



House of Commons
Home Affairs Committee

The work of the UK Border Agency (April– June 2012)

Eighth Report of Session 2012–13

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

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Home Affairs Committee

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

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1 Key figures

- 302,064—size of the Agency’s backlog in Q2 2012, an increase of 25,600 from the previous quarter.
 - 3,954 ex-foreign national offenders were living in the community in Q2 2012 whilst deportation action continued against them.
 - 318 ex-foreign national offenders were released from custody in Q2 2012, 94% of their cases remained outstanding at the end of Q2 2012.
 - 95,000 cases were in the controlled archive at the end of Q2 2012.
 - 29,000 cases were in the live cohorts at the end of Q2 2012 and the Agency is working to conclude them.
 - 47% of new asylum applications received an initial decision within 30 days in 2011/12.
 - 64% of asylum claims were concluded within one year in Q1 2012.
 - 36%—increase since the end of June 2011 in the number of asylum cases pending an initial decision after 6 months.
 - 30%—decrease in the number of student visas issued in the year ending June 2012 on the previous year.
 - 100% of out-of-country Tier 1, 2, 4 and 5 visa applications were processed within 60 days in Q2 2012.
 - 76% of tribunal hearings had a UKBA representative present in Q2 2012, 14% short of the Agency’s target representation rate.
 - 33% of family visit hearings were lost by the Agency in Q1 2012.
 - 42% of post-licence visits to Tier 2 sponsors and 36% to Tier 4 sponsors were unannounced in Q2 2012.
 - 174,057 records were in the Migration Refusal Pool at the end of Q2 2012.
 - 20,812 allegations of immigration violations were received from the public in Q2 2012. The Agency was not able to tell us how many resulted in enforcement action being taken.
 - 13,100 FTE staff were employed by the Agency in Q2 2012 an increase of 214 from Q1 2012.
 - 85% of MPs’ emails were replied to within 20 working days.
-

Background to the report

1. Since 2006 the Home Affairs Committee has undertaken regular scrutiny of the UK Border Agency, having identified the urgent need for the Agency to improve its performance. This report uses a set of measures to assess the Agency's performance in the second quarter of 2012 (April—June) across key areas of its work:

- Foreign national offenders
- The asylum and immigration backlog
- New asylum cases
- Immigration levels and processing times
- Appeals and tribunals
- Enforcement
- Intelligence
- Staff number and cooperation with Parliament.¹

2. In addition, this report looks briefly at the issue of the provision of mental healthcare in immigration detention, particularly at Harmondsworth Immigration Removal Centre. It also looks at the issue of the detention of children for immigration purposes.

3. As we have said in our previous reports, we do not accept that the UK Border Agency is, in practice, an agency of the Home Office because it is integrated into the accountability structures of the Department.²

1 Some measures that form part of national statistical releases relate to earlier periods than Q2 2012

2 Home Affairs Committee, Fifth Report of Session 2012-13, *The Work of the UK Border Agency December 2011-March 2012*, HC 71, para 3; Home Affairs Committee, Twenty-first Report of Session 2010-12, *The Work of the UK Border Agency August - December 2011*, HC 1722, para 1; Home Affairs Committee, Seventeenth Report of Session 2010-12, *UK Border Controls*, HC 1647, para 14

Focus: Immigration detention

4. We are concerned about a number of issues coming to light in regards to immigration detention—in particular the treatment of detainees suffering from mental illness at Harmondsworth Immigration Removal Centre and the continued detention of children for immigration purposes, albeit for a short length of time.

Treatment of detainees suffering from mental illness

5. The annual report from the Independent Monitoring Board at Harmondsworth Immigration Removal Centre highlighted a significant number of failings in regard to the treatment of detainees suffering from mental illness. A number of court cases have also recently been brought against the Agency by some of the individuals affected.

Legal cases brought against the Agency

6. Since 2011 the High Court has found in favour of four individuals (known as S, BA, HA and D) who have brought cases against the Agency. The court found inter alia that the defendants had been falsely imprisoned and subject to inhuman and degrading treatment in violation of their Article 3 rights under the European Convention on Human Rights. The Government is currently appealing against one of the judgments (HA v Secretary of State for the Home Department [2012] EWHC 979).

7. The claimants S and BA were both ex-foreign national offenders and BA was liable for deportation upon release from prison. They filed claims for asylum in the UK and were placed in immigration detention whilst their claims were considered by the Agency.

8. The court found that both S and BA were detained despite a clear and documented history of mental illness and against the advice of mental health professionals. It also found that they had suffered serious deterioration in mental state and, in the case of BA, physical health as a result of their detention.

9. In the case of S the court also found that the Agency did not respond to assessments made by a psychiatrist that he was unfit for detention and required urgent compulsory treatment in hospital under the Mental Health Act 1983.

10. In the case of BA the court found that the Agency had failed to make arrangements for his transfer to hospital after he has been assessed by medical staff as requiring urgent transfer to hospital under the Mental Health Act. It also found that Agency staff had failed to communicate information about BA's deteriorating condition to senior officials responsible for deciding whether he should be released.

11. The claimant HA, who has paranoid schizophrenia, is also a former foreign national offender who was liable for deportation on release. Upon completion of his sentence he was held in immigration detention whilst the Agency assessed his claim for asylum. The court found that whilst in detention HA had not received appropriate medical treatment for a period of over 5 months and that after time spent in hospital under the Mental Health Act 1983 he had been returned to immigration detention, in Harmondsworth,

after the Agency had been explicitly warned by a psychiatrist that Harmondsworth did not have the medical facilities to treat him.³

12. Claimant D, whose case was decided at the end of August, had been granted temporary admission to the UK after serving a six month jail sentence. He was then detained under immigration powers for 15 months while the Agency tried to deport him. The court found that he had suffered treatment which “intruded on his human dignity” and “constituted inhuman treatment within Article 3 of the ECHR whilst in detention at Harmondsworth and Colnbrook House”. The court ruled that he had been denied proper psychiatric treatment which had exacerbated his mental suffering. His treatment was found to be:

‘premeditated’, not in the sense of any subjective intention to damage D's mental health, but rather in the sense that those with responsibility for the well-being of detainees in the two institutions knew that D had a history of mental illness and persisted in a medical regime for him which involved neglect (particularly in relation to the taking of anti-psychotic medication and denial of access to a psychiatrist) and recourse to what were in effect disciplinary sanctions under rules 40 and 42 which were unsuitable for a person with his condition.⁴

13. We are concerned at the findings the court has made about the treatment of the individuals in question. All of those held pending deportation, including ex-foreign national offenders, should be held in appropriate accommodation. If medical practitioners have advised that detainees should be accommodated in hospital or other institutions that care for the mentally ill then that guidance should be acted upon by the Agency and not ignored.

14. Mr Whiteman told us that the Agency had apologised to claimants S and BA for their treatment. However, the claimants’ solicitor has contacted us to say that they had not received an apology.⁵ This is a serious matter, in which the Agency has agreed to pay damages for violating the claimants’ human rights and we believe it is essential that the Agency should apologise. **We recommend that Mr Whiteman write a letter of apology to the claimants concerned, setting out the steps the Agency has taken and is taking to ensure that incidents such as these ones will not reoccur.**

15. We are concerned that the cases outlined above may not be isolated incidents but may reflect more systemic failures in relation to the treatment of mentally ill immigration detainees.

Provision of mental healthcare at Harmondsworth Immigration Removal Centre

16. The Independent Monitoring Board of Harmondsworth Immigration Removal Centre (the Board) published its annual report in March this year, the provision of

3 Bhatt Murphy Solicitors, Letter to the Home Secretary, 8 August 2012, *R (S) v Secretary of State for the Home Department* [2011] EWHC 2120, *R (BA) v Secretary of State for the Home Department* [2011] EWHC 2748, *R (HA) v Secretary of State for the Home Department* [2012] EWHC 979

4 *D v Secretary of State for the Home Department* [2012] EWHC 2501

5 Q40

healthcare and mental healthcare at Harmondsworth has been a major concern for the Board since 2009.⁶ As well as commenting on the experience of some of the detainees mentioned above the report highlighted two systemic issues with the provision of treatment for mentally ill detainees.

17. First, Rule 35 of the Detention Centre Rules requires healthcare managers to report to the Agency any detainee “whose health is likely to be injuriously affected by detention or any condition of detention” and any detainee they are concerned may have been a victim of torture. These reports are made on the advice of a doctor. There were 109 of these reports made to the Agency concerning detainees at Harmondsworth in 2011 but only five resulted in the detainee being released. The Board said it was

“constantly surprised and seriously concerned by cases where a decision by a doctor that a person is unfit for detention is overruled by case owners”.⁷

18. Second, the report found there to be a lack of appropriate accommodation for detainees suffering from mental illness and that a number of them had been moved backwards and forwards between a healthcare ward and segregated accommodation. The Board found this to be major cause of distress for the detainees concerned.⁸

19. In his evidence to us Mr Whiteman said that the all individuals going into detention were given a medical screening within 48 hours and that, if they were found to be medically unfit for detention, they were transferred to appropriate care.

If people are deemed not fit for detention then we will release people from detention... In particular, of course, we screen for mental health issues, and if the detention screening believes that there are mental health issues, we will refer those to the local mental health services, who can take appropriate action to take people into NHS care or otherwise.⁹

20. Mr Whiteman said that the Agency’s mental health screening “works on a large number of occasions”.¹⁰ However this does not correspond with the findings of the Independent Monitoring Board at Harmondsworth which found that although detainees were being identified as being medically unfit for detention under Rule 35 the Agency was not transferring them into appropriate medical care. We are not convinced that the findings highlighted by the Board demonstrate a system which works in the majority of cases at Harmondsworth. This is of considerable concern as Harmondsworth is the largest immigration removal centre in the country with the capacity to hold up to 615 men.¹¹ **The Agency must inform us how many individuals the 109 Rule 35 reports relate to and why medical advice was overruled on so many occasions.**

6 Independent Monitoring Board, Harmondsworth Immigration Removal Centre, Annual report 2011, p11

7 Ibid p7,13

8 Ibid

9 Q37

10 Q40

11 Independent Monitoring Board, Harmondsworth Immigration Removal Centre, Annual report 2011, p3

21. We are pleased to hear from Mr Whiteman that the Agency is reviewing its mental health screening processes in individual cases where it has been criticised for not being effective.¹² However we do not believe that this goes far enough. **We recommend the Agency immediately carry out an independent review of the application of Rule 35 at Harmondsworth and at its other immigration removal centres across the country.**

22. This is in-keeping with the undertaking given by the Director of the Agency's Returns Directorate, Alan Kittle who stated that the Home Secretary was committed to carrying out a formal Equality Impact Assessment of the detention under immigration powers of those suffering from mental illness. The statement was made on the 23 March 2012 and committed Mr Kittle to ensuring the assessment was commenced within seven days of the statement being signed.¹³ However, the Home Office has since announced that it would reconsider its position for the following reasons:

The commitment to carry out the Equality Impact Assessment was given in the course of legal proceedings. In light of the findings in those legal proceedings, and having taken further legal advice, we are now challenging the Court's judgement and reconsidering our position in relation to the Equality Impact Assessment.¹⁴

We welcomed this commitment by the Agency and we are disappointed that the Home Office is now reconsidering its commitment.

