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Home Affairs Committee

The Work of the UKBA Border Agency

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Oral and written evidence

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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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Oral evidence

Taken before the Home Affairs Committee on Wednesday 8 July 2009

Members present:

Keith Vaz, in the Chair

Ms Karen Buck
Mr James Clappison
Mrs Ann Cryer
David T C Davies
Mrs Janet Dean

Patrick Mercer
Gwyn Prosser
Mr Gary Streeter
Mr David Winnick

Memorandum submitted by the Chief Executive, UK Borders Agency

I am writing to update the Committee on our progress with deporting foreign criminals and our conclusion of the caseload of historic asylum cases (legacy cases), following my last letter to you in December 2008 and the Permanent Secretary's letter to the Public Accounts Committee in January 2009.

As with my previous letters, the information provided here is subject to revision for the same reasons I have set out to the Committee before regarding data quality.

FOREIGN NATIONAL PRISONERS

1. We continue to make considerable progress in delivering an effective deportation system which protects the public by removing those foreign nationals whose presence here is the most harmful.

2. I have set out below a summary of our recent performance, including the number of deportations to date under the automatic deportation provision which came into force in August last year. I have also provided details of a number of improvements to the way we work in the Criminal Casework Directorate, and an update on the 1,013 cases which we had identified in 2006 as having been released without consideration for deportation.

3. I advised you in my letter of 8 December 2008 that we were on track to exceed our target of removing 5,000 foreign criminals in 2008. We have published figures which show that in 2008 we removed or deported nearly 5,400 foreign criminals, including 50 people found guilty of murder, attempted murder or causing death, around 260 sex offenders and over 1,600 drug offenders. Of the drug offenders removed, more than 550 were convicted of the production or supply of drugs, over 350 convicted of possession with intent to supply drugs, and over 600 were convicted of the importation of drugs.¹ This means we exceeded our challenging public target for the second year running.

4. This year we have committed to even higher levels of deporting or removing foreign criminals (5,800), which we are on track to meet. Our internal provisional figures for January to March 2009 show that we removed a total of 1,305 foreign national criminals during that period, which is a 10% increase on the same period in 2008.

5. We are continuing to take a robust approach to those foreign nationals who break the law in this country. As I explained in my letter of 8 December, on 1 August 2008 the automatic deportation provision within the UK Borders Act 2007 came into effect, which applies to any non-EEA foreign national convicted of a crime who has received a custodial sentence of 12 months or more. To date, more than 700 foreign nationals have been removed under the automatic deportation provision.

6. Single case ownership is now fully embedded into our work, and over the past six months all case owners in the Criminal Casework Directorate have received intensive casework re-training on asylum and human rights, detention, bail and travel documentation, to drive up the quality and speed of our decisions. We have also introduced robust processes for dealing swiftly with asylum claims lodged by foreign criminals to ensure that where those claims are refused, delays to the removal process are minimised.

7. We have had an agreement with NOMS in place for some time to ensure that foreign national criminals are identified in prison and deportation is considered at the earliest opportunity. This agreement and improved targets have now been formalised. Where sentence length allows, consideration of an individual's case will be commenced 12 months prior to the earliest point of release.

¹ 5,395 foreign prisoners were deported in 2008, 8% of total removals and voluntary departures <http://www.homeoffice.gov.uk/rds/pdfs09/immig408.pdf>. The next National Statistics summary including figures for removals and voluntary departures will be published in August 2009.

8. The Facilitated Returns Scheme (FRS) continues to allow foreign national prisoners to leave the UK early and remains an effective and cost efficient method of removal. FRS accounted for more than 30% of the total removals of foreign national prisoners in 2008. We now have immigration staff based in nine prisons, whose responsibilities include explaining the purpose of FRS to foreign national prisoners on induction. Promoting early removal and FRS will generate savings for the taxpayers as well as reducing the pressure on the prison and UK Border Agency detention estate.

9. I am able to provide the Committee with the following update on the progress we are making in deporting the 1,013 foreign prisoners who had been found to have been released without consideration for deportation action in mid 2006. These figures are accurate as at 19 June 2009.

No of cases concluded

<i>Of whom x have been deported or removed</i>	<i>Cases still going through the deportation process</i>	<i>Number of individuals serving a custodial sentence</i>	<i>Not located</i>	<i>Total</i>
752	146	28	87	1,013
348 have been deported or removed				

10. You will note that since I last wrote to you we have removed or deported a further 12 foreign criminals from the 1,013, including a rapist and a violent offender. We have also located three further offenders. Of these, two were illegal immigrants convicted of deception, and the third was convicted of robbery. As you know, these are some of the oldest and most complex cases we have to deal with, but these figures show that we are continuing to make some progress and we continue to pursue the 87 individuals still to be located.

11. A detailed breakdown of these cases, including information about seriousness of offence, is below.

	<i>Cases concluded</i>	<i>(Of which removals/ deportations)</i>	<i>Cases going through deportation process</i>	<i>Nos still serving custodial sentence</i>	<i>Not located</i>	<i>Total</i>
Most serious	37	(26)	3	2	1	43
More iserious	113	(52)	21	5	6	145
Other	594	(270)	122	21	80	817
Duplicates	8					8
Total	752	(348)	146	28	87	1,013

12. There are now 404 concluded cases from the 1,013 that did not result in removal or deportation.

	<i>Most serious</i>	<i>More serious</i>	<i>Other</i>	<i>Duplicates</i>	<i>Total</i>
Appeal allowed	1	23	59		83
British citizen	2	21	57		80
Irish citizen		2	8		10
Exempt	4	2	16		22
Deportation criteria not met	2	8	106		116
Other reasons	2	5	78		85
Duplicates					8
Total	11	61	324	8	404

13. The majority of this group were exempt from deportation because they did not meet the criteria at the time or because they were British or Irish citizens.

14. There are eleven "most serious" offenders whose cases have been concluded but who have not been deported. These include two British citizens, four individuals who were exempt from deportation and two individuals who did not meet the criteria at the time. A further two "most serious" offenders were not deported for "other reasons"; one of these had died and the second had long residency in the UK. The last foreign national in this category had an appeal against deportation allowed by the independent Asylum and Immigration Tribunal.

15. There are five "more serious" offenders whose cases have been concluded but who have not been deported, four of which had long residency in the UK.

16. I would now suggest that this is last time I write to you separately in this detail about this specific group of foreign national criminals and suggest instead that from now we report these cases as part of the general business of the Criminal Casework Directorate. However, if there are significant matters I will include more specific detail.

17. In addition to the detained cases, as the Committee knows, we also continue to seek deportation in a number of cases where we have been unable to maintain detention under the law. There are around 120 such cases a month, with about 100 being bailed by the AIT and 20 by the Agency, where we are obliged by law to release a foreign national pending deportation, having assessed the risk of harm posed to the public and the reasonableness of imminent removal. The conditions set for each release vary but include reporting arrangements and/or electronic monitoring. The Agency continues to progress these cases to ensure that they are deported from the UK at the earliest opportunity.

RESOLUTION OF OLDER CASES

18. The UK Border Agency is continuing to clear the backlog of older asylum cases with more than 197,500 cases concluded to the end of May 2009. This is an increase of just over 40,000 since we last updated you at the end of January. Of the 197,500 conclusions, over 68% were either removals or “other” conclusions such as erroneous / duplicate records, while 32% were grants.²

19. You will see that these percentages have changed since I last updated you in December, at which time they were nearly 60% removals or “other” conclusions, and just over 40% grants. This is because between December 2008 and February 2009 the Agency carried out an exercise to conclude cases that looked likely, according to our records, to be data errors. This case by case consideration resulted in a significant number of “other” conclusions.

20. Information is provided at Annex A to give you a more detailed breakdown of the types of cases we are concluding.

21. We continue to prioritise cases where the applicant may pose a risk to the public. I have previously provided you with figures on both cases where there was an element of harm, and cases where we suspected there was an element of harm, but after further investigation had no criminality associated with them at all. I have taken the decision to provide a breakdown of conclusions on cases that were either serious criminals or have received a custodial sentence of 12 months or over. I believe this provides a more accurate account of the work the Agency is doing to remove those who cause harm to our communities.

22. I am pleased to inform you that we have now concluded over 45,000 supported cases. This reflects the fact that supported cases are one of our priorities. My letter of 8 December 2008 stated that we had concluded a total of 10,200 supported cases by the end of October, and should have read 39,200. I apologise for this error.

23. 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 such cases, checking a number of internal and external databases. If such tracing fails, the case is placed into a controlled archive. Once a case has been in the controlled archive for 6 months it is included in conclusions statistics. The Agency started doing so in December 2008. 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. We currently have 7,050 in the archive; and between March and May we re-established contact with 19 of these cases, which were then subsequently taken out of the controlled archive and concluded. This small number supports our view that many of these cases may not be traceable, but that our systems ensure cases can be re-opened where that is necessary.

24. Finally, the Agency is currently rolling out MP account managers across the regions. Once in place, they will improve Members’ experiences of engaging with the Agency on legacy asylum cases, and all other casework matters of interest to Members; and increase the amount of informal contact with Members’ offices where appropriate. This could take the form of visits to surgeries, Members’ caseworkers shadowing at UKBA offices, educational events or other activities that will be tailored to the needs of the various constituencies. The aim is to increase interaction between the Agency and Members and as a result reduce the need for formal correspondence. This will release resources within the Agency to focus on resolving immigration cases.

25. I will write again to the Committee in six months with a further update outlining our performance and the extent to which the measures I have outlined above have affected this.

26. I am placing a copy of this letter in the House Library.

July 2009

² 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. The figures have also been rounded to the nearest 500.

CLEARING THE BACKLOG OF OLDER CASES—PROGRESS TO DATE

Table 1.1

CONCLUSIONS³ BY MAIN APPLICANT AND DEPENDANTS

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependants</i>	<i>Of which, Harm⁴</i>
Removals ⁵	27,500 (14%)	25,500	2,000	200
Grants ⁶	62,000 (31%)	34,500	27,500	11
Others ⁷	107,500 (54%)	98,500*	9,000**	250
Total	197,500	158,500	39,000	450

NB. Rounded to nearest 500. Figures may not sum due to rounding

* Includes 6,000 controlled archive⁸ cases older than six months and 8,000 concluded cases in live locations also counted in this category

**Includes 1000 controlled archive cases older than six months

Table 1.2

CONCLUSIONS ON SUPPORTED⁹ CASES

Main	18,450
Dependants	26,950
Total	45,400

NB. Rounded to nearest 50

REMOVALS

Table 2.1

REMOVALS, BY NATIONALITY (TOP 10 COUNTRIES)

<i>Nationality</i>	<i>Total</i>
Turkey	2,650
Afghanistan	2,200
Iraq	2,050
Pakistan	1,600
China	1,400
Kosovo	1,400
India	1,400
Iran (Islamic Republic of)	1,300
Sri Lanka	1,100
Nigeria	1,050

NB. Rounded to nearest 50, count of People

³ General: Conclusion data is sourced from the Case Information Database, Supported data is sourced from ASYS (Asylum Seeker Support System)

Case conclusions: Cases are taken to a logical conclusion, including removal, grant of a period of stay within the UK and closure of the cases through updating of CID records where actions hadn't previously been recorded.

⁴ Serious harm or custodial sentence over 12 months.

⁵ Removals. Deportations, Extraditions, Enforced Removals and Voluntary Departures, assisted and unassisted—Commissioned by Case Resolution Directorate. Count of People.

⁶ Grants: Cases granted some form of leave, be it limited or indefinite commissioned by Case Resolution Directorate Count of Case ID.

⁷ Others: In these cases Case Resolution Directorate has determined that an action has occurred that led to a grant of some form of leave, or removal that wasn't recorded on the Case Information Database. This also includes duplicate cases that have been deleted from Case Information Database. In all circumstances Case Resolution Directorates' actions have been to update or delete the Case Information Database with the appropriate information. Count of Home Office Reference.

⁸ Controlled Archive: The controlled archive is made up of cases where we have made attempts to contact the applicant without success. Controlled archive cases are considered completed for statistical purposes when the case has been in the archive for more than six months.

⁹ Cases that were on support between 05/03/07 and 31/05/09.

Table 2.2
REMOVALS, BY AGE OF CASE

<i>Time to Conclusion</i>	<i>Percentage</i>
Under 3 years	23
3–7 years	51
7 years +	26

NB Round to nearest %

CONCLUSIONS FOR ANOTHER REASON

Table 3.1
CONCLUSIONS FOR ANOTHER REASON

<i>Type:</i>	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependants</i>
Duplicates	3,500	2,000	2,000
Errors	82,000	78,000	3,500
EU Nationals	7,000	4,500	3,000

NB. Rounded to nearest 500. Figures may not sum due to rounding

LEAVE TO REMAIN IN THE UK

Table 4.1
GRANTS, BY NATIONALITY (TOP 10 COUNTRIES)

<i>Nationality</i>	<i>Total</i>
Zimbabwe	5,150
Pakistan	4,900
Somalia	4,500
Iraq	3,350
Afghanistan	3,350
Sri Lanka	3,150
Congo Democratic Republic	3,100
Iran (Islamic Republic of)	3,000
Turkey	2,850
Eritrea	2,600

NB. Rounded to nearest 50, count of Case ID

Table 4.2
GRANTS, BY AGE OF CASE

<i>Time to Conclusion</i>	<i>Percentage</i>
Under 3 years	41
3–7 years	44
7 years +	15

NB. Round to nearest %

Witness: Ms Lin Homer, Chief Executive, UK Border Agency, gave evidence.

Q1 Chairman: Could I call the Committee to order and just inform everybody that the Home Secretary will be giving evidence to us in his first session before this Committee next Tuesday afternoon. This is our normal session that looks at the work of the UK Border Agency. We are very pleased to see the Director of the UK Border Agency, Lin Homer, here today. I am sorry you are further away from us than

normal but we do not normally have the chance to meet in such a grand room. Maybe it is a reflection of the subject matter of today's proceedings. Can I start, Ms Homer, by thanking you for the very useful and helpful letter that you send us on a regular basis informing us of an update on what is happening at the Border Agency. In your letter you do suggest that this is the last time that you would write to us about

the issue of foreign nationals who are released from prison before deportation. Could you tell us why you suggest that this is a good idea?

Ms Homer: Chairman, thank you for inviting me and yes, it is a slightly longer distance between us than normal and a very grand room. I had not intended to stop writing to you. I too enjoy our regular correspondence. What I was suggesting in the letter, really to draw a reaction from you, was whether the time had come for me to continue separating out the 1013 into particular tables and tabulated information, or whether I should keep writing about foreign national prisoners but more in a single cohort. My intention would still be to write roughly six-monthly, if that continues to suit the Committee. I had assumed still on foreign national prisoners and on the Case Resolution Directorate but perhaps including 1013 information more in the shape of paragraph 10, which is a specific update on things that have changed, rather than tables whereby the nature of where we are and the state of this, quite a lot of the numbers do not change that much. I am happy to be guided by you, certainly, if you find the 1013 information in its current format helpful; it just makes it a slightly longer letter but it was not an intention to desist from writing if it is a useful way to keep you informed.

Q2 Chairman: The Committee feels that the format that we have at the moment is perfectly adequate and we would like you to continue to write, as you do regularly, in the format that you write to us, because it is pretty clear what the position is.

Ms Homer: I am very happy to do that.

Q3 Chairman: From time to time we may well write to you in between six months, because six months is a very long time in the life of the UK Border Agency. We may write and ask for updates within that period and we would like very much to have those updates as and when necessary, if that is okay.

Ms Homer: I am very happy to speak more regularly. As you know, all we have tried to do is not pretend to you that we can necessarily manipulate our data on a regular basis. I think you are all well aware that our databases remain somewhat clunky and difficult to manoeuvre with.

Q4 Chairman: Indeed. In giving evidence to us in January 2008 you said that you expected the UK Borders Act to make a significant difference to your ability to deport foreign criminals. Has it made a significant difference?

Ms Homer: Yes, I think it has. There are two aspects to the new arrangements which we are now seeing the benefit of. The first of those is that we have shifted the process to an automatic assumption of deportation and a stop in that procedure only if certain criteria exist, such as somebody being a minor. So we have shifted the balance the other way to assuming deportation unless, rather than assuming not unless. The second thing that the automatic deportation provisions provide for is that if someone wants to appeal against a deportation order now, it is not an in-country right of appeal. There are other forms of appeal, as you well know,

that can be pursued but the deportation order itself is an out-of-country right of appeal, and that is helpful.

Q5 Chairman: There is now a presumption in favour of deportation as a result of the Act?

Ms Homer: Yes.

Q6 Chairman: So as a result of the introduction of the Act, how many more foreign national criminals have automatically been considered who would not previously have been considered?

Ms Homer: All the foreign national prisoners who came through the system after the Act came into effect are now under the new rules.

Q7 Chairman: How many is that?

Ms Homer: So far 700 have already been removed under the new proceedings.

Q8 Chairman: How many remain?

Ms Homer: In a sense, my cohort is mixed at the moment. You know our target for this year is 5,800. That will be made up of some going through the system under the old system and some going through under the new but our flow is around 5,000 a year, we believe. So for this year all of those will go through under the new Act. It depends on when their sentence ends as to when they drop into the new system. So it is not very easy to say any remain; as each approaches the point where their sentence ends, we can then implement the new Act.

Q9 Chairman: When you gave evidence to us in November 2008 you had concluded 732 cases of foreign national prisoners released without consideration for deportation, leaving 281 unconcluded. The figures you supplied to us yesterday show that the outstanding figure is now 261 cases. At that rate, concluding 20 cases every six months, we can now expect the cases that you have to be resolved around about 2015–16. Is that correct?

Ms Homer: I do not think that is correct. I think what you have to do is reflect on the categories that make up the numbers that are not yet concluded. We have 146 cases going through the deportation process and those cases, although some of them may, depending on the country of origin, take still a considerable time to conclude, if there are multiple appeals, for instance, those people are known to us as the case has started and they are progressing forwards. We have 28 who are still in prison and we cannot consider their case until their sentence ends. Obviously, if any of those are serving long sentences, it will be some time before we get there. I think the cases that are going through deportation we will see concluded in reasonably fast order.

Q10 Chairman: But that figure of 20 cases every six months is very, very slow.

Ms Homer: I think we are now dealing with some very old and some very complex cases. In paragraph 10 I do refer you to two of the cases that we have concluded. One of those is a rape case where the conviction happened in 1999. The individual was one of the people who had been released without consideration in January 2004. We re-detained him

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in May 2006 but he was from the DRC and it has taken us until the beginning of this year to re-establish a pipeline to the DRC, so we have detained him for over three years before finally deporting him in May 2009. Some of these cases, by their nature, are incredibly complex. What I can assure you is that we remain determined to pursue them through, and I think, even if it has taken us 10 years to get a rapist out of the country, if he has been safely locked up during that time, I think that is still good for the country.

Q11 Chairman: The Home Office said this week that about 1,000 criminals were on the run and gave us figures as to how many of those criminals were foreign national criminals. Do you have those figures?

Ms Homer: Yes, I do.

Q12 Chairman: Can you tell us what they are?

Ms Homer: The figures that the Ministry of Justice released this week showed a number of people who had not complied with their licence conditions, and their statistics, including the UN-audited figures, which I suspect you would want me to refer to, show there to be just under 200 of those who are foreign and, we think, 64 who are within the deportation criteria.

Q13 Chairman: Does that figure cause you concern, the fact that a fifth of all the prisoners currently on the run are actually foreign nationals who should have been deported?

Ms Homer: Not a fifth who should have been deported because only 64 of them meet the criteria, so the remaining individuals, in a sense, are just ordinary, home-grown criminals, if you like. The 54 plus 10—

Q14 Chairman: Fifty-four or 64?

