



House of Commons  
Home Affairs Committee

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# The Work of the UK Border Agency

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**Second Report of Session 2009–10**

*Volume I*

*Report, together with formal minutes*

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## The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

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### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk)

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/homeaffairscom](http://www.parliament.uk/homeaffairscom). A list of Reports of the Committee since Session 2005–06 is at the back of this volume.

### Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Eliot Barrass (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Petit (Committee Specialist), Darren Hackett (Senior Committee Assistant), Ameet Chudasama (Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Jessica Bridges-Palmer (Select Committee Media Officer).

### Contacts

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# Introduction

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## Background

1. Following the disclosure that a number of foreign prisoners had been released from custody without being considered for deportation, in June 2006 the Chief Executive of the then Immigration and Nationality Directorate (IND), Lin Homer, began a process of regularly informing us by letter of progress in dealing with the cases of these 1013 prisoners. The first three letters sent to us (in June, October and December 2006) dealt solely with the foreign national prisoner issue. The fourth letter, of 19 February 2007, also discussed the IND's efforts to tackle a backlog of between 400,000 and 450,000 unresolved asylum cases, some dating back more than a decade, which became known as the Legacy Casework Programme. Subsequent letters<sup>1</sup> updated us on these issues and more generally on changes to the deportation system and to the working practices of the IND, which is now the UK Border Agency (UKBA). **We note that Lin Homer has agreed to write to us with updates every three months.**<sup>2</sup>

2. We have taken oral evidence from Lin Homer and the relevant Ministers on the basis of these letters on several occasions,<sup>3</sup> most recently on 8 July and 4 November 2009, and we also took oral evidence from Mr John Vine, the Independent Chief Inspector of the UKBA, on 14 July 2009. Transcripts of these last three oral evidence sessions, the two most recent of Lin Homer's letters and a follow-up letter from the Immigration and Borders Minister clarifying aspects of the oral evidence given on 4 November are published with this Report. We consider that it is now opportune to comment on some recurring issues relating to UKBA's handling of cases and a new issue that was brought to our attention in Lin Homer's letter of 19 October 2009.

## Historic backlog of asylum cases

3. On 19 July 2006, the then Home Secretary, the Rt Hon John Reid MP, informed Parliament that he intended the backlog of 400,000–450,000 electronic and paper records relating to asylum cases to be tackled and cleared in five years or less. He described the records as “riddled with duplication and errors, and including cases of individuals who have since died or left the country, or are now EU citizens...”<sup>4</sup> New processes were put in place to help clear the backlog, including the employment of more staff to process applications, and the introduction of a New Asylum Model with caseworkers handling the same case from start to finish.

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<sup>1</sup> Dated 14 June and 17 December 2007, 23 July and 8 December 2008 and 7 July and 19 October 2009. Only the first letter, of June 2006, and the letter of 8 December 2008 have been published to date: the first appears as Appendix 57 in Volume III in the Home Affairs Committee's Fifth Report of Session 2005–06, *Immigration Control*, HC 775; the December 2008 letter is appended to the Oral Evidence of 20 November 2008 on *Immigration Issues*, HC 1199 of session 2007–08. The last two letters, of 7 July and 19 October 2009, are published with this Report. The other letters have been deposited in the House of Commons Library.

<sup>2</sup> Qq 276–277

<sup>3</sup> Oral evidence of 15 January 2008 under the title of *Work of the Border and Immigration Agency*, HC 224 of Session 2007–08; Oral Evidence of 20 November 2008, under the title *Immigration Issues*, HC 1199 of session 2007–08; Oral Evidence of 8 July 2009, 14 July 2009 and 4 November 2009, all published with this Report.

<sup>4</sup> HC Deb, 19 July 2006, col 324

4. UKBA prioritises cases where the applicant may pose a risk to the public and, as a second priority, those where the applicant is eligible for financial support from the taxpayer.<sup>5</sup> Since the summer of 2009, responsibility for dealing with the cases of applicants convicted of serious crimes has been transferred from the Case Resolution Directorate, that deals with the backlog, to another part of UKBA, the Criminal Casework Directorate.<sup>6</sup> We were not told how many cases were likely to be transferred in this way.