Child Detention

The number of children in immigration detention

23. In the Coalition Agreement the Government committed to end the detention of children for immigration purposes. The number of children in immigration detention has fallen substantially since 2009–2010, when over 200 children were entering immigration detention every quarter, and being held for many weeks or months. However there has been a small but steady increase in the number of children entering immigration detention since the first quarter of 2011. This has continued in the first and second quarter of 2012. We do however note that the vast majority of these are held for less than three days.¹⁵

12 Q37

13 *R (HA) v Secretary of State for the Home Department* [2012] EWHC 979, First Witness Statement of Alan Kittle

14 HC Deb, 7 September 2012, col 491W

15 Home Office Website: www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-q2-2012/detention-q2-2012

The number of children in immigration detention Q1 and Q2 2012¹⁶

	Q1 2012	Q2 2012
Children entering detention	53	60
Held less than 3 days	35	46
Held 4 to 7 days	14	10
Held 8 to 14 days	2*	1*
Held 15 to 28 days	0	1
Held 29 days to 2 months	2*	2*

*These are all exceptional age dispute cases in which the individual was initially assessed as being over 18 or claimed to be under 18 after release.

24. We welcome the large decrease in the number of children held in immigration detention since March 2010. However we are concerned that the numbers held are starting to increase again, albeit on a much smaller scale. There are three main situations in which children are placed in immigration detention: at the border on trying to enter the country with no valid visa, while awaiting departure; if the Agency disputes that they are in fact a minor (age-related disputes); and immediately prior to removal from the UK after previous attempts have failed. We recommend that the Agency publish a breakdown of the number of children entering immigration detention by the reason for their detention. This will enable policy-makers to see the extent of the issue at different points in the immigration process and to investigate how to further reduce numbers.

Detention accommodation for children

25. We acknowledge that the accommodation in which children and families are held before departure from the UK has improved greatly with the opening of Cedars Pre-Departure Accommodation in August 2011.¹⁷

26. HM Inspector of Prisons carried out an inspection of Cedars Pre-Departure Accommodation in May this year. Its report concluded that families received ‘exceptional’ care from staff and that they felt welcomed and safe in the centre. The report also praised the child-centred culture at the centre, with staff receiving suitable training on the safeguarding and management of children. Parents interviewed as part of the report said that they would prefer to be held at Cedars rather than immediately removed, partly to enable them to apply for a judicial review but also because it helped them to prepare their families for removal.¹⁸ This is backed up by the annual report of the Independent Family Returns Panel for 2011–12, which praised Cedars for providing an

16 Figures may include individuals detained more than once in the period. Source: Ev 23, para 76

17 Independent Family Returns Panel, Annual Report, 2011-2012, p10

18 HM Chief Inspector of Prisons, Report on an announced inspection of Cedars Pre-Departure Accommodation, 30 April-25 May 2012, p5 and p12-13

environment which helped families to prepare for their return and recommended that more families would benefit from a short stay there to help children come to terms with their departure.¹⁹

27. However the inspection also flagged up concerns around the use of force at the point of removal. Force had been used against six of the 39 families who went through Cedars over the inspection period. The report highlighted that any force used had usually been minimal but, on one occasion, unapproved techniques had been used on a pregnant woman, posing a risk to her unborn child.²⁰

28. We welcome the considerable achievements of staff at Cedars in providing a supportive, child centred environment for families going through the distressing process of removal, and recommend that this best practice is shared at any other centres where children are held. We share the concerns of HM Inspector of Prisons however about the use of force on children and pregnant women. We reiterate the conclusion of the inspection report that force should never be used to effect the removal of pregnant women or children and only ever used in relation to either to prevent harm. We recommend that all staff should receive immediate training on how to manage children and vulnerable adults who become violent. Current training on the use of force against detainees should be reviewed to make sure staff understand clearly what restraints are permitted, the situations in which they are permitted and against whom they can be used.

19 Independent Family Returns Panel, Annual Report, 2011-2012, p10

20 HM Chief Inspector of Prisons, Report on an announced inspection of Cedars Pre-Departure Accommodation, 30 April-25 May 2012, p12

2 Ex-foreign national offenders

Key figures

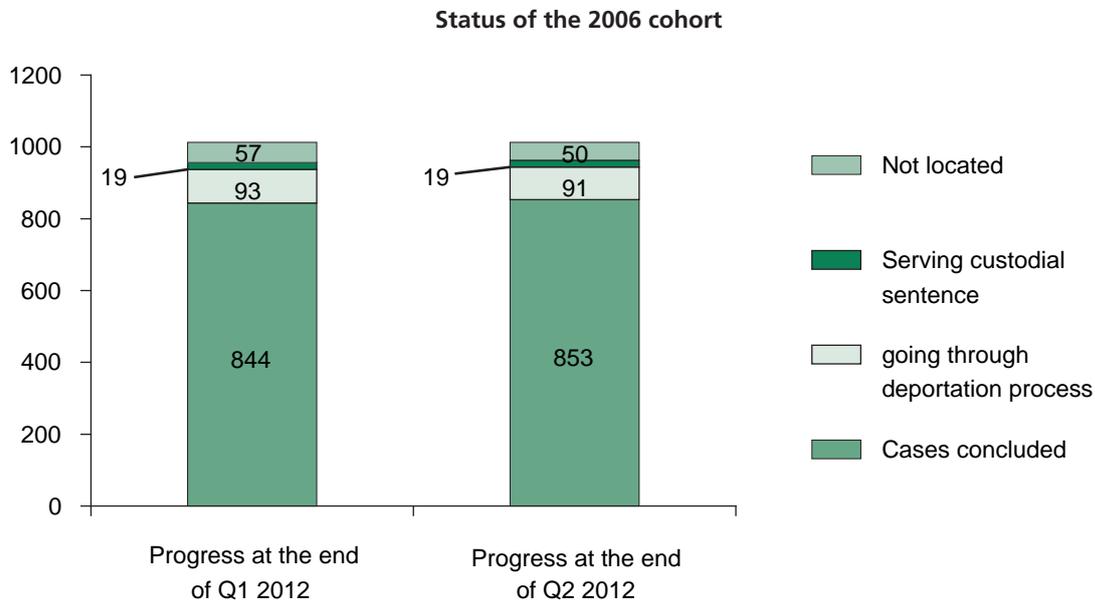
- 50 of the ex-foreign national offenders released in 2006 without being considered for deportation are still untraced as of 30 June 2012.
- 28 ex-offenders released without being considered for deportation in 2010-11 are still untraced.
- 3,954 ex-foreign national offenders in total are living in the community as of 30 June 2012 whilst the Agency tries to deport them.
- 5 former offenders were released without being considered for deportation in Q2 2012.
- 108 days was the average length of time it took to remove an ex-foreign national offender in Q2 2012 after their sentence came to an end.
- 318 ex-offenders were released into the community in Q2 2012 despite being subject to deportation action.
- 94% of these 318 cases were not resolved at the end of Q2 2012.
- 43% of ex-foreign national offenders were removed in their Early Release Scheme period in Q2 2012 and 39% were removed under the Facilitated Returns Scheme.
- 200 removal attempts failed over Q2 2012, 16% of the total number of removals.

Progress in dealing with historical problems

29. The Agency is still trying to trace a total of 53 ex-foreign national offenders released without being considered for deportation in 2006 and 2010–11. It is also still trying to deport thousands of ex-foreign national offenders who are living in the community.

Progress in locating and deporting the 2006 cohort

30. In 2006 a group of 1,013 foreign national offenders were released from custody at the end of their sentence without being considered for deportation. Since then the Agency has been working to locate all of these individuals and to consider their cases for deportation.



31. At the end of March this year there were still 57 ex-foreign national offenders that the Agency had not been able to locate. Since then the Agency has informed us that work on its data records has shown six of these individuals to already be in the deportation process. Another individual was discovered to have left the country. There are now 50 individuals eligible for deportation action who the Agency have not yet been able to locate.²¹

32. A further nine cases were concluded in the second quarter of this year. Of these, two individuals were deported, six were granted leave to remain and one is now deceased.²² Of the cases that it has concluded the Agency has granted 53% the right to remain in the UK. This appears to be a high proportion of grants given that the individuals in question would have been convicted of crimes that warranted at least a 12 month prison sentence in order to be considered for deportation in the first place.

