



House of Commons

Committee of Public Accounts

Immigration: the Points Based System – Work Routes

Thirty-fourth Report of Session 2010–
12

*Report, together with formal minutes, oral and
written evidence*

*Ordered by the House of Commons
to be printed 9 May 2011*

HC 913
Published on 17 May 2011
by authority of the House of Commons
London: The Stationery Office Limited
£11.00

Committee of Public Accounts

The Committee of Public Accounts is appointed by the House of Commons to examine “the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit” (Standing Order No 148).

Current membership

Rt Hon Margaret Hodge (*Labour, Barking*) (Chair)
Mr Richard Bacon (*Conservative, South Norfolk*)
Mr Stephen Barclay (*Conservative, North East Cambridgeshire*)
Dr Stella Creasy (*Labour/Cooperative, Walthamstow*)
Jackie Doyle-Price (*Conservative, Thurrock*)
Justine Greening (*Conservative, Putney*)
Matthew Hancock (*Conservative, West Suffolk*)
Chris Heaton-Harris (*Conservative, Daventry*)
Joseph Johnson (*Conservative, Orpington*)
Rt Hon Mrs Anne McGuire (*Labour, Stirling*)
Mr Austin Mitchell (*Labour, Great Grimsby*)
Nick Smith (*Labour, Blaenau Gwent*)
Ian Swales (*Liberal Democrats, Redcar*)
James Wharton (*Conservative, Stockton South*)

The following member was also a member of the committee during the parliament:

Eric Joyce (*Labour, Falkirk*)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/pac. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee is Philip Aylett (Clerk), Lori Verwaerde (Senior Committee Assistant), Ian Blair and Michelle Garratty (Committee Assistants) and Alex Paterson (Media Officer).

Contacts

All correspondence should be addressed to the Clerk, Committee of Public Accounts, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5708; the Committee’s email address is pubaccom@parliament.uk.

Contents

Report	<i>Page</i>
Summary	3
Conclusions and recommendations	5
1 Improving the effectiveness of the Points Based System	7
2 Improving the efficiency of the Points Based System	13
Formal Minutes	15
Witnesses	16
List of printed written evidence	16
List of Reports from the Committee during the current Parliament	17

Summary

The Government's policy is to allow the migration of skilled workers to the UK to support economic growth and better public services. The Home Office has overall responsibility for immigration policy and securing the UK's border, which it discharges through the UK Border Agency (the Agency). The Agency has the hugely difficult task of designing and operating an immigration system which enables the UK to get the skills it needs, while protecting the interests of workers already resident in this country.

This report focuses on how well the Agency has achieved its objectives of an efficient and effective system for managing migration of workers from outside the European Economic Area. The Agency implemented a Points Based System (the System) in 2008, which introduced three main routes for people to come to the UK to work, replacing the previous 39 types of work visa. The System also incorporates a route for students to come to the UK to study, which we do not consider in this report but intend to examine at a later date.

The System works by awarding applicants points based on, for example, their skills, qualifications and salary and requiring them to meet a minimum points threshold. The System is objective, transparent and flexible, as the points required can be modified to respond to changing needs in the UK workforce. Decisions are also reached more quickly than under the previous visa system.

However we are concerned that the Agency has not been doing enough to protect resident workers and ensure that migrant workers and sponsoring employers comply with immigration rules. It has not monitored migrants' right to remain to make sure migrant workers leave when they are supposed to. A lack of exit controls makes this more difficult. The Agency estimates there may be 181,000 migrants still in the UK whose permission to remain has expired since December 2008.

Migrant workers with a specific job offer have to be sponsored by an employer with a sponsorship licence from the Agency. The Agency cannot tell whether its checks on these employers are effective. It visits fewer than a fifth of employers to check their compliance with immigration rules, before granting them a licence. The Agency lacks the basic information needed to take a robust risk-based approach to visiting sponsoring employers. We were surprised, for example, that the Agency does not even know how many sponsors it has visited.

Multi-national employers can send workers from outside the European Economic Area to UK branches or subsidiaries using the 'Intra-Company Transfer' route. Over half of all skilled workers entering the UK under the System with a specific job offer use the Intra-Company Transfer route, where checks are much more limited. Some two thirds of the migrants using this route work in IT, and are potentially displacing resident workers with IT skills. Unlike the other work routes, the number of workers that can enter the UK through this route is not capped, although workers have to earn above a certain amount. The Home Office has now set a minimum salary requirement for this route of £40,000 (and £24,000 for those in the UK for less than a year), to protect better the interests of resident workers.

The Points Based System is rule-based and requires applicants to supply specific documentation to support their applications. Applicants, however, have needed more help to understand the rules than the Agency was expecting, with half using the helplines. The Agency introduced a policy of 'evidential flexibility', allowing caseworkers to request additional information in support of applications, to prevent applications being rejected for easily corrected mistakes; however, this is not applied consistently. We are concerned that although the Agency has a programme to improve its guidance, it does not do enough to help applicants and sponsors make accurate and compliant applications, and that too many applications are not completed within acceptable timeframes.

The Agency currently lacks the management information to manage migrant numbers effectively and ensure compliance with immigration rules. We welcome plans to introduce an integrated casework system which should provide the information necessary for dealing with these issues, and expect to see improved performance once the new casework system is fully operational from 2013.

On the basis of a Report by the Comptroller and Auditor General we took evidence from the Home Office and UK Border Agency on management of the work routes of the Points Based System for immigration.¹

1 C&AG's Report, *Immigration: the Points Based System – Work Routes*, HC (2010-12) 819

Conclusions and recommendations

- 1. The Points Based System (the System) is an improvement on the visa system which preceded it but has yet to fully meet its objectives.** The System is more transparent to those applying and more adaptable to changing migration needs. It provides an objective basis for decisions, which are reached more quickly than under the previous system. It therefore provides a useful base on which to build. However, the Agency needs to make significant improvements, particularly to encourage greater compliance and improve management information, so that the System works more effectively to meet its objectives. The following recommendations are designed to help meet this end.
- 2. The Agency has not done enough to ensure that migrant workers leave the UK when they no longer have a right to remain.** It estimates that 181,000 people may have stayed on in the UK after their permission to remain has expired, but it does not have the right information to know if this is an accurate estimate. The Agency should not use the lack of exit controls as an excuse to ignore thousands of people who overstay in this country illegally. It should develop a strategy to identify and deal with those overstaying, including students, workers and others who are in the UK illegally, and report publicly at least once a year on progress in reducing their numbers. We will return to this topic in due course to evaluate progress.
- 3. The Agency does not have enough control over whether sponsoring employers comply with their duties and does not appear to know where the main risks lie. The Agency does not check regularly through visits to ensure proper compliance with the rules by employers.** Until October 2010, the Agency was unable to say how many employers had been visited or the outcomes of these visits. This has undermined its ability to develop a sufficiently robust risk-based approach to monitoring employers. The Agency should improve its ability to assess and address the risk of employers failing to comply with immigration rules by developing better systems and placing greater priority on compliance. It should also review its system of incentives and penalties to encourage better compliance, and consider what incentives it could offer to employers to guarantee their employees' adherence to immigration rules, in particular leaving the country when the visa has expired.
- 4. Multi-national organisations are able to send workers from outside the European Economic Area to UK branches through the Intra-Company Transfer route, but we are concerned that the Agency does not have enough control over this route.** Up to September 2010, employers have brought in 42,000 IT workers using this route at a time when UK residents with IT skills cannot find work. Unlike other work routes, there is no limit on the number of workers able to use the route. The Department believes that the interests of resident workers are protected through a minimum salary requirement. Since April 2011, this route is available only to workers earning a minimum of £24,000 a year to remain in the UK for 12 months and to workers earning over £40,000 a year to remain in the UK for up to five years. However, employers are able to pay up to 40% of the salary as allowances, which are more difficult to verify. The Agency must ensure that it can verify all salaries

accurately and should consider excluding allowances from salaries. Furthermore, we expect the Home Office to monitor this scheme and whether controls are operating adequately, to provide the assurance that it does protect the interests of resident workers.

5. **There are wide variations in productivity between the Agency's UK-based and overseas operations, and between different regions, which the Agency cannot fully explain. The Agency's visiting officers are not as productive as they should be.** The numbers of applications decided per day varies widely between caseworkers working in the UK and overseas offices, and between different offices overseas. In addition, the Agency's visiting officers carry out an average of only 4.5 employer visits a month, compared to the 16 visits the Agency calculates should be possible. The Agency should investigate known areas of difference in productivity and focus greater effort on ensuring that staff in all locations work as productively as possible.
6. **The number of errors made by applicants creates unnecessary burdens on both applicants and the Agency.** Currently, half of migrant applicants seek help through calls to the Agency's helplines, and applications are often rejected for easily correctable errors. Sponsoring employers frequently seek advice from the Agency's enquiry lines or from specialist immigration lawyers. We welcome the Agency's commitment to address these problems by improving its guidance and forms. 'Evidential flexibility', which was introduced to help with this issue, is not applied consistently and is not in place for sponsor licence applications. We also heard that some employers would like to have named immigration caseworkers who could be directly contacted about applications for sponsored workers. The Agency should:
 - i. ensure that its staff take a consistent and proactive approach to correcting minor errors and omissions;
 - ii. extend the principle of evidential flexibility to applications from employers; and
 - iii. explore options for improving the service provided to sponsors who are willing to pay for it, for example by providing a single caseworker contact.
7. **The Agency does not have the necessary management information on migrant applications to address compliance problems.** We welcome the Agency's assurance that its new integrated casework system will provide the information needed to deal with these issues. We note, however, that it will not address weaknesses in the management information available on sponsoring employers or improve the service offered to them. We are also concerned that the changes will not be fully operational until 2013. Over the next two years, while it rolls out the new integrated immigration casework system, the Agency should establish performance measures and determine what management information it needs to manage compliance better across both migrant and sponsor management and ensure that the new systems are able to support these.

1 Improving the effectiveness of the Points Based System

1. The Home Office has responsibility for regulating migration into the country and protecting the UK's border, which it discharges through the UK Border Agency (the Agency). In 2008, the Agency implemented the Points Based System (the System) to manage economic migration from outside the European Economic Area. The System was devised with five tiers to allow for different types of work and study-related migration:

- i. Tier 1 for highly skilled migrants seeking work in the UK, which also includes routes for investors, entrepreneurs and graduates who have just completed their studies in the UK.
- ii. Tier 2 for skilled workers with a job offer, which also includes a route for multi-national organisations to send workers to the UK from branches outside the UK (known as 'Intra-Company Transfers').
- iii. Tier 3 was devised for unskilled workers but never implemented.
- iv. Tier 4 for students to come to the UK to study.
- v. Tier 5 for temporary workers with a position offered.

2. The employment routes covered in this report and the numbers of applications granted for each route are set out in Figure 1.² Tier 4 is not covered as this report focuses on work-based routes of entry.

Figure 1 The employment routes for immigration from outside the European Economic Area from implementation to December 2010¹

	Tier 1 ²	Tier 2			Tier 5
		With job offer	Intra-company transfers ³	Total	
Applications from outside the UK granted	43,000	20,000	51,000	71,000	67,500
Applications from inside the UK granted	138,000	28,000	13,000	41,000	500
Total	181,000	48,000	64,000	112,000	68,000
Description	Highly skilled individuals to contribute to growth and productivity	Skilled workers with a job offer to fill gaps in UK labour force			Youth mobility and temporary workers: to work for a limited period to satisfy primarily non-economic objectives
Conditions of entry	Two years to find a job and extend or transfer to Tier 2	Job offer from employer with a UK Border Agency sponsor licence, renewable after 3 years			Sponsoring employer or body, renewable after 12 months in limited circumstances
Assessment criteria for points score (2008)	Bachelors degree or equivalent, age, previous earnings, English language, maintenance funds	Minimum qualification: NVQ level 3, salary threshold for job title, English language, maintenance funds			Maintenance funds and, for youth mobility, age and nationality

Note 1: Implementation of Tier 1 commenced in April 2008, while Tiers 2 and 5 commenced in December 2008.

Note 2: Since 6 April 2011, Tier 1 is restricted to up to 1,000 'exceptional' individuals a year.

Note 3: Route for multi-national organisations to send workers to UK branches.

Source: C&AG's Report, Figure 1 and Figure 2

3. We heard that the System is an improvement on the 39 different work routes that preceded it. It is objective, transparent and can be adapted as the UK's economic requirements change. Generally, it works well for organisations wishing to employ migrants from outside the European Economic Area, who find it results in more objective and faster decisions than the previous system of work permits. We identified a number of areas, however, where the Home Office and the Agency need to improve the effectiveness and efficiency of the System.³

4. The Agency has concentrated its efforts on processes for deciding migrant work visas, and has not got a grip on ensuring that migrant workers leave the UK when their visas expire. The Agency estimated that there could be approximately 181,000 migrants whose work or study visas had expired since December 2008, but who remain in the UK. The Agency does not check whether migrants whose visas have expired are leaving the country, as it is unable to identify all migrants who have left the country. It has partially implemented a programme which will allow it to do this, known as the 'e-borders programme', which will record those leaving the UK. The System is also unable to identify migrants whose visas are about to expire or that have expired without being renewed. The Agency expected that its new integrated immigration casework system would be able to provide this information for all migrants, but it will not be fully operational until 2013.⁴

5. The Agency told us it relied on developing a 'hostile environment' to encourage migrants to leave when they had no right to remain, which was designed to make it difficult for overstayers to access services such as healthcare or driver licensing. The Agency had run a pilot in the North East, Yorkshire and the Humber region to follow up migrants who were supposed to leave the UK. It had contacted 6,000 migrants whose applications to extend or switch their visas had been refused. Of these, 2,000 had left the UK, another 1,800 had subsequently qualified for an extension to their visa or a visa under a different route, and the Agency was monitoring the remaining 2,200. The approach adopted by this pilot is being extended to other regions.⁵

6. Where migrants are sponsored by their employers, the Agency places the responsibility for ensuring they comply with immigration rules on the employer. However, the Agency told us it did not hold employers accountable if sponsored migrant workers did not leave the UK when their visas expired. It only required employers to inform it if sponsored workers failed to turn up for work or left the employ of the sponsor. Even so, we consider that the Agency does not do enough to ensure that employers are complying with this responsibility. It should also do more to take prompt action once such information from employers is provided, as it can take months to curtail a migrant's visa. The Agency

3 Qq 1, 19, 35, 90-93, 122; C&AG's Report, paras 18, 1.2, 1.6

4 Qq 6-8, 82, 84-5, 88

5 Qq 12, 82 116-119, 122; Ev 20

planned to roll out automatic curtailment of visas from autumn 2011 but did not expect to have it fully in place until 2013.⁶

7. The Agency has a system of rating sponsoring employers and it can suspend or revoke the licences of employers who are failing to comply with their responsibilities. There are some 22,000 sponsors and in the period from October 2010 to February 2011, it revoked 93 licences and suspended 148. The Agency also downgraded 353 sponsors to a B rating (meaning that they will have to pay £1,000 and follow an action plan to improve compliance). We heard evidence that for many employers, the benefits of being a sponsor and the reputational risk of being shown not to comply with immigration rules outweighed any advantages of not complying.⁷