5. In her October 2009 update on the resolution of cases and removal of failed asylum seekers, Lin Homer reported:

The UK Border Agency is continuing to clear the backlog of older asylum cases with more than 220,000 cases concluded to the end of September 2009.<sup>7</sup> Of the 220,000 conclusions, over 14% were removals and 52% were ‘other’ conclusions such as erroneous/duplicate records, while 34% were grants.<sup>8</sup>

More detail is provided in a table<sup>9</sup> annexed to the letter:

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependents</i>
Removals	30,000 (14%)	28,000	2,500
Grants	74,000 (34%)	41,500	32,500
Others	116,000 (52%)	100,500	15,500
<b>Total</b>	<b>220,000</b>	<b>170,000</b>	<b>50,500</b>

This compares with the following breakdown of figures in her letter of 7 July:<sup>10</sup>

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependents</i>
Removals	27,500 (14%)	25,500	2,000
Grants	62,000 (31%)	34,500	27,500
Others	107,500 (54%)	98,500	9,000
<b>Total</b>	<b>197,500</b>	<b>158,500</b>	<b>39,000</b>

<sup>5</sup> 7 July letter, paragraphs 21 and 22

<sup>6</sup> 19 October letter, paragraph 17

<sup>7</sup> The letter adds the proviso: “Please note that the figures quoted are not provided under National Statistics protocols and have been derived from local management information. They are therefore provisional and subject to change.”

<sup>8</sup> 19 October letter, para 13

<sup>9</sup> Table 1.1

<sup>10</sup> 7 July letter, p.7 Because of rounding, the columns do not add up exactly.

6. We noted the rise in the proportion of concluded cases that resulted in the grant of leave to remain between July and October and the increasing proportion of long-standing cases among those given such leave (in the July figures, 15% of those granted leave to remain had cases dating back seven years or more; in the October figures, 18% had cases dating back seven years or more).<sup>11</sup> This is because the longer people remain in the UK awaiting a final decision, the more likely they are to be granted leave to remain on humanitarian grounds (such as their having established a family life in this country).<sup>12</sup>

7. We asked what the maximum time was an applicant would have been waiting for a resolution of his or her case, and were told that some applicants had already resided in the UK for nine years. This was particularly likely to be the situation if they were not ‘supported’ cases<sup>13</sup> as the resolution of unsupported cases had been postponed while the priority group was dealt with. Every long-standing case discovered so far had related to people given an initial decision that they would not be granted asylum but who refused to accept that decision and had launched multiple challenges and appeals.<sup>14</sup>

8. We have frequently asked whether this programme (known as the Case Resolution Programme) was on target for completion in the summer of 2011. We noted in July that about 197,000 cases had been concluded in the first three years of the programme, leaving up to 250,000 to be cleared in the remaining two years. Lin Homer replied that we had to take into account the inherent delay in putting teams together and determining processes before the main work could begin, adding:

in the last six to nine months we have been steadily [increasing] the number we deal with each month... and it has been sustained now for quite a long time at ... 9,000–10,000 a month... That is what gives us confidence as we go forward that, even if our most extreme projection [ie a total of 450,000 cases] were right, we can do this within the timescale we set.<sup>15</sup>

9. The pace slowed in the months between July and October, with only 23,000 more cases being completed in that period. Lin Homer attributed this decrease to the recruitment of, and consequent need to train, a significant number of new staff<sup>16</sup> and the transfer of more experienced staff to “live” casework. She said that procedures for dealing with the backlog cases had been streamlined and she expected to see “a significant ramp up in performance in the next quarter” as these new measures started to take effect.<sup>17</sup>

10. We suggested that the backlog could be cleared faster if more staff were employed. Lin Homer said in July 2009 that she and the Permanent Secretary of the Home Department had been evaluating options about how UKBA “could most efficiently use additional resources” and that they expected “a significant number of additional administrative staff

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<sup>11</sup> Table 4.2 in both the July and the October letters

<sup>12</sup> Qq 38, 50–51,

<sup>13</sup> That is, receiving financial support from the taxpayer

<sup>14</sup> Qq 35–36 and 41 See also Qq 46–47

<sup>15</sup> Q 33

<sup>16</sup> See paragraph 10 below

<sup>17</sup> 19 October letter, paragraphs 15-16

to join the Case Resolution Directorate on a temporary basis, in the course of the next few months, with the intention of freeing up trained caseworkers to make more decisions.”<sup>18</sup> We have subsequently been told that the target for clearing the backlog is under review as it is hoped that the employment of 350 extra temporary staff will speed up the processing.<sup>19</sup> **Whilst welcoming increased resources made available to clear the substantial backlog of asylum applications, we remain most dissatisfied at a target date of the summer of 2011. This in our view is simply too long and we urge that staffing levels are such that all cases going back three years or longer are finally decided on at the latest by September 2010.**

