



House of Commons
Public Accounts Committee

Management of Asylum Applications

Twenty-eighth Report of Session
2008–09

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

*Ordered by the House of Commons
to be printed 13 May 2009*

The Public Accounts Committee

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

Mr Edward Leigh MP (*Conservative, Gainsborough*) (Chairman)
Mr Richard Bacon MP (*Conservative, South Norfolk*)
Angela Browning MP (*Conservative, Tiverton and Honiton*)
Mr Paul Burstow MP (*Liberal Democrat, Sutton and Cheam*)
Mr Douglas Carswell MP (*Conservative, Harwich*)
Rt Hon David Curry MP (*Conservative, Skipton and Ripon*)
Mr Ian Davidson MP (*Labour, Glasgow South West*)
Angela Eagle MP (*Labour, Wallasey*)
Nigel Griffiths MP (*Labour, Edinburgh South*)
Rt Hon Keith Hill MP (*Labour, Streatham*)
Mr Austin Mitchell MP (*Labour, Great Grimsby*)
Dr John Pugh MP (*Liberal Democrat, Southport*)
Geraldine Smith MP (*Labour, Morecombe and Lunesdale*)
Rt Hon Don Touhig MP (*Labour, Islwyn*)
Rt Hon Alan Williams MP (*Labour, Swansea West*)
Phil Wilson MP (*Labour, Sedgefield*)

Powers

Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No 148. 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 <http://www.parliament.uk/pac>. A list of Reports of the Committee in the present Session is at the back of this volume.

Committee staff

The current staff of the Committee is Mark Etherton (Clerk), Lorna Horton (Senior Committee Assistant), Pam Morris (Committee Assistant), Jane Lauder (Committee Assistant) 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 Handling applications more effectively	9
2 Making the right decisions quickly	11
3 Implementing the decision quickly	14
4 Concluding legacy cases	19
Formal Minutes	21
Witnesses	22
List of written evidence	22
List of Reports from the Committee of Public Accounts 2008–09	23

Summary

In 2006, our predecessors published a critical report on the shortcomings in the removals system, making wide-ranging recommendations.¹ Revisiting the subject of asylum applications and removals some three years on, we are pleased to note that the Home Office (the Department) has responded positively and progress has been made. The Department has implemented the New Asylum Model, whereby a Case Owner manages all new asylum cases from application to conclusion, at which stage the applicant is either allowed to stay in the UK or returned to their country of origin. We are also pleased to note that, as a direct result of implementing our recommendations, the Department also established a separate process to clear the backlog of 400,000–450,000 legacy cases unresolved at the introduction of the New Asylum Model.

The New Asylum Model has resulted in the Department reaching an initial decision more quickly and in cases being concluded faster than in 2006. We also have the Department's firm assurance that the legacy cases will be cleared by 2011.

Amongst the many cases awaiting completion, there are undoubtedly many people who genuinely need humanitarian protection because they are fleeing oppression, as well as those with more tenuous claims to asylum. The Department still faces significant challenges, however, in bringing these cases to a prompt conclusion. Faster, more accurate completion of cases reduces both uncertainty for the applicant and the cost to the tax payer. The Department is halfway through its programme of stepped improvements in the time taken to conclude cases. Removal poses a challenge. It will be another four years before the Department has the total of 4,000 detention spaces that it needs to increase removals to optimum levels, and before its new IT system is fully operational. The Department also needs to work with the Courts, foreign governments and other bodies to bring about the legal changes and diplomatic solutions needed to resolve obstacles to removal that lie outside its control.

On the basis of a Report by the Comptroller and Auditor General,² we examined the Department on its progress to date, and on the obstacles to faster, more accurate completion of cases.

1 Committee of Public Accounts, Thirty-fourth Report of Session 2005–06, *Returning failed asylum applicants*, HC 620

2 C&AG's Report, *Management of Asylum Applications by the UK Border Agency*, (2008–2009), HC 124

Conclusions and recommendations

1. **The Department has made significant progress in the management of asylum applications through the New Asylum Model.** Since our predecessors' report *Returning failed asylum seekers* published in 2006, the Department has made substantial improvements in the management of asylum claims, but still faces major challenges to sustain this improvement.
2. **The Department still has some way to go to meet its aims of reaching initial decisions in 80% of cases within two months of an application and of concluding all cases within six months.** The average time taken to reach an initial decision in asylum cases had fallen from 22 months in 1997 to seven months in 2007. Whilst the Department's focus is on concluding cases, the Department should continue to reduce the time taken to reach a decision and consequently reduce the cost of managing asylum applications. For example, the Department needs to reach a decision on entitlement to accommodation and support more quickly to reduce the cost of initial accommodation.
3. **Following an increase in asylum applications in 2007, the number of applications awaiting a decision by a Case Owner doubled from the second quarter of 2007 to a total of 8,700 in the second quarter of 2008.** The Accounting Officer assured the Committee that the Department was still working on these cases and was not creating a new backlog. The Department needs to be more flexible and responsive to surges in the number of applications, reallocating resources to deal with fluctuations in demand as they arise, addressing variations in performance in different regions, reducing the number of cases awaiting a decision and minimising the cost of processing cases.
4. **A lack of an initial full screening interview can prolong the time taken to conclude a case, resulting in increased uncertainty for the applicant and increased costs.** The Department should conduct a full screening interview in all cases as soon as an asylum application is made.
5. **Detention is important in ensuring that failed asylum applicants can be removed from the UK expeditiously once their case is decided.** The Department has fewer detention spaces than it needs to meet its operational and business needs. This shortfall is due both to a lack of physical capacity and also to the large number of spaces occupied by foreign national prisoners awaiting deportation. Despite the previous recommendations of this Committee, it will be 2013 before the Department has the number of spaces it thinks it needs. To make best use of the available spaces, the Department should:
 - a) review how it uses its estate and whether this meets its current and future needs, and
 - b) press on with implementing our predecessors' recommendation to review all foreign national prisoner cases at the beginning of their custodial sentence to

prepare for immediate removal of offenders recommended for deportation on their release from custody.

6. **Removals of failed asylum seekers have fallen over the period 2006–08, and the majority of removals have been achieved primarily from legacy cases, and cases held in detention, with few successful removals being achieved by the New Asylum Model teams in the regions.** The Department should monitor regional variations in removal rates closely to identify best practice, as well as any local issues which may be holding back removals.
7. **Making a successful enforced removal of a failed asylum applicant is challenging as it requires the Department to coordinate documentation, transport and escorts against the backdrop of legal challenges and international relations.** To improve the chances of a successful removal, the Department should:
 - a) improve coordination of flights, escorts and detention;
 - b) press on with its work with the Ministry of Justice, Scottish Executive and courts in the UK to speed up the Judicial Review process and to reduce the number of applications for Judicial Reviews applied for on the same grounds that are allowed, and
 - c) work with the Foreign and Commonwealth Office to increase the number of countries from which it can obtain Emergency Travel Documents and use more of those documents to effect removals.
8. **Around 20–25% of appeals against a refusal decision are upheld. Reasons include changes in circumstance in the country of origin, insufficient evidence presented by the Department and poor decisions.** The Department is reliant on appeals to overturn poor initial decisions where asylum is refused. The Department's decision making process would be more effective if it:
 - a) collected and analysed data nationally on why appeal cases are being upheld and fed the results back to Case Owners;
 - b) used the findings of its Quality Assurance Team, and systematic checks by line managers to disseminate good practice to Case Owners and to identify and reverse incorrect decisions;
 - c) set and published targets to increase the quality, as well as the speed, of initial decisions to help increase public confidence in its decision-making process, and
 - d) collected and disseminated nationally information on the number of decisions reversed as a result of discussions between its quality auditors and local senior caseworkers.
9. **The Department does not have a set formula for dispersing asylum applicants around the United Kingdom. The primary criterion is the availability of accommodation, which can result in individuals becoming isolated.** The Department should take a more logical approach to allocating asylum applicants to accommodation in its regions. This approach should not only take account of the

availability of dispersal accommodation in an area but also strive to provide applicants with appropriate linguistic and social support networks to avoid isolation, without overburdening any one locality.

10. **In the past, asylum applications from family members who arrived in the UK at the same time might not have been dealt with together, resulting in disparities in outcomes and in the time taken to process their cases.** The Department should act on its assurance that family groups will be identified, linked and allocated to one Case Owner, whether these are new applications or legacy cases.
11. **The Department acknowledged the legacy of underinvestment in IT and new technology.** Case Owners use fax machines, paper files, hand-written interview notes and outdated computer systems, and will not get a better IT system until 2013. This wastes Case Owner time and carries a risk that personal information could be lost. The Department should continue to develop and expand its use of new technology, for example, digital recording of interviews and electronic information exchange, and prioritise the introduction of those systems which reduce the risk of losing sensitive personal information and increase the productivity of Case Owners.
12. **Reviewing refugee status after five years starting in 2010 will be challenging for the Department.** In implementing its plan, the Department should:
 - a) identify and prioritise cases where it has not got the refugee's contact details;
 - b) put in place a process to maintain contact with new refugees, and
 - c) identify the resources needed to review their cases from 2010.
13. **The Department's assurance that it will meet the target to conclude all legacy cases by 2011 is welcome, as some of these old cases may prove challenging.** The Department should provide the Committee with a report in 2011, confirming that all legacy cases have been cleared and identifying the lessons learned.
14. **Backlogs have built up in other areas of the Department's core immigration work.** The Department acknowledged that it had pockets of immigration cases awaiting resolution, for example, applications for leave to remain on the basis of marriage to a UK spouse, where decisions have been outstanding over a period of three or four years or more. We look to the Department to conclude these cases and eradicate the backlogs with the same degree of effort and in the same timescales as the legacy asylum cases.

1 Handling applications more effectively

1. In 2006, our predecessors considered the operation of the asylum system.³ Since then, the Home Office (the Department) has made substantial improvements to the way it manages asylum applications. We are especially pleased that, as a direct result of implementing the Committee's recommendations, the Department has moved to a system of end-to-end case management.⁴ Under the New Asylum Model, as it is known, a single Case Owner handles an asylum case from application to conclusion. As a result, applicants now face a shorter wait for an initial decision and cases are concluded more quickly than under the previous system.⁵

2. The Department acknowledged that not all applicants had initial screening interviews. Localised enforcement offices, rather than the big screening units, tended to struggle to provide this first interview. The Department has simplified the screening process which will make collection of the information required for the first interview easier, enabling the Case Owner to progress the case more quickly. All applicants had their identity captured and were fingerprinted.⁶

3. Applicants with nowhere to stay are routed through the dispersal system to accommodation in one of the Department's regions while the asylum team for that region considers their application.⁷ The Department routed asylum seekers to regions based on a fixed percentage share, ranging from 8% for Wales and Scotland to 20% for its North East, Yorkshire and Humber region. Routing was based on previous dispersals. The Department strives to strike a balance between providing applicants with appropriate linguistic and social support networks to avoid isolation, while at the same time avoiding overburdening any one locality. Availability of accommodation was the primary consideration for allocation. Dispersal accommodation was generally provided in areas which either had an established ethnic minority community, or which were able to sustain a new ethnic group, and where voluntary and community infrastructures are in place or can be developed.⁸ The Department sought to send applicants to the region within two days, so that processing of claims could start as soon as possible.⁹

4. The Department accepted that it did not have access to the most modern technology available.¹⁰ It had sought to make short term changes (**Figure 1**), and is currently piloting the use of digital recording of interviews in Cardiff.¹¹ Learning from an unsuccessful attempt to introduce a new asylum computer system in 2000–01, the Department will

3 Committee of Public Accounts, Thirty-fourth Report of Session 2005–06, *Returning failed asylum applicants*, HC 620

4 C&AG's Report, Appendix 2

5 C&AG's Report, Executive Summary, para 6h

6 Q 20

7 C&AG's Report, Figure 3

8 Ev 22

9 Q 192

10 Qq 51, 61

11 Qq 54–56

phase in a new computer system over several years.¹² The Department acknowledged the need to remain alert to the risk of data loss inherent in the large volume of paper-based files it holds.¹³

Figure 1: The Department is moving from outdated technology to more modern ways of transacting its business

OUTDATED TECHNOLOGY	RISK OR INEFFICIENCY	THE DEPARTMENT IS MOVING TOWARDS:
Case owners use fax machines to transmit personal data between the Department and third parties.	<p>Greater risk of error than other methods of communication</p> <p>Fax machines are less secure as a means of transmitting personal data than email</p> <p>More costly than email or internet portals</p>	<p>Communication between accommodation providers and the Department via an internet portal</p> <p>Receiving Asylum and Immigration Tribunal determinations by scan or email</p>
Case Owners make handwritten notes of substantive interviews, recording each question and answer verbatim.	Time consuming, as interviews last between two and six hours	Piloting digital recording of interviews
Case owners regularly use two databases to process cases. The Casework Information Database is used to record case management information. The Asylum Support Database is used to record support given to applicants.	Time is wasted and effort duplicated in swapping between systems and repeating tasks.	New asylum computer system is being developed. It will be implemented in stages and is expected to be fully operational by 2013.
Caseworkers print out and hand write notes and forms, although electronic versions of the forms are available.	<p>Pressure on storage space</p> <p>Increases retrieval time, as files are stored away from the Department's offices</p>	Electronic versions of the forms are available
Paper-based identity arrangements for applicants to identify themselves when claiming support.	Potential for fraud	Replaced with a biometric card

Source: Qq 54, 56, 201; C&AG's Report, paras 4.10–4.13

5. Prior to the introduction of the New Asylum Model, the Department did not always assign asylum applications from members of family groups who arrived in the UK at the same time to the same Case Owner. As a result, some family members' cases had long since been concluded, while other members of the same family were still awaiting a decision. The Department agreed to try and group any such legacy cases brought to its attention.¹⁴

12 Qq 51–53

13 Q 203

14 Qq 79–80

2 Making the right decisions quickly

6. A fundamental change introduced in the New Asylum Model was the move to Case Owners focusing on the conclusion of the case, rather than simply concentrating their efforts on the decision stage. The Department has considerably reduced the average time taken to make a decision from 22 months in 1997 to around seven months in 2007. The Department acknowledged that faster decisions alone were not enough, however, and that it also needed to increase the number of cases concluded.¹⁵ The Department's aim was to give half of all asylum applicants a decision within one month of application, and 80% of applicants a decision within two months. Analysis by the National Audit Office indicated that the Department still has some way to go to achieve these aims. Of 27,702 asylum decisions made in the period from January 2007 to June 2008, Case Owners had made a decision within 30 days in 16% of cases, and decided a further 17% of cases within 30 to 60 days.¹⁶

7. The Department has a stepped target for increasing the number of cases concluded within six months. This creates a risk that Case Owners prioritise cases which were easier to conclude within six months, in preference to more complex cases. Consequentially, complex cases took longer than necessary to process and conclude. From April 2009, the Department is to introduce targets and monitoring to incentivise Case Owners to progress cases that have taken more than six months to process.¹⁷

8. The number of cases handled under the New Asylum Model awaiting decisions doubled in a year to 8,700 in the second quarter of 2008 (**Figure 2**). This increase draws into question the Department's capacity to respond quickly to increases in the number of Asylum applications received. The Department accepted that its resources had not been in the right places in the past.¹⁸ It had not been flexible enough in moving staff to the places where they were needed, such as areas where backlogs had built up.¹⁹ The Department was currently recruiting another 200 Case Owners and was confident that it was now quicker at moving resources between regions tackle increases in workload. It recognised the need for closer dialogue in future between regions and the central part of the Department to identify and meet regions' need for additional staff to progress the work.²⁰ The Department assured the Committee that all cases awaiting a decision were being progressed.²¹

9. Since the end of 2005, around 70% of applicants who were refused asylum appealed against the decision. Between 20% and 25% of appeals were upheld by the Asylum and Immigration Tribunal.²² Acknowledging that it had an obligation to grant asylum properly and a responsibility to improve the quality of its decision-making, the Department stressed

15 Q 8

16 C&AG's Report, para 2.16

17 Qq 57–58

18 Qq 35, 38

19 Q 37

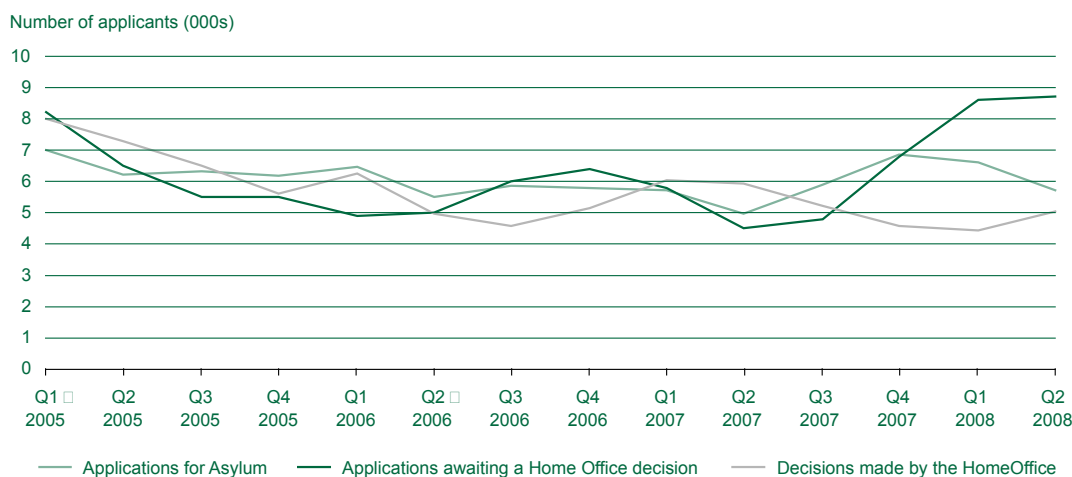
20 Qq 87, 90

21 Qq 9, 100

22 C&AG's Report, para 2.19

that some decisions were upheld by the Tribunal on the applicant's ability to return to their country of origin, not on the Department's decision to refuse asylum.²³ The Department accepted that asylum may have been granted in instances where it ought not to have been.²⁴ It considered that the level of appeals made reflected applicants' ability to challenge the Department's propensity to refuse them asylum, not the level of error.²⁵ On only two occasions since the end of 2007 have the Department's quality assurance checks resulted in a change to a decision being requested and enacted. The Department did not record the extent to which discussions between its quality auditors and local senior caseworkers resulted in a reversal of original decisions.²⁶

Figure 2: The number of applications awaiting a decision rose sharply in late 2007



Note: The decision is that made by a Department official, now the responsibility of a Case Owner, prior to any subsequent appeal, on the basis of the asylum application.