8. The Agency uses inspection visits to employers to assess whether existing sponsors are complying with immigration rules and whether potential sponsors are likely to comply. However, it has not been conducting enough visits: for example, it visits fewer than a fifth of employers who have applied for sponsor licences before deciding on their applications. Until recently, it has also had poor management information on its visits to sponsors; before October 2010, it did not know how many visits it had conducted or what the outcomes were. This has impaired the Agency's ability to apply a robust risk-based approach to inspecting sponsors.⁸

9. Intra-Company Transfers are used by multi-national organisations to send workers to their UK branches. This route made up 18% of all applications granted for work routes up to December 2010 and 57% of applications under Tier 2, for skilled workers with a job offer. At a time when workers in the UK with IT qualifications were struggling to find work, Intra-Company Transfers were being used predominately to bring in workers with IT skills. Almost two thirds of the roles that organisations wanted to fill through Intra-Company Transfers were in IT (Figure 2) and all of the top ten companies using this route are in the IT or technology business (Figure 3).⁹

6 Qq 8, 11, 85-89, 91

7 Qq 4, 17; Ev 20; C&AG's Report, Figure 10

8 Qq 65, 67-70

9 Qq 18-19, 35-39, 41-42; C&AG's Report, Figure 2

Figure 2 Numbers of roles that organisations wished to fill with skilled migrant workers, from implementation to September 2010¹

Occupation	Certificates of sponsorship assigned		
	With job offer	Intra-company transfer	Total ²
IT, software professionals	2,000	32,000	34,000
Managers, ICT	400	3,600	4,000
IT strategy and planning professionals	300	2,600	2,900
Technicians, IT operations	200	2,200	2,500
Technicians, IT user support	200	1,300	1,500
Total IT occupations	3,100	41,700	44,900
Nurses	7,300	0	7,300
Medical practitioners e.g. doctors and surgeons	5,300	0	5,300
Chefs, cooks	5,000	0	5,000
Care assistants and home carers	4,200	0	4,200
Finance and investment analysts/advisors	1,900	2,000	3,900
Consultants, actuaries, economists, statisticians	1,100	2,600	3,700
Managers, marketing and sales	800	2,200	3,000
Researchers, scientific	2,800	100	2,900
Researchers	2,000	0	2,100
Directors/chief executives of major organisations	300	1,700	2,000
Teachers, secondary education	1,900	0	1,900
Accountants, chartered and certified	700	1,100	1,800
Clergy	1,500	0	1,500
Teachers/lecturers in higher education	1,400	100	1,500
Managers and chartered secretaries, financial	200	1,200	1,500
All other occupations	18,200	13,600	31,900
Total	57,900	66,000	123,900

Note 1: Implementation of this tier (Tier 2) commenced in December 2008

Note 2: Figures are rounded to the nearest 100 and totals may not add up due to rounding

Source: C&AG's Report, Figure 3

Figure 3 Numbers of workers brought to the UK through Intra-Company Transfers for the top ten users, from implementation to 31 March 2011¹

Organisation	Business type	Country Headquarters (and any operations in India)	Certificates of Sponsorship used
Tata Consultancy Services	IT services, business solutions and outsourcing	India	7,632
Cognizant Technology Solutions	IT, consulting and business process outsourcing	USA (operations in India)	4,962
Infosys Technologies Ltd	Business consulting, IT and outsourcing	USA (operations in India)	3,761
Wipro Technologies	Integrated business, technology, consulting, testing and process solutions	India	3,611
IBM UK Ltd	IT and consulting	USA	2,558
Tech Mahindra	IT outsourcing	India	2,369
Accenture (UK) Ltd	Management consultancy, technology services, outsourcing	USA	2,019
HCL Great Britain Ltd	Offshore IT & software development	India	1,873
Capgemini PLC	Consulting, technology, outsourcing	France	1,226
Steria Ltd	IT enabled business services	France (operations in India)	1,034

Note 1: Implementation of this tier (Tier2) commenced in December 2008

Source: Ev 20 and individual organisations' websites

10. The Home Office has made changes to the Intra-Company Transfer route, to minimise the risk of migrants displacing resident workers through this route. Rather than imposing a limit on numbers as for other routes, the Home Office has introduced a minimum salary threshold: from April 2011 migrants coming to the UK under this route have to earn a minimum of £24,000 a year to come to the UK for up to 12 months, and over £40,000 a year to stay for up to five years. Prior to April 2011, the median salary was £40,116 a year; the new rules would have had the effect of excluding almost half of these migrants from using this route.¹⁰

11. Salaries are defined to include allowances, for example for accommodation. Prior to April 2011, the median allowance component was £21,600, over half of the total salary threshold. Under the requirements introduced in April 2011, allowances must not make up over 30% of the salary package for those remaining in the UK for over a year and 40% for those remaining in the UK for up to 12 months. Inspection visits are the only means of checking that the stated salary levels are being paid, and it is very difficult for visiting

officers to check allowances. The Home Office has asked the Migration Advisory Committee to review the Intra-Company Transfer route each year and has undertaken to take further action if this route is used to displace resident workers, under the new rules.¹¹

12. The Agency has insufficient management information on migrant applications, largely because it does not yet have the necessary IT in place. When the Agency implemented the System, it decided against introducing new IT to manage migrant applications so that it could meet its timetable for introducing the System and reduce costs. As a result, the Agency cannot produce population-wide data to help it identify and manage higher risk applications; in addition, it does not know when visas are about to expire. The Agency told us that it planned to introduce an immigration casework system that would address these shortcomings. The Agency's management information on sponsoring employers has also been poor, as illustrated by the lack of data on employer visits available before October 2010.¹²

11 Qq 45-52, 62-64; Ev 20

12 Qq 27-28, 102; C&AG's Report, para 3.5

2 Improving the efficiency of the Points Based System

13. The Agency's original business plan set out a budget of £35 million to implement the System and forecast savings of £224 million over 15 years. This estimate was based on the assumption that casework systems for managing migrants would be replaced as part of the project. The Agency told us that in 2007, to keep the costs down and to deliver the Points Based System to time, it had decided to delay replacing the existing casework systems and incorporated them instead into a planned Agency-wide integrated immigration casework system. This reduced the expected savings to £65 million over 7 years. Because this decision was not made until 2007, the Agency had to pay £4 million for work already completed on replacement systems, although it hoped to make use of some of this work in developing the integrated system. As at March 2011, the cost of the project stood at £44 million and the Agency still expected to deliver £65 million of savings over 7 years.¹³

14. The Agency told us it intended to implement the new immigration casework system between 2011 and 2013 and expected it to deliver £90 million in efficiency savings a year. In the meantime caseworkers were using legacy systems, and evidence from the National Audit Office suggests that, early on, decisions were taking too long. Additionally, differences in the way that different offices work have led to large variations in productivity for the number of cases decided per day. These variations were most evident between the Agency's UK offices (which process applications to extend or switch visas from migrants already in the UK) and its operations based overseas (which process applications from applicants outside the UK).¹⁴

15. Caseworkers in overseas offices are expected to decide up to 65 cases a day, whereas in the UK caseworkers are expected to decide only five cases a day. The Agency told us it believed this was due to different ways of working and applications in the UK being more difficult, but it had not yet carried out a review of different working methods to ascertain the most efficient ways of working. There are also different quality assurance procedures in place in the UK and overseas. In the UK there is a framework of quality checks and a target that a minimum of 91% of decisions should be free from typographical and procedural error, but no such checking framework or target exists for decisions made overseas. The Agency told us it was setting up a framework and target for quality assurance overseas to bring it in line with decisions made in the UK.¹⁵

16. The Agency uses inspections of sponsoring employers to monitor whether they are complying with immigration rules and to determine whether those applying for licences are likely to be able to comply. However, low productivity means that the Agency's visiting officers are unable to complete enough visits. The Agency told us that since October 2010 it had worked to improve productivity from an estimated 1.75 visits per officer per month in

13 Qq 94-96, 100

14 Qq 95-96; C&AG's Report, Figures 8 and 11

15 Qq 53, 56-57, 123-124; C&AG's Report, para 3.10

2008-09, and was now achieving around 4.5 visits per officer per month. Nevertheless, the Agency has a long way to go if it is to meet its aim of 16 visits per officer per month.¹⁶

17. The Agency provides a points calculator and other guidance on its UK and overseas websites to help migrants assess whether they are eligible to come to the UK. However, half of applicants still felt the need to contact the Agency with queries about their applications. In addition, the points calculator did not make it clear to applicants what documentation they needed to provide to demonstrate that they had all the attributes they were claiming points for. Despite the objective and transparent nature of the System, many migrants and sponsors were turning to immigration lawyers for help with their applications, at a cost likely to range from £500 for a simple case upwards. The Agency told us that it intended to provide a single set of simple clear advice on a single UK Border Agency website when it implemented its immigration casework project.¹⁷

18. In the past, migrants and sponsoring employers trying to seek information through the helplines have struggled to get through. Fewer than a quarter of calls to the migrant helpline and 58% of calls to the sponsor helpline were answered in 2009, although this has now improved with at least 90% of calls to both helplines answered in March 2011. We heard from immigration lawyers who represent applicants that the advice provided through helplines was not always consistent. They also told us that many sponsors would like to see the Agency provide an improved service. Larger organisations in particular may be prepared to pay a higher fee for better service, for example by having a named account manager able to respond to queries about applications. The Agency had used named contacts in asylum cases successfully, and it undertook to consider whether it could work as well for the higher volume immigration applications. In addition, the Agency told us that it intended to move to an online application system which it believed would reduce the need for migrant applicants to speak to the Agency about their applications.¹⁸

19. Many applications are rejected or refused because they contain the wrong information or because documents are missing. To avoid having to reject or refuse cases for small omissions in the documentation, the Agency introduced a system called 'evidential flexibility'. This allows caseworkers to contact the applicant to request any missing evidence, allowing the applicant three working days to provide it. However, this approach has been implemented inconsistently across the Agency's offices in the UK and overseas. It is not used at all for applications by employers for sponsor licences.¹⁹

16 Qq 68-71; C&AG's Report, para 3.16

17 Qq 20, 23-27, 112; C&AG's Report, para 2.11

18 Qq 13, 28-30, 112; C&AG's Report, paras 2.13 and 2.17

19 Q 20; C&AG's Report, para 2.13

Formal Minutes

Monday 9 May 2011

Rt Hon Margaret Hodge, in the Chair

Mr Stephen Barclay
Dr. Stella Creasy
Matthew Hancock
Jo Johnson

Mrs Anne McGuire
Austin Mitchell
Nick Smith
James Wharton

Draft Report (*Immigration: the Points Based System – Work Routes*) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 19 read and agreed to.

Conclusions and recommendations 1 to 7 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Thirty-fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

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

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 11 May at 3.30 pm]

Witnesses

Monday 28 March 2011

Page

Tony Haque, Solicitor, Baker and McKenzie LLP, and **Vicash Ramkissoon**,
Solicitor and Partner, Duncan Lewis

Ev 1

Dame Helen Ghosh DCB, Permanent Secretary, Home Office, **Jonathan
Sedgwick**, Acting Chief Executive, and **Matthew Coats**, Head of Immigration, UK
Border Agency

Ev 7

List of printed written evidence

1 Home Office

Ev 20

2 UK Border Agency

Ev 22

List of Reports from the Committee during the current Parliament

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

Session 2010–12

First Report	Support to incapacity benefits claimants through Pathways to Work	HC 404
Second Report	Delivering Multi-Role Tanker Aircraft Capability	HC 425
Third Report	Tackling inequalities in life expectancy in areas with the worst health and deprivation	HC 470
Fourth Report	Progress with VFM savings and lessons for cost reduction programmes	HC 440
Fifth Report	Increasing Passenger Rail Capacity	HC 471
Sixth Report	Cafcass's response to increased demand for its services	HC 439
Seventh Report	Funding the development of renewable energy technologies	HC 538
Eighth Report	Customer First Programme: Delivery of Student Finance	HC 424
Ninth Report	Financing PFI projects in the credit crisis and the Treasury's response	HC 553
Tenth Report	Managing the defence budget and estate	HC 503
Eleventh Report	Community Care Grant	HC 573
Twelfth Report	Central government's use of consultants and interims	HC 610
Thirteenth Report	Department for International Development's bilateral support to primary education	HC 594
Fourteenth Report	PFI in Housing and Hospitals	HC 631
Fifteenth Report	Educating the next generation of scientists	HC 632
Sixteenth Report	Ministry of Justice Financial Management	HC 574
Seventeenth Report	The Academies Programme	HC 552
Eighteenth Report	HM Revenue and Customs' 2009-10 Accounts	HC 502
Nineteenth Report	M25 Private Finance Contract	HC 651
Twentieth Report	Ofcom: the effectiveness of converged regulation	HC 688
Twenty-First Report	The youth justice system in England and Wales: reducing offending by young people	HC 721
Twenty-second Report	Excess Votes 2009-10	HC 801
Twenty-third Report	The Major Projects Report 2010	HC 687

Twenty-fourth Report	Delivering the Cancer Reform Strategy	HC 667
Twenty-fifth Report	Reducing errors in the benefit system	HC 668
Twenty-sixth Report	Management of NHS hospital productivity	HC 741
Twenty-seventh Report	HM Revenue and Customs: Managing civil tax investigations	HC 765
Twenty-eighth Report	Accountability for Public Money	HC 740
Twenty-ninth Report	The BBC's management of its Digital Media Initiative	HC 808
Thirtieth Report	Management of the Typhoon project	HC 860
Thirty-first Report	HM Treasury: The Asset Protection Scheme	HC 785
Thirty-second Report	Maintaining financial stability of UK banks: update on the support schemes	HC 973
Thirty-third Report	National Health Service Landscape Review	HC 764
Thirty-fourth Report	Immigration: the Points Based System – Work Routes	HC 913

Oral evidence

Taken before the Committee of Public Accounts

on Monday 28 March 2011

Members present:

Rt Hon Margaret Hodge (Chair)

Stephen Barclay
Stella Creasy
Jackie Doyle-Price

Joseph Johnson
Austin Mitchell

Amyas Morse, Comptroller and Auditor General, and **Aileen Murphie**, Director, NAO, gave evidence. **Gabrielle Cohen**, Assistant Auditor General, NAO, and **Marius Gallaher**, Alternate Treasury Officer of Accounts, were in attendance.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

Immigration: the Points Based System—Work Routes (HC 819)

Examination of Witnesses

Witnesses: **Tony Haque**, Solicitor, Law Society's Immigration Law Committee, and **Vicash Ramkissoon**, Immigration Solicitor and Partner, Duncan Lewis, gave evidence.

Q1 Chair: May I thank Tony Haque and Vicash Ramkissoon very much indeed for coming? This is a sort of pre-session to our main session, and we like to hear, when we are doing these evidence sessions with officials, a little bit from the coal face of how it is for you, because we all have our views, but clearly you have to operate the system and we observe it, so I think you bring a different perspective to bear. It's not trying to catch you out, but trying to really get from you what you think works better, what does not work at all, where you think improvements should be made and where you think it is impossible, brilliant, whatever. It is almost an open agenda for you. I don't know who would like to start, but it is really about what works and does not work with the 2008 system. What should this Government bear in mind as it brings in its changes to the work permit system? We are dealing with work permits; we are going to do another session on student visas, but it's not for today. Who would like to start? You have both been highly recommended to us.

Tony Haque: My name is Tony Haque. I am a solicitor at Baker & McKenzie, and I deal mainly with corporate clients, so small to medium-sized companies and also multinational companies, and we also deal with high-net-worth individuals. That is the main practice area for me. Vicash here deals in a complementary side of things, because he deals more on the individual side and so he will be able to explain that.