### *Duplicates and errors*

11. We were concerned at the number — and high percentage — of cases listed as being concluded for “another reason” and tried to delve deeper. Lin Homer has provided us with the following figures relating to main applicants:<sup>20</sup>

Closure type	Total up to July 2009 <sup>21</sup>	Total up to October 2009
Duplicates	3,500	4,000
Errors	82,000	88,500
EU nationals	7,000	8,500
Cases where attempts to contact the applicant have been unsuccessful <b>and</b> subsequently the case has been in the archive for more than six months	6,000	— [see paragraph 12 below]
<i>All ‘another reason’</i>	98,500	100,500

12. The categories of ‘Duplicates’ and ‘EU nationals’ are self-explanatory. The Minister for Identity, Meg Hillier MP, explained to us that “errors are cases where, for example, someone may have already been removed or granted some form of leave, and the record on our database was not updated correctly”.<sup>22</sup> The fourth category was described as follows:

The legacy cohort contains cases that the Agency cannot trace, including those that are likely to have left the country voluntarily. The Agency makes every effort to trace

<sup>18</sup> 7 July letter, p.6 See also Q 34

<sup>19</sup> 19 October 2009 letter, paragraph 15

<sup>20</sup> 7 July and 19 October 2009 letters, Table 3.1

<sup>21</sup> Figures may not sum due to rounding

<sup>22</sup> Letter dated 25 March 2009, published in *Managing Migration: The Points-Based System*, Thirteenth Report of the Home Affairs Committee, Session 2008–09, Vol 2, HC 217-II

such cases, checking a number of internal and external databases. If such tracing fails, the case is placed in a controlled archive. Once a case has been in the controlled archive for six months it is included in the conclusions statistics. ... However, cases in the controlled archive are run against a number of watchlists every three months and can be reactivated and removed from the conclusions statistics at any time, should the applicant come to light. No cases where the applicant has a positive Police National Computer hit are placed in the controlled archive.

Lin Homer added that between March and May 2009 some 19 cases had been reactivated as further information became available and subsequently concluded. She suggested: "This small number supports our view that many of these cases may not be traceable"<sup>23</sup>

13. The October tables do not contain a separate category of controlled archive cases. Instead, a note to Table 1.1 says that the 100,500 total for 'other reasons' "includes 5,500 controlled archive cases older than six months". It is not clear whether these 5,500 cases have been concluded since July, and have therefore merged into one of the other three categories of error, duplicate or EU national; or whether the overall figure of 100,500 should have been increased to take into account these controlled archive cases.

**14. We are very concerned by the high proportion of 'errors' amongst the cases concluded so far. We understand the difficulty in keeping track of people who may have made multiple applications, sometimes in different names, particularly in the years before the biometric information of applicants was recorded and at times when the numbers of people seeking asylum were at record highs. It is most regrettable, however, that the registration of cases became so chaotic. We trust that the new asylum model of case-handling will prevent such confusion recurring, and we look forward to seeing evidence of this in Lin Homer's next letter to us.**

## Immigration cases

15. We were surprised to be told in October of another set of historical files where it was not known whether the applicant had left the country or remained and, if the latter, whether he or she had been granted leave to remain or was here illegally. These cases relate to immigration rather than asylum, mostly precede the introduction of the charging regime for immigration applications in 2003 and number about 40,000.<sup>24</sup>

16. We asked the Minister and Lin Homer about these cases on 4 November. The Minister said the extent of the problem had come to light during the course of "our huge management project to clear up the past archives", and emphasised that the 40,000 cases could well contain a number of duplicates so, contrary to media reports, were likely to relate to fewer people.<sup>25</sup> All 40,000 had immediately been checked against the watch list and Police National Computer to identify anyone likely to cause harm. UKBA had also taken a sample of 800 of the files to assess. Of these, 65% pre-dated 2003, with some going back to 1983. They related to family claims (dependant spouses or other relatives seeking leave to

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<sup>23</sup> 7 July letter, paragraph 23

<sup>24</sup> 19 October letter, paragraphs 27-28

<sup>25</sup> Qq 213-214 and 233

remain), students and other types of migrant who had been given some kind of temporary leave to visit the UK but were seeking to extend that leave. For 85% of them, nothing further was known: there were no further applications to which they could be linked, nor had any representations been made about their application. Of the remaining 15%, most had had their initial applications refused but had subsequently submitted more information or another application.<sup>26</sup> We were told: “It is quite likely that a number of those people will have gone on to resolve their case in some way. They may well have made another application that was successful. They may well have left the country. My suspicion is that we will find, as we did with the general legacy cases, many of these cases are resolved”.<sup>27</sup>