Ms Homer: Fifty-four from the audited figures and 10 from the UN-audited. Those cases are still being pursued by us, and I think the case I have just given you, the example of the rapist from 1999, illustrates that we can and do continue to pursue deportation very vigorously, and we will swing into action if those individuals reappear. We work with the police and other colleagues to proactively look particularly in the serious criminal cases and these people will be pursued for deportation. In a sense, we will keep the process moving even if they are not known to MOJ at the moment. We will not stop our procedure because they are not currently answering the licence requirements of MOJ.

Q15 Mr Winnick: The situation in June 2006, Ms Homer, which led to the resignation of Charles Clarke as Home Secretary: at that time there were 1,013 foreign national prisoners who had been released without being considered for deportation where the court at the time had recommended that they should be deported once they had served their sentence. Of those 1,013, I believe I am right in saying that 87 have not yet been located.

Ms Homer: That is correct.

Q16 Mr Winnick: It is a long time, is it not?

Ms Homer: Yes, and some of those will have not been in connection with the Agency for many years, will go back beyond 1999—well, to 1999.

Q17 Mr Winnick: Are the authorities writing off the 87, or most of them, on the basis that it is a long time since they have been in contact with the authorities?

Ms Homer: Not at all. I would want to very vigorously assure you that we are not writing them off, and I think the fact that we have found since we last spoke to you two of the most serious of those who we had not located does illustrate that we are very determined to keep looking. We work with partner agencies. We have developed some of our own investigative capability and, when we get a chance to reactivate these cases, as I say, the deportation orders are progressed and are ready, and in those cases involving countries that are difficult to return to, we continue to pursue our opportunities to re-establish returns, so that if one of the reasons we struggle to deport before is country of origin, we make progress there as well. So we stay as tenacious as we can be on these cases, regardless of their age.

Q18 Mr Winnick: Bringing ourselves up to date, what is the management regime for those foreign national prisoners released from custody who cannot for various reasons be removed immediately? Are they on arrangements where they report or electric monitoring?

Ms Homer: Yes, the majority of these cases are bailed by the Asylum Tribunal and we oppose bail in all of the cases that go before the AIT but where they grant bail, we always seek to impose restrictions, in all but the most unusual cases, and those will usually be tagging and reporting restrictions. There are some circumstances—recently I agreed that a heavily pregnant woman should not be tagged, for instance—where we conclude that tagging would not be appropriate, but our preference is for the strictest and most complete reporting and conditional arrangements we can get.

Q19 Mr Winnick: What numbers are we talking about of those who are in that situation at the moment and cannot be deported?

Ms Homer: At any one time we will have about 2,500 where we are struggling to get deportation. Some of those will be because of the country of origin, and they tend to be in clusters. We have quite a large Nigerian cohort. They tend to pursue multiple appeals. We have a large cohort from Somalia, from Algeria and from other parts of Africa. DRC I have just mentioned where we have only recently established returns. As you would probably expect, we have a fairly large number of Zimbabweans where we have not for a while now been returning, other than in the most unusual

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circumstances. We have in fact returned a couple of Zimbabwean criminals but circumstances make that very difficult.

Q20 Mr Winnick: Would we be right to come to the conclusion that some of them are a continuing danger to the community?

Ms Homer: With the serious criminals who are bailed by the AIT, the reason we object to bail in front of the court is because we are concerned about their capacity to re-offend and I think the judges take that into account. There was a case that received some publicity a couple of weeks ago when the judge actually said in his summing-up, “There is plainly the risk of him re-offending but the type of offence he may commit is not in my judgement of the most grave kind, though serious they undoubtedly are.” This was the case of a Somali criminal that we had detained for three years and whom the court concluded in the end it was not appropriate to allow us to detain any longer. So we make that point to the court but they have to weigh up our legal right to detain and we, like everybody else, are bound by concepts such as *habeas corpus*. So re-offending is something that we would always lobby the court on and that is one of the things that judges will consider when deciding whether to bail or not.

Q21 Mr Winnick: The main stumbling block presumably in not being able to get rid of them from the UK is simply that their home country will not accept them. Is that the position?

Ms Homer: It is sometimes that they are utilising the judicial appeal system. Our Minister has gone on record, and been rather criticised for complaining about lawyers who sometimes test the system. I would have to say there are some nationalities that are quite adept at using their appeal rights in stages, so they do not necessarily frustrate our system but they delay it. Then—you are right—there are other countries where we find it very difficult to establish returns. I have to say we do not take no for an answer, and we have now returned 26 people to the DRC this year and that is a real breakthrough for us because that means we can signal to the other DRC FNPs that there is now a route open and more, we believe, will then go home with greater ease. We sent 26 back to Somalia this year. That is a great breakthrough for us and not something we have achieved in any number before this year. So we do not take no for an answer but we have to establish a route, and the courts have to be sure that it is safe.

Q22 Mr Winnick: You see, Ms Homer, recognising some of the problems that you mention, but there are indeed many people of all kinds resident in this country, in Britain, so we have enough criminals as it is, yet we have foreign people who have been convicted, who have no right to stay in the United Kingdom—they have been tried, found guilty, served their sentence—why, for heaven’s sake, can we not get rid of them promptly? Inevitably, it is very difficult for those of us who are politicians to give an

answer which satisfies public opinion. Do you recognise that and, if you do, can more effort be made to get rid of such people?

Ms Homer: Yes, I think it is frustrating for the public, I think it is frustrating for us and what I would say is it is one of the reasons why we put significant effort into re-establishing relationships with other countries that allow us to do returns. We are working with Nigeria on a prison transfer arrangement that will be involuntary. We have established much greater numbers of returns to Jamaica. We are, as I have described, now returning to DRC, Somalia and Algeria. All of those are great breakthroughs and will help us return some serious criminals to countries where we have not been able to do so before and I think that is exactly what the public would expect of us.

Q23 Mr Clappison: You have mentioned at length the problems that you have in returning people to some countries and the successes you have had on occasions in getting countries to accept people. Can you tell us, are there other reasons why somebody who you want to deport is allowed to stay in this country by the courts?

Ms Homer: Yes.

Q24 Mr Clappison: Can you tell us what they are, please?

Ms Homer: I think you probably know some of these as well as I do. There is a right to appeal against our decision on deportation for the old cases, and claims that will be made which I think you will recognise will include an argument that it frustrates human rights or that there is a long residency so that the individual has in effect become a home-grown criminal. We have had cases of people who arrived here as young people, perhaps committing a serious crime many years after—in one case 35 years after arrival—and the courts will conclude in some of those cases that although that person may not have formalised their right to stay, they have become *de facto* someone with permanent residence. Those are two of the main ones.

Q25 Mr Clappison: Are you able to give us any idea of the numbers of such cases or the proportion of them?

Ms Homer: I think I have given you proportions before where I have told you that I think in the main we achieve deportations in around 70% of cases. It is very early days for me to tell whether the new procedures will alter those proportions. I will happily keep my eye on that.

Q26 Mr Clappison: The cases which are taken to the courts and you do not get what you want in the courts, can you give us an idea of how many cases there are like that and how many of those are attributed by the factors that you have just described?

Ms Homer: That will be the 70–30 split. We very rarely concede a deportation other than if it is lost via the court.

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Q27 Mr Clappison: Can you give us a number—30% of what?

Ms Homer: Last year I deported 5,400. This year our target is higher than that. It is 5,800.

Q28 Mr Clappison: How many people received a right to stay in this country as a result of the factors which you have just described?

Ms Homer: I am very happy to write to you and give you that detail. I think it would be silly of me to guess. When I have shared those figures with you before and if you look at the 1013 cohort, it has been roughly in the 70–30 range. I have not looked at them in terms of breaking them down into what rights and, to be honest, I am not entirely sure that judges' decisions will allow us to readily break it up into those areas but I can certainly put in slightly more detail the reasons why judges are allowing appeals.

Q29 Mr Clappison: Can I ask you one other question on this point? You mentioned the 5,400 foreign criminals. How many foreign criminals were eligible for deportation in the same period? The figure does not mean very much unless we know how many were actually eligible for deportation.

Ms Homer: It is quite hard for me to work that out on a timescale. During last year we will have had a certain number of cases that we will have lost on appeal and that is the figure I just agreed to give you. If you add that figure to the 5,400, they will not all have accrued in 2008 because some of them will be appeals from earlier years. The problem for me is defining it into timescales but if I give you the figure for appeals, that will cover more than one year, and there will be some appeals from 2008 that will be decided in 2009. So, apologies; it is quite hard to keep the cohorts together.

Chairman: We now turn to one of the favourite subjects of this Committee, the backlog.

Q30 Ms Buck: Can I ask you first of all about the precise figures for the current backlog? We understood in 2006, when this latest legacy scheme was announced, that there were estimated to be between 400,000 and 450,000 cases. You have kindly given us a figure of 197,500 that were completed. That of course includes a high proportion of around 47% that were believed to be duplicates or in error. Can you tell us how many cases are currently in the backlog and, of those, how many have you projected of those will also be duplicates and errors? So how many actual people or cases are still in the backlog?

Ms Homer: We took a decision when we started the CRD work to work through the cases and report to you the work that we had done rather than spend a lot of time analysing what we had got before we started work, so I cannot tell you any more than we did at the beginning about the cases that were there. We said 400,000 to 450,000. I think we said at the beginning that we were confident a large number of those would be duplicate cases or cases already resolved and, as we report the numbers concluded to you, we are dropping those into those pipelines. I would have to say we have not spent a lot of our

resource doing one quick look at each case before working them, so I have no better information than when we started about how many of those will turn out to have been real cases versus duplicates or administrative errors.

Q31 Ms Buck: I think part of the problem with this is that, if you had a figure which was plus or minus 50,000 when the legacy scheme began, and you are giving us an indication of how many have actually been processed to now, on those figure, what it looks like is that you have dealt with 200,000 cases since 2006 over three years.

Ms Homer: Yes.

Q32 Ms Buck: You are projecting to complete the task by 2011.

Ms Homer: Yes.

Q33 Ms Buck: That looks to me as if you have something like potentially up to 250,000 cases that you have to do in two years when you have only managed 197,000 in the last three. Is that right?

Ms Homer: Yes, but I think if you look at the ramping up of how we have done those cases, what we can show you is that we had a period of setting up, creating the teams, determining the processes, and that in the last six to nine months we have been steadily moving the number we deal with each month up, and it has been sustained now for quite a long time at the 9,000–10,000 a month number. That is what gives us confidence if we go forward that, even if our most extreme projection were right, we can do this within the timescale that we set.

Q34 Ms Buck: When the Committee went to Croydon—and I was not able to go—obviously, one of the messages that was given to Committee members was that that outstanding backlog, which is now between 200,000 and 250,000, could be dealt with through extending hours or increasing the capacity to deal with it. I wonder, have you actually made any representations yourself as to what resources might be necessary if you were to be able to clear that backlog inside, say, 12 months?

Ms Homer: The Permanent Secretary, and indeed the previous Home Secretary, have both asked us to look at the capacity to speed up, and indeed, we are putting in place a project that will bring on stream another tranche of temporary caseworkers because, obviously, at the end of the CRD work we will have an ability to drop down to lower numbers. We are bringing that on stream now and I would be very happy to give you an estimate at a future point, once we have got that up and running, of what we think that might do to the date. I am under no illusions. Both we and everybody else would like us to do it sooner than 2011 if we can achieve that.

Q35 Ms Buck: Do you have any sense of the maximum length of time that an applicant will have spent in this country without status who is currently in backlog?

Ms Homer: There are cases in the backlog undecided who already have nine years' residence in the UK.

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Ms Buck: Nine years?

Q36 Chairman: They have been waiting for a decision for nine years?

Ms Homer: No, they have had many decisions over that period. They may have been told five or six times that they will not be given status but they do not accept that and they lodge another appeal. We have not come across any cohorts where not even an initial decision was taken but what you have is a situation where—and indeed, I attended a local event to talk to some of them myself. The issue is that they do not accept the decision we have given and they appeal and challenge that on multiple occasions.

Q37 Ms Buck: I deal with a very significant number of people in various successive legacy processes. My office have told me that they believe we have cases in the legacy process who first arrived in 1992. Do you think that might be so?

Ms Homer: I would be happy to talk to them. I have not myself seen a case of that duration but I would not want to deny that if that is what your caseworkers have said.

Q38 Ms Buck: Is it not then the case—and you made the point in respect of the foreign prisoners—that if someone has a case outstanding and has been here, let us say, for nine years even, the chances are, if they are still in that legacy queue, that they will be able to make a successful application on the grounds that they of course will also have established a family life, in many cases have had children, and therefore all of this kind of logic that has built up to having these legacy reviews is undermined by the fact that keeping people in a system for nine years, 10 years, 15 years, will mean that they become *de facto* British?

Ms Homer: I think that is exactly why we took this work programme forward on the basis of establishing the new asylum model for new cases whilst we dealt with these cases that had not been properly concluded. It is not acceptable to take decisions on cases and not implement them. I have no disagreement at all with you about that. Our two-pronged system in a sense is exactly designed to deal with that, and in our new cases an increasing number of them are decided within six months, and even those that we do not manage to do within six months we are very clear we have to do so in a much more timely fashion than was historically done. With the old cases—it was when John Reid was Home Secretary—we set out a broad proposal to Parliament about how we would deal with those cases. There is an inability to do every single case first, so you have to have some system of prioritisation. We set that out to Parliament. Guided, I have to say, by feedback from people like yourselves we have altered those priorities to a degree, particularly to bring in representations from MPs on exceptional grounds and so we now try to look at that. To be honest, we probably would look at the '82 case, and we would like to conclude them as soon as we can.

Q39 Ms Buck: Do not start me on exceptional grounds! Can I just ask about financial element? *The Economist* quoted a figure of £600 million in the last year for the total cost of support for people who are in that legacy queue. Is that a figure that you recognise?

Ms Homer: That is a figure from the NAO Report, I think. I do not have that with me but it was not just for support; it was for running the legacy system as well. A very substantial proportion of that is for asylum support and what the NAO rightly told us is that we must have a mind to concluding cases which cost us money as well as concluding cases within target times. So guided by that, I have to say, although we remain very focused on our 60% and 75% target times, we are also, in new asylum cases as well as old, trying to take into account the cost to the public purse of concluding old cases.

Q40 Ms Buck: Just on that point, between the 2006 announcement of the latest legacy process and to date, we have spent close to £2 billion on that NAO figure, and with another £1.2 billion projected effectively until 2011. Is it not the case that an argument could be better put to the Treasury in order to say that it would be in the public financial interest to speed up this legacy process?

Ms Homer: One of our priorities was to focus on supported cases and we have brought down the cost of supported cases—

Q41 Ms Buck: I am sorry. Can you answer Ms Buck's question? She has put a specific question about the case to the Treasury.

Ms Homer: I was trying to, Chairman. Sorry if I was not doing it directly. We believe, in agreement with the Treasury, that we are focusing on the supported cases and there is a cost case for looking at those first. It is one of the reasons why some of the people we have referred to who have been waiting nine years have been waiting nine years, because they are not supported, and so we have put dealing with the cases that cost the public purse ahead of dealing with the cases that do not.

Q42 Chairman: Have you asked for more money from the Treasury to clear the backlog? What this Committee was told by your senior officials—you were of course not there—was that if they were given the resources, they would be able to clear the backlog in a year, a backlog that is costing the taxpayer £650 million. Have you asked the Treasury? I am not interested in agreements with Treasury. Has the Home Office asked the Treasury for additional finance to clear the backlog—yes or no?

Ms Homer: We have asked for and received additional money from the Treasury in the time that I have been in the Department, and we have, you know, increased substantially the amount of money that we spend on the old cases. The CRD team did not exist before we started so—

Q43 Chairman: I asked about clearing the backlog, Ms Homer, not maintaining it.

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Ms Homer: No, we are clearing it. Chairman, the progress we are making in the CRD cases is formidable, I think, and the entirety of the team—part of that £600 million cost you referred to is the cost of the team to clear the backlog.

Q44 Mr Clappison: I have one or two avenues to pursue arising from that, Mr Chairman. One of the striking things about this exercise is the state of the records which it reveals and the number of errors there were in what are counted as cases. They turn out to be errors or duplicates, mostly errors, some duplicates, some EU citizens. Of the cases which have been determined which actually involve real people who are in the process, by about a majority of two to one, they have been granted the right to remain in the country. Can you tell us, as you are going through the process, do you anticipate that the outstanding balance of 200,000 and 250,000 cases which are left to be determined involve real people, or will we see the same number of errors and duplicates in that?

Ms Homer: As I said earlier, we expect to continue to see some of each of the sorts you have seen so far. Whether the proportions will be exactly the same is difficult for us to tell. You are right; our data systems historically were not up to the task, and that is one of the reasons why one of the other things we are spending money on is our new integrated casework system so that caseworkers have the tools to do the job.

Q45 Mr Clappison: You told the Chairman in response to questions earlier on that you have been dealing not just with people whose cases were outstanding and that they had not been considered as to whether or not they were eligible for asylum, but you have been dealing with cases of people who made asylum claims and had them rejected, and in some cases I think you said had been rejected and appealed and rejected again.

Ms Homer: Yes.

Q46 Mr Clappison: Can you give us some idea of the number of people who have been granted asylum who fall into that category, who have had a claim already rejected?

Ms Homer: I cannot give you absolute numbers, Mr Clappison, but it will be a significant number of the people who are in the older cases who will have had a refusal at some point.

Q47 Mr Clappison: Would it be the majority?

Ms Homer: Yes, I think it would.

Q48 Mr Clappison: So we are talking about at least 30,000 people who have had their cases already rejected who have been given the right to remain in this country as a result of this process?

Ms Homer: No, not necessarily. What I said to you is I cannot give you an exact number but it will be a significant number.

Q49 Mr Clappison: If it is a majority, a majority of 62,000 would be over 30,000, would it not?

Ms Homer: I cannot give you a number but I am content to tell you that—

Q50 Mr Clappison: If it is a majority of 62,000, it is over 30,000.

Ms Homer: No, because of those grants, only 34,000 were main applicants; the rest were children and they may well not have been asylum applicants in their own right. So it is likely to be a majority of a smaller number, and it goes to the point Ms Buck made earlier that if significant time elapsed in determining those cases, the circumstances of those families will change, and you know that courts will take significant account, and should, of a situation where we may have not decided a case for many years and children have become established in this country.

Q51 Mr Clappison: Yes, I understand that, but the point I wanted to put you is this, and it goes to what you have just said: you are not really creating much of an incentive for people to comply with the rules and leave the country when their claim has been rejected, and on appeal rejected, if they can wait and then have their appeal accepted and given the right to remain in the country as a result of a process such as this, which most people would regard as being an amnesty, and it is not the first one we have had in recent years.

Ms Homer: That is why the Case Resolution Directorate work was essentially put in train parallel to the work on the new asylum model, and it is why it is so essential that we continue to be successful in determining new cases within six months, because that way round people do not have the chance to accrue rights by delay rather than by their circumstances.

Q52 Mr Clappison: Can I ask a little bit about the new model in that case, because we used to hear a lot about the tipping point and we have not perhaps heard so much about it recently. This is the number of removals exceeding the number of unfounded cases, to put it with a broad brush, which was set as a target going back to 2004. Have you been achieving the tipping point in recent times?

Ms Homer: We have not achieved the tipping point in 2008 and our last published statistics show that. That is in part because we widened and altered our priorities to place our highest priority on foreign national prisoners, and then to ensure we removed a significant number of failed asylum seekers, but also to ensure that we focused on illegal working as well because the belief was that our duty to protect the public needed us to focus on all three of those areas. We still returned, I think, from memory—I do not have the stats in front of me—around 13,000 failed asylum seekers last year against an unfounded intake of about 17,000. So it is a significant proportion of those who make unfounded claims and our intention is to continue seeking to keep those figures more or less in balance.

Q53 Mr Clappison: I think the same thing happened in 2007; you did not make it in that year either.

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Ms Homer: That is right.

Q54 Mr Clappison: So do we have a new backlog which is growing?

Ms Homer: No, because the commitment is to conclude cases, and so the question about whether we do them in one period or another is less important. The point is that a case owner will own a case until it is concluded and, that being the case, we will keep actively pursuing removal of those failed asylum seekers that we have not yet removed.

