related contract/agreement". Yet, in a separate email on the same email chain, a 'contract' initially highlighted by staff in the department (see Figure Eight, overleaf). Again, it is possible to see Home Office bureaucrats constructing narratives through which to justify the non-disclosure of this information.

At this juncture, it is worth emphasising that I submitted my original request for information (FOI 72843) on 11 November 2022, 16 days after the appearance of David Neal at the Home Affairs Committee meeting. My original request (a refusal) was returned on 13 January 2023, over two months later. The Internal Review request I submitted to challenge this refusal was returned on 13 March 2023, four months after the original request was submitted. I requested a copy of my communications regarding the request (FOI 75200) on 14 March 2023. This was refused on 13 April 2023, five months after the original request, because "the information you have would require a manual trawl of emails and communication records" (FOI 75200). I submitted a complaint to the ICO on 15 May 2023, which was upheld on 24 August 2023. I received the internal communications, cited above, from the ICO on 24 August 2023.

From: <REDACTED>
Sent: 17 November 2022 12:06
To: <REDACTED>
Subject: RE: FOI 72843 - (Connie Hodgkinson Lahiff) - 2022-11-11 - (UKVI)
T/D 21/11/22

Hi <REDACTED>

The details of the contract that is being referred to are:

HME<REDACTED>
Supplier – <REDACTED>
Contractor – <REDACTED>
Commercial Lead - <REDACTED>
Dates <REDACTED>

<REDACTED>	Submitted By	Worker / Work Package	Directorate	Period of Performance (Start Date)	Period of Performance (End Date)	Value	Board Decision
<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>	Approved

<REDACTED> as above,

Does that help?

Kind regards
<REDACTED>

Figure 8: Excerpt from FOI 75200 (d).

Nearly nine months after the original request was submitted, I discovered that it is highly likely the Home Office had the original information I was requesting. It is also notable that this data was received after the publication of the National Audit Office report ‘The asylum and protection transformation programme’ in June 2023, in which Newton Europe were mentioned. This deliberate tactic of obfuscation, leveraging time, resource, and concerns of ‘commercial sensitivities’, is central to the production of opacity in contemporary relationships of ‘insourcing’. Having done so, the Home Office was able to leverage the FOI mechanism to delay information being released regarding Newton’s involvement in the PACE caseworking scheme until the NAO report. This being a tactical framework was latterly confirmed in the following interaction, released through a ‘meta request’ in FOI 2024/01323 (Figure Nine, overleaf).

While the above examples illustrate these tactics of obfuscation well, at no point was this obfuscation more apparent than with regards to the introduction of ‘Crib Sheets’ and ‘Exec Summaries’ to support decision-making as part of the PACE scheme. In the next section, I trace and critique the (non)disclosure practices of the Home Office with regards to these documents. I consider them emblematic of the obfuscation inherent in these ‘hybrid assemblages’ of public administration (Adelmant and Tomlinson, 2023) and highlight the significant consequences of this opacity on the realisation of administrative justice in asylum determination in the UK.

From: [REDACTED]
Sent: 05 January 2024 13:28
To: [REDACTED]
Subject: RE: FOI2023/06770 - [REDACTED] - Contribution Target 4th January - UK Visas and Immigration

Hi [REDACTED]

I have a response from [REDACTED] who has confirmed no concerns releasing this information from a commercial perspective on behalf of Newton (see attached). * See email dated 2nd January 2024 12:27

Given HO involvement with Newton is already published in the NAO report re. the asylum transformation programme. [REDACTED]

Figure 9: Excerpt from FOI 2024/01323 (a).

4.3.2. ‘Crib Sheets’ and ‘Exec Summaries’

In order to make the asylum decision-making process “more efficient” (Neal, 2024: 64), the PACE scheme instituted a suite of changes whereby applications were assessed according to nationality and split into priority cohorts (NAO, 2023). Here, efficiency gains were believed to be found in categorisation of applicants into groups, and the “specialisation” of caseworkers into nationality clusters (Sam); internally, this was called Op MAKHU (Neal, 2024)¹¹³. As part of this suite of changes, the PACE scheme embarked on a process of distilling and summarising Country Policy and Information Notes (CPINs) into “Crib Sheets” and “Exec Summaries” (FOIs 76885, 2023/6770, 2440/00659, 2024/01323).

CPINs are used by asylum decision-makers when assessing an application and they provide information on asylum seekers’ countries of origin (van der Kist and Rosset, 2020). CPINs are intended to meet decision-makers’ requirements for country information and are focused on key priorities and pressures, including analysis of the country context in a manner which unpicks the key issues that determine whether a grant of asylum (or other humanitarian protection) is justified (ICIBI, 2017). As such, they play a fundamental role in both the substantive asylum interview, as well as the decision-making process. Notably, CPINs already represent a shortening of the longer Country of Origin Information (COI) documents.

I was first introduced to the concept of ‘Crib sheets’ and ‘Exec summaries’ by James. In our interview in January 2023, he explained the premise of these summary documents as follows:

¹¹³ Concurrently, Op BRIDORA was introduced to focus on the arrival and removal of Albanian nationals seeking asylum (Neal, 2024). This meant that during this period, Albanians were also treated as a priority cohort (Linda) in line with a Ministerial push to have “the Albanian backlog cleared” (James).

...basically, they're to do with particularised countries and particularised claims from that country. So, if for example, one of them is a Pakistani... errr asylum seeker and an Ahmadi Muslim, there will be certain questions to cover and then certain risk on returns to cover and stuff like that... [pause] It's not particularly in depth from what I've seen it's just to make sure your interviews are condensed and to the point, really.

In his words, “it’s basically been crib sheets for faster interviews”. He told me that the Newton Consultants had introduced these following period of shadowing decision-makers during the initial part of the PACE project. The existence of these documents and Newton’s involvement in their development were further confirmed by Linda, Sam, and the senior civil servant I interviewed. By submitting an FOI request, I was able to determine that SAP Nationality Questions (“Crib sheets”) were developed for Afghanistan, Eritrea, Libya, Syria, and Yemen, and CPIN Summaries (“Exec summaries”) were developed for Afghanistan, China, Eritrea, Iran, Iraq, Kuwait (Bidoon claims), Libya, Pakistan, Sri Lanka, Sudan, Syria, and Yemen (FOI 76885).

Here, it is vital to highlight the significant changes that the use of these Crib Sheets and Exec Summaries hold for the process of refugee status determination. The legitimising goal underscoring the introduction of these measures is that they can assist decision-makers in assessing applications in a manner which is accurate, cost-effective, and timely (Thomas, 2011; Liodden, 2019). They are tools to be used to ensure that caseworkers can conduct “faster interviews” and that interviews (and the subsequent decisions) are conducted with greater accuracy, making sure caseworkers cover “certain questions... and then certain risk on returns” (James). According to Liodden (2019: 245), accuracy in this context refers to “establishing the facts of a case in an accurate manner... assessing the credibility of the applicant’s story—and subsequently applying the correct rules or criteria to determine the outcome”. The grounding idea of the Crib Sheets and Exec Summaries is that they can prompt *all* caseworkers to ask the *right* questions to be able to make an *accurate* assessment.

In ‘Affects of Objectivity: Decision-Making Practices in the Dutch Asylum Procedure’ (2024), Maja Hertoghs suggests that, to establish a ‘standard for judgement’ in an environment which “involves substantial uncertainty” (Liodden, 2019: 245), typologies of ‘refugeehood’ are established through decision-making practices. Here, she suggests that the ‘bogus’ refugee is distinguished from the ‘real’ through a combination of the practice of detachment and “embodied affective work” which seek to clarify an ‘objective’ basis for decision-making (Hertoghs, 2024: 16). To attain this, she writes that “objectivity and neutrality are typically pursued through standardized protocols, routinization, and a specific procedural design” (*ibid.*: 2).

For example, Lipsky (1980) highlighted the development of ‘manuals’ to guide decision-making and this is clearly reflected in the asylum determination process in the UK. To guide asylum caseworkers in their decision-making, the Home Office issues guidance documentation for reference called Asylum Policy Instructions (APIs). To illustrate how these work, for applications submitted before 28 June 2022¹¹⁴, guidance on credibility includes ascribing weight to statements and evidence if they are

¹¹⁴ See section 1.6.3.1 *Nationality and Borders Act 2022* for more information on these changes.

sufficiently detailed, internally consistent with country information, and plausible, while recognising that underlying factors such as age, trauma, fear, time, and poor mental health may impact narratives in their retelling (Home Office, 2022a: 45).

While it is important to note that accuracy is notoriously challenging to ascertain in asylum determination processes since there exists “no external, objective standard against which to assess” (Thomas, 2011: 70), the move to use Crib Sheets and Exec Summaries seeks to rectify this by promoting an objective understanding of ‘refugeehood’ – i.e. *who* can be considered a refugee. For example, for Kuwait (Bidoon claims) or for a Pakistani Ahmadi Muslim. By seeking the ‘correct’ answer to “certain questions” (James), the use of these documents presupposes that all applicants who fit a designated group face the same, or similar, risks. In so doing, such schematisation (Graeber, 2012) functions to “erase the middle ground” of individuals’ lived experiences (Salter, 2006: 184) and complicates the ability of caseworkers to adequately consider their discretionary authority in the determination processes. While this adheres to a bureaucratic rationality, the extent to which this achieves administrative justice for applicants is debatable.

Certainly, the categorisation of social phenomena in this way is inherently technocratic in nature (Lugones, 2007). Information is collected and administered into categories that are defined by pre-ordained and ‘objective’ standards and thus removed of subjective interpretation. This is something Witteborn (2022: 168) describes as “the transition from the lived space of complexity to the abstract space of reduction”. I argue that in employing SAP Nationality Questions (“Crib sheets”) and CPIN Summaries (“Exec summaries”) to further distil COI information (FOI 76885), there exists a risk that the complexities of an individuals’ experience prior to claiming asylum will be reduced, abstracted, categorised, and simplified according to essentialist categorical parameters.

This has particular implications for refugee status determination processes. As Liodden (2019: 246) outlines in her research into asylum determination processes in Norway, while:

[t]he idea of “the refugee” as an objective identity remains strong in the public debate about asylum and bolsters the perception of a just system where distinctions between refugees and non-refugees can be clearly made... who a refugee is to some extent may be settled among decision-makers who together develop a local yardstick of what a just decision looks like.

In introducing technocratic tools through which to facilitate this process, therefore, there is a real risk that the administrative justice inherent in asylum decision-making is replaced by a form of ‘local justice’ (*ibid.*) through the categorical choices of the writers of the Crib Sheets and Exec Summaries. This has particular implications with regards to *who* is doing *what* in the design of these new processes and tools.

The disclosures from my FOI request remain the only public indication that the Home Office uses ‘Crib sheets’ and ‘Exec summaries’ in the decision-making processes. Indeed, even in their caseworker guidance for the Streamlined Asylum Process, there is no mention of the ‘Crib sheets’ and ‘Exec summaries’. Yet, in the FOI responses I received, I was told that, following a period of shadowing decision-makers, “Newton identified the potential benefit [of Crib Sheets and Exec Summaries] as part

of the PACE pilot that began in June 2022” (FOI 2024/00659). Once in use, “Newton promoted the use in an informal manner when speaking to Home Office staff” (FOI 2024/00659). Yet, the Home Office was clear to note that, while “Newton were not involved in the research, analysis, production or writing of the executive summaries, nor the crib sheets” (FOI 2023/06770), they were instrumental in encouraging the *process*, and their influence is found in their promotion of their use in an “informal manner” (FOI 2024/00659).

On 6 February 2024, I requested the internal communications that would clarify what an “informal manner” meant (FOI 2024/01323). On 8 August 2024, over six months’ later – via a successful ICO challenge against their delay in disclosing this information – I received a partially redacted copy of internal communications to clarify this phrase. It was not successful in elucidating the nature and extent of Newton’s involvement (see, for example, Figure Ten).

I therefore propose we issue the following lines in response to the FOI, making it clear the Newton is a consultancy (ie. they are there to provide advice based on their individual expertise):

[REDACTED]

For example, were Newton involved in research, analysis, production, writing or drafting the documents, as suggested by the requestor?

I think it is important to address this, [REDACTED]

[REDACTED]

Kind regards,

[REDACTED]

Figure 10: Excerpt from FOI 2024/01323 (b).

Here, the fact that “Newton is a consultancy” is absolutely central to the development of institutional opacity. Nevertheless, since the Crib Sheet and Exec summaries were *promoted* by Newton Europe, a key concern surrounds accountability for a refusal of a claim should an applicant fail to satisfy the criteria provided on the shortened document. As discussed by Thomas and Gamble (2010), the ways in which accountability is understood and achieved is increasingly troubled through the involvement of non-state actors in decisional processes. Because to date there is no public information surrounding the use of the Crib Sheet and Exec Summaries, or Newton’s involvement in their development, it is unclear how mechanisms for redress or accountability might materialise (Maxwell and Tomlinson, 2022; Tomlinson, 2022). Moreover, the relationship of ‘insourcing’ which produced such decisions further complicates the division between state/ non-state action and functions to confuse this even further,

To conclude, it is this informality which pervades the interventions of Newton Europe and is emblematic of the shifting work of consultants in the contemporary asylum bureaucracy. The nebulous and flexible way in which they are procured and built into the structure of the bureaucracy makes it increasingly

difficult to demarcate where their work ends, and the Home Office begins. However, this example also demonstrates the utility of the methodological approach I have developed in this thesis. Indeed, it is only by probing into ‘opaque’ spaces that knowledge of these shortened documents has been uncovered.

4.4. Streamlining processes, removing bottlenecks, and improving “the decision flow”

In this final analytic section, I reflect on how management consultancy involvement influences the process of administrative design and consider some implications for administrative justice. I show how the interventions of Newton Europe hasten the ‘logistification’ (Vianelli, 2022) of asylum processing in the UK. I suggest that this ‘re-imagining’ of asylum decision-making into a logistical, rather than substantive, concern curates an alternative image of the administrative process which amounts to form of epistemic opacity engendered in the contemporary asylum bureaucracy.

Then, to conclude this section, I demonstrate that the logistification of asylum fails to address concerns for applicants¹¹⁵, considering their experiences subordinate to the goal of ensuring “order and efficiency” from the perspective of the institution (HC Deb 5 September 2023, vol. 737. c. 232). I therefore suggest that understanding *who* is responsible for administrative design can help explain why administrative justice might remain elusive in the APTP.

4.4.1. Logistification of asylum

In April 2023, I interviewed a senior civil servant at the Home Office via Zoom. The interview had taken several months to arrange, and I had sent through my questions a week in advance to be screened and approved. I was halfway through my data collection and was eager to find out more about the PACE scheme and Newton’s involvement. This was prior to either the NAO or ICIBI reports being published, and at that time, there was no publicly available information linking Newton Europe to the PACE caseworking scheme. Despite the formalities leading up to the interview – including receiving a headed letter from senior Home Office management agreeing to the interview – the interview was very conversational in tone. It was evident that there was a genuine interest in my research, and the process of academic research, and responses were open and considered.

On the PACE caseworking scheme, I asked: “what do you see as the benefit of having a private firm lead on this?” After being told there was a benefit in terms of capacity, and of skillset – Newton, apparently, had a ‘deep expertise’ in continuous improvement – the following remark stood out. Newton were the right choice due to their experience in the NHS. I was told:

...there’s a huge amount of comparison between this and comparing patient flow in a hospital.

¹¹⁵ Whether these interventions consider the experiences of asylum caseworkers is further explored in *Chapter Five: Caseworkers*.

You've got your people arriving in ambulances that you can't kind of... control – similar to people arriving on small boats – you've then got your A&E, which is like our equivalent of Manston where you're triaging people and processing them.

You've then got to make a decision about whether they are going to be admitted or not admitted [...] once you've done that you've then got to, you then have to work out what you're going to do in terms of housing and support and you've got your community beds similar to our dispersal, bit.

Here, the asylum decision-making landscape was reimaged as a series of steps amounting to an “end to end flow”; decontextualised and reduced into a chain of decisions which could be equally applicable to a manufacturing line, or, as the example notes, a hospital¹¹⁶. It appears as an “infrastructure” (Vianelli, 2022) complete with moving parts and discrete goals, through which asylum-seekers are moved.

In ‘Warehousing asylum seekers: The logistification of reception’ (2022) Lorenzo Vianelli introduces the concept of ‘logistification’ to describe a recent development in contemporary migration management. He describes the logistification of reception as the growing importance of a rationality of logistics in the management of asylum seekers and refugees. He writes, “reception appears as an integrated system that is conceived and organised as a chain, which partially resembles the supply chain at the core of the logistic process” and continues “[it] is presented as a process which is organised through stages, each one performing different functions while all integrated in the whole process” (Vianelli, 2022: 50 - 51). Crucially, he argues that “[refugee] reception systems are conceived as infrastructures through which asylum seekers are moved” (*ibid.*: 50).

It is possible to see this ‘logistification’ of asylum reflected throughout the Home Office’s presentation of the PACE scheme. For example, when introducing ‘the productivity taskforce’, Hayes described their work as delivering “an end-to-end review... trying to take out parts of the decision process where we can go more quickly, while still taking good quality decisions” (Home Affairs Committee, 2021b: Q415); key milestones and deliverables for Newton’s original contract include a “granular understanding of priority systems constraints and bottlenecks” (CCCC22A03: 7.1); and the asylum caseworking transformation programme was described as “radically re-engineering the end-to-end process”. Certainly, as was stressed to me in this interview, it was Newton’s extensive experience managing ‘that end-to-end flow’ that made them suitable for the PACE project, since they have great expertise “in improving not just the macro piece, but really individual steps in that process” (senior Home Office official).

Recognising this as a process of ‘logistification’ is useful for understanding the implication for administrative justice. Indeed, not only does it function to re-imagine asylum applicants as passive– and therefore controllable – actors in the determination process (as the senior Home Office official told me,

¹¹⁶ It is, perhaps, pertinent to note that the ‘continuous flow model’ implemented in hospitals and other NHS services across the UK to reduce patient waiting times, developed and supported by consultancy firms such as Newton Europe, has latterly been castigated as both unsafe and distressing for patients (Fox and Precey, 2024).

prior to engaging in the system, applicants are arriving in small boats in a manner “you can’t kind of... control”) but the language of logistics which permeates the transformation programme also goes far to illustrate the goals of the programme itself.

Indeed, rather than focusing on ‘Asylum Customer’s Experience’, the central concern of the APTP and the PACE scheme is to facilitate “order and efficiency” from the perspective of the institution (HC Deb 5 September 2023, vol. 737. c. 232). In the next and final section of this chapter, I show how this focus on managerialist concerns functions to obfuscate instances of administrative *injustice* for asylum applicants themselves.

4.4.2. Order and efficiency for whom?

On 5 September 2023, the (then) Minister for Immigration Robert Jenrick returned from the summer parliamentary recess and provided the House of Commons with an update on the Prime Ministers’ pledge to ‘abolish’ the asylum decision-making backlog by the end of 2023. He said, “I think Members will see, as data is published in the weeks and months ahead, an absolute transformation in the service [...] Order and efficiency have been restored to the asylum decision-making process” (HC Deb 5 September 2023, vol. 737. c. 232). For those waiting for their claim to progress, or who were working within the sector, this assertion of “order and efficiency” would have been surprising. Indeed, this reflects an understanding of asylum determination which is found “from the perspective of the institution, its decision-making and management processes” (Vianelli, 2022: 52)

In the final part of this chapter, I reflect on the way in which the PACE scheme facilitates the re-framing of asylum applicants as ‘customers’. I show that while this is nominally reflective of a new paradigm in administrative justice, it actively obfuscates substantive issues in achieving justice for asylum applicants by shifting the focus *to* the institution and *away* from the applicant. In the context of asylum administration, I highlight the significant impact that this can have on individuals and argue that the involvement of management consultancy firms in processes of administrative design functions to catalyse this negation of justice.

The re-framing of asylum applicants as ‘customers’ permeates the entire transformation portfolio¹¹⁷ and provides the linguistic rationale for the caseworking transformation scheme, Prioritising Asylum Customer’s Experience (PACE). When I spoke with a senior civil servant at the Home Office about the name ‘Prioritising Asylum Customer’s Experience’, I was told it reflects aspirations of a ‘customer excellence model’ throughout every step in the claim process; one which was ‘customer-centric’ for the applicant¹¹⁸. This has elsewhere been described by Michael Adler (2003: 333) as the *consumerist* model of public administration and administrative justice, reliant on customer participation, satisfaction, and remedied through the leveraging of customer “voice”.

¹¹⁷ The Director General for UKVI is also the DG of ‘Customer Services’.

¹¹⁸ Interview with senior Home Office official. 24 April 2023.

The focus on a ‘customer-centric’ experience is paradigmatic of public administration under the model of New Public Management (NPM) (Lea, 2021); a shift in the theory of public administration which occurred during the late 1980s and early 1990s (Saint-Martin, 1998; Henman, 2010)¹¹⁹. Steeped in the ideologies of a late-capitalist economic imaginaries, NPM or “new managerialism” took “a neo-liberal understanding of state and economy” and reinvented public administration through a framework established in the private sector (Drechsler, 2014: 8). The normative values of NPM provide the basis for a shift in focus those views those interacting with the state as ‘users’ of a service who are therefore conceptualised as ‘customers’ (Henman, 2010). However, I argue that this transposition of the logics of NPM not only does not facilitate administrative justice and instead functions to obfuscate substantive issues of injustice in the asylum determination process.

That management consultancy involvement would shift the goalpost of evaluation such that the impact on asylum seekers is not acknowledged is something that has been recognised elsewhere by Luděk Stavinoha (2024) in his critique of McKinsey & Co’s interventions in Greece. In his analysis, he writes that: “the imperative of maximising efficiency was entirely divorced from any humanitarian concerns about migrants’ welfare” (*ibid.*: 334). Through his FOI-based research, he showed the various ways in which McKinsey’s interventions ignored any humanitarian crises on the Greek islands around which their interventions were focused. He says, “one would search in vain in the McKinsey documents for any reference to the necropolitical brutalities that mark life, or death, inside the hotspots” (*ibid.*: 335). Through his analysis, it is possible to see how management consultancy involvement plays a pivotal role in ‘divorcing’ issues of migrant welfare from the questions of improved productivity.

This is because the logistification of asylum determination processes mean that the focus of the programme is no longer on the asylum applicant, it is on maximising the productivity and efficiency of the institution. This is seen in the ‘Vision Statement’ for the PACE scheme, where it is shown in the ‘barrier busters’, and it is emphasised in the utilisation of the ‘Crib Sheets’ and ‘Executive Summaries’. Indeed, throughout this chapter, I have shown how the interventions of Newton Europe do not seek to promote or improve the ‘customer experience’. Instead, Newton’s interventions are focused on streamlining processes, reducing bottlenecks, optimising productivity, and improving the “decision flow” (Tierney at Public Accounts Committee, 2023: Q12).

A key reason for this is that Newton Europe were not procured for their expertise in asylum determination. Indeed, Newton’s lack of substantive knowledge on asylum administration was stressed by James, who told me “what it's turned out to be, is basically, consultants who haven't got any idea what the asylum process is. How cases are decided, what we actually do”. As discussed by the senior Home Office official, their expertise lies in a ‘deep expertise’ in continuous improvement – substantive issues of justice are, therefore, not their concern.

¹¹⁹ For more on the influence of NPM on contemporary models of public administration see section 2.1.3. *The influence of New Public Management*.

Indeed, it is worth noting that there exists a disjuncture between those inside and outside the Home Office with regards to the invocation of ‘customer experience’, and the decision to frame asylum applicants as ‘customers’ was not so readily accepted by those I interviewed. When speaking to Aurélie¹²⁰, an immigration solicitor, in January 2023 about the naming of the PACE scheme, she reflected on a conference she had recently attended with Home Office staff where the term ‘customer’ was initially introduced in regular vernacular:

... whether you call them customers or whether you call them service users... it's just the whole thing is...Bizarre. They're not customers. You know, they're not paying for a service [...] when you start calling people a customer like it's just so... it makes it so transactional... and it just doesn't seem appropriate within the context of immigration.

As Aurélie noted, asylum applicants are not paying for a service. Therefore, many practitioners deemed this terminology to be confusing at best and insulting at worst. The extent to which asylum applicants are *participating* or *exercising choice* as ‘customers’ in their determination processes is therefore negligible and the title ‘Prioritising Asylum Customer’s Experience’ should be considered as more of a linguistic choice than representative of an administrative ethos. Certainly, Daisy, another immigration solicitor, reiterated to me that the asylum process is fundamentally about accessing rights: “it’s just trying to get people the rights that they’re already entitled to”¹²¹.

Instead, the chilling effect of conceptualising asylum applicants as ‘customers’ was most acutely felt. As Drechsler (2014) notes, a shift towards understanding those who engage with the state as customers is instructive in taking away innate participatory rights and duties. This was best explained by Sam, a government auditor I interviewed, who reflected: “you can remove service from a customer”¹²². As Cowan and Halliday (2003: 91) write of the imposition of NPM techniques in local government, it poses an obvious, but largely overlooked, question: “who is government for?” As they explain, efficiency in terms of cost and speed are not the sole requirements of applicants. Applicants also want their cases concluded in a manner which is both robust and legally sound and, crucially, as refugees, to be granted safety and security in the UK.

I would argue that understanding the success of the PACE scheme only in terms of increased productivity functions to obfuscate deep *injustices* prevalent throughout the period of its implementation. Certainly, this is particularly notable at a time in which many asylum seekers, activists and charitable organisations in the UK have been vocal about the poor treatment of asylum applicants who are awaiting their claims to be decided (Migrant Voice, 2023). Indeed, Jenrick’s speech to the House of Commons came at a time in which the Rwanda policy was still in force, the Bibby Stockholm barge had begun to house applicants, and the state of Home Office temporary accommodation was increasingly under scrutiny. The interconnected series of harms which structure the asylum process, all

¹²⁰ Interview with Aurélie, immigration solicitor. 24 January 2023.