17. Lin Homer said that UKBA intended to deal with these cases in the same timeframe as the legacy asylum cases—by mid 2011 at the latest.<sup>28</sup>

18. We were concerned that there might be other sets of historic files relating to people whose immigration status and current whereabouts were unknown. Lin Homer said there were “None that we know of”. She also argued it was unlikely that similar sets of cases would build up in future as the introduction of the e-borders programme would make it possible to track exactly who had entered and left the UK.<sup>29</sup>

**19. It is vital for the UKBA to undertake general housekeeping exercises of the type that has brought this tranche of immigration cases to light. However, we are astonished that such a large number of files—40,000—should have been, in effect, abandoned incomplete. We sincerely hope that this is the last batch of unresolved cases to discover.**

**20. The previous Home Secretary described the UKBA as ‘not fit for purpose’, and the recent discovery of these immigration cases shows that the agency still has a long way to go before it is operating as efficiently and effectively as it needs to do. Despite this, in 2007–08 29 employees received bonuses totalling £295,000.<sup>30</sup>**

**21. We note that in the last few years the immigration service has had to implement eight large immigration acts, including most recently the introduction of the Points Based System, and a further massive Bill is proposed.<sup>31</sup> We consider that the problems faced by UKBA require administrative action rather than further legislation.**

## Role of the Independent Chief Inspector

22. We first took oral evidence from the Independent Chief Inspector of the UK Border Agency in November 2008, shortly after his appointment, while he was still setting up his office and recruiting his workforce. We said then that we would invite him back once he

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<sup>26</sup> Qq 219 and 233

<sup>27</sup> Q 237

<sup>28</sup> Qq 216-217

<sup>29</sup> Qq 234 and 220

<sup>30</sup> Q 275

<sup>31</sup> The Government has published in draft the Immigration Simplification Bill, which it would introduce in the next Parliament.

had had a chance to plan and start to carry out his initial work.<sup>32</sup> When he gave evidence to us in July 2009, he had produced an inspection plan, already carried out two visa inspection reports, one in Italy and the other in Nigeria, and had completed three pilot inspections, the emerging findings from which were due to be published in his annual report in the autumn of 2009.<sup>33</sup> Both visa inspection reports have been published subsequently.

23. The Chief Inspector told us that he wanted to cover most areas of UKBA's organisation within the next three years. He had planned other, broader inspections of the visa section of UKBA (starting off with Kuala Lumpur and Singapore, and then Chennai) as well as an administrative review (including the effectiveness of the UKBA's regional structure), an examination of the decision-making process for Tier Four applicants within the Points-Based System, an inspection of the processing of asylum claims (including dealing with the backlog), and another inquiry into the handling of customer complaints.<sup>34</sup>

24. We suggested that the Chief Inspector ran the risk of being overwhelmed with work because of the many serious problems faced by UKBA, and noted that he was about to take responsibility also for customs services, with the merger of that directorate into UKBA. The Chief Inspector assured us that he had ensured that he was provided with adequate financial and human resources to carry out the Inspectorate's first year of work.<sup>35</sup>

**25. We note the Independent Chief Inspector's and the Minister's comments about the key role played by consulate staff in the granting of visas and the number of UKBA staff who work abroad.<sup>36</sup> We remain most concerned that the Independent Chief Inspector's role remains unclear. We have in previous reports highlighted UKBA's and its predecessor agencies' problems concerning the backlog of asylum applications. We regret that the Chief Inspector started his operation with visa inspections rather than with the areas of most concern to members of Parliament and their constituents. We look forward to receiving the report of his asylum-related inspection in February.**

26. We previously expressed concern about the merger of so many roles into the one post of Independent Chief Inspector and suggested that in particular assuming the visa-related work of the Independent Monitor would be burdensome.<sup>37</sup> We regret that the Government did not heed our advice.