In terms of our experience at the coal face, as you say, we find the system in many ways is a good one. It is objective in the sense that, from the points side of things, you are able to understand how you might qualify under a particular category. However, we do find that the system can be quite inflexible at times. That rigidity I guess comes from the quest for the system to be objective and efficient but, because of

that quest to be objective and efficient, it leads to the system being quite inflexible.

Q2 Chair: Give us some examples of the sorts of thing you mean.

Tony Haque: For example, let's take you to the beginning of the process, when an employer wants to apply for a sponsorship licence. The sponsorship licence is a licence that allows—

Chair: We know about that.

Tony Haque: Great, so when the employer applies for a sponsorship licence, they are required to, for example, complete an online application, and the online application has a number of questions on there, but it does not really provide much information, apart from setting out what needs to go in each field. At the start of the application, there is a question there that says, 'What size of organisation are you?' The first tab there is, 'Small organisation'. I think it says 10 to 50 employees. The sponsor completes that, sets it out if they are in that category and they assume that they are a small company, because that is described there: 10 to 50 employees, small company.

They then get to the end of the licence application, and they go ahead and pay the application fee. Now, there are two types of fee. There is a fee for a large company and a fee for a small company. Now, on the basis of the information at the beginning of that application, they would probably pay the fee for a small company, but they do not realise in that situation that they actually have to take into account the definition of what a small company is under the Companies Act, and that refers to your turnover and your balance sheet. Unless you actually have that knowledge, and it is quite difficult to obtain that information—it is hidden away in an 80-page guidance form—it can lead to you submitting the application with the small-company fee. Because of the way the system works, if you submit the

application in that way and you are not a small company under the Companies Act, then your application will be rejected.

The really bizarre thing is that the UK Border Agency will actually return your application with all of the documents and refund your money. They have spent the time reviewing all those documents and looking to see whether or not you qualify, but then they return everything back to you and refund your money, so the Home Office is not gaining any money from that refusal, and the client, the sponsor, has to resubmit the application again and pay the fee at the higher rate, if it is clear that that is the reason for rejecting it. The other issue is that, because applications use a lot of standard template documentation, it is not always clear what the actual reason is for rejecting an application. That is why I say it can be quite inflexible in the way that the system operates.

Q3 Chair: Okay, let me just come back to you a little bit and then we will ask Vicash Ramkissoon to speak from his perspective, because you say it works well. When I read the Report, I have a whole load of concerns about how we check on these company sponsors. The supporting documentation is not checked; the Agency claims that the companies are 96% compliant, but there seems to be little evidence of that. There are no visits made or many fewer visits than were intended. You say it works efficiently. From our point of view, I am not convinced we really have bona fide sponsors in there, because of our failure to check. What comment would you have on that?

Tony Haque: In terms of the failure to check, sponsors are required to submit the prescribed supporting documentation with the application, so that hopefully enables the UK Border Agency to verify whether or not a company is bona fide, but that is meant to be backed up by scrutiny from a visiting officer, so when they go and visit a company. Obviously when the system came in place back in 2008, unfortunately they did not have the resources to visit all employers, so we did find that a lot of our clients were being approved without that scrutiny by a visiting officer.

In terms of that doubt on your part, as to whether or not a company is bona fide, I would say that from the documentation that a sponsor has to submit you should be able to verify whether a company is genuine or not.

Q4 Chair: Without the checks and without the visits, do you have confidence in the system?

Vicash Ramkissoon: If I may interject, following on from Tony's point, I think most sponsors do realise that the information in relation to their grading, category A or category B, is actually published; it is on the UKBA website. I think it is quite an important part of the whole sponsorship regime. The employers that I have come across are generally responsible; they understand the implications of actually losing their category A licence or being downgraded to category B or, in some cases, having their licence revoked.

Q5 Chair: Has that ever happened in your experience?

Vicash Ramkissoon: I have had employers having their licence downgraded to category B. I have had other cases where employers have actually had civil penalties levied against them. The information that the UKBA has on their website does actually have an effect on employers, in my view, especially small business, in relation to the fact that they know that, if they have not complied fully with the rules, they will be finally caught out. I think the point of having category A and category B is definitely an incentive to make sure that they remain compliant with the rules. I have also dealt with small businesses where they have had pre-licence checks and post-licence checks and, again, I believe from the feedback when I have attended together with these clients, they are pretty much aware of the implications and the onus is on them. They are aware of that. What the system has actually improved upon is passing that onus on to employers, and that is definitely a good thing.

Q6 Chair: The Report also says—come in, any of you, if you want—that there are an estimated 181,000 people still in the country whose permission to remain—whose visa—has expired. That does not strike me as being hugely responsible employers.

Vicash Ramkissoon: I believe I have read the Report correctly in the sense that the number there does not only apply to migrants from the Points Based System.

Q7 Chair: My understanding is—Aileen, you can help us on that—that it is not overstayers or asylum seekers or visitors.

Aileen Murphie: It is people who come in to work, study or train.

Q8 Chair: Yes, it is work, study or train, so it is through this route.

Tony Haque: On that point, in our experience with what we call “notices” or premature ending of employment or reports to the UK Border Agency regarding a chain of circumstance, there is an inconsistency in terms of the way that these are dealt with. We will find that, with some of our clients, we will make the report and then six months later—quite often six months later—we will receive a letter from the Border Agency requesting the passport of the individual. Obviously by that stage the individual is no longer in the employment of our client or has moved back overseas, and certainly we do not have any day-to-day contact with that individual.

Q9 Chair: Explain that to me again. Somebody comes to work for Company A; they cease and, six months later, you will get an Agency letter saying, “Have you got this guy's or woman's passport?”

Tony Haque: In some cases, we have had that, yes.

Q10 Chair: Is there no responsibility on the company at all to say, “We have terminated the employment of this person”? Who do they tell?

Tony Haque: Exactly. When the individual's employment is terminated, that is the point when the sponsor, the employer, has to report that information to the UK Border Agency. The responsible employer reports that information and then, as a result of that,

28 March 2011 Law Society and Duncan Lewis Partners

six months later we might get a letter from the UK Border Agency, saying, "Please send us the passport of your former employee." Alternatively, we sometimes get situations where the process is a lot quicker, so we make that submission to the UK Border Agency and then, within a few weeks, we will get a letter saying that the individual's leave has been curtailed or shortened. That shows that the system does work, in that respect, and that the UK Border Agency is taking action to curtail leave

Q11 Chair: The companies you represent take no responsibility for ensuring the person on the visa leaves.

Tony Haque: The company undertakes to inform the UK Border Agency when the individual's employment ends, but that is where the obligation ceases.

Q12 Chair: What else do you have to say about what works well and what does not work well for you?

Vicash Ramkissoon: Following on from Tony's point, what I have seen is instances where candidates have applied for extensions to their visas while in the UK. Where there is no right of appeal, the UKBA is starting to actually retain passports and require the individual to report to their port of exit, retrieve their passport and then leave the UK. There are instances of the UKBA undertaking that kind of practice, which I think can help to ensure that those who do not have any leave here do actually leave.

Q13 Chair: What works badly for you? What is good and bad about it?

Vicash Ramkissoon: The good of the whole Points Based System is, I believe, that the processing times are greatly improved. I believe that most applications are processed within the time specified by the UKBA, and that actually helps to provide, in most cases, clients with confidence that they will have a decision and application within the specified timeframe. The bad, in my view, is really not having or being able to discuss a particular case with a caseworker. The new system, or the Points Based System, does not allow you to actually have contact with a caseworker in relation to an individual's case. You are often routed through a general inquiry line, where sometimes the advice can be hit and miss. If you were to phone up five minutes later, perhaps you may get a different response to your question. That I believe hopefully will improve with training. The old system of work permits—and I was discussing this with Tony—was, in our view, able to provide you with more information in the sense that you were able to contact a caseworker who had direct access and was directly involved in the processing of the case, and was able to discuss the case with you, especially if there were any difficulties or further information was required.

Q14 Chair: It is interesting to note in the Report that half of applications require a phone call, which is a heck of a lot on a system that is supposed to work well.

Tony Haque: In terms of the processing timeframe, while in general for postal applications the processing

time has improved, if something goes wrong with an application, then that can spiral into quite extensive delays. This is because, as I mentioned earlier, in relation to licence applications but also in relation to normal applications for leave, if there is one issue with an application, then that will lead to the application being rejected, and the individual either having to submit a request for an administrative review and going through an extensive appeal process, or resubmitting their application. In most cases, they are resubmitting their application. You could have cases where they are resubmitting a number of times, and each time a different issue arises. That can lead to problems.

We did have one case where a client of ours submitted an application. He is a general counsel of quite a large company, and problems arose with the credit card details on the form. He actually realised that he had submitted the wrong credit card details on the form, and he then submitted a letter to advise them of the new credit card details. Very kindly, he received the application back with a copy of that letter regarding the new credit card details. That is an example of the inflexibility of the system. They could have quite easily inputted the correct numbers there and then, and the application would have gone through, but instead the application was rejected.

Chair: And a conversation with a case officer might have sorted it out.

Tony Haque: Exactly, yes, direct contact.

Q15 Stephen Barclay: It may be my questions are more for the Department than yourselves, but I am just interested in your sense. If I am understanding correctly, in 85% of cases, the Department does a desk-based review in terms of it has only visited 15% of firms so, the vast majority of the time, it is relying on the papers that are sent by the firms. Is that your understanding?

Tony Haque: In terms of new applications for sponsor licences, my understanding is that, if a company is a new start-up, then they will be visited but, apart from that, if they are not a new start-up, then yes, it is on a risk-analysis basis.

Q16 Stephen Barclay: How do they verify that the job is the job that the firm is saying it is?

Tony Haque: That is the basis of the new system.

Stephen Barclay: I know there is a new system coming in, but in terms of to date, over the last few years, how have they verified the job. If someone is coming in as a skilled worker, how are they verifying that it is a skilled job?

Tony Haque: What I was saying is that that is actually how the current system is meant to operate. It is meant to be essentially a contract between the employer and the UK Border Agency. In return for the UK Border Agency granting the employer the ability to verify that someone is going to be doing that job, the UK Border Agency expects the employer to police the system, so it is up to the employer, when they are assigning a certificate to an individual, to be confident that that individual is going to be doing the job. That is the way the system works.

Stephen Barclay: It is taken on trust.

Tony Haque: It is based on trust, but also—

Q17 Stephen Barclay: How many firms, and again it may be for the Department and not yourselves, have lost their category A licence?

Tony Haque: Yes, that is probably for the Department.

Stephen Barclay: Could I rephrase it then? Do we have that?

Aileen Murphie: In paragraph 3.15, it says, “Revoked ... some 2% of sponsor licences”.

Stephen Barclay: That is as a whole.

Chair: Out of the 22,000?

Aileen Murphie: Yes, up to December 2010, “revoked or suspended”.

Tony Haque: Just building partly on what Vicash was saying earlier though, obviously this is very important to most of our clients and to sponsors in general—the ability to sponsor key individuals to work in the UK—so they are not going to assign a certificate in general terms to someone who does not meet the requirements. If I could give another example: if an employer is sponsoring some key individuals—perhaps their chief executive officer or someone in that level—they are not going to risk losing that individual as a result of acts of non-compliance in relation to other individuals.

Q18 Chair: The interesting thing is that the Report actually says to us, and this is why we are a bit puzzled, that only 28% are skilled. The other thing is—I hope you both had a copy of the Report—if you look at page 16 and 17, which is where the Tier 2 migrants come in, two-thirds have IT skills. There is not a shortage of IT skills in the UK. There are a load of people with IT skills who are out of work.

Tony Haque: There may well be a shortage of certain skills.

Chair: Literally, if you tot that up—you probably haven’t done, but I, sad person that I am, have and 66% are IT. I know, even in my own constituency, loads of IT-qualified people desperate for work who are not getting it.

Tony Haque: If I could give you the example of areas where you might not be able to use those people who are on the market locally: for example, we act for a number of large defence contractors. They have a need to bring in people who have certain proprietary knowledge. A lot of those tend to be in the IT field, and they will come in to work on certain projects where they need that expertise. So yes, obviously there are certain sectors where you may be able to use a new graduate with certain skills, but then there will also be situations where you need someone who actually has company knowledge, the knowledge of certain processes, which they have gained overseas.

Q19 Joseph Johnson: I would have thought that the vast bulk of those intra-company transfers are not of the very specific skills you are referring to, in the defence industry for example, where you can see there might be a need for someone with proprietary information to come and be based here in the UK for a specific period of time. My understanding of this is that, as with the H1B system in the US, it is largely Indian outsourcing companies, TCS, Wipro, Infosys,

which are routing in quite large numbers of people to work for periods of time—six to nine months—and then back to wherever they are originally based, the original delivery centre they are normally based at. I think that is the vast majority of that 32,000. Would you agree?

Tony Haque: I am sure the figures will probably show the proportion that comes from that background. The Points Based System, though, is flexible enough. I said it is inflexible, but it is flexible enough to tweak the points though, to change the criteria in that type of situation. If necessary, you could, for example, raise the criteria, raise the bar, and deal with the numbers in that way. Obviously the Government has introduced a cap in relation to the Tier 2 general category. That does not apply to the ICT category, and so what we have seen are changes to the criteria for the ICT category, which should lead to a reduction in the numbers applying: the raising of the minimum salary level to £40,000; and the removal of the right to permanent residency. I believe that that will result in changes in the way that the ICT category is used.

Chair: I don’t; I think it will just be the new route in, but there we are.

Q20 Austin Mitchell: If the system works reasonably well, why are you necessary? Why does it need middlemen? What are you doing? Are you marrying people up, skills and sponsors? Are you getting people in faster? Are you fiddling people in who would not otherwise be got in? Why are you necessary?

Vicash Ramkissoon: I guess that is what is bad about the system. The Points Based System allows you to almost self-assess yourself with a tool on the internet. That, in my view, is slightly misleading. Once an applicant goes online and assesses themselves in terms of their eligibility, they will often find that the actual documentary evidence required is a lot more than they thought or that they do not have the documentary evidence. That is where our role as legal advisers comes in. It is not as straightforward as saying, “Here are the points you need and then that is your visa.” In numerous cases, candidates or applicant companies do not have the documentary evidence to support an application.

Tony Haque: Just building upon that point, when the system was first introduced, because of that inflexibility in terms of the documentation, that did lead to very high number of refusals. We did see countless appeals going forward in the early days of the new system. As a result of that, a system of what the Home Office terms “evidential flexibility” was introduced. Unfortunately from our perspective, we have seen that applied on an inconsistent basis. In some cases, if we are filing an application for entry clearance overseas, we will get a call from the post overseas saying, “Can you please provide this extra document.” In other cases, you will get a flat refusal and it is similar with Home Office applications. We have seen the policy being applied a little bit more generously recently, but still it would be useful if that policy could be applied on a consistent basis. If they were applied to licence applications, that would help greatly.

28 March 2011 Law Society and Duncan Lewis Partners

Q21 Chair: Thank you very much. I think we have covered that—you generally think it is a not bad system. Your criticisms are of the inflexibility, a few extensive delays and the lack of somebody you could chat to—a case officer. Is there anything else you would like to add before we actually see the officials? Is there anything else?