¹²¹ Interview with Daisy, immigration solicitor. 18 April 2023.

¹²² Interview with Sam and Linda, government auditors. 5 July 2023.

of which are exacerbated during this waiting period (Bhatia and Canning, 2021; Meier and Doná, 2021), seemed to have worsened rather than improved. Certainly, one month before this speech, and following Tierney's appearance at the Public Accounts Committee, the Home Office changed their guidance such that recently recognised refugees had a reduced number of days to leave their temporary accommodation following a grant of leave. This led to an unprecedented refugee homelessness crisis in the UK (Refugee Council *et al.*, 2023).

I suggest that, rather than enhancing 'Customer's Experience', the managerialist norms which permeate the PACE scheme function to reduce recourse to administrative justice. As I have demonstrated above, the relationship of 'insourcing' which structures the PACE scheme functions to complicate avenues for accountability, obscure novel processes, and centre the perspective of the Home Office over applicants. While this might be seen as ensuring justice under the paradigm of NPM— in which 'justice' comprises of increased productivity and cost-effectiveness – this does not amount to a just determination process for asylum applicants. This line of argumentation is explored further in the following chapter – *Asylum Caseworkers*.

4.5. Conclusion

In this chapter, I focused on how bureaucratic opacity is produced through relationships of 'insourcing'. In exploring the tactics and consequences of institutional opacity with regards to administrative design, I have developed new and critical insights into asylum determination processes in the UK. Drawing on extensive empirical data obtained through FOI requests in addition to qualitative interviews, I highlighted the previously obscured role of management consultancy firm Newton Europe in the decision-making space.

I made three critical contributions to academic knowledge. First, I showed that relationships of insourcing serve to obfuscate the production of bureaucratic knowledge. Second, I demonstrated how these interventions were obfuscated, highlighting how and why this was a challenge to principles of both transparency and accountability. Third, I identified a process of 'logistification' and reflected on its implications for administrative justice. Throughout, I made visible the challenge of ascertaining *who* is designing *what* in the contemporary asylum bureaucracy. As I have demonstrated above, this critique is important because it has significant and far-reaching consequences for the realisation of administrative justice in asylum determination processes in the UK.

The next chapter looks at one aspect of the PACE project in further detail – Individual Contribution Expectations. Here, I look at bureaucratic knowledge production and circulation as well as the role of asylum caseworkers.

Chapter 5 Asylum Caseworkers – Home Office resource and “production unit”

On 13th December 2022, Prime Minister Rishi Sunak gave a landmark speech in the House of Commons in which he announced an ambitious new government target. By the end of 2023, he pledged, he would “abolish the backlog of initial asylum decisions” (Sunak, 2022). To do this, he promised to double the number of asylum caseworkers and triple their productivity. Throughout the remainder of 2022, and for much of 2023, asylum caseworkers became the subject of intense public and political scrutiny. Political and media attention turned to “inexperienced and low-paid staff” deciding asylum claims (Bancroft, 2022) and ministers and representatives from the Home Office referred to caseworkers’ productivity metrics as indicators for success. Indeed, it was through these quantifiable metrics that improvements in decision-making were communicated, and the ‘target’ of legacy backlog clearance was understood.

A month after the Prime Minister’s announcement, I interviewed James¹²³. At the time, James had been an asylum caseworker for nearly two years and was one of the longest serving members of his DMU. Throughout our hour-long interview, we discussed his work, his future career aspirations, and the challenges he faced in his role. Towards the end of our interview, I asked if there was anything we had not discussed that he would like to share. He then told me that one of his biggest frustrations was the disjuncture between how he understood his job and how his role was presented in public forums. He found that people didn’t “understand” what it means to be an asylum caseworker. On this, he said: “you have people such as the Prime Minister coming out and saying, ‘oh you know, they were making three decisions five years ago, they’re only making one now’, you know... Obviously, they’ve got no idea really. They’re just politicians...”

In this chapter, I use James’ experience as a focal point through which to explore the tactics and consequences of institutional opacity with regards to asylum caseworkers. Here, my focus is on the epistemic dimension of institutional opacity. My central argument is that institutional opacity is produced in the curation and circulation of ‘legitimising’ knowledge in contemporary administrative institutions. To explore this argument, I show how and where institutional opacity is produced in the creation and dissemination of asylum caseworkers’ productivity metrics: Individual Contribution Expectations.

This chapter proceeds as follows: First, I provide an overview of the metrics introduced to measure caseworkers’ productivity following the PACE caseworking scheme: Individual Contribution Expectations. In this section, I identify how and why these metrics are introduced to pursue accountability in the contemporary asylum bureaucracy. Then, I explore how a focus on caseworkers’ productivity forces a ‘goal displacement’ (Lipsky, 1980; Liodden, 2019), such that the production of asylum cases becomes the central focus of the asylum determination process. My central contestation in this section is that this goal displacement encourages the schematisation (Graeber, 2012) of asylum processing, and I identify the impact this has on caseworkers’ working practices. Then, I show how this

¹²³ Interview with James, Home Office asylum caseworker. 5 January 2023.

goal displacement is leveraged in public forums to obfuscate changes to policy and practice. Here, I articulate how tactics of hiding and obfuscation function to produce institutional opacity surrounding asylum caseworking. Finally, I explore the consequences of this institutional opacity on caseworkers themselves. To end this chapter, I highlight the impact that a re-imagining of asylum caseworkers as ‘production units’ (Lipsky, 1980) has on caseworkers like James.

To develop my critique, I draw on a range of data including documents on PACE obtained through FOI requests, qualitative interviews with civil servants and immigration practitioners, as well as analyses of parliamentary committee hearings, Hansard, Home Office recruitment campaigns, and reports from the National Audit Office (NAO) and the Independent Chief Inspector of Borders and Immigration (ICIBI). As with the previous chapter, where I obtained original data via FOI, the Home Office reference number for my request will be indicated in parentheses – e.g. (FOI 78941).

5.1. Legitimising value of data

In recent years, critical migration scholars have turned their attention to the production and circulation of knowledge and (non)knowledge in the management of migration and the legitimisation of bordering regimes (Aradau and Perret, 2022; Glouftsiou, 2024b; Stavino, 2024). Some of these analyses dissect the ways in which knowledge about people on the move functions to turn a lived reality into data points which are governable, often through the use of surveillance, biometrics, and other forms of technology (Scheel and Ustek-Spilda, 2019; Aradau, 2020). This was discussed in reference to the development of the AIDM in *Chapter Four: Consultants*. Others have looked at the struggles for legitimacy in ‘asylum knowledge politics’, seeking to understand how multiple stakeholders and experts produce and utilise ‘Country of Origin Information’ (COI) in asylum determination contexts (van der Kist and Rosset, 2020).

In each strand of analysis, key areas for concern include the production, circulation, and legitimising value of data, and such analyses emphasise the performative value of knowledge production in the contemporary immigration and asylum bureaucracy. These analyses find their theoretical foundations in a Foucauldian analysis of bureaucratic power and consequently attend to the generative role of both bureaucratic documents and data sets in contemporary immigration and asylum bureaucracies. A central nexus of exploration for these analyses is the concept of a ‘bureaucratic knowledge regime’ (Hoag, 2019), wherein social phenomena are rendered either ‘socially true’ (Barassi, 2021) or unknowable (Aradau, 2017) to support the governance of borders and legitimisation of bordering practices.

Informed by this understanding of bureaucratic knowledge, in this chapter, I detail how the production and circulation of caseworkers’ productivity data performs a legitimising role through which Sunak’s target of ‘legacy backlog clearance’ is rendered both ‘knowable’ and, crucially, achievable. In order to develop this analysis, I first briefly outline (a) why caseworkers’ productivity metrics perform this function and (b) the form that these metrics take. Here, I find Boswell’s (2015) theorisation of ‘symbolic declaratory targets’ a useful analytical frame, wherein the pledge to clear the backlog is seen as exemplary of such a target.

In her analysis of the use of asylum targets by the Home Office in the New Labour government, Christina Boswell (2015) suggests that public policy targets serve a ‘dual role’. Not only do they function as technocratic management tools, “providing incentives for officials, elected politicians, and other actors... to improve their performance and ensure value for money” but, crucially, they can also serve a political function (*ibid.*: 493). Boswell writes that public policy targets “may be developed for symbolic reasons, to signal commitment to, and underscore achievement of, a range of political goals” (*ibid.*). Often ambitious, she suggests that such targets function to garner legitimacy through their achievement of specific outcomes. Namely, if a government realises its target, (e.g., to ‘clear the backlog’) “it might expect to be rewarded by public support” (*ibid.*: 495).

After Sunak’s speech on 13 December 2022, asylum backlog clearance became one of the most visible targets of the Home Office’s Asylum Operations and a central totemic (senior Home Office official¹²⁴) nexus around which public and parliamentary scrutiny concerning asylum administration was focused. Here, the legitimacy of the Conservative government – and that of Sunak himself – became intrinsically tied to whether the Home Office could ‘abolish’ the backlog of initial asylum decisions.

To be effective in ensuring their legitimising potential, symbolic declaratory targets need to be both monitored and linked to indicators (Boswell, 2015). Therefore, having set this target of asylum backlog clearance, the Home Office was under pressure to (a) achieve it¹²⁵ and (b) demonstrate their ability to do so. Since Sunak had positioned asylum caseworkers as the ‘solution’ to the ‘problem’ of the asylum backlog in his December address, asylum caseworkers became the indicator through which progress towards this symbolic declaratory target could be monitored.

5.1.1. Productivity metrics

In this section, I provide a brief synopsis of the use of performance indicators in contemporary public administration. I then identify the metrics introduced following the PACE caseworking scheme and used to report progress on ‘legacy backlog clearance’: Individual Contribution Expectations. To conclude this introductory overview, I suggest that these metrics ought to be understood as having both a managerial and performative function.

Performance indicators have become a dominant mechanism through which accountability is pursued in contemporary public administration. Indeed, understanding ‘accountability’ in the context of contemporary frontline administration requires a recognition that “law is not the only normative system within the decision-making environment” (Halliday, 2004: 87). While ‘accountability’ does include the legality of the decision¹²⁶, pertinent to this chapter, there exist numerous influences which exert “other

¹²⁴ Interview with senior Home Office official. 24 April 2023.

¹²⁵ Changes in administrative design introduced in order to support the clearing of the backlog are outlined in *Chapter Four*. These include administrative changes introduced under the PACE caseworking scheme.

¹²⁶ Where mechanisms of achieving accountability could include, for example, submitting a JR challenge. The use of JR by immigration practitioners is explored in *Chapter Six*.

direct accountability pressures” on frontline administration (*ibid.*: 88). As Simon Halliday (2004) and Michael Adler (2003) outline, this means it is important to recognise a level of pluralism within contemporary administrative organisations. For example, in contemporary models of public administration, the pursuit of “efficiency gains” legitimises novel developments to administrative processes and practice (Adler, 2003: 333). Indeed, as was explored at length in the previous chapter, one legitimising factor underscoring changes to contemporary administrative design is the promise to increase the productivity of asylum caseworkers. The need to do so is found in the financial pressures faced by the Home Office due to the increased use of temporary accommodation to house asylum applicants (FOI 78941).

That accountability regimes are a product of the wider social milieu was recognised in the pioneering work of Michael Lipsky, who proposed an accountability policy for frontline government bureaucracies. In *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (1980), Lipsky argues that street-level bureaucracies cannot be extricated from the democratic structures in which they are placed. As such, he suggests that public service managers are obligated to account for the efficiency, cost-effectiveness, and quality of the services for which they are responsible. This obligation requires an organisational ‘accountability policy’ through which such services can be evaluated. Based on his research in multiple street-level bureaucracies in the United States, he proposes that a typical bureaucratic accountability policy comprised of the following four directives (*ibid.*: 161):

1. Agencies must know what they want workers to do. Where the objectives are multiple and conflicting, agencies must be able to rank their preferences.
2. Agencies must know how to measure workers performance.
3. Agencies must be able to compare workers to one another to establish a standard for judgement.
4. Agencies must have incentives and sanctions capable of disciplining workers. They must be able to prevail over other incentives and sanctions that may operate.

In the UK, the rise of an ‘audit culture’ (Halliday, 2004) across public administration has had a significant influence on how such an accountability policy has materialised in practice. Such a model has its intellectual origins in New Public Management (NPM) (Lapsley and Oldfield, 2001) and is representative of a normative paradigm for decision-making which is arguably distinct from traditionally bureaucratic or legalistic models (Mashaw, 1983). This model has been called a *managerialist* model of administration (Adler, 2003)¹²⁷.

Accountability in this context is achieved through “the development of auditable systems which are then used internally and externally to demonstrate the quality of the service being provided” (Cowan

¹²⁷ For more on these decisional paradigms and a discussion as to whether the ‘managerialist’ model proposed by Adler, in fact, reflects a model of *contemporary* bureaucracy see section 2.1.1. *Normative models of decision-making*.

and Halliday, 2003: 91). Here, “performance indicators” are used to measure the relative success of such changes to both policy and practice (Adler, 2003: 333). The pervasive influence of this model for public administration is such that accounting-based initiatives have become essential components of “any public sector manager’s kit-bag of managerial tools and strategies” (Humphrey, 1994: 147).

The internal and external pressures on the Home Office to rank, measure, compare, and sanction both individual caseworkers and Asylum Operations has necessarily influenced the development of an accountability regime based on quantitative performance measurement which operates in addition¹²⁸ to the legalistic one. This is empirically evidenced in ‘Vision Statements’ such as the following: “The Prioritising Asylum Customer’s Experience (PACE) project aims to increase the productivity of the Asylum Casework teams to enable 4 decisions per decision maker per week” (FOI 78941). Indeed, the prevailing influence of ‘audit culture’ (Halliday, 2004) on contemporary public administration has hastened the development, and emphasised the significance, of caseworkers’ productivity metrics.

5.1.2. Individual Contribution Expectations

As has been demonstrated above, one key way for bureaucratic accountability to be pursued in street-level bureaucracies is through the use of quantitative performance metrics. In the context of asylum determination processes, these performance metrics serve a dual function. First, such metrics can be used to track, compare, and therefore measure caseworkers’ performance. Second, and importantly, they can be used to communicate (externally) improvements or developments in said performance, thus contributing to improved accountability for street-level bureaucracies. Indeed, the need for such quantitative performance measures for asylum caseworkers was illustrated in my interviews. On this need, I was told¹²⁹:

You have two surgeons both working in an operating theatres right next door to each other with the exactly the same processes and systems, and one is doing two tonsillectomies a day and another one is doing six, you know, that tonsillectomy is costing a lot more money... if you’re doing two than if you’re doing six. If the quality outcomes are the same, it also means that that person’s got a much longer waiting list which isn’t good for the customer¹³⁰.

So, you know, I don’t think having lots and lots of people in limbo in hotels is a good or is a compassionate approach. So, I think, you know... I would always want in my career in any job I’ve done to be really

¹²⁸ As Halliday (2004) notes, these accountability regimes work alongside each other in a competitive, rather than exclusionary, manner in what can best be described as a pluralistic arrangement. He writes that the ability for any normative model to hold particular influence over another is necessarily impacted by the environment in which the decision-maker is placed. For example, the pre-dominance of legality will depend on individual “decision-makers’ commitment to legality, whereby they are about lawfulness and so choose law above other normative functions” (*ibid.*: 107).

¹²⁹ Interview with senior Home Office official. 24 April 2023.

¹³⁰ For a discussion on the use of ‘customer’ in the asylum decision-making context see 4.4.2. *Order and efficiency for whom?*

clear on what is the expectations of me. So, we... we implemented what we're calling 'individual contributions' fairly recently, so we... so we were measuring productivity, but we weren't then necessarily making sure that individuals understood what their productivity was. So, we're trying to do top-down meets bottom-up... on this.

Here, the value in comparing the work of two caseworkers is explained. Quantifiable metrics provide an objective base through which to compare two 'like' scenarios. These metrics aid in the development of accountability both in terms of the institution – ensuring caseworker are working in a 'cost-effective' manner – and for caseworkers themselves, making sure they “understood” what is expected of them. The driving logic underscoring these contributions is that achieving greater accountability for individual caseworkers will help boost performance and therefore reduce reliance on temporary accommodation (“in limbo in hotels”), thus ensuring financial savings for the Home Office.

In 2023, as part of a broader swathe of management reforms under the PACE caseworking scheme (for more on the PACE caseworking scheme, see *Chapter Four: Consultants*), the Home Office introduced a new framework for managing productivity: Individual Contribution Expectations. Unlike the productivity metrics used to report on completed work¹³¹, these 'expectations' are future-facing and flexible, consolidating a previous structure to account for individual experience in the role. Vigorously defended as *not* being targets, Individual Contribution Expectations are the 'lead indicator' for caseworkers' 'underlying productivity' (senior Home Office official)¹³².

Individual Contribution Expectations are the number of events – interviews plus decisions – that an individual decision-maker is expected to complete on a weekly basis. The Individual Contribution figure is calculated by dividing “the total number of cases allocated to the DMU by the number of DMs¹³³”, subsequently dividing this figure by the number of weeks available “to complete the decisions or interviews”, and then added together to provide “a total weekly contribution target for each DM” (Neal, 2024: 92). As part of this contribution expectation, caseworkers have a specific decision target. For example, if an Executive Officer (EO) caseworker has an Individual Contribution Expectation of

¹³¹ The Home Office routinely publishes data on caseworkers' 'productivity' in the immigration statistics quarterly release. This metric is calculated by dividing the Total Principal Stages of an asylum claim (substantive interviews and decisions) completed in the given month by the number of FTE equivalent Asylum Caseworking Staff (Home Office, 2024d). Here, the key indicator is the 'production' of completed Total Principal Stages (interviews and decisions) by individual caseworkers. For example, in December 2022, there were 5,319 Principle Stages completed (3,143 Initial Decisions and 2,176 Substantive Interviews) by 1,237 caseworkers, leading to a 'productivity' rate of 4 (*ibid.*).

¹³² The contestation that these contribution expectations are *not targets* stems from the Windrush 'Lessons Learned' review (known as the Wendy Williams Review), where a systemic 'target culture' was seen to impede good quality decision-making across the Home Office.

¹³³ Decision-makers (DMs). The ICIBI use this term so as to refer to all grades of decision-maker: Senior Executive Officer (SEO), Higher Executive Officer (HEO), Executive Officer (EO), and Administrative Officer (AO).

5.81, “they could be told they needed to make at least four decisions” (*ibid.*: 94). This decision target is drawn from an overall DMU target calculated by the Chief Caseworker Team and consultants from management consulting firm Newton Europe (*ibid.*; FOI 2024/01633)¹³⁴.

Whereas previously productivity expectations engaged a team-based approach, the new individual contribution framework set out the expectation for different roles within Asylum Operations (e.g., for an EO or an AO). The Home Office justified the change by saying it would foster “greater accountability” for individuals and enable managers “to identify where individuals needed more support, and act on both good and poor individual performance” (Neal, 2024: 92). On these changes, former Director General at the Home Office, Abi Tierney, told the Public Accounts Committee (2023: Q12):

[it] is really good operational management and making sure that people at a decision-making unit level have the data to understand what their performance is, what should be expected of individual decision makers and what that stacks up to as a decision-making unit, and then making sure that that stacks up to the overall trajectory. It is a combination of improvement plus what I would call operational delivery grip.

These metrics, therefore, have a clearly articulated managerial function (Boswell, 2015) in ensuring caseworkers have “the data to understand what their performance is” (Tierney, above). They infer an understanding of asylum determination which is systems-oriented (Stavinoha, 2024)¹³⁵: individual work “stacks up” to contribute towards an “overall trajectory” (Tierney, above). Importantly, ‘expectation’ in this context does not refer to the *legal* expectations. For example, making a legally sound decision in accordance with the provisions of the 1951 Convention and in relation to the rules and guidance contained in the APIs. Instead, expectations in this context amounts to the number, or volume, of cases caseworkers are expected to complete within a designated timeframe.

Here, it is worth highlighting that not only did management consultancy firm Newton Europe help develop the ‘decision target’ for the Individual Contribution Expectations, but they were also instrumental in collating this productivity data through the Enhanced Case Management (ECM) tool¹³⁶. The ECM tool is a digital tool – or database – which was developed in order to provide team leaders “with an up-to-date view of their teams’ live cases and performance” (Neal, 2024: 10). The ECM tool was introduced in May 2023 as part of the PACE caseworking scheme and was used to track and report on caseworkers’ productivity throughout Op MAKHU and beyond. I have discussed the ECM tool in 4.2.4. *Improving “data visibility”* in the previous chapter. However, it is important to re-iterate again

¹³⁴ For more on management consultancy firm Newton Europe and their role in the PACE programme see *Chapter Four: Consultants*.

¹³⁵ For more on this framing of the asylum ‘system’ and the ‘logisticisation’ of reception (Vianelli, 2022) see *Chapter Four: Consultants*.

¹³⁶ For more on the ECM tool and the role of Newton Europe see 4.2.4. *Improving “data visibility”*.

the embedded and nebulous role consultants play in developing and circulating these productivity targets which are used to garner institutional accountability.

Sunak's pledge to clear the growing backlog in asylum decisions meant that, throughout the remainder of 2022 and much of 2023, representatives from the Home Office were continually pressed for updates on their progress¹³⁷. One way in which this occurred was through updates on their recruitment¹³⁸, another was through the reporting of performance indicators¹³⁹. Crucially, it was through these quantifiable data that progress towards this goal of legacy backlog clearance was understood. Therefore, it is of critical importance to recognise that, in addition to their managerial function, Individual Contribution Expectations serve a decidedly performative function, too. As one Home Office official emphasised to inspectors from the ICIBI, there remained a "*political imperative* for productivity to be measured by decision outcomes and individual contributions" (Neal, 2024: 93. Emphasis added).

As this introductory overview has shown, data relating to caseworkers' recruitment and productivity plays an important role in making asylum backlog clearance both enumerable and 'knowable'. The metrics used to communicate this progress – Individual Contribution Expectations – were implemented by the Home Office in tandem with management consultancy firm Newton Europe. While these were framed as providing improved "operational delivery grip" (Tierney at the PAC, 2023: Q12), they have a decidedly performative function, too. Their legitimising value is found in their ability to articulate the successful governance of borders and legitimisation of bordering practices; their evocation to measure progress demonstrates Sunak's ability to achieve 'legacy backlog clearance', thereby reducing spending on temporary accommodation.

In the remainder of the chapter, I explore how and where institutional opacity is produced in the creation and dissemination of Individual Contribution Expectations to measure caseworkers' productivity. To

¹³⁷ E.g., Home Affairs Committee, 2023; HC Deb 19 December 2022, vol. 725. c. 6; HC Deb 5 September 2023, vol. 737. c. 232.

¹³⁸ E.g., in December 2022, it was reported that there were 1,200 asylum caseworkers based in DMUs across the UK, up from only 600 in the previous year. By 3 July 2023, the (then) Minister for Immigration Robert Jenrick reported to the House of Commons that they were "on track" to deliver a "quadrupling of the number of case workers" (HC Deb 3 July 2023, vol. 735. c. 539), and latterly Jenrick told the House of Commons: "as of 1 September, we have met our commitment to have 2,500 decision makers, an increase of 174% from the same point last year" (HC Deb 5 September 2023, vol. 737. c. 226).

¹³⁹ E.g., following Sunak's speech, he told the House of Commons, "we have redesigned the entire process for caseworking on an end-to-end basis, which will take productivity from 1.2, as she says it is today, up to 4" (HC Deb 13 December 2022, vol. 724. c. 887); the NAO reported that the Home Office had increased productivity such that "each caseworker made an average of 2.5 decisions a week by the end of May 2023" (NAO, 2023: 38); and at the Home Affairs Committee in December 2023, Tom Pursglove (former Minister of State at the Home Office) advised "there has been a lot of work going on in clearing the legacy backlog... productivity has improved to such an extent that, on average, 7.89 initial decisions have been completed per case worker per month" (Home Affairs Committee, 2023: Q127).

begin, I focus on the production of these metrics. Here, I suggest that a focus on productivity ‘outputs’ hastens a goal displacement, whereby the ‘production of asylum cases’ (Liodden, 2019) has become the ultimate objective of the asylum decision-making process. Then, I focus on their dissemination. In this section, I demonstrate how tactics of hiding and obfuscation are used to structure what is (un)knowable about progress towards legacy backlog clearance. Throughout, I add empirical weight to the assertion that institutional opacity is produced in the curation and circulation of ‘legitimising’ data.

5.2. Shifting the goal posts

5.2.1. Goal displacement

At the Public Accounts Committee on 10 July 2023, Dame Diana Johnson returned to the original aims of the PACE programme and questioned the representatives from the Home Office on the issue of quality. She asked, “Part of [the Transformation Programme] is about making the experience of someone going through the asylum system better [...] what are you doing to gain the experiences of asylum seekers and understand what it feels like to be going through this process?” In response, Abi Tierney said the following (Public Accounts Committee, 2023: Q107):

... I genuinely believe that quality should cost less. We are not removing the quality or attention we are giving to asylum seekers. We are improving the process—taking away the blockages, streamlining and making the digital process better for our caseworkers.

That means they are focusing on the things that add value, which is making a decision and improving the lived experience for asylum seekers so they are coming out of the limbo position they are in in a quicker way

... I believe the two things go hand in glove. You mentioned the quality of decision making; I am hoping that, by improving a lot of the process and the steps, the quality of the decision making is better, and we will get it right first time.