Source Home Office quarterly asylum statistics

10. In response to the NAO's recommendations, the Department now samples 10% of cases locally, with senior caseworkers mentoring and coaching Case Owners themselves. Under an initiative that it has developed with the United Nations High Commissioner for Refugees, the Department samples a further 10% nationally, again to check consistency.²⁷ Outcomes have been fed back to Case Owners and their managers so they can compare results to ensure that everybody was working to the same standard, and the Department can learn lessons from the outcomes.²⁸ In addition, the Department has a programme of internal audit that it can target at particular issues.²⁹ **Figure 3** shows that for the period September 2007 to May 2008, 136 of the 580 decision letters sampled where the decision taken was to refuse asylum, were rated as 'not fully effective' or 'poor'.³⁰

23 Q 181

24 Qq 182, 184

25 Q 183

26 Ev 23

27 Ev 24

28 Q 23

29 Q 92

30 C&AG's Report, para 2.13, Figure 6

Figure 3: Quality assurance assessment of local samples of decision letters by the Department's Quality Assurance Team over the period September 2007–May 2008

	EXCELLENT	FULLY EFFECTIVE	NOT FULLY EFFECTIVE	POOR	CASE NOT COMPLETED	TOTAL SAMPLED
Number of decision letters achieving each rating	88	603	194	38	162	1085
Of which, the decision was to refuse asylum (cases)	55	389	120	16		580

Source: National Audit Office analysis of Home Office data

3 Implementing the decision quickly

11. Availability of detention facilities has been a critical component of the Department's removals process. Overall, the Department achieved a higher proportion of its removals through its third country unit³¹ and detained fast track centres³² than through the New Asylum Model in its regions (**Figure 4**).³³ Widening its area of responsibility to include a broader range of removals has resulted in the Department having less of its detention space available for removing asylum seekers. Foreign national prisoners awaiting removal, for example, are often held in detention spaces that would otherwise be used for failed asylum seekers awaiting removal.³⁴ The Department considered the only alternative to the use of its detention space for foreign national prisoners would be to keep them in prison, which blocks prison spaces.³⁵ The rate of removals of foreign national prisoners has increased by around 300% since our predecessors' Report. The Department has also worked more closely with police and local authorities to detain illegal workers, some of whom are causing great harm to communities.³⁶

Figure 4: Breakdown of applicants who applied between January 2007 and February 2008, were refused asylum and removed by August 2008

	NUMBER	% OF TOTAL REMOVALS
FAST TRACK		
Non-suspensive Appeal cases, Oakington	394	11
Detained fast track	977	28
Third Country Unit	1,166	34
NEW ASYLUM MODEL REGION		
North East and Humber	242	7
Midlands and East	179	5
Central London	157	5
West London	38	1
North West	139	4
Scotland and Northern Ireland	94	3
Wales and South West	69	2
GRAND TOTAL	3,455	27

Note: Excludes dependants and voluntary returns

Source: National Audit Office analysis of Home Office data

31 Handles cases which fall within the 'Dublin II' regulations. If an applicant has arrived in the UK by travelling through another EU country, or another safe country, the Department may require the applicant to pursue their claim with the country they travelled through.

32 A fast track process for considering an asylum application where applicants are held in an Immigration and Removal Centre whilst their application is considered.

33 Q 2; C&AG's Report, para 2.22, Figure 12

34 Q 41; C&AG's Report, para 4.7

35 Q 6

36 Q 40

12. In 2008, the Department removed 32,000 people, 11,600 of whom had been refused asylum. For 2009, the Department was seeking to increase the number of removals of applicants who had been refused asylum and it was confident that asylum removals would increase as more detention space became available.³⁷ A new removal centre, Brook House, should be available from Spring 2009, providing 426 more beds available for asylum seekers and bringing the total spaces available to around 3,000. Harmondsworth removal centre is due for completion in early 2010, providing another 330 places. The Department was currently awaiting planning permission on two applications for an 800 place removal centre and a 400 place removal centre (**Figure 5**).³⁸ Allowing time for the design and construction of these two new centres, the Department estimated it could have the 4,000 detention places it needed by 2012–13.³⁹

Figure 5: The Department's removal centres current and planned capacity

IMMIGRATION REMOVAL CENTRE (CURRENT)	CAPACITY	
Yarls Wood, Bedfordshire	400	(Females and families)
Colnbrook, Heathrow	385	
Oakington	352	
Dover	316	
Harmondsworth, Heathrow	259	
Campsfield, Oxfordshire	215	
Dungavel, Scotland	189	
Haslar, Portsmouth	160	
Tinsley House, Gatwick	145	
Lindholme	112	
Currently available	2533	
<i>PROPOSED NEW CENTRES</i>		
<i>Brook House, Gatwick</i>	426	<i>Due to open early 2009</i>
<i>Bullingdon, Oxfordshire</i>	800	<i>Planning permission applied for, expected to be available by 2012-13</i>
<i>Yarls Wood, Bedfordshire</i>	400	<i>Planning permission applied for, expected to be available by 2012-13</i>
TOTAL	1626	

Source: Home office

13. Giving priority to the removal of foreign national prisoners has also had an adverse effect on the Department's ability to meet its 'tipping point' target, whereby more failed asylum seekers are removed than those who make unfounded claims. The Department briefly achieved the target in 2006 (**Figure 6**), and continues to work towards achieving the tipping point.⁴⁰ Applications may be influenced by events around the world, but the

37 Qq 43–44

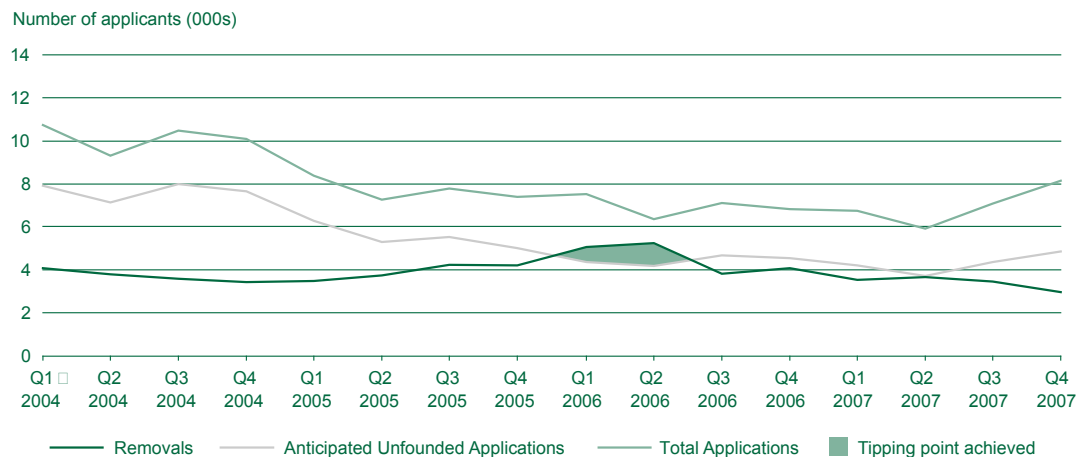
38 Qq 4–5, 7, 105; C&AG's Report, para 4.7, Figure 20

39 Q 107

40 C&AG's Report, para 3.5, Figure 18

Department acknowledged that it needed more detention space and had to increase the number of removals, as the 12,000 removals of failed asylum applicants in 2008 was not enough to achieve the tipping point target.⁴¹

Figure 6: The Department is still working towards meeting its tipping point target



Source: National Audit Office analysis of Home Office data

14. The Department has made good progress using UK diplomatic relations with overseas governments to help it speed up removals. A migration team embedded in the Foreign and Commonwealth Office helps to develop memoranda of understanding and protocols with particular governments. Where Case Owners have identified a problem of timeliness or numbers of applicants, the Department has put together a team of ministers and officials and has targeted the country to secure better arrangements. By doing this, it has made progress.⁴² For example, following the Morecambe Bay tragedy where 23 young people died, the Department found it difficult to operate an enforced removal programme to China. The Immigration Minister went to China and signed an agreement with the Chinese Government, resulting in the two governments working collaboratively to return applicants who had been refused asylum.⁴³

15. The Department told us it had also done a considerable amount of work with embassies overseas and in London, and was now getting many more documents needed to make removals at an earlier stage in the process. The Department could not always use the documents it obtained because it needed three elements to be in place to make a removal—the document, the person, and for there to be no barrier to removal. On occasions, the time taken to get the document from the relevant country meant either that the Department was faced by a legal challenge or it was no longer able to remove the person. The Department did not consider this to be wasted effort because it can sometimes renew these documents much more easily than it was able to obtain them initially.⁴⁴

41 Q 3

42 Q 72

43 Q 71

44 Q 18

16. The Department explained that while Case Owners were keen to remove, they had to ensure they had a person in detention with no legal barriers to removal, with a valid ticket home, an escort, and a piece of documentation. This made it a complex job. In the past, the Department tended to overbook escorts because removals were cancelled for a number of reasons. The Department had been running a manual pilot to see if it could improve the alignment of its resources. The Department was encouraged by the results and hopes to roll out an electronic version during 2009 that will allow Case Owners to book flights and escorts in one go.⁴⁵ It was also working with the airlines to achieve greater flexibility around changing the names on flight tickets.⁴⁶

17. Applicants refused asylum sometimes used the legal process right up to the steps of the plane on the day of removal and some applicants refused asylum also used representations from the local Member of Parliament to delay a removal. The Department noted that some applicants waited until, for example, removal directions were served upon them before triggering the next step in their legal campaign. Of particular concern to the Department was abuse of the Judicial Review process to delay removal. The High Court receives on average 230 applications a month for Judicial Review of the Department's decision. Of these, less than 10% are granted permission to proceed and almost none of them are granted; only one in the period January–April 2008.⁴⁷ The Department is working with those who support applicants and with the judiciary to try to make this process less disruptive. The Court now requires full grounds for Judicial Review to be lodged before agreeing to defer removal. The Department has also recently introduced a protocol whereby, if the Judicial Review is lodged on exactly the same grounds as one within the previous three months, the Department will ignore the new Judicial Review and continue with removal.⁴⁸

18. The Department continually tries to ensure that genuine reasons to stop a removal can succeed while more spurious ones are filtered out. The Government has held a consultation about simplifying the legal process to reduce the number of chances of appeal. In some cases the Courts had agreed that the Department could remove before appeal, and applicants refused asylum have had to make their appeal from overseas. The Department has an arrangement to expedite Judicial Reviews in England which has worked very well, but it has less strong arrangements in Scotland for the timeliness of Judicial Review, and there was also less opportunity in Scotland to prevent repeat Judicial Reviews. In one Scottish case, eight judicial reviews were taken on the same grounds.⁴⁹ Judicial Reviews in Scotland now take place within 6–12 weeks, as opposed to 12 months previously.⁵⁰

19. The Department has a plan in place to start reviewing temporary refugee status cases in the latter part of 2010, which is when the first cases granted five year status in 2005 fall due for review. The Department believes it knows where most of these people are, as they have not settled in the UK illegally. People who have been granted temporary refugee status have

45 Qq 47–49, 204–205

46 Qq 121–122

47 C&AG's Report, para 2.20

48 Qq 25–27

49 Q 177

50 Ev 22

an obligation to tell the Department where they are and also to notify it of changes of address.⁵¹

4 Concluding legacy cases

20. The Department confirmed that it was concluding 10,000 legacy cases a month. Not all of these cases represent an actual person who is claiming asylum. Some cases are no longer live, some entries on the database were errors, and some other cases related to people who had already returned to their home country.⁵² Thus, included in the 10,000 cases were real people granted asylum, real removals, and a whole range of other outcomes. The Department's work on the legacy cases had unearthed some very difficult cases where people fleeing from the most terrible oppression had been waiting years for their cases to be concluded.⁵³ The Department acknowledged that the legacy case backlog should have been dealt with earlier.⁵⁴

21. The Department gave this Committee a firm commitment that it will meet its target of concluding all legacy cases by 2011. The Department was currently concluding cases at a rate which was needed to hit the target. During 2008, it concluded 155,000 cases, and the Home Secretary has asked the Department to try and conclude all of them before 2011.⁵⁵ Analysis of legacy cases concluded in the period from June 2006 to early January 2009 (**Figure 7**) indicated that in 35% of cases, applicants were granted leave to remain and 16% were removed. The largest category of conclusions was "Other" (47% of cases), where the outcome was to update or remove cases from the Department's Case Information Database. These included cases where the granting of leave or removal had not been recorded on the database, or where an applicant's details had been duplicated on the database.⁵⁶

22. The Department did not prioritise cases relative to need, but instead to a set of four criteria: cases that could cause harm to the public; cases that involve a cost the public purse; cases that can be easily granted asylum; and cases that can be easily removed.⁵⁷ The Department had also recently written to all Members of Parliament indicating that Case Workers now have discretion to expedite other cases on wider grounds, such as where a Member believes that there are humanitarian grounds for a case to be expedited.⁵⁸

23. The Department acknowledged that there will be some very difficult decisions to make when resolving legacy cases. Some people may well be allowed to stay because there is currently no possibility of a safe enforced removal.⁵⁹ The Department said that it was out of the question to have an amnesty because that would encourage more asylum seekers to head for the United Kingdom.⁶⁰

52 Qq 14, 135

53 Q 67

54 Q 69

55 Qq 13, 15, 136

56 Ev 21

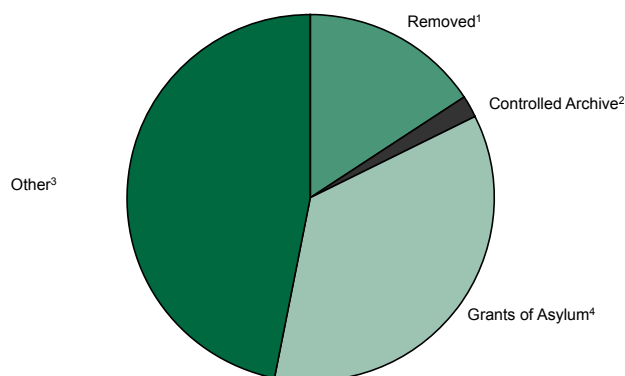
57 Q 70

58 Qq 84, 186

59 Qq 29, 149

60 Qq 155–157

Figure 7: Legacy cases concluded June 2006 to early January 2009



Notes

1. Removals are deportations, extraditions and enforced removals commissioned by the Department's legacy Case Resolution Directorate. They also include voluntary departures, assisted and unassisted whilst the case is under Case Resolution Directorate ownership.

2. Controlled archive cases are those where the Department cannot trace the applicant and may include cases where the applicant is likely to have left the country voluntarily. The Department makes every effort to trace such cases, checking a number of internal and external databases. Once a case has been in the controlled archive for 6 months it is included in conclusions statistics. Cases in the controlled archive are run against a number of watchlists every three months and can be reactivated and removed from the conclusions statistics at any time, should the applicant come to light. No cases where the applicant has a positive Police National Computer record are placed into the controlled archive.

3. Other are cases where the Case Resolution Directorate has determined that an action has occurred that led to a grant of asylum or removal that has not been recorded on the Case Information Database. It also includes duplicate cases deleted from Case Information Database.

4. Grants of asylum are cases where the applicant is granted some form of leave to remain in the UK, be it limited or indefinite, by the Case Resolution Directorate.