Progress in locating the 2010–11 cohort

33. A further 28 ex-foreign national offenders were released in the year 2010-11 without being considered for deportation, three remain untraced. The Agency has circulated their details on the Police National Computer and searched for information about their location on external and internal databases but has still not been able to locate them. The

²¹ Ev 14, para 1 [Rob Whiteman, Chief Executive, UK Border Agency]

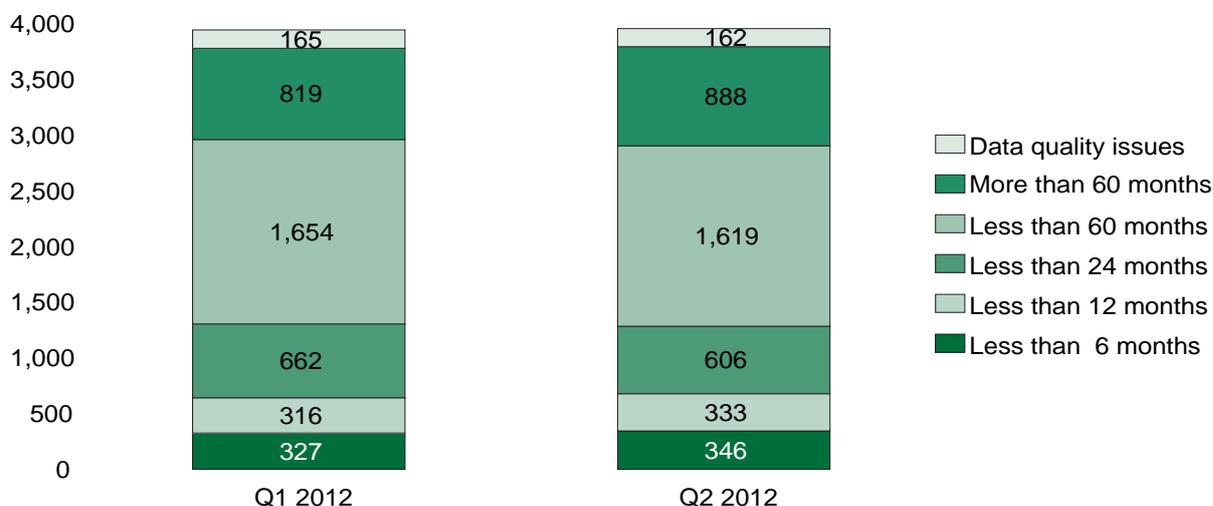
²² Ev 14, para 2 [Rob Whiteman, Chief Executive, UK Border Agency]

Agency says that all three individuals were convicted of offences in the least serious category of those that warrant deportation.²³

Total number of ex-foreign offenders living in the community

34. The number of ex-foreign national offenders living in the community whilst deportation action progresses against them remains high. The majority of cases, 63%, are more than two years old. The Agency has made no progress since the Committee’s last report in removing ex-foreign national offenders who have been living in the community for more than two years, the number has risen from 2,473 at the end of March to 2,507 at the end of June.²⁴

Ex-FNOs living in the community at the end of each quarter by time since release, Q1 2012-Q2 2012**



*Numbers include absconders and those who for legal reasons the Agency is unable to detain.

[†]Data Quality Issues-these are cases where the custodial end date or early release date were not recorded at the time. The Agency is in the process of manually checking these cases to establish their release date and enable more accurate reporting in the future.

35. The Agency says that the main barriers to removing these individuals are situations in countries of return and non compliance from individuals for whom the Agency has insufficient proof of nationality and identity. The Agency also lists “complex legal proceedings, including other non-immigration matters” as a reason for removal being prevented.²⁵ **We are disappointed that the Agency has not made any progress in removing these individuals from the UK. The Agency should inform us what its strategy is for overcoming these obstacles. We would find it helpful if the Agency could provide us with anonymised case studies that demonstrate the range of issues they are dealing with in attempting to deport these individuals.**

23 Ev 14, para 7 [Rob Whiteman, Chief Executive, UK Border Agency]

24 Ev 16, para 16 [Rob Whiteman, Chief Executive, UK Border Agency]

25 Ev 16, para 17 [Rob Whiteman, Chief Executive, UK Border Agency]

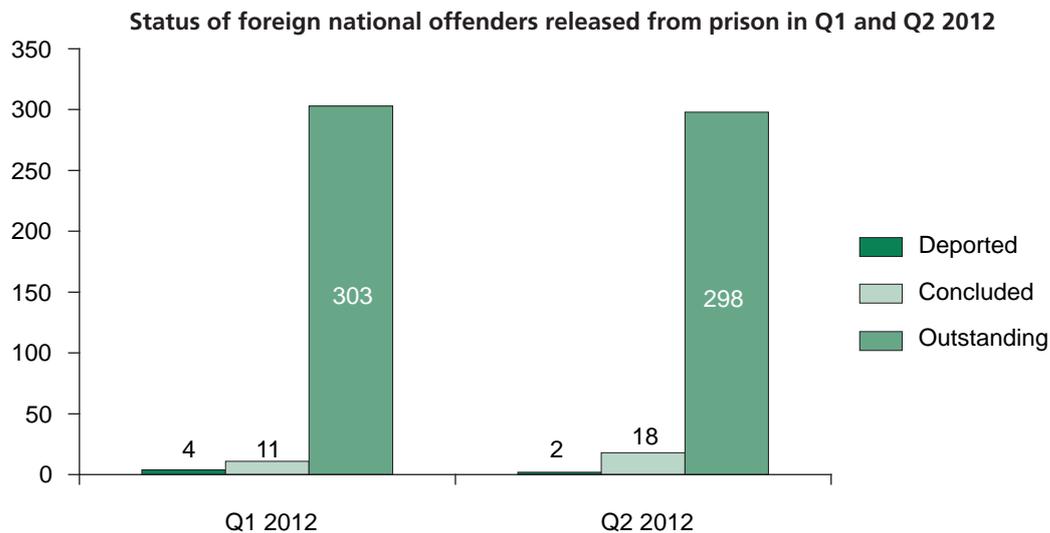
Ex -foreign national offenders released over the period

Ex -foreign offenders released without being considered for deportation

36. Between April and June 2012 five individuals were released from custody without consideration for deportation. Two were released on sentencing having served their sentence on remand and two were given a non-custodial sentence but were recommended by the court to be considered for deportation. The Agency is in contact with all four individuals. The fifth individual has left the UK and was subsequently excluded by the Home Secretary.²⁶

Foreign national offenders released from custody over the period

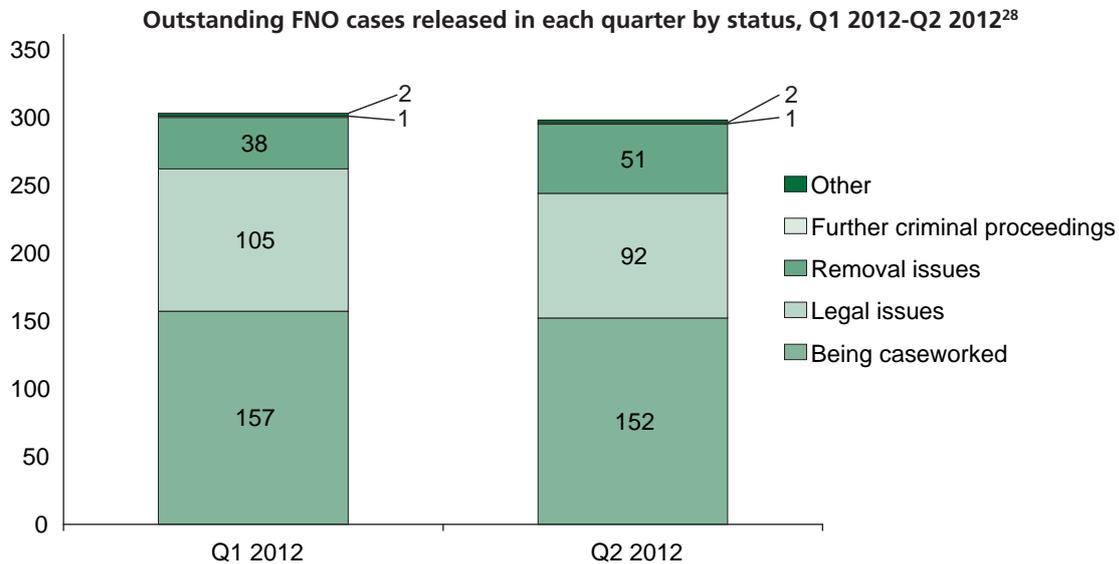
37. The average length of time it took to deport an ex-foreign national offender in the second quarter of this year was 108 days, in the previous quarter it was 106 days. Of the 318 ex-foreign national offenders released from prison between April and June, 94% of cases are still outstanding.²⁷



²⁶ Ev 14, para 5 [Rob Whiteman, Chief Executive, UK Border Agency]

²⁷ Ev 15, paras 9-10 [Rob Whiteman, Chief Executive, UK Border Agency]

38. A breakdown of the reasons why these cases are outstanding is shown in the chart below.



39. The majority of the outstanding cases are still being caseworked. This includes cases where: an application has been made to revoke a deportation order, there are children involved, further representations are being made, there are medical issues, travel documentation has yet to arrive, a deportation order has not yet been served, the individual is awaiting removal or a decision has been served.²⁹ The Agency points out that a number of the outstanding cases may be due to the individual being released late in the quarter and that some of them may only have been outstanding for a short period of time. **We accept the Agency’s caveat about prisoners released late in the quarter but that does not explain why such a large proportion of cases remain outstanding. We are concerned that continuing high numbers of outstanding cases will add to the backlog of ex-foreign national offenders whom the Agency is trying to deport. We welcome the changes made to the immigration rules by the Home Secretary to make it harder for ex-foreign national offenders to remain in the UK on the basis of their Article 8 rights to a private and family life. We were pleased to hear from Mr Whiteman that these changes will help the Agency to deport more ex-foreign national offenders. We expect to see this begin to take effect soon both on the proportion of ex-offenders the Agency are able to deport on release and in a decrease in the backlog of 3,954 ex-offenders the Agency is still working to deport.**

40. In our last report we recommended that the Agency consider offenders for deportation earlier in their sentence so they can begin to try and obtain the necessary documents sooner. The Agency has told us that it is precluded by law from considering foreign nationals for deportation too early in their sentence citing a decision from the

²⁸ Legal issues includes: Appeal against deportation, asylum claim, judicial review. Removal issues includes: Emergency Travel Document (ETD) compliant but country situation prohibits removal, ETD required, non compliant and unwilling to go voluntarily. Other includes: nationality not confirmed, unable to revoke asylum

²⁹ Ev 15, footnote 2 [Rob Whiteman, Chief Executive, UK Border Agency]

Immigration Appeals Tribunal in 1999.³⁰ **In our view it is unacceptable that the Agency is prevented from considering offenders for deportation earlier in their sentence especially when it can take a very long time to secure the necessary travel documents.**

Removals made under the Early Release Scheme and Facilitated Returns Scheme³¹

41. In the first quarter of this year 44% of removals took place in the Early Release Scheme period and 38% under the Facilitated Returns Scheme. There was no significant change in the second quarter of this year with 43% of removals taking place in the Early Release Scheme period and 39% under the Facilitated Returns Scheme.³²

Failed removals

42. The number of failed removal attempts in the second quarter of this year declined by 10 cases from the previous quarter to 200, these represent only 16% of the total number of removals carried out in each quarter. Removal attempts can include multiple attempts to deport individuals. The Agency said that last minute legal challenges and disruption by the individuals concerned were the main reasons why removals fail and that in most cases individuals involved in failed removal attempts were removed at a later date.³³

30 Ev 16, para 19 [Rob Whiteman, Chief Executive, UK Border Agency]

31 Individuals may be removed under the Facilitated Returns Scheme as well as during the Early Release Scheme Period, therefore some records will be included in both categories. This makes it difficult to comment on the overall proportion of offenders being removed early to serve their sentences abroad.