Q55 Mr Clappison: What is your definition of a backlog for current purposes?

Ms Homer: The CRD cases that we are talking about, the 400,000–450,000—

Q56 Mr Clappison: No, no, I mean what has been happening since then? This all happened about four Home Secretaries ago in 2006. I want to know what has happened since 2006 and whether we have more people joining the queue since then waiting for the bus to come along, as it were.

Ms Homer: I do not think so. The difference between the historical picture and now is that when a case owner takes responsibility for a case, whether it is an asylum case or a non-asylum case, they are obliged to continue working that case to conclusion. They no longer have the option of placing it in a warehouse in Croydon when they have done their part of the process, and that is what is different now compared to the past. As earlier questions from the Chairman and others have indicated, there are cases that it takes us many years to resolve—I am not going to pretend otherwise to you—but in the December cohort of the new cases, 60% of our cases were now concluded within six months. We are the only people I think anywhere in the world even setting a target for concluding cases, let alone achieving that level. So I think the progress we have made is really significant but some cases will still take us years to remove.

Q57 Mr Clappison: I am just wondering whether you can give us any figures on this.

Ms Homer: The remaining CRD cases include a number that we will seek to remove because they are failed asylum seekers, and those cases decided out of time have to be removed.

Q58 Mr Clappison: Putting the 450,000 to one side, you are saying there is not another backlog developing now?

Ms Homer: There is not another set of cases which are not being worked on. You asked me for a definition of backlog, and my definition of that is when the business wholly improperly takes the view that a case which is unfinished will be put over there and someone else can deal with it. In our system some cases are taking longer than others but those cases are owned and they are being worked on.

Q59 Mr Clappison: We may come back to this later.
Ms Homer: I am sure we will.

Q60 Ms Buck: Can you clarify for me: my understanding is that the backlog that we are discussing here would also include a significant number of people who were quite legitimately given leave to remain which has since expired, so it would be misleading to claim that everybody in that backlog is a failed asylum seeker.

Ms Homer: The majority are failed asylum seekers but you are right; they will not all be, and some will have acquired another right. So we will not simply have said, “Oh blow, we will let you through now.” They may have married a British citizen, for instance. There are all sorts of reasons why they might be entitled to status but it would be fair to say for a number of them that, in a sense, with the elapsing of time, our failure to consider them promptly has caused a greater right to occur.

Q61 David Davies: Ms Homer, there are 7,050 untraceable cases and you have mentioned a figure of 200 foreign nationals, of whom 64 meet the deportation criteria. I am not sure if that was part of the 7,050 or not but, either way, how hard are you actually looking for them? When you talk about working with your partner agencies, do you regularly check their national insurance numbers against tax credit records with HMRC?

Ms Homer: Yes.

Q62 David Davies: I am sorry. I will just fire a few at you. Do you regularly check their national insurance numbers against income tax records?

Ms Homer: Yes. In the CRD cases, I think—

David Davies: Hang on a moment. I have some more. Sorry. There are a few more supplementaries.

Q63 Chairman: Can we just do yes or no?

Ms Homer: Yes, we do, 12 databases.

Q64 David Davies: How often do you check them?

Ms Homer: The cases that we are not tracing we check every three months.

Q65 David Davies: What about against council tax benefits, housing benefits, local authority databases?

Ms Homer: I think we do. I am afraid I cannot remember all 12 off the top of my head so if I am wrong about that, I will let the Committee know. We check any databases we can get access to, including privately owned.

Q66 David Davies: Are there any public bodies which do not give you access automatically?

Ms Homer: I do not think we have had any blockages to data.

Q67 David Davies: DSS?

Ms Homer: Jobcentre Plus. That is national insurance numbers, yes.

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Q68 David Davies: I do not know about you but I find it hard to believe that these people have just disappeared. They will either be working or claiming benefits or both.

Ms Homer: I think that is right. They will not disappear off the face of the globe, will they? There are several possibilities.

Q69 David Davies: They are not all living rough, are they, in the woods? They are in housing, they are probably working, and they are quite possibly claiming benefits as well as working. There ought to be some official record of them somewhere. Obviously, some of them might be working for cash in hand but, actually, that is not as easy to do as it has been so the chances are there is an official record of where these people are somewhere.

Ms Homer: We think that some of them will have gone home and, obviously, one of the reasons e-Borders is so important is that we will in future know. We also think some of them will have changed identity and, of course, we now stop that because we take biometrics but with an old case, if someone gave us a name—and this is one of the reasons why we think there are not more people. We may have more than one case file relating to one person. They may have status under another name.

Q70 David Davies: How many of the people that you currently have in detention are of unknown nationality? How many are refusing to give you a nationality?

Ms Homer: Very few refuse to give us a nationality. We believe more give us the wrong nationality.

Q71 David Davies: How many do you think are giving you the wrong nationality?

Ms Homer: It is an unknown unknown, is it not? We are doing things like language testing to try; we have some court cases challenging nationality.

Q72 David Davies: How many people have disappeared after being given bail by the Asylum and Immigration Tribunal?

Ms Homer: It is quite difficult to tell but we think there may be as many as 20–25%.

Q73 David Davies: I just want to question you again on that because I would have thought that that is not an unknown unknown. If somebody has been given bail, there will be a record of it. If they have not met their conditions, there will be a record of it, will there not?

Ms Homer: They will not all have conditions. The AIT does not always—

Q74 David Davies: All right but you must know how many—

Ms Homer: That is why I am saying we think it is in the region of 20–25%.

Q75 David Davies: When you do an involuntary prisoner transfer, to what would generally speaking be a Third World country, do you have to in any cases give any money to the governments of those countries in order to facilitate those transfers?

Ms Homer: We are prepared to because involuntary prisoner transfers are—

Q76 David Davies: But do you?

Ms Homer: We are in negotiation with Nigeria to help them establish better prison conditions in Nigeria.

Q77 David Davies: So basically, pay although this is sold to the public is being “We are going to remove prisoners from British prisons which are costing the taxpayer and send them back to Nigeria” or wherever, in actual fact, you are paying those Third World countries to give them comparable standards of prison accommodation, are you not, because there is human rights legislation about it?

Ms Homer: It is not about comparable standards. It is about helping them generate an infrastructure that can cope with—

Q78 David Davies: You are not a politician and I am not blaming you for this at all but this is sold to the public as being “We are saving you money, members of the general public, because we are sending these foreign prisoners back to Africa” or somewhere but in actual fact the Government is paying those governments to look after those prisoners to a higher standard than they would otherwise get. Is that right?

Ms Homer: No, they are certainly not going back to separate prisons. We are helping—

Q79 David Davies: You understand what I am saying and I am right, am I not? The Government is paying—

Ms Homer: I do not think you are actually.

Q80 Chairman: Can we just let the witness answer.

Ms Homer: We are definitely saving the public money.

Q81 David Davies: Are you giving money to Third World countries to take their prisoners?

Ms Homer: We are definitely saving the public money. I have said we are prepared to invest. We have a returns and reintegration approach where we are prepared to invest if that will enable us to send people back earlier.

Q82 David Davies: Have you done so?

Ms Homer: We have not yet. We are in talks with Nigeria and it would be well worth the money to do so.

Q83 David Davies: Is it difficult to deport people back to China?

Ms Homer: It is getting better. The Chinese make up more failed asylum seekers than foreign national prisoners. We have a new memorandum of understanding with China which produces a bigger number of documents and, most importantly, more quickly, so it is getting better. I would like to see it better still.

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Q84 David Davies: Would you be willing to let myself and any other representative of this Committee who is interested come in and talk to whoever it is that works with partner agencies to find failed asylum seekers and get specifics as to what checks are made, how often, with whom and who is causing difficulties?

Ms Homer: If the Chairman would like you to have a visit, I would be happy to organise that. I think it might be useful.

Chairman: Thank you very much. It would be very helpful if that could be facilitated.

Q85 Mr Streeter: Is just turning to MPs' representations to your organisation, we were told by the Minister for Identity, if there is such a person, that the UKBA was only responding to 60% of MPs' representations in 20 days although the target is 95%. Can you explain why that is and what is the current figure, if you happen to know?

Ms Homer: We are hitting the 20 day target for MPs' correspondence in about 78% of cases and would like to be nearer the target of 95%. I think it is a very important target but we do struggle and we are trying to keep a balance, if I am honest, between pace and quality. I think, Chairman, you amongst others have commented that they need not only to be timely but they need to answer the questions that are asked of them. So we are concentrating on quality as well speed, and have sustained around 80% now for the last two years. So I think the figure Meg Hillier quoted is slightly on the low side.

Q86 Mr Streeter: Hand on heart, do you think the whole MP route is a slight inconvenience to you or do you think it is significant? Obviously, people have applied on their own, by and large, many of them have lawyers—do you wish, in a sense, that they did not come to MPs and do you wish you did not get MPs' letters? Is it an irritation to you?

Ms Homer: It is not an irritation but it is a lot of work. We got 55,000 MPs' letters last year and that is a lot. I feel we should give a good quality reply to each of those and, indeed, I sign a fairly significant number myself, which is useful to see the range and the nature of replies. I would prefer that more of our cases were being dealt with directly with the applicant, and I think it is unusual for a public service like our own for so much of the interaction to go through MPs. I think that is indicative of our historical under-performance and my hope would be, as more and more of our work is done in service standards, that MPs might ask before they wrote whether it was outside service standard. If I could, I would like to encourage you all to intervene in cases when they were outside service standard and not as a matter of course. That would seem to me good for us and good for you but I think it is your choice and whilst you write to us, we will do our best to answer both promptly and well.

Q87 Mr Streeter: The implementation of account managers for MPs—is that going to significantly improve the response times, do you think?

Ms Homer: We hope so. We have trialled this project. We have done a lot of talking with MPs over the last couple of years to try and work out the best way to go forward. We have had a number of staff visit constituency offices to talk to the caseworkers who do this work. We have effectively trialled the account manager approach with a number of MPs from across the three main parties and I think those MPs have given us good feedback but it has helped identify the cases they do want to pursue, it has helped them work out what information most helps us to reply. So we are hopeful that it will make a difference and we have further dates to meet MPs in the autumn.

Chairman: We will return to this subject little later.

Q88 Patrick Mercer: As you know, there was a debate very recently on identity cards. In fact, I think it was yesterday. Do you agree that the pace at which identity cards can be implemented is restricted to the speed at which applicants can be interviewed and their biometrics collected?

Ms Homer: Yes.

Q89 Patrick Mercer: Following the Home Secretary's announcement that the introduction of identity cards will be accelerated, can we take it that you intend to implement more biometric collection points and appoint more interviewers?

Ms Homer: Yes. We had a phased roll-out planned for identity cards for foreign nationals in any event, and our current plans would have all non-EEA foreigners coming to the UK for more than six months having a card within three years. So we had already planned to expand our centres for enrolling biometrics over time, and we are now looking at the question of the extent to which we can speed that up. We have eight centres; we have three more planned. There is a question not only of geographical access but there is a very seasonal nature to some of the applications, so one also needs to ensure that you can cope with surge requirements—students, for instance, all apply at the last minute. I have three of my own and they leave everything to the last minute, so we always have an autumn surge.

Q90 Patrick Mercer: Are you being given any extra funding to deal with that?

Ms Homer: We had a roll-out planned for this project anyway and the question is looking at how we can use that money and which years it falls into. We do not think that the project is going to cost any more. The question is about, in a sense, whether we spend the money in a shorter period. That is what we are looking at at the moment.

Q91 Patrick Mercer: The Home Secretary has asked the UK Border Agency to review the implementation of so far compulsory identity cards for foreign nationals. What is your assessment of the success of that scheme?

Ms Homer: I think it is a really important part of what we are doing, for us from an enforcement side. Once the majority of foreign nationals in this country have an identity card, we can expect a much

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higher standard from employers in terms of employing illegal people. The reaction from foreign nationals entitled to a card has been good too because it helps them prove their status, and the reaction from the organisations we have worked with in the first stage, colleges, has also been good. So I think it is pivotal in our work to control the border and protect people.

Q92 Patrick Mercer: Just summarise the progress so far on this.

Ms Homer: We have issued 50,000 cards so far. We only started a few months ago. Our plan was in any event to ramp up over three years. If we can manage to do it sooner, I would be very pleased with that. It would be good for us.

Q93 Mr Clappison: On identity cards, how many people do you need to sign up to identity cards generally for them to reach a break-even point, to be viable?

Ms Homer: You mean in terms of the investment?

Q94 Mr Clappison: Yes.

Ms Homer: Our business plan is based on an assumption that, in the end, there will be several hundred thousand per year applying and, as I say, the business case was predicated on a three-year roll-out, so we break even over that three-year period. The cost of running the system is charged by fee, as you know.

Q95 Chairman: On the Home Office website one of the six key reasons for having the identity card scheme is to deal with and tackle illegal immigration.

Ms Homer: Yes.

Q96 Chairman: How many people in this country as illegal immigrants do you think will apply for an identity card?

Ms Homer: The illegal immigrants will not apply, will they, as you well know, Chairman but what it means is that under our civil penalty scheme against employers, it is legitimate for an employer as a defence to say that they looked at documents, but we do not expect them all to be document forgery experts. Once most of them have a card, the absence of a card will be a significant issue for employers. That is the way it will help us drive illegal working down. If we charge £10,000 each time we find an illegal worker in your factory, that hits your bottom line. It is a very important enforcement approach.

Q97 Chairman: Nobody is actually going to apply, are they, if they are illegally in the country?

Ms Homer: And I hope as a consequence they will not get work.

Q98 Mrs Dean: Who in the UKBA is in charge of the e-Borders programme?

Ms Homer: My Director of Border Force, Brodie Clark, is the SRO for e-Borders and he has a Programme Manager, Julie Gillis, who manages the programme on a day-to-day basis.

Q99 Mrs Dean: Has Mr Clark been in charge all through the programme so far, including the pilot, the Semaphore programme?

Ms Homer: Most of it. I acted as SRO myself the first year I arrived in the job because I wanted to test the scope and the approach of the project, as it was then, and we re-scoped and focused it considerably but after about 12 months I then placed Brodie in that position. He was involved prior to that but under my SRO.

Q100 Mrs Dean: Was he involved with the pilot, the Semaphore programme?

Ms Homer: Yes.

Q101 Mrs Dean: The chartered airlines told us that the lessons learned from Semaphore have not been fed into the system developed by the final contractor. Was the contractor required to take into account the outcomes of Semaphore and industry standards and practice when developing the system or was the contractor left to produce whatever system it thought appropriate?

Ms Homer: No, the contract does require them to learn from the pilot and many aspects of the pilot have really formed the shape of the new system, so I think it was a very serious way of de-risking the major project to run both a substantial and a fairly lengthy pilot and it is absolutely the bedrock on which the new system is built.

Q102 Mrs Dean: Both you and the airlines have explained to us that delays have meant that roll-out is unable to take place over 14 months as originally intended. That does not explain however why it has to start now, in peak holiday season. Would it not have been sensible to delay it a few months more?

Ms Homer: We have worked very closely with the carriers to ensure that we take account of their feedback and the business issues, and we are not rolling out over the peak period. What it did mean is that we did end up concentrating the first phase of roll-out into a shorter period than we otherwise would have, and I think we were keen not to delay roll-out further because it is such an important programme in our overall responsibility. The major carriers who have been involved in the first phase I think would say, if they were here and you were listening to them, that they feel they have influenced what we have done, how we have done it and how we have gone forward. I think we have accommodated what they needed us to to make this first phase safe. I do understand the concerns of the people you heard last week but what I would say is I think some of those concerns are more heightened when you are thinking about this than the 100 routes that already are covered with carriers. I think you would find even some of the demanding and challenging clients in that field would say that they have worked well with us and that we have listened and worked well with them.

Q103 Mrs Dean: We have been informed that UKBA officials told the European Commission that passengers would be allowed to refuse to provide

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data and carriers would not be penalised in these circumstances. Is the provision of data compulsory or not?

Ms Homer: There is some compulsory data that must be provided to travel. You have to show your passport; your passport has to have its details. The essential element of e-Borders is, in a way, collecting that data which has always been given to carriers and us in a different way and earlier to enable us to use it better. We are not requiring carriers to collect data and give it to us that they are not otherwise collecting. So we are not asking them to refuse people because they have not filled in a field that might be useful to us but is not obligatory. I think it is quite a misconception of e-Borders that it is a whole load of new obligations. In many ways it is a disciplining and a reorganisation of the existing obligations in a way that makes it much safer for the country, and actually for the passenger, because they are pre-checked effectively as they go. But we are not going to be turning people back because they have not filled in a form. They will be giving their carriers information, the carriers will be giving that to us, and we will be doing something with it. On the 100 routes that have been trialled through Semaphore, we do not think passengers would know that anything has changed. It has been made safer without affecting them.

Q104 Mrs Dean: Do you have any concerns at all at the roll-out?

Ms Homer: I think this is a long programme and I am sure we are going to have to make some changes and learn as we go along but I think with our experience through Semaphore and, I have to say, our experience of working with the industry, we believe that we can make this work and we do really honestly believe that it will work well for the country but that it will work well for the passenger as well. I think companies like Easyjet and Virgin are building it into the way they are modernising their systems, so we all arrive at airports and talk to machines nowadays, and we are making use of those systems to give us information that can help us protect the country.

Q105 Mr Streeter: Just a quick question. I am slightly surprised to hear you say that you think the airlines would say that you have worked well together, because in the evidence we heard last week or the week before we did not really get that impression at all, but that they feel really there has been a long period of consultation but UKBA has not really listened to the points from the airlines and it has caused significant delays in some of their routes. Have you seen a note of the evidence?

Ms Homer: I have. It is the nature of these interactions that you were talking with a limited number of people, and I think some of those on routes where they are further down the chain and, as I said, I think the anxiety levels are higher and we understand that. I think for maritime and rail there are some real challenges but I think we have time to address those.

Q106 Mr Streeter: You think the airlines are happy?

Ms Homer: I do not think they have been happy with us every step of the way but I do think they would say that we have come to the table, we have listened, we have made changes. We meet with them regularly, including myself, not just Brodie. The Minister and I went to an Association meeting not that long ago. We have tried very hard to make this a consultative process. What I said was I think they would say we have been involved with them and working well with them. I am not going to say they are happy with us all of the time.

Q107 Chairman: Mr Streeter is just expressing the views that the airlines have put to us. They are not happy. I know that you had a representative sitting in the evidence session and as soon as the evidence session was completed, somebody wrote to me. You wrote to me.

Ms Homer: I wrote to you.

Q108 Chairman: So you are well aware of what the evidence was and I am grateful that you have such extensive intelligence gathering that you are able to write so quickly after a Home Affairs session did not have you as a witness. Virgin Airlines has now written to the Committee expressing grave concerns about the way in which the Border Agency has been conducting their issues. They would not understand your reply to Mr Streeter. They are very unhappy.

Ms Homer: I have met with Virgin on a number of occasions. They have not written to me recently. If they do, I would be happy to meet them again.

Q109 Chairman: They have written to us and we will send you a copy of the letter.

Ms Homer: I am very grateful.

Q110 Gwyn Prosser: Ms Homer, we have just talked about the letter you sent to the Select Committee and I have to say to you that the contents of that letter and the evidence you have just given are at complete variance with the evidence we received last week. You were trying to reduce that evidence to a few individuals. We talked to the Chamber of Shipping, which represents all of the ferry companies; we talked to the Operational Manager for Dover Harbour Board, the biggest ferry port in the world; and their evidence I think was totally credible. The Chamber said that there is still, after all these years of discussions, no credible, practical method of data collection and therefore there is no prospect of rolling it out next year on the ferry services. Dover Harbour Board talked about broken promises, unclear definitions, questionable legal issues and they said regarding the vehicle-centric model, it neither addresses nor overcomes the immediate practical problems of how ferry operators will capture the data without causing intolerable disruption at the ports.