Source: Home Office

24. In addition to the asylum legacy cases, the Department has pockets of immigration cases awaiting decisions. These include applications for leave to remain on the basis of marriage to a United Kingdom spouse, where decisions have been outstanding over a period of three or four years or more. The Department acknowledged that it had areas where the rate at which it cleared immigration cases was not satisfactory, and that it has plans with milestones in each of those areas to move them to a point where it can comply with all of its published service standards. These cases tended to fall into certain categories, including a few thousand marriage cases, for instance, where the Department's plan was to resolve all the outstanding cases by early 2010.⁶¹ The Department is in the process of rolling out the principle of case ownership more widely across its immigration case work to see if it be of benefit there, as it is in asylum cases.⁶²

61 Qq 30–32

62 Q 87

Formal Minutes

Wednesday 13 May 2009

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Rt Hon David Curry
Mr Ian Davidson
Mr Nigel Griffiths

Rt Hon Keith Hill
Mr Austin Mitchell
Geraldine Smith
Rt Hon Alan Williams

Draft Report (*Management of Asylum Applications*), proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 24 read and agreed to.

Conclusions and recommendations read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Twenty-eighth Report of the Committee to the House.

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

[Adjourned till Monday 18 May at 4.30 pm]

Witnesses

Wednesday 4 March 2009

Page

Sir David Normington KCB, Permanent Secretary, **Ms Lin Homer**, Chief Executive, UK Border Agency, and **Mr Matthew Coats**, Head of Immigration, UK Border Agency, Home Office

Ev 1

List of written evidence

1	Home Office	Ev 20
2	Bail for Immigration Detainees (BID)	Ev 23
3	Home Office	Ev 24

List of Reports from the Committee of Public Accounts 2008–09

First Report	Defence Information Infrastructure	HC 100
Second Report	The National Programme for IT in the NHS: Progress since 2006	HC 153
Third Report	Skills for Life: Progress in Improving Adult Literacy and Numeracy	HC 154
Fourth Report	Widening participation in higher education	HC 226
Fifth Report	Programmes to reduce household energy consumption	HC 228
Sixth Report	The procurement of goods and services by HM Prison Service	HC 71
Seventh Report	Excess Votes 2007–08	HC 248
Eighth Report	Ministry of Defence: Chinook Mk 3	HC 247
Ninth Report	Protecting the public: the work of the Parole Board	HC 251
Tenth Report	New Dimension—Enhancing the Fire and Rescue Services' capacity to respond to terrorist and other large-scale incidents	HC 249
Eleventh Report	The United Kingdom's Future Nuclear Deterrent Capability	HC 250
Twelfth Report	Selection of the new Comptroller and Auditor General	HC 256
Thirteenth Report	Department for Work and Pensions: Handling Customer Complaints	HC 312
Fourteenth Report	HM Revenue and Customs: Tax Credits and Income Tax	HC 311
Fifteenth Report	Independent Police Complaints Commission	HC 335
Sixteenth Report	Department for International Development: Operating in insecure environments	HC 334
Seventeenth Report	Central government's management of service contracts	HC 152
Eighteenth Report	Investing for Development: the Department for International Development's oversight of CDC Group plc	HC 94
Nineteenth Report	End of life care	HC 99
Twentieth Report	Ministry of Defence: Major Projects Report 2008	HC 165
Twenty-first Report	The Department for Transport: Letting Rail Franchises 2005–07	HC 191
Twenty-second Report	Financial Management in the NHS: Report on the NHS Summarised Accounts 2007–08	HC 225
Twenty-third Report	Mathematics performance in primary schools: getting the best results	HC 44
Twenty-fourth Report	Maintaining the Occupied Royal Palaces	HC 201
Twenty-fifth Report	The efficiency of radio production at the BBC	HC 285
Twenty-sixth Report	Management of tax debt	HC 216
Twenty-seventh Report	Building Schools for the Future: renewing the secondary school estate	HC 274
Twenty-eighth Report	Management of Asylum Applications	HC 325

Oral evidence

Taken before the Committee of Public Accounts on Wednesday 4 March 2009

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Mr David Curry
Mr Ian Davidson
Nigel Griffiths
Keith Hill

Mr Austin Mitchell
Geraldine Smith
Mr Don Touhig
Mr Alan Williams

Mr Tim Burr, Comptroller and Auditor General, **Mr Martin Sinclair**, Assistant Auditor General and **Ms Aileen Murphy**, Director, National Audit Office, were in attendance.

Mr Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, was in attendance.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL MANAGEMENT OF ASYLUM APPLICATIONS BY THE UK BORDER AGENCY (HC 124)

Witnesses: **Sir David Normington KCB**, Permanent Secretary, **Ms Lin Homer**, Chief Executive, UK Border Agency, and **Mr Matthew Coats**, Head of Immigration, UK Border Agency, gave evidence.

Q1 Chairman: Good afternoon. Welcome to the Committee of Public Accounts, where today we are considering the Comptroller and Auditor General's Report on the *Management of Asylum Applications by the UK Border Agency*. We welcome back to our Committee Sir David Normington, who is the Permanent Secretary and Accounting Officer at the Home Office; Lin Homer, who is the Chief Executive of the UK Border Agency; and you have another colleague?

Sir David Normington: Matthew Coats, who is Head of Immigration in the UK Border Agency.

Q2 Chairman: I will start by addressing questions to you, Ms Homer, if I may, but of course you can always pass them to Sir David if you want! If you look at figure 12 of the Comptroller and Auditor General's Report, which you can find on page 24, you will see that the total number of asylum applications in the relevant period was 25,000 and you will see that the applicants refused asylum and removed by August 2008 was 3,400. If I have got it right, of the people in detention you are removing about one in four, but of the people who are not in detention you are only removing one in ten. How are you going to ensure that failed asylum seekers are actually removed?

Ms Homer: Chairman, thank you for that. Table 12 captures the performance that we have achieved against the new applicants in the New Asylum Model and, as you say, what they show is that we achieve a higher proportion of removals from those people we are detaining through what we call the detained fast track, and indeed through our third country units as well, where in fact if you look at the final column of table 12 we are achieving 97% and 98% of removals from those cohorts, and overall we are achieving a removal rate of one in four of these

new cases, which means that they are about a third of our overall removals. In essence, what we are doing is speeding up the rate with which we achieve removals under the New Asylum Model, but we are still at the moment getting more of our removals from our older cases. We think as we go forward the way that we will improve that is, first of all, as the Report very clearly sets out, this is a programme of stepped improvement and we are about halfway through that programme. The table which shows our targets against conclusion rates shows a stepping up in about four even steps. As we make each of those steps, the proportion of removals achieved within six months will increase.

Q3 Chairman: If that is right, Sir David, if we look at figure 18, this is the performance against the tipping point target, obviously unless the rate of removals exceeds the number of unfounded applications, the backlog will grow. If you look at that you will see that you did briefly get a positive balance but now it is going against you again. Is this not rather worrying?

Sir David Normington: We have to get the number of removals up, as Lin Homer was saying. Obviously the tipping point is about both those coming in, which of course is a number which may be influenced by things happening around the world, but we also have to get the numbers removed going up. In fact, in 2008 we have achieved just short of 12,000 removals of failed asylum seekers in total. That is not yet good enough to achieve the tipping point target. That is absolutely true. I think the one thing I would want add to what Lin Homer said was we need to have more detention space.

 UK Border Agency

Q4 Chairman: I was going to precisely put that to you in a moment because obviously from the question I put you it is so much easier to remove people from detention, and later on there are questions we could ask about the difficulty of getting escorts, travel documents, and all the other problems you have had. We have looked at this before: why have you made so little progress since our last Report in building more detention space? That is absolutely key, is it not?

Sir David Normington: Yes it is. There is new detention space happening this month. We have a new centre opening on the Gatwick estate, it is called Brook House and that will bring 420.

Q5 Chairman: And you have Harmondsworth as well which was burnt down.

Sir David Normington: Of course we are rebuilding part of Harmondsworth and that will come on-stream next year. Last year we set out our aim of getting closer to 4,000 detention spaces. The reason of course why we have not got as many detention spaces available to remove asylum seekers is that we have also been holding foreign national prisoners in detention space and that has, in fact, been taking up some of the space that previously we had available to move through failed asylum seekers.

Q6 Chairman: There is nowhere else they can go?

Sir David Normington: There is not anywhere else foreign national prisoners can go unless we keep them in prison, but of course we do not want to do that because that blocks prison spaces. There is a finite number. We are increasing it over the next two years.

Q7 Chairman: It is a matter of urgency now to rebuild Harmondsworth and open Brook House.

Sir David Normington: It is very urgent and we have two other planning permissions in place, one at the Bicester site, which we talked about when I was here last, and one at Bedford, and planning permission at both of those is pending.

Q8 Chairman: Ms Homer again, or Sir David as you like, the speed and volume of decisions, let us look at paragraphs 2.14 and 2.15, the number of cases waiting for decision by case owners has doubled in a year. How are we going to stop a new backlog growing if the number of cases awaiting decision has doubled in a year?

Ms Homer: The most fundamental change that we have made in the New Asylum Model is that we have moved to having case owners focus on the conclusion of the case rather than simply focus on the stage in the process which is the decision. In overall terms, over the last ten years, we have made a significant reduction on average in the time that it takes us to make a decision. It was 22 months in 1997; it is about seven months now. In general, the trend towards decisions has been very good, but what we have said to case owners in the last two years is just reaching a decision is not good enough, you have got to conclude the case. We believe that has been one of the reasons why you have seen a slight change in the

number of initial decisions but an increase in the number of conclusions, which is the actual outcome that we need.

Q9 Chairman: If the number of cases awaiting decision has doubled in a year, it is difficult to see how you are going to deal with this problem?

Ms Homer: These cases are all being worked on so I do not think we would accept that they are a backlog. They are cases which are being progressed and the question is the pace at which you undertake each stage. We have set ourselves the task of concluding cases within six months. We think we are unique in asylum systems in doing that. We are required this year to move from 60% of cases being concluded to 75% being concluded by the end of the year.

Q10 Chairman: I see that the number of cases from Iraq has doubled. I thought things were getting better in Iraq. After all, one of the reasons for invading Iraq was to stop this. I am not going to ask about that because that raises wider issues. Let us move on.

Sir David Normington: We are returning people to the north of Iraq and we have a lot—

Q11 Chairman: But not to Zimbabwe of course?

Sir David Normington: We have not given up on Zimbabwe but at the moment—

Q12 Chairman: Nobody has been sent back to Zimbabwe and 1,000 people a year come from Zimbabwe.

Sir David Normington: No-one is going back compulsorily.

Q13 Chairman: I am not going to argue with that. Legacy cases, shall we look at paragraph 5.8, on page 38, it is true that you are making some progress with legacy cases, is it not, but can you give me a specific commitment, Sir David, that you can meet your own target of concluding all legacy cases by 2011?

Sir David Normington: Yes, I can give you an absolute commitment that that is what we will do. The reason for that is we are currently concluding cases at about 10,000 a month, which is what we have to do to hit this target. At the end of last year we concluded 155,000 of these cases, so we are on track. In fact, the Home Secretary, because the performance is right on track, has said can we try and conclude them faster than 2011.

Q14 Chairman: Can I ask you about this figure of 10,000. I asked the National Audit Office about it. Is it a figure that is absolutely reliable? If we look at figure 23 on page 38 you will see that a lot of these legacy cases are due to data errors and there are others as well, that is 12,000 and 11,000. How many in this claim that you are dealing with 10,000 are real people?

Sir David Normington: We are dealing with 10,000 a month, but it is true, when John Reid, the former Home Secretary, declared the 400,000 to 450,000

UK Border Agency

cases in 2006 which were in the backlog, he said that you should not assume that they were all people. Some of them were case files, which may or may not be live, and some of these are data errors, and some of the others in that pie chart are not real people, or they are people that have returned to their home already. The 10,000 includes real grants, real removals, and a whole range of others. Some of them are real people, some of them are case files which were concluded or administrative errors.

Q15 Chairman: Anyway you give an absolute commitment that you are going to meet this target?
Sir David Normington: I hope we will make it.

Q16 Chairman: You will be held to account by the next Committee.

Sir David Normington: We will and I hope we will have done it earlier.

Q17 Chairman: Good. Thank you very much for that. If we read paragraph 2.38 on page 27 you say that you are going to review refugee status after five years and send them back home as appropriate. How are you going to do that if you do not know where they are? There is currently, according to this Report, which you signed up to, no process in place to keep tracks of refugees and the resources (that is people) to conduct the reviews. Can we really believe this?

Sir David Normington: We start this at the five-year point which is in the last quarter of 2010. We do now have a plan in place for starting that system in the latter part of 2010. We do believe we know where most of these people are, because these are not illegals, these are people who have been granted, and therefore they are people who have an interest in being legitimised and they are legitimised, so it is not as though these people are trying to avoid us. Can I say we know where everyone is? No, but they do have an obligation to tell us where they are and also to tell us their change of address, and we believe from what we know that we know where they are.

Q18 Chairman: These travel documents are absolutely vital and one of the main reasons why we cannot get failed asylum seekers out is lack of travel documents or indeed escorts. Why is this all so chaotic? Why have you accumulated 13,000 travel documents that you have never used? This is in paragraph 2.26.

Ms Homer: We have to undertake a lot of work with the countries that provide the documents, and I think when the National Audit Office last reviewed us one of the recommendations they made was that we should get more travel documents and earlier in the process. I think we have taken that to heart. We have done an extraordinary amount of work with the relevant embassies overseas and in London, and we are now getting many more documents at an earlier stage in the process. It is not always possible to use the document because you need three factors to make this work. You need the document, you need the body, and you need there to be no barrier to removal. Sometimes the time it takes for a country

to give us a document means that we either have a legal challenge mounted or we are no longer able to remove, so sometimes we get a document and we are not able to use it. I do not think that is wasted effort because we can sometimes renew these documents much more easily than we can get them first time round.

Q19 Chairman: All right so you have sorted the problem?

Ms Homer: We think it is getting better. It is hard work.

Chairman: Thank you, that is all you have to say. Keith Hill?

Q20 Keith Hill: Chairman, I have a lot of experience of this. I think over the years we have probably dealt in my office with at least 8,000 immigration and asylum cases, and that is why I always send a very genuine, heartfelt Christmas card to the Parliamentary Correspondence Unit each year. I have to say that our experience is that we are getting far fewer what you might describe as new asylum cases through our advice surgeries and all the rest of it. It does seem to me, if I might say so, that the single ownership approach is eminently sensible. The initial interviews are very important, but we learn from the NAO Report that about a quarter of applicants are not getting full screening interviews. Is that not bound to increase the risk of error in the decisions which are issued?

Ms Homer: We looked very carefully at this recommendation from the NAO, and I think what we concluded from their advice is that, first of all, the areas where we are struggling to get the screening interviews tend to be the localised local enforcement offices rather than the big screening units, and we have undertaken some work in the Immigration Group to simplify the screening process so that it is easier for the relevant officers to get all the information they need, and to get it to the case owner for the first formal interview more quickly. We think if we put that improvement in place we will be able to ensure a significant number of the screening unit interviews take place, so we do think we can learn from that.

Sir David Normington: Can I just say we are absolutely confident that we are taking people's fingerprints and capturing their identity right at the beginning, which is really important that. We were not missing that even if we were not doing a full interview.

Q21 Keith Hill: What proportion of the initial decisions, as it were, grant refugee status?

Ms Homer: It is in the low 30s. It is between 25% and 30%, but of course it varies for type of applicants, so for some countries it will be at a higher rate, but overall it is between 25 and 30.

Q22 Keith Hill: Then we learn of course that of those who were refused, 70% make appeals to the Tribunal. Frankly, there is every incentive for them to do that because we also learn that about 25% actually get a favourable decision out of the

UK Border Agency

Tribunal. Surely all of these appeals going to the Tribunal is a very time-consuming and expensive process?

Ms Homer: Yes, I would much prefer there to be far fewer appeals. I think the responsibility we have is to ensure that the quality of our first decision is as good as it can be. You will know from the Report that we have been doing some work with UNHCR, which we call our Quality Initiative, and they have been working alongside us to make sure that the first decision we make is of the highest possible order. They are very pleased with that work and they have invited Matthew to undertake some work in Europe with them to roll that out as good practice throughout Europe. I think there is something of a lag between applicants and possibly the judiciary having the full confidence that that system has improved, and my hope is that you will see applicants take greater credibility from the initial decisions and appeal less and judges finding in the New Asylum Model fewer cases that they grant an appeal on. Of course, at the moment, as you say, there is still a large number of older cases going through so it is a little bit difficult to pull out the management information and know whether there is a difference in the appeal rates between newer cases and old ones.

Q23 Keith Hill: Presumably one way of improving the initial decision-making is the suggestion which again we find in the Report which is more extensive internal reviews of the initial decisions?

Ms Homer: Yes.

Q24 Keith Hill: I find that a very attractive idea and you are doing that more and more?

Mr Coats: There are two levels to it. We sample 10% of the cases locally with senior caseworkers mentoring and coaching case owners themselves, and then, with the initiative that we have developed with the UNHCR, we sample a further 10% nationally, again to ensure consistency. We then pass round the reports to case owners and their managers so they can compare results to ensure that everybody is working to the same standard, and we can learn lessons from what we have done.

Q25 Keith Hill: Good. Can I take you on to the issue of removals. 70% of escorted removals are cancelled as a result of the intervention of legal action. What kind of action is that? My experience is that people get deported only when they have exhausted the entire process, and that usually involves exhausting the very highest level appeals, including going to JR, and stuff like that, so what are the interventions which actually lead to 70% of escorted removals aborting, and can that not be managed better with the courts as well?