Here, the focal point of Tierney’s response revolves around managerialist concerns surrounding the efficacy of the process. ‘Improving the steps’ is substituted for ‘improving quality’: quality should “cost less” and asylum seekers should come out of limbo faster.

Tierney’s response above is archetypal of an organisational ‘goal displacement’, wherein the “need to process cases quickly becomes an end in itself” (Liodden, 2019: 252). In her research into the Norwegian asylum bureaucracy (UDI), Tone Maia Liodden (2019) writes that both political and public pressures meant that the ‘production of asylum cases’ had become a central unit of evaluation for caseworkers conducting refugee status determination. In particular, she highlights how a pressure to record and monitor so-call ‘output’ controls (Flynn, 2001), informed by the logics of NPM, meant that the desire to ‘produce asylum cases’ became a central focus of both caseworkers and their managers. Here, she evoked Lipsky’s conceptualisation of ‘goal displacement’ to understand this phenomenon. It is worth outlining her explanation in full (Liodden, 2019: 252):

To some extent, production goals shift attention from the substance of decisions to the efficiency of the process. It can be seen as a classic example of goal displacement, where the need to process cases quickly becomes an end in itself.

One reason as to why Liodden suggests that such a goal displacement occurs is because it is inherently difficult to develop quantitative performance indicators with reference to the process of refugee status determination. Indeed, she suggested that it is particularly challenging to “compare workers to one another to establish a standard for judgement” in asylum determination processes (cf. Lipsky, 1980: 161). This is because not only does “the scale and nature of asylum cases vary massively” (caseworker quoted in Neal, 2024: 93), but there are also no objective measures against which to balance caseworkers’ performance (Thomas, 2011; Liodden, 2019)¹⁴⁰. This means that both temporal and substantive factors relating to the individual cases can inhibit or otherwise restrict the ability of managers to either measure or compare workers’ performance.

Certainly, this complex reality was reflected in my interview with James when, on the variability of cases, he said: “you get to the nitty-gritty of that claim really and it's some of them are a lot quicker than you'd expect, and some of them are a lot, lot, longer than you'd expect”. He told me that:

the longer ones you tend to have are ones that are related to blood feuds... errr specifically Albania and Iraq. But also ones that are... based around people's sexuality or female genital mutilation, they generally take a lot longer because you need to probe into different aspects of them.

As James explains, the “nitty gritty” of the claim can vary greatly in substance and context. The personal – and often intimate – nature of the claims mean that no two are alike. On top of this, James’ significant discretionary authority means that *how* he establishes the material facts of the claim as well as *how* he interprets of the provisions of the 1951 Convention will vary to that of a colleague (Thomas, 2011); whether, for example, he considers the ‘blood feud’ to amount to persecution.

However, in the case of asylum determination procedures in the UK, it is also possible to suggest that such a goal displacement is a direct consequence of the pressure to demonstrate their ability to ‘clear the backlog’. In this way, the need to process cases quickly becomes the dominant legitimising factor undergirding novel policies and practices. I support this assertion with reference to the interventions of the PACE caseworking scheme, introduced to improve the productivity of asylum caseworkers.

5.2.2. Removing ‘barriers’ and ‘blockages’: the schematisation of asylum

In the previous chapter, I analysed the interventions of the PACE caseworking scheme. I paid particular attention to how its design and development was obfuscated as a result of the interventions of Newton Europe. In this next section, I build on my previous analysis in which I identified a process of

¹⁴⁰ Certainly, as I have discussed in *Chapter Four: Consultants*, the implications of pursuing an administrative paradigm which overly focuses on comparing ‘like’ cases has significant consequences for administrative justice in asylum determination processes. For more on this line of argumentation, with reference to the development of ‘Crib Sheets’ and ‘Exec Summaries’ see 4.3.2. ‘Crib Sheets’ and ‘Exec Summaries’.

‘logistication’ in the PACE scheme (Vianelli, 2022) to show how these interventions focused on the ‘production of asylum cases’ (Liodden, 2019). I do this with reference to both the ‘barrier busters’ created by Newton Europe, and the removal of the ‘second pair of eyes’ (SPoE) check. I then argue that institutional opacity is imbued throughout the process, whereby the goals of the PACE scheme (the ability to make faster decisions) are hidden in the language of improving the experience for asylum caseworkers.

As part of the PACE caseworking scheme, Newton Europe created quick reference posters called “barrier busters” (Neal, 2024: 78; Figure Eleven). These posters, disseminated among caseworking staff and displayed in DMUs, model a series of quick reference questions to prompt caseworkers in their decisional processes. These include questions such as, “is the evidence **readily available**?”, “could it **change a decision**?”, and “has the claimant already qualified for a **grant** based on **current evidence**?”. The rationale underscoring these prompts is the following statement: “we want to give the customer a **quick resolution**, so we should **only ask** and **wait** for further evidence that is **material to the claim**”. The purpose of these poster was to ‘streamline’ the asylum determination process.

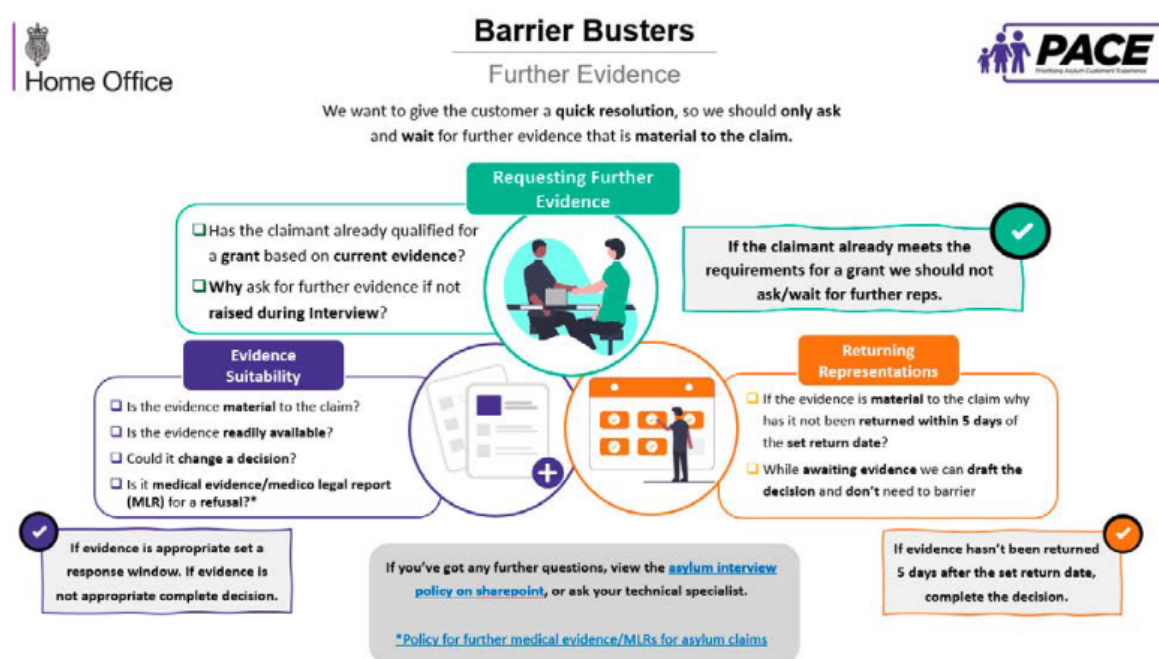


Figure 11: Barrier busters created by Newton Europe. In: Neal, 2024: 78.

Another key intervention of the PACE scheme was the removal of the ‘second pair of eyes’ (SPoE) check. The SPoE check was previously included in the quality assurance process for asylum decisions, wherein a second – and often more senior – caseworker would look over a decision prior to it being sent to the applicant. As part of the PACE scheme, the SPoE check was removed from some cohorts entirely, and for others a verbal check was introduced instead (Neal, 2024).

The defining feature which ties these two developments together is the focus on the efficiency of the process, rather than the accuracy of the outcome. Indeed, for both, mechanisms for ensuring quality assurance are overshadowed by “the twin concerns of speed and cost” (Cowan and Halliday, 2003: 84).

These examples are perhaps most notable for how this concern for speed and cost is engrained into the linguistic decisions of both the PACE programme and the Home Office officials who oversee it. Tellingly, in my interview with the senior civil servant, the SPoE check was referred to as a ‘blockage’ that was neither adding value to the process nor contributing to the ‘end outcome’. In the ‘barrier busters’ above, one of the ‘barriers’ includes not having the evidence upon which to base an asylum decision (to stop such ‘barriers’ becoming ‘blockages’, caseworkers are advised to begin drafting their decision notwithstanding a lack of evidence upon which to base it¹⁴¹).

Indeed, what emerges from these developments is an understanding of key aspects of the decisional process (quality assurance, considering evidence holistically) which hold less weight than the organisational need to process cases *quickly*. In this way, the focus on completing cases overshadows the imperative “to submit each case to the most anxious scrutiny” (Thomas, 2011: 25). As Tierney told the Public Accounts Committee, this means that caseworkers “are focusing on the things that add value, which is making a decision” (PAC, 2023: Q107). Yet, it is arguably more accurate to say these measurements articulate the quality of the system in place, rather than the quality of the decisions (Cowan and Halliday, 2003). It is therefore possible to suggest that the Home Office’s commitment to legality, is arguably “countered by its commitment to efficiency” (*ibid.*: 84).

However, it is worth noting that the framing of ‘barriers’ and ‘blockages’ also functions to ‘schematise’ the asylum determination process (Graeber, 2012). In re-framing the determination process as something which can be ‘streamlined’ or made more efficient, I suggest that this goal displacement functions to obscure key aspects of the determination process: namely, emotion and caseworkers’ affective impact. Indeed, I suggest this is particularly relevant for the current analysis due to the role of management consulting firm, Newton Europe, in the design and development of the PACE scheme.

I suggest that the invocation of ‘blockages’ and ‘barriers’ is reliant on an imaginary (Stavinoha, 2024) of the determination process that is technocratic, rational, and linear. Here, I evoke the understanding of bureaucratic knowledge by David Graeber, who summarised it as follows (2012: 119):

...bureaucratic knowledge is all about schematization. In practice, bureaucratic procedure invariably means ignoring all the subtleties of real social existence and reducing everything to preconceived mechanical or statistical formulae.

Drawing on the Weberian ‘ideal-type’ bureaucracy and the prevailing influence of New Public Management (NPM) on contemporary models of (public) administration, Graeber considers ‘bureaucratic knowledge’ to be the abstraction of “real social existence” into quantifiable formulae. However, this is arguably an imperfect fit for asylum determination processes. This is because, most notably, it ignores the role of affect and emotion in the determination process. Indeed, when I spoke to

¹⁴¹ The prompt from Newton consultants here is questionable, and as such ought to be seen as interfering in the decisional process. For a greater discussion about blurred accountability as a result of a relationship of ‘insourcing’ see *Chapter Four: Consultants*.

John, an immigration solicitor who used to work at UNHCR training asylum caseworkers in the UK, he expressed concern, as he told me:

... it doesn't matter how bright you are, you could be from McKinsey or wherever, but you've got to have done it yourself to understand how it's not a... it's not something that can be, erm... apportioned a length of time... [...] You know, it's, it's much more of a feeling. It's much more about how you are feeling on that day?... How traumatised am I from yesterday when I had that woman weeping in, in my interview, you know? erm... it's a human process on both sides.

Here, John demonstrates how factors such as secondary trauma, emotional state, and mental preparedness are all constituent elements in the asylum decision-making process. Indeed, asylum caseworkers have previously referred to their work as “harrowing” (Anon. *The Guardian*, 2017) and one caseworker summarised the job thus, “evaluating the applications of asylum seekers means sifting each day through human suffering” (Anon. *The Guardian*, 2021). As Hannah, an immigration solicitor, explained to me:

If you are just doing someone's asylum interview, you meet them for two hours, they recount to you, the hardest things that have ever happened to them. You have to deal with the vicarious trauma of hearing that and I think it's natural. If you do that day, after day, after day [...] then you've got these intense pressures to make decisions quickly as you can [...] I just think it's terrible job. I know it has to be done... but I would hate to be the person having to do it.

That frontline decision-making would have these affectual dimensions is not without precedent, nor is it unique to asylum determination. For example, in his original analysis of goal displacement in street-level bureaucracies, Michael Lipsky remarks (1980: 167):

If simply having people processed or having them attached to public service workers were the issues, these measures would bear a meaningful relationship to the desired serves. But our expectations of these public services are different... [we] expect that [cases] will be processed with a degree of care, with attention to their circumstances and potential.

Furthermore, in his seminal work *Bureaucratic Justice* Jerry Mashaw, too, argues (1983: 72): “many of these judgements are of a qualitative sort that resists sensitive translation into the binary language of electrical currency”. Certainly, while caseworkers are bureaucrats, I contend that it is misguided to negate the impact of emotion on the decisional process completely. Caseworkers, as bureaucrats, do operate in a paradigm of bureaucratic rationality. However, this is not to suggest that they ought to be considered automatons. This was best reflected in the observation of James:

CHL: Do you feel yourself getting emotional about this when they're telling their experiences to you?

James: Not generally, I mean, there's been a couple of instances of actually horrific cases where you kind of do... It's hard to sort of, not... feel a bit sorry for them? or not feel a bit angry on their behalf, but generally speaking... erm... it sounds quite old-fashioned but it's your job. You're paid to do it. So

you kind of put it to one side [...] there's technical specialists¹⁴² and that you can speak to who can help you sort of rationalise the claim from someone who's not emotionally involved.

Here, it is possible to evidence how James can be seen to “pursue a position of neutrality by being on the side of the objective decision” (Hertoghs, 2024: 7). For James, the most important thing he needs to do is to “rationalise” the claim. He told me explicitly that “you’re not trying to get emotionally attached” and you need to “put [emotions] to one side”. His use of the (instructive) second person here suggests that he believes he is presenting the ‘correct’ way to do his role. The pursuit of objectivity is seen to include the invocation of a second opinion. James told me he ‘rationalised’ the claim by speaking to a technical specialist. Hertoghs, too, had shown how asylum decision-makers work together to come up with an ‘objective’ view on the decision. Notably, James’ response highlights how his pursuit of objectivity is closely linked with his identity as a bureaucrat. As he told me, he doesn’t get emotionally attached because, “it’s your job you’re paid to do it”.

In this way making the right decision is closely related to James’ identity as a bureaucrat “who followed the rules in an impartial manner, thus echoing classical ideas connected to the ethos of bureaucracy” (Liodden, 2019: 247). However, despite his drive to put his emotions “to one side”, he still recognises that he encounters ‘horrific’ cases and registers a significant affective reaction to the determination process – both anger and feeling ‘sorry’. Thus, while bureaucrats like James pursue objectivity, he does not “reduc[e] everything to preconceived mechanical or statistical formulae” (Graeber, 2012: 119). Recognising his own affective reaction to the claim, James seeks a second opinion to help guide his decisional process.

Yet, the increasing entanglement of management consultancy firms in the development of decisional processes and practices appears to hasten the ongoing schematisation of asylum. Indeed, the involvement of management consultancy firm Newton Europe in creating ‘barrier busters’ in combination with their role in improving the ‘decision flow’ (see *Chapter Four*) serves to hasten the logistification of asylum processing (Vianelli, 2022). The extent to which their involvement will re-imagine asylum caseworkers as ‘automatons’ in the process is yet to be seen. Despite this, it is worth re-iterating the need for a human-centred decisional process for asylum determination. As Mashaw (1983: 72) remarks, “if we believed that [first-instance] decisions should be wholly controllable by careful manipulations of the logical and factual input into decision making, we would use computers rather than human beings to make... decisions”.

Furthermore, the Home Office’s own experience with productivity targets ought to be a warning against pursuing efficiency at the expense of the ‘face behind the case’¹⁴³. As one caseworker told the ICIBI in 2021, two years prior to the introduction of Individual Contribution Expectations, “with all the pressure

¹⁴² Technical Specialists review and provide quality assurance on initial decisions made by caseworkers. They are generally Higher or Senior Executive Officers and are therefore more senior than James, an Executive Officer.

¹⁴³ Following the Williams Review, the Home Office introduced ‘face behind the case’ training to decision-makers alongside a new ethical decision-making model (Home Office, 2021b).

for stats and targets, I look at a case and see a refusal or a grant and how quick I can do the work, not the person” (Neal, 2021: 55). This is what Bauman (1989) has described as *institutionalisation*; wherein “denial of the authority of the private conscious, [became] the highest moral value” (*ibid.*: 22) and “morality boils down to the commandment to be a good, efficient, and diligent expert and worker” (*ibid.*: 102). In other words, when the “bureaucrat’s own act becomes an end in itself” (*ibid.*: 100).

5.2.3. Impact on asylum caseworkers

In the above section, I demonstrated how a focus on productivity outputs has led to a goal displacement such that the production of asylum cases is seen as the primary objective of the asylum determination process. I then discussed two interventions of the PACE scheme which empirically evidenced such a re-imagining: the ‘barrier busters’ developed by Newton Europe and the removal of the SPoE check. In this next section, I identify how the goal of ‘making faster decisions’ is hidden through the language of improving the experience for asylum caseworkers. I do so by highlighting the disconnect between how Individual Contribution Expectations were presented, and impact on caseworkers on the ground.

Underscoring the ‘vision’ for the PACE scheme was the recognition that caseworker productivity cannot be disentangled from the environment in which asylum caseworkers are working (FOI 78941). As Abi Tierney noted to the Public Accounts Committee (2023: Q107), a key priority for the Home Office in the roll-out of the scheme was to make the “process better for our caseworkers”.

Indeed, as was revealed in the internal documents I received through FOI request, as of August 2022, one of the “lessons learned” from the initial roll-out of the scheme was “appropriate support and coaching from experienced Technical Specialists, DMs and Senior Case Workers will ensure knowledge is transferred to newer team members and will support retention” (FOI 78941). As such, part of the drive to triple caseworkers’ productivity (Sunak, 2022) focused on workplace management reforms, including the introduction of ‘pulse’ surveys to gauge staff satisfaction and a recruitment and retention allowance (Home Affairs Committee, 2022d). Here, a focus was on ‘values-based recruitment’ and management training to manifest the ‘culture’ of a high-performing organisation (senior Home Office official) supplemented these workplace management reforms¹⁴⁴. Regarding the introduction of the Individual Contribution Expectations, in my interview with a senior Home Office official, the impression I was given was overwhelmingly positive; that not ‘hitting’ expectations didn’t indicate underperformance, rather – that it would serve as a prompt for managerial interventions, or a reason for a line manager to ask, ‘what’s wrong? What can I do to help you?’

This need for group learning and development in the context of refugee status determination is reflected in earlier research on the Norwegian asylum system by Tone Maia Liodden (2019). In her analysis of

¹⁴⁴ The current recruitment advert for an asylum caseworker at the Home Office begins “asylum decision makers... play an important role in offering protection to the most vulnerable and refusing those who do not qualify, ensuring effective immigration control and keeping the UK safe and secure. The work that you undertake is life changing.” Available at: <https://homeofficejobs-sscl.co.uk/ap-index.html> [Accessed 20 December 2023].

asylum determination in Norway, Liudden (2019) introduces the idea of ‘practice’ with regards to decision-making on initial asylum claims. Here, she suggests that asylum decision-makers utilise a practice-based approach when understanding *how* to make decisions on claims. She suggests that “practice could not... be understood merely by reading the notes and the formal texts they were based on” (*ibid.*: 248). Instead, practice depended on and was guided by “tacit knowledge” (*ibid.*) which was acquired through collaboration, connection, and knowledge-sharing with colleagues. This informal knowledge-sharing was evidenced in a 2017 report on asylum caseworking, in which decision-makers told inspectors from the ICIBI that their formal training had not prepared them adequately to do their job, and they had instead “relied on the guidance and support from more experienced colleagues and ‘on the job’ learning to develop the necessary skills and knowledge” (Bolt, 2017: 7).

However, following the introduction of the Individual Contribution Expectations, it is possible to see the desire to improve the working experience of caseworkers subsumed by the organisational priority to ‘clear the backlog’. In the June 2023 report by the NAO, it is noted: “The Home Office does not routinely monitor progress against the core objectives of the Programme such as improving working experience for caseworkers... Instead, it focuses on measures of decisions, caseworker activity and accommodation” (NAO, 2023: 9). During my interview with Linda – a civil servant who had worked closely with the Home Office – she told me she was not convinced by the efficacy of the workplace management reforms:

...while the transformation itself has elements around improving the working experience for staff and things like that, it's currently not a priority compared to getting down that backlog and trying to move people out of hotels and, you know, whether that's by accident or design, I suppose... is a little difficult to say, with the way things have developed [...] I would certainly say that sort of working experience was, I guess, this year's to-do list...

Furthermore, there existed a dissonance between how these contribution expectations are viewed by managers and asylum caseworkers themselves. Asylum caseworkers interviewed for the most recent ICIBI report following the introduction of Individual Contribution Expectations noted that expectations were too high, which meant that there existed “a disconnect between senior managers’ views of the achievability of individual contributions and those of staff working to meet them” (Neal, 2024: 10)¹⁴⁵. For example, this pattern of behaviour was noted by the ICIBI in their most recent report (Neal, 2024: 10):

Newton consultants told inspectors that the approach to clearing the backlog should have been that DMs needed to work “smarter not harder”, but the overriding message that DMs heard was that they needed to achieve their individual contributions.

As such, while workplace management reforms were included in theory, in practice there was little to demonstrate their effect. I suggest that this is because of the shift in the parameters of evaluation of the

¹⁴⁵In their evaluation of the APTP, the Infrastructure and Projects Authority also found that the Home Office had “unrealistic ambitions around... the productivity of caseworkers” (NAO, 2023: 32).

scheme, wherein caseworkers' experiences remain subordinate to the goal of ensuring "order and efficiency" from the perspective of the institution (HC Deb 5 September 2023, vol. 737. c. 232).

5.3. The tactics of institutional opacity

In the first section, I identified a goal displacement occurring in the asylum determination process whereby the focus on the production of asylum cases took precedence over the imperative "to submit each case to the most anxious scrutiny" (Thomas, 2011: 25). In this next section, I show how this goal displacement is actively leveraged as a tactic of institutional opacity.

Here, I empirically evidence how the evocation of caseworkers' productivity data functions to "erode and exclude" other possible discursive paradigms (Heyman, 2004: 490) and facilitates the production and circulation of (non)knowledge around the asylum determination processes. As such, I suggest it is possible to evidence how a focus on the 'production of asylum cases' is used as a tactic through which to deliberately conceal or otherwise obscure changes to policy and practice. In building my argument, I attend to the creation of (non)knowledge and the deployment of ignorance in the discursive space (Borrelli, 2018; Scheel and Ustek-Spilda, 2019).

Employing William Walters' (2021) methodological approach of a 'flat ontology of secrecy', I begin by identifying an event in which secrecy was made and (un)made in a public forum (Glouftsiou, 2024b). In so doing, I show that parliamentary committee hearings are particularly useful for identifying ways in which ignorance and (non)knowledge are created and thus can helpfully isolate the contours of opacity and obfuscation (Glouftsiou, 2024a; 2024b). In this section, I use a vignette drawn from a Home Affairs Select Committee meeting as an entry-point through which it is possible to address broader questions relating to (a) the production and circulation of knowledge pertaining to the management of migration, as well as (b) the obfuscation of asylum decision-making processes and policies (Scheel, Ruppert and Ustek-Spilda, 2019; Stavinocha, 2024). Having watched and analysed the transcripts of ten parliamentary committee hearings, I have chosen the below example for this purpose as it illustrates concretely and clearly how a focus on caseworkers' productivity is leveraged as a mechanism through which accountability is pursued, but where institutional opacity is also produced and sustained.

5.3.1. The (un)making of secrecy

At the Home Affairs Select Committee meeting on 29 November 2023, Sir Matthew Rycroft and Simon Ridley¹⁴⁶ were examined on the Home Office's annual reports and accounts. The meeting was centred around some of the key areas of Home Office policy and the cost implications – most notably, the Rwanda policy and Sunak's pledge to clear the backlog of initial asylum decisions. It proved a chaotic and sometimes fraught hour of examination. At one point, representatives from the Home Office were pressed on whether they would achieve Sunak's target of legacy backlog clearance by the end of December 2023. Committee members were provided updated data on caseworkers' productivity,

¹⁴⁶ Interim Second Permanent Secretary to the Home Office.

recruitment, and the number of outstanding ‘legacy’ cases as a benchmark through which to assess the Home Office’s progress towards this target.

As part of this, Tim Loughton MP and Matthew Rycroft, Permanent Secretary at the Home Office, had the following exchange (Home Affairs Committee, 2023: Q123-128):

Loughton: Is that a realistic estimate now by Ministers that that legacy will be completed by 13 December or at some stage in December?

Rycroft: By the end of December. Actually, we have always been confident of that because we knew that we were on track to recruit the additional caseworkers, which we have now done, with 2,500 by 1 September, and to triple the productivity of caseworkers.

Loughton: So, it is entirely down to the extra resource that has been brought in to deal with the backlog now.

Rycroft: It is the combination of the extra resource and the increased productivity of the existing resource.

Loughton: Nothing to do with the number of claims that have been withdrawn?

Rycroft: It’s a combination of those two things. As those caseworkers have gone through the cases, some of them have been withdrawn.

Loughton: You say it’s a combination of these two things, but you have now listed three things.

Rycroft: The extra caseworkers and the productivity.

Loughton: So, the withdrawal rate plays no part in now being on target to meet the legacy cases.

Rycroft: No, I think the withdrawal rate plays an important part. It is a consequence of that—

Loughton: So, it is three factors. You said it was two factors, but it is, in fact, three factors, isn’t it?

Rycroft: The number of caseworkers times the average number of decisions per week gets you the number of decisions per week in total. So, in that sense, it’s about two factors. Within that, there are certain policy changes and some operational changes, including the one that you referred to, which lead to improvements in the rate.