Ms Homer: I certainly was not seeking to sweep their concerns away. What I said is that I think there are higher concerns from those methods of transport that are further down in the roll-out of our programme, and I think there are challenges for maritime and for rail, but we are doing something because it has

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become clear in recent years that modes of transport are mechanisms by which real risk can be generated for the country, and we are seeking to enhance the protection both against immigration risk but also against other risks.

Q111 Gwyn Prosser: We know why the system is coming into place, and certainly I support the whole principle of it. Over the years I have lived in Dover, 30 years, and the 12 years I have been the MP for Dover, I have worked closely with the Harbour Board, for instance, and they have gone through any number of changes, which you will know about, in terms of immigration, of customs, of structures, of systems, and they have always worked constructively. There have been pinch points but I have never known the situation I have seen today, whereby my friends at the Harbour Board are telling me this is a complete disaster and the Chief Executive of UK Border Agency is telling me everything is going to be all right. I have never seen such a disparity.

Ms Homer: We clearly need to spend more time with them. What I want to reassure you is that we have been spending time with carriers. We have overcome, we believe, the challenges that carriers have faced, and we have accommodated some of those, but I think it is important that maritime and rail does move forward into this scheme. We will keep talking to them. We are not trying to blank their concerns. I do believe that there are ways in which we can find routes through this. This is me reassuring you that we would want to work with them, not to deny them. I would have to say I do not think it would be fair to my team to say that they have not been doing that.

Q112 Gwyn Prosser: You have told us that the Maritime Working Group was only set up last week or the week before and you want the whole thing up and running by next year.

Ms Homer: We have 14 months and we will look very carefully at that but I think it would be wrong to suggest at this point that we have a need here and now to delay that phase of e-Borders further. We will work with them and, if there is a point where their concerns persuade us and the Government that that phasing should be looked at again, as we did with the airline industry, we will keep having conversations.

Q113 Gwyn Prosser: What about the legal issues? They say lots of the data collection could be challenged as illegal and the Home Office have been in error in the past in giving advice to the ferry operators.

Ms Homer: Yes. We have done a lot of talking with the European Commission. When the Bill first went through—

Q114 Gwyn Prosser: Why do you not share the evidence you get back, which you say supports the legal situation, with the carriers?

Ms Homer: We will, and we have.

Q115 Gwyn Prosser: No, you have not, according to the information we have.

Ms Homer: When the Bill went through, there was a great deal of discussion with the Commission and everything was agreed at that stage. What has happened more recently, and this is work in progress, is that some of the people that you had before you last week have raised issues with the Commission, the Commission have asked us some questions, we have answered those questions, and we and the industries are currently waiting to hear back from the Commission, but we are confident that these are all things that we have previously discussed with them, and that is why we are confident that there are not the blockages that the individuals think.

Q116 Gwyn Prosser: You know what happens in Dover in particular when there is any delay at the port, whether it is bad weather or strikes in France: the port stops. That is one thing, but the whole of Kent comes to a freezing halt and Operation Stack comes in.

Ms Homer: Yes.

Q117 Gwyn Prosser: Have you had any discussions with the Department of Transport about the implications of bringing in a system which, on the face of it, is going to cause more disruptions?

Ms Homer: The Department of Transport have been involved in e-Borders from the very early days but I would reassure you that we are not planning to bring in a system that would require Kent to operate Operation Stack as a regular occurrence. We will work with the industry to find a way of making this system work positively for them. We are not aiming to bring in a system that creates motorway queuing.

Q118 Gwyn Prosser: What about the system on Eurostar and juxtaposed controls? How will the system work there? You talk about discussions and communications and consultation. Eurostar told us that they wrote to you about an important issue in November 2008 and they are still waiting for a reply.

Ms Homer: Eurostar do have regular conversations with us. There are some big challenges about the way that they currently ticket and the amount of information they collect but, again, I would just give you my assurance that we would expect to work with them. I do believe these industries have to take some responsibility for thinking through the systems they will need to assure their own customers that they are running safe systems in the future. I can assure you that, as they do that modernisation, we will seek to build our requirements into what they do, not to have them as add-on and layers, but I think there is a certain amount of needing to face facts that they have to bring their systems into the 21st century.

Q119 Gwyn Prosser: In terms of juxtaposed controls, some people would ask what the point is of collecting data from someone who has already made his or her passage and has arrived on the other side.

Ms Homer: The purpose of collecting data before people travel is so that we can, where appropriate, make the right decision and speed legitimate passengers through. In cases where we might have an interest in an individual, the border has classically

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been one of our intervention points, so what e-Borders does is to allow us to make judgements about that intervention. Sometimes we will be able to do that before someone boards, sometimes it will be at the border, sometimes it will be once they are in the country.

Q120 Gwyn Prosser: But e-Borders itself is going to capture information from Eurostar passengers on the other side, is it not, and similarly, coming across the Channel, it could be in Calais?

Ms Homer: What e-Borders seeks to do is capture information when a passenger books tickets, and we have been looking at finding ways of them utilising that information at a period before the passenger travels. We have given a commitment, which is obviously sensible, that we should not, of course, interrupt people's right to make last-minute judgements to travel, so some information will be the last-minute passenger and in some of those cases you will make a judgement whilst a person is in transit. We have the capacity to do a border check in the UK even if we have done a juxtaposed control check, and we would do that in a targeted way if we ended up with someone who was of interest to us. We might do that from a crime perspective or from an immigration perspective.

Q121 Gwyn Prosser: Finally, from me anyway, I am really concerned about the way this is going, or not going. What advice can you give to the individual managers who are trying to work with the e-Border project people? What advice can you give them for overcoming what they see as almost insurmountable, insolvable problems? Can they come directly to you?

Ms Homer: I would be happy to have a session with Brodie and Julie. I have done that. I had a feeling that there were some representatives of the airline industry here today. I have done that in a number of sectors.

Q122 Gwyn Prosser: The shipping industry is here and the Port of Dover is here.

Ms Homer: I have regularly joined the wider conversations on not just e-Borders but other important projects, so if they felt that was useful, I would be delighted to meet them.

Q123 Gwyn Prosser: Perhaps you could have a seminar.

Ms Homer: I think it would make more sense to see them in the setting they want. If they want that as a seminar or if they want bilaterals, I would be happy to accommodate that.

Q124 Chairman: I think you will find some of them may be in the audience and may catch you outside the door. Can I just return to one or two outstanding points, and I think other members will have one or two questions to ask in conclusion. We are nearly over, you will be pleased to know. How many senior executives of the UK Border Agency received bonuses last year?

Ms Homer: Do you mean the senior civil service?

Q125 Chairman: You are the Chief Executive so you would know how many people working for you, if I can put it like that, received a bonus.

Ms Homer: Yes. About 65%.

Q126 Chairman: About 65%?

Ms Homer: Of the senior civil service.

Q127 Chairman: How many people are we talking about?

Ms Homer: About 45 people last year.

Q128 Chairman: Do we know what the total was?

Ms Homer: I think it has been given in a PQ, Chairman, but I do not have the figure off the top of my head.

Q129 Chairman: Is it £50,000, more than £50,000 in total?

Ms Homer: I really would not want to hazard a guess. I am sure it has been answered in a PQ.

Q130 Chairman: Roughly, very roughly? Over £100,000?

Ms Homer: Not necessarily, no.

Q131 Chairman: Not necessarily?

Ms Homer: I am happy to dig out the information and provide it to the Committee. It is in the public domain already.

Q132 Chairman: 65% of your senior staff have received a bonus for the work that they have done?

Ms Homer: Last year.

Q133 Chairman: The concern of this Committee, as I am sure you will have appreciated from the questioning that we put to you, is that we are charged by Parliament to look at the expenditure and the operation of the Home Office, that we are extremely dissatisfied with the way in which the UK Border Agency is addressing a number of issues as expressed by members of this Committee. Do you think it was right that these 45 executives should have had bonuses, bearing in mind the fact that the amount of backlog has increased, that targets are not being met to deal with MPs' representations, and that there are so many files that are currently held that are in fact erroneous, 47% of all concluded cases?

Ms Homer: I think the historical position is not impressive and, indeed, in 2006 all of the Board of what was then IND voluntarily forewent their bonus because even though not everybody had been involved, we felt that, in very simple terms, the business had not delivered for the public that year and we were not entitled to bonuses. I am quite strict at not giving bonuses to people who I think have not performed. My preference is to move them on and appoint people who do perform, because I think the work of the Agency is sufficiently important that we need the best people we can get. I do think it is right, and we hit the majority of our targets last year and,

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as I have said to you earlier, I think some of the performance of the Agency is amongst the best in the world. So I do think they deserve their bonuses.

Q134 Chairman: The worry of Members, as Ms Buck mentioned, is letters that come to Members of Parliament, for example, a letter I have from a Mr Singh, who applied in December 2003 and has been told by Jonathan Sedgwick, your Deputy Chief Executive, that he will get a reply by 2011, a total of eight years which he is waiting for a decision from the Home Office. There is a constituent of your former city of Birmingham, whose wife has been waiting a year and a half; this is a British citizen with an Indian origin wife who paid a fee of £750 to the Home Office, some of which eventually will end up as a bonus for somebody, who has been waiting now for a year and a half for his wife to get indefinite leave. She cannot leave the country because the case has not been dealt with. There are many examples of this. The backlog is affecting ordinary immigration casework, which we have not really talked about today; we have talked about asylum. Does that not concern you?

Ms Homer: Yes, it does. When I very first sat in front of this Committee I said I did not think the Agency was performing well enough. I know a number of people around the table have changed but there are some faces that were here in 2006. I think I was very clear to you that I thought it would take a number of years and some very hard work to get it into shape. I think this is a journey that is partially completed. I am not going to sit here and pretend to you I think we deliver well in all respects all of the time, but I do believe we have made substantial progress and I think we can do more. On the migration cases, you are right; we have talked about foreign national prisoners and we have talked about asylum. I think that is because those are the priority for the country. Those are cases which go to the protection of the community but I know from conversations that I have had with the new Home Secretary already that he is influenced by the views of this Committee and believes that we should, now that we are in better shape, turn our attention to what might be regarded as those applications which are to the benefit of the applicant, and we should be able to be as focused on customer service standards for them as we have been focused on targets for foreign national prisoners and asylum seekers. I do not think I make an apology for focusing on those first because I think they were the priority, but I think we are now at a stage where more should be expected of us and I am happy to take on that challenge.

Q135 Chairman: Especially as people are paying for the privilege £750.

Ms Homer: That is right, and in the case of some European applications people are currently waiting more than a year for their registration certificate, but they are in the country and their rights to work as a European are unaffected by that. It is clearly important that we now move our focus wider but I

think we had to start at the most important part and we had to build our strengths from there, and I think that is what we are doing.

Q136 Ms Buck: You made the point when you were discussing MPs' representations and you were kind enough not to use the word "irritated" in respect of our representations. Do you appreciate the fact—and I probably speak for all my colleagues—that we do not want to be in the position of having to make representations on behalf of constituents—and I have probably made 5,000 through my own office—because in most part the Home Office/Border Agency simply does not reply, and the representatives of many of the constituents who come to me are told to come to me because it is the only way they can ever get a response to their case?

Ms Homer: Yes, this is why I said earlier that we have to get our system working so that people do not need MPs to intervene. Of course I cannot be irritated about it. It is a cause of our systems not working in the past but I think the work we are doing in asylum and non-asylum cases is steadily moving more cases into being dealt with in the time that we say and that would have a case owner. I am signing more letters now. You will get some of them from me where I will name a case owner; I will tell you the person who is dealing with this case and where they can be found. We did not used to do that and it is outrageous that we did not but we do now and so we are trying to be a business where someone knows who they can contact. I would hope to some extent we will make you redundant but it is not going to be overnight.

Q137 Ms Buck: Can I just ask you finally on the issue of exceptional cases, how many exceptional cases outside the rules do you understand are made by Members of Parliament in a year?

Ms Homer: Made because of representations from Members of Parliament? We have done 197,000 of the legacy cases. We have reviewed—

Q138 Ms Buck: Exceptional cases outside the rules. Just to take an example, a case I have been dealing with, I will go to a Minister and say, "This is a case that I believe to be an exceptional case on compassionate grounds. I expect that it will not fit within the rules but it is exceptional and therefore I want it to be considered exceptionally."

Ms Homer: Very few.

Q139 Ms Buck: When those cases are taken to the Minister, you give advice to the Minister on that.

Ms Homer: Yes.

Q140 Ms Buck: So effectively, do you understand the Minister to have any discretion whatsoever?

Ms Homer: Yes, and it has always been the case in our system that Ministers can exercise discretion. I think this was a topic you discussed directly with Liam Byrne when he was Minister and I think he said in writing in a number of settings that his view was that, if a case had been decided by a well-trained and thoughtful case owner, and then almost inevitably considered by a judge on at least one and

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usually more than one occasion, he thought, as a Minister, he should only extremely rarely substitute his personal decision for a professionally decided decision that had been tested in a judicial setting. That was his position. It is for each Minister to make their own choice about that but the difficulty for us is when you are dealing with hundreds of thousands of cases, if you go far outside that, it becomes difficult to know what rules you are using.

Q141 Ms Buck: This is my last question on this, and again, this is a case that I have been dealing with at the moment. Do you accept that I was extremely angry, and I remain extremely angry, to be in the middle of making representations to the Minister for consideration, once before Christmas and once again 10 days ago, and to have had a family with a disabled mother and three small girls detained and taken to Yarl's Wood in the middle of that representation?

Ms Homer: We have a lot of MPs' representations. We have a system, which again I think reflects history, where if an MP has outstanding representations, we press the pause button on action. It is important, I think, that we do not press that pause button for longer than is appropriate, otherwise we are back in the earlier discussion about delaying removals and deportations of both failed asylum seekers and criminals because of representations. I would have to say we would always seek to follow our own protocol, which is to ensure that the representations have been dealt with before we re-pause, and if any of you feel that we have been either cavalier or discourteous in that, I would want personally to look at those but I have to say, we do try to clear MPs' representations quickly because otherwise it can become a delaying part of the system. When I say quickly, I mean quickly and properly. MPs' representations often lead to review and sometimes lead to a change but I think it would be wrong for us just to stop trying to remove people from the country because an MP has raised an issue, which is often an issue that a judge or a tribunal has looked at in detail.

Ms Buck: Can I just ask you on that particular case though, and I will confirm the name to you, to look at the process of that case since my first involvement last October, because in my view, action was being taken in absolute contravention of my representations and indeed without informing the Minister's office.

Q142 Chairman: Would you look at that and write to Ms Buck.

Ms Homer: I have already had a look.

Mrs Cryer: Ms Homer, can I ask you about the cases where an MP and her constituent will be described as third parties to a case. If I can just go into the background of probably dozens of cases I have had whereby a young lady comes to see me, she has married a foreign national, usually from Pakistan or Bangladesh, he either misbehaves or, for whatever reason, leaves her before he has gained his indefinite leave to remain, two years. The young lady, quite rightly, in my view, comes to see me and says, "Look, he now is an illegal immigrant. He is an over-stayer because he does not have his indefinite leave to remain." There is a great deal of family pressure being put on that young lady by grandparents, uncles, aunts, to make her sign a document to get that person indefinite leave to remain. She quite frankly does not want to. She does not want to live with him, for whatever reason, so she wants him to be deported; she wants him to be removed. When I write yourselves, I am then told that you cannot tell me anything because this person is a third party. I just do not think it is satisfactory, because the young lady who has come to see me has very good reasons for being concerned, possibly about her own safety, possibly about the safety of any children they have, and even about the home that she lives in.

Q143 Chairman: I think what Mrs Cryer wants to know is, when Members of Parliament write in on behalf of constituents who want spouses to be removed, they are regarded as third parties. Why do you not give an update as to what is happening?

Ms Homer: I think that is a fair point. I think you understand the data protection point. I will take away the point of whether, if and when action takes place, we are able to give even a somewhat elliptical update. All I will say is that we try to give as much information as we can without breaking the law.

Q144 Chairman: I am sorry. I have to stop you. Thank you very much for giving evidence today. I think, based on our questions, we will want to see an update fairly soon; rather than the six months letter, we would, I think, like a letter in three months' time to hear what is happening at the Border Agency. I am sorry to put that additional burden on you but I think in view of the urgency of this matter, it would be helpful if you could write to us in three months.

Ms Homer: I am happy to do so, Chairman.

Chairman: Thank you very much.

Tuesday 14 July 2009

Members present:

Keith Vaz, in the Chair

Tom Brake
Ms Karen Buck
Mr James Clappison
David T C Davies
Mrs Janet Dean
Patrick Mercer

Gwyn Prosser
Bob Russell
Martin Salter
Mr Gary Streeter
Mr David Winnick

Witness: **Mr John Vine CBE QPM**, Chief Inspector, United Kingdom Border Agency (UKBA), gave evidence.

Q145 Chairman: Mr Vine, thank you very much for coming to see us. When we saw you last November you had just taken up your new post. We said we would have you back in the spring. Our agenda and no doubt yours has meant that spring has become summer. We thought we would see you before autumn and winter. That could well have happened because of the large number of items we have to deal with. When you last came to see us you said that obviously the inspectorate was not fully operational because it had just begun. Is it now fully operational? Have you recruited all the staff you need to recruit in order to conduct your business effectively?

Mr Vine: I am delighted to be here to inform you of the progress we have made in the first year of the new inspectorate. The inspectorate is operational. I have 30 members of staff some of whom are still subject to issues to do with security clearance. I hope eventually to have 40 members of staff by the end of the year, but we are up and running. The agency has conducted five inspections two of which have been in overseas visa posts and three of which have been domestic. One of them concerned juxtaposed controls which I shall talk about later. We now have plenty of inspection staff who I think make an impact.

Q146 Chairman: Have you produced any reports?

Mr Vine: We are producing reports.

Q147 Chairman: There have been no reports as yet?

Mr Vine: No reports have been published yet, but the first one on the visa inspection in Rome will be published on or around 10 August. The visa inspection report on Nigeria which we have just completed will be ready probably towards the end of August or beginning of September. Three pilot inspections and emerging findings will be produced as an annex to the annual report which I hope to present to the Home Secretary towards the end of September, so we are on the verge of putting something into the public domain.

Q148 Chairman: You will be aware that Select Committees cannot constantly hold sessions with Miss Homer and the Home Secretary and the immigration minister, so Parliament and the public rely very much on your job as independent inspector.

Mr Vine: I entirely agree.

Q149 Chairman: It deals with an organisation which, according to John Reid when your organisation was originally set up, was not fit for purpose. Therefore, your independence is very important to Parliament. In what ways can you demonstrate that you are actually independent bearing in mind your email address is still chiefinspectorukba@homeoffice.gsi.gov.uk? Does that give an impression that you are not as independent as you should be?

Mr Vine: That does give such an impression and it is to be changed imminently. I can reassure Members of the Committee about my independence in other ways. First, I do not work from 2 Marsham Street; I am independent in terms of accommodation.

Q150 Chairman: Where are you now?

Mr Vine: We are based in Great George Street which is not far from here. I have deliberately not used the Home Office press function—I bought in press support from elsewhere—in order to ensure that if people wanted to contact me, or there were issues around media and press handling, it was done independently of the Home Office. If you look at our inspection plan which I produced in April of this year you will see it tackles some of the very difficult issues of public concern. I have not shied away from dealing with some quite tricky issues which exercised the mind of this Committee at an early stage in the development of the inspectorate.

Q151 Chairman: One of our recommendations which was accepted by the government was that you should be called the independent chief inspector. In response the minister told this Committee that in all correspondence you would be referred to as the independent chief inspector so you were not seen to be part of the Home Office.

Mr Vine: Yes.

Q152 Chairman: Yet on all your letter paper the word “independent” does not appear.

Mr Vine: I thought that was a very sensible recommendation which I believe I articulated to the Committee last time. I was pleased to see it in your report. It has been difficult for me in the early stages of my inspectorate to try to get the message across

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that I am independent of the UK Border Agency probably because that name is in the title of my role by statute. I am stuck with what the statute says my title is, but where possible I have used "independent chief inspector". I think that is a very good point, Chairman.