Vicash Ramkissoon: I would like to add that the biometric system is generally unpopular among applicants. I, as Tony stated at the beginning, deal with individuals, mainly under Tier 1. That process is generally quite unpopular in the sense that applicants have to sometimes attend Croydon, or wherever they are based, with their families, and take a day out. I am sure from the UKBA point of view that must be taking extra time and resources in relation to issuing biometric cards, which often follow after an application has been decided. From an individual applicant's perspective as well, the public inquiry office—

Q22 Chair: Are these the people who are coming in?

Vicash Ramkissoon: People already in the UK.

Chair: I do not think that is so terrible. They are asked to go and attend a centre. What is so terrible about that?

Vicash Ramkissoon: It is in relation to providing biometric information before that application has been processed. It is just generally unpopular among candidates or applicants, because they have to attend, when the system before was simply submitting your passport, and your visa was endorsed within your passport. Similarly, with regards to the same-day service process, which is offered in various UKBA offices—Birmingham and in London—the service is supposed to offer a same-day service, but again candidates or applicants have a letter confirming their visa has been approved within 24 hours, and then sometimes have to wait up to five or ten days for their biometric card then to be issued. That is a common complaint by candidates, because they are paying for a premium service.

Chair: We were just talking before we started about our immigration caseload. I think that is amazingly good. I wish the Home Office was so good at replying to letters I write to them.

Q23 Stella Creasy: I just have a very brief question. I wonder if you could just give us a sense about the scale of the fees that you charge for these applications to your clients.

Tony Haque: It depends. It really depends on the firm, but some firms charge on a fixed-fee or project basis. That may well be with individuals, but it could also be with high-volume accounts, for example, where you are dealing with very large numbers of people coming in.

Q24 Stella Creasy: So for a particular firm?

Tony Haque: Exactly, yes. Most firms also have an hourly billing rate as well, but those are the two systems that are used. Clients tend to be moving in the direction of project billing and fixed fees. That is their preference, so that they know what the cost is

going to be from the outset. It gives them some certainty as to the costs involved.

Q25 Stella Creasy: What do you quote, if they say 'ballpark figure' for the cost of one of your applications?

Tony Haque: That would depend on the type of application.

Stella Creasy: Give me a rough idea.

Tony Haque: I think it would be insensitive to our clients to actually discuss the fee arrangements. What is your view on that?

Vicash Ramkissoon: I would definitely agree with Tony; it does depend on the client. It definitely ranges, normally from flat fees for individuals.

Chair: Give us a range.

Stella Creasy: You do not have to give us precise details, only a range.

Vicash Ramkissoon: If you are looking at law firms, it could be anything from £1,000 for a single application up to £10,000, depending on what is the particular category. Within the range, for example, of Tier 1, you have post-study workers to investors, so you will find a huge range of fees quoted by companies.

Stella Creasy: Sure. What about Tier 2?

Q26 Jackie Doyle-Price: Let's say I want to bring over a footballer to Chelsea, what would you charge me?

Tony Haque: We do find with that sector that our clients can be very demanding, and so you essentially get what you pay for.

Jackie Doyle-Price: A lot of money then.

Tony Haque: For example, the UK Border Agency has just introduced a fast-track service for dealing with applications where you want the Home Office to come to the individual. At the moment, that fee is £15,000 for the Home Office to come to the footballer to do his biometrics. It is going down come 6 April, I believe, or shortly. In any event, if the UK Border Agency is charging that level of fees, it gives you an indication of fees.

Q27 Stella Creasy: What about the Tier 2 stuff, when we are not dealing with perhaps the wealthier clients?

Tony Haque: It is much more reasonable.

Stella Creasy: What would be the ballpark flat-fee range that you might attract for Tier 2?

Tony Haque: For example, if you are assigning a certificate to an individual, the fees, depending on clients and volume, could range from £500 to £1,500. It really depends on the nature of the business that you're receiving from the client, what level of service they want, your involvement with the process, whether you are listed on their licence or whether you're acting as a third party. It really is that variable and every client is dealt with on an individual basis.

If I could add one point in relation to the Sponsor Management System. We have found that the system, while it is relatively simple to use—this goes back to what you were saying in terms of needing a lawyer to be involved in the system—is very inflexible in many ways. For example, when we are dealing with an

intra-company transfer, if we are arranging for someone to be transferred to a related entity that is included on a group licence, it is not always clear from the Sponsor Management System what entities are covered under its licence. That information: a) is not available to the sponsor, so they cannot see which entities are already on their licence; and b) I am assuming that—

Chair: What do you mean by ‘entity’ in this context?

Tony Haque: It is possible when you apply for a licence to apply on a group basis, so you are covering a number of related entities under the same licence, but only the main entity is shown on the Sponsor Management System; so if you wanted to send someone from your parent company overseas to Company B, and the licence is under the name of Company A, it is not always clear from the Sponsor Management System that Company B is covered under your licence. I am assuming that, when an entry clearance officer looks at the Sponsor Management System, they are not necessarily going to have that information before them either, because although they do have access to the system, very limited information is on there. That goes back to the issue of compliance. How do you ensure that you are able to verify that a transfer is genuine, that these two companies are related, or that the entity is on their licence? The system at the moment and the IT infrastructure could be improved on that front. It is not flexible enough.

Q28 Chair: Neither the customer nor the Agency can check really.

Tony Haque: The only way the customer can check is by calling up the Agency or emailing them, but that is not a quick process necessarily. The Agency does not show the information that is online to the sponsor. I am assuming that the UK Border Agency will have that on their own records, but I do not know whether that information can be accessed by entry clearance officers, because they only have, I am assuming, access to the Sponsor Management System. I do not know. In any event, it is difficult to verify that an entity is covered under the licence.

I understand from the NAO Report that one of the reasons why all of this functionality was taken out of the system was the expense. Really, if the system is to operate in a way that allows sponsors to undertake their obligations in a proper fashion, there needs to be some investment in the system. Under the new system that comes into place on 6 April, the Government is going to introduce two new categories—long-term staff and short-term staff, under the ICT category—but there is not going to be functionality on the SMS system to indicate that immediately, so my understanding is sponsors will have to put a note on the system under the relevant category. The system is not very easy to use in that respect, and certainly its functionality could be greatly improved.

Chair: That is very helpful.

Amyas Morse: Can I just ask something, just out of curiosity. We found when we interviewed sponsors that they were indicating that they would be prepared to pay for better service. Is that borne out by your experience? In other words, if there was more functionality and more capability in this system, and if there was a commitment to deliver that, do you think it is possible that sponsors would pay more? I am not trying to get you to commit your clients obviously; it is just curiosity. This is important for them, isn’t it, so presumably to get this quickly would mean quite a lot? Is that right?

Tony Haque: It really depends on the client. It goes back to each client as an individual. Some will be prepared to pay more for improved service. I would say that many of our very large multinational corporates would be quite prepared to pay more if the service was better. Equally there will be other entities that would not.

Amyas Morse: Of course, but they would not need it if they did not have a complex structure. If you are talking about a group structure and people moving large numbers in and out, I should think they would regard it as cost-effective.

Q29 Chair: Actually, it is a good question. Aileen, of the 123,000 on Figure 3 on page 17, how many of those are big corporates. Do we know? How many are SMEs? That seems to me the most comprehensive figure we have.

Aileen Murphie: Figure 3 just gives you the main occupations.

Q30 Chair: Do we know how many are SMEs as opposed to big corporates?

Aileen Murphie: No, we do not.

Tony Haque: In my capacity as a committee member of the Immigration Law Committee of the Law Society, we have regular meetings with the UK Border Agency, and one of the issues is that, in terms of increasing the fee, my understanding is that, if the fee is increased, that is not revenue that is going to go to the UK Border Agency. It is going to go to the Treasury’s coffers, so is not necessarily going to lead to an improved service for our clients.

Amyas Morse: I am sure the Home Office would be sufficiently flexible to think of some way around that.

Tony Haque: That would be something that I think our clients would welcome, if it could lead to an improved service.

Chair: Thank you very much indeed for taking the time and coming, and for being so clear and lucid in the evidence you gave. Thank you very much indeed.

Examination of Witnesses

Witnesses: **Dame Helen Ghosh**, Permanent Secretary, Home Office, **Jonathan Sedgwick**, Acting Chief Executive, UKBA, and **Matthew Coats**, Head of Immigration Group, UKBA, gave evidence.

Q31 Chair: We have a new Permanent Secretary, so welcome to you; and we have an Acting Chief Executive, welcome to you; and another solid job, Head of the Immigration Group, Matthew Coats, welcome to you. I think that was a useful little exchange before, and I hope you found it so. I just want to ask two general questions. One is: we are getting quite obsessed in this Committee about who is accountable and responsible. Perhaps Dame Helen, you could say who is accountable for the whole system? Who is responsible, you or the Agency? How do you divvy that up between you?

Dame Helen Ghosh: I am, as you know, the accounting officer for the Home Office and, indeed, I am the sponsoring official for the Border Agency, so Jonathan and, when appointed, our new Chief Executive will be accountable to me. In terms of officials, I am accountable.

Chair: For everything?

Dame Helen Ghosh: For everything.

Q32 Chair: How do you see yourself as accountable and responsible, Jonathan?

Jonathan Sedgwick: I am the Agency's accounting officer and I regard myself as accountable to Dame Helen for my exercise of that accountability.

Q33 Chair: Okay, that is much easier than some Departments. Then let me ask you another question, before we get on. It is probably slightly unfair, given that you are all particularly new in the job, but what do you see, Dame Helen, as the purpose of this? What are we trying to do with this Points Based System? What is the policy objective?

Dame Helen Ghosh: The first policy objective is to make sure that we have the skills necessary to support the growth of the British economy—obviously I am just talking about the work routes here—while protecting the interests of resident workers. Our second objective is to make sure it is a fair and transparent process, since I think all administrative processes should be that. Our third objective is to make sure we carry it out as efficiently and as effectively as we can, bearing in mind the interests of the British taxpayer. I would say those were the three principal objectives of the system.

Q34 Chair: You do not see this as being one of the mechanisms to control immigration to ensure that actually UK residents can access jobs.

Dame Helen Ghosh: I am describing, as indeed I think the Report does, the purposes of the Points Based System in its original conception. Clearly, as the Report makes clear—and I think the Comptroller's comments in his press notice brought this point out—it is an adaptable and flexible system, and you can use it for the purposes that you want. When it was originally announced in 2006, there was much less emphasis on the issue about controlling numbers than there was particularly at a time of economic growth, when in fact we were desperate for a number of the skills that you were discussing with the previous

witnesses. The emphasis was very much on shortages and economic growth. At the recent set of announcements about the work-based routes and last week on students, the focus now is more on how you can focus on control while protecting the other interests around growth. It is an adaptable system.

Q35 Chair: Let's start from the premise that we all agree around the table that this is a zillion times better than what came before. What we are going to try to examine is the effectiveness of it—whether it is fit for purpose today and tomorrow—and then the efficiency. We will try and divide it up in those ways. I wanted to start you off looking at the intra-company transfers, which is the one area where the present Government has decided not to put a cap. Looking at the way that that particular system is used, do you think you've got it right?

Dame Helen Ghosh: It is clear from some of the evidence in the Report that there are various elements of the Tier 2 process, and indeed the Tier 1 process, that we didn't get right, in terms of making sure we were genuinely focusing on the skilled and highly skilled individuals. The proposals we have for intra-company transfers going forward we think will focus it much better on the specialists, managers and people on higher incomes. £40,000 is the target limit we will be focusing on. The companies, the CBI and the British Chamber of Commerce, have said that they broadly support what we are proposing on that intra-company transfer, because we are a centre of the world economy and we need to be flexible. I do not know if colleagues wanted to comment on anything looking backwards, which they think we might have done better.

Jonathan Sedgwick: The point I would make is clearly there has been a lot of interest in the numbers that have come and used this route, and that is why these new and very tough thresholds have been set—£40,000, and £24,000 to come in for less than a year—but the Government has made it perfectly clear that it is going to keep it under very close review. It will ask the Migration Advisory Committee to do so year on year and, if it sees abuse, if it sees that people are coming in to do jobs that do not fit the criteria that those salary levels are designed to represent, then it will take further action.

Q36 Chair: Let me just ask a few questions. Jo, jump in if you want to. It seems to me that, as this is the one area that is not going to have a cap, if you are interested in bringing people in, you will try to meet the rules or use this route to perhaps circumvent the intention elsewhere. Let me give you an instance of what I know happens: Tata Consulting will bid for a contract here with somebody, let us say British Airways, to look at some of their work on how they use their crews. They will get that contract on the basis of much cheaper work rates, because of using Indian computer specialists. They will bring a few people over here, do a little bit of work, but actually most of the work will be outsourced back to India.

28 March 2011 Home Office and UKBA

That obviously does make economic sense to British Airways, but it seems to me it is a way of circumventing the intent of these rules. I do not know if you want to comment on that.

Dame Helen Ghosh: I certainly would not be able to comment on detail on any particular case and certainly not any case involving Tata.

Chair: I can give you endless examples. Let me just widen it: KPMG, probably BT does a bit of that. I think the banks probably do it, and most of the financial institutions do it. I just gave you one example of the sort of way these rules are used, as currently defined.

Dame Helen Ghosh: Clearly, and I think we will come on to this when we are talking about compliance issues, we will monitor very carefully the companies that you describe that are very active.

Q37 Chair: May I just say to you that this is happening now. This is what is happening under the existing rules; you can see it in the figures. I think Figure 3 draws it out a little bit. The question is whether you are happy with that really, whether that meets the intent or whether actually companies are using the existing rules to circumvent the intent of the controls.

Matthew Coats: We listened very carefully to the CBI and British business in a consultation last summer about how, following an interim cap, a permanent cap would be introduced. The priority that business, individual companies and the CBI placed upon the type of people they wanted to come in was people with a specific job, which was the Tier 2 or the ICT route, rather than the people who did not have a specific job, which was Tier 1. Through listening and talking to industry about how economic growth would best be protected, that was the genesis of the policy.

Q38 Chair: It is what I said to the others. We all know it from our own constituencies, and mine is not the constituency with the highest qualified and capable people, but I have lots of people who come to see me in my surgeries, with IT qualifications, who cannot get jobs. You look down here and there are two-thirds in the intra-company route who come in with IT skills. If you accept my description of what happens, actually this is only the tip of the iceberg, because a lot of it is contracts, which are then delivered through outsourcing, maybe openly—this is absolutely in the rules—back in India. You wonder whether this is not all circumventing the intent.

Dame Helen Ghosh: My understanding is that, in such a case, the company is still subject in an intra-company transfer to the resident labour market test.

Chair: That does not work brilliantly.

Dame Helen Ghosh: We monitor it and it works—

Q39 Chair: This is what shocks me: 66% IT. I am sure, if you went around the table, all of us have loads of people just coming to our surgery.

Matthew Coats: This is the reason we put the limits that were referred to—the £40,000 for above 12 months and £24,000 below—to strike that balance between supporting companies and multinational

organisations in doing their business, and Britain being a place that they wanted to come, and indeed the requirement for immigration control. That is where that balance has been put. Over the coming years, we need to see what happens, what events occur and the recommendations that the MAC will need to make to us each year.

Q40 Joseph Johnson: I think you are right; I think it is a very difficult balance to strike between protecting the interests of resident workers and ensuring that UK plc is broadly competitive in a global context. Just looking at this 32,000 figure for intra-company transfers, do you have any sense of who are the most active sponsors of companies? If you could name the three, four or five largest, that would be interesting for the Committee.