In tracing the contours of the making (and un-making) of institutional opacity in the above vignette, it is possible to identify how epistemic opacity in administrative institutions relates to (a) how legitimising knowledge is produced, used, and circulated as well as (b) the tactics of hiding and obfuscation used by government officials in the curation of bureaucratic knowledge (Glouftsiou, 2023).

5.3.2. Hiding, obfuscation, and ignorance

In Rycroft’s responses above, ‘caseworker productivity’ is used to conceal changes made to policies on asylum decision-making. Throughout, only ‘two factors’ are stressed – “the extra resource and the increased productivity of the existing resource” – and Rycroft uses caseworkers’ productivity calculation as a way in which to explain developments in process – “the number of caseworkers times

the average number of decisions per week gets you the number of decisions per week in total”. From this interaction, it is possible to see how Rycroft is attempting to develop a cohesive narrative around progress in asylum decision-making towards legacy backlog clearance which revolves around the increased ‘productivity’ of caseworkers. Here, accountability is pursued through the production and circulation of data relating to set performance indicators. Notably, caseworkers are seen as a ‘production unit’ (Lipsky, 1980), abstracted from the process into a readily calculable formula.

In this way, the vignette above typifies how a focus on increasing efficiency is leveraged to structure what is know/unknowable about asylum determination processes. Here, a Foucauldian reading of the interaction can be particularly illuminating in developing this critique. A Foucauldian analysis of power traces the mechanisms and tactics through which power is acted upon or performed in structured relations and institutions (e.g. the prison, the asylum, and in educational settings) (Foucault, 1980). In his writing, Foucault “focuses on bodies of expertise – which he calls knowledge – and their “power to bring into being and give motivation and meaning” (Heyman, 2004: 490). From this perspective, bureaucratic ‘practices’ – such as data sets, projects, and documents – are important in curating and sustaining a particular image of social life that function to “erode and exclude” other possible discursive paradigms (*ibid.*).

In the above interaction, progress towards the target of ‘legacy backlog clearance’ is made knowable through the following statement: “it is the combination of the extra resource and the increased productivity of the existing resource” and data are evoked to ground this assertion, “the number of caseworkers times the average number of decisions per week”. Rycroft is therefore evoking the discursive power of both the productivity data and, crucially, the managerialist regime of accountability which gives legitimacy to the use of these data as valuable ‘indicators’ of progress. In so doing, the data which undergirds his statement is also deployed to obfuscate other areas for dispute. This is because, in their disclosure, it is assumed that ‘transparency’ and ‘accountability’ is achieved, and the expectation is that further probes will not be attempted (Hudson and Percival, 2023).

However, later in the exchange, Loughton untangles Rycroft’s claim that ‘progress’ is related only to increased number of caseworkers and their resultant increase in productivity; Rycroft is forced to concede that “there are certain policy changes and some operational changes, including the one that you referred to, which lead to improvements in the rate”. This vignette is therefore particularly instructive in how it makes visible the tactics of opacity utilised by the Home Office in order to sustain a knowledge regime.

In the above vignette, it is possible to see how institutional opacity is produced through tactics of hiding and obfuscation (Glouftsiou, 2023). Here, ‘hiding’ takes the form of concealing changes. In the exchange, Loughton draws attention to the increased number of ‘withdrawals’ in the second half of the year. Indeed, on 7 August 2023, the Home Office had updated their guidance on the circumstances in which an asylum claim could be treated as withdrawn. Following this update, an asylum claim may be treated as withdrawn under paragraph 333C of the Immigration Rules if the applicant fails to provide

up to date contact details to the Home Office, leaves the UK without prior authorisation, fails to complete an asylum questionnaire in the required timeframe, or fails to attend a personal interview or report for reasons not outside their control (Home Office, 2023b: 16). Throughout the latter part of 2023, the Home Office increasingly ‘withdrew’ claims and then considered this withdrawal as progress towards the goal of legacy backlog clearance. Yet, the expansion of an inadmissibility regime was ‘hidden’ when the primary focus is assumed to be the goal of legacy backlog clearance. The ability to leverage this goal displacement *in order to ensure accountability* is therefore particularly notable. It highlights the need to empirically question the extent to which accountability is actually achieved (see discussion below).

In addition, Rycroft actively uses the committee as a venue through which to obfuscate the impact of these changes. Latterly, Home Office representatives admitted that there was a 307% increase in the number of withdrawals over the previous year but denied that this increase was “fortuitous” (Home Affairs Committee, 2023: Q130). However, they stressed that this exponential increase was unrelated to Sunak’s target of ‘clearing the backlog’.

Critical migration scholars would frame these instances of hiding and obfuscation as the tactical deployment of ignorance (Stel, 2016). According to Stel (2016: 1402), agnotology is “a social theory of ignorance... based on three core premises: that ignorance is pervasive; that it is socially constructed; and that it can be advantageous”. When understood in this way, ignorance is more than a gap in knowledge or an omission. Instead, ignorance is both “intentional and deliberate”, a strategy “deployed and wielded by particular actors who remove knowledge, or render ineffective the knowledge that is considered suspicious, within the public space” (Aradau and Perret, 2022: 410).

In this context, Rycroft deploys ignorance as tactic through which to obfuscate whether the change in procedure had an impact on the decisional rate. As he notes, “it’s about two factors. Within that, there are certain policy changes and some operational changes, including the one that you referred to” and yet the 307% increase in the number of withdrawals over the previous year was “fortuitous”. The extent to which decisional processes are changing in either a sustainable, or a legalistic, manner is still at question. Indeed, six months later, caseworkers from within the Home Office admitted that they were advised to use the withdrawal conditions “in the knowledge that they will be resubmitted but will no longer count as legacy claims” and instead fall under “secondary asylum casework” (Syal, 2024). Importantly, in the interim, the withdrawal of an asylum claim had significant and wide-ranging impacts upon individual claiming asylums. Most notably, their ineligibility for Asylum Support and accommodation, which functions to heighten their risk of destitution.

As one example through which to trace the tactics of institutional opacity, this vignette has illuminated key points of critical inquiry regarding how bureaucratic knowledge is produced, disseminated, and circulated. In identifying how and where tactics of obfuscation and concealment are employed in the making of a bureaucratic knowledge regime, I have made visible how a ‘goal displacement’ is leveraged to obfuscate changes to policy and practice.

5.3.3. Knowledge curation practices

To end the section, I outline why the critique I have presented in this above section is relevant for socio-legal analyses. Here, I suggest that socio-legal analyses need to broaden an understanding of ‘accountability’ and ‘transparency’ to account for the more nebulous revealing and concealing of information in and thorough frontline administrative agencies.

In the above sections, I have drawn on instances where institutional opacity is created in both the invocation of bureaucratic knowledge regimes and through parliamentary committee meetings. To end, I suggest that the location of this obfuscation has important analytic value and troubles a binary understanding of opacity/ transparency in public administration. As such, I conclude this section by arguing that these complicated understandings of accountability, opacity, and transparency have particular implications for research into contemporary administrative institutions. I posit that socio-legal investigations play a crucial role in empirically probing these articulations.

From the empirical analysis presented above, I suggest that the location of this obfuscation has important analytic value because it serves to complicate a binary understanding of opacity/ transparency in public administration. My argument here is that the above vignette highlights how data or knowledge is leveraged by Home Office officials in order to *curate*, rather than *disseminate*, information intended to ensure accountability in frontline public administration. This understanding necessarily functions to negate, or otherwise mitigate, an understanding of parliamentary committee hearings as offering greater transparency and accountability into government processes. To end this section, I develop this line of critique with reference to Hudson and Percival’s (2023: 39) analysis of prison risk data, in which they argue for an understanding of transparency which is not that of “a neutral framework for holding systems to account”, but rather as mechanisms of transparency as operating “as an expression of the underlying imperatives of the prison”.

The underlying premise is that, instead of fostering greater insights, it is possible to see how “transparency can be implicated in the production of secrecy” (Glouftsiou, 2024b: 729). Consequently, it is perhaps more instructive to view the parliamentary committee meeting as a *mechanism* of transparency, where such a mechanism is defined as a ‘mediator which governs information flow’ (*ibid.*). Indeed, just as I demonstrated in previous chapters that documents obtained through FOI release can be used to obscure as much as they reveal¹⁴⁷, it is possible to see in this interaction that the Home Affairs Committee meeting is utilised by Rycroft to curate – rather than disseminate – information relating to frontline decision-making. In so doing, I add empirical weight to the assertion that “transparency enacted through the selective reporting of certain information and the hiding of others may produce distortion and opacity, contributing to further secrecy” (Glouftsiou, 2024b: 733).

¹⁴⁷ For a detailed analysis of FOI requests see sections (a) 3.3.2. *Freedom of (some) Information* and (b) 4.3.1. *Tactics of obfuscation*.

This is important because this empirical evidence strongly suggests that transparency is not always the antonym of opacity. As such, analyses of frontline administrative agencies ought to broaden an understanding of ‘accountability’ and ‘transparency’ so as to account for the more nebulous revealing and concealing of information about administrative agencies. As the above analysis has shown, I suggest that socio-legal analyses can play an important role in probing these more complicated understandings of accountability and transparency in contemporary administration and therefore can be a vital tool in untangling the consequences thereof.

5.4. Asylum caseworkers as “production units”

In this chapter, I have explored the tactics and consequences of epistemic opacity with regards to asylum caseworkers. I have demonstrated that institutional opacity is produced in the curation and circulation of ‘legitimising’ knowledge in contemporary administrative institutions. In holding a critical gaze on how institutional opacity is produced in the creation and dissemination of asylum caseworkers’ productivity metrics, Individual Contribution Expectations, I identified a ‘goal displacement’ in which the focus on producing asylum cases has become the primary goal of the determination process. In the preceding section, I identified how this is leveraged in order to obfuscate changes to policy and practice.

In this final section, I reflect on this re-imagining in the context of the ongoing de-professionalisation of asylum casework. I suggest that when a focus on caseworkers productivity is placed in context, it suggests that caseworkers are primarily understood as ‘production units’ (Lipsky, 1980). To end the chapter, I highlight the disjuncture between this portrayal and the experiences of caseworkers on the ground. In elucidating the disconnect between this presentation of a caseworkers’ role and their own reflections, I argue that this is possible to see the consequences of this institutional opacity as embodying a significant affective dimension (Walters, 2021).

5.4.1. “The lowest paid civil servants in the civil service”

The role of asylum caseworker has undergone a period of de-professionalisation for several years. Organisational restructures and reprioritisations have meant that the role of asylum caseworker has been lowered in seniority over the past decade and, as Robert Thomas (2022: 100) has summarised, caseworking is “a low-level, low-pay and low-status position undertaken by relatively junior officials”. A background in law or legal advice is not a pre-requisite (Anon. *The Guardian*, 2021) and instead, the Home Office is looking for applicants who are “emotionally resilient” (Home Office, 2024b), “IT literate, have good written and verbal communication skills and an ability to build claimant relations” (Home Office, 2021a).

In 2014, the role was downgraded from Higher Executive Officer (HEO) level (Neal, 2021) and, consequently, caseworkers deciding initial claims for asylum now represent two of the lowest grades at the Home Office – primarily at Administrative Officer (AO) or Executive Officer (EO) level (Neal, 2024). Indeed, at a Home Affairs select committee meeting in November 2022, Rycroft, admitted to

attendees that asylum caseworkers are “among the lowest paid civil servants in the civil service” (Home Affairs Committee 2022d: Q488).

Since 2021, the Public and Commercial Services Union (PCS) representing caseworking staff at the Home Office have made a direct connection between the downgrading of the decision-making grade to the high turnover amongst asylum caseworkers (HC Deb 7 July 2021. vol. 698. c. 238WH). In their June 2023 report, the NAO (2023: 37) highlighted that, in April 2022, the annual turnover of asylum caseworkers was 46%¹⁴⁸. This is compared with just 8% for the equivalent grade across other departments in the Home Office. Certainly, the most recent ICIBI report noted the “persistently high” levels of attrition among asylum caseworking staff (Neal, 2024: 29) as well as reports of an “exhausted and demoralised workforce” (Anon., *the Guardian*, 2021). Indeed, a caseworker quoted in the *Independent* newspaper told a reporter, “It’s young staff facing these harrowing stories and earning low wages - so what’s the incentive to stay? “There isn’t one ... so they leave and then they hire someone else and so it continues” (Bancroft, 2022).

Then, on 5 November 2022 the *Observer* published an exclusive, ‘Revealed: supermarket staff recruited to make ‘life and death’ asylum decisions’ (Kelly and Townsend, 2022). It began, “The Home Office is hiring asylum decision-makers from customer service and sales positions at McDonald’s, Tesco, and Aldi as part of a recruitment drive”. While this article posited to be an ‘exclusive’, an analysis of the Home Office’s own recruitment site reveals as much. For example, a ‘caseworker spotlight’ is given to Simon, who wrote (Home Office Recruitment, 2024):

After leaving college I worked in fast food, spent a few months working with children in camps around America and then settled on a job in retail. After 4 years with no opportunities for promotion, I grew tired of the retail sector. I wanted a career with more prospects, so I applied for a job with the Home Office.

For one caseworker I interviewed, who had worked in the Home Office in the early 2000s, this move was incredibly shocking. The ability for Administrative Officers to undertake asylum decisions was seen as inappropriate and a wilful misunderstanding of the emotional and intellectual challenges of the role. Certainly, the disjuncture between the responsibilities of asylum caseworkers and their pay was acknowledged by former Permanent Secretary to the Home Office, Philip Rutnam, who admitted it is “a relatively junior position to be making lifechanging decisions” (Institute for Government, 2022). Successive ICIBI reports have found the role to be “generally recognised as... more demanding than most other case working roles at the same grade” (Neal, 2021: 55) and, following the most recent

¹⁴⁸ In April 2023, this figure was at was 25%. In this report, the NAO suggest that the reason for this change from 46% to 25% was the introduction of the retention allowance. Because the attrition rate was so poor, to encourage caseworkers to remain in the role, the Home Office introduced a new retention allowance in 2022 “so that if people stay for a year, they get paid £1,500 more; if they stay for two years or more, they get £2,500” (Rycroft at Home Affairs Committee, 2022d: Q488).

inspection of asylum caseworking, the ICIBI commented that “being a DM is one of the toughest EO jobs in the government” (Neal, 2024: 40).

5.4.2. Relational dimensions of institutional opacity

Yet, despite this, senior Home Office officials have routinely defended the reduction in number of Higher Executive Officers (HEOs) in asylum operations. For example, in an interview with Civil Service World, Sir Matthew Rycroft, Permanent Secretary to the Home Office, explained that (Bowie, 2023):

efforts are under way to get administrative officers – a grade more junior than executive officer – involved in processing the simplest cases and save the EOs for the more complex ones. “If there are extremely complex or sensitive cases then yes, you would need a decision maker that was more senior than an EO. But in terms of numbers, those are absolutely the exceptions.

When this contextual information is held in conversation with the above analysis, in which I outlined how the ‘production of asylum cases’ has become the primary objective of the determination process, it is possible to see how asylum caseworkers are viewed primarily as ‘production units’ (Lipsky, 1980).

In *Street-Level Bureaucracy* (1980), Michael Lipsky wrote that, in organisations which face a significant public and political pressure to meet targets, “street-level bureaucrats more and more are reduced to production units” whose work can be sped up and evaluated in a calculable paradigm (Lipsky, 1980: 178). As has been demonstrated above, whenever representatives were asked about their progress on reducing the backlog of asylum applications, their answer related to the doubling of the number of caseworkers and tripling their productivity (HC Deb 19 December 2022, vol. 725. c. 6). Increasingly, caseworkers were referenced as a “resource” (Home Affairs Committee, 2023: Q124), while their work was understood as “data” (Tierney at PAC, 2023: Q12). Progress towards this goal was understood as a simplistic calculation of time, number of bureaucrats, and volume of units.

Such an understanding goes far to explain the ongoing ‘schematisation’ of the determination process and the negation of affect in the decisional process. If caseworkers are seen as a vehicle through which cases are processed, rather than as decision-makers, the logics underscoring the de-professionalisation of the workforce are congruent. As Rycroft noted in the interview, if all decision-makers are doing is processing claims, it is acceptable to “save the EOs for the more complex ones” (Bowie, 2023)¹⁴⁹. When the interventions of the PACE scheme such as Executive Summaries and Crib Sheets are taken into consideration, these logics become even more apparent.

¹⁴⁹ It should be noted that EOs are *not* highly-skilled asylum caseworkers, like Tech Specs. Instead, Executive Officers earn on average £28,000 a year and are one of the lowest paid workers in the civil service system. Rycroft here is comparing EOs to Administrative Officers (AOs), for whom the requirements include, a college course, an apprenticeship, or administrative experience (National Careers Service, 2024).

However, it is worth noting that this re-imagining was the particular grievance of James, whose reflections opened this chapter. On what ‘makes’ an asylum caseworker, he said “they’ve got no idea”. This was particularly felt when his role was portrayed in terms of his productivity metrics. Such a response to their introduction is not, however, a feature of the Home Office’s Asylum Operations alone. The introduction of productivity metrics into frontline government agencies has elsewhere proven to be a cause of friction between managers and caseworkers. For example, in his research into local authority housing departments, Simon Halliday (2004: 94-95) noted that caseworkers had “felt very aggrieved about this method of assessing their performance” since it “took no account of the less quantifiable aspects of the quality of decision-making”. Thus, James’ annoyance that “they’ve got no idea really” is archetypal of the frustrations such metrics inspire in frontline caseworkers.

Yet, I suggest that it is worth noting the particularly affective dimension to this re-framing of the role. Indeed, James reflected on the perspectives of his colleagues:

I know lots of people, people in our office especially but in other offices around the country, when they read [the rhetoric], they kind of... it's incredibly disheartening to some of them. I mean some of them grow a thick skin to it. But it is... it does get to people.

In this excerpt from James’ interview, it is possible to evidence the way in which secrecy can be “generative with regard to affects and energies” (Walters, 2021: 20). This obfuscation of his role had an affective impact. James isn’t the only caseworker to react to the obfuscation of their role in this way. This is something that has been picked upon by many of the caseworkers who have chosen to speak to journalists. For example, one caseworker who spoke to the *Independent* echoed James’ remarks: “to make and write decisions is more difficult than people think” (Bancroft, 2022), another whistle-blower told the *Guardian* newspaper: “it’s a very highly skilled job but hasn’t been given the respect it deserves” (Kelly and Townsend, 2022).

5.5. Conclusion

The critical analytical focus of this chapter was on the curation and circulation of ‘legitimising’ knowledge in contemporary administrative institutions. To explore this argument, I identified how and where institutional opacity is produced in the creation and dissemination of asylum caseworkers’ productivity metrics: Individual Contribution Expectations. Throughout, I demonstrated how a focus on caseworkers’ productivity hastened a ‘goal displacement’ (Lipsky, 1980), in which a focus on the production of asylum cases obfuscated or minimised considerations of quality.

I demonstrated the tactics of institutional opacity with reference to this ‘goal displacement’. Here, I used one vignette in which secrecy was made and (un)made through which to explore broader questions relating to the production of institutional opacity in contemporary public administration. In the final section, I reflected on how the consequence of this opacity is that asylum caseworkers have become ‘production units’. Here, I identified a *relational* dimension to institutional opacity in the disjuncture between how the role of caseworker is presented, and how it is experienced.

To conclude this chapter, I will address a significant outcome of the focus on making faster decisions: the impact on decisional quality. In *Street-Level Bureaucracy* (1980), Lipsky was adamant that a focus on caseworkers' productivity would erode the quality of decisions conducted by street-level bureaucrats. On this, he said that the consequence of such a development is that public service managers "appear content to sacrifice quality in order to maintain volume" (*ibid.*: 178). Certainly, in their inspection of asylum casework for the period June to October 2023 that the ICIBI noted that, in the rush to reach the target of legacy backlog clearance, senior Home Office staff were "only interested in the quantity of interviews and decisions rather than their quality" (Neal, 2024: 40).

Earlier in this chapter, I noted the removal of the SPoE check – it was, apparently, a 'blockage' which was restricting the ability for caseworkers to conclude cases quickly (senior Home Office official). Following this, the erosion of quality checks was so prevalent that the ICIBI reported that, "despite a large increase in the number of withdrawn claims, Asylum Operations only quality assured one such claim between January and October 2023" (*ibid.*: 11). In the period June – October 2023, the ICIBI note that nearly half of Tech Specs raised issues to the inspectors about caseworkers' poor consideration of material facts, while nearly a quarter raised concerns about poor credibility assessments in asylum decisions (*ibid.*: 40). By the Home Office's own evaluation, decisional quality reduced from 72% to 52% in the period 2023 to 2024 (Home Office, 2024c).

Here, it is important to remember that the asylum determination process does not operate in a vacuum, and the impact of poor-quality decisions is felt (a) by the applicant themselves and (b) in the increasing recourse to the First-Tier tribunal. This necessarily creates both additional harms to the applicant and an additional backlog further down the procedural line. As Colin Yeo, an immigration barrister, reported in 2024; "even with my very small case load as a barrister I have seen two asylum decisions towards the end of 2023 that surprised me. The Home Office's own country information had been overlooked. All I really had to do at appeal was point to that information and the appeals were allowed" (Yeo, 2024a).

Yet, while a decrease in quality was certainly evidenced – and indeed catalysed – during the drive to 'clear the backlog', it would be remiss to suggest that a lack of quality in asylum decisions was a *novel* development in UK asylum administration following the PACE scheme and the introduction of Individual Contribution Expectations. Throughout my data collection, I was told that "[asylum] rejection letters are very wildly faulty" (Conor)¹⁵⁰. The use of copy and paste, factual errors, missed trafficking indicators, and spelling mistakes was typical, as well as receiving "decisions that are so vague, you can't tell what they were thinking..." (Conor).

Repeatedly, I was told by practitioners that caseworkers applied the incorrect standards of proof, had failed to read the submissions in full, and had not make a judgement based on a holistic evaluation of

¹⁵⁰ Interview with Conor, immigration solicitor. 4 October 2022. For more on poor quality asylum decisions see *Chapter Six: Immigration Practitioners – "Emailing into the Void"*.

the evidence presented. Nevertheless, throughout my data collection process, many practitioners told me that the quality of initial asylum decisions had reduced between 2022 and 2023 when our interviews took place. As such, while decisional quality decreased following the introduction of the PACE scheme, this ought to be understood as a move from bad to worse, not from good to bad.

In the following chapter, I delve further into immigration practitioners' understanding of the asylum determination procedures in the UK by exploring how they experience the bureaucratic opacity of the Home Office.

Chapter 6 Immigration Practitioners – “Emailing Into the Void”

Kevin¹⁵¹ spoke to me on Zoom from the regional office of a national charity in Essex. He is the only adviser qualified to provide asylum advice in his local area. Due to pervasive funding and capacity issues, he supplements his three paid days by volunteering two days a week with the same charity with which he has worked for nearly 20 years. Immigration and asylum advice is a regulated area of advice in the UK, and Kevin’s route to qualification was through the Office of the Immigration Services Commissioner (OISC) through which he now practices at Level 2. Kevin decided to get accredited through the OISC to support clients in the local area because he works in a so-called legal aid desert: a region of the UK where there is either one or no provider offering free access to asylum advice (Wilding, 2023b). At the time of writing, there are no legal aid providers in Norfolk, Suffolk, or Essex.

Kevin’s workload was overwhelming. Recently the Home Office had increased the number of asylum seekers accommodated in hotels in the local area and, the day of our interview, launched the new Asylum Questionnaire. As an OISC-regulated adviser, navigating whether and at what point he could provide support in a progressively more complex asylum system meant that Kevin spent an increasing amount of his week studying to keep up with the fast pace of change, all the while fielding more and more inquiries at the charity. Yet, this wasn’t the only notable development. Towards the end of our conversation, he told me: “there is no real, useful, engagement” with the Home Office anymore. The Home Office never responds to requests for information and, “quite honestly, being realistic, I don’t expect them to come back”. Increasingly, Kevin was witnessing a shift materialise: channels of communication had closed following the COVID pandemic, and opportunities to engage with an individual at the Home Office had reduced. The Home Office was becoming faceless.

In this chapter, I centre the experiences of immigration practitioners who support asylum applications and seek to understand how they experience the institutional opacity of the Home Office. The aim of the chapter is to explore the relational dimension of institutional opacity. First, I outline the tactics of institutional opacity. In this section, I document how the Home Office has reduced avenues for communication and explore the impact of this manufactured opacity and strategic obfuscation on immigration practitioners. Then, I explore the consequences of institutional opacity for immigration practitioners. Here, I show how the absence of the Home Office forces practitioners to become the ‘face of incompetence’ for the Home Office; the only port-of-call for applicants facing unprecedented delays on their applications. Finally, I shed a light on the ways in which practitioners seek to combat this institutional opacity through ‘tactics’ of everyday resistance (de Certeau, 1984). Before proceeding with my analysis, I first provide an overview of the contemporary landscape of asylum advice provision. I then trace how and when advisers support applicants throughout the asylum claim process.

¹⁵¹ Interview with Kevin, OISC Level 2 adviser. 28 February 2023.

6.1. The landscape of advice provision

The findings presented in this chapter cannot be disentangled from the contemporary legislative and political environment in which the data collection took place. Indeed, a shifting policy and legislative environment provided a volatile backdrop to the data collection process. In this first section of the chapter, I introduce the contemporary landscape of asylum advice provision in order to contextualise my subsequent analysis. To do so, I have organised this overview into four key areas for consideration: legislative changes, attacks on the immigration legal profession, (patchwork) provision of advice, and burnout and secondary trauma.