Q153 Chairman: Why do you not use it on your letter paper?

Mr Vine: In future we shall.

Q154 Patrick Mercer: I want to talk about the role of the independent monitor. What assurances can you give us in relation to maintaining the same level of scrutiny in this role that your predecessor performed bearing in mind that hers was full time?

Mr Vine: We all recognise that Linda Costelloe Baker did a very good job. She has been extremely helpful to me and my staff in training us and bequeathing her methodology for our first two visa inspections. I have used the independent monitor's five-point matrix to examine visa posts in Rome and Abuja. We are using her methodology as the basis for our work, but my role is different from hers and has broader scope. What I wanted to do was conduct the first two inspections of visa posts against her methodology and then move in the next two to a broader scope of visa work. We have started with her methodology and conducted the scrutiny of two visa posts. They will be my early pieces of published work. We shall certainly apply the rigour that she used in looking at visa refusals and extend that to look at the whole range of other issues in the visa process. For example, in the next two inspections I intend to go to Kuala Lumpur and Singapore and from there to Chennai. The reason I am doing that is that we are looking at the small hub-and-spoke model that was introduced. I also want to look at the issuing of visas and the reasons behind them as well as why visas have been refused. I also intend to conduct an administrative review and start to look at tier 4 applications and the points-based system. What I am trying to do progressively is start with Linda's methodology and move forward and extend it so that the reports I produce on visa posts will encompass a far greater range of work than has been the case. The rigour is there and I hope you will see that in the two reports I shall publish soon. That rigour will be extended to look at other areas of visa work. That is entirely within my remit.

Q155 Ms Buck: I should like to know a little more about the four themes that you approached in the inspection programme and the basis on which you decided the priorities within those four areas.

Mr Vine: Those are the four core criteria.

Q156 Ms Buck: I am referring to the pilot inspections, core inspections, thematic inspections and international inspections.

Mr Vine: I want to cover most areas of the UK Border Agency organisation in the next three years and I believe I can do that by having a core inspection programme. I base that on the regions adopted by the Border Agency only a couple of years

ago. First, I want to look at whether those regions are effective in delivering the product to the customer; second, I want to look also at the interface between those regions and the other regions within the border agency. As to the thematic programme, I want to look at specific issues that I believe will bring benefit in terms of improving service delivery. That is why I particularly want to look at asylum. I am aware that the National Audit Office has just published a report on asylum, but it is something we should look at as an inspectorate because it is a fundamental part of the border agency organisation. Having spoken to many stakeholders about asylum I want to satisfy myself that the processes and procedures provide a good service. The asylum scrutiny will also look at the backlog of cases which I know is of concern to the Committee. I also want to look at customer complaints handling in part because that was the subject of an independent monitoring body, the Complaints Audit Committee, which published its own report in November of last year. What I have tried to do is speak to as many stakeholder organisations as I can and draw for myself a baseline which is almost like pathfinder pieces of work. Out of that work will arise other discrete pieces of work that we can delve into in future years.

Q157 Ms Buck: Can you give us an indication of your findings in the pilot work you did at Harwich? When will that be published?

Mr Vine: That will be published as part of my annual report and it will go to the Home Secretary in draft towards the end of August/beginning of September. Obviously, I cannot discuss the detail of that until it has been to the Home Secretary and the report has been published. The reason I went to Harwich was that it was deemed by the UK Border Agency to be a flagship port. Therefore, before looking at other ports I wanted to look at a flagship and see what sort of benchmark that provided.

Q158 Ms Buck: The draft inspection programme indicated that you would have that report ready by June. Is it a cause of concern that the timescale is now running two or three months behind?

Mr Vine: No. The report is being written up as we speak, and it was always my intention to publish the emerging findings of that scrutiny as part of the annual report. I pushed back the annual report from July because in July of last year we were literally not a working inspectorate. I intend to bring the date of the annual report forward next year so it is on a more normal cycle.

Q159 Chairman: Remind the Committee of your budget.

Mr Vine: This year it is £3 million and that is benchmarked against other inspectorates of a similar size. The start-up budget was £800,000 and at the end of the day we handed back some of that money because we anticipated we were fully staffed to make use of it given the basis on which it was first allocated.

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Q160 Mr Clappison: A moment ago you mentioned stakeholder organisations. Can you be more specific about which ones you have in mind?

Mr Vine: There is a range of organisations and individuals. For example, I have sat in on Andrew Dismore's surgery in Hendon and watched some of the asylum seekers who came in and got a view from that experience; I have been out with customs to search lorries at Dover; I have visited the shipping industry to listen to its concerns about the border; I have also visited airports and spoken to the British Airports Authority, Universities UK and various education institutions that are concerned about student visas and the points-based system; and I have spoken to asylum and refugee groups and set up refugee and asylum fora to allow those groups to speak to me directly. A lot of fora were set up by the UK Border Agency to enable that organisation to understand their perspective. I have set up my own so they can feed issues into the inspectorate. There is a very broad range of stakeholder groups and individuals to whom I have spoken to try to get a broad perspective about the challenge ahead.

Q161 Mr Clappison: Do you accept that in this particular field a number of organisations have a direct economic or wider interest in these issues?

Mr Vine: Yes.

Q162 Mr Clappison: They have their own canoe to paddle. But there is a wider public interest that perhaps is not always articulated as nosily by them although there is concern about these issues. Will you keep that in mind as well?

Mr Vine: Yes. I addressed a group of MPs in Portcullis House. Unfortunately, it occurred on the same day as the snow earlier this year and so there were not many MPs present, but clearly I want to take that very much into account.

Q163 Mr Clappison: You will be aware of the problem—I do not know whether you have seen it in MPs' surgeries—of people who come to this country and overstay because of insufficient rigour in the visa control system.

Mr Vine: I am aware that overstayers are an issue, but there are so many issues around border and immigration matters that I have to start somewhere. What I have tried to do is put together an inspection plan for the first year which I think is ambitious and, rolling into the second year, will cover some very interesting and difficult topics. I have used my judgment based on what I have heard from stakeholders and individuals to try to put something together that will produce some very interesting reports for you to examine.

Q164 Mr Streeter: Have you also met with Migration Watch?

Mr Vine: Not specifically, but I am entirely happy if it wants to contact me.

Q165 Mr Streeter: I can understand why you would want to talk to asylum seekers in their various fora and so on, but, to put the other side of the story, would it not be potentially useful to speak to organisations that express concern?

Mr Vine: I am happy to speak to anybody who wants to contact me. I have followed that philosophy throughout my first year as chief inspector.

Q166 Gwyn Prosser: You spoke about the stakeholders with whom you would be consulting. MPs perhaps take a jaundiced but perhaps fairly accurate view of the performance of the Home Office from dealing with their correspondence and case loads. On occasions it has been pretty deplorable. Do you receive representations from Members of Parliament not about particular cases but their general experience of delays in correspondence and failure to act on requests and so on?

Mr Vine: I have sought them out. For example, the half-day visit I made to the surgery was an offer that I took up only a couple of months ago and it was very informative. The volume of people coming through the door was indicative of an issue. I am quite happy to speak to anybody who will inform me of the priorities that I should adopt as an inspector.

Q167 Gwyn Prosser: Most people would believe you already have a huge workload. You have told us about your staff; you have your feet under the table and have started to make your report. Your workload is massive because there are serious problems. This Committee is in contact with the chief executive of the border agency regularly and feels that there are flaws and deficiencies. Sometimes there is a huge variation between the stories we get from the chief executive and the criticisms from stakeholders. On top of that with the new borders bill coming in you are to take on the inspectorate responsibilities for customs services as well. How will you manage?

Mr Vine: We based the budget and size of the inspectorate on the volume of work we can manage in year one. What I need to do after year one and possibly beyond is assess whether we can deal with the extent of the needs you describe but we have organised the inspection programme on the basis of a series of ongoing core inspections, starting with Wales and the South West. As soon as we start Wales and the South West we shall move to another region and then cross-cut it with a thematic programme and the overseas work. We are now able to roll out those programmes. I have confidence that we shall be able to roll them out over the next year. If you look at the broad-brush core criteria by which we are to examine the border agency we shall look at management and leadership, customer experience, training and a whole range of issues. We shall be able to produce reports that are fairly detailed and we hope will address some of the issues of customer service about which you are particularly concerned.

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Q168 Gwyn Prosser: You flagged up Harwich as the flagship port.

Mr Vine: It is a flagship port. I believe there are two.

Q169 Gwyn Prosser: Who told you that? Was it the border agency? It is not the same as Dover.

Mr Vine: Dover is a very professional operation and I have been there three times: first, to look at the operations of Kent police; second, to look at the customs operation; and, third, to look at the shipping industry. I am getting to know Dover very well. The border agency flagged up Harwich as one of the flagship ports and that was why I specifically wanted to look at Harwich.

Q170 David Davies: What percentage of UK Border Agency staff do you believe are dishonest?

Mr Vine: It is impossible for me to say.

Q171 David Davies: What would be your working percentage?

Mr Vine: I do not want to give any percentage. I do not think there is any evidence to suggest that any border agency staff are dishonest.

Q172 David Davies: When I visited a major police force the head of standards board told me quite clearly that he worked on the assumption that 1% of police officers were dishonest and in his view it was his job to go out proactively and find them, not wait for complaints to come in. Do you not take a similar view?

Mr Vine: I take the view that any behaviour of that type needs to be pursued proactively, but as a matter of first recourse that is a decision for the chief executive of the border agency rather than the independent inspectorate.

Q173 David Davies: You are looking at whether or not visas are being wrongly refused?

Mr Vine: Yes.

Q174 David Davies: Do you look at whether or not they are wrongly issued?

Mr Vine: I shall be looking at the reasons behind the issuing of visas.

Q175 David Davies: Will you give that equal consideration?

Mr Vine: I shall be file-sampling cases where visas have been issued to see what I find.

Q176 David Davies: Will you look at people working at ports or airports who allow people to come in and whether or not that is done on the basis of correct documentation?

Mr Vine: What I shall be doing at ports and airports is look at the process by which people are allowed into Britain. I shall be looking at the reasons why in some of those cases where for example somebody has a visa entry is refused.

Q177 David Davies: There have been occasions when UK Border Agency staff and police officers unfortunately have been found to behave in an

inappropriate fashion. You were a serving police officer and I am now. Neither of us thinks for one minute that it is a major problem; it affects only a very small minority who tarnish very good organisations. Nevertheless, do you agree that we must take this very seriously?

Mr Vine: I agree that we should take it seriously.

Q178 David Davies: I have been told by UK Border Agency staff that there is corruption and it has not been properly investigated, as it would be in the Police Service.

Mr Vine: I have no evidence to suggest that any such thing is taking place, but I agree with the principle that organisations like the Police Service should proactively seek out individuals who may or may not be corrupt.

Q179 David Davies: The Police Service does; the UK Border Agency does not.

Mr Vine: It is for the chief executive of the border agency to take that action; she is the line manager of those people. I have intelligence and operations on my schedule next year as you see from the programme of work. At that time I will look at the whole range of operational matters that affect the border agency; and I shall also be looking at the intelligence operation.

Q180 Chairman: We understand what you will be looking at. I think that what Mr Davies is concerned about is a report produced today by the Home Office. I do not know whether you have seen it.

Mr Vine: I saw an article in the papers.

Q181 Chairman: That reports says traffickers allege that officials in the identity and passport service are willing to take bribes to help illegal immigrants enter the country. This is not anecdotal evidence; it is a Home Office report. Now that it is in the public domain Mr Davies would like to know whether you will pursue this matter rather than wait until some future time.

Mr Vine: The story is in the public domain.

Q182 Chairman: Is it in your remit to do so?

Mr Vine: It would be within my remit for the Home Secretary to ask me to look at any matter that the minister wished me to investigate.

Q183 Chairman: So, you will wait for the Home Secretary to do it?

Mr Vine: I do not have to wait for the Home Secretary, but I would have to be convinced that this issue was a matter that could not be dealt with by the chief executive of the UK Border Agency. I believe that is where the responsibility lies.

Q184 Chairman: I think the concern raised by Mr Davies is that where there are important issues of this kind in the public domain he and this Committee would expect someone called the independent chief inspector not to wait for the Home Secretary, or until next year, but to try to get answers immediately. After all, to whom are you

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accountable? If you are independent you must be accountable to Parliament and therefore the people. Is that not right?

Mr Vine: That is correct.

Q185 Chairman: Or are you accountable to the Home Secretary?

Mr Vine: I have been appointed by the Home Secretary, but like any other chief inspector I am expected to be independent. Obviously, I would need to look at any issue that arose and make a judgment about whether I should become involved. In this instance all I have seen very briefly is an article in a newspaper this morning. I do not know anything more than that. I would have thought that integrity testing and anti-corruption measures in relation to UK Border Agency staff should be led by the chief executive of that organisation.

Chairman: I do not want to pursue this any further because we have other questions. The Committee would like you to look at this. This is a Home Office report. We will write to you and hope you will answer it.

Q186 Mrs Dean: You mentioned earlier that one of the two thematic inspections was about asylum and the backlog. Can you tell us a little more about what you will be looking at when you consider the backlog? Will you be assessing the performance of the UK Border Agency in dealing with that backlog?

Mr Vine: We shall be looking at whether the agency is on track to meet its published target of concluding 90% of asylum applications within six months by 2011. We shall look at how cases are recorded as concluded, how backlogs are dealt with, what happens to cases that miss their target dates, whether the agency is meeting its quality assurance targets and how the single case owner model introduced in 2006 is working in practice and how it affects decision-making and appeals. I should also like to look at the effect of legal advice on quality decision-making, so what has been commonly referred to as the Solihull pilot is within the remit. I want to look at legacy cases and how they are prioritised, how customers are informed of progress, the quality of decision-making in that regard and so on. It will be very comprehensive. What I have decided it will not cover, because it will be too much for one inspection, is asylum support. I want to conduct a separate scrutiny on asylum support. I believe that that keeps both areas manageable. Asylum support deserves its own inspection.

Q187 Mrs Dean: When you look at legacy cases will you consider why there has been duplicate recording of individuals? A lot of the cases have been the subject of duplicate recordings.

Mr Vine: I believe there has been a certain error rate. We shall be looking at a large sample of cases right across the spectrum. I imagine that the case files we will look at will also include those that are either subject to an error rate or a duplicate entry. We shall look at it comprehensively. We will be starting the field work on this in September and hope to have the report ready by February of next year.

Chairman: You were in Lagos last week and may not have seen the evidence given to us by Lin Homer. I shall ensure that a transcript of that evidence is sent to you. All of the Members of the Committee raised grave concern about the missing of targets by the Home Office and about policy issues which we felt were important and might well come within your remit. Obviously, the Select Committee cannot have Lin Homer here every week, whereas your organisation was appointed to do this.

Mr Clappison: I should like to press Mrs Dean's point which is a very good one. When the Committee received details of the clearance of the backlog it was astonished to see that a high proportion of what it was told were such cases was due to errors or duplication.

Chairman: The figure was 47%.

Q188 Mr Clappison: Will you make it the job of your inspection to see how that situation arose?

Mr Vine: We will do so; we shall look at every part of the process that has been undertaken. That is the purpose of the inspection.

Q189 Mr Clappison: Will you also look at whether or not there is a new backlog building up after the old one has been cleared?

Mr Vine: We shall look at everything to do with the new asylum model. I want to assure myself that the new asylum model is working as was intended when it was introduced. As to the backlog of cases, we shall take a fair slice and look at them in detail. Not only will we do case-sampling; we shall have focus groups with staff. We will be speaking to individual staff members who work in that directorate. I hope you will see that the report is comprehensive and evidence based.

Q190 Tom Brake: You will be aware that Parliament is today debating the Borders, Citizenship and Immigration Bill. Do you have any views on whether you should be allowed to report to the IPCC the activities of immigration or customs officers abroad? Is that something to which you have given any consideration?

Mr Vine: I am aware that the IPCC has been to look at the operation of the juxtaposed controls in France, for example. I know that is an issue in which it is interested. My view is that the IPCC is an important safeguard when people exercise police-like powers. If such powers are being exercised and a misconduct case arises as a result that is the appropriate body to deal with it.

Q191 Tom Brake: Whether those activities take place abroad or in the UK?

Mr Vine: Obviously, it is a matter for Parliament, but in my view it does not seem terribly sensible that their activities are curtailed by a boundary such as that. If it has that responsibility from the UK Border Agency it seems sensible to me that that should be extended.

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Q192 Tom Brake: In the independent monitor's previous report the independence of the administrative review of visa refusals, which is conducted by a colleague who presumably may be sitting opposite the person who carried out the initial review, has been challenged. The suggestion has been made that those reviews should perhaps be held in a regional centre or in the UK and therefore not by an immediate colleague of the person who carried out the initial assessment. What do you think of that proposal?

Mr Vine: It is important that any administrative review that takes place, bearing in mind that it has replaced a right of appeal under the previous system, is seen to be independently conducted. I entirely agree with the independent monitor's emphasis on this issue. In some overseas posts entry clearance managers work cheek by jowl with entry clearance officers. I have no evidence yet as to whether administrative reviews are not being carried out properly, but I hope to gather that evidence in my next two overseas inspections when I look at the administrative review particularly. Perception is very important and independent reviews should be seen to be done and are done. I am very well aware of the independent monitor's recommendation and in my scrutiny in the coming months I hope to take forward that recommendation.

Q193 Tom Brake: But your current view is that you would be unhappy with an arrangement whereby the secondary review was carried out by someone based in the same office possibly sitting opposite the person who carried out the primary review?

Mr Vine: The presumption in my mind is that it would look as though it was not being done independently, but I have no evidence to suggest that

is the case. What I want to do is take a sample of cases of administrative review and look at the quality of decision making and that might inform my decision and recommendation.

Q194 Chairman: Obviously, your role is a new one. The Committee appreciates that you have taken on the responsibility of different people: the certification monitor; the race monitor; the advisory panel on country information; the Complaints Audit Committee; and the independent monitor on visa refusals. This is tough for anybody, even someone of your great ability. What worries us are the priorities of the inspectorate. We would prefer to see more work being done on what is happening in Croydon rather than Rome. Obviously, Parliament is led by the concerns of the public. We shall write to you with our suggestions on priorities after we have had a look at various piece of information. We have made some progress today. You will change your email address to confirm your independence and will insert the word "independent" on your letter paper.

Mr Vine: I have had people working in Croydon for a considerable period on a number of scrutinies that are to be published shortly. If there is to be no hiatus between the independent monitor and my responsibility in taking on that role I must go overseas from time to time, but the vast majority of our work is based in the UK and has been for some time. I hope the Committee will see the product of that in the near future.

Chairman: We would perhaps have preferred that your first report was on the difficulties in Croydon and the backlog and duplicates rather than the visa system in Rome. However, that is your choice. We look forward to seeing your report and we will write to you. We are very grateful to you for coming today.

Wednesday 4 November 2009

Members present

Keith Vaz, in the Chair

Tom Brake
Mr James Clappison
Mrs Ann Cryer
David T C Davies
Mrs Janet Dean

Patrick Mercer
Gwyn Prosser
Mr Gary Streeeter
Mr David Winnick

Witnesses: **Mr Phil Woolas MP**, Minister of State for Borders and Immigration, Home Office, and **Ms Lin Homer**, Chief Executive, UK Border Agency, gave evidence.

Q194 Chairman: Minister, Ms Homer, thank you very much for coming to give evidence to this Committee at such short notice. I know that it is very difficult to fill diaries at this time of the year, at the end of the parliamentary session. We are extremely grateful to you for coming. Can I refer everyone present to the Register of Members' Interests, where the interests of all Members are registered? I also declare that my wife is an immigration solicitor and a part-time judge. Minister, perhaps I could start with you before we go into the details of the backlog with Ms Homer and congratulate you on your first anniversary as the immigration Minister. I think that you became the Minister in October 2008. No doubt you, like the rest of the Committee and the public, have read with interest the Home Secretary's speech earlier this week, where he said that the Government had made a number of mistakes as far as immigration policy was concerned. Were these mistakes on your watch, and what mistakes was he referring to?