Sir David Normington: People are using the legal process right up to the last stage. The High Court gets a huge number of judicial reviews of our decisions, and almost none of them are granted. The Government has had a consultation about simplifying the legal process so that you actually reduce the number of chances of appeal. The courts

are agreed that in some cases we can remove before appeal and people have to do their appeal from overseas. We have already made some improvements in that regard and we hope to make some more.

Q26 Keith Hill: But what happens? Is it that the courts issue some kind of stay of execution or is it simply that the solicitor announces that he has made the application on the morning of the deportation and you cannot go ahead with it and that is that?

Ms Homer: On the steps of the plane.

Sir David Normington: On the steps of the plane at the airport sometimes.

Q27 Keith Hill: So it is irrespective of whether the courts respond in a positive way, it is the application?

Ms Homer: We are working continuously with the judiciary to try and improve this. As you describe, there are various steps in the procedure but what we do find is that applicants will wait to trigger the next step until, say, removal directions are served upon them. We have worked with both the people that support applicants and with the judiciary to improve the procedure and stop abuse of JRs, so, for instance, the court now requires full grounds to be lodged rather than simply giving the number. We have just introduced a protocol where if the judicial review is lodged on exactly the same grounds as one within the previous three months that we will ignore that JR and we will continue. Similarly, MPs' reps can be used to delay a removal. We are constantly looking at ensuring that genuine reasons to stop a deportation are still able to get through but more abusive ones can be filtered out.

Q28 Keith Hill: Also on the issue of removals, removals which are very unlikely to happen, I would say that in my caseload at the moment by far the largest group of people who are in a kind of limbo are the Somalis. Very often they have gone through all the processes and they have been refused leave to remain, but we all know that they are not going to go back within anything like the foreseeable future. You cannot even land an aeroplane with them in Mogadishu so what are we going to do about these people, they are often bereft of every kind of assistance and resource, and this seems to me like an injustice?

Ms Homer: We do have some countries to which it is very difficult to return, and Somalia is a very good example. I would have to say that we do not accept that Somalia is a country to which you cannot achieve returns. Indeed, in recent years we have achieved about 50 returns.

Q29 Keith Hill: 50? But there must be thousands of Somalis who have been refused leave to remain and who are without any sort of assistance whatsoever and are not going to go back.

Ms Homer: We do believe in difficult countries that it is often possible to sustain voluntary removals even when forced returns are very difficult. In our experience, if you can achieve a number of forced returns and then you can offer particularly a more tailored package of assisted voluntary return, that it

UK Border Agency

is possible to open up a returns programme even to difficult countries. That is what we work on. I would accept your point that Somalia is a very difficult country.

Sir David Normington: May I say that this is a very difficult issue. We will never give up on seeking to remove people if we can, because the alternative message, which is “you cannot remove them”, is a signal to people to start claiming asylum, and I know this is a very difficult issue in terms of individuals who get caught up in that, but actually we do not want to send a signal around a world to anywhere that you should turn up on our shores claiming you are from a particular place.

Q30 Keith Hill: I understand fully the point you are making but I suspect that it is pretty rough on thousands of individuals who find themselves in this position. One final question, just for my own clarification, the Report refers to the legacy cases of 400,000 to 450,000, which you have now got down to 288,000, or something like that. Are they different from the backlog of what you might describe as run-of-the-mill immigration cases because, for example, I still have lots of people who have made applications for leave to remain on the basis of marriage to a UK spouse, who have had no decision over a period of three or four years or more? Presumably they are in a completely separate category and there must be a large number of those which are of a kind of historic character which you are seeking to deal with?

Sir David Normington: To be clear what the 400,000 to 450,000 is, it is the backlog of asylum cases that were not dealt with from the past, which is not those cases to which you refer.

Q31 Keith Hill: Presumably you have thousands, if not hundreds of thousands of these other more routine immigration applications which have not been dealt with?

Ms Homer: Not hundreds of thousands. We do have areas where the rate at which we are clearing cases is not satisfactory, and we have plans in each of those areas to move them forward to a point where we can comply with all of our published service standards.

Q32 Keith Hill: You would not like to put a number on that, would you?

Ms Homer: They tend to be pockets of different categories so marriage cases made outside their terms, for instance, I think we would have a few thousand cases and we have a plan to resolve those by early in 2010. We are very determined to be an organisation that does not have backlogs, and in each of these areas we have a plan with milestones to bring all of those cases into our published service standards, and indeed our hope is then that fewer of you will write to us, if I am honest,

Keith Hill: I wish you the best of luck.

Q33 Chairman: But you are sending this message to Zimbabwe, are you not? If you are sending them back to one of the most murderous countries, Somalia, that rather begs the question why not to Zimbabwe?

Sir David Normington: I missed the end of your question, sorry.

Q34 Chairman: You are sending this message that you will not be sent back to Zimbabwe are you not?

Sir David Normington: We are sending people in voluntary returns to Zimbabwe. The courts have not said that we cannot return anyone to Zimbabwe, but at this moment, it is true, we are not, on humanitarian grounds, returning people to Zimbabwe on an enforced basis but we hope that will change.

Chairman: Don Touhig?

Q35 Mr Touhig: We are told that the New Asylum Model, which I think you adopted in 2006, cannot cope with a sudden surge in demand as this could cause a backlog. Do you accept that?

Sir David Normington: I accept that we have not been flexible enough in getting the resources to the places where they need to be.

Q36 Mr Touhig: You accept that?

Sir David Normington: I accept that but since the Report we have been putting that right.

Q37 Mr Touhig: What are you doing about it then?

Sir David Normington: We have been putting it right. We have been recruiting more staff, we have been recruiting more qualified staff, and we have been much quicker to move our resources to where the backlogs are. Sorry, I am not supposed to say backlogs but you know what I mean! These cases are divided up between the regions and of course where you get an increase you need to make sure you have the staff in those places.

Q38 Mr Touhig: So it is basically a shortage of staff?

Sir David Normington: It was basically not having the resources in the right place and we had some people who had been originally recruited, they left, and we had some gaps, and we have been recruiting rapidly to fill those gaps. It is simply about the numbers of staff.

Q39 Mr Touhig: So you are moving on, you think?

Sir David Normington: I think we are pretty much on top of it.

Q40 Mr Touhig: The number of failed asylum applications has been touched on. The number of removals from this country is falling; why is that?

Ms Homer: This is table 11 that you are looking at. We have widened our area of responsibility around removals over the last two or three years, again really in response to some of the challenges thrown at us that we were focusing only on current failed asylum seekers. We now look at a broader range of removals. In particular, you will know that we have paid very much more attention to foreign national

UK Border Agency

prisoners and we have increased our rate of removals in that area dramatically, about 300% since the previous Report. We have also worked more closely with police and local authorities to ensure that we can do an appropriate amount of work against illegal workers, some of whom are causing great harm to communities, so we have taken our resources and given ourselves a broader set of responsibilities. One of the consequences of that is that our detention space, which is very critical to the level of removals, is not as available for asylum seekers.

Q41 Mr Touhig: So you have widened the scope of your work; yes?

Ms Homer: Yes.

Q42 Mr Touhig: Have you got the resources or are we just going to see this number of removals continue to fall?

Ms Homer: I think we are getting there. Table 19 is a really interesting table within the Report because it shows the very direct relationship between asylum removals and detention space.

Q43 Mr Touhig: So we will start to see these falls halt and start to move the other way?

Ms Homer: I am confident that we will see asylum removals increase as more detention space becomes available for that.

Q44 Mr Touhig: Can you put a time-frame on that?

Ms Homer: Brook House becomes available in the next three or four weeks, so I think this year, in 2009, there will be probably 400-plus more beds available for asylum seekers. If you look at that table and see the kind of difference 400 or 500 bed spaces makes we think you will see that come through.

Sir David Normington: Can I just make one comment which is overall if you take the foreign national prisoners, the illegal workers removed and the failed asylum seekers, last year, 2008, we removed 32,000 people, which is one of our best years. If we can get the failed asylum seeker numbers up as well, beyond the 11,600 that is part of that, we will really be at record levels of removals. Almost nowhere else that we know of has those levels of removals. It is not great because this is the toughest job in government in many ways, but it is improving, and it is improving rapidly.

Q45 Mr Touhig: You are putting a very optimistic picture on things.

Sir David Normington: We have to be because we deal with the toughest things that there are.

Q46 Mr Touhig: So you will have an easy ride the next time you come before us?

Sir David Normington: Given all the commitments we have made that may not be the case!

Q47 Mr Touhig: Colleagues have already mentioned the total of 70% of escorted removals which have been cancelled mainly due to issues outside your control. My colleague Keith Hill also touched on

some of the legal problems that are encountered there. The Report tells us that you have problems with the handling of booking of escorts and flights. Is that not also a major contribution to your problems there?

Mr Coats: Yes, the figure that is referred to is a small proportion of that 70%. Our case owners are very keen to remove, but they have got to align the person in detention with no legal barriers, with a valid ticket home, an escort, and a piece of documentation, so it is a complex job. There has been a tendency in the past to overbook escorts because, for all the reasons we mentioned, removals get cancelled, so the challenge for us is to be slicker and align our resources. We have been running a pilot recently—we are about 1,000 cases through—to see if we can improve that. It seems to work and has had good and encouraging and results thus far, and we will be rolling that out over the rest of this year to align that process and therefore to be a kind of seamless process for case owners to book.

Q48 Mr Touhig: Is it seamless though? If you look at page 24, paragraph 2.28 it says that there is a lack of co-ordination between escort booking and flight booking. Case owners cannot reserve airline seats for the period of time that it takes to book escorts and cannot change the name of an escort on a flight without cancelling the booking. Is that not bureaucratic? Is that the airlines or is that you?

Sir David Normington: That is the airline because the airline—and I am not blaming them—need to have a named person and, as you know, you cannot change your name at the last minute. That is one of the troubles. We are trying to improve that by working with the airlines.

Mr Coats: In effect, there will be an electronic version of the manual pilot and there will be a portal that will allow case owners to book flights and escorts in one go.

Q49 Mr Touhig: You are piloting that?

Mr Coats: Yes, we are piloting the manual version of that and we hope to roll the electronic version out this year.

Q50 Mr Touhig: You are not very keen on electronic progress in the Agency, are you?

Mr Coats: I do not think that is the case at all.

Q51 Mr Touhig: In paragraph 4.10, on page 34, you still use fax machines as the main means of transmitting documents. That is state-of-the-ark rather than state-of-the-art, is it not?

Sir David Normington: It is true that this is not the most modern system yet, and there are some historic reasons for that which we can go into, but we have signed the contract for the new caseworking system, and although it is going to take sometime to get introduced we are moving into the 21st century at last.

UK Border Agency

Q52 Mr Touhig: This is another IT system?
Sir David Normington: Yes.

Q53 Mr Touhig: Has it been piloted anywhere or will you be before us in a year or so telling us about the failures of your IT system?

Sir David Normington: As the Report says, it is going to take several years to introduce, for that very reason, we are going to take it step-by-step, we are not going to introduce it as a great big block for obvious reasons because that is the way to have a failed system. In fact, that is the story of trying to introduce the system back in about 2002-2001, which is why we still have a large number of paper files and the use of fax machines, all of which is undesirable.

Q54 Mr Touhig: You have this pilot in Cardiff, is that part of this?

Mr Coats: We have plenty of examples of where we are trying to use technology to improve. As David says, we come from a low base point. We have signed a strategic development arrangement to get a new system over a period of time, and we do seek to make improvements short term, so again what used to be faxes for communication between accommodation providers and our staff is now a portal and what used to be paper arrangements for identifying yourself as an asylum seeker when you get your support is now a biometric card. We are piloting digital recording of the interviews themselves.

Q55 Mr Touhig: Is that the Cardiff pilot?

Mr Coats: It is, yes.

Q56 Mr Touhig: In 4.11 we are told that case owners make handwritten notes of substantive interviews, recording each question and answer verbatim. The interviews are not routinely tape-recorded. You have not got to tape recorders or voice recording yet?

Mr Coats: We will be leap-frogging a stage and going to digital recording.

Q57 Mr Touhig: It will be very interesting to see how you progress. You introduced a system of case owners, and Keith Hill referred to this again earlier, and that seems to be a success, but the Report says that you do not offer incentives to case owners. There are some suggestions put forward under 3.4 on page 30. Are you looking at this? What is your view on this?

Sir David Normington: We started by trying to galvanise this system by setting some very simple targets, which is that case owners should first of all complete 40% of cases by six months and then 60% and then move on to 75% and so on. I think the Report is right in saying if you only have a simple target like that you have to be careful that it does not distort people's behaviour. And what we have been doing in this last year now we have got the system underway is put in place some targets, if you like, and some monitoring processes as well to ensure that people are incentivised to go on dealing with the case beyond the six-month point, so that cases do not fall off the edge if they are not decided by that point.

Q58 Mr Touhig: This is being piloted?

Sir David Normington: This is a system which is being introduced and will be introduced fully by 1 April.

Q59 Mr Touhig: You seem to be introducing lots of new systems and there is some progress, but are you geared up to cope with so many new initiatives and new systems?

Sir David Normington: We are taking it step-by-step. We did not try to get to 90% of the cases decided in six months by 2011. We tried to do it step-by-step. There is a very, very big change going on here in every part of the UK Border Agency and we have to watch the overload of change, for obvious reasons, but I think we are all confident that we are making progress.

Q60 Chairman: You have a wonderful emollient style, Sir David. Even when you hear from Mr Touhig that your staff will not get a proper computer system until 2013, that is somehow a virtue.

Sir David Normington: Of course it is not a virtue, as you know.

Q61 Chairman: But now you are doing it so slowly and so carefully, are you not, meanwhile they have got a chaotic, very old-fashioned system. If there were an earthquake outside you would be equally calm, would you not?

Sir David Normington: In my job it is the only way to be, Chairman, is it not. Forgive me, they do have computers and we do have a caseworking system. It is just that it is a creaking system and it should have been modernised some years ago and was not because the modernisation failed, so we are trying again. I can only tell you as it is.

Chairman: Just tell us as it is. Geraldine Smith?

Q62 Geraldine Smith: Who pays for the 70% of escorted removals that are cancelled due to legal action?

Ms Homer: We pay for our staff who are presenting in those cases. It is a variety. There is much less access to legal aid for cases before the Tribunal than there is for cases before higher courts. The norm for cases in front of the Asylum and Immigration Tribunal is not to allow legal aid because they are tribunals and people should not need lawyers to be represented.¹

Q63 Geraldine Smith: Do you have any estimate of the costs involved?

Ms Homer: I do not have an estimate of the costs involved for the applicants. Within Matthew's Immigration Group, case owners spend a proportion of their time presenting cases in court so

¹ Note by witness: Costs fall to two areas:

(1)—Ticketing. In the main we operate on a fully flexible fare basis so in the event of cancellation due to legal challenge, the fare would be refundable to the Agency. For certain short haul flights, tickets are purchased on a non-refundable basis where it is cost effective to do so, and where data suggests that the risk of cancellation is low. In those circumstances, only the taxes would be refundable.

(2)—Escorts. These costs fall to the Agency to meet, which come out of the Detention Services budget.

UK Border Agency

we build into a case owner's time an expectation that some proportion is spent on court. We know that the High Court spends a significant amount of time on immigration cases which is why we are working with them to reduce that, but I am afraid I could not give you a single simple figure.

Q64 Geraldine Smith: Could you get me a note?²

Ms Homer: We could try to put together what would be a number of factors from the MoJ side and ours, of course.

Q65 Geraldine Smith: I think it is very important when you are dealing with asylum seekers, because I think we sometimes forget that human beings are involved here with lives and hopes and dreams and sometimes fleeing from some terrible situations, and in fairness to everyone we should deal with those cases as quickly as we possibly can. If they have got a right to be here then we should welcome them. If they have not got a right to be here then they should be removed because basically they are preventing genuine people who want to come and work here and go through all the procedures and do things in a proper way, and it just delays their cases. We really need to show that we are being fair. I am a bit concerned that you do not have full screening interviews because I came across a constituent the other week, I think he is one of these legacy cases, and after meeting the individual, he had been here seven years, he had been living in Morecambe so he had got used to the area, all his teenage years had been spent in Morecambe and he had made a life. He had gone through the procedures but the case file—and you are right you have got the toughest job in government dealing with these cases—was so thick. It is not fair on anyone, least of all the person involved, if things take so long. How rare would that be that someone would be seven years?

Sir David Normington: Let me answer that in two ways. It is our absolute aim to conclude cases fast, to get the cases concluded in six months. That is what we are committed to and that is—

Q66 Geraldine Smith: My question was how many people would be in that category?

Sir David Normington: I will answer it.

Q67 Geraldine Smith: He has been here seven years and I feel he is a constituent.

Sir David Normington: I just want to say we often sound very, very tough in what we do, and we have to be because most people applying for asylum fail in their application. Let us not forget that, but in there there are genuine people who need looking after and taking care of because they are fleeing from the most terrible oppression. The speeding up of the cases will help that.

Q68 Geraldine Smith: The problem is if—

Sir David Normington: I was going to answer your question.

Chairman: Just let him answer.

Q69 Geraldine Smith: Surely if someone has failed they should have been removed?