Matthew Coats: I do not have the exact names of the four or five highest, but the large-scale IT companies that you have talked about already today are very active.

Q41 Joseph Johnson: Do you think you would be able to provide us with a note listing the top-ten most active sponsors within the intra-company transfer section, with the numbers that they have individually applied for?

Dame Helen Ghosh: Yes, certainly.

Chair: Within a week please, so it does not hold up our report.

Dame Helen Ghosh: Yes.

Q42 Joseph Johnson: Would you also be able to give us as an appendix to that note, or attached to that note, an indication of how many companies on that note are either themselves based in India or subsidiaries of companies that are based in India? I think they are likely to consist of a very large proportion of it. Looking at the 32,000 number—Dame Helen, perhaps it is to you one should focus this question—what do you expect it to come down to, as a result of the £40,000 floor that you are instituting?

Dame Helen Ghosh: We have not set any target or got a figure in mind.

Q43 Joseph Johnson: Do you expect it to come down?

Dame Helen Ghosh: Of course we expect it to come down, for the reasons we describe, which is why we have put the £40,000, and then the £24,000 limit for a shorter period. As Jonathan was just saying, what we will be doing is monitoring this on an annual basis. This comes back to the point that one of the beauties of the Points Based System is you can play it to achieve your policy outcomes. If it appeared that we were not producing a reduction—because clearly in making the announcements that Ministers have made across the various work routes, it is explicitly to produce a reduction in the numbers of people coming here—we would change the figure.

Jonathan Sedgwick: I can perhaps help. I think our expectation would be, on the basis of this year's figures, that that salary limit would rule out about half of those who had previously come.

28 March 2011 Home Office and UKBA

Q44 Joseph Johnson: By the way, what was the average wage of those coming in under the IT route on intra-company transfer schemes? Do you have that information even?

Jonathan Sedgwick: I am sure we could provide it. From the very fact that half would be below that figure, you can see that it would be—

Q45 Chair: Can I just raise one issue on the wage thing, Jo, and then you can come back? Another bit of the Report says that two-thirds of your caseworkers found it difficult to verify the salaries—page 32, paragraph 3.12. Aileen, get me to the right bit. There is a bit where you say 64% of caseworkers find it very difficult.

Aileen Murphie: Yes, 3.12.

Q46 Chair: Having introduced it, how do you know? If your caseworkers are telling you they cannot monitor it, how do you know it is going to change the world?

Jonathan Sedgwick: They do have to be satisfied.

Chair: But they say they are not.

Jonathan Sedgwick: It can be difficult and it can sometimes take time to carry out that verification, but they do have to be satisfied.

Q47 Chair: Are you satisfied that you have the systems in place to be able to tell us that you are going to implement that £40,000 rigorously? Are you?

Jonathan Sedgwick: Yes.

Dame Helen Ghosh: Yes.

Q48 Chair: You are going to monitor, even though your caseworkers say it is very difficult to verify.

Dame Helen Ghosh: I think one of the reasons they say it is difficult to verify is that with HMRC, as you will understand, it is the sheer number of requests that they get from us. They say, “Actually, there comes a point where we cannot cope with this in the time available.”

Chair: I understand that.

Dame Helen Ghosh: The fact that the number will come down means that it should be much easier to get the verification from HMRC.

Q49 Chair: Are you giving this Committee assurances that you will be able to verify and monitor?

Jonathan Sedgwick: We shall certainly be verifying and monitoring, yes.

Dame Helen Ghosh: The Migration Advisory Committee will be looking at it on an annual basis.

Jonathan Sedgwick: That is a transparent part of the process, because I would certainly expect them to pass comment.

Q50 Chair: Just one more on this one, because I understand from the papers I have seen from the Migration Advisory Committee that actually one of the things it is very difficult to verify is that people come over on their Indian salary and get up to the 40 grand, let’s say, through accommodation, allowances and so on, and that is also exceedingly difficult to verify. I do not know what assurances you are giving us that you can do that.

Jonathan Sedgwick: You have to earn the salary, the £40,000.

Chair: You are saying it is a salary.

Jonathan Sedgwick: Yes.

Q51 Chair: The current definition of “salaries” includes allowances, so you are changing that. Currently my understanding from the Migration Advisory Committee is that, when they looked at salaries, so-called “salaries”, people would earn the Indian salary, whatever that is—Jo probably knows best from all of us—and then it would be topped up to reach whatever level was told to you by allowances, and it was completely impossible to verify the allowances. That is my understanding.

Jonathan Sedgwick: My understanding is that it does have to be paid to them as a salary now.

Chair: I do not think you are right, actually. I am just not sure you are right.

Dame Helen Ghosh: Under the new proposals, but we can include that in the note to the member.

Q52 Stephen Barclay: Can I just check that? If someone is coming from India, if we stick with the example, are you verifying that in India or in the UK? Are you verifying their salary from an office in India or here?

Jonathan Sedgwick: The salary would have to be a salary that they are going to be paid in the UK.

Stephen Barclay: No, but they would say, “I am going to go to London and I am going to earn—well, I am on an Indian salary equivalent of £25,000 and I will get £15,000 for my accommodation. That takes me to the £40,000.” If they are saying that, is that being verified in India or in an office in the UK?

Jonathan Sedgwick: In that particular case, the decision would be made in India.

Q53 Stephen Barclay: Paragraph 3.10 says that, in terms of foreign offices, you do not even check procedural or typographical error. In essence, if I am interpreting correctly following on from Jo’s question, the bulk of these applications are potentially coming from India; Indian IT is two-thirds of those coming in; that is the one area that does not have a cap; and yet your office overseas does not even check for typographical errors.

Matthew Coats: The employer has to verify the salary rather than just the individual.

Q54 Stephen Barclay: You are not checking most of the employers. You only verified 15%, and I do not even know what size of market share that is. It could be less than 15% by market share, and you have only actually detected non-compliance in 2%, so that is not exactly the most robust of defences, is it?

Matthew Coats: Perhaps you want us to touch a bit on the compliance and the visits.

Q55 Stephen Barclay: We will stick with where we are. Are other members of the Committee and I misunderstanding? What we have here is paragraph 3.12, which the Chair was referring to, which is 45% of work-route-related referrals having false supporting documentation. Two-thirds of those coming in are

28 March 2011 Home Office and UKBA

coming in on the Indian IT route, and yet you are going to check those with offices where there are serious flaws.

Jonathan Sedgwick: Clearly it is important that we are able to check and verify salaries. The ICW system that will be rolled out over the next two years will improve the way that we can do that. We certainly sample caseworking decisions; we have a target of 2% of decisions that we sample, and we have a target within that of a correct decision to be at 90%. We would expect, if there are endemic problems in the way that particular decisions are being made, to pick it up through our sampling of cases, and we do that both in-country and out of country.

Q56 Stephen Barclay: Do you have a formal quality target now overseas?

Jonathan Sedgwick: Yes, we are just in the process of setting that at the moment.

Stephen Barclay: You do not have it; you are in the process of setting it up.

Chair: You must have had it before. You are just setting a new one, are you now?

Stephen Barclay: No, they did not have one.

Jonathan Sedgwick: We reported that we were setting it in response to the recent Chief Inspector's report on Tier 2.

Q57 Stephen Barclay: Just in terms of understanding the culture of the Department, why is it taking so long to put in what is, I would have thought, the most basic of checks?

Jonathan Sedgwick: There would certainly have been checks before. What we have put in is a commitment to a minimum number of checks and a consistent minimum number of checks in place throughout the system. It is not that there were not checks; it is simply that we have standardised them. We have brought them into line with the in-country position.

Q58 Joseph Johnson: In the US, the H1B system, if I understand it correctly, has a moving annual cap that can be raised or lowered depending on the need for IT or the perceived need for imported IT workers. It is almost overwhelmingly applied to people in the IT sector. You are seeking, if I understand it correctly, to calibrate the supply of workers through the price mechanism, through the £40,000 floor now. Why did you choose that method as opposed to a moving annual cap, as a means of balancing these competing interests of the needs of resident workers versus the needs of UK business?

Matthew Coats: We talked, with the CBI and other business representatives, about the way that they wanted to have the cap introduced. Largely the mechanisms, both for ICT but also for Tier 2 in general, where there will be a monthly allocation, was the method that they recommended as being the best for promoting UK competitiveness and the ability for people to get people quickly and to plan.

Q59 Joseph Johnson: Effectively this means UK plc will be paying more for its IT costs, because there will be a minimum floor of £40,000, than it arguably would before, because you have already said that half

of the previous workers would not be allowed in under the new threshold. UK IT costs are going to be pushed up under your system.

Dame Helen Ghosh: It does not prevent them from employing, for example, the Chairman's constituents. Those people now have more space in which to offer their wares to the companies. We are not assuming that all the wages would go up to £40,000.

Joseph Johnson: Sure, but you could have fixed the number of people coming in under the Chair's system, whereas you cannot fix the number of people coming in under your system and, moreover, UK plc ends up paying a higher floor cost. You have the worst of both worlds.

Jonathan Sedgwick: There is a lower-salary threshold for people coming in for less than a year, for shorter periods. It is designed to be flexible in that way.

Amyas Morse: Can I just ask a bit more about this? I am very fascinated by your saying you were getting salary verification from employers. You have a group of super-user employers, haven't you, if I actually went into this, who are using a significant proportion of the system and have a big economic interest in it working? Have you considered doing something similar to PAYE, where if the details you are supplied with are wrong, the employer is penalised and they are liable for getting it right? In other words, their position of being able to carry out their business becomes under threat if they do not get it right. Since you are relying on them, and they are running a system here, they should therefore run it where part of the product of the system is giving you good and highly reliable information about earnings.

Matthew Coats: It is a very interesting point. Coming back to the evidence of the previous witness about what the big changes were, the placing of obligation of checking on the employer as well as on the Border Agency was a big step. It is a system that is barely two years old and is evolving. We have introduced the concept, albeit in the educational sector, of Highly Trusted Sponsor, where you can continue to earn privileges by exercising that trust. I think we probably need, in the next set of changes and indeed beyond, to think about how we can have an evolution in the partnership between us and sponsoring bodies.

Amyas Morse: I only made the remark and asked you the question because it is quite evident that the economic benefit to those super-users is way in excess of any fee that you are charging.

Matthew Coats: Of course the fees and the services that people get should be subject to consideration in that evolution too. We have been through a similar evolution with the development of premium services for individuals and migrants. Again, the previous witness talked about paying a different price for a different service, the same-day service that they were mentioning. For me, there is logic in an evolution of the system once it has been firmly established.

Dame Helen Ghosh: So that people have privileges they can use.

Q60 Chair: To pick up that point that we asked the previous witnesses, what proportion of your Tier 2 is corporates and what proportion is SMEs? Do you know?

28 March 2011 Home Office and UKBA

Matthew Coats: By definition, I would have thought the vast majority are smaller.

Q61 Chair: No, what proportion of the applications and granting of the visas comes from the bigs? It is just out of interest.

Matthew Coats: I am not sure. Perhaps we could add that figure to the submission that we are giving.

Q62 Chair: I just want to make it absolutely clear, in that submission we need within a week, there is clarity that £40,000 is the salary level.

Dame Helen Ghosh: As opposed to allowances.

Jonathan Sedgwick: I think, Madam Chairman, I may have slightly misled you. Clearly the money has to be paid, but it can be paid in the form of allowances.

Q63 Chair: Then how do you check?

Jonathan Sedgwick: We will clarify that.

Q64 Chair: I understand from the Migration Advisory Committee that one of the problems is that it is in allowances, and then it becomes impossible to check. Stephen is going to start us on compliance, but therefore the whole compliance regime becomes a nonsense.

Dame Helen Ghosh: We will confirm what it is we will be checking in the £40,000 salary limit.

Amyas Morse: The reason I was just trying to take us to the PAYE model—very mundanely I happen to know a bit about it—is that the obligation to get it right is on the employer. You can do quite small sample checking and, if it is wrong, you assume that is proportionate to the population, and the employer has to deal with the problem and gets penalised. You transfer the risk of getting it right on to the employer, and you can do much less substantive checking if you are talking about big-volume use. I am sorry; it is just interesting.

Q65 Stephen Barclay: Bringing you on to paragraph 3.15, it says, “The Agency cannot determine how many of its sponsors, of any type, have yet to receive an initial visit.” I was just wondering if you could explain why that is the case.

Dame Helen Ghosh: Just a bit of context, before I hand over to my colleagues who understand the system in more detail, and it was very interesting to listen to the previous two witnesses: the work-route areas are, on the whole of the Points Based System, less objectively fraudulent than, for example, students. I think it is something like 4% of fraud detected in documentation. We deliberately do more visits and more compliance around Tier 4 than we do around the work elements, which is contextually quite an important point to make.

Q66 Stephen Barclay: In other words, you are saying you have a risk-based approach.

Dame Helen Ghosh: We have a risk-based approach. I think Mr Haque mentioned the issue of why all companies are not visited. I do not think the taxpayer would thank us if all companies were visited, so we have a risk-based approach, both within the various Tiers and the Points Based System, and we focus for

example more on the student area, which is much more fraudulent, than we do on the work-based approaches. Within that, again as one of the previous witnesses said, we focus on certain target groups for pre-licence visits. We do visit all new start-ups, because we do not know anything about them, and we do focus on particular areas of the economy. We do focus, for example, on social care and catering, because again historically they are high fraud areas.

Q67 Stephen Barclay: I do not think anyone would dispute having a risk-based approach; of course, that is sensible. What this Report is saying is you are not even at the starting point. You do not even know which firms you have visited. Your record management is so poor that you cannot even tell from your records whether you have visited—“The Agency cannot determine how many of its sponsors, of any type, have yet to receive an initial visit.” That says something about basic records management. Then from a risk-based approach, it goes on to say, “Nor can it say how many of its post-licence visits identified compliance problems.” If you are having a risk-based approach, surely one of the first things that you would want to do is to say, “Of the visits we have made, this is the proportion that identified something,” and, from that, you can then allocate your resources, but you are not doing that.

Dame Helen Ghosh: Yes, and historically we would put our hands up to that. I think it is absolutely right and the Report found it. In the light of the findings and the discussion with the NAO, we are smartening up our management information on this, and we have very good figures, which we would be happy to share, for the number of visits where there have been proportions of applicants, which we have made since October last year. In those cases, we can very specifically say that, for example, in February we were visiting 19% of our new applicants on this risk basis, so there are some people who we would not have visited, because we would have assessed the risk. We have figures now, which again we would be happy to share with the Committee, on visits that produced suspensions or downgrading from category A to B. We are getting our act together.

Q68 Stephen Barclay: The Report goes on to say that, in one region visited, there were only nine visits per officer in a month.

Dame Helen Ghosh: That is actually at the high end of the scale. I think the average number at the moment is about 4.5, and the NAO found a very low figure, which was something like 1.75. Our aspiration would be to get our visiting officers up to about 16. Of course, a visit is not just to turn up for a morning, look and go away. You have quite elaborate pre-check work to do, although we might make it less elaborate. You have your visit, which involves discussion, examination of records and particular post-licensing discussions with the migrant workers themselves, and then you have to write up a report. That could take two or three days. If you could do nine in a month, that is pretty good, but we are smartening up our act.

Jonathan Sedgwick: Yes, we are.

Matthew Coats: Indeed we are.