Mr Woolas: Thank you, Mr Chairman, for the invitation and for your kind words. It seems like more than a year! The speech the Home Secretary made on Monday repeated some of the points that have been made before but brought it together in one speech. What he was referring to was the failure of successive Governments to have a managed migration policy. We take the view that that is a statement of fact: that, since the arrival of *Empire Windrush* in 1947, there has not been a managed migration system to the full extent that this country and countries like it need. In part, my own Government feel that we did not perhaps move quickly enough to put into place the border controls that we are now putting into place; so that was the context.

Q195 Chairman: You were very clear in the very first interview you gave as immigration Minister to *The Times*. You said, "On a commonsense level there has to be a limit to the population", and the figure of 70 million was referred to—maybe not by yourself, but people talked in terms of a cap. Does the Government now believe that a cap is necessary as far as the population of this country is concerned, or indeed the numbers of people who are entering the country at any given time?

Mr Woolas: We believe that the managed migration system that we have is already showing a reduction in net migration, which in part can be ascribed to that managed migration system; that it gives Governments of the day and parliaments flexibility. The proportion of the projected increase in population—the ONS were very clear in their press release that that was a projection, not a forecast, based on the previous few years, and of course the East European accession states have increased the temporary population—and, Mr Chairman, you will know because you have reported on this, the definition of "population" includes those who are in the country for a year or more, many of whom may be temporary—but in my remarks to *The Times* a year ago, I gave the commitment that the points-based system would reduce net migration and that the projected figure of 70 million would not be met. Indeed, since then, if one looks at the ONS statement from two weeks ago, the projection—not forecast—has put back the 70 million figure to the year 2029, not 2028. In other words, there is already a diminution of that projection as a result in part. So the answer to your question, Mr Chairman, is yes, and I was very supportive of the Home Secretary's remarks, because I said similar things a year ago.

Q196 Chairman: The Home Secretary basically supported the view you put forward a year ago, which the previous Home Secretary did not necessarily—which was that, because of the numbers of people coming here, it did have consequences. You are describing a process of limiting numbers because you now have the ability to manage; but overall is the Government's policy now that there ought to be a cap or ought to be a figure beyond which we should not go in terms of population?

Mr Woolas: The debate is confused. When people refer to the cap, particularly the policy of the Opposition, they refer to a cap on immigration. We do not think that that is a credible policy because it applies only, as far as one can tell, to Tier 1 and Tier 2, which are a small proportion relatively of the total figure of net migration. We think it is better to reduce net migration by management; so not a particular figure. The 70 million, which is a population figure of course, 55% of that projected increase according to the ONS is down to the birth rate and death rate. The answer to the question

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“Does the Government have a cap on migration?” is that we do not have a specific figure. We think that is unworkable; we think that that would be impractical. However, we do say that it is important to reassure the public that the Government is able to manage migration in order that we can alleviate those fears, which are real and not just perceived, about population—particularly where you have areas, towns and cities, where there is a significant short-term increase.

Q197 Chairman: Your benchmark on this, the success, that you will be happy when you know you have actually reduced the numbers coming in—is that what the Home Secretary and you are saying?

Mr Woolas: Yes.

Q198 Chairman: You would be happy if it was reduced.

Mr Woolas: Yes.

Chairman: David Davies has a quick supplementary and then we will go on to the files.

Q199 David Davies: Minister, you and your ministers have often said that immigration is a net good thing for the country. How can you justify that when there has never been any work done on the cost of future pensions, on the cost of current NHS care, education and other welfare benefits that are given out to immigrants and asylum-seekers?

Mr Woolas: It is a very important question, if one measures the contribution of immigrants, and we do say that immigration has brought benefits to our country. Even the Lords Select Committee report, which was critical, acknowledged that there was a net economic benefit. However, in establishing the Migration Impacts Forum and the work we have been doing with the Office of National Statistics on better data for population at local level, as part of the finance settlements for the health and welfare government sectors, we have acknowledged for some time that there are negative impacts of immigration and migration in some places at some times, not just in terms of community cohesion but in terms of the ability of the public services to cope. The most recent policy development in the last year or two has been the advent of the Migration Advisory Committee. What that is successfully enabling the country to do is to match skill shortages against training strategies and migration criteria. In my view, Mr Chairman, we could not run the National Health Service without the migrant population.

Chairman: Can I say that we hope to end this session by 11.30, in order that people can go to Questions, so we will have brief questions and brief answers. That was a very brief question, Mr Davies; that is not an attack on you. A brief supplementary now from Mr Clappison.

Q200 Mr Clappison: What was the total figure for immigration into the country in the last year and by how much had it changed from the previous year?

Mr Woolas: It depends whether one means net migration measured by temporary or permanent.

Q201 Mr Clappison: Total immigration, please.

Mr Woolas: This is a serious point, Mr Chairman. This is the question that causes the fear amongst the public. In my view, we have to define what we mean by immigration. Do we mean students who are here for three years? Do we mean people who are working, exercising their European Union rights, who may be here for one or five years? Do we mean people who are settling? Do we mean people who are coming as spouses? What do we mean? The net migration figure—and I am able to give figures, as the first immigration Minister who—

Q202 Mr Clappison: I asked for a total immigration figure as defined by the ONS. It is just a fact. Can you tell us what it is, please?

Mr Woolas: Define “immigration”, Mr Chairman.

Q203 David Davies: Anyone being here for more than a year.

Mr Woolas: Anyone here for more than a year. If one acknowledges that that includes the student population—

Q204 Chairman: Do we have that figure?

Mr Woolas: I think it is 144, but we will check that.

Q205 Mr Clappison: I am asking for the total immigration figure, which is based on the same definition as the net figure which you have been pleased to give us. I would like to know just this question of fact. Do you know the total number of people who came into the country last year and the change from the previous year, please? It is a straightforward, factual question.

Mr Woolas: The total number of people who came into the country?

Q206 Mr Clappison: Yes—

Mr Woolas: The total number of people who came into the country was 285 million.

Q207 Mr Clappison: Through immigration.

Mr Woolas: For more than a year?

Q208 Chairman: I think that the rest of the Committee is getting lost. Mr Clappison, perhaps you could wait a second so that the Minister can repeat that.

Mr Woolas: 118,000 is the figure that Mr Clappison is seeking.

Q209 Mr Clappison: That is a net figure.

Mr Woolas: I am sorry, Mr Chairman, I thought that was what you were asking.

Q210 Mr Clappison: The total immigration figure.

Mr Woolas: According to the ONS, in August 2008 net migration to the UK was 118,000 in the year to December 2008.

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Q211 Mr Clappison: That is net.
Mr Woolas: That is the net, yes.

Q212 Mr Clappison: The total, please.
Mr Woolas: The latest figure according to the ONS in 2007 was 209,000. The definition of that is people who came for more than a year.

Q213 Chairman: Could we come back and explore this later, Mr Clappison, if you are not satisfied with the answer? Can I move on to the purpose of having you before us specifically, Ms Homer? That is, the letter you wrote to us updating us on the situation regarding the files. In your letter you said that you had discovered 40,000 files of older immigration cases where you do not know what has happened to those who made their applications. You do not know whether they are still in the country, whether they have left the country, or what their status is. Is that still the case? Do you still not know where these 40,000 people are?

Mr Woolas: Can I ask if I could respond very briefly, Mr Chairman? The 40,000—and I asked Lin to let this Committee have that figure as soon as I was aware of it—are cases. They are files; they are not people. We have sampled it, so we can give you more information. This is part of our huge management project to clear up the past archives, and we are doing that.

Q214 Chairman: Indeed, but these 40,000 were highlighted in her letter. You say that they are not people; so there could be duplicates. It could be two files on 20,000 people.

Mr Woolas: That could be the case. They are also duplicate with other parts of the system—asylum and immigration.

Q215 Chairman: Does that not cause you concern? That, within a system where we need certainty and exactness, we have a situation where there are still old files in the archives which may well be duplicates?

Mr Woolas: I am determined that we are a non-backlog organisation; that we can answer questions to you and to others as to what the situation is. As part of sorting that out—and this is the legacy that the Home Secretary referred to in part—I am determined that we know exactly what has happened to these files and these cases. In putting that into the public domain, I am causing a short-term pain and embarrassment to the Government, but it is part of the bigger shake-up of the migration system.

Q216 Chairman: When will you know on these 40,000, as opposed to all the other files, whether or not they are duplicates? How long is that process?

Ms Homer: Chairman, we intend to deal with these cases in the same timescale as we are dealing with the broader legacy files, which I have reported to you on many occasions—

Q217 Chairman: So 2011?

Ms Homer: At the latest by 2011; but, as you know, the Home Secretary has encouraged us to see if we can finish sooner than that.

Q218 Chairman: How many files are currently in the archives?

Ms Homer: This is a definitional question. Because we deal with individual applications, under the National Archives records we keep files for up to 30 years. Overall, the agency has millions of longer-term files, which we must keep in accordance with the national rules. The figures that we have shared with you are those where, as the Minister has said, we are continuing our clearing-up of establishing whether they are properly filed and whether all of the information about one person is in one place.

Q219 Mr Winnick: Recognising that these are files, 40,000, and not necessarily cases, would we not however be right in assuming that, in the main, it is more likely to be nearer 40,000 cases than, say, 20,000 cases?

Mr Woolas: What I asked for and what the Chief Executive was able to do was to do a sample of the 40,000. We sampled 800. The cases go back to 1983, when William Whitelaw was Home Secretary. Sixty-five% of them pre-date 2003. Most of the cases, 85%, have no outstanding applications or further representations. Of the 40,000 we have sampled 800; of those 800, 85% have been dealt with; leaving 15%. What we did immediately was to check the 40,000 against the watch list and the Police National Computer, so that we could identify if there were any people who were likely to cause harm. Most of the cases within the remaining 15% have had their initial application refused but have subsequently submitted further information, or indeed another application. That is the best picture we have at the moment; so I am confident that this is not, as some feared, 40,000 people who have gone missing in the system.

Q220 Mr Winnick: Recognising that, Minister, and also of course the brief time you have been in your job, does this not create a public perception—a question perhaps to Ms Homer—that the whole thing tends to be a mess; that you really do not know who should have left the country and have not done so? You have these 40,000 files and, despite your explanation, they do exist and without any knowledge that these cases have been dealt with and finalised.

Mr Woolas: This is why the Home Secretary's speech is so important. Up until 1994 there were paper border controls; there was no enforcement—and this is true under this Government as well as previous Governments—of visa overstaying. What we are now doing with the electronic borders programme and this shake-up is getting on top of it and managing it.

Q221 Mr Winnick: We have been told that repeatedly by successive Governments—“getting on top of it”—but we do not seem to be getting on top of it.

Mr Woolas: With respect, I am able to give you figures. I am able to prove my case by giving you figures. I have been honest and transparent and I have instructed my officials to be honest and transparent, and to put these figures into the public

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domain—in part so that I can provide this Committee with the evidence that the United Kingdom Border Agency is getting on top of this situation.

Q222 Mr Winnick: A few years ago, when I asked how many estimated illegals were in the United Kingdom, I was told by the senior civil servant that he had absolutely no clue. Do we have any clue now, bearing in mind that obviously they are illegal and so there cannot be a record as such? If one had to have a round figure, how many people do you believe, Minister, are in this country without any permission to be here, either because they have come in illegally or, more likely in most instances, overstaying? Could you give any sort of indication of the illegals in the United Kingdom?

Mr Woolas: I do not have an estimate of that. What I—

Q223 Mr Winnick: Half a million?

Mr Woolas: I do not have an estimate, Mr Chairman. The policy we have, through the border control roll-out, will mean that increasingly over the next few years we will know the answer to that question, and we will be the first Government to be able to answer that question. I have not speculated about it. I think the Mayor of London made an estimate.

Q224 Chairman: Yes. The Mayor of London puts it at 500,000.

Mr Woolas: I think that was for Greater London was it not, Mr Chairman, from memory?

Q225 Chairman: It was.

Mr Woolas: But that is the Mayor's estimate. We do not have an estimate of that figure.

Q226 Mr Winnick: Likely to be substantially lower than half a million?

Mr Woolas: I really do not know, because when one looks at overstayers there are some overstayers who do have permission, for example if they have applied for an extension; so there are some categories. Not all those who are overstayers are in fact illegal.

Tom Brake: I just wanted to know, Minister, whether you were able to give us a cast-iron guarantee that you will not be coming back to us in another year's time saying that another 20, 30, 40,000 files have been discovered somewhere else.

Q227 David Davies: There is no chance of that!

Mr Woolas: I cannot give you a guarantee that I will come back in a year's time—

Q228 Tom Brake: You or your successor.

Mr Woolas: I have money on at Ladbroke's that I will! That was a joke, by the way!

Q229 Tom Brake: How confident are you—

Mr Woolas: I said a year ago on national radio that I would resign if the figures did not show by October this year that they had started to reduce. I have not resigned because I have not needed to because of

that pledge. The cast-iron guarantee cannot be given but we are dealing with our legacy apace. You have urged us to. I can tell you that as a result of your urgings that—

Chairman: We will be coming on to the rest of the legacy.

Q230 Mr Clappison: It is the first time that the Committee has been given this figure of 40,000 older cases. It came in the letter that Lin sent to us a couple of weeks ago. When did you know about the existence of these 40,000 cases?

Mr Woolas: I am very grateful for that question, Mr Clappison, because as I mentioned a moment ago I received a submission in July. I asked for an explanation. I asked the Chief Executive to include it in her report to the Home Affairs Select Committee so that we could share that information.

Q231 Mr Clappison: Can you tell us what categories of cases that you are covering here?

Mr Woolas: The categories of cases?

Q232 Mr Clappison: Yes.

Mr Woolas: Could I ask Lin to help with that?

Mr Clappison: Yes, of course. While she does, can I ask to the question I am leading on to through this? Can you tell us are there any other categories of cases we have not been told about yet which you still have on file and you may look at in future?

Q233 Chairman: Perhaps you could start with the first question about the categories.

Ms Homer: The categories of cases from the sampling that the Minister referred to are cases such as family claims, as dependant spouse and dependant relatives; cases relating to students and cases relating to other forms of leave related to the length of time spent in the country. They are those sorts of cases, therefore. What I can say is that, because these are older cases and not attached to a biometric record, it is quite possible—and this is the reason we do not know how many people this represents—there will be more than one claim in different categories; so someone may claim as a spouse and then make a long-residency claim. That is one of our challenges and why we want to look quite carefully at these cases, and to make sure we are confident that they are finished.

Q234 Mr Clappison: Do you have any other categories of cases that still remain to be disclosed to us?

Ms Homer: None that we know of but, as we have been doing this clearing-up exercise, we have tried always to ensure that the Minister and then, through the Minister, you are informed as we tidy up our data and have more knowledge.

Q235 Patrick Mercer: We have been talking about the files in question. How long will it take to review these files against the watch list and the Police National Computer?

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Ms Homer: We have done the check to try to make sure that we have found any harmful cases immediately. You will remember, probably from when Emily Miles joined me in front of you, that we have a process of checking all the CRD cases against the watch list; so we regularly try to bring them out. Of course, if there is a double-identity case in there or something like that, I may not have found every case; but we have done an immediate check. Then, as you know, we always prioritise harm cases; so if when we go into each case more thoroughly we find any, that would automatically bring them to the top of the pile.

Q236 Patrick Mercer: How often will you re-check them?

Ms Homer: We re-check the legacy cases, I think it is every six months but I will confirm that. It is either six or three—but regularly.

Q237 Patrick Mercer: Given that most of the files pre-date 2003, is it not the case that those involved who are still in the country will be given the right to remain anyway, for family reasons?

Ms Homer: I think 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; but our intention is to check those thoroughly.

Q238 David Davies: Picking up on Mr Mercer's point, of the 22,500 cases that were dealt with between May and September only 2,500 resulted in a deportation.

Ms Homer: Yes.

Q239 David Davies: So about one in ten.

Ms Homer: For that tranche but, overall, 14% of the legacy cases have led to active removal.

Q240 David Davies: But is not the case that, as you go further and further back, the chances of any of these resulting in deportations become smaller and smaller?

Mr Woolas: If I may intervene, these are files; they are not people. That is the point.

Ms Homer: They are not all about separate people. The largest proportion of the legacy cases have been resolved for what we call "other", and that includes duplicates and things like that.

David Davies: Can I ask you one other question, which is slightly off this topic? How many members of the Taliban are currently claiming asylum in this country? I came across one myself, to my amazement. How many other members of the Taliban are here?

Chairman: I am sorry, where did you find this Taliban member?

Q241 David Davies: In London Bridge Tube station, but that is another story, Mr Chairman. The fact is that he was here and the fact that he was a member of

the Taliban was the reason why he was able to claim asylum. I assume that he is not the only one, as I came across him by sheer chance in another capacity.

Mr Woolas: They tend not to tell us, Mr Chairman.

Q242 David Davies: This one was telling everyone and he was indignant that he had been stopped, because his whole basis for claiming asylum was that he was a member of the Taliban. This is absolutely true.

Mr Woolas: We do enforce returns to Afghanistan.

Chairman: We will be coming on to that.

Q243 David Davies: How many members of the Taliban are living here?

Mr Woolas: With respect, Mr Chairman, the people who claim asylum tend not to tell us if they are a member of the Taliban; so the answer is—

Q244 David Davies: The answer is no.

Mr Woolas: . . . that you cannot answer it. What I can say, however, is that if this country and others did withdraw their troops from Afghanistan and the Taliban were able to take control of Afghanistan, our evidence is that the number of asylum-seekers coming to the European Union would significantly increase, and the figures show that that is the case. An argument that is not aired strongly enough in public, in my view, as to the benefit of the presence of our Armed Forces, and other countries', is to help us control migration.

Q245 Chairman: The answer to Mr Davies's question is that no member of the Taliban has been given asylum in the United Kingdom. Is that the answer to Mr Davies's question?

Ms Homer: The answer is that I would not be able to answer that question today.

Q246 Chairman: Would you write to us and tell us?

Ms Homer: Very happy to.

Q247 Chairman: Because although people have not said they are members of the Taliban, it may well be that the Minister may not be aware of it.

Ms Homer: And we may not be aware of it, but the point I would want to make is that the Geneva Convention requires us to consider the claim of an individual. You will know, Chairman, that we have in recent years become increasingly successful at returning people with records that we might regard as war crimes to the countries of origin, with deportations with assurances that—

David Davies: I would appreciate a response to that anyway. There are six members of the UN—

Q248 Chairman: Mr Davies, could Lin Homer just finish? What would be very helpful would be if you could write to us on this point.

Ms Homer: I will give you some general information.

Q249 Tom Brake: Ms Homer, in the notes you have provided you draw a distinction between controlled archive cases more than six months old, and you

explained what that meant in your last appearance before us, and “concluded cases in live locations”. For the benefit of the Committee, can you explain what a concluded case in a live location is?

Mr Woolas: For the benefit of the Minister as well!

Ms Homer: The Chairman has told me before to try to make my updates simpler and clearer. Apologies for that. The controlled archives are cases which the Case Resolution Directorate have in their control and are in a central location. The concluded cases in live locations are where ongoing teams have control and, more like our new asylum cases, it is the non-CRD team members who are concluding those cases and following them through. It is really about where the case is being filed, not the status of the case.

Q250 Gwyn Prosser: Minister, they say that timing is everything in politics; so why did you decide to resume the deportation of failed asylum-seekers to Zimbabwe in the same week that the unity Government in Zimbabwe was disintegrating and the UN monitor on torture had been deported from that country? Was that good timing?

Mr Woolas: The policy that we operate is that independent people advise us and indeed can dictate whether or not it is suitable to return, and that independent advice is that that is the case. The information we have, not just from our own sources—the Foreign Office is obviously the prime source—but also our relationships with the inclusive Government in Zimbabwe, led us to that conclusion.