Sir David Normington: I do not at all defend the problem we had with cases in that 400,000 to 450,000 caseload. Your Morecambe example will be one of the people who are in that caseload and they did not have the benefit of the new system and they did get left behind. We are, in our work through the legacy system, unearthing all sorts of very difficult cases. I do not know how many have been there for a long time, but it is in the nature of the legacy cases that quite a number of people in that category have been here a long time, and they should have been dealt with earlier. In 1997 it took 22 months to reach a decision. Around the year 2000 when asylum applications went through the roof in term of numbers, the system was overwhelmed, and that is when the difficulties in dealing with the cases first began and when some people got put in this backlog. I think it is right that we sort the backlog out now. It does leave us with some very, very difficult cases of people who have been here for a long time.

Q70 Geraldine Smith: Do you take any account of that if someone has been here a very long time?

Ms Homer: I thought it might help if I just shared with the Committee that we have four priorities for legacy cases. We consider those cases that could cause harm to the public, those cases that cost the public purse, and then we look at cases that can be easily granted or easily removed. What we have also recently written out to MPs to indicate is that if MPs believe a case should be expedited, we are giving case owners discretion to consider expediting in other cases. That enables us to take account of the wider criteria that you are just describing. The difficulty for us is that we cannot promise to do all of the remaining cases first, that just defeats the object, but we are trying to use sometimes the very extensive knowledge that MPs have to help guide the decision about priorities, so we are trying to be as sensitive as possible. I think that is the other reason why the Home Secretary has asked us to consider whether we can finish legacy cases earlier than 2011 and it is why we are so determined to definitely finish them by then if not earlier.

Q71 Geraldine Smith: Following the Morecambe Bay tragedy where 23 young people died, I remember that it seemed a crazy situation where you could have failed asylum seekers from China at the time where the Chinese Government would not accept that anyone would want to seek asylum from China so they always refused and would not accept them back. I remember following that the Immigration Minister went to China to try and get an agreement. Was that successful and do you have better arrangements now?

Sir David Normington: Yes, we have much better arrangements with China now. As you say, an agreement was signed with them, and we work quite collaboratively with them and are very grateful to them, and we have actually got lots of examples of people now being returned to China.

² Ev 20

 UK Border Agency

Q72 Geraldine Smith: Are there any other countries where you have problems?

Ms Homer: There are a number of countries. Sometimes it is a problem of getting a document at all. Sometimes it is a problem of getting a document fast enough to be able to make use of it because we cannot always hold a person in detention indefinitely whilst we wait for a document. We have a migration team embedded in the Foreign and Commonwealth Office who work exclusively on our work and help us develop memoranda of understanding and protocols with particular governments. Where our case owners tell us that there is a problem of timeliness or numbers, we put together a team of ministers and officials and we target the country, I have to say quite ferociously really, to get a better arrangement, and I think we have had a lot of success this year in moving some of those forward.

Q73 Geraldine Smith: And third country cases, what is the success like there where people have come through another European country of returning them to that country?

Sir David Normington: We have a very high success rate but it is quite small numbers.

Mr Coats: It has been a success story about collaboration in Europe, too. Where we get a hit on the fingerprint database that someone has claimed asylum elsewhere or is an immigration offender, we are able, under some circumstances, to return them to that country. That has been a very successful way of returning people, although I have to say more recently there are specific legal challenges against that that have made it quite difficult for us.

Q74 Geraldine Smith: And you also have now, do you, the same caseworker whenever possible dealing with a case, because some of these cases are very, very complex?

Sir David Normington: That is the main change we have brought about with the New Model to try to have somebody following the case right through. When the previous Report on this was written in 2005, we used to have the whole system chopped up and therefore people dealt with a bit there, and that was their bit, and they passed it on to somebody else who passed it on to somebody else, and actually the previous Report said—and we discussed it with the previous reviewers—that just does not make sense in terms of following through and completing these cases. It is the conclusion that is so important really. It is not the decision; it is what happens when you have taken a decision whether you can get to a conclusion. Having experienced caseworkers working on those cases is the thing that should make the difference.

Q75 Geraldine Smith: Finally, can I say that I think you are making good progress. It is certainly not easy at all because I know from my limited experience and, as I say, you are dealing with human beings at the end of the day and there are some very sad cases and some very sad stories that we hear, so I think we have got to get it as good as possible. As I say, I think full screening interviews are important.

Sir David Normington: Thank you very much. It is really important to say that even in the unlawful and failed asylum cases there are some desperate cases, of course.

Chairman: Mr Curry?

Q76 Mr Curry: This New Asylum Model has a terrible Cromwellian feel to it, does it not? When you moved from task-based to case ownership, did you learn anything from that cataclysmic organisation the Rural Payments Agency, which started with a task-based system and then went to case ownership?

Ms Homer: We did not use that as a benchmark.

Q77 Mr Curry: No sane person would, but it has not done much to help the Rural Payments Agency, it has to be said.

Ms Homer: I think we were slightly ahead of the change that was made there. We did look at a number of models in the private sector as well as the public sector, and I think there are two elements underpinning our system. One is, as the Permanent Secretary said, this simple concept of case ownership linked to conclusion, but the other is about simplifying your process so that there are only the number of steps you need and so that you minimise hand-offs and downtime, and in that respect I have to say we learn from the private sector as well as the public sector. Recently I visited a mortgage company to watch—

Q78 Mr Curry: There would not have been much happening there!

Ms Homer: There are still a lot of people with them, but a mortgage company that has got very much more efficient handling processes, so we are very open to continuing to learn, but cutting down the number of steps in the process as well as having it owned.

Q79 Mr Curry: Given case ownership what happens then when you get families to deal with? Does each member of the family have a different case owner?

Ms Homer: No, we will try not to.

Q80 Mr Curry: Let me tell you why I ask the question. Skipton and Ripon have not got a huge number of asylum seekers but there is a community of Kosovans in Ripon and there is one particular family, and you will know from the sort of dates we are talking about there must have been about ten of them who arrived in Britain within 30 seconds of each other. They all stood on British soil within 30 seconds of each other having arrived in the same means of transport. Half the family have not merely got indefinite leave to remain but now hold British passports. They have gone through all the rigmarole of the funny language courses and taking the oath and answering these silly questions and they are now British citizens. The other half of the family arriving in identical circumstances at the same minute as they did, still do not know if they are going to be allowed to remain. How do you account for the inconsistencies in that treatment and the different times? It comes up repeatedly. One member of the

 UK Border Agency

same family, one brother, gets cleared within weeks practically, and the other one is waiting years, and meanwhile he cannot do a thing because whatever passport he has is impounded.

Ms Homer: When those cases first made applications, of course we did not have the New Asylum Model and we did not have the concept of case ownership. Cases of that age are in our Case Resolution Directorate not our New Asylum Model. We have tried to follow the case ownership concept there but what will happen is that over the years those cases may have been separated. Where it is brought to our attention that there are links we will always then try and re-group these.

Q81 Mr Curry: How can you separate a case of a husband and wife who arrive simultaneously?

Ms Homer: Sometimes advisers will have encouraged them to do that because they can run parallel tracks and when one fails they can attach the other way round, so sometimes it is choice on the part of the family and sometimes it will have been a judgment about dispersal of cases as the Permanent Secretary described.

Q82 Mr Curry: You must appreciate the huge amount of stress it is causing a family where half the siblings are holding British passports and the other half do not know whether they are going to be put on a plane and deported.

Ms Homer: I think those are the kinds of cases I was referring to earlier where if an MP brings it to our attention—

Q83 Mr Curry: I am sorry, with respect, it does not work. I can bring this to your attention until the cows come home and I keep being told that you may accelerate them. Six months later I am writing letters saying, “What happened to the acceleration?”

Ms Homer: 155,000 of the legacy cases have been resolved and I am regularly signing letters off now where we are saying that we will expedite this case, so there is a question about how many we can expedite without promising everyone. We are doing our best to use the case ownership model to make the best decisions we can about which of those older cases we do first.

Q84 Mr Curry: I am going to make another comparison with yet another cataclysmic organisation, which is the Child Support Agency, if anything even worse than the Rural Payments Agency, which is difficult enough. The cases which are prioritised there not related to need; they are related to getting people off benefit. The cases you prioritise do not seem to be related to need; they are related to a set of criteria which you have explained and which are explained in this Report. When they come to see us in the surgeries we tend to be concerned about the needs of those people and the extremity of their cases. That does not seem to count as part of your criteria for dealing with it rapidly.

Ms Homer: I think it is, but the reason we have taken this next step of inviting MPs to set out an argument for further acceleration is in recognition that MPs

will often have an insight on a case, gained over many years, which will help us prioritise. This is a very recent step and we will have to be judged on whether it helps resolve those kinds of cases you are describing.

Q85 Mr Curry: How many case owners have you got?

Ms Homer: In CRD about 700.

Mr Coats: Staff in total?

Q86 Mr Curry: How many staff are dealing with the nitty-gritty?

Mr Coats: In the New Asylum Model there are currently about 320 case owners, although we are in a major recruitment and the issues David talked about.

Q87 Mr Curry: And you are aiming to get to what?

Mr Coats: We are aiming to recruit another 200 to make sure that we have got the numbers we need. We operate a slightly different model of case ownership in the legacy directorate which means that those case owners have a bigger team and a much bigger group of cases, so there are 40 of them in CRD. We are in the process of rolling out the principle of case ownership for which there is broad support, not just in what we have heard today but in lots of people we work with across all immigration to see if we can bring benefit there, too.

Q88 Mr Curry: In present economic circumstances I imagine your recruitment might be an easier process than the job it looked a year ago? A lot of people are computer literate.

Mr Coats: They are very attractive jobs, very challenging and, as David said, one of the hardest things in government, and I would not underestimate the challenge on those individual people, yet they are very attractive jobs. People like a challenge.

Q89 Mr Curry: Why are they attractive? It sounds a daft question but why are they attractive when they get nothing but flak?

Mr Coats: Generally when we have recruited, the first time and I think the most recent recruitment is the same, every person who gets a job has beaten 20 others. These are very attractive jobs. They have a degree of public service, a legal aspect to them, and they are contributing to a difficult area of government, so the quality of people we have had has been fantastic, to be honest.

Q90 Mr Curry: Have you got any targets for retention and turnover?

Mr Coats: We do not set hard and fast targets for that because we have got an organisation that is across the country. We need to make sure that that reflects the situation in that particular region, because of course they are right round the UK. What we do do is to make sure that there is a close dialogue between our regions and the central part to make sure the needs are met and we have got enough people to get through the work.

UK Border Agency

Sir David Normington: The penalty of recruiting really good people is of course that they are very employable by others, and that is one of the downsides.

Q91 Mr Curry: Absolutely, have you got any criteria in terms of people's background, ethnicity and gender in your recruitment, just out of interest? Presumably this is an area which might help if people can speak obscure languages?

Ms Homer: Yes, the Civil Service has targets overall and we have targets for diversity. We do not have quotas. As Matthew Coats has said, we find these jobs attractive and we find it reasonably easy to attract a good balance of people both from types of background and from different ethnicities. We have well over 20% of BME communities in our operational jobs which, as you say, is extraordinarily helpful because they bring language skills as well as a wide range of skills. We also find that we can attract people from other sectors as well as the Civil Service.

Q92 Mr Curry: This is again a Rural Payments Agency analogy. At the moment the Rural Payments Agency is trying to claw back overpayments many of which are based on hopelessly wrong calculations, but nobody seems to be sitting there before that demand goes out saying hang on, this looks a very anomalous figure compared with what we know about the claims this person has made over the past few years. One can see the reasons for that. Is anybody screening to pick up any obvious mistakes or obvious anomalies or something obvious where you say hang on, let us just have a look at that one again? And how does that work?

Ms Homer: Yes, we have quality assurance systems both on the general auditing side and within the teams, so we have management information that, as you say, can throw up anomalies. We have an extensive programme of internal audit programmes that we can target to look in particular areas, and we have quality monitoring within the immigration group and, of course, we also have worked with bodies like the NAO where we can look in-depth if we start to feel either there is a value-for-money issue or a process issue. It is just worth mentioning to this Committee, the overall spend of the Agency in the last three years has reduced the cost to the taxpayer by £40 million, so we do have a very strong focus.

Q93 Mr Curry: What figure of resignation if you like would set an alarm bell ringing in terms of retention of skilled staff, because there is obviously a body of acquired wisdom, as it were, as you go along, and experience.

Sir David Normington: Generally our turnover is very low in the civil service and in some ways we would like to get it up occasionally.

Q94 Mr Curry: Get a job in the private sector.

Sir David Normington: It is not easy to get turnover up at the moment but actually sometimes turnover allows you to refresh. Turnover generally runs at about 3% which is a little low, but as long as you

recruit the right people it is okay. If it is in any area going up towards 10% then you have an alarm bell ringing.

Mr Curry: Thank you.

Chairman: Thank you very much. Mr Bacon

Q95 Mr Bacon: Ms Homer, you said overall spend had reduced the cost to the taxpayer by £40 million. What is the overall spend since the creation of your agency?

Ms Homer: If you look at the figures from 2006/07 to 2007/08 the cost to the taxpayer is £40 million less.

Q96 Mr Bacon: Less. What is the total?

Ms Homer: It was £1.419 billion.

Q97 Mr Bacon: Sorry, could you say that again?

Ms Homer: £1.419.

Q98 Mr Bacon: Your voice trailed off when you presumably were going to say billion.

Ms Homer: Yes, £1.4 billion.

Q99 Mr Bacon: So £1490 million and it went down to £1450 million, is that what you are saying?

Ms Homer: It went down from £1.46 to £1.41.

Q100 Mr Bacon: Right, okay. It is always good if you can save a bit, even if it is a fairly small amount compared with the total you are spending. Sir David, you said you are not supposed to use the word backlog, why not?

Sir David Normington: Because I was using the backlog in the wrong context. The backlog that is a clear backlog is the legacy case backlog of 400,000 to 450,000; I do not think we should use the term backlog in relation to cases that are being very actively worked. The problem with the 400,000 to 450,000 was they had grown into a pile that was sitting there.

Mr Bacon: You are saying that because you are now managing them differently and separately the word backlog is no longer appropriate. You see, when I think of legacy I think of something that an ancient aunt gives you when she dies or it has got a positive connotation, or it is something that the Olympics leaves to the citizens of East London afterwards.

Mr Curry: Or not as the case may be.

Q101 Mr Bacon: Is this not torturing language beyond what it will be?

Sir David Normington: It was our legacy, Mr Bacon, was it not?

Q102 Mr Bacon: Indeed. Charles Clarke still has not forgiven me.

Sir David Normington: We have two things going on here. One is dealing with getting a grip on the current cases and, in parallel, clearing the backlog. Call it what you like, the legacy cases were a backlog and for the first time we are getting on top of those as well. We have to make sure—and the Chairman said this—that as we are dealing with the new cases we do

UK Border Agency

not just feed cases into the backlog, and we are completely on top of that. The thing is not giving up on the cases that take longer to settle.

Q103 Mr Bacon: This may be one for Ms Homer—you were talking about the relationship between the number of detention spaces earlier and the speed with which people are successfully removed—indeed, 2.23 talks about this and how “A low rate of removals means removal is not a credible incentive for applicants to comply with the process and is not a sufficient deterrent for those who might make an unfounded claim”—this is in circumstances where you have not got enough space. You referred to Brook House and it says that Brook House is going to have 426 bed spaces coming on—actually last month technically. That is only a small proportion of the total that the Report says you need of 4,000; when are you going to have your 4,000?

Ms Homer: We have got 2,600; Brook House will give us about 430.

Q104 Mr Bacon: On top.

Ms Homer: On top.

Q105 Mr Bacon: That will be 3,000.

Ms Homer: Harmondsworth will be finished early next year which is another 330 and we are currently awaiting planning permission, as the permanent secretary said, on the two applications we put in which are respectively for an 800-place removal centre and a 400-place removal centre.

Q106 Mr Bacon: They are not in that list, either of them.

Sir David Normington: They are not in that list.

Ms Homer: No, because we do not yet have planning permission.

Q107 Mr Bacon: When do you expect to have your 4,000?

Ms Homer: If the planning permission for one or both of those is granted we then have a design and build procedure to follow, but I would hope that in 2012/2013 we are going to start approaching those numbers.

Q108 Mr Bacon: How much does it cost? How much did Brook House cost for those 426 bed places?

Ms Homer: About £47 million capital.

Q109 Mr Bacon: £47 million capital. They are actually conventional, they are not PFI.

Ms Homer: That is a conventional design and build based on Colnbrook which has been one of our most successful.

Q110 Mr Bacon: £47 million for 426, so roughly speaking if you multiply that by ten you would be looking at under £500 million for 4,000 or 5,000 bed spaces if you were starting from scratch, roughly. How much does it cost—I think I read the figure of £600 million somewhere—the total cost to the taxpayer of dealing with the un-dealt with legacy or backlog is how much?

Ms Homer: There is a figure in the report that suggests it was £600 million.

Q111 Mr Bacon: Per year, is that not right?

Ms Homer: No, since the legacy started. That is asylum support costs—

Q112 Mr Bacon: I am talking about the total cost of having in the country applicants whom you have not dealt with? Could the NAO just confirm this, because I was talking to them earlier about a £600 million figure; is that a cumulative figure or is it a per year figure?