32 Ev 16, para 18 [Rob Whiteman, Chief Executive, UK Border Agency]

33 Ibid, para 15

3 Asylum and immigration backlog

Key figures

- **25,500** cases were in the live asylum cohort as of 30 June 2012.
- **74,000** asylum cases remain in the controlled archive as of 30 June 2012.
- **21,000** immigration cases remain in the controlled archive as of 30 June 2012.
- **3,500** immigration cases now form an immigration live cohort.
- **90,000** cases in both controlled archives will need to be assessed by the Agency between October and December 2012.
- **149** FTE staff are working in the Case Assurance and Audit unit which includes the controlled archive.
- **56%** of the asylum legacy cases concluded by the end of Q2 2012 have been given leave to remain.
- **59%** of the legacy immigration cases concluded by the end of Q2 2012 have been given leave to remain.

Background

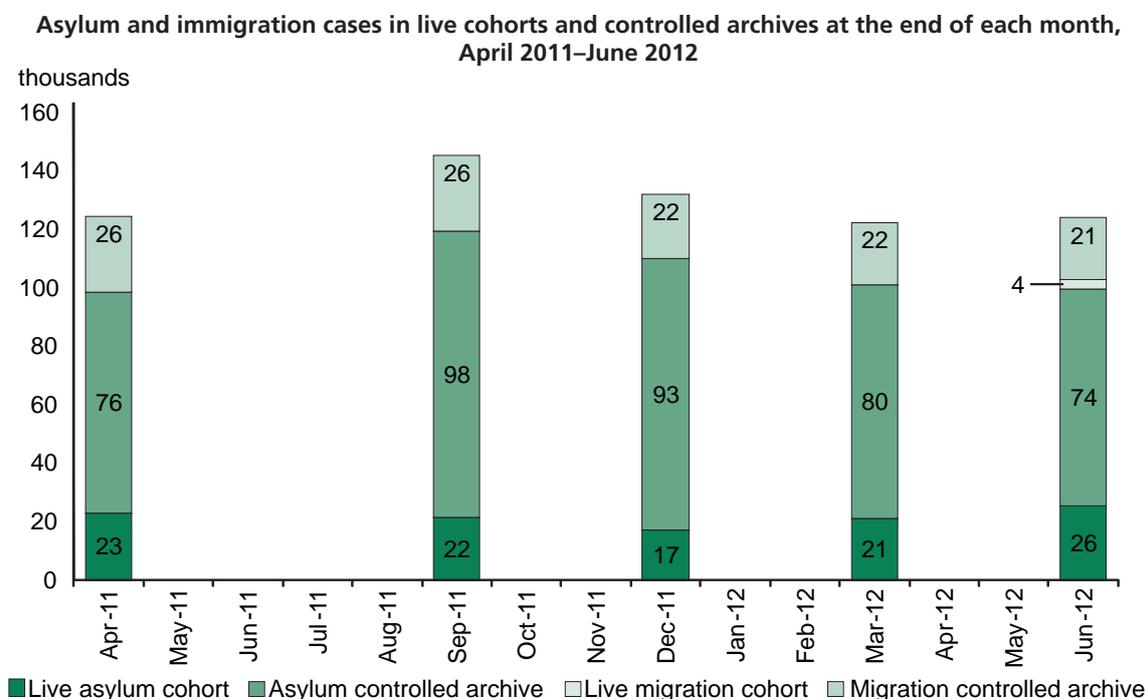
43. Cases in the asylum and immigration backlog sit in the Case Assurance and Audit unit. The backlog is divided into two types of cases:

- the controlled archive—which contains applications where the Agency has lost touch with the applicant. There is an immigration controlled archive and an asylum controlled archive
- the ‘live cohorts’—cases where the Agency has re-established contact with previously untraceable applicants and is working towards concluding their applications. Again there is a live cohort for both asylum and immigration cases.

It is confusing to the public when the Agency uses terms such as ‘controlled archive’ to describe what is nothing more than a backlog. The Agency should use plain English when it reports on its performance.

Size of the Case Assurance and Audit unit³⁴

44. The Agency continues to make progress in tackling both controlled archives but this remains slow.



Progress since March 2012

45. Since the first quarter of the year the asylum controlled archive has decreased by 6,000 cases and the immigration controlled archive has decreased by 500 cases. Accordingly, the asylum live cohort has risen. Progress is also being made in concluding asylum applications however as a further 1,400 cases have been concluded since March this year. The asylum live cohort therefore now stands at 25,500 cases. A new group, the immigration “live cohort”, has been set up with 3,500 immigration applications and awaiting conclusion. The Agency tells us that these cases have been reactivated from the migration controlled archive.³⁵ However, As the immigration controlled archive, which feeds into the live cohort, has gone down by only 500 cases we assume that new backlog cases must have come to the Agency’s attention and have been added to either the migration controlled archive or the migration live cohort.³⁶ **We are concerned that new backlog cases may still be coming to light so long after the Agency is supposed to have tackled the backlog. We expect an explanation from the Agency as to where these cases have come from.**

34 Figures for the size of the Case Assurance and Audit Unit are rounded to the nearest 500 by the Agency.

35 Ev 16, footnote 10 [Rob Whiteman, Chief Executive, UK Border Agency]

36 Ev 16, para 20 [Rob Whiteman, Chief Executive, UK Border Agency]

Closure of the controlled archive

46. The Agency has pledged to close the controlled archives by December this year, their projected rate of closure is shown in the table below.

Projections of the closure of the controlled archive³⁷

Date	27 Aug	3 Sept	1 Oct	29 Oct	26 Nov	24 Dec	31 Dec
Size of CA	92,000	91,000	90,000	63,000	28,000	6,000	0

47. According to the Agency's projections it will have to assess 27,000 cases in October, 35,000 in November and 22,000 in December. This seems like a heavy caseload for the 149 employees who are assigned to the Case Assurance and Audit unit especially as a number of them are likely to be working on cases in the live cohorts.³⁸ When he gave evidence to us Mr Whiteman said he was confident that the deadline could be met because a lot of work to try and trace applicants had already been done.³⁹ We accept that the work previously done on these cases will speed up the Agency's final assessment but we are not convinced that final checks can be done to an acceptable standard on so many cases within the time frame the Agency has set itself.

48. Mr Whiteman told us that there were 29,000 fewer cases in the Controlled Archive than when he took over at the Agency a year ago.⁴⁰ Even with the preliminary work done we do not see how the Agency can adequately check the remaining 90,000 cases within three months when only 29,000 cases have been removed in a year. The Agency estimate that about 80,000 cases will be closed at the end of this period and 16,000 cases will be reactivated making a total of 96,000 cases assessed. **The Agency gave the size of both controlled archives as 92,000 at the end of August so we are perplexed where the additional 4,000 cases will come from. The Agency must tell us where the extra 4,000 cases they are planning to assess in the closure of the controlled archives have come from and why they are not in the figures given to us for the size of the controlled archives.**

49. We are concerned that the closure of the controlled archives may result in a significant number of people being granted effective amnesty in the United Kingdom, irrespective of the merits of their case. The Agency has repeatedly argued that applicants were unlikely to still be in the country as they had not left a trace on any of the databases the Agency was checking applicants against.⁴¹ The Agency told us in previous correspondence that it was checking records against databases at the Department of

³⁷ Ev 18, para 32

³⁸ 149 FTE employees

³⁹ Q8

⁴⁰ Q1

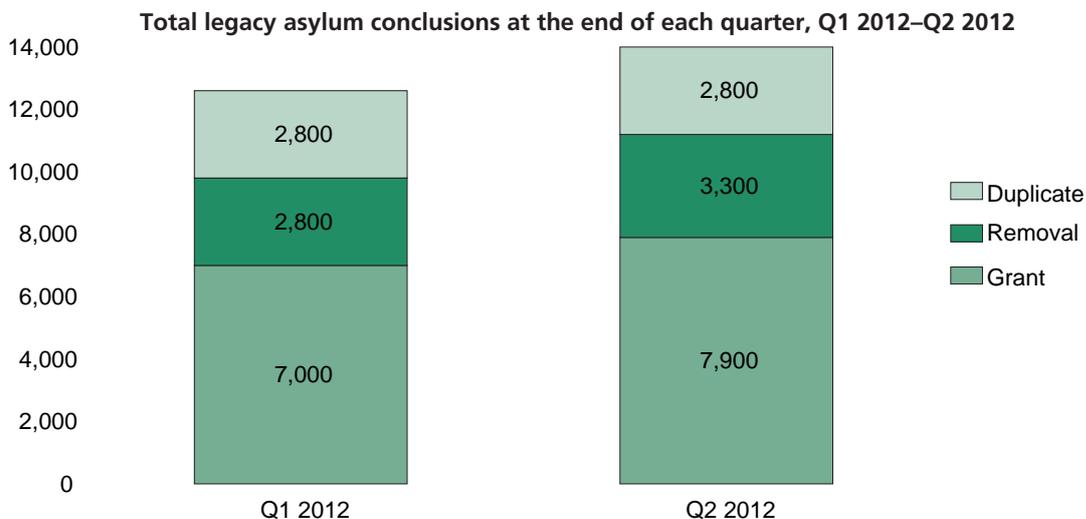
⁴¹ Q2 and Home Affairs Committee, Fifth Report of Session 2012-13, *The Work of the UK Border Agency December 2011-March 2012*, HC 71, Q193 [Rob Whiteman]

Work and Pensions, HM Revenue and Customs and information held by the credit checking agency Equifax.⁴² We accept that in a significant proportion of cases the applications are likely to be duplicates or the applicants are likely to have left the UK voluntarily. However we are not convinced that the Agency's limited checking regime will have picked up all of the applicants who remain in the country. For this reason we are concerned that the final checks made on these cases should be thorough and that they should not be rushed to meet an artificial deadline. We expect the Agency to provide us with a list of all the checks that will have been carried out on an application before it is closed.