6.1.1. Legislative changes

The period October 2022 to April 2023 was shaped by numerous developments in policy and practice which impacted upon the asylum determination process.

In July 2022, the Nationality and Borders Act (NABA) received royal assent. This introduced Priority Removal Notices, differential treatment for the ‘Group One’ and ‘Group Two’ refugees, and the rebuttal mechanism, all creating “complex new processes for people to navigate” and “additional streams of work for the legal aid sector” (Hynes, 2023: 3)¹⁵². At the same time, the legality of third-country processing for asylum claims under the memorandum of understanding (MOU) between the UK and Rwanda deal was litigated in the courts¹⁵³. This meant I interviewed practitioners who were simultaneously navigating how to respond to clients’ notices of removal while the legality of the Rwanda plan was yet to be determined¹⁵⁴. In February 2023 the ‘Asylum Questionnaire’ was introduced alongside the streamlined asylum processing (SAP) policy, launching an entirely new way to substantiate an asylum claim and causing confusion both around eligibility for legal aid and regarding who could support on the application (ILPA, 2023b; OISC, 2023). Then, in March 2023, the Illegal Migration Act was introduced in parliament¹⁵⁵. This unprecedented pace of change meant just “staying abreast of the legislation” (Yemi)¹⁵⁶ became a key consideration of practitioners who had to familiarise themselves with an increasingly complex array of law, regulation, and procedure.

¹⁵² In July 2023 differential treatment for the ‘Group One’ and ‘Group Two’ refugees was rescinded by statutory instrument in a change to the immigration rules (HC 1496).

¹⁵³ [2022] EWHC 3230 (Admin); [2023] EWCA Civ 745

¹⁵⁴ The Supreme Court eventually found the Rwanda plan unlawful in November 2023 ([2023] UKSC 42). In April 2024, the Houses of Commons approved the ‘Safety of Rwanda (Asylum & Immigration) Act, which will require all decision-makers, including the courts, to conclusively treat Rwanda as a safe country. Following the general election in July 2024, the new Labour administration have pledged to end the Rwanda policy and have discontinued the MEDP.

¹⁵⁵ It subsequently received royal assent in July 2023.

¹⁵⁶ Interview with Yemi, immigration solicitor. 17 November 2022.

Notably, many of the changes introduced were in contravention of international obligations. As Daisy¹⁵⁷ explained: “they’re trying to do these things which are completely unlawful, completely against international law, completely against the Human Rights Act”. Dave¹⁵⁸ highlighted the absurdity of some of the developments. On the proposed Illegal Migration Act, he suggested the government has a ‘policy’ to ignore international law and convention; joking, “anybody can fix a problem if they’ve got no parameters”. For all practitioners, the fast pace of change meant that they were constantly responding to shifting goalposts with slippery footing in international law – the majority of which was viewed as “purely performative” cruelty (Conor)¹⁵⁹. As Nicole¹⁶⁰ suggested, navigating the increasingly complex claim process also played a pivotal role in preventing practitioners from working on “systemic change”.

6.1.2. Attacks on the immigration legal profession

Compounding these legislative developments, were increasing attacks on the immigration legal profession. While immigration lawyers have long been viewed as “frustrating effective administration” through the use of the legal process (Thomas, 2011: 60), attacks on practitioners intensified throughout the period of data collection and concerns around the implications of this discourse came through in almost every interview. A narrative of ‘lefty lawyers’ purportedly “frustrating immigration policy” surfaced during Priti Patel’s tenure as Home Secretary (Mason, 2023), when in September 2020 a Home Office tweet referenced ‘activist lawyers’ challenging asylum decisions. The Rwanda litigation amplified this discourse and, during his leadership campaign, Rishi Sunak abhorred asylum seekers’ ability “to get on the phone to their lawyers when they get on a plane and evade being sent to Rwanda” (Micklethwaite, 2022). The intensity of the attacks on the legal profession escalated such that ILPA issued a statement on the safety and protection of practitioners in August 2023 in which they accused politicians and the media of fostering ‘a climate of hostility’ “by attacking the legitimacy of immigration lawyers exercising their proper function in our democracy” (ILPA, 2023a). Then, in the summer of 2024, the targeting of immigration practitioners became a focal point of the race riots which swept across the UK.

Indeed, the risks faced by practitioners were “not just hypothetical” but “born out in practice... encouraged and sanctioned” (Nicole) and many wanted to discuss them with me during the interview. As Sophia¹⁶¹ observed, “when people that you know have been attacked in their workplace erm... you know even if it never happens to my workplace, you know we will always now be aware of the possibility”. While the ‘lefty lawyer’ rhetoric was a mark of achievement for some – “I’m quite proud to be an activist lawyer” (Aurélien)¹⁶² – for others, it represented a dramatic shift in how the Home Office

¹⁵⁷ Interview with Daisy, immigration solicitor. 18 April 2023.

¹⁵⁸ Interview with Dave, immigration solicitor. 5 January 2023.

¹⁵⁹ Interview with Conor, immigration solicitor. 4 October 2022.

¹⁶⁰ Interview with Nicole, immigration barrister. 1 December 2022.

¹⁶¹ Interview with Sophia, immigration barrister. 1 November 2022.

¹⁶² Interview with Aurélien, immigration solicitor. 24 January 2023.

interacted with the sector and the protracted attack on their professionalism reflected a largely antagonistic and adversarial relationship.

6.1.3. Patchwork provision

Immigration and asylum advice is a regulated area of advice in the UK, and under the Immigration and Asylum Act 1999 it is a criminal offence for an individual to provide advice without appropriate registration. There are two main qualifying routes to giving immigration advice in the UK – via accreditation with the Office of the Immigration Services Commissioner (OISC), or as a legal practitioner who is registered through a professional body¹⁶³. To support an asylum application, it is necessary to obtain either OISC Level 2 or Level 3 accreditation, and only those with L3 OISC can represent client at Tribunal (although L2 can lodge an appeal and refer onwards).

The contemporary landscape of advice provision is therefore additionally shaped by a scarcity of free-to-access asylum advice, and patchwork distribution of legal aid providers across the UK. The Lord Chancellor has a duty to ensure the availability of legal aid services in certain areas of law, including for asylum (Legal Aid, Sentencing and Punishment of Offenders Act 2012), and access to good quality legal advice and representation can be a fundamental factor in the success or failure of an asylum claim (Meili, 2013; Refugee Action and NACCOM, 2018; Campbell, 2020). However, there is no obligation on the Home Office to ensure applicants receive advice and in practice over half the people seeking asylum navigate the process without legal representation (Wilding, 2023a). Those outside of London are far more likely to navigate the process unrepresented (Burrige and Gill, 2017). Consequently, organisations who do provide access to legal aid-funded advice are overwhelmed with demand, and practitioners working within them intimately feel the effects of a “failing ecosystem” (John)¹⁶⁴ on their everyday work. Of 15 practitioners interviewed, 2 OISC advisers were based in a so-called legal aid desert and six other practitioners operated within a so-called drought – where provision is available on paper but is unavailable in practice (Wilding, 2023b).

Jo Wilding (2023b) argues the existence of advice droughts and deserts has been exacerbated by the current market-based model for procuring legal aid. Under the current model, each ‘matter start’ (cases organisations are permitted to open in each contract year¹⁶⁵) is billed according to a fixed fee structure¹⁶⁶, where the fixed fee for legal help¹⁶⁷ in standard asylum cases is just £413 (MoJ, 2023). This artificially low rate has meant many providers have either turned away from providing legal help for

¹⁶³ The professional bodies are: General Council of the Bar; Law Society of England and Wales; Chartered Institute of Legal Executives; Faculty of Advocates; Law Society of Scotland; General Council of the Bar of Northern Ireland; Law Society of Northern Ireland

¹⁶⁴ Interview with John, immigration solicitor. 17 November 2022.

¹⁶⁵ From April 2023, each stage of a case is a new matter (Standard Civil Contract Immigration Category Specific Rules: 8.25).

¹⁶⁶ The Civil Legal Aid (Remuneration) Regulations 2013.

¹⁶⁷ Initial advice and assistance.

asylum or closed their practice completely. If providers demonstrate work has reached three times the value of the fixed fee, an escape threshold is applied and the entire case is remunerated based on hourly rates (MoJ, 2023)¹⁶⁸. However, payment under the ‘escape’ rate is only granted once the LAA has evaluated the case. John described this process as a ‘loan’ the LAA which is accompanied by burdensome administrative requirements¹⁶⁹.

6.1.4. Burnout and secondary trauma

In addition to rapid legislative changes, attacks on the legal profession, and patchwork provision across the UK, the landscape of advice provision as experienced by immigration practitioners was increasingly shaped by instances of their own burnout and secondary trauma.

Scarcity of provision meant there is an “unbelievable disparity between what we can offer and, uh, what the need is” (Dave) and practitioners faced immense pressure to just *keep going*. A report from the Young Legal Aid Lawyers (2023) showed that 73% worked more hours per week than they were contracted, and this demand was reflected in my data. For example, Hannah¹⁷⁰ said becoming a mother made her set clearer boundaries on workload, but far more of her colleagues work on weekends than don’t, and Nicole told me bluntly: “I personally have no time for wellbeing [...] there’s not a day annual leave that I don’t work and check my emails”. Managers impressed on me the need to safeguard more junior colleagues and that risk of burnout was high, “we’re a very small team. erm... if we burn out, then that’s good for nobody” (John). The need to ensure organisations didn’t ‘lose’ people was felt acutely in a context where things were “becoming worse rather than getting better” (Yemi).

However, it was not only the workload that meant colleagues were leaving the sector. As Baillot, Cowan and Munro (2013) identify, applicants’ accounts of fear, trauma, violence, and persecution are central to the asylum claim process, and adequate preparation of the claim “entails extracting very specific traumatic material that will be important in establishing the asylum claim” (Piwowarczyk *et al.*, 2009: 2). Indeed, Baillot *et al.* (2013) suggest that working as an asylum legal practitioner makes individuals especially susceptible to the development of secondary trauma due to the “peculiar probative,

¹⁶⁸ After data collection had concluded, the escape threshold rate was amended to twice the value of the fixed fee, and an additional 15% allocated for cases relating to the Illegal Migration Act. However, Wilding (2023a) notes “the 15% uplift for work under the Illegal Migration Bill is unlikely to be enough to stop the trend of providers leaving the market”.

¹⁶⁹ In *The Legal Aid Market*, Jo Wilding (2023b) discusses these burdensome administrative requirements at length. As Wilding (2023b: 66) highlights, “it is far from straightforward” to receive payment under the escape-fee model. Files are sent to the LAA with a bill detailing each item of work undertaken for the case, which are scrutinised at length by the LAA and are sometimes disputed. This means that billing is “a disproportionately time-intensive process” (Hynes, 2023: 13), and fears that the escape threshold will not be met means that often ‘borderline’ cases are turned away by providers: directly impacting access to justice. The LAA also regularly audits providers, which means it is necessary to “keep on top of file management all the time” (John).

¹⁷⁰ Interview with Hannah, immigration solicitor. 24 January 2023.

evidential, and narrative difficulties, together with its highly politicized and resource-limited context” (Baillot *et al.*, 2013: 510-511).

Certainly, the traumatic content of the claims in combination with enormous responsibility and insufficient resources meant that many of the practitioners I spoke to recognised they were at a pivotal moment for provision. As Conor commented, it “weighs people down and it gets people out very quickly”. Dave illustrated the impact dealing with highly vulnerable clients can have, speaking to me about how representing clients at Napier barracks “broke” several members of his team:

My colleague was getting messages from people who weren't our clients desperate for her to represent them [...] and that was distressing, having to deal with all that and some really distressing messages from current clients about their... you know dealing with people who've got like, you know, certainly going to kill themselves, stuff like that. Um, you just can't cope with all that all the time, it's just not possible...

Crucially, Dave told me that he would like to be able to offer workplace therapy to manage the risks of secondary trauma, “but that's expensive. We can't afford that.” Instead, to manage these emotions, Dave told me his colleague had “stepped back” from having a caseload that was primarily asylum, to include family reunion and indefinite leave to remain applications for refugees¹⁷¹. In an empirical study on the emotional impacts of working as an asylum lawyer, Neil Graffin (2019) found that the nature of the work had a significantly negative emotional effect on practitioners, who often reported both burnout and emotional stress. The decision of Dave’s colleague to ‘step back’ from asylum cases by broadening their practice reflects the data collected by Graffin (2019) and Baillot *et al.* (2013), who shows how practitioners engage in “protective mechanisms” to safeguard their health and wellbeing (Graffin, 2019: 32) such as “detachment and denial of responsibility” (Baillot *et al.*, 2013: 511).

However, detachment was an avenue that was sometimes unavailable for practitioners who shared an ethnic or cultural heritage with their clients. For example, after the Rwanda policy was introduced, Leila¹⁷² told me that she suddenly became aware of the significant trauma she was carrying from working with people in detention. She reflected, “I'm Arab, so I would end up being inter[preter] – also had my own cases – but I have been interpreting, and I just remember what they were saying...” In taking on the case and acting as interpreter, Leila was acutely feeling vicarious trauma of working with asylum applicants due to their shared identities. Often, it was only during the interview process that practitioners had the time to reflect on their work – their daily schedules simply did not allow the time.

6.2. Supporting an asylum claim

In the preceding section I outlined the contemporary context in which practitioners are working. In this next section I provide an overview of the role of an immigration practitioner in the asylum claim

¹⁷¹ Set (P) applications are still covered under Legal Aid.

¹⁷² Interview with Leila, immigration solicitor. 24 January 2023.

process. In so doing, I look at how and when practitioners engage with the Home Office in support of an asylum application.

6.2.1. Practitioner as “translator”

As Craig¹⁷³ explained to me, the fundamental role of the asylum practitioner is to ensure applicants articulate their experiences to the Home Office in such a way that allows them “to meet these very narrow criteria for asylum”. Akin to how a linguistic interpreter translates from one language to another, “lawyers shape the relational and contingent narratives of ordinary social life into a ‘rule-oriented’ one for the courts” (James and Killick, 2012; 442). In the case of asylum, Jessica Hambley (2019) notes applicants’ narratives are often “complex, fractured accounts that do not fit into the technical requirements of refugee law” meaning that “individual experiences of persecution require shaping into a legal claim for protection” (Hambley, 2019: 201). Indeed, practitioners “step into their [the client’s] shoes and say what they want to say” (Yemi). While assuming the role of ‘middleman’ (Daisy) between the client and the Home Office is significant – as Leila explained to me, “my main aim in the first initial attendance appointment is to explain [...] I will communicate with the Home Office; you don’t need to communicate with them” – the role of practitioner as ‘mouthpiece’ goes beyond just talking to the Home Office in place of their clients.

Such a ‘translation’ builds upon practitioners’ experiential and professional knowledge of the bureaucratic subjectivities that are accepted in the encounter between asylum applicant and the state (Weiss, 2016). This involves making sure their clients’ experiences prior to arrival in the UK are represented as a narrative which a decision-maker will *recognise* as that of a refugee (Nayeri, 2023). Jessica Hambley (2019: 201) highlights that “this translation into ‘the law’ is a complex process of communication and interaction” between clients and asylum practitioners which involves the invocation of “framing devices... structures of knowledge, experience and meaning” as well as an understanding of institutional and organisation contexts. Practitioners therefore make crucial judgements about what information is significant, and how this information will be received by the Home Office decision-maker or immigration judge. This narrative is told through both the wording on the initial claim, completion of the pre-interview questionnaire (PIQ), and the subsequent statements; all of which are in the words of the applicant and appended to the claim. Then, a cover letter (submissions) from the practitioner supports this narrative, drawing on relevant caselaw and highlighting accompanying corroborating evidence to paint a coherent picture for the decision-maker.

Crucially this role of ‘translator’ embodies two directions of communication, and an equally significant aspect of practitioners’ role is to make the whole process clearer for the applicant. In assuming the role of ‘middleman’ (Daisy), practitioners are therefore responsible for explaining the expectations and requirements of the Home Office through the different stages of an application, including “when we can talk again about the choices they might want to make about a next step or [...] getting a new piece

¹⁷³ Interview with Craig, immigration barrister. 29 November 2022.

of information from the Home Office” (Rosie). As Hannah explained, “[if] the Home Office sends me some rude, complicated letter, I can just tell the client what that means instead of them absolutely panicking”.

However, explaining the rules and requirements of the Home Office necessarily brings with it challenges, as practitioners actively tried to avoid appearing like “an agent of the state” (Cecily)¹⁷⁴, something which was often directly at odds with their motivation for their work. Most practitioners I interviewed decided to work in immigration and asylum advice because they had broadly ‘humanitarian’ aspirations with their careers. Leila’s journey to becoming a solicitor was largely typical for the sample: “since a young age, I remember wanting to be a lawyer... or psychiatrist. But the point is... is I wanted to help people [...] I wanted to help people that needed help and didn't really get it from anywhere”. Consequently, there were various points in the asylum claim process that practitioners found deeply uncomfortable. For example, Craig found explaining the procedure for claiming asylum to clients very difficult at times:

... I feel a sort of need to apologise to clients for, for what they're going through and for sort of setting out what must seem like pretty daft criteria and questions sometimes that I'm asking to try and sort of get information out of them [...] it sometimes seems so self-evidently absurd to me that I, I sort of feel like I need to apologise to the client.

Others found communicating the increasingly restrictive legislative developments challenging. Indeed, the need to explain to clients the difference between Group One and Group Two status, whether they may face removal to Rwanda, or their liability to be detained, caused significant discomfort for practitioners who were apprehensive that they may appear aligned by virtue of being a kind of “conduit” (Aurélien). Similarly, informing clients that their claim had been refused, explaining why they had been refused, or that they had no ‘merit’ at appeal, was “the most difficult” aspect of their job, (Daisy). As Nicole said, “I knew very experienced barristers still who would go and sort of gear themselves up for that kind of conversation”.

6.2.2. Gaining trust

To tell the client’s narrative effectively Craig stressed the necessity of gaining trust. This is what Westaby (2010: 162) calls the “requirement of intimacy between the solicitor and client”. To illustrate this process, Hannah told me, “some people want to tell me absolutely everything straight away, some people really don't [...] so I try and go with what they're comfortable with”. Rosie¹⁷⁵, explained how she would approach her appointments regarding initial claims for asylum with an understanding “of the recentness of their journeys” or “the difficulties they've experienced” and that awareness necessitates “a certain kind of a gentle pace, particularly with young applicants”. Many practitioners impressed on me the amount of time it takes to build such a rapport with clients: “when you know them better, you

¹⁷⁴ Interview with Cecily, OISC L3 adviser. 16 November 2022.

¹⁷⁵ Interview with Rosie, immigration solicitor. 19 January 2023.

get much better disclosure from them, and you get a much better sense of what's going on” (Hannah). The importance of ensuring trust, and the time it takes to do so, was also emphasised by Cecily who told me that dealing with “harrowing” disclosures meant it's worth taking time for longer conversations.

However, the opportunity to take time and build trust effectively was reduced for those working in for-profit immigration firms. Financial instability due to low rates for legal aid means that, to remain afloat, many firms adopt a “stack ‘em high sell ‘em cheap” (Craig) approach to the provision of asylum advice, with solicitors incentivised to “rush cases” (Hannah) to meet billing targets. As Cecily explained to me, the low fee meant most solicitors “don't really make a huge amount of effort” and will put a claim in, file it “and be done with it”. Thus, the limited time given to solicitors working within a private or for-profit immigration firm within the legal aid system meant that this crucial role of practitioner as effective translator was somewhat mitigated.

6.2.3. Evidential requirements

Acting as a ‘translator’ is not limited to supporting clients to tell their story in narrative form. Due to the centrality of an applicants’ credibility to the decision-making process, collating and providing sufficient documentary evidence is a crucial part of the claim. As such, practitioners help ‘translate’ clients’ experiences in a recognisable way through their knowledge of the evidential requirements of the Home Office. Often, this means instructing country experts or expert witnesses who can provide “cultural expertise” through “in-depth knowledge of the appellant’s country of origin”, including language, culture, medical condition(s), or foreign law (Campbell, 2020: 4). Yemi explained that the high evidential burden set by the Home Office means that practitioners go over and above the expected standard of proof to one that is above the (higher) civil standard¹⁷⁶:

if I've sent you [the Home Office] the, a letter from their GP and the medical record and you're saying they don't have, they don't have a medical condition, practitioners double down and then get a psychiatric report or get a forensic psychologist report.

This was a particular concern for asylum applications, where many applicants have experiences of torture, experience ongoing PTSD, and may present with other serious medical needs and concerns (Vredeveltdt, Given-Wilson and Memon, 2023). Indeed, the predisposition of decision-makers to not believe the narratives of those seeking asylum (Amnesty International, 2013; Bohmer *et al.*, 2015; Bohmer and Shuman, 2018) meant that collating and providing documentary evidence in support of a client’s application became a key part of the practitioners’ workload. Practitioners stressed the

¹⁷⁶ NABA introduced a balance of probabilities assessment (civil standard of proof) to determine whether an applicant has a Convention characteristic and whether they fear persecution because of that characteristic (the lower standard of proof remains for assessing actual risk). The balance of probabilities assessment only applies where the claim was made on or after 28 June 2022. Widespread delays meant that this newer standard of proof did not apply to many of the claims that constituted the current caseload for practitioners interviewed in this research.

importance of documentary evidence, noting that the lack of evidence often negatively affected clients' wellbeing. This is because they might blame themselves for not having enough 'proof'. Cecily articulated this clearly to me:

I guess [it] creates like a feeling of uh, like huge amounts of frustration in clients and also like them feeling like angry with themselves, for not like keeping more documents and, you know, keeping proof of things and... Yeah. Just like really horrible, like self-worth stuff, I guess that comes up with clients for reasons that are completely the Home Office's fault [...] and that feeling like that's like, that they, they are the reason for being in limbo rather than the Home Office or the reason for being in limbo, which I think is a really, like mentally dangerous road to go down and like to be, yeah. I think people really seem to struggle with that understandably so much.

Here, Cecily highlights how clients' 'self-worth' can become closely related to their ability to 'prove' their claim to the Home Office.

6.2.4. Silences

Having explored the role of practitioner as 'translator', I will briefly touch upon a key theme that emerged from the data: places where legal practitioners are absent. The strict parameters for remuneration with legal aid combined with an extraordinary workload means that, increasingly, the role of the practitioner is limited to their engagement with and around the asylum claim itself. The role of practitioner as a provider of more holistic support and assistance, therefore, was largely absent.

While "specialist elements" of their profession delineates legal practitioners from other support workers (Westaby, 2010: 162) and practitioners were quick to remind me that the clients' asylum application was the nexus around which almost all other concerns gravitated – "you can have all these wraparound services and it's brilliant, but the person will not recover [...] until they've got immigration status" (John) – there was an understanding that 'the claim' was part of a broader and entangled process of arrival. Indeed, the 'asylum process' for applicants and the Home Office goes beyond the asylum claim. Accommodation, detention, asylum support, English language provision, and accessing medical support are all integral parts of the asylum process for applicants (Canning, 2017), much of which involves engagement with the Home Office. Nicole reminded me of how the Home Office, too, viewed this process:

they had the initial encounter, they had the screening interview; they maybe moved this person to a contingency accommodation; to detention. They've been in sort of the Home Office's knowledge for quite a long time.

However, legal practitioners are often focused on the asylum claim alone.

The inability to offer meaningful support outside of the claim was something that practitioners told me they found difficult to manage, especially with vulnerable clients. As Daisy said, "there are other things that they come to me with that I can't help them out too much with... things like the education, things like... erm... someone's in a hotel and it's they've got no facilities to cook themselves", and Kevin

outlined this difficulty well, “sometimes you have to say with bated breath, you know, that's not within our scope to help you”. Dave remarked that it made him anxious that non-legal organisations with which they work in partnership saw his inability to offer wider support in a negative light. On this relationship, he told me he wonders whether it looks “as if we're somehow part of a problem”, that “somehow, we're being awkward” for not supporting on non-legal matters.

However, as Craig noted, he only had “a certain amount of time” he was funded for. While this might seem unsympathetic to more “therapeutic” organisations “the reality is that we're just not funded to do that. And, you know, organisations and companies go bust if, if they do” (Craig). Indeed, as Wilding (2023b: 69) observes, the imposition of a stringent bureaucratic structure such as Legal Aid which assumes lawyers are “rational utility maximisers” can sometimes have “the effect of forcing them to behave as such”. In the current paradigm of asylum advice provision, practitioners who operated solely within the parameters of legal aid were focused primarily on the process for obtaining refugee status.

Having outlined how practitioners are involved in the asylum determination process, I now explore how institutional opacity on the side of the Home Office both complicates and frustrates their ability to do so. In exploring the tactics and consequences of institutional opacity with regard to the role of asylum practitioners, this section presents novel insights and reflections into the role of asylum lawyering and how it is performed within a pervasive culture of secrecy.

To begin, I show how the Home Office produces, curates, and sustains bureaucratic opacity through a strategic reduction in avenues of communication. Following this, I evidence the impact this has on immigration practitioners supporting asylum applications. In so doing, I attend to the power dynamics that this strategic obfuscation entails. Finally, I draw upon Michel de Certeau (1984)'s concept of ‘tactics’ to explore how practitioners subvert, negotiate, and challenge the asylum bureaucracy on behalf of their clients.

6.3. Breakdown of communications and strategic obfuscation

In the following section, I explore how bureaucratic opacity is experienced by immigration practitioners supporting asylum applications. First, I highlight how, and in what way, a breakdown in channels of communication leaves practitioners emailing “into the void” (Leila). Then, I explore the relational impact of this opacity by focusing on how the strategic concealment of information “shapes social and power relations” between the Home Office and practitioners (Muller and Welfens, 2023: 8). Here, I show how the “weaponisation of information” (Carbone, Gilliland and Montenegro, 2021) functions as a mechanism of bureaucratic control, serving both a material and performative purpose.