28 March 2011 Home Office and UKBA

Q69 Stephen Barclay: I used to be a compliance director and spent four years working for the regulator. That is why I just find the visits are low. If you are going for 16, that suggests they are low. If that was more productive, you would be expecting to find more results, would you not? The issues you are discovering are also very low.

Dame Helen Ghosh: They may be low of course. This is tricky. We need to build in the evidence we get from more visits to whether or not we are underestimating the level of fraud, and therefore should put more resources in this area than, say, on the students.

Q70 Chair: If from October you have increased visits, what has happened to the level of fraud?

Dame Helen Ghosh: What I can say, for example from the pre-licence visits, is if you take February 2011, we made 195 visits, which was 19% of the applications, which is just over 1,000, and we granted 453 applications, which was 44% of the applications received.

Q71 Chair: How does that compare with a year ago?

Dame Helen Ghosh: I do not know. I do not know that we would have the comparable information, for the reasons that we have just described. That shows that, when we do it, it is rigorous.

Matthew Coats: I think it is a fair challenge to say that the system did have an issue to address on compliance, and what was pointed out by the NAO Report was exactly right. The recommendations were twofold; they were to count things better and to do more of it. They are intertwined, aren't they? We have done that from last October; we are certain about the outcome. As you can hear from what Dame Helen has just said, we are certain about the activity since last October. The most illuminating analysis I heard was that of any new sponsor applying today, about 40% of them would be visited. That is taking education and employment. Obviously the risk is in the education sector; we have judged. We do have a risk-based approach for employment too. We look at the age and size of the company; we look at the sector; and we look at whether we have had a history with them or any of those individuals before. Broadly speaking, about four in ten of those registering now would be looked at.

The quantum of that is that, each and every working day, there are 26 or 27 visits now. We are starting to make an inroad into the productivity. I do not think you would find us, in any sense, defensive. In the third, fourth and fifth year of the system, we need to improve productivity. We have learned lessons from what has come before and we clearly need to make some improvements.

Q72 Austin Mitchell: What is the difference between protecting the interests of British workers and British jobs for British workers?

Dame Helen Ghosh: What we are doing is making sure that we have, at any one time, the skills that the British economy needs. What the Points Based System enables Governments to do is to determine the right balance between the skills that we have available

in this country, through systems like the resident labour market test and the skills shortages. Do we have those skills or do we not? If we do not have those skills here, then employers should be entitled to bring them in. Clearly the issue about precisely how you strike that balance may be a matter of political dispute, but it is a system that does strike that balance.

Q73 Austin Mitchell: How can you do this rationally, when you do not know a major part of the flow-in of workers? It is like giving a party and saying we are controlling the front door strictly; we are only allowing the upper classes in or the skilled workers, while the back door is gaping wide open and it is thronging with continentals, all barging their way in, and with immigrants who have registered in Holland and come in as Europeans.

Dame Helen Ghosh: We have to work within the legal system and the European law.

Austin Mitchell: So you are tackling half the problem.

Dame Helen Ghosh: Therefore the Points Based System does not appear to limit or control migrant workers from other parts of the European Economic Area, strictly speaking.

Q74 Austin Mitchell: You are trying to pander to a popular emotion about keeping numbers down, with one hand tied behind your back.

Matthew Coats: Clearly one can describe it in a number of different ways. The Points Based System is a rational and transparent system that publishes all of the criteria and all of the numbers of people who will be coming in, particularly under the new cap system, and attempts to strike the balance you describe.

Q75 Austin Mitchell: It is not actually. If I am somebody from Pakistan or India, I can come in and get registered in Holland, then come here and work at whatever I like.

Jonathan Sedgwick: If I can perhaps help Mr Mitchell, obviously a great deal of attention has focused on this number of net migration, which has been very high in recent years. In general, the flows of British and EEA nationals more or less balance out. The imbalance—in other words the number that contributes to those very high net migration figures—is all from outside the UK and the EEA, and those of course are the numbers that the Points Based System does control.

Q76 Austin Mitchell: Let me give you two examples of the kinds of problems that have been caused. One is doctors. We used to have a very good arrangement with Pakistani doctors who came here for training, and provided a lot of the manning at Grimsby Hospital. Some of them stayed and now are GPs. Now we cannot do that any longer, because of this insane prejudice against people from the Commonwealth. Last year, because they were short of staff, short of doctors, short of some particular skills for consultants, the hospital sent a recruitment mission to Pakistan. It recruited nine doctors to fill vacancies that were very pressing. They have not got any of them yet, and we

28 March 2011 Home Office and UKBA

are now at March, because of the delays and inadequacies of your system for registering them and bringing them in.

Jonathan Sedgwick: I find that rather strange, given the performance that we are now achieving in relation to turning applications around within our published times. I would certainly be very happy to look at that particular case.

Austin Mitchell: I hope you will look at it and tell us, because there were nine doctors recruited to work in Grimsby.

Jonathan Sedgwick: It may be that there is a problem. Perhaps the NHS Trust concerned was not a sponsor, as it needed to be, in the first instance. Sometimes we are told that people are not able to bring in migrant workers, and it often turns out to be the case that the company or the organisation trying to bring them in is not a sponsor, so that can sometimes be a factor, but I would certainly be very happy to look into the particular facts.

Q77 Austin Mitchell: I have one more question on those lines. Three years ago, there was a daft proposal to stop ethnic cooks coming in. This is a skill trained in the villages, where people do not have a specific certificate or qualification. I did very well out of it, because I was invited to free meals in all the ethnic restaurants around Grimsby, and it was fascinating; it was marvellous. Now I gather you are back to the same daft proposal, which means you are not going to allow cooks into takeaways, which are a large part of the trade, and which do demand skill. The question is really: aren't you here in the sphere of racial discrimination? You allow people to come in and cook frogs' legs and sauerkraut in lederhosen, but you do not allow them to come in to cook balti.

Dame Helen Ghosh: The proposals for the latest skills shortage list come from our widely praised and objective Migration Advisory Committee. They are not devised by us, and clearly they, having done their objective analysis, concluded that there was not a shortage of balti chefs and, therefore, they are not on the current list. I am pleased to say from my DEFRA experience that I think seasonal sheep shearers still are.

Q78 Chair: What about the clergy? We see here that we need to have 1,500 clergy, who come in under Tier 2, and I think we are all a bit gobsmacked by the idea that we do not have enough people here who are competent to do that, or is it some sort of missionary zeal from somewhere else?

Jonathan Sedgwick: It is an area that is not currently limited.

Q79 Stephen Barclay: Will it be limited looking forward?

Jonathan Sedgwick: If the Government were to decide that there was a requirement for a limit, a limit of course could be introduced.

Q80 Stephen Barclay: There is not a proposal. How does it break down by faith? Perhaps that is something you could give us a note on. It is interesting that 1,500

clergy came to the country. It would be interesting to understand that number.

Dame Helen Ghosh: Certainly.

Q81 Austin Mitchell: What about my balti cooks? Are they going to come in or are they not?

Chair: No, they are not, because we trained more local ones.

Jonathan Sedgwick: Unless they qualify.

Q82 Jackie Doyle-Price: I just want to turn the discussion to the other end of the compliance regime, if you like. What are you going to do to make sure that those people whose visas have expired do actually leave the country?

Dame Helen Ghosh: We would all accept, although it was our own estimate, that the 181,000 figure is a very concerning one. The question of removals in general is one that our Ministers are very concerned about and want us to focus on. To put it in context, we achieve around 39,000 removals a year. One of the things that has very much struck me since my arrival at the Home Office, from visiting removal centres and talking to folk in the UKBA, is that the removal of people who do not want to go, whatever route they have come in by, is a fantastically difficult thing to do, both in terms of operating within our own legal system and dealing with the shifting political circumstances in the countries to which they are returning.

We have been more successful in recent years in terms of getting agreements with countries for returns. For example, a very useful recent arrangement made it possible for us to return people to Zimbabwe, Baghdad and so on, but we are very conscious that we need very targeted and specific approaches. The Report mentions a pilot that we have done in Yorkshire and the north-east, out of Sheffield, where you very positively chase people up. We got a very good return rate on that. It is a combination of that at the getting-people-to-go end, but equally it is just making it a) more difficult to come in, in the first place, which is the point of our new proposals, and b) to create an atmosphere that is—I cannot remember what the adjective we use is.

Matthew Coats: A hostile environment. We must also convince people who would choose to become overstayers that there is a route back to any country in the world. Clearly, some countries are more difficult than others, given world events and the diplomatic relations that we have with them, but we work very hard with the Foreign Office to make sure that routes are open and that those routes are well used and well monitored for what happens when people are taken back to those countries.

Q83 Jackie Doyle-Price: It is interesting that you chose that particular area as a pilot, which just happens to be Austin's region. We were discussing before the hearing that he does not have much of an immigration caseload compared with the Chairman and me, whose caseloads are huge. You have an estimate going back to 2008; I know I am dealing with cases that go back many more years. They are just repeat applications. These people have no right to be

28 March 2011 Home Office and UKBA

here. I can tell you where they live. What more can you do to actually make sure that they are encouraged? You have had this very intensive approach as a pilot, which encouraged 2,000 to leave voluntarily, but what was the proportion of that compared with the proportion of people who you actually visited to encourage to leave?

Matthew Coats: I am not sure of the exact figures and we can provide those too. As far as influencing people's behaviour, it goes more broadly than the pilot. What we found over the years is that, if there is a viable route for enforced return, then we are more successful in persuading people to go voluntarily back to the same place. That is broadly the underpinning methodology. We work with a number of partners to make sure that we are persuading people to go home, and our ideal mode of operation is to make sure that there are fewer people offending in the first place, to make sure the routes home are open, and then to seek to persuade them to go home of their own volition, since it is cheaper to do it that way, too.

Q84 Chair: This category is different. The 181,000 in this Report are people who come in on the work permit route; they come on the points base, which is slightly different from a failed asylum seeker, visitor or those who are more desperate to settle here as economic migrants.

Dame Helen Ghosh: They have come as economic migrants, yes.

Q85 Chair: I think this is different. It does disturb me that this figure is so big. We need to explore this specific segment of your overstayers. I would just say to you: why on earth do we not put some responsibility on the employers?

Jonathan Sedgwick: That is part of the judgment about sponsor clients but, in relation to this number, which as you say—

Q86 Chair: I will let you come back in; sorry to interrupt you. Does that mean there are some sponsors who have lost their licence because they have employed people here who have had their employment come to an end and have disappeared into the economy?

Jonathan Sedgwick: I am not sure that we have done that, although of course there is no reason why that is something that we should not look at.

Chair: I was going to say: why not? It is so obvious.

Jonathan Sedgwick: People turning up to do their job and complying with the terms of their visa is part of what we ask of employers. There is no reason why we should not look at that particular aspect of it.

Q87 Chair: You ask it of them, but where are the sanctions?

Jonathan Sedgwick: It is part of your obligations as a sponsor.

Chair: Where are the sanctions?

Jonathan Sedgwick: The sanctions would come into effect if, through one of the visits that we were discussing a few moments ago, it became clear that you were not complying with the terms. You could be

downgraded, for example, or have your licence revoked.

Q88 Chair: If I am honest with you, this sounds to me woolly. Right? Let me just say to you again: it is this segment, which I think is very different from the people whom Jackie and I often have to deal with in our surgeries. With this segment, you ought to be able, by working with employers who have licences, to ensure a much better rate of return. You ought to be introducing sanctions.

Dame Helen Ghosh: I am far from an expert on this. I can absolutely see that one can tighten up the bit about the employer telling us that the person's employment has ceased. Although we have a group of pretty satisfied employers in terms of where we are now on sponsorship support, if we were then to say to them, "You have a responsibility to check that that person actually leaves," that is quite a further step for employers. It is at the interface between the personal rights of the individual and the employer, but it is certainly something we can take away and look at.

Jonathan Sedgwick: As you know, at the moment we do not have a system that enables us to know whether people are coming and going. The Government has committed itself to the e-Borders system, which will enable us to count people in and out, but at the moment that system is not fully rolled out. At the moment, we would find it difficult to be absolutely clear. The point I was going to make, because your point about the fact that this is a different category of people is absolutely right, is of course that is part of the Government's thinking about who it should admit into work routes in the first place. A quite explicit part of wanting to tighten up Tier 1 and Tier 2, as we have done, is to ensure that in the future it is genuinely the brightest and the best, and therefore people who we believe are far more likely to comply with the terms of their visas. That is part of a virtuous circle of improvement, because the Government believes that actually people should comply with the terms of their own visas; they should not need removing at public expense. Therefore, it is important that you get the brightest and best people in the first instance.

Q89 Chair: I do not think it is a big onus on the employer and I think it ought to be part of the licence, and there ought to be a sanction on it. It is the easiest bit of this very intractable problem.

Dame Helen Ghosh: That they should produce a proof that the person has left the country?

Chair: Yes.

Q90 Stephen Barclay: It is even more basic than that in that it is failing at all three levels. Firstly, you are not putting a requirement on the employer to notify you in advance of when the period is coming to an end, because clearly you are not doing so. Secondly, your own IT systems cannot identify individuals needing to renew their visas, so it is not just about the border but your own systems. You are not requiring the firms to notify you, point one. Point two, you yourselves are then not picking up on your own systems those who have past their renewal date. We had some lawyers advising us earlier; it is the most

28 March 2011 Home Office and UKBA

basic of case management systems that lawyers have, which is to tell you when your court dates are and to have a trigger date. Even parliamentary case management systems manage to do that. Thirdly, there is the Government's intention in terms of when people actually leave the country.

Jonathan Sedgwick: I do not think we disagree that the basic information systems that could support exactly what you are describing need to be strengthened and improved. My colleague Mr Coats is responsible for the ICW system, which is in the process of being rolled out, and which will bring many of these improvements and this basic management of information to bear over the next couple of years.

Q91 Stephen Barclay: By what date will your system pick up those whose visas need to be renewed?

Matthew Coats: We will start to introduce automatic curtailment, because that is what we describe it as, from the releases that start this autumn. That will be bolstered in the releases next year and will be complete by 2013.

Q92 Stephen Barclay: It will take until 2013 for you to know, on visas you yourselves are granting, when they come up for renewal.

Matthew Coats: No, we will progressively know from next summer, but it is important we do not make a promise that it will take place in every last case before 2013.

Q93 Stephen Barclay: In other words, if I understand correctly, what you are saying is: visas your Department has issued, which come up for renewal, you will not know in all instances whether they have come up for renewal until 2013.

Matthew Coats: We will know in many cases much sooner than that.

Dame Helen Ghosh: In that instance, it is because we are learning the lessons of IT-supported business change and not doing the Immigration Case Work system as a big bang. We are deliberately rolling it out; for example, there are two big releases this year to abroad, and a large release in Sheffield in October, which is potentially very, very valuable to us, and then a rollout after that. We have learned our lesson about putting a new IT system out all at once. For example, the Sheffield system will produce a lot of benefits quickly.

Q94 Chair: Can we move on to efficiency and talk about the IT system? Originally £35 million; is it still £35 million?

Matthew Coats: £25 million.

Chair: £35 million is in the Report.

Dame Helen Ghosh: Sorry, £35 million is the total programme cost, which is now £44 million.

Q95 Chair: Originally business case savings were £224 million over 15 years. In 2007 it went down to £65 million. What is it today?