Ms Homer: It is the cost for 2007/08 only.

Q113 Mr Bacon: 2007/08, just one year.

Ms Homer: Yes.

Q114 Mr Bacon: So we can assume that 2008/09 will be another £600 million and 2009/10 will be another £600 million, or can we not make that assumption?

Ms Homer: No, because it is going down.

Q115 Mr Bacon: Slowly.

Ms Homer: The asylum support element of that is going down.

Q116 Mr Bacon: What is the total cost that you are estimating it will be by 2011?

Ms Homer: It is £440 million this year.

Q117 Mr Bacon: That is a billion, over a billion, then what it will be the year after that?

Ms Homer: It will be lower still, it depends on the rate at which we finish those legacy cases.

Q118 Mr Bacon: All I am saying is there is obviously a huge incentive to get detention spaces quickly.

Ms Homer: Absolutely.

Q119 Mr Bacon: It is surprising that it has taken you this long to get this far.

Sir David Normington: As you know we have to get planning permission and we have to build them.

Q120 Mr Bacon: It did occur to me—planning permission is obviously an issue although you could pass a law; that is what they did for the London Docklands Development Corporation, did they not? The Government is in control of planning policy so presumably you ought—you screw up your face. Her Majesty the Queen used to complain about difficult it was to get planning permission; presumably nobody is immune.

Sir David Normington: I do not think we had better pass a law to wish an asylum detention centre on any particular place.

Q121 Mr Bacon: Let us not go there. I would like to ask about airlines because you said that you cannot change a name on a booking; I might not be able to as a private citizen and most people could not if they wanted to go on holiday, it is convenient for the airlines not to, it is jolly nice if they have to have a new booking and a new payment and so on, but you

 UK Border Agency

are the Government. Governments co-operate with airlines all the time, it is not unheard of for an airline to have a person being transported somewhere against his or her will and that person will be guided off the aircraft first by the police—it is normal for the authorities and the Government to co-operate with airlines. Surely it ought to be possible, ought it not, for the Government to say to the airlines “In the case of this category of persons, asylum applicants, we want you to change the name if we ask you to and find a way to do it, please, otherwise we will pass a law and make you”.

Sir David Normington: That is what we are trying with the pilot, but contrary to the popular view—

Q122 Mr Bacon: You do not mean the airline pilots.

Sir David Normington: No, I mean with our own pilot of how to improve the system—contrary to the popular view we do not misuse the power of the state to force people to do things and we would rather work with the airlines co-operatively because some of these are people who are obviously carried onto the plane and are resisting going right to the last minute. A lot of our removals are done by charters and there is obviously a different kind of conversation to be had about charter flights.

Q123 Mr Bacon: Can I ask you about foreign national prisoners? According to 4.7 there are 1200 bed spaces for foreign national prisoners while they are considered for deportation. What is the current population of foreign national prisoners in total?

Sir David Normington: I am going to ask Lin Homer to answer this because she has been updating the Home Affairs Select Committee on a regular basis and she has all the figures at her disposal.

Ms Homer: We currently have 1600 foreign national prisoners detained; 1200 in our estate and 400 in prisons.

Q124 Mr Bacon: Of that 1600 how many are already found to have a failed asylum application and how many are awaiting a decision?

Ms Homer: Not all of them are failed asylum seekers; some of them are people who were entirely legally in this country and then committed a crime. The proportion varies month to month.

Q125 Mr Bacon: How many of the 1600 are asylum seekers whether failed or still awaiting a decision?

Ms Homer: My memory of the graphs is that there is something around a quarter of the FNPs who either have historically made a claim or who make a claim somewhere in the process as we move to deport them and, as we discussed with your colleague earlier, one has to say sometimes they make that application late in the deportation process.

Q126 Mr Bacon: I am still not clear; of the 1600 some obviously have been given the right to be here.

Ms Homer: About a quarter.

Q127 Mr Bacon: So roughly 400 are people who are in the process of making an application.

Ms Homer: Yes.

Q128 Mr Bacon: How many of the people are in prison still because they have committed a crime but have already had a decision made about them? In other words they are failed asylum seekers who are in prison because they have committed a crime?

Ms Homer: The proportion who will be in our estate or in prison is roughly 400 in theirs and 1200 in ours, so one-quarter three-quarters. Prison holds the most serious criminals—

Q129 Mr Bacon: Let me stop you there. There are 1600 foreign national prisoners.

Ms Homer: Yes.

Q130 Mr Bacon: Some of them have them the right to be here and some of them probably do not have the right to be here but a decision has not been taken yet, and some of them definitely do not have the right to be here, they are failed asylum applicants. I want to know what is the number for each of them.

Ms Homer: None of them has the right to be here because we are moving to deport them all, so their original status in a sense is irrelevant.

Sir David Normington: They have forfeited their right to be here by their crime.

Q131 Mr Bacon: Because of there having committed a crime.

Ms Homer: Yes.

Sir David Normington: But that does not stop them claiming asylum in the process of their removal.

Q132 Mr Bacon: What happens to them now at the end of their prison sentence?

Ms Homer: They are held when we can until we can deport them.

Q133 Mr Bacon: When you cannot hold them.

Ms Homer: In some cases the courts will bail them and in most of those cases we then tag and monitor them and we continue to seek to then deport them.

Sir David Normington: I should say we resist bail in every single case.

Q134 Mr Bacon: If you could send us a note explaining those numbers in a bit more detail it would be really helpful.³

Sir David Normington: It is important to say we resist bail in every single case but of course we do not always win.

Q135 Mr Bacon: You do not always succeed. My final question because I am running out of time, I was surprised to hear you say that you were succeeding in doing 10,000 a month because it was 4,000 a month until very recently and you did write a letter to the Chairman after the NAO Report was published. The 10,000 you did in December included

³ Note by witness: The current population is now at 1,750. The note in response to this request provides a breakdown based on the figure of 1,750, Ev 21.

UK Border Agency

quite a lot that were basically just data cleansing, but you are saying are you that you are keeping up the rate of 10,000 a month now.

Sir David Normington: Yes, I think we are.

Q136 Mr Bacon: And you are expecting to continue to do that.

Sir David Normington: We have to, to meet the target to which we are committed and which I have committed us to again. We are actually quite confident that we will be able to do that.

Q137 Chairman: And you are not doing this by cherry-picking the easier ones and leaving the more difficult ones until later?

Ms Homer: No.

Sir David Normington: No.

Chairman: No, in no case. Thank you. Austin Mitchell.

Q138 Mr Mitchell: Is not the main reason why your performance has improved the fact that the number of applications for asylum has gone down?

Sir David Normington: That has made it a great deal easier to deal with the caseload that we now have and it has enabled us also to deal with the backlog which was partly created by the figures being nearly 100,000 applicants a year in 2001/2002.

Q139 Mr Mitchell: So it has made life a lot easier. Why has the number of applications gone down?

Sir David Normington: Because of the action that we and our predecessors have taken. One of the absolutely key moments in this was the closing of the Sangatte Camp in Calais; that was a turning point in terms of how we could control the numbers coming here. We were not there but our predecessors focused on getting those numbers down by being much tougher at the borders and by stopping people coming before they got onto our shores and the numbers fell from about 90,000 odd to what last year was 25,000. Last year was just slightly up on the year before when it was 23,000.

Q140 Mr Mitchell: So you are saying that that image of Britain is that it is getting tougher to get asylum.

Sir David Normington: Yes.

Q141 Mr Mitchell: My image, which was of people in Darfur in burned-out huts reading in the *Daily Mail* that Britain was a soft touch country and saying "Let us go", that was not true.

Sir David Normington: I do not think people think we are a soft touch.

Q142 Mr Mitchell: You say they are not coming because we are a less soft touch.

Sir David Normington: People still want to come here; there are these great big groups of people in northern France who are still trying to get here, they are still there, but they think it is much tougher.

Q143 Mr Mitchell: But they are still trying to get here.

Sir David Normington: They are, but they are not succeeding. They are having to make lots and lots of attempts and they are being turned back because we and the French are relentlessly turning them back. I cannot speak for the asylum seekers but I think that all around the world they think it is tougher; on the other hand there are places where you would rather be here—getting out of those countries and coming here still seems very attractive.

Q144 Mr Mitchell: Why cannot a refusal in one European country count for all? Why can people get refused asylum in Italy or Belgium or wherever and then come on to Britain; why does not the one refusal count?

Sir David Normington: We can of course, if we think they have been refused in another country in Europe and they arrive on our shores, send them straight back.

Q145 Mr Mitchell: Do you do that?

Sir David Normington: Yes.

Q146 Mr Mitchell: So everybody who comes and acknowledges a refusal—

Sir David Normington: Where we know that has been the case we send them straight back and, indeed, we have European Union agreement to do that; that is the agreement. That does not stop them trying again.

Q147 Mr Mitchell: Do the Belgians receive them with pipers and song and dance?

Sir David Normington: I do not think so, but that is the agreement and everybody abides by it.

Q148 Mr Mitchell: The legacy problem, the 450,000 cases, is really your biggest problem now.

Sir David Normington: It has been.

Q149 Mr Mitchell: Are you not being over-optimistic in saying you will ever get rid of this? I mean, 20% of those cases will probably be no safe return home so you cannot send them back even if you find they need to go back.

Sir David Normington: I am sure there will be a number of people at the end who we cannot return and cannot remove, just as there are in any system, but we will have decided and dealt with all those cases. At the end and indeed in the process there will be some very difficult decisions to make: some people will be allowed to stay because we cannot remove them, but at the moment they are sitting there not dealt with.

Q150 Mr Mitchell: They are expensive as well.

Sir David Normington: Very expensive.

Q151 Mr Mitchell: They are effectively non-people and they cost £450 million each year. They cannot work, can they?

 UK Border Agency

Sir David Normington: They cannot work and, therefore, the decision about whether to grant or remove effectively solves that in the sense that if they are granted they can then work and they can then contribute to the economy.

Q152 Mr Mitchell: But at the moment they cannot and you have got to support them. The *Daily Mail* think that is going to sap their will to work, is it not?
Sir David Normington: I am sorry.

Q153 Mr Mitchell: The *Daily Mail* think that being supported by the taxpayer is going to sap their will ever to work again. They tell us that people on council estates do not have a will to work any more; surely people in that kind of limbo—it was just a trick question, do not bother to answer it.
Sir David Normington: Yes it was and I do not really want to comment on what the *Daily Mail* would or would not say.

Q154 Mr Curry: Have a poke at them; we all do.
Sir David Normington: What we are trying to do is to decide the cases so that if they are granted they can then be settled here.

Q155 Mr Mitchell: The quickest way out would be an amnesty, would it not?
Sir David Normington: No. Sorry, it is absolutely out of the question to have an amnesty.

Q156 Mr Mitchell: Why?
Sir David Normington: Because it would send a signal around the world that this is the place to come because eventually, if you stick at it—

Q157 Mr Mitchell: The Americans have had amnesties.
Sir David Normington: I am sorry; it is just out of the question.

Q158 Mr Mitchell: Okay. You told us earlier that you know where people are; do you know where all the 450,000 are?
Sir David Normington: Do you want to say a little bit about that—not everyone.
Ms Homer: We have developed techniques for finding people and we have developed a number of databases that we check, both external and internal, which are helping us locate people.

Q159 Mr Mitchell: What proportion do you know where they are? I have people come to my surgery and then they go away and melt into the woodwork.
Ms Homer: Interestingly enough, when we started doing the case resolution directorate work quite a lot of people did come and update their records with us because while there was a period when those cases were not being worked not necessarily always deliberately but things became very passive. Since then we have had a great deal of correspondence and actually—

Q160 Mr Mitchell: Do they know they have a better chance if they are in this legacy of getting in; 36% are allowed in, which is a higher proportion than overall.

Ms Homer: It is roughly the same as the normal proportion. A significant number are removed so it is not without its risks, but our experience has been that people do tell us where they are often; that when they do not our ability to trace and check is increasingly good.

Q161 Mr Mitchell: If you know where they are why do you have to raid Chinese and ethnic restaurants? I had one instance where a Chinese restaurant owner came to me and said he had served up the starter and he was about to serve the main course and the immigration people came and took his cook away.
Ms Homer: Because we are determined to send the message to employers that if they use illegal workers there is a consequence.

Q162 Mr Mitchell: But this is a kind of unappetising thing; if you know where the bulk of them are to go around raiding—
Ms Homer: Our focus there is on employers. We are sending a very strong message to employers that if they employ illegal workers there is a consequence and the reason for that is that they undercut legitimate businesses and they continue to make the country attractive to illegal immigrants. We have introduced fines on employers, we do targeted operational work on employers and the very strong message is that you should employ people with a legal right to be here. We think that is very important.

Q163 Mr Mitchell: Is this sending strong messages the reason why you have so many dawn raids? I frankly find it appalling that at six o'clock you are raiding people, getting the kids out of bed before they go to school in their pyjamas, have the parents howling and crying and carting them off. That is not the procedure of a civilised society. Is it done because it is cheap? Is it done to send a message? Why is it done?
Sir David Normington: I do not defend being unfair to these people. Why the police and the immigration officers do it in the morning is because that is when you find them in, I am afraid. We try to treat children particularly with great care but the reason why all law enforcement people will tell you they go in in the morning is because people are at home.

Ms Homer: Families will always have had multiple offers of assistance to go home voluntarily before we will enforce a removal, so our preference would always be for the family to take our help and to go home under their own steam which obviously would mean that we do not have to force them.

Q164 Mr Mitchell: I have to say of course there are strong reactions locally.

UK Border Agency

Ms Homer: We accept that.

Q165 Mr Mitchell: When Labour—and I am still a member of the New Zealand Labour Party just in case I do not make it here—came to power in New Zealand 1984 we formally abolished dawn raids altogether and that in my view is what we should do. The contractors who take people back, escort people back to their country, and you say 70% of deportations fail, how are they paid? Are they paid if it fails and what rate are they paid at?

Sir David Normington: The contractor is not to blame if the asylum seeker uses the judicial system.

Q166 Mr Mitchell: I appreciate that, but does that mean he collects his money?

Ms Homer: No. Many of these removals are cancelled in good time and no cost accrues; a smaller number are cancelled literally, as we discussed earlier, at the steps of the plane and, basically, the contractor pays us if it is his fault, if he promised us someone who does not turn up, and if there is a last minute arrangement and the contract provides for it there will be recompense there. In fact what we are working at is an arrangement where they and we can both get what we want out of it which is for us more escorted removals and for them more business.

Q167 Mr Mitchell: I must interrupt you because I have just one final question. We have a letter from Bail for Immigration Detainees which says effectively that you are misusing detention: 70% of detainees are held for over 29 days, 20% are held for over six months—which casts some doubt on whether they should be detained in the first place—42% of asylum seekers who are detained are subsequently released, their detention having served no purpose, and in the majority of cases detention is not necessary to prevent asylum seekers absconding; therefore you are overusing detention.

Sir David Normington: A lot of the very long cases there will be foreign national prisoners who have committed criminal offences and who we want to remove and who, in a sense, have forfeited their right by that criminal offence. I do not really make any apology for that; that is what should happen. The courts keep a very close eye on how long we can detain people and the whole purpose of the detention space is to move people through as fast as we can. Of course if people use the judicial process to delay that we will lengthen the time that people are in detention, but we do not want our detention space blocked up for long periods, that is not our aim.

Mr Mitchell: Thank you.

Q168 Chairman: Would you send us a note about how many companies have been found to be employing illegal workers and how many are involved?⁴

Sir David Normington: Yes; it is quite a lot now.

Q169 Mr Davidson: The biggest single category of surgery cases I have relate to asylum and in most of the cases, but not all, people have applied, have been rejected, appeal, have been rejected, have gone through judicial review, they have pursued every avenue that lawyers can get money for and they are still being refused but they are still here. I have some sympathy for the position that you have a legacy and that you have not been able to determine these; what I have much less sympathy for is the situation where there are substantial numbers where decisions have been made but not implemented. Can you give us figures as to the numbers involved in the legacy where decisions have been made but not implemented because I did not see that in the document and it does seem to me that that is a very important distinction—the whole system is being brought into disrepute.

Ms Homer: It is quite difficult to do that in relation to the legacy cases that remain to be decided because, as you can see from the pie chart, until we look sometimes we find cases—

Q170 Mr Davidson: These are people who have been decided. They have gone through every avenue that lawyers can get money for and the decision is that they should go but it has not been actioned.

Ms Homer: Yes.

Q171 Mr Davidson: They presumably are part of the legacy cases.

Ms Homer: Yes.

Q172 Mr Davidson: What I am just seeking clarification on is how many of the legacy cases are in that situation as distinct from the cases not having been judged or determined.

Ms Homer: If you look at the ones we have decided, so if you look at the proportion that we have decided so far, what you will see is that those cases where we proceed to removal have been refused and we have upheld that removal. A number of the ones where we subsequently grant will have had an earlier refusal which is then subsequently overturned by time. Your colleague made the point earlier that a refusal that was made back in 2000 may be subsequently overturned by the circumstances.

Q173 Mr Davidson: Yes, but until it is overturned it remains, does it not?

Ms Homer: Yes.

Q174 Mr Davidson: And at that point you should be removing them.