6.3.1. Communication breakdown

In January 2023, I sat with Leila in a small room at a Law Centre in London. Her phone rang several times and she read WhatsApp messages, emails, and texts from clients throughout our meeting. “Don’t worry”, she said “I can multitask”. I asked her how she communicates with the Home Office, and the

nature of the communications. She laughed, with asylum “it's into the void” – you just hope someone reads it. She explained:

...it's like you're talking to a ghost! in asylum... you are literally just you send out an email... You have no idea if it's been read, you have no idea... and you hardly ever get any responses... when it comes to asylum. In my experience. So you're literally talking to yourself and you're just, you're preparing for a refusal...

Leila's experience communicating with the Home Office was typical of all practitioners I interviewed. Hannah told me, “You often get nothing back at all” and Ruairidh said “it's so opaque, you just can't get any answers”. Getting in touch with the Home Office was, according to Kevin, “not difficult... it's impossible!”

Practitioners experienced the bureaucratic opacity of the Home Office most acutely in the period between submitting evidence and waiting for a decision. As Leila explained, “I have no idea about this application now and when it's going to be decided and whether it's under consideration”. Indeed, the decision-making infrastructure combined with reduced channels for communication meant the Home Office appeared as a ‘black box’ for many practitioners: *which* team was responsible for the case, as well as *how* and *when* an asylum caseworker might look at it, was considered largely “opaque” (Yemi). This opacity was further exacerbated in the experience of practitioners through the pervasive delays in asylum processing.

Once a decision had been made, and a letter issued to the practitioner, the opacity surrounding the decision-making *process* additionally impacted practitioners. Poor-quality decision-making, or “irrational” decisions (John) particularly frustrated practitioners, and almost all had a story to tell me about a particularly egregious decision. This from Hannah reflects the majority of concerns:

... we made a fresh claim – giving evidence of the fact that she's Eritrean – And I got a decision letter from the Home Office after waiting a year that was just awful like it referred to her being Somali, was talking about a baptism certificate... we'd never submitted a baptism certificate... it just had it had terrible copy and paste, it listed the evidence they'd considered, and they'd only considered four of the ten documents we sent...

Incorrect information about the applicant, refusal to engage with submissions, instances of copy and paste, lack of consideration for the relevant CPIN, as well as mistakes are commonplace and reflected a pervasive lack of care and engagement with the substance of asylum claims. As Sophia noted: “my colleagues and I will frequently share with amusement some of the completely absurd reasons for doubting somebody that you'll see [...] presumably somebody thinks that these are rational arguments? but you know sometimes it's really hard to imagine why [laughs]”. Inconsistency in decision-making was also a cause for serious frustration from practitioners. Daisy spoke about this in relation to several decisions she had recently received:

... I've had one... erm... One grant, one refusal, and one I've still not heard back about. I submitted them all within the same amount of time. They all had the same type of claim, which I would have expected to be successful. Erm... so that just is one example where it speaks for itself [...] Why has his been refused?

Similarly, if the outcome of the decision was positive, practitioners stressed that they were delighted – “there is no feeling like that” (Leila) – but they also wanted to understand why – why this decision? What worked? Many practitioners I spoke to told me they'd appreciate being able to see how discretion was applied in cases that are successful, but that secrecy pervades all aspect of the decision-making. As Daisy explained, “you have no idea what reason they've used. That's never explained, you don't know what works for next time [...] you don't know what they've listened to. So it just feels like stabbing in the dark”.

Indeed, a pre-eminent concern of practitioners was the inability to communicate with the asylum caseworking teams, and a lack of phone numbers was brought up time and again throughout my interviews. Practitioners don't get the name, email address, or contact details of the caseworker who interviewed their client, and instead all communications go to a shared inbox. As Aurélie explained to me, “it is almost impossible to like speak to an actual person. I mean, that's one of the huge problems, sometimes you just want to like, talk to someone on the phone”. Daisy explained it was possible to email a team ‘for the attention of...’, but not contact them directly. John stressed that the inability to contact a caseworker had “never been as bad” and that “you're not getting anything out of the Home Office in terms of response or chasing up”. This led to practitioners consistently feeling like they were ‘in the dark’ surrounding the development of their cases.

This was, in part, a result of an organisational re-structure. The Home Office's asylum operations had recently moved to a centralised – rather than regional – approach. The move to centralise government service departments is paradigmatic of public administration in the era of digital governance (Dunleavy and Margetts, 2010). Under this model, it is more ‘effective’ for the institution if front-line bureaucrats are allocated cases through a national workflow model, and regional relationships between those in and outside of the bureaucracy are seen as complicating, rather than advancing, case progression. Notably, such models go far to remove human interaction from the process. Instead, digital technologies – such as a portal to which evidence supporting an asylum claim can be uploaded – and shared inboxes are introduced to manage the service centrally.

The impact of the opacity engendered in this organisational re-structure was that it gave practitioners a significantly increased workload. For example, reducing avenues for communication and obfuscating which department or caseworker has control over the case meant that just picking up the phone, practitioners were engaged in a lengthy dance just to find contact details. The following anecdote from Aurélie reflected this process:

... you'd send an email or like a witness statement or something, I'd end up sending it to like, six different email addresses, because I wouldn't know which one... [...] the this, the that, and like there were five or

six that I'd always send them to because I knew that one of them will be correct, I just didn't know which one.

Frustrations with this centralised approach were exacerbated by pervasive delays across the system whereby the absence of channels for communication meant it was harder to follow up on an ongoing case. As Conor told me, following the organisational restructure “[they’re] a completely different set of people to the caseworkers who we know that we have contact numbers for... [...] So, to say ‘this case has been going on for six months, why is there no interview’, just isn’t as possible” (Conor).

However, the efficacy of a centralised structure can only be evidenced from the perspective of the institution (Vianelli, 2022). Indeed, when I asked James – a current asylum caseworker – about this change, he told me:

...we've had cases in the past where legal reps have started hounding decision makers for updates to other cases they're not involved in, because they've got almost like a direct line from working in marketing. If you are direct line for someone, you got to use it [...] It is a sort of impersonal touch, but... I think generally speaking it's just safeguarding people to be honest.

In this way, safeguarding caseworkers is seen as a justification for the production of opacity.

6.3.2. “Fighting an uphill battle”

The lack of channels for communication directly contributed to practitioners’ exhaustion and frustration. As John noted, “there are never any phone numbers that work, you know, it's kind of, it's, it's a war of, you know, uh, you are going to struggle to get hold of us, basically”. The analogy – ‘a war’ – came up time and again with practitioners with regards to the communications. Hannah described getting in touch with the Home Office as ‘banging her head’ against the wall continuously, Aurélie told me sporadic communications “feels like you're fighting an uphill battle all the time”. When I asked her what she found the most challenging, Hannah sighed, “It’s all of it. It’s so hard to get through to them... and then often, there’s either no response or the responses are just quite baffling and not connected to what you put in...”. Indeed, Conor said it was the “one-sided battling with them... [which] gets people out very quickly”. Certainly, as my interviews progressed, I became more and more aware of how exhausted practitioners were with the Home Office and how much of this exhaustion stemmed from feeling like communication was restricted.

Aside from inhibiting practitioners’ ability to chase or progress a case, Dave thought this lack of communications meant practitioners “don't really have a relationship with the Home Office anymore”. The move to a centralised model of administration had effectively ruptured any previously beneficial working relationships that practitioners held. This directly contributed to an erosion of trust between practitioners and the Home Office. Long periods of waiting meant practitioners began to doubt any submissions had been received, let alone considered. As Leila told me, “You just hope... and then you just do a subject access request to check if anyone's processed anything you’d sent”. The impersonality stemming from a centralised administration facilitated an ever-increasing gulf between practitioners

and the Home Office. The Home Office appeared as a monolith, an inscrutable and dehumanised “bureaucratic edifice” plagued with “systemic backlogs of unfiled paperwork, manifold errors, vacant posts, ambiguous authority, and decaying infrastructure” (Lemke, 2022). As Aurélie explained, the lack of personal relationships entrenches an “‘us last versus them’ mentality [...] I feel like that they’ve created a hostile environment between us and them”.

Notably, reduction in lines for communication seemed to exist particularly for asylum caseworking teams. Channels of communications were appearing for other applications, most notably the EU Settlement Scheme (EUSS) for which there is a dedicated ‘resolution centre’ for both applicants and – separately – legal practitioners¹⁷⁷. Hannah remarked that those in the EUSS were “very polite, they’re very nice and it’s really different”. Rosie, too, noted the difference in tone: “they were just, they were falling over themselves to be polite, to give you their name, you know. I mean it was it was really extraordinary”. The differential treatment of asylum seekers and EU applicants was not lost on practitioners, many of whom pointed to the differences in communication channels as evidence of “systemic racism or systemic classism” (Yemi) within the Home Office. It is notable that systemic racism and classism materialised, in the minds of practitioners, through the lack of communication and bureaucratic obfuscation surrounding the asylum decision-making process. It reflects how respect and care is often facilitated through personal – email, phone – communications as opposed to emailing into “the void”.

6.3.3. Weaponising information

In the preceding section, I have demonstrated that bureaucratic opacity is orchestrated through reduced channels of communication. I have shown how this impacts both practitioners and their work. To conclude this section, I attend to how this opacity might be understood as a form of strategic obfuscation and therefore functions as a mechanism of bureaucratic control. To do so, I unpack opacity’s consequential relational and performative dynamics (Glouftisios, 2023).

The intentional leveraging of information by a bureaucratic organisation has been elsewhere described by Carbone, Gilliland, and Montenegro (2021) as a process of ‘weaponisation’. Here, the production of opacity is shown to empower both “bureaucracies and bureaucrats”, who establish “control over the flow of information and resources” (Hoag, 2011: 82). In this context, bureaucratic opacity is understood as something which is both dynamic and relational – opacity is produced, opacity has an effect. Indeed, the ‘weaponisation of information’ comes to structure social relationships through its performance [on] someone (Stevens, 2023). In withholding email addresses, phone numbers, case updates, decision-making procedures – the Home Office ‘weaponises’ the information it holds. This forces practitioners to either increase their workload – e.g. submit SARs, PAPs, multiple emails – or submit to “emailing into the void”.

¹⁷⁷ EU Settlement Scheme Resolution Centre: <https://www.gov.uk/government/publications/apply-to-the-eu-settlement-scheme-by-post-or-email/contact-the-eu-settlement-resolution-centre-for-an-application-form>

A persistent lack of communication coupled with erratic decision-making, long silences, and pervasive delays curated a particular image of the Home Office for practitioners. Hannah told me: “the Home Office is an enormous, enormous organisation that's really difficult to navigate externally”, and Ruairidh commented that it was a “guarded fortress”. Impressions of the Home Office as both simultaneously vast and opaque came through clearly in all my interview data. Both Hannah and Leila summarised communicating with the asylum directorate as “emailing into the void”; Dave as “battling the labyrinth”. In these discussions, practitioners isolate how, through the production of opacity, the Home Office is perceived as increasingly powerful – a ‘fortress’, ‘enormous’ and ‘vast’.

Certainly, when compared with the avenues for communications opened for EUSS applications, this obfuscation appears to be targeted – reflecting the racialised and classist (Yemi) dynamics which structure the Home Office as an institution. Acknowledging the structural dynamics of this obfuscation, too, necessitates a recognition of the purpose of producing and sustaining this opacity. This strategic obfuscation is therefore an articulation of a broader paradigm of bureaucratic control, the ‘weaponisation of information’ as one tool in its execution of power.

Finally, in limiting channels for communication, the production of bureaucratic opacity also serves a further, performative, role (Glouftsiou, 2023). This is best articulated through the reflections of Cecily, who told me how a lack of communication makes her feel. She said: “it makes it feel like the Home Office has this like obscene power that it, yeah, like wields in this really [...] awful way”. Indeed, not only does the opacity have a material effect – increased workload, emotionally draining – it also serves a performative function. In fostering uncertainty, confusion, and frustration, the opacity makes the Home Office appear as equally ‘obscene’, ‘labyrinth’ and a ‘guarded fortress’. Opacity is therefore instrumental in curating and sustaining the perception of an unequal power dynamic between the bureaucracy and those with whom it interacts.

6.4. Becoming the face of incompetence

In the previous section I explored the impact of a reduction in channels for communication and attended to the effects of the ‘weaponisation of information’ on the relationship between practitioners and the Home Office. In this next section, I show how this resultant opacity introduces a tension in the practitioner-client relationship. Focusing my analysis on practitioners’ experience of communicating delays to clients, I trace how a reduction in channels of communication at the Home Office leaves practitioners exposed as the “face of incompetence” (Aurélien) and outline the impact of this on practitioners’ relationship with their clients.

6.4.1. Communicating delays

From first engagement up to the substantive interview and final decision, the asylum claim process in the UK is dominated by the impact of extensive delays. Practitioners told me they had “clients waiting for years for anything to happen on their cases” (John), with delays that they “never used to see” (Conor)

meaning applicants were “waiting up to 16 weeks just to get the screening interview” (Aurélié) and cases routinely taking over 4 and a half years to conclude.

Delays in the UK’s asylum process are widespread and have been well documented in the media and through existing research into the asylum process in the UK (e.g. Cortvriend, 2020; Refugee Council, 2021); the percentage of applications that took over six months to complete was gradually increasing since 2018 (NAO, 2023). This meant that, at the time of writing, the Home Office presided over an almost unprecedented ‘backlog’ of cases. Indeed, on 31 December 2023, Home Office statistics show that there were 83,254 main applicants waiting for over six months for an initial decision to be made on a claim (Home Office, 2024d) and the number of individuals waiting for their claim to be assessed is likely to be far greater when dependents are included in this count. Certainly, practitioners told me they had clients waiting for years for anything to happen on their cases, something they “never used to see” (Conor).

Delays have an extremely harmful impact on individuals seeking asylum. As has been demonstrated by Victoria Canning (e.g., 2017, 2021), interconnected harms inflicted through precariousness and uncertain legal status are exacerbated through enforced periods of waiting. This state of protracted precarity is widely referred to as ‘limbo’ – where applicants are (often) unable to work and remain living in “squalid [Home Office] accommodation and with destitution level support” (Craig). This living environment has a detrimental impact on applicants’ mental and physical health. Conor told me, to be in limbo “does not make for productive and healthy citizens and [...] it damages people who are already damaged”, while Daisy explained that the longer that asylum applicants are kept “separated and isolated and without any access [to work], the more likely that they are to be exploited”.

The harmful – even violent – consequences of delays in the asylum system have been well documented in existing academic research and through experiential accounts of the asylum system (see, Chapter Five also Canning, 2017; Bhatia and Canning, 2021). Indeed, Monish Bhatia (2020: 278) writes that, for asylum-seeking individuals, delays create a “feeling of omnipresent captivity, a sense of isolation, a (symbolic) distance from the outside world and a lack of ability to envisage a (secure and stable) future” wherein this state of limbo leaves individuals “waiting and dwelling in a traumatic temporality”. For those waiting on an initial decision, or for those whom an asylum claim has been refused, the “indefinite and yet temporary nature” (Griffiths, 2014: 2002) of the asylum process distorts and ‘steals time’ (Bhatia and Canning, 2021) from individuals who have already experienced serious harm and violence. Certainly, as Meier and Doná (2021: 51) articulate, this indefinite augmentation of time can lead to the deterioration of applicants’ physical and mental health. Crucially, delays have been conceptualised in contemporary criminological literature as “a tactic of punishment and control” (Meier and Doná, 2021: 49), one which is engineered through mundane and administrative processes. Indeed, this means that delays are understood as “inextricably... associated with bureaucratic domination” (Griffiths, 2014: 1996).

Practitioners were acutely aware of the impact that delays had on clients they support. They told me that, as ‘symptoms’ of a “sick system” (John), delays “infected” (Nicole) the entirety of the claim process and are “the biggest injustice of the current system” (Conor). On this, Conor said, “to be stuck and to not to be able to work does not make for productive and healthy citizens and [...] it damages people who are already damaged”. A conversation with Ruairidh exemplified the impact of delays on clients he supported, and an excerpt of this conversation is worth outlining in full:

...he said he was basically like really struggling with his mental health and having sort of like suicidal ideation and like, um, yeah, like considering self-harm. And it was basically all because of this delay. And then when I spoke, when I spoke to him about it, he said, ‘you know, I’ve been waiting a year. I think there must be some sort of problem with my case at the Home Office. Cause I haven’t heard anything, maybe they don’t have my address right, or maybe my name isn’t right, or maybe they’ve lost my file’.

What is significant is the uncertainty this delay causes – “maybe they don’t have my address right, or maybe my name isn’t right, or maybe they’ve lost my file”. Thus, while delays have been theorised as intentional cruelty (Bhatia and Canning, 2021; Canning, 2021; Meier and Doná, 2021), they are often perceived as the consequence of administrative systems *going wrong*.

However, practitioners have limited agency in challenging delays in the contemporary asylum bureaucracy. The Home Office has long since abandoned its obligations to update applicants on the process of their claims¹⁷⁸, often citing the impact of COVID on decision-making teams. While Daisy said she would send a pre-action protocol (PAP) letter to the Home Office after three months, something which was replicated by others because “sometimes that speeds something up” (Aurélie), the annulation of the minimum service standard meant that Judicial Review (JR) challenges often have minimal utility¹⁷⁹. Indeed, Leila told me that the only option practitioners had was to submit a JR challenge on alternative grounds (e.g. mental health deterioration) something she recognised was far from ideal: “it shouldn’t get to my client having to suffer consequences of you making late decision”.

This meant that, often, all practitioners could do is tell clients to wait. As Ruairidh advised:

¹⁷⁸ Immigration Rules, para. 333A states: “Where a decision on an application for asylum has not been taken within:

a) six months of the date it was recorded; or

b) within any revised timeframe notified to an applicant during or after the initial six-month period in accordance with this paragraph, and

c) where the applicant has made a specific written request for an update,

the Secretary of State shall inform the applicant of the delay and provide information on the timeframe within which the decision on their application is to be expected. The provision of such information shall not oblige the Secretary of State to take a decision within the expected timeframe”.

¹⁷⁹ Notably, the ability to challenge delays in decision-making through JR is unavailable for OISC regulated advisers.

I said, ‘unfortunately, like that's kind of normal, like one year. Um, and it's also normal that, you know, in between submitting your witness statement and then being invited for your substantive interview, you wouldn't necessarily hear anything’.

In this section, I have shown alternative insights into the issue of the asylum backlog, one not captured in the views of the Home Office presented in Chapters Four and Five. I have shown the human consequences of poor administrative design and a failure to process asylum claims in an effective manner.

6.4.2. Reluctant justification

Due to the limited avenues for recourse, communicating delays emerged from my data as a uniquely challenging experience. I will explore this through the experience of Daisy, an immigration solicitor who works with young people. Speaking on Zoom in April 2023, Daisy talks to me about a new group she leads with a social worker for young people claiming asylum. The aim of the sessions is to give helpful information to young people about what they might expect throughout the asylum claim process. She said most of the members were concerned about their lack of access to legal representation – “I will just have to try to explain to them that there is ‘this many lawyers’, but ‘this many people who need our help’” – but that they were also concerned about how long it was taking for them to progress through the system. This, Daisy said, she found hard to communicate:

It feels like, not... I don't want to say like don't shoot the messenger, but it's hard... hard to explain some because it's not my fault either. It's not the social worker's fault. It's like, I try and help them to understand that it is the system [...] that everybody who they are in touch with is trying for them. You'd hope, you know, we want to sort of get that across you... ‘cause you feel bad saying, I can't tell you the answer.

And, also, it would be unwise to tell people a time that they don't know. That is not certain. [...] it's quite hard when you know that they're waiting for everything. And this is another aspect that they're waiting for. And, also, the fact that it's probably one of the most important things, because once the status is sorted, everything else might come a bit easier. But yeah so. It just it just feels hard to explain a problem that can't be helped right now.

Daisy's internal conflict – “you feel bad...”; “it just feels hard...”; “it's not my fault...” – was typical of other practitioners I interviewed. While practitioners were appalled by the impact of delays on their clients, they also considered them representations of a broken system: consequences of ineptitude and mismanagement which was both normalised and out of their control. As Craig said to me, “it's obviously not my fault, it's not my system.” Moreover, practitioners told me they found themselves normalising the delays as just ‘part’ of the asylum claim process. Aurélie said – “you just have to be like, ‘oh, it's just the Home Office’, you know? And there's nothing that you can do”. This need for practitioners to ‘justify’ the failures of the Home Office stems directly from the Home Office's absence. In place of any meaningful engagement between the Home Office and asylum applicants, practitioners were left to tell their clients “it's just the Home Office”.

However, in offering this reluctant justification, practitioners are often established as the ‘face’ of the ‘faceless bureaucracy’. Aurélie outlined this process, and the internal conflict it brought her, well:

You have to explain them. And that's really not my job. Like I can't be responsible for someone else's incompetence but then you kind of feel like you are because you're the person, you know [...] because they're not providing a like face-to-face service or like there's no one at the Home Office that they can talk to about their delay. Everything comes via us... So you become the kind of, yeah, the face of the incompetence, which is really hard and really annoying

Here, it is possible to see how practitioners such as Aurélie are reluctantly forced to speak in the place of the Home Office because there is ‘no one’ available at the Home Office with whom clients can discuss their delay.

This has troubling implications for practitioners. As Cecily told me, assumed proximity to the Home Office leaves practitioners at risk of becoming viewed by the clients as “agents of the state”. Craig, too, noted the propensity of this to happen – given the ‘official’ role of practitioners and the previous experiences of many of his clients with figures assumed to be those of authority or the state. Lack of time to develop a relationship built on trust because of the crumbling legal aid system (explored above) additionally affects this dynamic. To mitigate this happening, many practitioners engaged in active techniques of verbally distancing themselves from the Home Office. Cecily told me she would “really try and like emphasise my, my distance from the state continually throughout that relationship”, and Ruairidh said he would always tell clients: “obviously if I had my way, it wouldn't, it wouldn't be like this”.

6.4.3. Impact on the client – practitioner relationship

Irrespective of these attempts at verbal distancing, the impact that communicating delays had on the relationship between practitioners and clients is significant and was felt by all my interviewees. Nicole reiterated that delays place an increasing pressure on practitioners to provide an update: “there's uncertainty for the clients and they're emailing [...] representatives every day. It's families... are separated. Um, people are without work, with no recourse to public funds”. Unfortunately, existing workload pressures meant that at times practitioners had to limit communications with clients in the intermediary period – something which contributed to a feeling of distance between practitioners and their clients. Ruairidh, an OISC L2 adviser, relayed this conversation he had with a man he supports:

... So he is like ‘My solicitor, like she never contacts me. She's, she's never there for me. Every time I call, she never picks up’. And I said also, ‘unfortunately, like I say, unless they've got news or they, they need to see you urgently, in which case they reach out to you, they don't tend to in between times’

James and Killick (2012: 431) identified the burdensome administrative requirements of working within a Legal Aid framework as eroding “the empathy and compassion with which case workers characteristically approach their task of giving advice”. In a similar way, my data demonstrates that the strategic obfuscation and reduction in channels for communication affected the relationship between

practitioner and client. Not only did it mean that clients were often frustrated with practitioners, it also meant that practitioners exhibited techniques of both neutralisation and detachment (Westaby, 2010; Baillot, Cowan and Munro, 2013). As Craig said, “it’s obviously not my fault”.

Indeed, for those who were still in contact, responding to and communicating delays was an uncomfortable part of the asylum claim process for both practitioners and clients. Kevin, who ran a drop-in service, told me that delays in applications meant that clients had “been in the system for a long time waiting for their [...] application to be processed and so forth and so they’re com[ing] in quite frustrated”. The inability of practitioners to either progress things for their clients or to reassure them was therefore a difficult emotion to manage and often created “huge amounts of frustration in clients” who saw their solicitor as not able to provide the support they needed (Cecily). Indeed, John told me this friction was one of the most challenging elements of his job, as he responded to clients with poor mental health, culminating often in “aggression, uh, frustration, constantly wanting to speak to us about progress on cases” with “us constantly having to say there’s no development”. As practitioners routinely told me that they “take on” clients’ “stresses and problems” (Kevin), this was a significant factor in affecting their mental health and wellbeing.

In exploring what it means for practitioners to become ‘the face of incompetence’, as well as the impact of this on their relationship with clients, I have again highlighted how practitioners experience the institutional opacity of the Home Office. In the next and final section of this chapter, I look at how practitioners seek to counter this opacity. To understand how practitioners do so, I will follow Monia Lemke (2022) in conceptualising their interventions through Michel de Certeau’s (1984) sense of ‘tactics’.

6.5. Tactics of everyday resistance

Having outlined the tactics and consequences of institutional opacity with regard to the role of immigration practitioners, I will now look to the ways in which it is countered and resisted. Indeed, while the overarching experience of practitioners was that of ‘emailing into the void’, there were many instances in which this wasn’t the case. As Lemke (2022) observes:

Bureaucracy [is] a system whose abstruseness provides opportunities for people to exploit, subvert, and create within its structures... people find ways to intervene in various ways by manoeuvring within the porousness of bureaucratic systems and exploiting the informalities within them

My data showed that, at the level of the everyday, practitioners were repeatedly able to find solutions which actively resisted the institutional opacity of the Home Office by engaging in ‘tactics’ to move creatively within bureaucratic culture (de Certeau, 1984; Lemke, 2022). Consequently, I argue it is possible to demonstrate the development and utilisation of networks of mutual support and assistance amongst asylum practitioners. I term this the tactics of everyday resistance.