Dame Helen Ghosh: We are still working on the basis that it is £65 million, which is over seven years. It is a peculiar slightly apples-and-pears comparison, but

that is still the benefit we are expecting. In any event, we have saved something like £14 million a year, which we were not anticipating, through abolition of the full right of appeal for overseas applications, which saved us, we think, against what would otherwise have been, rather than cash in hand, around £14 million. We have already been able to make significant staff reductions, which support, to us, the idea that we will be able to get the benefits out that we expected. In a sense, what has happened is that we decided, for the reasons set out in the Report, not to proceed with the migrant case work element of the IT to support the Points Based System, and the Immigration Case Work system that we are now rolling out is the substitute for that. One of the reasons we decided not to go ahead then was that we had this better plan for later. That will bring in something like £90 million of savings a year.

Matthew Coats: £90 million plus.

Chair: That covers all of your immigration?

Matthew Coats: That is right.

Q96 Chair: And incorporates the work-based system?

Dame Helen Ghosh: And incorporates the work-based system. Indeed, although the Report rightly criticises us for having to pay for work by Fujitsu—about £4 million we negotiated it down to—which they did not deliver, we are using the intellectual property rights from that in the Immigration Case Work system. Over time, we are getting our benefit back, although we have not managed to achieve that as soon as we had expected.

Q97 Chair: So are you able to incorporate the capabilities that the witnesses were talking about, which they would like to see on the new system?

Matthew Coats: Yes, we are. Dame Helen is absolutely correct. We are on track to meet the original narrow PBS benefits case, and it is not just through cost avoidance of appeals we might have had to take, but also in reduction—

Chair: The original broader specification is now being met.

Matthew Coats: Yes. We will be able to meet the benefits case that was put in 2008 and hopefully exceed it, and there is a broader programme in place to make sure that all case work systems are brought into one over a period of time.

Q98 Stephen Barclay: If I understood the Chair's question, we were talking about the requirements as it was set up in 2005.

Dame Helen Ghosh: No, the point that I think Matthew was making was that we are expecting to achieve the more narrow benefits, the £65 million, and we will now add on to it over time, as we roll out the Immigration Case Work system, the new benefits from that.

Q99 Stephen Barclay: So we are paying an extra £9 million for far less capability. That is what we are saying.

Dame Helen Ghosh: In fact, the increase in programme costs is nothing to do with the IT. The

28 March 2011 Home Office and UKBA

increase in programme costs is mainly to do with staffing and having to employ more specialist advice. That is the difference between the £35 million and the £44 million; it is not new spend on IT.

Q100 Stephen Barclay: £4 million went to Fujitsu. That was for work it had carried out in 2007. Since 2007, what additional remedial work has Fujitsu done?

Matthew Coats: Fujitsu produced the Sponsor Management System that went live on the agreed date of 27 November 2008, and which has been in operation ever since, with various upgrades.

Q101 Stephen Barclay: I am just trying to understand. You gave a figure of £44 million. The Report says, "To save time and money, the Agency stripped out planned functionality from the System." The System originally was designed to cost £35 million. You have said now that it cost £44 million. It says £4 million of remedial work went to Fujitsu, so there is an extra £5 million being spent on a reduced capability. What is that £5 million being spent on? Is it on staff?

Dame Helen Ghosh: You are taking the £35 million and the £44 million and saying the difference was £9 million, so assuming that £4 million of that was the money spent on Fujitsu and the other £5 million is to Fujitsu. The increase between those two figures, and again we can happily give you the breakdown, is not to do with increases in IT costs. Specifically what happened was we had commissioned Fujitsu to do two systems—the Sponsor System and the migration case work system. Matthew knows more about the detail of this than I do obviously, but given the fact that the date was fast approaching, we realised that we wanted to limit our spend and get the system going early in 2008, so we said to them, "Do not do the migration case work system. We will not have that anymore. We will operate with the IT we have on the case work management side, but please build the sponsorship side." They carried on building the sponsorship side, but they had done some work on the migration case work side, and we were paying them for work they had done on a system we did not then ask them to develop.

Matthew Coats: They put in a bigger claim than we eventually paid, and we negotiated it down with an improvement of the intellectual property rights of the systems that we have ended up with. The logic of what we did was that, because we had concluded that there needed to be a single caseworking system—and we have broadly six at the moment—we did not want a seventh.

Q102 Chair: I think you are going to give us the figures, but what the previous witness has said was the Sponsorship System had cut out, for cost purposes, certain functionalities that they thought may be both efficient and effective. Have you put those functionalities back?

Matthew Coats: I do not think we cut very much out of the Sponsor Management System. I think what he was describing were things he would like to see, in terms of the way that entities and groups of companies

are shown, for the reasons that were raised about these kinds of groups of companies that operate as one. I do not think that we removed that functionality. My recollection is that we delivered the functionality of the system pretty much as it was specified.

Q103 Chair: Are you able to put in the improved functionality that he described?

Dame Helen Ghosh: If we can cover the costs.

Matthew Coats: I do not think we would want to give an absolute guarantee, but we do think customer service is important. If people are telling us that there is an improvement that could be made—

Q104 Chair: Will the Treasury allow you to charge more?

Dame Helen Ghosh: That is the calculation we need to do, because this is quite a complicated point. At the moment, fees and charges over all of the UKBA operations cover about a third. We are allowed to charge, in the Points Based System, more than the absolute strict cost of processing the application, so that we can do things like enforcement, but we have a cap above which the Treasury will not let us keep the money, which slightly varies from year to year. If we are at the cap already, or in any year at the cap, if we were to raise more money from sponsors, the Treasury would simply take it. If we have some space within the cap, and we can do something useful with the money that we raise from sponsors, then you could use it to improve flexibility.

Q105 Chair: In your growing note to us, which we need within a week, would you let us know where you are on the cap?

Dame Helen Ghosh: Yes, we will know the figures from last year.

Jonathan Sedgwick: In the financial year we are going into, we are going into a new regime with slightly different arrangements, but that will allow us to overcharge by around £230 million a year.

Q106 Chair: Overcharge? What do you mean—take £230 million more than you need to do it?

Jonathan Sedgwick: Yes, exactly.

Chair: And use that for your own purposes?

Jonathan Sedgwick: To meet the basic processing costs and use it for a broader set of processes.

Q107 Chair: Would that be here in the UK or abroad as well?

Jonathan Sedgwick: It could be either.

Dame Helen Ghosh: That £230 million applies to all of the operation; that is not just to the Points Based System. Strictly speaking of course, if we charge more than the process costs, it is a tax and it would all go back to the Treasury, so what we have is a special arrangement that enables us to keep some of that for improving the system.

Q108 Joseph Johnson: I just want to seek clarification, if I could. Why is the total Tier 2 number on page 13, the 111,869, different from the 123,900 for Tier 2 on page 17?

28 March 2011 Home Office and UKBA

Matthew Coats: I think they are on different time periods. One is to December 2010 and the other one is to September 2010.

Q109 Joseph Johnson: Got it; well spotted. On the total figure, the 360,869, these are work permits granted, right? Of those, do we know how many will be seeking leave to remain, if that is the subsequent step in the process of people who wish to remain in the United Kingdom?

Jonathan Sedgwick: We obviously cannot know that number yet, but one of the things the Government has made clear is that it wants to look at the entitlement to move automatically from the leave to come and work for a limited period into permanent settlement. That is something that the Government has said it will consult on shortly.

Q110 Joseph Johnson: What has been the pattern in prior years, where it is possible to establish a normal percentage of the people who have been given work permits to those who actually successfully achieve leave to remain?

Jonathan Sedgwick: It has been quite high in relation to work. We did a sample of cases in 2004 and I think, if my memory serves me, of those who came for work in 2004, five years later 30% or 40%¹ had moved to settlement.

Q111 Joseph Johnson: It would be quite interesting to get the comparable figures over a reasonable period of time, so that we can see how this proportion has evolved and, indeed, so we can evaluate how it is evolving in the years ahead. Can we agree that that could be added on?

Dame Helen Ghosh: Yes².

Q112 Chair: Back on efficiency, the other thing that was raised by the witnesses before you was the fact that applications are rejected because the information is incorrect and they cannot matter to people on the other end, when they ring you up. We know again that half of applicants—that is enormous—use the helpline, which is a terrible waste of your time and money. What do you have to say about that lot?

Dame Helen Ghosh: In general terms, what we are trying to do, looking to the future—again, a lot of the comments in the Report on the historic situation are what I might call “a fair cop”—is to make it much easier for people using websites in particular, and as it rolls out the Immigration Case Work system, to be able to get a single set of simple clear advice, so they know, before they even embark on an application,

whether or not they are likely to be successful. Clarifying the guidance, getting it clear and having just a single UKBA website would be a starter. We will be doing that in the autumn. ICW is absolutely the key to that. Over to Matthew for what we might do with it.

Matthew Coats: Customer service is important to us and the Report in this respect is a ‘fair cop’ which helpfully identifies some of the areas that we needed to improve in terms of customer service in what was a year in to a very big change. I would just add a few points. Firstly, we are trying to move to online; we are not unusual in organisations trying to do that, but we have a very complicated offering that needs to be got right. It is not something that we want to do in a way in which we make mistakes. Secondly, answering the telephone to our sponsors or applicants is incredibly important. Again the Report points out a performance that, during the start-up phase of the programme, was not good enough. In this month’s figures, last week we answered the phone with a human being—

Chair: A named human being?

Matthew Coats: To 90% of people who phoned our sponsor helpline, and over 90% who phoned our migrant helpline. That is a big improvement; we believe that is sustainable. The move to online should help us, because of course there are fewer calls. The final part of the jigsaw that I would commend to the Committee is that witnesses have said we process applications very quickly now. The service standard is for 75% within 20 working days. Of course there will be some applications that you will always want to check a bit more, because of the nature of what we do. We meet that service standard and have met it for the last year overall. In some areas, we indeed exceed it. For Tier 2 work permit applications, we will do 95% within 20 working days. You have heard from some witnesses, who are a bit more independent than we are about customer service standards, that there are fewer complaints than one would have found a year ago about the broad customer service that we are offering. As Dame Helen says, it is not something we are complacent about. There is a big opportunity for us to use the online presence to improve things more.

Dame Helen Ghosh: Sorry, but I do not know the answer on identified caseworkers, which the Chairman raised.

Matthew Coats: That is an interesting question.

Dame Helen Ghosh: I should not ask questions of my fellow panellists, should I?

Matthew Coats: I think that is something we need to consider. We have made great strides in the world of asylum. We are not here to talk about asylum today, but that is at the heart of what we did, for a much lower-volume, higher-complexity area of work. We have started to have named account managers for the largest organisations, and it is just good business practice, good partnership, to offer that service to people with whom we do business. The question about how we offer a named contact for what are much larger volumes than, say, asylum is an interesting question. We could not fail to take away and consider that carefully after today.

¹ The Migrant Journey report (source: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/horr43/?view=Standard&pubID=863041>) states that for those in the skilled work category who arrived in 2004, 40% were still in the UK five years later and 29% had achieved settlement.

² The Agency cannot provide comparable figures over time as 2004 was the earliest date, and at least five years follow up are required to measure those achieving settlement on a comparable basis. However, the Agency intends to update these figures with the 2005 cohort (and therefore those who were still here in 2010 and those settled by that date) later in 2011.

28 March 2011 Home Office and UKBA

Q113 Austin Mitchell: Are you being pushed by this panic about numbers into doing a job or attempting a job that is really too big for you with inadequate resources? Your follow-through is pathetic. Look at the existing Tier 1 migrants who have to reach a certain earnings total, but you have no check on whether they have reached that earnings total by doing the job they were brought in to do, or running a drive-in brothel or whatever. They could be making up the money anyway. You have no way of checking.

Jonathan Sedgwick: It is certainly the case, as the Committee will know, that far too many Tier 1 migrants were coming here and not doing skilled jobs.

Chair: I think we all accept that has been closed.

Q114 Austin Mitchell: There is no way now to show that those who came in with skills are exercising those skills.

Jonathan Sedgwick: That is precisely why the route has been effectively closed.

Q115 Austin Mitchell: Let me go on to another point. I see from paragraph 3.9 on page 32 there are up to 181,000 migrants in total—not just entering through the system in the UK—whose permission to remain has expired since December 2008, and they are still here. Do you have no follow-through?

Dame Helen Ghosh: As we were saying to the Committee earlier, clearly we need to focus particularly on the 181,000, this particular group, but overall we are focusing on the question of removals across the Agency. We are being more successful and we are getting significant numbers of people removed, around 39,000 every year. We will follow up and study the Committee's Report very closely in due course. If there are ideas about, for example, involving employers more clearly in that process—

Q116 Austin Mitchell: The paragraph on removals is a bit ambiguous. It says, "In March 2009, the case ownership team," whatever that is, "for the North East, Yorkshire and the Humber region started to contact refused applicants to explain that they should leave." That was not quite what the letters that they showed me said. They said, "Be gone and let's have done with you. In the name of God, go." It then goes on, "The team reports that it has encouraged,"—it does not say they have gone—it says "encouraged around 2,000 migrants to leave voluntarily since then." Have the 2,000 gone and what proportion is the 2,000 of the population that should have left?

Matthew Coats: We can come back again in our note on the exact proportions from that pilot. The point I was going to make was that the reason we have done that and the reason our aim is to get better follow-through is connected with this personalisation of the system. Case ownership means an individual and a team takes responsibility for the destination of each of those migrants. That is part of the some of the improvements we are thinking about making.

Q117 Austin Mitchell: What proportion is the 2,000 of the ones who should have left and did the 2,000 actually leave?

Jonathan Sedgwick: As I understand it, 20% of those individuals left.

Austin Mitchell: 20% of what?

Jonathan Sedgwick: Of those 2,000 who were contacted did leave.

Austin Mitchell: That is not many.

Jonathan Sedgwick: That is an approach; nonetheless, it is very much cheaper than having to enforce removals, which are expensive, and it is very much part of an approach which, as we were describing, is about ensuring that notification that your leave has come to an end and you must go will in future be a much more standard and routine part of the process.

Q118 Austin Mitchell: What proportion was the 2,000 of that number who had been told they had to go who should have gone? What proportion was the 2,000 of the population in the North East, Yorkshire and Humberside who should not be staying?

Dame Helen Ghosh: Earlier we volunteered to write a note to the Committee in response to your question about that.

Q119 Jackie Doyle-Price: Just to reiterate, some of the cases that I am handling are people who have been here for many, many years, on work visas and student visas, and they just keep repeating their application. What worries me is that we have already discussed some of the issues about the new ways in—the intra-company transfer. You still have that visa, so you still do need to actually focus attention on that. The more information we can have about how you have actually identified those 2,000 people and what comes out of that would be very helpful to the Committee, and I think we would all like to see more resources directed at that.

Dame Helen Ghosh: I should say, just in response to the implication of Mr Mitchell's point, that, in thinking about how we have challenging resource limits to live within, what we are not doing is reducing the number of people we are putting into this kind of enforcement and compliance activity. What we are as a whole doing is taking resources out of caseworking, as things like ICW come in, as and when they come in, as for example we get to the end of dealing with the historic backlog of asylum cases. We are able to make our savings structurally, rather than simply take savings out of areas like compliance, where we would want to carry on putting resources.

Matthew Coats: Our intention is that we end the Spending Review period with a substantially smaller organisation, because of some of the reforms that Dame Helen has described, but actually with an increase in the number of arrest-trained front-line enforcement officers.