50. We are concerned that preparations should be made for the event that a number of people whose applications are closed may subsequently be discovered to be in the country. We expect to hear from the Agency what the consequence of this would be both for the individual concerned and for the tax payer. We are particularly interested to find out whether any such individuals would be offered an amnesty or if they would have to start their asylum or immigration application again.

Resolution of asylum legacy cases

51. A breakdown of how the total number of asylum legacy cases had been concluded at the end the first and second quarter of this year can be seen in the graph below.



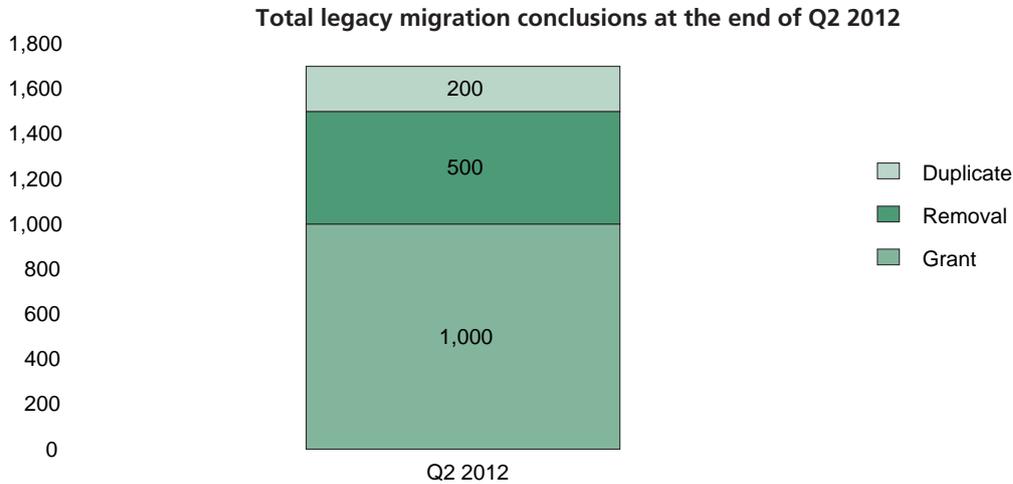
52. Of the total number of applications concluded 56% have so far been given leave to remain in the UK and 24% have been removed. The Agency is not able to give us quarterly figures as to how many grants relate to temporary leave to remain and how many relate to permanent leave. It is however able to give us figures for the period April 2011 to August 2012, which tell us that 36% of grants were permanent and 64% were temporary.⁴³

⁴² Home Affairs Committee, Fifth Report of Session 2012-13, *The Work of the UK Border Agency December 2011-March 2012*, HC 71, Ev 44 [Rob Whiteman, letter to Home Affairs Select Committee, 3 May 2012]

⁴³ Ev 17, para 27 [Rob Whiteman, Chief Executive, UK Border Agency]

Resolution of the immigration legacy cases

53. The majority of immigration legacy applications, 59%, have also been granted by the Agency whilst 29% have been refused. Approximately half for the grants made are for permanent residence in the UK.⁴⁴



⁴⁴ The Agency has told us that 53% of the migration applications granted by the CAAU were given permanent leave to remain in the UK and 47% were given temporary leave to remain over the period April 2011 to August 2012. We assume that grants were only made from June 2012 onwards as the Agency also told us that the Migration Live cohort was not in existence until then.

4 New asylum cases

Key figures

- 47% of applications received an initial decision within 30 days in 2011/12 a decrease of 12% on the previous year.
- 36%—increase since the end of June 2011 in the number of asylum cases pending an initial decision after 6 months.
- 64% of claims were concluded within one year in Q1 2012.
- 30% of claims remained outstanding after three years in 2011-12 a 7% improvement on the previous year.
- 13 people were granted asylum in the UK in Q1 and Q2 2012 having been previously refused and sent back to their country of origin.

Asylum applications

54. Asylum applications and initial decisions for the year up to June 2012 can be seen in the table below.

Asylum applications and initial decisions for Main Applicants and Dependents, Q3 2011 – Q2 2012-10-22⁴⁵

	2011 Q3	2011 Q4	2012 Q1	2012 Q2
Applications	6,591	6,868	6,192	6,224
Initial decisions	5,607	5,384	5,996	5,142
Grants	1,934	1,850	2,025	1,730
Refusals	3,673	3,534	3,978	3,412
Pending	16,457	16,907	15,378	15,749
Pending initial decision	7,941	8,857	8,399	9,188
Less than 6 months	4,686	5,625	4,790	4,756
More than 6 months	3,255	3,232	3,609	4,432
Pending further review	8,516	8,050	6,979	6,561

⁴⁵ UKBA, Asylum performance framework measures, 2011-12, UK Border Agency Website, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/further-key-data/>

**Initial decisions and applications pending an initial decision do not necessarily relate to applications made in the same year.*

55. There has been a small rise in the number of asylum applications made in the year up to June 2012 from the previous 12 month period.

56. The proportion of applicants granted asylum or a form of temporary protection (humanitarian protection or discretionary leave) at initial decision has increased to 35% (5,807) in the latest 12 months from 28% of applications made in the previous year. The Home Office say this is due to a large proportionate increase in the number of grants of asylum or temporary protection to nationals of Iran, an increase from 863 in the year ending June 2011 to 1,127 in the year ending June 2012.⁴⁶

57. There are currently 9,188 asylum cases awaiting an initial decision. The number of cases waiting for a decision for longer than six months has risen by 36% in the year up to June 2012.

Assessing the Agency's performance: initial decisions

58. The number of asylum applications granted an initial decision within 30 days can be seen in the table below.

Number of adult asylum decisions made within 30 days, 2010-12⁴⁷

	Adult Asylum Applications	Decisions made in 30 days	% decided in 30 days
2010-11*	16,128	9,556	59.3%
Male	11,240	6,661	59.3%
Female	4,879	2,890	59.2%
Unknown	9	5	55.6%
2011-12†	17,948	8,504	47.4%
Male	12,940	6,227	48.1%
Female	4,998	2,272	45.5%
Unknown	10	5	50.0%

**2010/11: Number of adult decisions made within 30 days of asylum application divided by total adult asylum*

†2011/12: Number of adult decisions made within 30 days of asylum application divided by total adult asylum

We can see that 47% of adult asylum applications made in the year 2011-12 received an initial decision in 30 days, this is a decrease from the previous year when nearly 60% of cases had an initial decision within 30 days. The fall in the number of cases decided within

46 Home Office Immigration Statistics, April-June 2012, asylum tables, as.01.q and as.02.q

47 UKBA, Asylum performance framework measures, 2011-12, UK Border Agency Website, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/further-key-data/>

the 30 day timeframe coincides with a rise in the number of applications made. Mr Whiteman told this Committee that the Agency had “seen the figures on 30 days go in the right direction”. We do not see how this can be the case when less initial decisions are made within 30 days than in the previous year.⁴⁸

Assessing the Agency’s performance: conclusions

Cases concluded within one year

59. The Agency has maintained its previous performance on the proportion of applications concluded within one year, completing 64% of all applications within one year in the first quarter of 2012.

% of asylum applications concluded within 1 year⁴⁹

All applicants	2011-12			2012-13
	Quarter 2	Quarter 3	Quarter 4	Quarter 1
Total cohort*	4,569	4,694	4,924	4,844
Unsubstantiated claims [†]	169	178	155	205
Conclusions [‡]	2,804	2,878	3,024	2,988
% concluded in one year	64%	64%	63%	64%

*Cohort: the number of applications received in a month, based on main applicants only and excluding dependants and any fresh applications. The data relate to applications which were one year old in the quarter.

[†]Unsubstantiated: When an individual claims asylum but then does not turn up for their interview to substantiate the grounds of their claim. Unsubstantiated claims are excluded from this calculation but other withdrawn claims are included.

[‡]Conclusion: An asylum application is deemed to be concluded when: an asylum seeker has either been granted asylum, humanitarian protection, discretionary leave; or, if refused, has left the UK (voluntarily or by enforced removal); or the individual withdraws their asylum claim

Cases concluded within 36 months

60. The Agency has improved on the proportion of cases it resolves within three years, despite a rise in the number of applications it has had to process. **We are pleased to see this progress but we would like to hear from the Agency what the main causes are for an asylum claim taking three years to complete. The Agency should provide us with a breakdown of the length of time it took to conclude the remaining 37% of cases still awaiting conclusion after 36 months in 2010-11 and how many remain outstanding as of the end of June 2012.**

48 Q88

49 UKBA, Asylum performance framework measures, 2011-12, UK Border Agency Website, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/further-key-data/>

Percentage of asylum cases concluded within 36 months⁵⁰

	2010-11*	2011-12†
Total cohort	24,308	27,787
Unsubstantiated claims	1,532	2,358
Conclusions within 36 months	14,268	17,677
% concluded within 36 months	63%	70%

*2010/11: Number of asylum conclusions within 36 mths of asylum application divided by the total cohort excluding unsubstantiated claims. Performance relates to cohorts that became 36 months old in 2010/11 - Apr 07 to Mar 08 cohorts

†2011/12: Number of asylum conclusions within 36 mths of asylum application divided by the total cohort excluding unsubstantiated claims

Granting of asylum to those previously refused

61. A small number of individuals have been granted refugee status or humanitarian protection in the UK this year having previously had their claims rejected. This amounts to six individuals in the first quarter of this year and seven in the second quarter.