Ms Homer: We can try and break down for you the proportions and the figures we have decided, yes.⁵

Q175 Mr Davidson: That is what I want because it brings, as I say, the whole system into disrepute and causes a great deal of discontent locally, so that would be helpful. What I am also concerned about is the financial pressure that that places on a council like Glasgow; Glasgow has been very good in terms

⁴ Ev 21

⁵ Ev 21

UK Border Agency

of taking dispersed asylum seekers but there is a substantial number of people, particularly with children, that you do not remove and you do not support so the burden of those falls onto the council because they have social care responsibilities. I am not happy about that situation and neither is the council and I do not quite understand why you do not do something about it.

Ms Homer: We have a very strong relationship with Glasgow; you are right, they have been a very strong part of our delivery mechanism. I would have to say there should not be any families who are being supported by Glasgow from their own funds rather than the contractual payments because we do continue supporting families whilst we move to remove them. What we do with any council that has cases that they are supporting where we are not is that we are always prepared to put a team in alongside them and work through those cases to make sure that either we conclude and remove or we look at the reasons why removal is not possible.

Q176 Mr Davidson: The latest correspondence I have from Glasgow is that this situation has been costing them money, but perhaps I will just write to you directly about that.

Ms Homer: I am very happy for you to do so.

Q177 Mr Davidson: Can I just clarify, you have mentioned about the legal system, particularly judicial review and the tricks on the steps of the aircraft and so on. Is the Scottish legal system slower than the English one and why is that?

Ms Homer: It is. We have been trying to work with both systems to produce changes in procedures that the judiciary and we are content with because it is obviously a very sensitive area—access to justice is important as well as speed. We have less strong arrangements in Scotland for the timeliness of JRs—we have an arrangement to expedite JRs in England which has worked very well—and there is also less opportunity to prevent repeat JRs. For instance, I know of one Scottish case where eight judicial reviews were taken on the same ground. We are in discussion with the judiciary but you will understand very well that they are entirely separate legal systems.

Q178 Mr Davidson: It would be helpful, Chairman, if we maybe just got a note about that in order that that can be pursued.⁶ Unless I am mistaken you have already agreed that you are going to produce a list of the employers who have been caught employing illegal workers—that will be very helpful. Can I turn to chart 12 on page 24 where I see of those asylum applications that were rejected in that period January 2007 to January 2008 in Scotland only 8% have been removed. That presumably means 92% of those who have been rejected have not been removed. How can I have confidence in that system?

Ms Homer: That meant that only 8% had been removed by the time the NAO looked at it which was in August 2008 so in some cases only just as the six

months was concluded. Each of those cases will continue to be case-owned and, as the permanent secretary referred to earlier, under our new system that we are going to implement on 1 April there will be a model that checks active management of cases.

Q179 Mr Davidson: I do understand that but some of these presumably would be February 2008 and therefore to August 2008 is only six months, I understand that, but some of them also would be January 2007.

Ms Homer: Yes.

Q180 Mr Davidson: That is a year and a half and allowing for all that you have still only got to 8%. This is how the system is brought into disrepute—does 8% not seem too low a figure for you?

Ms Homer: It does, and we would like it to be higher. It links back to your previous case that it is very easy to use up 18 months if one is in the judicial system in Scotland.

Q181 Mr Davidson: Indeed. Could I ask about the fact that 20% to 25% of appeals are upheld; does that mean that you got it wrong or that different criteria are being applied?

Sir David Normington: It will be both and what Lin Homer was talking about earlier was to say we have an obligation to improve the quality of our decision-making so that that number comes down, but of course a proportion of those are overturned on other grounds which we of course are disputing, which may be about the ability to return. Some of the most difficult cases are about ability to return.

Q182 Mr Davidson: Why I asked that is that if you get 20% to 25% wrong in one direction does that mean that there is 20% to 25% of those people who are given asylum who should not have been?

Sir David Normington: I do not believe so.

Q183 Mr Davidson: Why should mistakes only be in one direction?

Sir David Normington: I expect mistakes are in both directions but in a sense what I think this shows is that there is a propensity to refuse and that is challenged. It is very unlikely that it would be the other way.

Q184 Mr Davidson: I have never yet come across anybody who has been granted something that they wanted and then appealed against it. Maybe things are different in the civil service, I understand that, but you take the point.

Sir David Normington: I do take the point. 70% of the initial decisions are to refuse and then in a sense those are challenged. We do have a quality assurance system, which I will not go into again, which is trying to improve the quality of those initial decisions because we do have an obligation to grant people properly as well.

Q185 Mr Davidson: Can I just ask about the figures? I have a case where one gentleman has applied for asylum and onto his case have been added his wife

⁶ Ev 22

UK Border Agency

and three children, his sister and her three children, his sister-in-law and their four children and his brother. Is that one case or 15?

Ms Homer: We would count each of those as individual cases.

Q186 Mr Davidson: That is helpful, just to clarify, the figures you are giving us are actually for individuals and are not multiplying up. Can I ask about the intervention of Members of Parliament because I must confess that what you have said concerns me a bit. I would not like to think that the intervention of a Member of Parliament in some particular circumstances can change rules that were being applied universally, that the rules in a sense would be bent and it would depend upon the MP whose constituency you happened to be settled in and whether or not he or she chose to appeal vigorously on your behalf—whether or not that would actually make a difference to the decision.

Ms Homer: Not at all.

Sir David Normington: It does not, but it is difficult because it is trying to introduce a degree of sensitivity into the system, so if you have a case which seems to be completely unjust in your view you can draw it to our attention. It is trying to do that.

Q187 Mr Davidson: I completely understand the distinction—we would have it, say, with housing cases where we feel that maybe somebody has failed to explain their position adequately and we have additional information. Many of us who have asylum seekers coming to see us will be told that Mr X would give a letter about this and that Mr X would do such and such. That then devalues the whole currency in my view.

Ms Homer: Yes.

Q188 Mr Davidson: I am just seeking that assurance.

Sir David Normington: You have that assurance.

Mr Davidson: Okay, thank you. I have been told my time is up; thank you, Chairman.

Chairman: Thank you, Mr Davidson. Your last questioner is Mr Williams.

Q189 Mr Williams: We are told that you reached your 10,000 a month target for each month in the last six months of last year and that 36% were given asylum. That means of course that every month 6,400 people were rejected, which is over 75,000 a year; is that not correct?

Sir David Normington: No, because the other 64% includes a whole lot of different groups which are in the pie chart. It is about 16% who are removed; the others are in all kinds of different categories. There are people who were originally here as failed asylum seekers but they are from countries that are now members of the European Union and therefore have the right to be here, for instance. There are quite a number of those who came originally as asylum seekers. There are errors, there are duplicates, there are deaths; there is a whole list of different people in that 64% so they are not failed in that sense.

Q190 Mr Williams: Could you let us have a more detailed note on that, please?⁷ That would be helpful for us.

Sir David Normington: Yes.

Q191 Mr Williams: Are you satisfied that between now and 2011 the rate at which you have actual failures, you will be able to deal with those failures?

Sir David Normington: Yes. At the moment we do not see the proportions that are in the report, which was obviously an early-ish snapshot, changing as the number of cases increase, so the proportions are broadly the same and we are geared up to deal with the consequences of that number.

Q192 Mr Williams: You have tried to be fair in the way in which you distribute the applicants around the country because otherwise the South East of England would end up with most of them, we well understand that. How do you determine the level of cases that are distributed to each area, what formula do you have?

Sir David Normington: Can I ask Matthew to deal with that?

Mr Coats: We have a formula based upon previous dispersal and the amount of accommodation that we have agreed and we have a group of people in Croydon that disperse people. The availability of the accommodation tends to be the primary consideration now and what we seek to do is to get people from where they are to that region within two days, and that is a considerable speeding up of the system to make sure that people start the process as soon as possible.

Q193 Mr Williams: How far does this work equitably around the country? How do you ensure that every area contributes to providing the support?

Mr Coats: The formula we use does take into account a broadly equitable spread across the country.

Q194 Mr Williams: Could you let us have a note on that formula?

Mr Coats: Yes.

Q195 Mr Williams: Then when it comes to making the allocation you have got a quandary again, have you not, in that you do not want to isolate people from their own countrymen so that they cannot use their own language at all? Do you tend to send clusters to particular areas, how do you deal with the linguistic problems, social problems, not losing all their identity?

Mr Coats: We do take account of that but, as I said, we tend to disperse on the basis of where the accommodation is, but clearly we do in the ongoing care of those applicants like to watch in terms of the support they get.

⁷ Ev 21

UK Border Agency

Sir David Normington: It is a problem; you are quite right to highlight this. It is important that there is dispersal and that actually what we do not do is put them all in one place because that becomes a burden on one place.

Q196 Mr Williams: Equally being isolated leads to very serious problems where they have not got any host group.

Mr Coats: That is a balance that we have to strike.

Q197 Mr Williams: Do you have a formula for that?⁸

Mr Coats: Indeed, that is part of the formula by which we disperse.

Q198 Mr Williams: I was delighted but surprised to see in paragraph 36 that fairly early on cases are allocated to a caseworker. I do not know about my colleagues but the number of times I get letters from ministers and from councillors who are still waiting for the case to be allocated. How do you reconcile those two situations?

Sir David Normington: That ought not to be happening so much or at all with the new cases.

Q199 Mr Williams: You mean you are persecuting my people.

Sir David Normington: It depends whether they are the old cases or the new cases. With the new applicants you ought to be seeing—I think Mr Hill said this—people being referred much more quickly to caseworkers; there is still the problem of the people in the backlog.

Q200 Mr Williams: Following on a point Mr Touhig has raised, it sounds trivial in a way the fax machines, but it is incredible in a modern communications system that you are still relying on fax machines, not only because it is a costly way of doing it but is it not an inefficient way of doing it and is there not the likelihood that inevitably with human error there are going to be misdials and so on. Do you end up with personal information being wrongly directed? If not, how on earth do you avoid it?

Mr Coats: We are looking to make improvements. We have introduced a system for electronic file management that was referred to earlier on—

Q201 Mr Williams: I understood your point about going to IT eventually and we will probably then hit you over the head for having a bad IT system, but can you answer my question about confidential information?

Mr Coats: Indeed. The point I tried to make earlier was that we have already tried to replace some of the fax machines. The information that used to pass between our staff and accommodation providers is now done on effectively a website. We have looked at, with the Asylum and Immigration Tribunal, increasingly the introduction of emailing determinations and, indeed, even the ones that are

not emailed we have started to scan in many of them to use on our systems, so we have progressively tried to introduce technology in a way that does protect the flow of information and ensure it gets to the right place. That is happening within an overall plan.

Q202 Mr Williams: You are saying that you are going to do that to protect which implies that the present system does not and we are back to my original question, which is do you occasionally and if so how often do you end up with confidential information on an individual basis being sent to the wrong recipient? Are you saying it never happens?

Mr Coats: I could not say it never happens but I do not recall a case being brought to my attention of that happening.

Q203 Mr Williams: They are not likely to if they can keep it quiet, are they?

Sir David Normington: I hope that is not so now. That might have been the case but actually we are trying to encourage people to declare problems. One of the problems in the past—and by the way it was one of the very early problems that I was before this Committee on three years ago—was of course the fax machine and the sending of things by fax, so we are very aware of this. Of course, putting it on computer as you know does not guarantee that it is secure and that is in the right place; a lot of the work that the whole of government has been doing is to try and deal with that issue, whether it is on a fax machine or on a computer or on a paper file actually. Lots of cases are still on paper files.

Q204 Mr Williams: My final question, which has been touched on, is what progress are you now making on solving the problem of the booking of flights and the arrangement for the escorts, to stop the wastefulness there?

Mr Coats: We have got a pilot in terms of more integrated arrangements running in one small part of our organisation.

Q205 Mr Williams: A pilot in the sense of experiment.

Mr Coats: Indeed. That has shown some encouraging results with the first 1,000 cases that we have tried to do in a more integrated way. That is encouraging and we need to make sure that that system is available to all of our organisation and, during this year, I will be rolling that out to make sure that we reduce the problem that you refer to.

Mr Williams: Thank you.

Chairman: Mr Hill has a supplementary.

Q206 Keith Hill: That is extremely kind of you, Chairman. This is really to satisfy my curiosity; I would just like to ask you about arranged marriages and second wives. On arranged marriages it is reasonably well attested that there are some people who come in on arranged marriages and obviously they get a leave to remain on the basis of the marriage to a spouse. They have a probationary period and then when they indefinite leave to remain, lo and behold they abscond from the wife; the wife

⁸ Ev 22

UK Border Agency

comes to me and says this has happened and says "This is his name and I think I know where he lives." I then contact you and say this was obviously not a genuine marriage and this guy has come over under false pretences. You write to me and say that this is a confidential matter; similarly if a wife, possibly from another continent, comes and says "My old man has contracted a second marriage in this place and I do not want her to come into the country." I write to you and say I think you should stop her because this is a second marriage, and you write to me and say that this is a confidential matter. Can you reassure me that you do actually pursue those cases notwithstanding and do you ever deport them?

Ms Homer: I can reassure you that we look at all the issues that are brought to our attention even when we have to write those confidential issues letters back. It is probably truthful of me to say that the stories are sometimes more complex than the first few letters will indicate, but there are occasions when we either remove status or do not grant the subsequent status on the back of letters such as that. It does depend on the circumstances of the individual case but when we tell you we join it up with the other file and we consider it then we do.

Q207 Mr Mitchell: Mr Coats, you said you have an internal review of the initial decisions and you review about 10% of cases.

Mr Coats: Yes.

Q208 Mr Mitchell: Could you send us some information about how many cases have the decisions changed in that internal review?⁹

Mr Coats: Yes.

Q209 Mr Davidson: In terms of those that you are pursuing as priorities via the legacy—and I understand why those pose a danger and so on and so forth—does that effectively mean that single men are least likely to be pursued by yourself in that context because they do not fit the other categories, because that is then creating a whole group of single men who have an expectation that the longer their cases drag on the more likely they are eventually to

have their cases conceded, and they are being dealt with differently therefore as a category compared to families who are perhaps more expensive to support?

Ms Homer: No, not wholly. The categories include harm—and one has to say as is the nature across the piece there will be a number of young men who will have criminal records—but they also include easily grant and easily remove, so there are a number of ways in which the proportions vary. Indeed, in some nationalities young men will be being supported under, say, section 4 support, so it is not as simple as we just do families and we do not ever do single young men.

Q210 Chairman: I have one last question which is a personal point. I have never understood why you cannot deal with this humanely and sensibly and expeditiously by having as much of the process as possible in a one-stop shop at the airport so that as they arrive people are kept in hostels and they are dealt with, much of the process is dealt with immediately.

Sir David Normington: If we can we screen them at the airport and put them straight into detention—that is the reason for having more detention space on the airport at Gatwick, for instance, and also near Heathrow—just for that reason. Of course, what we are doing there is we are screening the cases where we think we can turn them round and send them back; in some of the cases where people claim asylum we cannot do that. That is why in that table 12 you see the cases that are dispersed around the country are after we have taken out the cases that you describe. It is much better to turn them round; in fact it is better to turn them round before they get on the plane in the country they are coming from.

Q211 Chairman: Sir David, thank you to you and your colleagues for answering fully our questions on what is a very difficult matter. We know from figure 23 that two-thirds of asylum seekers are not genuine asylum seekers so in terms of good race relations and helping genuine asylum seekers you must get a grip on this. We are very grateful for your efforts.

Sir David Normington: Thank you. I should say it is Lin Homer's birthday today so you have made her day.

Chairman: Happy birthday. What a birthday present we give you; two hours with the PAC.

⁹ Ev 23

Supplementary memorandum from the Home Office

Question 63 (Geraldine Smith) *on the cost of legal action to UKBA*

The National Audit Office estimated that under the New Asylum Model the total cost of appeals for both UKBA and the Asylum and Immigration Tribunal, including accommodation and support costs, was some £38 million in 2007–08

A breakdown of the estimated cost of appeals under the New Asylum Model in 2007–08 is provided at stage 3 below:

	<i>Stage 1 (starting the process)</i>	<i>Stage 2 (processing the claim)</i>	<i>Stage 3 (appealing the decision)</i>	<i>Stage 4 (concluding the case)</i>	<i>Total</i>
Total	£53.91m	£38.1m	£38.0m	£45.9m	£175.9m

Stage 4, concluding the case, will include elements of the cost to the UK Border Agency associated with legal action taken whilst removals are under way, which can result in removals being cancelled. These cannot be separately identified.

Questions 124–134 (Mr Bacon) providing a detailed breakdown of the 1,600 Foreign National Prisoners to include the number which are seeking Asylum, those who are failed Asylum seekers but have not been removed and those who are awaiting a decision.

Due to data quality issues and the nature of these two separate sources of information it is not routinely possible to centrally collate the statistics requested.

However we have conducted a special exercise consisting of a manual review of records of the 1,750 foreign national prisoners (FNPs) detained¹ who had completed their sentence and are being detained under immigration powers pending deportation action.

47% (around 825) of these individuals appear not to have claimed asylum. Of the 53% (around 925) that have made a claim, over a third (around 320) have claimed during their custodial sentence or whilst in immigration detention. 18% (around 310) had made an application for asylum that was rejected and they had exhausted their appeal rights at the time of the conviction. In many circumstances they had absconded at or just before they lost their appeal and subsequently remained out of contact with the authorities until the point of arrest.