Chair: There is a little bit of calculation going on here. Stephen, very quickly on this point.

Q120 Stephen Barclay: Just coming back on what you were saying a moment ago: if I am understanding the figures correctly, your own Department's estimate is that there are 181,000 migrants whose permission has expired. This is on work permits. Of those you

28 March 2011 Home Office and UKBA

contacted, 2,000; and of the 2,000, only 400 have actually left.

Dame Helen Ghosh: The figure we are focusing on here, on which we will give the Committee more details, is this particular pilot in that particular region. Indeed, as the Report says, other regions have taken this forward.

Q121 Chair: Out of the 181,000 how many have gone home?

Dame Helen Ghosh: As we said in the Report, we do not know, until we can count people out through the e-Borders programme.

Q122 Stephen Barclay: If in one region it is 400, how many regions do you have?

Matthew Coats: Six, but not all the people are asylum seekers.

Dame Helen Ghosh: Some of the 181,000 might simply have gone. Because we do not count people out yet, then we will not know what that number is.

Jonathan Sedgwick: If I may, there is just one element that has not really been mentioned, which is important to understand the way in which the Government is focussing on these people who have overstayed, and that is what Dame Helen referred to as “the hostile environment”. A great deal has been done, whether it is tightening up on your ability to get a driving licence, your ability to access benefits or healthcare, a whole series of changes have been made to ensure that, if your visa has expired, that is all much more difficult. That all goes to highlight the Government’s point that enforced removal is expensive; people should go of their own accord, and we will make it more and more difficult, progressively, to stay and do the normal things of life if you are here illegally.

Q123 Chair: I have to say, on the ground, it does not feel like that. I cannot think of my local hospital turning somebody away, for example, and I also do know the sorts of figures they have on people they are providing healthcare for, who do not really have permission to stay in the country. They are big. I have one final question on efficiency, and then Stephen is coming in with a very final final, which I am allowing him to do. It says that the entry officers deal with at least 30 and up to 65 cases each, whereas your Sheffield officials deal with five cases a day. Why?

Dame Helen Ghosh: The main reason—and I am aiming to get out to one of our overseas offices as soon as possible, just to see what in practice happens on the ground—is the process is different, which is interesting in itself, because what I think we need to aim at is greater consistency across our operations. Abroad, what happens is more junior staff prepare the cases; they put together the files so that, when a decision officer gets a file, it is all ready for them, so they can just move smoothly through a number of cases. In-country, what that case officer is doing is all the work that overseas is done by other people in the system.

Q124 Chair: Which is cheaper? Which is better? Do you know?

Dame Helen Ghosh: That is one of the very interesting things that comes out of the NAO’s Report for me and for the new Chief Executive of the Border Agency to consider. What is the most efficient process? Considering how we can make our processes leaner—a subject on which we are already doing some performance framework work—so that everybody does it in the most efficient way is very important.

Matthew Coats: All of that is absolutely true and there are choices going forward about exactly how we process in the most cost-effective way. There are differences between the cases as well. Many of the in-country cases are like the ones you described earlier. They have a number of applications and a very complicated immigration history. Many of the cases seen overseas are people we are seeing for the first time and so, by definition, many of the ones we are checking in-country, whether they have family rights or a changed situation over many years, by definition have a slightly higher degree of complexity, so we will need to take that into account as well.

Q125 Stephen Barclay: This just really builds on what we were talking about earlier, which is the difficulty you have talked about in terms of getting people to leave. Can you clarify, in terms of detention centres for asylum claimants, who are then a captive audience because you hold them, in any quarter period, roughly what percentage are you releasing from detention centres and granting temporary admission?

Jonathan Sedgwick: I am sorry; I do not have that figure to hand.

Stephen Barclay: Do you have a rough estimate?

Matthew Coats: We do not; we could provide a rough estimate. Probably it is the other way around. We are not here to talk about asylum; we do not hold asylum seekers immediately in detention centres and then release them. By and large, we process their claims when they are not in detention centres. There is an exception to that when the claims are very straightforward—our so-called “detained fast track”.

Q126 Stephen Barclay: I am talking about those who have been. I absolutely agree with you, but I asked a couple of Parliamentary Questions, and what was interesting was for persons detained under Immigration Act powers, quarter three 2010 and interestingly before quarter three 2010, between September 2006 and the third quarter of 2010, no data were collected on asylum detainees leaving detention. You may want to comment on why that was. In quarter three 2010, there were 1,795 detained, of whom in the quarter 71% were released into the community. Quarter four 2010, 1,610 were detained and 79% were released into the community, yet for the same period, only 35 in each quarter were granted leave to remain. It really ties into what Jackie was asking. We have just been talking about those who have stayed beyond their work permit, and you are not, as we have disclosed, removing them. What it looks like, from those figures, is that even when you have asylum detainees who you felt necessary to detain, you are then releasing every quarter over 70% of those. Are those figures correct?

28 March 2011 Home Office and UKBA

Jonathan Sedgwick: We have strict legal obligations to review cases where individuals are kept in detention, and we have to take account of how likely it is that we are going to be able to remove somebody within a reasonable period of time. We have to balance that against the risk that they might abscond.

Q127 Stephen Barclay: You do not collate any data on tagging, reporting or anything. There are 70% odd being released into the community without any data being collected by the Department on what then happens to them.

Dame Helen Ghosh: They may not be being released and then forgotten about. They may be being released and then their cases continue to be processed or they may have a legal appeal. "Released into the community" sounds as though we never know who they are thereafter.

Matthew Coats: Again, the asylum system is not in question here, but we have put a lot of effort over the last few years into active case management, so that new backlogs do not build up.

Stephen Barclay: You do not collect the data centrally.

Chair: I am going to stop this questioning, because it is slightly off the point.

Stephen Barclay: I asked for permission.

Chair: You did.

Dame Helen Ghosh: We can certainly follow it up, insofar as we can give more analysis. It may be generic rather than specific. We would be happy to do so.

Chair: Can I just say to you that the reason I have asked for the rest of it within a week is so that we can incorporate it in our report. I think that is a separate note. Knowing that issue, it is a hugely complex one, but within a reasonable time. Jo, very finally.

Q128 Joseph Johnson: I just want to please ask what contribution the reduction in work visas or permits will make to the Government's overall target of reducing net immigration to the tens of thousands. Clearly there is work on the one hand; on the other hand, you have family; on the other side, you have students. Within the overall framework, how much of the reduction is going to come from the work segment?

Jonathan Sedgwick: The Migration Advisory Committee, in its report, said that each tier of inflow should take a size that is broadly commensurate with its size, and work is around 20%. That is the basis of the MAC's recommendation, which the Government accepted.

Chair: Thank you very much for very clear and full evidence, which was very helpful. Thank you very much indeed.

Written evidence from the Home Office

IMMIGRATION POINTS BASED SYSTEM—WORK ROUTES

At the hearing on the Immigration Points Based System on Monday 28 March, we undertook to provide the Committee with some additional evidence in the form of a written note. The information requested is set out below.

Intra Company Transfers

1. The following table provides details of the top 10 companies seeking Intra Company Transfers. As requested, it also shows where headquarters are based and whether there are company subsidiaries in India.

<i>Rank</i>	<i>Organisation</i>	<i>Country Headquarters</i>	<i>Certificates of Sponsorship</i>
1	Tata Consultancy Services	India	7,632
2	Cognizant Technology Solutions	US with operations India	4,962
3	Infosys Technologies Ltd	US	3,761
4	Wipro Technologies	India	3,611
5	IBM UK Ltd	US	2,558
6	Tech Mahindra Ltd	India	2,369
7	Accenture (UK) Ltd	US	2,019
8	HCL Great Britain Ltd	India	1,873
9	Capgemini PLC	France	1,226
10	Steria Ltd	France with operations in India	1,034

SALARY LEVEL AND CHECKS ON INTRA COMPANY TRANSFERS

2. The introduction of the Points Based System established clear lines of accountability for employers that did not exist under the previous work permit arrangements. There is now a clear link between the compliance of those an employer brings to the UK and the ability of that employer to continue to sponsor overseas workers. The onus of providing accurate information rests firmly with sponsoring organisations.

3. The Agency's primary method of checking the veracity of ICT earnings is through a sample, reviewed by a UK Border Agency visiting officer during a post licence visit. At this point we check a selection of paper files to ensure the salary and allowances meet the appropriate thresholds. Prior to this, at the visa application stage, where there are concerns regarding the proposed earnings as detailed on the employer's Certificate of Sponsorship (CoS), the Agency's overseas locations have the facility to refer these cases for further checks.

4. The new £40,000 ICT threshold can be made up of both the salary and allowances, but not bonuses and will be subject to thorough compliance checks. Allowances for accommodation must not exceed 30% of the total package.

5. In the period 28 November 2008 to 01 April 2011, the average salary including allowances on the CoS for ICT migrants was £63,105. The average allowances on the CoS for ICT migrants was £25,637. The median salary including allowances on the CoS for ICT migrants was £40,116, and median allowances were £21,600.

THE PROPORTION OF TIER 2 APPLICATIONS FROM CORPORATE COMPANIES

6. As of 29 March 2011, the breakdown of Tier 2 sponsor applications from companies, based on a measure of the size of the organisation, is as follows:

<i>Organisation Size</i>	<i>Total no. Of applications</i>
Micro organisation (0–9 employees)	5,348
Small organisation (10–50 employees)	6,824
Medium organisation (51–250 employees)	4,155
Large organisation (251+employees)	3,713
Total	20,040

VISITS TO SPONSORS SINCE OCTOBER 2010

7. As of 28 February 2011 the number of visits to Tier 2 Sponsors by UK Border Agency staff since October 2010 and their outcomes are as follows:

<i>Visit Type</i>	<i>Total</i>
Post-licence visits	1,788
Suspensions	148
Revocations	93
Downgraded to B-rating	353
Pre-licence visits	813
Highly Trusted Sponsor visits	93
Total Visits	2,694

BREAKDOWN BY FAITH OF TIER 2 MIGRANTS UNDER THE CLERGY OCCUPATION

8. As of 29 March 2011 1,599 Tier 2 migrants had been granted entry to the UK under the clergy occupation. The breakdown by faith is as follows:

<i>Sub Tier</i>	<i>Religious Faith</i>	<i>Total</i>
2R	Buddhist	30
	Christian	1,324
	Hindu	23
	Jewish	16
	Muslim	72
	Not Stated	18
	Other	11
	Sikh	105
Total		1,599

OUTCOME OF THE 2,000 REMOVALS

9. As outlined in paragraph 3.9 of the National Audit Office's (NAO) report, since December 2008, the North East, Yorkshire and the Humber region have contacted 6,000 individuals and had success in encouraging 2,000 of these to leave the UK. A further 1,800 qualified for further Leave to Remain. Of the remainder, some will have outstanding further applications, some will be tasked for enforced removal and some are dealt with through contact management until they comply, or formal reporting arrangements are put in place. This is an approach we are rolling out across the country.

CURRENT FEE OVER COST RECOVERY LIMIT

10. The Agency is forecasting to receive approximately £807 million total earned income in 2010–11. This is the same as the limit for over cost recovery.

PROGRAMME COSTS

11. The total spend for the Points Based System programme is set out below against the initial budget.

	<i>PBS Programme Spend</i>	
	<i>Actual</i>	<i>Budget</i>
Programme Only Costs	£18,553,470	£11,409,000
Total IT Services	£25,532,295	£24,228,701
Total	£44,085,765	£35,637,701

The need to meet the ambitious deadlines for the published roll-out plan in 2008 and 2009 required an increase in resource that resulted in a programme spend as above. The Points Based System rolled out from February 2008 and the required IT for Sponsorship went live as scheduled in June and November 2008 and has operated successfully ever since.

12. You also requested information on the number of work permit holders who subsequently settled in the UK. As Jonathan highlighted, it is not currently possible to provide this information. With the launch of the new Immigration Casework System, over time we will be able to analyse this data.

1 April 2011

Written evidence from the UK Border Agency

Towards the end of the Public Accounts Committee Hearing of the Points Based System on 28 March 2011, Stephen Barclay MP asked questions about the release of detained asylum seekers (Q125–127 of the transcript from that day), regarding which you requested a note. I have now considered further the questions raised by Mr Barclay and his previous Parliamentary Questions and am able to give this considered response.

The Parliamentary Questions to which Mr Barclay referred were answered by Damian Green, the Minister for Immigration, on 14 February and 1 March 2011. The question asked was what proportion of detained asylum seekers were released into the community, rather than removed, and how we ensure we stay in touch with them. At the hearing on 28 March, Mr Barclay was concerned that from the answers he had received between 71% and 79% of those detained are given temporary admission/release into the community—not least because of the implications of this for the UK Border Agency's ability ultimately to remove them.

In fact it may be helpful if I clarified that the proportion of asylum seekers released is not as Mr Barclay concluded. The response to his questions provided two sets of data covering periods of differing length. One showed the number of detainees held solely under Immigration Act powers on one specific day, namely 30 September 2010. The other set of data showed the numbers of asylum seekers who had been released into the community in the third quarter of 2010. In other words, it showed details of all those asylum seekers released, other than for removal, between 1 July and 30 September 2010. It does not represent a like for like comparison to express the number of asylum seekers released over a period of three months as a proportion of the number of asylum seekers detained on any given day.

I should also explain that there are two distinct categories of asylum seeker in the UK Border Agency's detention estate. First, around 15% of applicants have their asylum applications routed for consideration to the "Detained Fast Track" at Harmondsworth and Yarl's Wood. This provides for swift decision making, appeals to be heard and removal arranged as necessary, in an expedited time-scale whilst the individual remains in detention. This is an important element of our asylum system. But it is important that detention only for the purpose of assessing an asylum claim is a power to be used very carefully and only where assessment of the claim is likely to be straightforward. As such, a significant minority of these cases are released from detention at an early stage as soon as it becomes apparent that there is a complexity to the case that was not clear on the day the claim was registered.

The remainder of asylum seekers in detention are those whose claim has been refused in the community, whose appeal has been dismissed by the Courts, who have declined to leave the country voluntarily and who then are detained for the purposes of an enforced removal.

The UK Border Agency does know the proportion of detained asylum seekers given temporary admission/release. That proportion stood at 42% in quarter 4 of 2010. There are a number of legitimate reasons why an asylum seeker will be released, rather than removed, namely:

- new information arises which will take UKBA a longer time to investigate than is consistent with continued detention (especially in the case of Detained Fast Track);
- UKBA's estimate of the time needed to achieve the agreement of the receiving country to removal changes, meaning detention can no longer be justified in the meantime;
- new legal proceedings arise which are unlikely to be resolved in a timeframe consistent with continued detention; or
- the applicant is granted refugee status or other leave.

We are taking steps to expand our detention capacity. In July 2010, an extra 363 beds at Harmondsworth were made available. A further 393 beds will be available at Morton Hall in Lincolnshire from next month and a further 26 beds at Lame in July.

There are a variety of legitimate reasons for the release from detention of an asylum seeker. When they are released—and assuming they have not been granted status—the UK Border.

Agency will require them to report to the Agency—or local police—at regular intervals and will require information on the address they are going to. The cases will not be lost in the system. Each Regional UK Border Agency Office is required to keep up-to-date information on the numbers and locations of failed asylum seekers resident in their area and is required to work via the courts, diplomatic channels and with other key partners to bring these cases to a conclusion.

25 April 2011

ISBN 978-0-215-55957-9



9 780215 559579