62. The individuals concerned were from a number of countries: Albania, China, Eritrea, Iraq, Sri Lanka, Sudan, Syria, Uganda and Zimbabwe. The Agency says it cannot provide us with figures for how many individuals are nationals of each country because it could lead to a breach of the individuals data protection rights.⁵¹

63. We are concerned that people who may have strong cases for humanitarian protection are being returned to their country of origin where there may be a considerable risk that they will be tortured. The government has said that

Every asylum claim is carefully considered on its individual merits against the UK's obligations under the Refugee Convention and European Convention on Human Rights. Every applicant whose fundamental human rights would be contravened by returning to their home country is granted appropriate status in the UK.⁵²

64. Since 13 people have been granted asylum this year after they had been previously refused and returned home it appears that a number of errors are being made in judging the merits of asylum cases. Of particular concern is the return of asylum seekers to Sri Lanka where charities such as Human Rights Watch have documented a number of cases of the torture of failed asylum seekers who have been returned by the UK between 2005

50 Asylum Performance Framework Measures, UK Border Agency Website, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/further-key-data/>

51 Ev 29

52 HC Deb, 18 June 2012, col 667W

and 2011.⁵³ In its recent report on The FCO's Human Rights Work in 2011, the Foreign Affairs Committee raises concerns about widespread incidents of torture, enforced disappearances and deaths in detention that are reported to be taking place in Sri Lanka. It also described a reluctance on the part of the Foreign and Commonwealth Office to investigate vigorously allegations of torture made by failed Tamil asylum seekers on their return to Sri Lanka from the UK.⁵⁴

65. The UK has responsibility under the UN Convention Against Torture to undertake thorough assessments of whether or not individuals returned to another state are in danger of being subjected to torture. We join the Foreign Affairs Committee in welcoming the establishment of a new official dialogue between the Agency, the Foreign and Commonwealth Office, Freedom from Torture and Human Rights Watch to discuss how the risk to those removed from the UK is assessed. We urge the Agency to use this dialogue to promote a thorough evaluation of the risks to Tamil asylum seekers being returned to Sri Lanka.

66. We will continue to monitor the number of individuals granted asylum after having previously had an application refused with a particular focus on individuals who have been returned to Sri Lanka. We expect the Agency to tell us what review processes they have in place to examine why the applications in question were initially refused when individuals have subsequently been found to have had a valid claim.

53 Human rights Watch, Sri Lankan deportees allegedly tortured on return from the UK and other countries, August 2012, http://www.hrw.org/sites/default/files/related_material/UK%20Sri%20Lanka%20deportees%20tortured%20final.pdf

54 Foreign Affairs Committee, Third Report of Session 2012-2013, *The FCO's Human Rights Work in 2011*, HC 116, paras 53-58

5 Immigration

Key figures

- **16%** decline in the number of visas issued in the year ending June 2012.
- **30%** decrease in the number of student visas issued in the year ending June 2012 compared to the previous year.
- **41%** of the visas issued in the year ending June 2012 were student visas (excluding visitor visas).
- **£2.4bn**—Home Office estimate of the cost of reducing the number of student visas issued.
- **100%** of out-of-country Tier 1, 2, 4 and 5 visa applications were processed within 60 days in Q2 2012.
- **62%** increase in temporary immigration casework and **26%** increase in permanent immigration casework in Q1 2012.
- **9%** increase in permanent immigration casework and **3%** increase in temporary immigration casework in Q2 2012.
- **6 months**—time take to process a settlement visa application made by post in the UK.
- **12 weeks**—time taken to process a settlement visa application made from overseas.

Number of visas issued

67. There has been a decline 16% in the number of visas issued in the year up to the end of June 2012. The table opposite shows the decrease in the number of visas issued by category.

Visas issued by reason (excluding visitor and transit visas)⁵⁵

Year ending	Total issued	of which:				
		Work	Study (excl student visit visas)	Family	Dependent joining/ accompanying	Other
June 2008	569,850	182,249	213,449	58,161	46,727	32,304
June 2009	550,637	175,759	227,874	49,456	27,007	30,543
June 2010	616,654	154,617	320,184	51,406	15,407	33,181
June 2011	616,184	158,177	304,507	50,150	14,995	33,297
June 2012	519,730	147,385	213,836	45,290	12,791	31,431
Change: latest 12 months	-96,454	-10,792	-90,671	-4,860	-2,204	-1,866
% change	-16%	-7%	-30%	-10%	-15%	-6%

68. There has also been a significant decline in the number of settlement visas issued in the second quarter of this year compared to the previous three quarters.

Grants of settlement by category, Q3 2011– Q2 2012⁵⁶

	2011 Q3	2011 Q4	2012 Q1	2012 Q2	Total
Employment	18,934	17,389	18,727	13,924	68,974
Asylum	2,973	4,093	2,994	2,014	12,074
Family formation and reunion	13,415	11,900	12,766	9,320	47,401
Other	3,198	3,269	2,815	1,858	11,140
Total Grants	38,520	36,651	37,302	27,116	139,589
Total Refusals	1,752	1,576	1,185	1,025	5,538

69. Settlement visas relate to individuals applying for permanent leave to reside in the UK. There has been a 27% decrease in the total number of settlement visas granted between March and June of this year. Asylum and “other” categories have seen the largest decline by 33% and 34% respectively.⁵⁷

Progress against net migration targets

70. The latest quarterly figures show that the government is making progress in meeting its target to reduce immigration. Net migration in the year to December 2011 however still stood at 216,000 which is lower than the previous year, 252,000, but still a long way off from the government’s target of a reduction from “hundreds of thousands to tens of thousands”.⁵⁸ The Office for National Statistics reported that this change was not

56 Home Office Immigration Statistics, April-June 2012, settlement tables, se.02q

Notes:

1. Data from Q1 2010 are provisional figures.
 2. Data excludes dependants of EEA and Swiss nationals in confirmed relationships granted permanent residence.
 3. Includes reconsideration cases and the outcome of appeals.
 4. May include a small number of cases in which a decision is recorded twice, where an individual has dual nationality.
 5. Excludes EEA nationals.
 6. Grants of settlement in the PBS Tiers 1, 2 and 5 include persons who have completed combined qualifying periods of residence in these Tiers and other pre PBS categories.
 7. 'Asylum' includes grants under the Family ILR exercise.
 8. 'Family formation and reunion' are defined as spouses and dependants joining British citizens or persons previously granted settlement.
 9. 'Other grants on a discretionary basis' include people granted indefinite leave outside the immigration rules under measures aimed at clearing the backlog of outstanding unresolved cases from 2007.
 10. 'Other grants on a discretionary basis' include dependants.
 11. 'Refusals' relates to in-country refusals of settlement.
- 57 'Other' includes: people granted indefinite leave outside the immigration rules under measures aimed at clearing the backlog of outstanding unresolved cases from 2007 and dependants.

58 HC Deb, 23 November 2010, col 169

statistically significant. The fact that a change of such a large magnitude is not statistically significant highlights how inaccurate all immigration figures are, and hence the limits of validity of setting numeric targets.

Student visas

71. There has been a decrease of 30% on the previous year in the number of student visas issued in the year up to June 2012. However, study is still the main reason for immigration, accounting for 41% of the visas issued in the year up to the end of June 2012.

Student visas (excl visit visas) issued⁵⁹

Type	2010 Q3	2010 Q4	2011 Q1	2011 Q2	Total issued to June 11	2011 Q3	2011 Q4	2012 Q1	2012 Q2	Total issued to June 12
Study (excl student visitors)	155,110	47,534	57,110	44,753	304,507	135,252	24,290	21,796	32,498	213,836

72. The Minister of State for Universities and Science has recently emphasised that the Government does not want to limit the number of international students coming to the UK from outside the European Union and announced that students are to be disaggregated in the migration figures.⁶⁰ **We welcome the Minister's announcement that student numbers would be disaggregated in migration figures, but we cannot see how the Government will be able to reach its target of reducing net migration to tens of thousands without drastically reducing the number of student visas issued. This is a move that the Home Office itself estimated would cost in the region of £2.4bn. We therefore recommend that, in correspondence with the publication of disaggregated figures, the Government should specify that it will remove student migrants from its reduced net migration target.**

Student visa interviews

73. The Committee welcomes the introduction of interviews for a number of international student visa applicants. We hope however that the interviews will be designed in the best way possible to catch out fraudulent applicants. The Agency ran a pilot interview scheme between December 2011 and February 2012. Under this scheme, entry clearance officers assessed candidates for their credibility as a genuine student applicant after they had decided whether or not to grant a visa under existing powers. Officers then recorded the number of refusals they could have potentially made using the credibility test as compared to the refusals made under the existing rules. The pilot used four tests to establish credibility: the applicants' intention and ability to study their

59 Home Office, table be.04.q: Entry clearance visas issued by category

60 Rt Hon David Willetts MP, Speech to Universities UK Conference, Keele University, 13 September 2012

proposed course, their ability to maintain themselves and any dependents throughout and their intention to leave the UK on completion of their studies. The pilot showed that, had the Agency been able to use these criteria to decide whether to grant a visa, 32% of the applicants granted a visa under the existing rules would have been refused. Entry clearance officers identified doubts about an applicant's intention to study and doubts about their intention to leave the UK on completing their studies to be the two most important factors in assessing credibility. The former being a factor in 88% of all potential refusals and the latter being a factor in 85%.⁶¹

74. The Agency's guidance to entry clearance officers however appears to imply that testing an applicant's intention to remain in the UK upon completion of their studies may not be a factor in entry clearance interviews, or, if it is to be used, will not carry as much weight as other factors. The guidance states that:

For those considered to be genuine students, intention to leave the UK at the end of the course is not relevant as there are many bases on which an individually could lawfully remain in the UK.⁶²

In his oral evidence to the Committee however Mr Whiteman stated that intention to leave the UK upon completing their studies would be a test in the entry clearance interviews.

Mark Reckless: Can I just try to clarify something you said just now, not referring to the pilot but referring to the interviews you are now conducting; these 10,000 to 15,000. Can you confirm whether the applicant intends to leave the country at the end of their studies one of the criteria to assess credibility?

Rob Whiteman: Yes. If we believe that there would be visa abuse and that somebody would not leave at the end of their visa, as said, or some other abuse of the immigration system, then we can take that into consideration for the credibility test.⁶³

75. We welcome the introduction of interviews for student visa applicants, a measure this Committee has repeatedly called for. However the Agency should clarify whether and how it intends to use the “intention to leave the UK upon completion of studies” test. We recommend that the Agency also clarifies its position around the use of this test to its team of entry clearance officers. If face to face interviews are to be a success it is important that the interviews are as robust as possible and that officers have recourse to the most useful tests of credibility. We therefore recommend that an assessment of applicant's intentions upon completion of their course is made as part of entry clearance interviews. Applicants should either intend to return home or have credible plans for further study or skilled post-study work in the UK.