These figures have been rounded to the nearest five and are a snapshot. They are based on provisional management information and are not National Statistics.

Question 168 (Chairman) on how many companies have been fined for employing illegal workers and how many are involved.

A total of 1,431 Notices of Liabilities (NOLs), were served on employers of illegal migrant workers found to be in breach of Section 15 of the Immigration, Asylum and Nationality Act 2006 between 29 February 2008 and 28 February 2009. Please note that Notice of Liabilities are served on individuals and not companies. The total number of illegal migrant workers employed by these employers was 2,908.

Questions 169–174 (Mr Davidson) providing a breakdown of legacy cases including those where a decision has been made but there has been no conclusion.

Our experience has been that until a case is reviewed for conclusion by our Case Resolution Directorate, it is not possible to say with precision what stage that case has previously reached. The significant proportion of “other” conclusions (see Questions 189–190 and response below) offers an explanation for this.

Questions 189–190 (Mr Williams) providing a breakdown of legacy cases concluded and the proportions in each category.

CASE RESOLUTION DIRECTORATE CONCLUSIONS BETWEEN JULY 2006 AND 9 JANUARY 2009*

<i>Case Type</i>	<i>No of conclusions</i>	<i>Proportion of total conclusions (%)</i>
Granted Leave	55,300	35
Removed	24,700	16
Other	73,000	47
Controlled Archive	2,800	2
Total	155,500	—

* figures may not sum due to rounding.

Removals constitute deportations, extraditions and enforced removals—commissioned by Case Resolution Directorate. They also include voluntary departures, assisted and unassisted—whilst under Case Resolution Directorate ownership.

Grants constitute cases granted some form of leave, be it limited or indefinite commissioned by Case Resolution Directorate.

Other Conclusions constitute where Case Resolution Directorate has determined that an action has occurred that led to a grant of some form of leave, or removal that wasn't recorded on the Case Information Data base. This also includes duplicate cases that have been deleted from Case Information Database. In all circumstances Case Resolution Directorate's actions have been to update or delete the Case Information Database with the appropriate information.

¹ As at the beginning of March 2009. The numbers of foreign national prisoners who have been detained pending deportation action fluctuated in 2008 from a low of around 1,600 to a high of around 1,750, reflecting the increased numbers of individuals that are going through the deportation system.

In Lin Homer's letter to the Home Affairs Select Committee of 8 December 2008 she re-confirmed that the legacy cohort contains cases that the Agency struggles to trace, including those that are likely to have left the country voluntarily. The Agency makes every effort to trace such cases, checking a number of internal and external databases. If such tracing fails, the case is placed into a controlled archive. Once a case has been in the controlled archive for six months it is included in conclusions statistics. The Agency started doing so in December 2008. However, cases in the controlled archive are run against a number of watchlists every three months and can be reactivated and removed from the conclusions statistics at any time, should the applicant come to light. No cases where the applicant has a positive PNC hit are placed into the controlled archive.

Questions 177 and 178 (Mr Davidson) *providing an explanation of the position with regard to the speed of the Scottish Judicial system.*

The AIT appeal structure and process in Scotland mirrors that in the rest of the UK.

Thereafter appeals against decisions of the Asylum and Immigration Tribunal are made to the Inner House of the Court of Session. The speedy resolution of statutory appeals to the Inner House of the Court of Session remains a problem, with the waiting time for a hearing being on average 18 months. The Court of Session has introduced a pilot aimed at reducing the time to a hearing, the first of which is due to commence from 9 June 2009 and to run for a fortnight. It is intended that the court will hear 12 immigration cases during this period. It remains to be seen whether this will have an impact on reducing future waiting times. Discussions have already taken place on our behalf between the Office of the Solicitor to the Advocate General and the court regarding the pilot and the situation is being closely monitored.

Following the conclusion of the statutory appeal process claimant's remedy against any further decisions made by the UKBA (which do not carry an appeal right) made by the UKBA is Judicial Review.

In immigration cases there are routinely two stages in the Scottish Judicial Review process—First Orders and First Hearing. The First Orders stage routinely takes place within a matter of days. At this stage a Judge will consider whether the petition should proceed to a First Hearing. First Orders are usually considered by a Lord Ordinary without representation from UKBA. This restricts our ability to assist the Court in identifying unmeritorious cases at the earliest stage in the process. Where the Judiciary are not in recess the First Hearing stage routinely takes place within six to 12 weeks as opposed to up to 12 months previously. Between July and September no First Hearings are held. At the First Hearing stage the Court will consider argument from the petitioner and the UKBA.

The UKBA made a submission, as did the Office of the Solicitor to the Advocate General for Scotland, to the Review of Civil Justice which Lord Gill is conducting. These submissions included the suggestion that a permission stage for judicial reviews be introduced similar to that which exists in England and Wales.

We recognise the distress and concern that detention creates—especially for families—and we will continue to work with the Scottish civil justice system to ensure that immigration cases are heard speedily—minimising detention.

Questions 193–197 (Mr Williams) *on the dispersal formula to the regions including how it is done equitably between local authority areas, and how language and social groupings are taken into account.*

There are two processes. One is routing, the second is dispersal. If they are not allocated to a detention bed, asylum seekers are assigned (“routed”), by a central routing team, to a Region based upon a fixed percentage share as shown:

<i>Location</i>	<i>Percentage of Cases</i>
Wales	8%
Scotland	8%
North East, Yorkshire and Humber	20%
North West	16%
Central London	16%
West London	16%
Midlands	16%

The ratio may vary slightly due to factors affecting specific regions. Every week the Agency aims to meet these percentages. Where we do not, we seek to correct this over a period of a month.

Once they are in a Region, asylum seekers are then dispersed, by Regional staff within that region. Asylum dispersal accommodation is generally provided in areas which either have an established ethnic minority community or are able to sustain a new ethnic group and voluntary and community infrastructures are in place or can be developed.

There is no set formula for dispersal as such. Decisions on dispersal follow the direction of a network of Regional Strategic Fora which comprise key local stakeholders and local UK Border Agency staff. These fora help decide where within each region is suitable for “dispersed” accommodation. Ethnicity will form a part of their reasoning. This ensures that we remain responsive to local issues on ethnicity within our “dispersal” process and any attendant community cohesion issues.

Asylum seekers may occasionally ask to be accommodated in a particular region or location because the area has an ethnic community there, which does not exist in other areas. Each case is examined on its own merits, but this alone would not normally be accepted as sufficient reason to depart from the dispersal policy.

Questions 207 and 208 (Mr Mitchell) *providing information on how many decisions are changed as a result of the internal reviews of 10 per cent of initial decisions.*

There are two levels of quality checks for asylum decisions. 10% of decisions are checked locally in region. This process was formalised as a result of the NAO findings. Previously, a quality checking regime existed in all regions. But the volume and nature of cases reviewed was neither formally recorded nor consistent across regions. For that reason, whereas decisions were altered via local checks either before or after service in the previous regime, we are unable to quantify this.

The central quality audit team checks a further 10% of cases. On two occasions since the end of 2007, a change in the decision was requested and enacted. On numerous other occasions process concerns were resolved via discussion between the quality auditor and local senior caseworkers. There is no record of how many of these discussions ultimately resulted in a reversal of the original decision.

30 March 2009

Memorandum from Bail for Immigration Detainees (BID)

BAIL FOR IMMIGRATION DETAINEES

Bail for Immigration Detainees (BID) is an independent charity that exists to challenge immigration detention in the UK. Since 1998, BID has worked with asylum seekers and migrants, in detention centres and prisons, to secure their release. In the past year our three offices supported 1,774 immigration detainees to prepare and present bail applications. BID also uses evidence from its casework and research to influence detention policy and practice and to press for an end to arbitrary detention.

INTRODUCTION

The purpose of this briefing is to draw the committee’s attention to BID’s concerns about the ineffective and inefficient use of immigration detention in the UK. BID submitted written evidence to the NAO review which led to the report *Management of Asylum Applications by the UK Border Agency*. The NAO’s report found that:

- the government pays £11.3 million per year to detention and removal escort contractors (p 15);
- asylum seekers who should be excluded from detention “may nevertheless be put in detention and have to be released at a later date” (p 5); and
- significant proportions of asylum seekers are inappropriately routed into the detained fast track process, only to be subsequently released (p 16).

ARBITRARY AND INEFFECTIVE USE OF DETENTION

BID is concerned that in many cases the government is using detention unnecessarily, and where the stated aim of removal cannot be achieved within a reasonable time scale.

- 70% of detainees are held for over 29 days, and 20% are held for over six months.² This means that, for the majority of detainees, removal is not imminent at the point at which they are detained.
- 42% of asylum seekers who are detained are subsequently released, their detention having served no purpose.³
- In the majority of cases, detention is not necessary to prevent asylum seekers absconding. A 2001 study found that 90% of bailed detainees complied with their bail conditions even though some knew they were due for removal from the UK.⁴

BID recommends that decisions to detain are subject to automatic judicial oversight to prevent unnecessary and expensive detention.

² Home Office, *Control of Immigration: Quarterly Statistical Summary United Kingdom October—December 2008*, February 2009, p 18.

³ Home Office, *Asylum Statistics United Kingdom 2006*, August 2007.

⁴ South Bank University, *Maintaining Contact: What happens when detained asylum seekers get bail?* by Professor Irene Bruegel and Eva Natamba, June 2002.

 INDEFINITE IMMIGRATION DETENTION WHERE THERE IS NO POSSIBILITY OF REMOVAL

BID supports many individuals who have been detained for over 12 months and for whom there are real barriers to their removal, such as there being no forced returns to their country of origin or problems with being re-documented.

In January 2008, BID successfully challenged the detention of four Algerians in the High Court.⁵ been in detention for over 14 months, and were making every effort to leave the UK, but could not do so because the Algerian government would not re-document them. The judge ruled their detention to be unlawful and ordered their release.

As of January 2009, BID was supporting 15 Zimbabweans held in immigration detention, four of whom had been in detention for over 12 months, despite the fact that UKBA is not currently enforcing returns to Zimbabwe.⁶ UKBA maintains that because they are ex-prisoners, this group are a danger to the public, but a significant proportion have served sentences for relatively minor offences such as the use of false documents. It appears that UKBA's position is that these individuals should be indefinitely and expensively detained until the Mugabe regime falls and enforced returns become possible again.

BID recommends that there should be a statutory time limit to immigration detention so that resources are not wasted on detaining people who cannot be removed from the UK.

THE DETAINED FAST TRACK—UNSUITABLE CASES ROUTED INTO DETENTION

Significant proportions of asylum seekers are inappropriately routed into the detained fast track (DFT) process, only to be subsequently released when it is found that their case is too complex to be decided in detention.

In the first six months of 2008, the NAO report found 842 cases had to be taken out of the DFT process. This constituted a drop-out rate of nearly 50% at Yarl's Wood and 30% at Harmondsworth.⁷ The detention of these 842 asylum seekers was an unnecessary waste of public money. BID's research into the DFT concurs with the NAO report finding that UKBA does not collect the information needed to determine whether a case is suitable before routing it into the DFT.⁸

Through such poor practice, the government lays itself open to litigation for unlawful detention. For example, in December 2008 a torture survivor was awarded £38,000 compensation after a judge found that serious shortcomings led to her being detained despite Home Office policy that torture cases should not be fast tracked.

BID recommends that while the detained fast track continues, there must be a robust screening mechanism to prevent unsuitable cases being detained.

2 March 2009

Further memoranda from the Home Office
NATIONAL AUDIT OFFICE REPORT ON MANAGEMENT OF ASYLUM APPLICATIONS BY THE UK BORDER AGENCY

I know that the NAO report on the management of asylum applications is being published tomorrow, and I would therefore like to update you on what we have already done in response to the NAO recommendations.

The NAO has rightly helped to focus our effort on the quality of asylum decisions taken by UKBA. In response to the NAO's recommendation to put in place a common process for review of asylum decisions by line management, I am pleased to say that from February 2009 10% of decisions will now be checked by line managers or senior caseworkers. This is in addition to the existing checks of a random sample of 10% of decisions by the quality audit team. Further to this, we will be developing a new quality target in conjunction with the UNHCR.

We welcomed the NAO's comments regarding the cost of initial accommodation and we have now driven down this cost to £50 per night in 2008–09, from the £60 per night reported in 2007–08. We are also looking to set a lower target for the number of nights spent in initial accommodation in the future. A factor that we must consider in setting this target however, is that keeping some asylum seekers in initial accommodation does facilitate an earlier decision on their case. We hope to be able to discuss our conclusions on the new target with the Committee at the hearing on 4 March.

⁵ *A et ors (RR on the application of) v Secretary of State for the Home Department* [2008] EWHC 142.

⁶ See the case of *RN (Returnees) Zimbabwe CG* (2008) UKAIT 0008 in November 2008.

⁷ National Audit Office, *Management of Asylum Applications by the UK Border Agency*, January 2009, p 16.

⁸ *Bail for Immigration Detainees, Refusal Factory: Women's experiences of the detained fast track asylum process at Yarl's Wood Immigration Removal Centre*, September 2007 and *Working against the clock: inadequacy and injustice in the fast track system*, July 2006.

The NAO also questioned the value of the first reporting event. (To clarify, the first reporting event is the point at which contact is first established with the asylum applicant, after their application has been allocated to the region). In the light of these comments, I can now confirm that the first reporting event is no longer a mandatory part of the process. Each region is able, however, to retain the first reporting event if it helps to reach a decision on the case within 30 days.

The NAO report recognised the work that UKBA was taking forward to reduce the amount of time taken to serve appeal determinations on applicants—in many cases more than 28 days. I am pleased to say that a new system was introduced in October 2008 to serve appeal determinations within 48 hours. In November 2008, 99% of appeal determinations met this new target.

These are a selection of actions that have been taken following the NAO's scrutiny of our asylum process. Some of the recommendations were more complex and require further work. We are working to respond to all the recommendations and we will be able to discuss these when we meet with the Committee on 4 March.

In responding to the publication of the NAO report on Friday we may refer to certain figures concerning the legacy caseload. I have therefore included these figures for the Committee's information.

The UK Border Agency continues to make good progress in resolving the legacy caseload and we are confident that we will clear all of these cases by the original deadline of summer 2011. In the latter half of 2008 we concluded an average of 10,000 legacy cases per month, and we have already cleared 155,500 cases to date. Of these conclusions, 64% were "removals" and "other" conclusions (such as erroneous or duplicate records), while 36% of conclusions were grants.

I am copying this letter to Keith Vaz MP, Chair of the Home Affairs Committee, given his interest in the legacy conclusion figures (on which he receives regular updates from Lin Homer, Chief Executive of the UK Border Agency).

22 January 2009

The Clerk of the PAC has asked which data in our response (Ev 20–Ev 23) does not constitute part of National Statistics and when that data will be published.

Below is an extraction of three Notes from our original response to the PAC where these questions apply.

Note in response to Questions 124–134 (Mr Bacon) providing a detailed breakdown of the 1600 Foreign National Prisoners to include the number which are seeking Asylum, those who are failed Asylum seekers but have not been removed and those who are awaiting a decision.

WHEN THE DATA WILL BE PUBLISHED

The data provided to the PAC hearing is not currently in the public domain.

We currently publish stats on total annual FNP removals as part of the Asylum removals statistics. The FNP removal figures given in the most recent quarterly Asylum stats were included for the first time. We are currently discussing to what extent FNP removal data should be included in future publications

The management information provided to the PAC required us to analyse details of Asylum status mapped against non-centrally collated CCD data collected from crime and justice departments and agencies. This therefore required a specific exercise which, due to the associated cost and resource constraints caused by conducting it, is not viable for routine production.

Note in response to Question 168 (Chairman) on how many companies have been fined for employing illegal workers and how many are involved.

WHEN THE DATA WILL BE PUBLISHED

The data provided to the PAC hearing is not currently in the public domain.

The information provided to the PAC was taken from management information to give the most up to date figures. The data is sourced from internal databases. The Civil Penalty database is a management information tool and data from it is not quality assured under National Statistics protocols and is subject to change due to internal data quality checking. Figures provided from the database do not constitute part of National Statistics and should be treated as provisional as they are subject to change.

Details of civil penalties issued to employers who meet the publication criteria for employing illegal migrant workers are published on the UKBA website. These details are listed by region and are updated on a regular basis.

The lists include details of employers from whom no appeal or objection is received within the 28 days after service of the notice of liability (NOL), payment is not received within 28 days after service of the NOL, the appeal process against service of the NOL has been exhausted, or payment has been received.

Note in response to Questions 189–190 (Mr Williams) providing a breakdown of legacy cases concluded and the proportions in each category.

WHEN THE DATA WILL BE PUBLISHED

The data provided to the PAC hearing is not currently published.

This information is provided from management information so as to give the most up to date figures. UKBA give regular updates to the HAC committee. Updates were given in July and December 2008. The figures provided to the PAC were copied to the Home Affairs Committee in February of this year.

CRD conclusions are reported in the Control of Immigration Statistics quarterly report. However they are not identified specifically as CRD cases.

5 May 2009