**27. We note that the Independent Monitor was empowered to monitor only rejections of visas and not approvals. It has been reported that there are errors in up to 15% of decisions to reject visas (though some of these are minor administrative mistakes rather than substantive ones); and it is therefore possible that a similar number are being issued incorrectly.<sup>38</sup> We therefore welcome the Independent Chief Inspector's**

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<sup>32</sup> Home Affairs Committee, *Monitoring of the UK Border Agency*, First Report of Session 2008–09, HC 77, paragraph 20

<sup>33</sup> Qq 147 and 150

<sup>34</sup> Qq 154–156 The Chief Inspector gave a more detailed description of the scope of the inspection into asylum cases at Qq 186–187

<sup>35</sup> Q 167

<sup>36</sup> Qq 194 and 272–273

<sup>37</sup> *Monitoring of the UK Border Agency*, Oral Evidence, Q 46

<sup>38</sup> *Ibid.*, Qq 19–20

confirmation that he will examine both the process of issuing visas and the appropriateness of the decisions being made.<sup>39</sup>

28. We welcome the Independent Chief Inspector's proposal to review Tier Four of the Points-Based System, but regret that this review will not be completed until the end of next year.<sup>40</sup> We also welcome the more focused review of Tier Four being undertaken by the Home Office at the request of the Prime Minister.

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<sup>39</sup> Q 154

<sup>40</sup> Office of the Chief Inspector of the UK Border Agency, *Inspection Plan 2009/10*, p18

# Formal Minutes

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**Tuesday 1 December 2009**

Members present:

Keith Vaz, in the Chair

Mr Tom Brake  
Ms Karen Buck  
David TC Davies  
Mrs Janet Dean  
Patrick Mercer

Gwyn Prosser  
Bob Russell  
Mr Gary Streeter  
Mr David Winnick

Draft Report (*The Work of the UK Border Agency*), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 28 read and agreed to.

Key Facts agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 8 December at 10.15 am

## Witnesses

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### Wednesday 8 July 2009

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**Lin Homer**, Chief Executive, UK Border Agency

Ev 1

### Tuesday 14 July 2009

*Page*

**John Vine CBE QPM**, Chief Inspector, UK Border Agency

Ev 21

### Wednesday 4 November 2009

**Phil Woolas MP**, Minister of State for Borders and Immigration, Home Office, and **Lin Homer**, Chief Executive, UK Border Agency

Ev 27

## List of written evidence

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- 1 Correspondence from the Chief Executive, UK Border Agency, 7 July 2009
- 2 Further correspondence from the Chief Executive, UK Border Agency, 19 October 2009
- 3 Correspondence from the Home Office, 26 November 2009

# List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2009–10

First Report	The Detention of Children in the Immigration System	HC 73
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## Session 2008–09

First Report	Monitoring of the UK Border Agency	HC 77 (HC 381)
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Second Report	The Police and the Media	HC 75
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Third Report	The Work of the Committee 2007–08	HC 76
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Fourth Report	Policing Process of Home Office Leaks Inquiry	HC 157 (HC 1026)
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Fifth Report	Borders, Immigration and Citizenship Bill [HL]	HC 425
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Sixth Report	Human Trafficking	HC 23–I (Cm 7693)
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Seventh Report	Knife Crime	HC 217 (Cm 7648)
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Eighth Report	Policing of the G20 Protests	HC 418
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Ninth Report	Project CONTEST: The Government's Counter-Terrorism Strategy	HC 212 (Cm 7703)
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Tenth Report	The cost of policing football matches	HC 676
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Eleventh Report	Bogus Colleges	HC 595
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Twelfth Report	Macpherson Report—Ten Years On	HC 427
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Thirteenth Report	Managing Migration: Points-Based System	HC 217
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Fourteenth Report	The work of the Serious Organised Crime Agency	HC 730
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Fifteenth Report	Human Trafficking	HC 217 (Cm 7648)
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Sixteenth Report	Human Trafficking	HC 217 (Cm 7648)
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Seventeenth Report	Human Trafficking	HC 217 (Cm 7648)
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Eighteenth Report	Human Trafficking	HC 217 (Cm 7648)
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Nineteenth Report	Human Trafficking	HC 217 (Cm 7648)
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Twentieth Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-first Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-second Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-third Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-fourth Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-fifth Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-sixth Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-seventh Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-eighth Report	Human Trafficking	HC 217 (Cm 7648)
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Twenty-ninth Report	Human Trafficking	HC 217 (Cm 7648)
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Thirtieth Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-first Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-second Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-third Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-fourth Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-fifth Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-sixth Report	Human Trafficking	HC 217 (Cm 7648)
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Thirty-seventh Report	Human Trafficking	HC 217 (Cm 7648)
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**Session 2006–07**

First Report	Work of the Committee in 2005–06	HC 296
Second Report	Young Black People and the Criminal Justice System	HC 181 ( <i>Cm 7217</i> )
Third Report	Justice and Home Affairs Issues at European Union Level	HC 76 ( <i>HC 1021</i> )
Fourth Report	Police Funding	HC 553 ( <i>HC 1092</i> )

**Session 2005–06**

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582