Q251 Gwyn Prosser: But how historic is that advice? It is very clear to most people that things are beginning to unravel there, that it is not a safe country to return to. Will you go back to them and revoke that decision in the light of recent events?

Mr Woolas: In my experience one has to be very careful. A country that is safe to return to is not just defined by ministers; it is defined by an objective process. The advice we have is indeed that there have been positive changes to the political and humanitarian situation in Zimbabwe since the Home Office first deferred enforced returns in September 2006. The courts have found that there is no general legal barrier preventing all the returns to Zimbabwe; so that is the advice and the judgment that we have. My understanding and advice—although I have not visited personally—is that the situation is improving. That does not mean that we will enforce all returns; it does mean that we have the legal sanction to do so.

Q252 Gwyn Prosser: Given the high capita cost of returning failed asylum-seekers to places like Afghanistan and Iraq, and the relative lack of success in that area, would you then be making the political decision or would Ms Homer be making the decision that it would be cheaper and more effective to resume returns to Zimbabwe—given the issue you have just raised?

Mr Woolas: There is a direct correlation between our ability, legally and logistically, to enforce returns and the fall in the number of applications for asylum from those countries of origin. That is part of the

balanced decision that we take, based of course on the assumption that we are legally able to return and logistically can return.

Ms Homer: Could I say that on both Afghanistan and Iraq we have large numbers of returns and they are successful return routes. We have had some challenges in recent weeks—I would not pretend otherwise—but we return hundreds to those two countries and have done so for many months now, and do so very successfully.

Q253 Chairman: Were you embarrassed by the fact that the flight you sent to Baghdad had to return to the United Kingdom? Have you seen the report of the director of the Medical Justice Network who said, “Some, possibly most, of the deportees were handcuffed and restrained and several had sustained injuries as a result. During the flight, they stated they were allowed to use the toilet only under supervision and in restraint, with the lavatory door open. When they got there, some were not allowed to stay and had to return”? Was that an embarrassment to the Home Office?

Mr Woolas: I was not embarrassed; I was angry. The report I received that evening and the following morning indicated that the head of immigration control at the airport in Iraq had taken a decision that, as far as I can see, was a personal decision. We had of course documented those people under the memorandum of understanding we have with the Iraqi Government. As the Chief Executive has said, we had on several occasions returned people to Iraq, and I was very annoyed by the decision of the individual. I looked into the allegations about treatment. That was not borne out by the advice that I received.

Q254 Tom Brake: Ms Homer, I just want to pick you up on something you said. You talk about returning many people successfully. What sort of follow-up checks do you make to confirm that the people you have successfully returned are indeed safe in the countries they have been returned to?

Ms Homer: We have arrangements with the IOM, the International Organization of Migration, to provide immediate support to returnees on their arrival. In a number of countries we work very closely with the returning country. In Afghanistan we work very closely with the Afghanistan Government to ensure that accommodation and onward journeys are successfully managed. In the case of those people returning under our Assisted Voluntary Return scheme, which as you know is our preferred route, we continue to give support of both a financial and non-financial kind for lengthy periods thereafter, so that they can continue to get support for many months.

Q255 Tom Brake: So you have no cases where those reports have come back saying that people you have returned either to Afghanistan or to Iraq have subsequently been detained or have disappeared, for instance?

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Ms Homer: We do get reports and those are followed up, as the Minister has already described, in relation to our country of origin information. It is perhaps worth saying that the UK's decision to return is based on publicly available country of origin information, which I think probably most people would say is some of the best information available to any immigration department. It is sourced not just from our own opinions but from many sources. It includes all the views of the NGOs and other bodies; so we make those decisions based on public and very widely obtained information.

Q256 Tom Brake: Clearly not much consolation if that person happens to go missing—that it was based on publicly available information of the best quality?

Mr Woolas: I am not aware of any case where such a return has resulted in that situation. I have investigated or ordered investigations into those cases, high-profile cases in the *Independent* relating to Darfur, and that turned out not to be credible. Similarly, correspondence I have had with the hon Member for Islington North.

Q257 David Davies: How much money do you pay to asylum-seekers going back to Afghanistan under the AVR?

Mr Woolas: We do not pay; we resource.

Q258 Mr Winnick: Is this not part of the difficulties the Home Office are in? If you do not send people back who should be sent back, you are under fire and criticism, as in some of my earlier questions; where you do and things go wrong, for all kinds of reasons beyond the Home Office control, you are also under fire. In a democracy, therefore, it is not an easy outcome to satisfy everybody.

Mr Woolas: The officer at Baghdad airport refused to allow non-Arab Iraqis—or that was his intention—into Iraq. That is not something that I can control; it is something that I can influence—but I understand the frustration that you refer to, Mr Winnick, and I am very grateful to you for saying that.

Q259 Mrs Dean: Many people coming to seek asylum from Asia enter Europe via Turkey. Can you say how close government relations are with Turkey on this issue, and why do they not claim asylum there?

Mr Woolas: It is possible to claim asylum in Turkey. Turkey is one of *the* major transit countries in the world, and we have some figures on this. In the five years from 2002 to 2006 inclusive, around 310,000 illegal immigration were detained by Turkish border units. However, many more managed to pass between or through the border gates undetected. An estimated 200,000 illegal migrants transit through Turkey each year. Registered asylum-seekers in Greece—obviously the next transit country—totalled over 25,000 in 2007, a 105% increase on 2006 and five times more than in 2004.

Q260 Mrs Dean: Are any of them given asylum in Turkey?

Mr Woolas: I believe they are. Because Turkey is a transit country to the European Union, under the Dublin arrangements if somebody claims asylum in Greece and ends up in Britain claiming asylum, we can send them back to Greece and we regularly do. The Dublin arrangements work well for our country, but obviously the external border control of the EU—in this case Greece with Turkey—is absolutely critical. That is part of the problem, of course. Turkey is deemed a safe country to return to and we do. We have very good relationships with Turkey, as a matter of fact. The previous Home Secretary visited there last year and I think the Chief Executive did as well.

Ms Homer: We are engaged in two projects with them to help them improve their systems both in country and at the border, and that includes reception for migrants. We are working very closely with them, therefore. They have a hugely challenging border and we felt that it was right to try to help them improve their systems rather than just to complain about them.

Q261 Mrs Dean: Do we know whether they do in fact grant asylum?

Ms Homer: I do not have the figure but I know that they receive applications. I am afraid that I do not have the figures for how many.

Q262 Mrs Dean: Could you let us have them?

Ms Homer: I can see if we have them, yes.

Q263 Chairman: Should the EU be doing more? When some of the Committee went to Calais we found that people had come all the way from Afghanistan, across five EU countries and had ended up right at the end of the continent, wanting to arrive in the UK. Surely the European Union must do much more to ensure that Member States do their bit on this issue?

Mr Woolas: The central plank of the Stockholm Programme, the five-year programme instigated by the Swedish presidency in the current six-month period, is indeed the external border of the European Union, the work of Frontex. Of course we are a non-Schengen country and the situation within continental Europe, as one knows, is different. The people-trafficking routes and the routes of migrancy, which in this particular case end at Calais, can also be duplicated, for example from former French colonies to France. There are actually more asylum-seekers in France than there are in the United Kingdom, although you would not know it from the public debate. There are other routes, for example to Germany through Russia, and we, with our European Union colleagues, are getting better and better at disrupting those routes. Sometimes these routes spring up over a 24-hour period; the main established one obviously being Calais in our case. That is why the agreement we had to close “The Jungle” with the French was so important.

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Q264 Mrs Dean: Could you let us have the figures for other European countries and where the asylum claims are coming from?

Mr Woolas: Yes, I would be more than happy to do that. We are in fact thirteenth per capita in the European Union.

Q265 Mrs Cryer: Minister, universities and colleges are claiming that the points-based system is causing significant problems to many of their perfectly good students applying to go on perfectly good courses at their institutions. Meanwhile, however, immigration officers at Heathrow are suggesting that people who have been repeatedly refused entry to the UK in the past are now being allowed in, due to having dodgy—I assume dodgy—student visas. What will you be doing to sort out the problem of bogus colleges and bogus students?

Mr Woolas: The licensing system under the points-based system is a major advantage in managing migration. We estimate around 1,500 institutions calling themselves colleges were refused licences. The points-based system allows a visa to be issued only against the acceptance by a sponsor licensed college, and that has helped significantly to clear up the number of back-street colleges or bogus colleges—whatever the words are. There is a consequential worldwide or global effort to try to abuse the system that we have put in place, and we have had some issues, particularly with the below Level 5 NVQ, the NVQ 3, where in some cases in some provinces in China we have had to suspend applications, where there was a significant surge in applications—I think around 1,500% in one office. The issue of the officer at Heathrow, where I read the transcript on Radio 5—it is not the case that an immigration official does not have the power to refuse entry.

Q266 Mrs Cryer: It is just that they do not have the time, apparently.

Mr Woolas: What we require, I think rightly on a managed migration and a moral basis, is that the officer must have evidence that either the visa has been obtained by deception or that the purpose of the visit has changed. What we do not allow is the officer to refuse entry into the country on a whim. I thought that was wrong and that there should be some objective reason why that is the case. If the officer thinks that the visa is not valid or that there is fraudulent deception in getting the visa, or if the purpose of the visa has changed, then we can and do refuse entry. Overall, the feedback from the universities has been positive. There have of course been anecdotal, sometimes real, teething troubles. I think Pakistan in particular, because of the challenges we faced earlier in the year, did cause some problems. However, our strategy is to check the visas thoroughly and the refusal rates have increased in some countries. Overall, the good news is that there are more legitimate overseas students coming to this country than there have been in the past—an enormous benefit.

Q267 Chairman: Minister, on the point Mrs Cryer is making, you mention the person on Radio 5. He said that he was asked to admit a woman of fifty, who spoke absolutely no English at all, for an ACA course. There is no requirement that people speak English in order to come and undertake a course of study in the United Kingdom, is there?

Mr Woolas: To undertake study, we rely on the college and university to judge whether or not that person is capable of fulfilling that course.

Q268 Chairman: That is the point the officer was making. He needs the power at Heathrow, and indeed your ECOs need the power in the posts abroad, to say, “Sorry, we’re going to refuse, even if you have the number of points”. The problem with the points-based system is that points are absolute—as our report said.

Ms Homer: Some people would say that the soundness of the points-based system is that it is an objective system, not a discretionary system. The problem we faced from educational institutions before was that an ECO or an immigration officer second-guessed their judgment about entry. You are right that some of my frontline officers have raised issues with us about how Tier 4 is operating. The way we run the agency is that, when that happens, we look at those issues very carefully and we are in the process, as the Minister has described, of looking at what has been going on in China and seeing if there is anything we should do about that. We do take it seriously, therefore, but we are not about to turn this back into a system where the ECO can take a decision based on his or her discretion; because the whole point of the points-based system was to place more responsibility on colleges, and our weapons there are to remove the licences—1,500 already—and to give licences out, but to subsequently revoke or suspend.

Q269 Mrs Cryer: Does the points-based system not take into account at all the fact that a person cannot speak any English and she or he is coming to do a degree course in this country?

Ms Homer: The colleges determine and some will require a specific test or evidence and others less so. We will clearly be watching that with care. For us, it would go to the credibility of the college. If we go and inspect and find a college that appears to be teaching in English to a classroom that cannot understand it, the question we would have is whether that is proper education. As the system works at the moment, that would go to the credibility of the college. If it were the case that they were teaching to a roomful of students who could not understand, I would think it quite likely that they would lose their licence.

Q270 Chairman: Ms Homer, you invited online discussion with your officers about how the system was going. You said, “What have you done today to make you feel proud?” and this officer responded, “I can no longer feel proud of my role, given that I am forced on a daily basis to allow entry to passengers who clearly have no ability or intention to follow any

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course of study in the United Kingdom". A 50-year-old woman who speaks no English arriving at Heathrow airport with valid documents therefore qualifies under the points-based system and cannot be refused entry.

Ms Homer: Our frontline officers do have power because, as a result of that discussion, we have already suspended 34 sponsors' licences and we have revoked 13; so I think our system gives our frontline officers the power to help us change the system. However, we are looking to run a fair and an objective system and if that means IOs cannot turn people back because they do not like them, then I am happy with that.

Q271 Mrs Cryer: When will the department be responding to the report of this Committee on the points-based system?

Ms Homer: Very shortly. Because this is shared, we are consulting with colleague government departments; so we will try to give a cross-government response.

Q272 Mr Streeter: Turning to the role of the Chief Inspector of UKBA, I think that I speak for myself and possibly other members of the Committee, having had him before us twice now, in saying that we have been slightly "underwhelmed" on both occasions. Certainly, speaking personally, I was "underwhelmed". In particular—and here we have an example that we have just been talking about—the situation in the UK, where perhaps a bit of independent inspection would have helped to flush a few issues out. It took a long time to set up and presumably reports to you or the Home Secretary via yourself. One of the first duties, it seemed, was to go charging off round the world looking at overseas offices, rather than concentrating on the situation in the UK. Am I being unduly critical, uncharacteristically I am sure, or do you think I have a point: that the gentleman concerned should be focusing on the UK activity first and then moving overseas?

Mr Woolas: The inspector is independent. I know that you respect that, and I am grateful for it. It is not for me to tell him what to do. My personal view is that he is right. I think he started looking at Abuja in Nigeria, and I think that was his first overseas visit.

Q273 Mr Streeter: The Hague, I think.

Mr Woolas: UK visa operations are now part of the UK Border Agency. We have 3,000 officers in our overseas postings. That provides not just a consistency across the world but provides us with the ability to better manage migration. If one looks at the student route that Mrs Cryer has just been talking about, for example, the significant intervention is in the granting or refusal of the visa in post, which is now part of the same process, right through to the judgment of the sponsoring college; and that is true of visiting visas, spousal visas and so on. It therefore enables us to see and join up much better our controls, to the benefit of controlling illegal immigration and encouraging business and

trade with our country. We have a global operation. Indeed, we intend to publish a refreshed international strategy at the end of this month, possibly the beginning of next month. I think that it is right to look at that in a joined-up way. We have been able to disrupt some of the illegal movements because of this approach.

Q274 Chairman: The Committee visited Yarl's Wood, where we saw a number of children in detention. We were told by the families when we eventually got to meet them that they were in detention for a period of time and, right at the end of their period, they launched an appeal; therefore they had to stay in longer. Is it possible to look at a provision which will allow them to be kept in detention only after all legal proceedings have been exhausted, thus limiting the amount of time that children have to spend there and of course saving the taxpayer £130 a day for each person?

Mr Woolas: We have improved the appeals process, particularly in the passing through the House of the Borders, Citizenship and Immigration Bill, which streamlined the appeals procedure. One is of course allowed under our legal system to make further representations, to lodge for judicial review, even to apply for asylum, with no time limit on that application—which in my view is wrong. Whatever the appeals structure is, therefore, we find that people in detention continue to frustrate our efforts to remove them by lodging further legal representations that are not, as it were, within the appeals system but are within the legal system—particularly judicial reviews. We would see the problem the other way round: that if people are frustrating the removal process by the legal system, then I think that is doing harm to them and their families. I get very frustrated by that point: that the Government gets the blame when we are implementing the decisions of the independent judiciary. We have made a number of policy measures to improve the situation. The Solihull project, whereby we want to provide legal advice at the earliest opportunity in the process, because in the long run that makes for better decisions and saves the taxpayer money.

Ms Homer: Also, perhaps to reassure you, 65% of the children whom we have removed in the current year spent less than eight days in detention before removal. It is always an issue for us if children spend a long time in detention, but we are constantly working to keep that down to the smallest number of days that we can.

Q275 Chairman: The permanent secretary wrote to me and other members of the Committee today, telling us that last year 65%—a very interesting percentage—of senior officials at UKBA received bonuses for the work that they did. Twenty-nine individuals received £295,000 and 16 individuals received nothing. Do you think that those bonuses were justified, bearing in mind the concerns of the Committee and indeed that the Home Secretary has had about the way in which the operation is currently undertaken?

4 November 2009 Mr Phil Woolas MP and Ms Lin Homer

Mr Woolas: We are pleased with our record. The Public Accounts Committee has praised the Home Office. The capability review, which was reported widely, said that we were fit for purpose. We are pleased with that progress. Part of that progress is the focused professional management team that we have and our pay and rewards structure reflects that. We see that as a sign of success, not as a sign of failure, and I have distributed copies of *The Thick of It* around the senior management office.

Q276 Chairman: Finally, Ms Homer, when you were before us on the last occasion we asked you to update us every three months. In your last letter to me and to the Committee you said that you were going back to six months. It is the view of this Committee that you should actually write to us every three months to update us on the developments, especially in view of the fact that every time we ask for an update you find some more files somewhere in your archives. Would you be able to go back to the three-month period, please?

Ms Homer: I do not think I have ever refused you in the end. It is just a balance of the time we spend informing you and the time we spend working.

Q277 Chairman: Presumably this data is being collected anyway; you are not just doing it for us. You must want to know what is happening in your own department.

Ms Homer: We have a lot of data but we do also follow up your specific requests. If you would like me to write to you in January, I will write to you in January.

Q278 Chairman: We would be most grateful.

Mr Woolas: We do take this process extremely seriously, Mr Chairman. I am not complaining; in fact, it helps me as Minister.

Chairman: Minister, you have always been very co-operative with this Committee and very supportive, and we are very grateful for that. Thank you both very much for coming in today.

Further memorandum submitted by the UK Border Agency

I am writing to update the Committee on our progress with deporting foreign criminals and our conclusion of the caseload of historic asylum cases (legacy cases), following my appearance at the Committee in July this year. I usually write to you every six months but at the Committee, you asked for an update in three months time instead.

As with my previous letters, the information provided here is subject to revision for the same reasons I have set out to the Committee before regarding data quality.

INTRODUCTION

The UK Border Agency is continuing to make improvements and we are building on successes over the past couple of years. We have established a strong force at the border, bringing together immigration, customs and visas checks. To make it harder for illegal immigrants and criminals to get into the UK, we have introduced fingerprinting for visa applicants overseas and so far we have enrolled over 5 million sets of fingerprints, detecting over 4,000 false identities. Furthermore, in the last year the UK Border Agency searched and screened over one million vehicles prior to their entry to the UK and we stopped 28,000 individual attempts to cross the channel illegally.

We are also continuing to have a high impact on the drugs trade and disruption to smuggling activities; just last month UK Border Agency officers searched and seized seventy-five kilos of heroin valued at over £4 million in a refrigerated food lorry at Killingholme Docks, near Immingham. We are using immigration and customs powers to target law-breakers and taking tough action against rogue employers who knowingly hire illegal workers or exploit vulnerable workers. So while I know there is more we can do, I am convinced that we are moving in the right direction.

FOREIGN NATIONAL PRISONERS

Progress with removal of FNPs

1. Our published figures show that we removed a total of 2,560 foreign national offenders during the first two quarters of 2009.¹ These included 16 people found guilty of murder, attempted murder or causing death, around 150 sex offenders and 680 drug offenders. Of the drug offenders removed, 316 were convicted of the production or supply of drugs, over 140 convicted of possession with intent to supply drugs, and over 200 were convicted of the importation of drugs.²

2. Around a quarter of the foreign national offenders deported during this period were removed under the automatic deportation provisions within the UK Borders Act 2007. This will continue to increase over time.

¹ 1 January–March 1,330; April–June 1,230. Source: Control of Immigration: Quarterly Statistical Summary, United Kingdom—Second quarter 2009 <http://www.homeoffice.gov.uk/rds/pdfs09/immiq209.pdf>

² The figures relating to offence types are based on internal management information and should therefore be treated as provisional and subject to change.