61 Tier 4 Student Credibility Pilot Analysis of Quantitative and Qualitative Data, Home Office, July 2012

62 UKBA Guidance: <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/ecg/sty/sty2/>

63 Q67

Students registering with the Overseas Visitor Records Office (OVRO)

76. International students from a number of specified countries are required to register with the police within seven days of their arrival in the UK. At the start of the academic year high volumes of students entering the country meant that London saw queues of hundreds of students waiting through the night to register with OVRO.

77. We understand from the Metropolitan Police that the information submitted by students when they register is kept on a standalone database at OVRO. Much of the data submitted is already available to the Agency but some additional information such as a student's address in the UK may not be. The Metropolitan Police Commissioner tells us that whilst the data is available to the police for policing purposes he is 'not aware of any case that has been fundamentally affected by the information in the database'.⁶⁴

78. A fee of £34 per student is charged but the funds do not nearly cover the cost to the Metropolitan Police. The cost to the Metropolitan Police was £133,861 in 2011-12 and is projected to be £96,266 in 2012-13.⁶⁵

79. We are pleased to hear that the police have taken short term measures to mitigate the queues at ORVO, by allowing individual universities to take a co-ordinating role. However due to the cost and the very limited value the police believe the information to have we do not think that maintaining the current process can be justified. We therefore welcome the commitment from the Immigration Minister to review both the value offered by registration and the list of countries whose citizens are required to do so at the beginning of 2013.

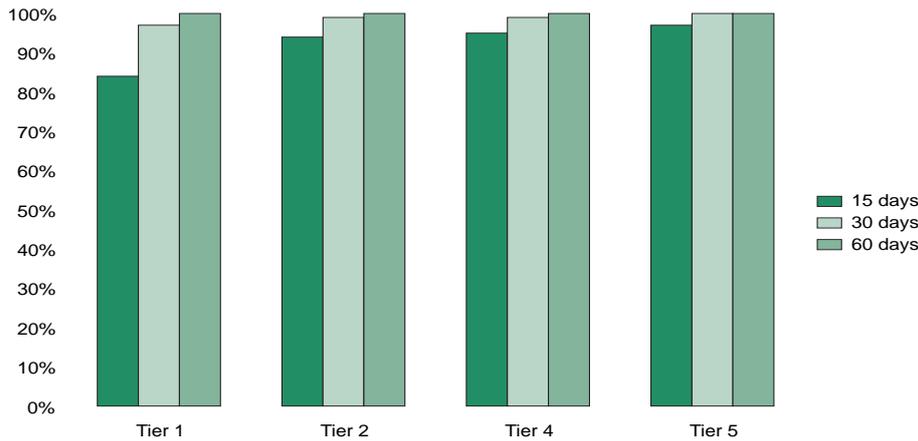
64 Commissioner of the Metropolitan Police, Correspondence with the Chair of the Home Affairs Select Committee, 10th October 2012, p1-2.

65 Commissioner of the Metropolitan Police, Correspondence with the Chair of the Home Affairs Select Committee, 10th October 2012, p2

Visa processing times

80. The Agency continues to process the majority of out-of country visa applications within its target service standards: 90% within 15 days, 98% within 30 days and 100% within 60 days. There is no significant variation from its performance in the first quarter of this year. **We welcome the Agency’s continued achievement of its targets in this visa processing.**

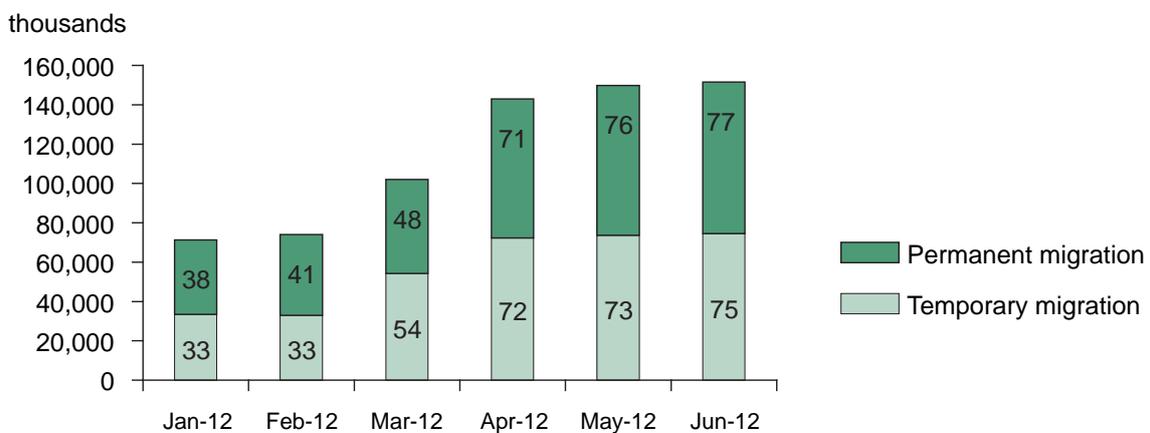
Visa applications processed within 15, 30 and 60 days, Q2 2012



Immigration casework and settlement applications

81. At the time of our last report we were concerned about the huge rise in immigration casework in progress between February and March 2012. There was still a significant increase in the number of cases between March and April of this year (62% for temporary migration casework and 26% for permanent). However we welcome the fact that a much more stable caseload appears to have been maintained throughout the second quarter of this year, with temporary migration casework rising by 3% over the quarter and permanent migration casework by 9%.⁶⁶

In-country immigration cases in progress at the end of each month January-June 2012



82. We were surprised to learn that the Agency's service standards for processing settlement applications made within the UK were 24 hours for an application made in person but six months for a postal application.⁶⁷ We acknowledge that the 24 hour service is a premium one, for which the user pays a fee of £1,377. However we cannot understand why it takes so much longer to process a postal application which still costs applicants a considerable fee of £990.⁶⁸ The discrepancy is even more surprising considering the target for processing settlement applications made from overseas is to complete 95% of them in 12 weeks.⁶⁹

83. In our view, taking six months to process an application that could be processed within 24 hours provides a very poor service to users. We recommend that the Agency alters its in-country service standard to processing 95% of in-country postal applications in 12 weeks, the same standard it works to for settlement applications made from overseas. We also expect to hear from the Agency whether or not the service standard for overseas applications will alter now that all applications from Commonwealth countries (with the exception of Hong Kong) also have to be made by post and not via the relevant British Consulate or High Commission.

67 <http://www.ukba.homeoffice.gov.uk/visas-immigration/settlement/waitingtimes/>

68 Q92

69 Percentage of migration applications decided within published standards (xls) (46KB opens in a new window), <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/percentage-of-migration/>

6 Appeals and tribunals

Key figures

- 12% increase in the percentage of deportation and ‘other’ appeals won by the Agency in Q1 2012.
- 6% increase in the percentage of family visit visa and ‘other’ appeals won by the Agency in Q1 2012.
- 66% of case bundles were delivered on time by the Agency in Q2 2012.
- 76% of tribunal hearings had an Agency representative present in Q1 2012 a decrease of 7% on the previous quarter.
- 2,600 fewer appeals were lodged in the First Tier Tribunal Asylum and Immigration Chamber in Q1 2012 than in Q4 2011.

Progress against Appeals Improvement Plan

84. The Agency is following a plan to improve its performance at Appeals. It has set itself four targets:

Target 1: 90% of bundles to be received at the Immigration and Asylum Court Tribunal by the date prescribed by HM Courts and Tribunal Service

85. The Agency prepared 66% of court bundles within its target timeframe in Q2 2012.⁷⁰ This is a small rise from previous annual figures but we hope to see faster improvement in our next report. We are very disappointed that the UKBA is falling so far behind its own target. It does not show similar sympathy to applicants who fail to submit information on time and in full. The Agency should inform us when it expects to see the benefits from its move to e-solutions for asylum bundles and its changes to processing bundles from overseas.

Target 2: UK Border Agency to represent at 90% of appeals

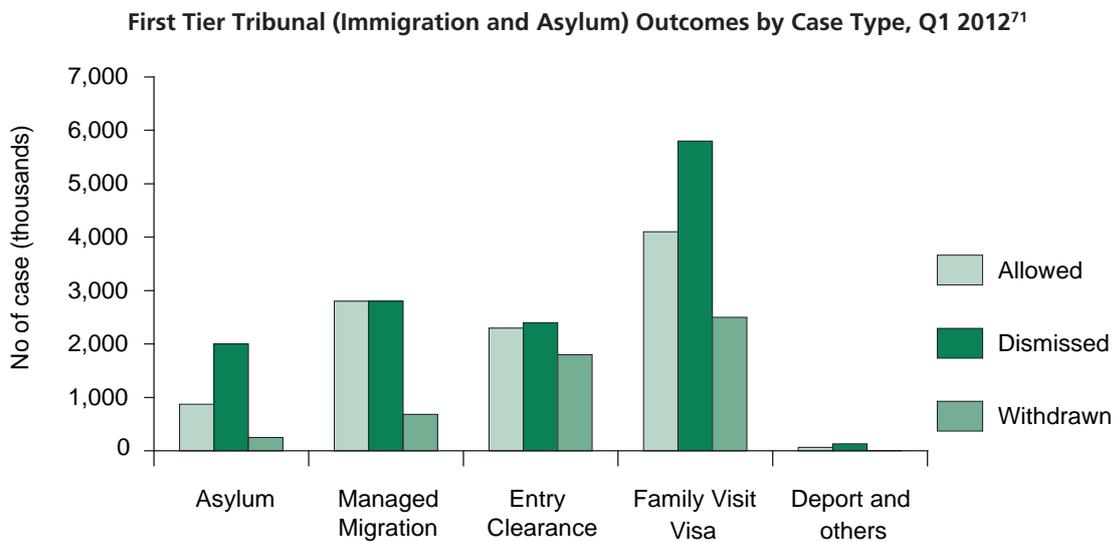
86. In the second quarter of this year the Agency was represented at 76% of all appeals, this is a decline from the previous quarter when it was represented at 83%. The Agency maintained representation at 100% of Upper Tier Tribunal and Deportation hearings as it did in the first quarter of this year.