The final section proceeds as follows. First, I problematise the phrase “I have a contact....” in order to introduce how practitioners creatively navigate the existing bureaucratic structures. I then outline how

pooled knowledge and a developed professional network amount to tactics of everyday resistance for individuals supporting asylum applicants.

6.5.1. “I have a contact....”

Throughout all my interviews, practitioners were keen to impress on me the opaque nature of the Home Office, and stress that they viewed this lack of transparency and strategic obfuscation as an integral, structural, part of the Home Office’s organisational makeup. However, quite a few practitioners told me there was “one person...”. For example, John told me, “I have a contact in the, erm... unaccompanied asylum-seeking children team in Solihull”; Ruairidh said “there is someone who works, um, for the Home Office East of England [...] she's been amazing”; and Daisy told me “we've got this contact with the Home Office, who seems to be focused on tracking children’s cases and he's been great at dealing with it”.

‘I have a contact’ therefore, became quite a common workaround for practitioners who encounter the bureaucratic opacity of the Home Office. Even when the contact information wasn’t for the correct caseworking team, I was told that it was relied upon by practitioners because they would usually ‘direct’ them to the correct email address. Furthermore, not only was the ‘one person’ useful for each practitioner, almost all those I interviewed told me that they engaged in collective pooling of useful contact details around their office. When I asked her about this, Hannah laughed – “any time I find a helpful email address, we save it in the table [laughs]. This is the helpful email address to contact”. Indeed, most practitioners referred to having either a shared document of email addresses and phone numbers or a physical note pinned to the wall of their offices to which they could refer.

After she, too, told me she ‘had a contact’ at the Home Office, I asked Aurélie why she thought that the predominant impression of the Home Office was of a ‘faceless’ bureaucracy, especially since so many other practitioners had a helpful person on the ‘inside’. She was surprised to hear others had the same experience, but reflected:

Because they seem to be the exception and not the rule... they seem to be the single, you know, you... you will email someone something to ask for a swift decision or like... process something quickly. And they'll get no no, no, no, no. You'll get all no response at all. And then you'll find one person who seems to engage in... and he seems to... so you know maybe, you know, maybe everyone there is good, but the product of the work that comes out it doesn't reflect that.

Indeed, the need for practitioners to engage in this kind of knowledge sharing is reflective of just how opaque the Home Office’s systems are – where even getting in touch with the relevant caseworking team requires collective input from colleagues.

6.5.2. Pooled knowledge

The importance of pooled knowledge and knowledge exchange came through strongly in my interview data. Not only did practitioners tell me they actively created and shared useful contact lists, but they

also stressed the importance of seeking advice from both formal and informal professional networks of immigration and asylum practitioners. Crucially, this extended beyond just their immediate colleagues, but also to other practitioners across the UK.

Kevin told me that actively engaging with colleagues through the Immigration Law Practitioners' Association (ILPA) was extremely important for him, especially since he was the only adviser qualified to give asylum advice in the local area. With nothing to compare his situation to, having a professional network was vital in comparing 'problems' he has encountered. He used this professional network both as a source of information, but also as a way in which to counter the isolation of being *the only one* in his area. As he said, sometimes it was just reassuring to see other people in the same boat: "I can see my colleagues were the same problem! And I'm thinking... oh, that's good to know, I'm not the only one in that sort of position there". Yemi, too, said that such a large network was useful for identifying their experiences in the Law Centre onto macro-trends, enabling them to spot whether there is "a pattern of behaviour" in refusals. In this way, practitioners were able to leverage their professional network to look beyond the bureaucratic opacity presented by the Home Office.

Outside of ILPA, practitioners referred to shared Google groups for practitioners which acted as a useful and dynamic resource for countering the problems they might encounter. As Ruairidh told me, he would type into the group keywords relating to his predicament and even "if you don't know from your experience, [...] hopefully someone else has had experience of that". Such a mechanism for knowledge exchange was noted as being incredibly useful for a profession which is so stretched in resource and for time. Email groups were also used to broaden a search for contact lists.

Monica Lemke (2022) talks to the value of "social, emotional, and technical" expertise acquired by individuals who make sense of complex institutions as they try and "advance their own goals" by exploiting "the porousness of bureaucratic systems". It is possible to view this pooled knowledge as the development of collective expertise in navigating, manoeuvring, and subverting the otherwise impenetrable bureaucracy. In this regard, the pooling and sharing of knowledge between practitioners functioned as a mechanism through which the complexities of the Home Office could be navigated and countered. Practitioners could learn from each other 'what works', 'what doesn't', and 'who to talk to'.

6.5.3. Supportive professional network or collective resistance?

The leveraging of tactics (de Certeau, 1984) by practitioners is one way in which they would challenge the 'power' of the Home Office. Earlier in this chapter, I spoke to how the opacity of the Home Office served a functional and performative role in structuring and embedding an asymmetrical power dynamic (Glouftisios, 2023; Stevens, 2023). This dynamic was sustained by a perception of being 'guarded', 'fortress-like', and immeasurably 'vast'. Yet, in identifying gaps, fissures, and room for manoeuvre in the bureaucratic façade, practitioners are instead able to offer everyday acts of resistance against this dominant perception.

In *The Legal Aid Market* (2023b: 26), Wilding ascribes this collaboration to “a strong identity of legal aid and refugee lawyers, which underpins a supportive professional network in which barristers, solicitors and other practitioners share expertise and support one another”. Elsewhere, Westaby (2010: 171) has referred to informal “communities of coping” amongst asylum law practitioners wherein “the ‘backstage’ or private nature of these communities [...] provides a secure place to act or release suppressed emotion”. This supportive professional network was certainly reflected in the interviews I conducted. However, I would suggest that it is possible to expand this professional network outside that of practitioners alone.

Repeatedly, I was told about the value of a broader ‘advice network’ which was used to support clients through multiple avenues in their arrival. Dave spoke about a refugee advice network with which he worked closely and through which he can refer clients regarding their mental health concerns, Daisy ran sessions with a social worker to provide information and generalist legal advice to young people in the local area, and Kevin had a great relationship with a local homelessness charity through which he was able to refer asylum seekers who needed to find alternative accommodation. While the strict parameters of legal aid sometimes forced practitioners to only focus on the claim, it did not mean that they were not aware of clients’ broader needs. Indeed, the provision of ‘wraparound’ services by refugee and migrant support organisations was seen as integral to many of those I interviewed.

In the face of bureaucratic opacity and an increasingly adversarial relationship between practitioners and the Home Office, I would suggest that the ‘tactics’ practitioners enact to subvert and challenge this opacity ought to be seen as more than just actions of a supportive professional network. As Lemke (2022) notes, “‘tactical’ agency falls short of being revolutionary, tactics arise to meet the everyday sense of necessity experienced by those who are subjugated by states and institutions”. Thus, while these small acts of pooled knowledge may not appear revolutionary, a tactics framework ascribes volitional agency to practitioners and recognises them as “trailblazers in the jungles of functionalist rationality” (de Certeau, 1984: 34). As noted above, practitioners were increasingly aware that they were engaged in some form of ‘battle’ with the Home Office. Time and again, relationships between themselves and the Home Office were described as ‘warlike’. Therefore, I suggest it is possible to view these small actions – sharing contact details, pooling knowledge, and collaborating with a broader array of organisations – as one of everyday resistance. Understanding and reacting to a dynamic of “us and them” (Aurélien), practitioners engage in collective and creative acts of subversion.

6.6. Conclusion

This chapter set out to understand how bureaucratic opacity is experienced by practitioners supporting asylum applications. It began by an overview of the contemporary context in which practitioners are working, as the findings drawn from this chapter cannot be understood in isolation from the environment in which they come. Here, I drew attention to four key contours of the contemporary landscape: a shifting legislative and policy environment; hostility against immigration practitioners; crumbling provision for legal aid; and burnout and secondary trauma experienced by practitioners.

Following this, I presented the role of the practitioner through Craig's understanding of practitioners 'as translator' and highlighted how and when they engaged on an asylum claim.

The next three sections were dedicated to the three primary ways in which opacity experienced. First, I demonstrated how a lack of communication and strategic obfuscation manifested in a lack of contact details. I showed how this added to their workload and contributed to adversarial relationship with the Home Office – drawing on practitioners' utilisation of a terminology of warfare to do so. Here, I suggested that the production of opacity was a result of the weaponisation of information, a mechanic through which the Home Office performed both power and control. Then, I showed how this reduction in channels for communication compounded with pervasive delays to frustrate their ability to do their professional role. Highlighting the limited avenues for challenge, I showed how opacity forced practitioners to become the 'face of incompetence' which latterly impacted on their relationships with their clients. Here, practitioners exhibited both techniques of neutralisation and detachment – withdrawing from clients while reminding themselves and others it is 'not their fault'.

Finally, I engaged with the idea of 'tactics' as a way of understanding the acts of everyday resistance through which practitioners subverted, negotiated, and challenged the immigration bureaucracy on behalf of their clients. Highlighting the importance of Home Office 'contacts' and pooled knowledge, I showed how the bureaucratic opacity of the Home Office played a significant role in fostering instances of solidarity and resistance.

Chapter 7 Conclusion: Bureaucratic opacity in UK asylum administration

I began this thesis with the words of Ruairidh, a Level 2 OISC adviser based in the East of England. In the extract from our interview, Ruairidh articulates the challenges he faced in his work – most notably, navigating the complex and incomprehensible bureaucracy of the Home Office. In his own words, the Home Office is a “guarded fortress”, adding “... it’s so opaque, you just can’t get any answers”. Throughout the subsequent thesis, I explored the conceptualisation of the Home Office as a “guarded fortress”: an example of an opaque institution in which research access is limited. However, rather than trying to find the ‘answer’ of asylum decision-making, the aim of this doctoral research project was to find out how such opaque institutions might be understood and interpreted, and then to explore the ways in which opacity itself might become a useful vantage point through which to approach a socio-legal analysis into asylum administration.

In this concluding chapter, I revisit the original research questions and aims of the thesis to assess the methodological, empirical, and theoretical contributions made in this doctoral research project. The first section, titled *Researching opaque institutions*, addresses the first main research question which structured this project: which methodologies are useful for manoeuvring through opaque institutions? The second section, *Tactics and consequences of institutional opacity* explores the second overarching research question: what are the tactics and consequences of institutional opacity? (a) for administrative design (b) for asylum caseworkers, and (c) for immigration practitioners. In this section, I outline the main empirical findings and contributions to research from this doctoral research project.

Following this, in the section *Bureaucratic opacity*, I draw together the empirical insights into asylum administration across the three subsequent chapters of the thesis to argue for a theorisation of bureaucratic opacity that is unique to contemporary models of public administration. Here, I argue that bureaucratic opacity has structural, epistemic, and relational dimensions. In section *Bureaucratic opacity and structural harm*, I then place this theorisation of bureaucratic opacity in conversation with existing theories of structural harms and violence in key criminological literature (Arendt, 1970; Graeber, 2012; Canning, 2017; Barassi, 2021; Bhatia and Canning, 2021; Canning and Tombs, 2021). In this section, I suggest that the production of opacity engenders and sustains an uneven power dynamic between the Home Office and those with whom it interacts, and that this functions to embed structural harms throughout the asylum system. I conclude this thesis by attending to the limitations of this doctoral research project and outlining potential avenues for future research.

7.1. Researching opaque institutions

In the introductory chapter, I highlighted that the ability to conduct empirical investigations into the Home Office’s frontline administration had become increasingly challenging. Limitations on research access and nebulous public/ private partnerships (Adelmant and Tomlinson, 2023) makes it increasingly difficult to explore “the finely tuned mechanisms” (Liodden, 2020: 646) which shape the frontline decisions of individual caseworkers. As I noted in this chapter, the Home Office is, for all, “a guarded fortress”, and its opacity forecloses some opportunities or avenues for exploration. I explained that this

opacity was particularly troublesome for socio-legal investigations, since understanding how a shifting legislative environment was impacting upon decisional practice was obscured. This was particularly important since a period of fast legislative change and anti-migrant sentiment had catalysed a period of poor quality decisions on asylum applications, compounding trauma and harm for applicants themselves.

In response to this contemporary context, the first part of this thesis – *Chapter Two: On Bureaucracy* and *Chapter Three: Researching Opaque Institutions* – was concerned with consolidating the existing research into immigration bureaucracies and understanding how researchers in both law, and other disciplines, had addressed research questions relating to opaque (immigration) bureaucracies. Beginning with Mashaw (1983) and expanding my literature review to draw on a developed literature into the anthropology of bureaucracy (Heyman, 2004; Hoag, 2014, 2022; Lemke, 2022), I demonstrated why it was of critical importance to approach the concept of bureaucracy as both “an administrative form, an analytical concept, and a set of ideas and observations about public administration and formally organised institutions” (Olsen, 2006: 2).

Indeed, understanding bureaucracy in this way allowed me to not only look to the structures associated with bureaucratic institutions, but also to expand the analysis to consider its epistemic framework – how bureaucratic knowledge is understood, produced, and performed – as well as the effect of bureaucratic modes of organisation on the internal and external stakeholders with whom it interacts. Here, I drew on the anthropology of bureaucracy scholarship which untangles the performances of bureaucratic power (Heyman, 2004) and highlighted the criminological literature which has sought to understand the punitive dimension of bureaucratic (stolen) time as it manifests throughout the contemporary immigration bureaucracy (Canning, 2017, 2021; Griffiths, 2017, 2021; Bhatia and Canning, 2021). Crucially, a recognition that bureaucracy exceeds the bureau encouraged me to engage with stakeholders that operate outside of the Home Office but are very much entangled in its operation – such as management consultants and immigration practitioners.

This first research aim brought me to the methodological approach of critical security and critical migration studies which centre secrecy, opacity, and obfuscation as the point of analytical departure (Stavinoha and Fotiadis, 2020; Scheel, 2021; Walters, 2021; Aradau and Perret, 2022). This body of literature helped me orient my analysis to utilise opacity as a lens through which to critically understand asylum determination processes in the UK. This methodological approach privileges a multi-perspectival research design through which insights are generated by piecing together multiple cracks, leakages, and disclosures. Indeed, this methodological approach helped to provide the structural grounding for this research: each chapter delved into a different dimension of opacity, recognising that opacity itself is both “polymorphous and multifaceted” (Walters, 2021: 7). This allowed me to develop a multi-perspectival analysis of asylum administration that attended to the tactics and consequences of institutional opacity (a) for administrative design (b) for asylum caseworkers, and (c) for immigration practitioners. In this way, the concept of opacity functioned as both a methodological tool and a structural approach to studying large administrative institutions.

As explored in *Chapter Three: Researching Opaque Institutions*, this methodological orientation necessarily influenced the methods chosen to collect data. This thesis is a multi-perspectival approach to opacity – drawing on the experiences of multiple stakeholders both within and outside of the bureaucracy to piece together a more complete picture. Qualitative interviews with civil servants and legal practitioners were therefore particularly useful in elucidating these different experiences and perspectives. Influenced by the ‘tactics’ of critical migration and security scholars, I additionally chose to use Freedom of Information (FOI) requests as a data collection tool through which it is possible to develop new knowledge that otherwise remains hidden (Walby and Larsen, 2012; Walby and Luscombe, 2019; Stavinocha, 2024). Finally, I conducted qualitative analyses of parliamentary committee meetings as a data collection method – recognising such hearings as both sites of disclosure and arenas of obfuscation (Glouftsiou, 2024a).

Consequently, in this thesis, I made a key methodological contribution to the field of socio-legal studies. Studying an opaque institution with the tools of critical security studies – tracing opacity’s effects, practices, and dynamics – I combined traditional qualitative research methods (including interviews and observations) with FOI disclosures and analyses of the disclosure process itself. In drawing upon reflexive and meta-analytical techniques this thesis contributes to the study of legal processes from the vantage point of opacity. I argue that this represents a new approach to studying administrative institutions within the field of socio-legal studies.

The alternative methodological approach that I have utilised in this thesis has utility for socio-legal investigations into other opaque institutions. The methodological approach and the data collection methods which I have used could be of relevance to other administrative institutions where research access is limited. For example, the operations of other national governmental departments such as the Department for Work and Pensions (DWP). In this context, this methodological approach could be helpful in generating new insights into the DWP’s handling of Work Capability Assessments, or the handling of social security benefits for EU nationals with retained rights under the Withdrawal Agreement.

7.2. Tactics and consequences of institutional opacity

In addition to the methodological contribution outlined above, the findings I have presented in this thesis are also significant. In drawing on a significant quantity of primary data gathered through qualitative interviews, FOI requests, and document analysis, I have demonstrated the efficacy of an alternative methodological approach to studying asylum determination in the UK. Again, while this thesis does not represent an authoritative account of the asylum determination process, I have been able to shed light on some of the more concealed processes and practices which have not been explored thus far in the existing literature.

The first finding that I make relates to the role of management consultancies in the contemporary asylum bureaucracy. The use of management consultancy firms to facilitate the ‘effective’ or ‘streamlined’ management of migration is an under-researched area in both socio-legal literature on administrative

systems, as well as criminological and sociological literature on asylum decision-making. This dearth of academic literature belies the widespread use of management consulting firms at the Home Office. One reason as to why they are under-researched relates primarily to the challenges accessing data relating to their interventions, since there is a lack of clarity regarding the influence management consulting firms have on the practice of administration. Indeed, as Mazzucato and Collington (2023: 108) argue, rather than building capacity or addressing operational fissures, “consulting is concerned mainly with creating an *impression* of value” (emphasis added).

However, by combining primary data acquired through Freedom of Information (FOI) requests with qualitative interviews conducted with key stakeholders, I have uncovered new evidence relating to when, where, and in what way, management consultancy firm Newton Europe impacted the design and delivery of a core asylum caseworking programme – Prioritising Asylum Customers’ Experience (PACE). These findings contribute to and complements contemporary debates in socio-legal studies surrounding relationships of ‘insourcing’ (Adelmant and Tomlinson, 2023; Benish, 2023) by extending the analytic frame from technology consulting to management consulting. In *Chapter Four*, I therefore offer a new critique of the operation of administrative law ‘in action’ (Thomas, 2022) by attending to the hidden role that management consultancies play in designing and developing caseworking practices. As I argue in the chapter, while management consultants are not used to make the decisions on individual applications, their choices in designing processes do impact upon how decisions are made. In this way, I suggest that more attention ought to be given to the role of management consultants in front-line administrative agencies.

Second, in analysing the Asylum Initial Decision Model (AIDM) – a previously unseen digital tool used in the asylum workspace – my research directly contributes to the existing literature on the digitisation and datafication of migration management (Scheel, Ruppert and Ustek-Spilda, 2019; Glouftsiou and Scheel, 2021; Witteborn, 2022b; Stavinoha, 2024). In my analysis, I argue that the interventions of Newton Europe reflect novel development in the way in which private actors are engaged with the Home Office in asylum processing. My argument here is that the Home Office has ‘insourced’ how knowledge acquired through bureaucratic documents is understood and interpreted. This is a useful contribution to knowledge because it provides greater insight into how public and private actors are entangled in the management of migration, and therefore responsible for some of its harms. Certainly, in my analysis, I show that Newton Europe are instrumental in supporting the Home Office to ‘stratify, quantify, and categorise’ asylum seekers for the purpose of controlling and ordering the ‘illegal migrant flow’ (CCCC22A03: 7.1).

The third way in which I empirically contribute to the literature in socio-legal and critical migration studies is through my critique of the utilisation of asylum caseworkers’ productivity metrics, Individual Contribution Expectations. Contemporary literature in critical migration studies is increasingly concerned with the legitimising role of data in the management of migration (Scheel, Ruppert and Ustek-Spilda, 2019; Stavinoha, 2024). This literature untangles the performative value of such data (Glouftsiou, 2023; Hudson and Percival, 2023), and the critical spaces which emerge through the

production and circulation of knowledge and (non)knowledge (Aradau, 2017; Aradau and Perret, 2022). Importantly, this research attends to how data on caseworkers' productivity is leveraged in public forums to obscure and conceal just as much as it reveals.

In critiquing how data relating to asylum caseworkers' productivity is utilised by the Home Office to evidence progress towards “abolish[ing] the backlog of initial asylum decisions” (Sunak, 2022), I develop empirical findings which are useful in tracing the contours of this knowledge and (non)knowledge within the contemporary asylum bureaucracy. I show how this data is used to obfuscate changes to both policy and practice (Home Affairs Committee, 2023), how a focus on increasing productivity marginalises incentives to bolster working environment for asylum caseworkers, and – crucially – how this facilitates a ‘goal displacement’ such that asylum caseworkers are understood primarily as ‘production units’ (Lipsky, 1980; Liodden, 2019). Moreover, I demonstrate the impact that this has on asylum caseworkers themselves.

The empirical insights contained in *Chapter Five* are useful in several ways. First, this is a timely critique of the use of productivity metrics as measures of accountability in large administrative institutions. As paradigms of public management are increasingly focused on ‘efficiency’ and ‘productivity’, the empirical insights in this thesis ought to be read as a cautionary intervention by highlighting the effect of these metrics on front-line administrators. Second, in highlighting what might be obscured through this narrow analytic focus, I show how ‘symbolic declaratory targets’ (Boswell, 2015) such as a commitment to ‘abolish the backlog’ (Sunak, 2022) serve a performative, rather than administrative, function. Third, in highlighting the myriad ways in which these metrics function to obscure, more than reveal, I argue that socio-legal studies analyses ought to broaden an understanding of transparency to account for the more nebulous revealing and concealing of information about administrative agencies. In so doing, I highlight the significant role that socio-legal investigations can play in complimenting doctrinal analyses in administrative law scholarship.

The final empirical findings that I make in this thesis concerns the role of immigration practitioners who support asylum applications in the UK. Responsible for shaping the “relational and contingent narratives of ordinary social life into a ‘rule-oriented’ one for the courts” (James and Killick, 2012: 442), asylum practitioners – OISC-regulated advisers, solicitors, and barristers – are key external stakeholders in the asylum determination process and have a significant impact on the success or failure of asylum claims (Meili, 2013; Refugee Action and NACCOM, 2018; Campbell, 2020). In this thesis, I contribute to the socio-legal literature that investigates their perspectives and experiences (Baillot, Cowan and Munro, 2013; Graffin, 2019; Hambly, 2019) by exploring how they experience the opacity of the Home Office in their everyday work.

Drawing on 15 semi-structured interviews with practitioners conducted between October 2022 and April 2023, I present an in-depth view of the challenges facing immigration practitioners supporting asylum applications in the UK. I isolate how, when, and where a breakdown of communication and strategic obfuscation interrupts and frustrates their ability to conduct their work effectively. Framing

this strategic obfuscation as the curation of a “void” (Leila), I document the practical and everyday impacts of a reduction in channels for communication between practitioners and asylum caseworking teams. Key to this analysis is my focus on how opacity curates and sustains an even power dynamic between the bureaucracy and those with whom it interacts: how these absences make the Home Office appear equally “obscene” (Cecily), a “labyrinth” (Dave), a “hydra” (Nicole), and a “guarded fortress” (Ruairidh). I also document the impact that this opacity has on the relationship between advisers and their clients. Showing how extensive delays combined with the Home Office’s absence leaves applicants frustrated at practitioners, I highlight the unease of practitioners who are concerned that they have become “the face of incompetence” (Aurélié) for the Home Office.

These new insights into the challenges faced by practitioners working in this area are extremely timely. Indeed, the targeting and harassment of immigration practitioners supporting asylum applications during the race riots of summer 2024 demonstrated how decades of political accusations of practitioners ‘frustrating’ effective administration (Thomas, 2011) has a very real-world impact. While the new Labour government has not (yet) critiqued immigration practitioners for obstructing government policy through recourse to domestic litigation and the ECHR, the impact that this discourse had on political consciousness cannot be underestimated. This empirical findings on the experiences of immigration practitioners supporting asylum applications, therefore, is useful in making clear how practitioners operate within this bureaucratic superstructure.

7.3. Bureaucratic opacity

As has been demonstrated in this concluding chapter so far, the aims of the research project were both methodological and empirical. The contributions associated with both aims have been outlined above. However, in answering these two main research questions, I have also developed a theorisation of bureaucratic opacity. In the next section, I revisit the three substantive chapters to introduce this theory of bureaucratic opacity. In so doing, I argue that bureaucratic opacity has structural, epistemic, and relational dimensions. I argue that this theorisation can be useful as both a predicative and an explanatory thesis as well as providing analytical clarity for studies of opaque institutions. While this theorisation of bureaucratic opacity is drawn from my empirical findings, I identify why and how this theory can be applied in socio-legal investigations outside of asylum administration and refugee status determination processes.

In the first empirical chapter of this thesis, I demonstrated that hidden actors such as management consultants are crucial to both the development and obfuscation of asylum decision-making processes in the UK. This chapter problematised ‘insourcing’ as both producing and sustaining opacity in public administration. In so doing, I identified a *structural* dimension of bureaucratic opacity – whereby it is produced in the contemporary model for public administration. In the second empirical chapter, I focused my analysis on the role of knowledge production and circulation of data in the contemporary asylum bureaucracy. Centred on the use of productivity metrics to measure asylum caseworkers’ performance, I analysed the legitimising function of this data. In so doing, I identified that bureaucratic

opacity has an *epistemic* dimension: I demonstrated that bureaucratic knowledge practices can serve to conceal just as much as they reveal. In the third and final empirical chapter, I looked at the impact of opacity on those outside of the Home Office. Coalescing around the experiences of immigration practitioners supporting asylum applications, this chapter detailed how practitioners are both affected by but also subvert the bureaucratic opacity of the Home Office. This chapter therefore illustrated that there exists a significant *relational* dimension to bureaucratic opacity.