Proportion of criteria FNPs removed

3. I reported in July that we had removed or deported a record 5,395 foreign national offenders in 2008. During the same period there were cases of foreign nationals who met our criteria for deportation but who were allowed to remain in the UK. As I explained to the Committee, in the majority of these cases, the right to stay was granted as a result of a successful appeal against deportation to the Asylum and Immigration Tribunal (AIT). Our management information in this area is particularly complex, but a review of our data shows that in 2008 almost 500 individuals who took their case to appeal were subsequently granted permission to stay. Our data also indicates that the Agency successfully defends more than three quarters of decisions to deport at appeal. Examples of the types of cases we successfully defend include where the foreign national offender has appealed on the basis of the length of time they have spent in the UK, or on the basis of having a family life in the UK.

4. It remains the case that many of those granted permission receive it under Article 8 of the European Convention on Human Rights (ECHR), the right to family and private life. As I have already informed the committee, we appeal against specific decisions where appropriate.

Update on FNPs released pending deportation action

5. The non-detained population is currently 2600, based on a three month rolling average. The size of the pool is growing slowly as the courts bail nationals from those countries which are most difficult to remove to, such as Zimbabwe. The Agency continues to seek to progress these cases to ensure that they are deported from the UK at the earliest opportunity.

Foreign national prisoners released without consideration for deportation

6. I am able to provide the Committee with the following update on the progress we are making in deporting the 1,013 foreign prisoners who had been found to have been released without consideration for deportation in 2006. These figures are accurate as at 15 September 2009:

No of cases concluded

<i>Of whom x have been deported or removed</i>	<i>Cases still going through the deportation process</i>	<i>Number of individuals serving a custodial sentence</i>	<i>Not located</i>	<i>Total</i>
768	135	25	85	1,013
360 have been deported or removed				

7. Progress with these cases remains affected by their age and complexity, although you will note that we have removed a further twelve cases since I last reported, including two sex offenders—one of whom committed offences against children—and a violent offender. You will also see that a further two offenders have been located since I last reported, including one “more serious” offender who had been convicted in 2002 of conspiracy to kidnap.

8. I have set out in the tables below a detailed update on these cases, broken down by seriousness of offence:

	<i>Cases concluded</i>	<i>(Of which removals/deportations)</i>	<i>Cases going through deportation process</i>	<i>Nos still serving custodial sentence</i>	<i>Not located</i>	<i>Total</i>
Most serious	39	(27)	1	2	1	43
More serious	115	(54)	20	5	5	145
Other	606	(279)	114	18	79	817
Duplicate	8					8
Total	768	(360)	135	25	85	1,013

9. The breakdown of the 408 concluded cases that did not result in removal or deportation is as follows:

	<i>Most serious</i>	<i>More serious</i>	<i>Other</i>	<i>Duplicates</i>	<i>Total</i>
Appeal allowed	2	23	62		87
British citizen	2	21	57		80
Irish citizen		2	8		10
Exempt	4	2	16		22
Deportation criteria not met	2	8	106		116

	<i>Most serious</i>	<i>More serious</i>	<i>Other</i>	<i>Duplicates</i>	<i>Total</i>
Other reasons	2	5	78		85
Duplicates				8	8
Total	12	61	327	8	408

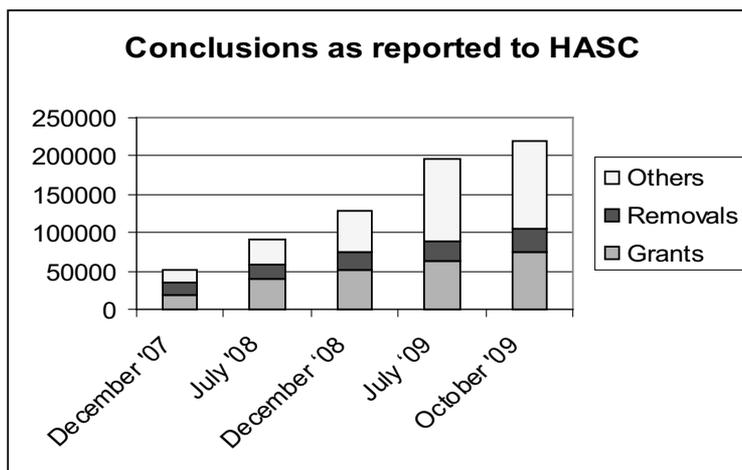
10. You will note that since I last wrote a further four cases have been concluded but have not resulted in deportation. One case is that of a “most serious” offender whose appeal against our decision to pursue deportation was allowed on human rights grounds by an Immigration Judge at the Asylum and Immigration Tribunal. The UK Border Agency challenged this decision but the allowed appeal was upheld on reconsideration, and we were refused permission to challenge the decision at the Court of Appeal.

11. The three “other” offender type cases concluded since July had also successfully appealed to the AIT against our decisions to deport.

12. The 85 not located foreign nationals in this group are routinely checked against government data sources, and after more than three years of checks have eluded our attempts to trace. These individuals have not been in any contact with the police, nor have they been traced by a pilot under which a team of dedicated police detectives has been working with the Agency to find those with whom contact has been lost. By the time I next write to you I intend to adopt a similar approach to that followed with our case resolution work. These cases will be transferred to a “controlled archive” upon which we will make routine checks. These cases will be concluded pending new information. I will continue to include these cases in my future updates on this group of foreign national offenders.

RESOLUTION OF OLDER CASES

13. 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 2009.³ Of the 220,000 conclusions, over 14% were removals and 52% were “other” conclusions such as erroneous/duplicate records, while 34% were grants. You will see that these percentages have remained fairly consistent throughout the life of the programme.



14. Information is provided at annex A to give you a more detailed breakdown of the types of cases we are concluding.

Performance update

15. In my evidence session in July this year, I informed you that the Home Secretary had asked us to consider whether it was possible to clear the backlog earlier than Summer 2011 and that we were looking at our options. I am pleased to update that we have now recruited an additional 350 temporary staff to perform the administrative functions involved in clearing the backlog. In addition, we have revised our operating model to ensure that it is more streamlined and allows our experienced staff to focus on making decisions on live cases.

16. I can assure you that we take the quality of our decision making very seriously and these changes have required a significant amount of training for all staff involved. Consequently, we have seen a slight drop in overall conclusion figures over the summer but expect to see a significant ramp up in performance in the next quarter as our new measures start to produce results. We will review the impact of these initiatives on our target end date in due course.

³ 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.

Our priorities

17. This summer, we transferred responsibility for the conclusion of serious criminals within the asylum backlog to the Criminal Casework Directorate.

18. In order to provide a more accurate picture of the work we are doing to conclude cases with a criminal element and to avoid any risk of double counting, I will only report on such conclusions in the first section of this letter.

19. The last three months have seen an increased focus on the more complex priority cases and I am pleased to inform you that we have now concluded over 59,500 supported cases, which is an increase of 14,000 cases since I reported to you four months ago. We continue to work hard to take people off support by granting people who qualify for leave and removing those who do not—thereby saving money for the Agency and the taxpayer.

20. The UK Border Agency continues to work closely with local government to ensure that we minimise the impacts on both the applicant and the local community and services. I have previously informed you that we made funding available to local authorities for unavoidable, transitional costs that arose as a result of our work on supported cases. As part of our commitment to partnership working with other government departments, we have agreed to provide this funding for the remainder of the Case Resolution Programme.

21. As I mentioned when I gave evidence to you in January 2008, and in my letter of December 2007, the legacy cohort contains cases that the Agency cannot trace, including those that are likely to have left the country voluntarily. Last December I informed you that the Agency makes every effort to trace such cases, checking a number of internal and external databases. If such tracing fails, the case is placed into a controlled archive where it continues to be checked against the Police National Computer (PNC) every three months.

22. In my evidence session in July, you asked which partner agencies we work with to re-establish contact with applicants who try to evade immigration control. I can confirm that applicants are put through up to 19 different checks. We run cases through our internal databases to search for any form of immigration history or support history and check each case against the Voters Registry. We can also conduct a number of external checks which include other government department checks (DWP/HMRC, Local Authorities and Prison and Probation Services) and independent companies (including credit reference agencies and some store cards).

23. We are constantly assessing our relationships with partner agencies and seeking new possibilities for partner agencies in order to trace those applicants who attempt to evade immigration control.

24. In August, we published an update to our operational guidance on the application of paragraph 395C of the Immigration Rules. Paragraph 395C is the section of the Immigration Rules which asks caseworkers to consider a number of factors before making a decision to remove. We hope this change will allow us to resolve cases in the asylum legacy which previously could not be concluded.

Outstanding migration cases

25. On this occasion, in addition to my standard briefing to you on Foreign National Prisoners and the asylum legacy, I want to address the broader issues that the Committee has mentioned about outstanding cases and processing times, something which the Agency is focused on and delivering against.

26. As we continue to modernise the immigration system, we are systematically tackling outstanding cases and moving towards hitting service standards for all applications. We plan to deal with leave to remain applications, European casework applications, and nationality casework within service standard by Spring of next year if not before, as set out in our 2009–10 business plan. The service standard for these case types is a four week turnaround time for the majority of family, work and study applications with 95% being dealt with within six months. For permanent residence and nationality case types, we have undertaken to deal with 95% of these cases within 6 months.

27. We are also increasingly giving attention to our older, archived, non asylum cases, where we have dealt with the application, but where we have no formal record that the individual has left the country. In the last few months we have begun the process of reviewing these files to consider if any further action is necessary or possible. Around 40,000 of these older, archived, files fall into this category. These will all be reviewed and checked against watchlists and the Police National Computer. Where further action is required it will be taken and any cases which may be considered as harmful to the public will be prioritised. As with the asylum legacy cases, the controlled archive cases will be periodically and systematically re-checked. We are also asking each area of business to review any files they may have within their own control to ensure they are consistently treated.

28. These files will, in the main, belong to pre-2003 (ie preceding the introduction of our charging regime) cases of visa overstayers or those to whom we have refused an extension of leave, such as students. We are using immigration and customs powers to target law-breakers and taking tough action against rogue employers who knowingly hire illegal workers or exploit vulnerable workers. Our roll out of e-borders also means that in future we will be able to know when visa recipients have left the country.

29. I hope that the Committee will agree that, with progress made on the asylum legacy and foreign national prisoners, we have not just tackled the big problems, we are also seeking to be as exhaustive as we can as we continue the process of improvement and modernisation.

30. Finally, I wish to bring to your attention the Written Ministerial Statement made by the Immigration Minister on 13 October in which he informed Parliament that we now require asylum applicants who have exhausted all avenues of appeal to attend in person to submit any further information about their claim. This is a logical step in our reform of the asylum system and will allow us to check identity, prevent fraudulent applications and deal with such applications more efficiently.

THIRD PARTY LETTERS

31. At the session in July, you also asked about the process for replying to letters from MPs on behalf of constituents requesting information about another person's immigration case. It is not the Agency's intention to provide replies that are considered to be officious and unhelpful however we are obliged to ensure we work within the principles of the Data Protection Act 1998. At the same time, we try to ensure that our responses meet the customer service standards that we aim to achieve.

32. There are occasions when the Agency is able to disclose information to Members who write on behalf of family members. This could be where the applicant is unable to approach the Member directly, the applicant is a minor or where written consent has been provided. In addition, Members writing on behalf of estranged spouses or persons who have been a victim of a foreign national offender may receive some information and Chapter 24 Section 4 of the Immigration Directorate's Instructions (IDIs) sets out when this may be appropriate. You can view the IDIs at the following link: <http://horizon/ind/manuals/idi/Chapter24.asp>

33. We will respond to such public correspondence on a case by case basis ensuring that we consider any implications under the DPA 1998 before a response is produced. Our obligation always is to ensure that we do not disclose information that may have an adverse effect on an applicant.

I consider this letter to be an interim letter following on from my appearance at the Committee in July. I now intend to revert back to writing to you every six months in the usual timeframes. My next letter will therefore be in January 2010, followed by July 2010.

I am placing a copy of this letter in the House Library.

October 2009

CLEARING THE BACKLOG OF OLDER CASES—PROGRESS TO DATE
(AS OF 30 SEPTEMBER 2009)

Table 1.1

CONCLUSIONS⁴ BY MAIN APPLICANT AND DEPENDANTS

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependants</i>
Removals ⁵	30,000 (14%)	28,000	2,500
Grants ⁶	74,000 (34%)	41,500	32,500
Others ⁷	116,000 (52%)	100,500*	15,500**
Total	220,000	170,000	50,500

NB. Rounded to nearest 500. Figures may not sum due to rounding.

Includes 5,500 controlled archive⁸ cases older than six months and 8,000 concluded cases in live locations also counted in this category.

**Includes 1,000 controlled archive cases older than six months.

Table 1.2

CONCLUSIONS ON SUPPORTED⁹ CASES

Main	29,500
Dependants	30,000
Total	59,500

Rounded to nearest 500

REMOVALS

Table 2.1

REMOVALS, BY NATIONALITY (TOP 10 COUNTRIES)

<i>Nationality</i>	<i>Total</i>
Turkey	2,800
Afghanistan	2,400
Iraq	2,350
Pakistan	1,700
China	1,650
India	1,500
Kosovo	1,450
Iran (Islamic Republic of)	1,400
Sri Lanka	1,150
Nigeria	1,150

Rounded to nearest 50, count of People

⁴ Case conclusions: Cases are taken to a logical conclusion, including removal, grant of a period of stay within the UK and closure of the cases through updating of CID records where actions hadn't previously been recorded.

⁵ Removals: Deportations, Extraditions, Enforced Removals and Voluntary Departures, assisted and unassisted—Commissioned by Case Resolution Directorate. Count of People.

⁶ Grants: Cases granted some form of leave, be it limited or indefinite commissioned by Case Resolution Directorate. Count of Case ID.

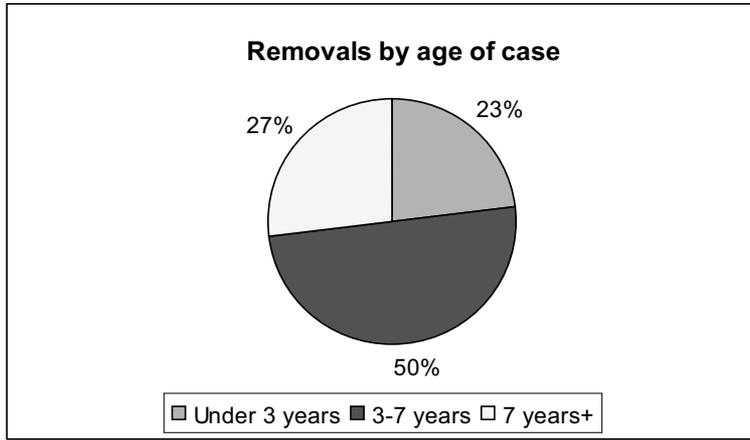
⁷ Others: In these cases Case Resolution Directorate has determined that an action has occurred that led to a grant of some form of leave, or removal that wasn't recorded on the Case Information Data base. This also includes duplicate cases that have been deleted from Case Information Database. In all circumstances Case Resolution Directorates actions have been to update or delete the Case Information Database with the appropriate information. Count of Case ID, count of Person ID.

⁸ Controlled Archive: The controlled archive is made up of cases where we have made extensive attempts to contact the applicant without success. Controlled archive cases are considered completed for statistical purposes when the case has been in the archive for more than six months.

General: Conclusion data is sourced from the Case Information database, Supported data is sourced from ASYS (Asylum Seeker Support System).

⁹ Cases that were on support between 5 March 2007 and to date of the report.

Table 2.2
REMOVALS, BY AGE OF CASE



<i>Time to Conclusion</i>	<i>Percentage</i>
Under 3 years	23
3–7 years	50
7 years +	27

Round to nearest %.

CONCLUSIONS FOR ANOTHER REASON

Table 3.1
CONCLUSIONS FOR ANOTHER REASON

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependants</i>
Duplicates	4,000	2,000	2,000
Errors	88,500	79,500	9,000
EU Nationals	8,500	5,500	3,500

NB. Rounded to nearest 500. Figures may not sum due to rounding.

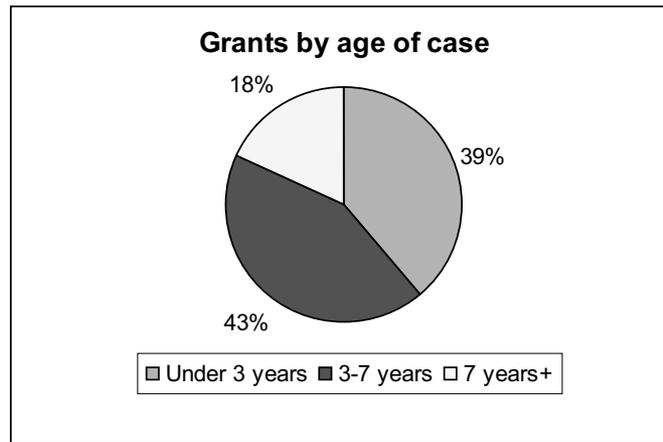
LEAVE TO REMAIN IN THE UK

Table 4.1
GRANTS, BY NATIONALITY (TOP 10 COUNTRIES)

<i>Nationality</i>	<i>Total</i>
Zimbabwe	6,200
Pakistan	5,850
Somalia	4,900
Sri Lanka	3,950
Iraq	3,850
Afghanistan	3,750
Iran (Islamic Republic of)	3,500
Congo Democratic Republic	3,350
Turkey	3,250
Eritrea	2,900

Rounded to nearest 50, count of Case ID.

Table 4.2
GRANTS, BY AGE OF CASE



<i>Time to Conclusion</i>	<i>Percentage</i>
Under 3 years	39
3–7 years	43
7 years +	18

Round to nearest %

Memorandum submitted by the Home Office

During my appearance before the Committee on 4 November, with Lin Homer, Chief Executive of the UK Border Agency, I agreed to provide the Committee with further information on a number of issues.

Firstly, the Committee asked for confirmation regarding how often cases in the controlled archive (legacy cases the UK Border Agency have been unable to trace) are checked against watch lists. I can confirm that these checks are made every three months, not six months as stated at the Committee.

Secondly, the Committee asked for information on whether Turkey grants asylum. Turkey maintains a geographical limitation to the 1951 Geneva Convention on the Status of Refugees, meaning it grants refugee status only to European asylum seekers. The Turkish government proposes to lift the limitation by 2012, but with the condition that an understanding on “burden sharing” with the EU is in place. In the meantime, UNHCR receives applications for refugee status from non-European asylum seekers staying in Turkey and resettles those determined to be refugees.

Thirdly, I agreed to provide you with information on the figures for asylum claims for other European Union countries. This data is published in the Home Office Quarterly Control of Immigration Statistical Summary but I have attached the table from our most recent update, published on 27 August, at Annex A. This shows that the United Kingdom is ranked 13th in terms of the number of asylum applications per every 1,000 members of the population. The next Quarterly Control of Immigration Statistical Summary will be published later today, 26 November.

Finally, you asked about claims from Afghanistan. We have an international obligation to consider the claims of all applicants seeking asylum in the UK, including those from Afghanistan. We make appropriate use of the exclusion powers under the Refugee Convention to ensure that those suspected of involvement in war crimes or acts of terrorism are not granted asylum. As part of this, in all cases, the UK Border Agency conducts a number of checks against individuals claiming asylum, including ensuring that all asylum seekers and dependants aged five and over have their fingerprints taken and that these are checked against a range of databases. Case owners are instructed to identify potential war criminals so that they can be considered for exclusion from international protection. If an asylum applicant is to be granted leave, further security checks are made prior to the decision.

In terms of those seeking entry clearance to the United Kingdom, Section 320(19) of the Immigration Rules give entry clearance officers discretion to refuse entry to the United Kingdom when, based on available information, they consider that refusal would be “conducive to the public good”. For example, all visa applications are checked against criminal justice and immigration databases. In addition, the introduction of biometric checks in 2006 has helped us to identify just over 5,000 individual applications in false identities. Entry clearance officers may refuse an application under S320(19) based on the results of such checks. They may also consider other evidence such as information on close associates and/or activities undertaken by the applicant which would make it undesirable to issue any leave to enter the UK.

Lin Homer will write to you in January to update the Committee on the progress with deporting foreign criminals and the conclusion of the caseload of historic asylum cases (legacy cases).

November 2009