When read together, I suggest that these insights help to develop a multi-dimensional theorisation of bureaucratic opacity. Indeed, what emerges through these three empirical chapters is an understanding that the opacity engendered in contemporary administrative institutions is composed of structural, epistemic, and relational dimensions. Moreover, my empirical data has shown that while each dimension is composed of unique characteristics and qualities, they are irrevocably interconnected, too. Thus, while each of the chapters can be seen to pay particular attention to one of these three dimensions of bureaucratic opacity (structural, epistemic, relational), throughout all of the chapters it is clear that all three of these aspects of bureaucratic opacity can operate and materialise simultaneously – albeit at different points and to differing degrees. This highlights the way in which bureaucratic opacity can be seen to operate on multiple analytic levels.

For example, while the first chapter highlighted the *structural* dimension of bureaucratic opacity, it was also evident that the *epistemic* dimension was significant. This was particularly notable when referencing the ‘logistification’ of the asylum determination process (Vianelli, 2022). Here, I demonstrated that the language of management consultancy adopted by the Home Office to evaluate the PACE caseworking scheme – ‘streamlined’, ‘bottlenecks’, and the ‘decision flow’ (FOI 78941; Public Accounts Committee, 2023: Q12) – is a central component in the obfuscation of asylum decision-making processes. Furthermore, when critically analysing the Asylum Initial Decision Model (AIDM) (FOI 75633) and the “data building and modelling” (FOIs 77659, 2023/04664, 2023/05041) conducted by Newton Europe, I argued that these interventions were part of an “imaginary of control” (Stavinoha, 2024) which distorts how these processes are both understood and interpreted. In so doing, the outcome of ‘insourcing’ also reflected an *epistemic* dimension of bureaucratic opacity, one which was central to contemporary models of public administration.

Similarly, while chapter two detailed the *epistemic* dimension of bureaucratic opacity, the *relational* effects were illustrated through the words of James, a current asylum caseworker. Indeed, the chapter opened with his indignation that politicians were “coming out and saying, ‘oh you know, they were making three decisions five years ago, they’re only making one now’”¹⁸⁰. Moreover, the impact of quantitative targets on asylum caseworkers was discussed at length – whereby an over-simplification of their role led to increased stress, pressure, and burnout. Therefore, the ways in which the reductive portrayal of his role made James – and his colleagues – *feel* was a constituent element in the

¹⁸⁰ Interview with James, Home Office asylum caseworker. 5 January 2023.

understanding of the consequences of bureaucratic opacity for asylum caseworkers. In so doing, I also addressed the *relational* dimension of bureaucratic opacity.

Latterly, the third empirical chapter centred the significant *relational* effects of bureaucratic opacity, but highlighted that these were, themselves, born of *structural* developments. In it, I assess how a lack of channels for communication and strategic obfuscation amplified an already antagonistic relationship between immigration practitioners and the Home Office – augmenting an “us and them” (Aurélié) relationship. In particular, I highlighted the language of warfare which was employed by many of the practitioners I interviewed as a direct consequence of this opacity, and the embedding of a structural power imbalance through the imaginary of the “void” (Leila). However, the rationale behind a reduction in lines for communication finds its genesis in the contemporary organisation of the Home Office’s Asylum Operations. Indeed, in the chapter, I describe how the move from regional to centralised decision-making units facilitated this change, making it reliant on a *structural* foundation.

To summarise, I suggest that a tripartite understanding of bureaucratic opacity is useful because it helps to isolate and explain the multiple levels at which opacity operates in and through large administrative institutions – the structural, epistemic, and relational dimensions. In so doing, I suggest that one central contribution of this thesis to the literature on opaque institutions is that it can provide a degree of analytical clarity. Indeed, although many institutions are described as being ‘opaque’ – e.g., the Home Office is “the UK’s most opaque and unhelpful bureaucracy” (Thomas, 2011: 53) – this theorisation of bureaucratic opacity can help to elucidate how, when, and where this opacity materialises on both the structural and epistemic levels, as well as attending to the impact and effects of this opacity on key stakeholders within and outside of the administrative structure itself. In this way, this theorisation of bureaucratic opacity functions as both a predicative and an explanatory lens through which to direct investigations into how, when, and where phenomena are obscured in contemporary models of public administration and provide a prompt through which it can be possible to untangle the consequent effects.

Thus, while this theorisation of bureaucratic opacity is useful for analyses into the Home Office and its determination procedures, this theory of bureaucratic opacity has utility in contexts outside of asylum administration and refugee status determination processes. Indeed, this theorisation of bureaucratic opacity ought to be seen as dependent on, and applicable to, the contemporary model of public administration. Because of this, I suggest it could have utility for socio-legal investigations into other large and secretive administrative organisations – for example, the DWP, UNHCR, or the IOM. Moreover, since this theorisation relates to structures, rather than particular institutions, it does not have geographic or temporal limitations nor is its utility restricted to particular jurisdictions.

Further, in attending to the structural, epistemic, and relational dimensions of bureaucratic opacity, this theorisation facilitates a research paradigm that always probes the *impacts* or *effects* of bureaucratic opacity – on the bureaucratic ‘subject’, external stakeholders, or the researcher themselves. This consideration of the effects of bureaucratic opacity is both a methodological and theoretical orientation drawn from the literature on secrecy and secrecies (Walters, 2021; Muller and Welfens, 2023; Stevens

and Forsythe, 2023) which provided much of the blueprint and conceptual framework for the approach which I have taken in this thesis (for more, see *Chapter Three: Researching Opaque Institutions*).

It is the effects of bureaucratic opacity that I will discuss in greater detail below, with reference to existing criminological literature on structural harms and violence in immigration and asylum regimes.

7.4. Bureaucratic opacity and structural harm

In this thesis, I have highlighted the myriad ways in which the Home Office produces opacity through techniques of both obfuscation and hiding (Glouftsiou, 2023). In exploring the tactics and consequences of institutional opacity for administrative design, asylum caseworkers, and immigration practitioners, I have shown the myriad effects of bureaucratic opacity on a variety of stakeholders – on asylum caseworkers, on immigration practitioners, and on myself as a researcher.

In the final critique of this thesis, I place the findings of this doctoral research project in conversation with the literature on structural harms and violence in immigration and asylum bureaucracies to understand these myriad ‘effects’ in light of existing criminological research and analysis. Based on the empirical findings of this thesis, I suggest that opacity is a key determining feature in the relationships of power between the Home Office and those with whom it interacts. Moreover, I argue that the production of opacity represents one articulation of a bureaucratised form of structural violence engendered within the contemporary asylum bureaucracy in the UK.

As discussed in *Chapter Two: On Bureaucracy*, Josiah Heyman (2004: 488) wrote that, the Weberian features of an ‘ideal-type’ bureaucracy “are a means to an end, ways of carrying out the work of shaping and controlling other human beings”. As such, Heyman forcefully reiterates that “bureaucracies are, above all, instruments of power” and highlights the complex interplay between bureaucratic action and “coercive, material, and ideological power” (*ibid.*: 488-489). In so doing, Heyman issues a call to researchers to explore the “ethnographically observed features of everyday bureaucratic culture and behaviour” which are “crucial” to discerning this complex interrelationship between bureaucracies and power (*ibid.*: 499). As I outlined in my literature review, such an approach invites an understanding of power which is Foucauldian in that it is not “rigid and deterministic” (*ibid.*), instead being a ‘disindividualised’ constellation of practices and actions (Foucault, 1983).

Based on the findings I have presented in this thesis, I argue that the production of bureaucratic opacity ought to be seen as a key mechanic through which power relations are structured, maintained, and resisted in bureaucracies. My investigation into the Home Office’s Asylum Operations has illuminated the myriad ways in which the production and presence of opacity functions to structure a relationship of unequal power between the Home Office and those with whom it interacts. Obfuscated processes, hidden policies, and a reduction in channels for communication all function to curate the imaginary of the Home Office as an “obscene power” (Cecily), force those who interact with the Home Office to subjugate to its whims “it’s just the Home Office” (Aurélien), and dictates what is ‘knowable’ about determination processes. The production of opacity is, indeed, a central mechanic through which the

Home Office can become a “guarded fortress” (Ruairidh) and ‘wield’ “coercive, material, and ideological power” (Heyman, 2004: 488-489).

At the same time, challenging and subverting the opacity of the Home Office is a fundamental tactic through which these power relations can be resisted. For example, the submitting and challenging of FOI requests, the creation of online databases to ‘demystify’ internal processes¹⁸¹, and the exchanging of ‘useful contacts’ between immigration practitioners all function to disrupt the existing power relations. While these may only amount to splinters in the overall façade, these tactics illuminate the central role that opacity plays in structuring these power relations by making visible the possibility of resistance.

While Foucault was adamant that “in itself the exercise of power is not violence” (Foucault, 1983: 200), it is useful to place the findings of this thesis in conversation with other criminological research into immigration and asylum bureaucracies to understand how the production of opacity might be seen to engender structural harms.

As outlined in *Chapter Two: On Bureaucracy*, contemporary criminological research which engages with immigration and asylum bureaucracies has increasingly focused on their punitive or violent characteristics (Bhatia, 2020b; Bhatia and Canning, 2021; Canning, 2021; Meier and Doná, 2021; Soliman, 2021). Drawing extensively on the work of Hannah Arendt (e.g., 1963, 1970), Achille Mbembe (2003), and Nicolas De Genova (2013, 2020) these analyses untangle the varying forms of violence which are embedded in, and intrinsic to, the contemporary bureaucratic form. Importantly, the arguments proposed by these authors is that aspects of the immigration control apparatus, codified and implemented by the administrative agencies, function to inflict violence on migrants and illegalised individuals. The harms inflicted are ‘permissive’ (Bhatia, 2020b): embedded in the everyday operation of these bureaucracies and enacted by bureaucratic agents operating at the ‘street-level’. This structural, and state-sanctioned, violence is crucially neither sporadic, spectacular, nor instantaneous, but instead is “boring, humdrum, [and] omnipresent” (Graeber, 2012: 105).

Based on my findings detailed in this thesis, I would suggest that the relational effects of bureaucratic opacity could be included within such a structural harms framework, wherein bureaucratic opacity leads to some degree of social harm. In so doing, I suggest that analysis in this thesis is useful for furthering the debate in the field of Border Zemiologies (Soliman, 2021), as it extends the analytic frame of the discourse by considering the different harms inflicted on and by other stakeholders which are intimately engaged in the asylum determination process.

For example, in my discussion of the relational impact of bureaucratic opacity on immigration practitioners, I drew attention to the increased workload they faced due to the incomprehensible bureaucratic processes. This additional workload and bureaucratic burden had the material impact of

¹⁸¹ For example, the Public Law Project’s ‘Tracking Automated Government (TAG) Register’. Available at: <https://trackautomatedgovernment.shinyapps.io/register/>

exhausting, frustrating, and demoralising the practitioners I interviewed. Therefore, while a seemingly ‘banal’ change to process, the reduction in lines for communication between practitioners and the Home Office cumulatively contributed to a feeling of ‘bureaucratic oppression’ (Thomas, 2022) – a structural harm engendered throughout the process.

7.5. Research limitations and avenues for future research

As demonstrated in the chapter so far, in this thesis I have made significant methodological and empirical contributions to both socio-legal studies and criminological and critical migration debates concerning asylum administration and (immigration) bureaucracies. I have also developed a theorisation of bureaucratic opacity which can advance both an understanding and an interpretation of opaque institutions that is a useful addition to the debates concerning structural harms and violence. In the final part of this chapter, I will outline some useful avenues for further research that I have identified from the limitations to this project.

This thesis represents only a partial, fragmentary, insight into the administrative processes which support asylum applications in the UK. I structured this thesis such that each substantive chapter addresses the contemporary asylum bureaucracy in terms of design, implementation, and external stakeholders. I did so to capture some of the different perspectives that emerge within the bureaucracy – this was therefore both a methodological choice and theoretical orientation. However, in doing so, I also recognise that there are numerous other perspectives through which an insight into asylum administration could be gathered. For example, rather than focusing on operational design, an equally valid approach would be to focus on policy development. Similarly, rather than focusing on immigration practitioners as external stakeholders, it could be a useful approach to untangle the tactics and consequence of bureaucratic opacity for asylum applicants, or their friends and/ or family. Such avenues for exploration could be undertaken in future research projects to sketch a more comprehensive account.

Perhaps a surprising absence from this socio-legal analysis is an engagement with the courts. As outlined in the introduction, I decided to limit this research project to the Home Office’s Asylum Operations, recognising that it is with “routine administrative action by low-level administrators... that 100 percent of bureaucratic implementation begins, and most of it ends” (Mashaw, 1983: 16). This differs from contemporary socio-legal analyses into the administration of asylum applications in the UK (for example, Campbell, 2017, 2019, 2020; Hambly, 2019; Hambly and Gill, 2020), which attend to the role of immigration judges, Home Office Presenting Officers (HOPOs), and other actors who participate in the tribunal setting, such as barristers and interpreters. The rationale for this was both practical and related to research design, as outlined in the earlier chapters.

While I am still confident that my tighter analytic focus was appropriate for this doctoral research project, I recognise that in future research there is scope for a greater engagement with how asylum determinations are performed through the tribunal process – and how opacity materialises in and through the tribunal system. Such an analysis could be useful in identifying the tactics and consequences of institutional opacity from the original asylum application through to the appeal stages. In so doing,

such an approach would include the mechanisms of redress available in the current administrative framework and therefore provide a more comprehensive view of the administrative system ‘in action’ (Thomas, 2022).

Finally, an additional limitation to this thesis is that I do not engage at length with the materiality of bureaucracy and untangle how and where opacity might materialise through bureaucratic forms, documents, or interfaces. The asylum administrative process is notable for its reliance on bureaucratic documentation. Applicants complete and submit a Preliminary Interview Questionnaire (PIQ), the Asylum Questionnaire, and receive a copy of their interview transcript (if applicable), and decision letter. Each of these documents are shaped by decisions as to what to include or exclude (Ryan, 2023), as well as encompassing their own bureaucratic journey through the administrative system (Wissink and van Oorschot, 2020; Wissink, 2021; Hertoghs, 2024). Data is stored on caseworking programmes such as Atlas (Narita, 2023), developed in tandem with private organisations and – in turn – encompasses a myriad of decisions surrounding which data to include and exclude from its purview. More recently, the Home Office has moved to a new online application portal, integrating concerns over ‘User Experience’ into the asylum administrative process. It would therefore be a useful and interesting avenue for future research to critique the design, development, and implementation of these documents as bureaucratic artefacts, with explicit focus on how opacity materialises in and through their use.

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Appendix A – Freedom of Information (FOI) Requests

Ref.	Subject	Submitted	Returned	Grounds for Refusal	IR Submitted	IR Returned	IR Outcome	ICO Complaint
72606	Pilot caseworking scheme	2 November 2022	29 November 2022	s.31(1) engaged	13 December 2022	3 May 2023	Unsuccessful: s.31(1) engaged	
72779	Third party proof of concept	8 November 2022	7 December 2022	s.43(2) engaged	28 December 2022	06 February 2022	Unsuccessful: s.43(2) and s.31(1) engaged	Submitted: 9 March 2023. ICO Case Reference -IC-220731-Q6Y6 Upheld: 10 July 2023
72843	ICIBI and consultancy firm	11 November 2022	13 January 2023	s.31(1) and s.43(2) engaged	25 January 2023	13 March 2023	Unsuccessful: s.31(1) engaged	
2022/17843	'Illegal Migrant Taskforce'	15 December 2022	18 January 2023	s.12(1) engaged	N/A new request (2023/00850)			
2023/00850	'Illegal Migrant Taskforce'	24 January 2023	22 March 2023	Unsuccessful: s.43(2) engaged				
74305	PACE Asylum Caseworking	31 January 2023	29 March 2023	Successful				
75149	AQA Board report	10 March 2023	5 April 2023	s.12(1) engaged	N/A new request (75633)			

Ref.	Subject	Submitted	Returned	Grounds for Refusal	IR Submitted	IR Returned	IR Outcome	ICO Complaint
75200	Internal Comms	14 March 2023	13 April 2023	s.12(1) engaged	20 April 2023	Not returned	Successful. Data released: 24 August 2023	Submitted: 15 May 2023. ICO Case Reference: IC-242206-S3S8 Upheld: 24 August 2023
75633	AQA Board report	5 April 2023	10 May 2023	Successful				
76378	AQA Board report (Follow-up)	18 May 2023	17 July 2023	Unsuccessful: s.31(1) and s.35(5) engaged				
76745	Newton Europe contracts	8 June 2023	19 June 2023	Information not held				
76885	Executive Summaries/ 'crib sheets'	16 June 2023	17 July 2023	Successful				
2023/08853	Internal Comms	20 July 2023	21 September 2023	Heavily redacted s.36				
77659	Asylum questionnaire (PACE)	26 July 2023	16 August 2023	Successful				

Ref.	Subject	Submitted	Returned	Grounds for Refusal	IR Submitted	IR Returned	IR Outcome	ICO Complaint
78941	Project Initiation Document (PACE)	27 September 2023	25 October 2023	Successful				
2023/ 04664	Asylum questionnaire	19 October 2023	31 October 2023	Successful				
2023/ 05041	Asylum questionnaire	3 November 2023	4 December 2023	Successful				
2023/ 06770	CPIN and Newton Consulting	18 December 2023	18 January 2024	Successful				
2024/ 00438	Asylum questionnaire	12 January 2024	9 February 2024	Successful				
2024/ 00659	CPIN and Newton Consulting	18 January 2024	5 February 2024	Successful				
2024/ 01323	Internal Comms	6 February 2024	5 March 2024	Not returned	11 April 2024		Successful. Data released: 8 August 2024	Submitted 7 May 2024. ICO Case Reference IC-305141-V8R5 10-day notice given: 4 June 2024.
2024/ 01633	F/U request 04664	14 February 2024	20 March 2024	Successful				

Appendix B - Interviews

Name	Occupation	Interview Date	Place	Region
Anonymous	Former asylum caseworker	5 September 2022	In-person	North-West
Ben	Former Home Office employee	22 September 2022	Zoom	South Yorkshire
Conor	Solicitor	4 October 2022	Telephone	Scotland
Sophia	Barrister	1 November 2022	Zoom	London
Cecily	OISC level 2 adviser	16 November 2022	In-person	South-West
Yemi	Solicitor	17 November 2022	In-person	South-West
John	Solicitor	17 November 2022	In-person	South-West
Ruairidh	OISC level 2 adviser	23 November 2022	In-person	Eastern
Craig	Barrister	29 November 2022	Zoom	South-West
Nicole	Barrister	1 December 2022	Zoom	London
Anonymous	Former asylum caseworker	2 December 2022	In-person	Eastern
James	Home Office asylum caseworker	5 January 2023	Zoom	North-West
Dave	Solicitor	5 January 2023	Zoom	South-West
Rosie	Solicitor	19 January 2023	Zoom	South-West
Hannah	Solicitor	24 January 2023	In-person	London
Leila	Solicitor	24 January 2023	In-person	London
Aur�lie	Solicitor	24 January 2023	In-person	London

Name	Occupation	Interview Date	Place	Region
Kevin	OISC Level 2 adviser	28 February 2023	Zoom	Eastern
Daisy	Solicitor	18 April 2023	Zoom	North-West
Anonymous	Home Office	24 April 2023	Zoom	London
Linda and Sam	Government auditors	5 July 2023	MS Teams	London and Newcastle

Appendix C – Interview Schedules

Interview Schedule – Home Office caseworkers

Introductions

Tell me a bit about **your journey** to where you are now

Why did you apply to work at the Home Office?

Talk me through the **main elements of your current/ former role**

Describe for me the environment in which you work

Talk me through how you approach a new case – how are you allocated a case etc?

Interview: how do you prepare for this? What training are you given? How does it make you feel?

Decision-making: how did you learn to make decisions? Talk me through your process? Did you receive enough training? Where do you feel your discretion lies when making a decision?

Are you able to discuss decisions with colleagues?

How do you work with HOPOs?

Legal advisers – how would you characterise your relationship or communications with them?

Consultancy use – talk me through consultancy use and your understanding of it within Asylum Operations. PACE scheme

IPTs – Atlas (Linked Systems) – confirm... how do you use this?

Intense media pressure – do you feel like this affects you? In what ways?

To end, reflections on your role... tell me about the times you where you feel the most satisfied with your role?

Do you ever reflect on previous cases?

Is this work something you want to continue? Why/why not?

Is there anything else that you'd like to get across to me as a researcher about your role and how you understand it?

Approved by Home Office prior to interview 24 April 2023.

Introductions

Asylum and Protection Transformation Project

The Home Office is undergoing an ‘Asylum Transformation Project’ which began in 2021

- Ahead of the publication of the NAO review, from your perspective, what would make the transformation project a success?
- What aims, if any, have not been achieved?

Asylum caseworkers

Until recently, the attrition rate for asylum caseworkers has been consistently high. A representative from the Home Office said at the Home Affairs Committee in October 2022 that this had dropped by 31%.

- Why were the attrition rates so high previously?
- What steps have you taken aside from the bonus scheme to ensure that you continue to retain caseworkers moving forward?

At the same evidence session (HC 822), they discuss the ongoing recruitment drive for caseworkers.

- What steps have been taken to ensure adequate time for training new starters?

At the Home Affairs Committee, the productivity of caseworkers has been highlighted. This is most regularly articulated through the metric of cases completed per week.

- Do you think these productivity metrics are the most suitable for determining the efficacy of caseworkers conducting refugee status determination in the UK?

PACE Caseworking scheme

At HC 822, a representative of the Home Office said *‘We have been running a pilot in Leeds that looks at the time it takes to undertake interviews, and we saw in that pilot that our interview times have reduced by 37%’*

- What steps did you take to reduce interview times through this project?
- From your perspective, what were some other big ‘wins’ from the PACE pilot scheme?

Available transparency data shows that the scheme ran from week commencing 27th June 2022 to week commencing 15th August 2022.

- Does this mean you are no longer following this approach, or that the pilot scheme ended?

From both available HO transparency data and the response to FOI Request 74305 (returned 13 March 2023) it has been demonstrated that a private consultancy firm was involved in the strategic development and support of the PACE caseworking scheme.

- Was the involvement of this firm effective?
- What benefits do strategic consultancies bring that cannot be sourced in-house?
- Why Prioritising Asylum **Customer Experience**? What is the rationale behind choosing this name for the project?

Immigration Platform Technologies

For my PhD, I’ve been looking at the Immigration Platform Technologies portfolio, and in particular the introduction of Atlas to replace the legacy CID database for asylum caseworking.

- What is your assessment of the roll-out of Atlas?
- When do you imagine it will be fully operational?
- What is the projected benefit of the new system?

From available HO transparency data, it is evident that the IPT programme has been heavily supported by private technology consulting firms (e.g. Mastek and PA Consulting).

- What support do these firms offer?
- Could the HO support the roll-out of Atlas without this assistance?

At a Home Affairs Committee evidence session in September 2021, Sir Matthew Rycroft said '*There is a very significant amount of automation ahead, using technology to improve our asylum system...*'

- What parts of the system were being automated (if any)?
- Has this been successful in speeding up the decision-making of caseworkers?
- Are there plans to automate further?

Communication

Many legal advisers have told me they are not provided with a direct contact number or email address for a Home Office caseworker.

- Is this something you recognise? If so, what is the reason for this?

General questions

- What would you like to emphasise about the achievements of the Home Office with relation to the administration of asylum applications?
- What does a functioning asylum system look like for you?
- What does a legitimate system look like?
- Is there a difference between the two?

- Is there anything else you'd like to raise about how the Home Office works to enable refugee status determination in the UK?

Interview schedule – government auditors

Introductions

- How did this project emerge?
- What was your experiences of doing the report?

Caseworking

- Experience interviewing caseworkers, able to discuss w/o the managers?
- Do you see a difference in assessment of the scheme?
- Quality of decisions

Atlas

- What was your assessment of the roll-out of Atlas?
- Did you get to explore functionality?
- What was the make-up of the teams supporting Atlas? In-house

PACE scheme

- What is your assessment of the scheme?
- How would you describe the relationship between Newton and the Home Office?
- Is it replicated across other departments you've seen?
- Did you think they were adding value/ benefits? Examples of this

Customer journey

- From your experience engaging with the HO for the purpose of this report, how do you see this language take form?
- Why do you think the HO is using this language?

Policy environment

- The NAO report identified a 'fast moving policy environment' as a significant risk to the programme. I wondered whether you could expand on that a little more in light of the recent decision to end the differentiation of status according to mode of arrival to the UK (Group 1/ Group 2)?

- How do you see this risk materialising?

Conclusion

- Finally, what has been the overall reception to the report from the Home Office?
- Do you think it will effect change?

Thanks

Interview schedule – Immigration practitioners

What made you want to work in immigration and asylum advice?

Tell me about your work/ overview of typical day

What motivates you to do the work you do?

What gives you the most satisfaction in your role/ what do you enjoy most?

Take a few mins to reflect on your interactions with the Home Office: which **teams** do you interact with? what are the **nature** of the interactions? can you develop **relationships**?

What are some of the challenges you face when interacting with the HO?

How do they make you feel?

How would you describe the HO to someone who had no idea?

Use of **discretion** by HO caseworkers. **How** do you think used?

How would you describe the quality of Home Office decision-making?

What would a **competent** assessor do, in your mind? **Training**? Appropriate **recruitment**?

Based on the above, what is your understanding of the decision-making **process**?

Consultancies / technologies – understanding of their use?

HO shifting to the language of the consumer – have you seen this? what are your reflections?

Sit for a moment to **think on the role of a legal adviser**:

How do you think it sits in relation to the Home Office and the application process? **Negotiation**?

Contestation? Relation to HO/ reflections.

How do you describe your role to people?

‘Broken’ – What would a **legitimate** asylum system look like to you? What would benefit applicants the most?

Do you have any other sort of reflections on your role or that of the Home Office that you feel like you haven't shared and that you would like to?

Opportunity for questions/ anyone else / thanks