87. **We are very disappointed to see that the Agency’s progress against this target is backsliding. We acknowledge that the Agency hopes to improve its representation rate**

in the second half of this year through the short term recruitment of junior barristers to represent the Agency in court and the recruiting of law graduates to this role from September. In addition the Agency plans to share staff between regional offices to meet hearing volumes. The Agency also hopes that the reduction in family visit appeals will decrease their caseload of appeal hearings. We look forward to seeing an improvement in representation rates in our next report.

Target 3: UK Border Agency to increase the number of appeals it wins

88. The Agency's performance in winning appeals brought against its decisions is shown for the first quarter of 2012 in the chart below, this is the most recent performance data available and relates to First Tier Tribunals only.



89. From this we can see that:

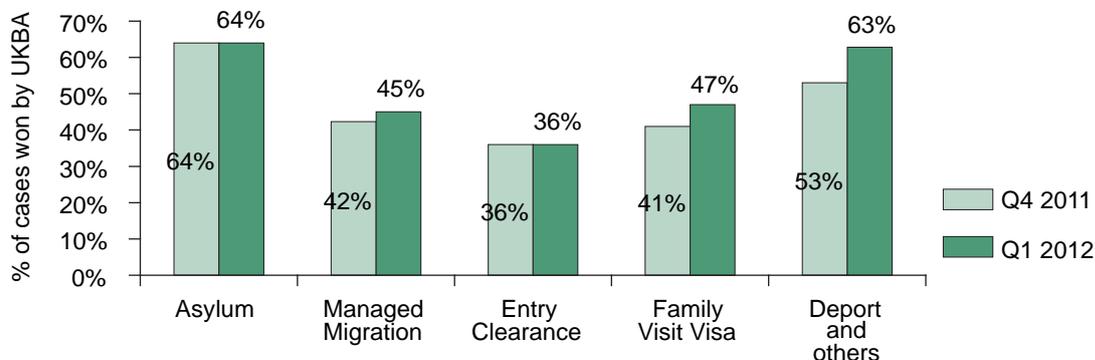
- The Agency is winning the majority of asylum appeals (64%) and losing 28%
- The Agency is breaking even on the number of managed migration appeals it wins and loses (45%)
- The Agency is losing and winning 36% of entry clearance cases
- The Agency is losing 33% of family visit appeals and winning 47%
- The Agency is losing 34% of deportation appeals and winning 63%

90. When compared to the Agency's performance in the previous quarter we can see that it is making a small improvement in the percentage of cases it is winning. The most significant improvement is in "Deportation and other" cases where there has been a 12% increase in the percentage of cases won. There has been no improvement in the Agency's win rate in asylum or entry clearance cases. **We recommend that the Agency reviews**

⁷¹ MoJ, Quarterly statistics for the Tribunals, January - March 2012, Tables

what it has done differently in the categories where its win rate has improved and tell us how it will be applying these successful changes in practice to other categories of appeal.

Comparison of the % of first Tier Tribunal cases won by the Agency in Q4 2011 and Q1 2012*⁷²



*Quarters refer to calendar year quarters. In the published tribunals statistics, quarters refer to financial year quarters. For example, Q1 2012 in this table relates to Q4 2011-12 in the table published by the MoJ.

Target 4: Reduce appeal volumes

91. The number of appeals lodged in the First Tier Tribunal (Immigration and Asylum Chamber) continues to decline. Throughout the first quarter of this year 25,500 appeals were lodged.⁷³ This was a decline from the 28,111 appeals lodged in the fourth quarter of 2011 (itself a decrease of 13% on the number of appeals lodged in the previous quarter). **We would welcome a decline in the volume of appeals if it was shown to be the result of improved decision making on the part of the Agency. However we are concerned that the Family Visit Visa appeal route is being closed off at a time when the majority of appeals made against the Agency’s decisions are upheld by the court. We reiterate below the recommendations we made in our previous report which should help to reduce the volume of appeals without closing off important routes of appeal.**

92. There are a number of simple changes the Agency could make to reduce the volume of appeals it handles. Firstly the refusal notices it issues should set out in clear bullet points why the application has been rejected. If, for example, it is due to missing documentation the applicant should be asked to provide this to the Agency as part of the same application. It should then be reviewed within an acceptable timescale. This could reduce both the time it would take for the applicant to get a decision and the resources spent on appeals. Secondly, we understand that the Agency does not specify all the documentation it requires to grant an application. For example it asks for “proof of funds” instead of bank statements. We recommend that the Agency list specific documents that they require in order to grant an application. This will ensure that the application process is as clear as possible and should reduce the amount of verification work and appeals work that has to be done at a later stage.

⁷² Source: MoJ, *Quarterly statistics for the Tribunals, January – March 2012, Tables* www.justice.gov.uk/downloads/statistics/courts-and-sentencing/q1-2012/court-stats-quarterly-q1-2012.pdf

93. The best way to communicate with applicants is through a clear website that works properly and sets out what is expected from the applicant at each stage of the process. The Agency's website is frequently inaccessible as vital pages do not download. The Agency needs to address the problems people are encountering with its website immediately.

7 Enforcement

Key figures

- 665 new sponsorship applications were made in Q2 2012.
- 159 pre registration visits were carried out in Q2 2012.
- 42% of post-licence visits to Tier 2 sponsors and 36% to Tier 4 sponsors were unannounced in Q2 2012.
- 10% increase in the proportion of unannounced post-licence visits to Tier 5 sponsors between Q1 2012 and Q2 2012.
- 162 sponsors had their licenses suspended in Q2 2012.
- 131 sponsors had their licenses revoked in Q2 2012.
- 12,107 potential non compliance notifications from Tier 4 sponsors were received by the Agency in Q2 2012.
- 2,938 potential non compliance notifications from Tier 2 and Tier 5 sponsors were received by the Agency in Q2 2012.
- 174,057 records were in the Migration Refusal Pool at the end of Q2 2012.
- 8% increase in the size of the Migration Refusal Pool between Q1 2012 and Q2 2012.

Sponsors

94. Applicants for visas under Tiers 2, 4 and 5 of the Points Based System need to have a sponsoring employer or institution. There is therefore a vital role for sponsors to play in ensuring that those who they sponsor to work or study in the UK do not abuse the immigration system.

Pre-registration inspections

95. The Agency carries out pre-registration visits on a proportion of the institutions who apply for sponsorship status. The Agency tells us that it is not possible to provide figures for the proportion of new applicants in a particular quarter who receive a pre-registration visit in the same quarter as many of the visits will occur later in the year.

Number of sponsorship applications made in each Tier in Q1 2012 and Q2 2012⁷⁴

	Q1 2012	Q2 2012
Tier 2	1,907	550
Tier 4*	52	34
Tier 5	512	81

* Not all Tier 4 sponsor applications are new some are for reinstatements

Number of new sponsors receiving a pre-registration visit in Q1 2012 and Q2 2012⁷⁵

	Q1 2012	Q2 2012
Tier 2	282	141
Tier 4*	28	8
Tier 5	19	10

* Not all Tier 4 sponsor applications are new some are for reinstatements

96. We accept that it may not be possible for the Agency to visit all new applicants in the same quarter their application is made. We are concerned however at the very low number of new applicants who have received pre-registration visits in both the first and second quarters of this year compared with the total number of new applicants. The Agency have told us that the average number of days it took to process a sponsorship application was 36 days in the first quarter of 2012 and 83 days in the second quarter.

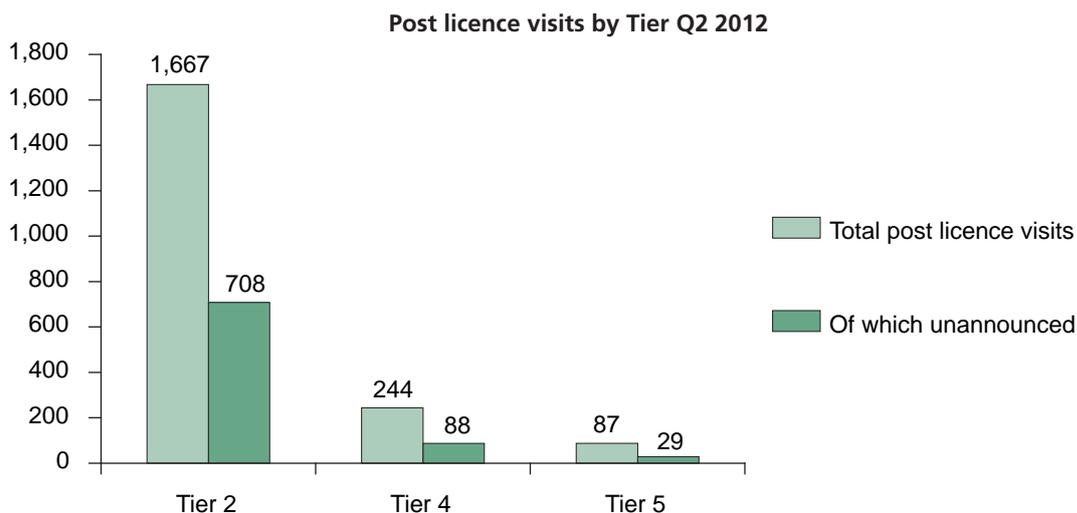
97. Given the turnaround time of applications in the first quarter of 2012 it is hard to see why so few pre-registration visits were carried out in either quarter one or two. We expect to hear from the Agency what proportion of applicants who applied for sponsorship in the first quarter of this year and in the second quarter have now received a pre-registration visit.

74 Ev 18, para 37 [Rob Whiteman, Chief Executive, UK Border Agency]

75 Ev 18, para 39 [Rob Whiteman, Chief Executive, UK Border Agency]

Post licence inspections

98. The Agency carries out announced and unannounced visits on licensed sponsors in Tier 2, 4 and 5 to check that they are complying with their duties as sponsors. The majority of visits continue to be announced and agreed with sponsors beforehand and there has been no significant increase in the proportion of unannounced visits carried out in Tier 2 (42%) or Tier 4 (36%) since the first quarter of this year. There has however been a 10% rise in the percentage of unannounced visits to Tier 5 sponsors in the second quarter of this year.⁷⁶



99. We are disappointed that the majority of post licence visits carried out by the Agency are still announced in advance. We reiterate the recommendation made in our last report that the majority of post licence visits should be unannounced. This should ensure that the enforcement system is both rigorous and gives the public confidence that the government is cracking down on illegal immigration.

Action against non-compliant sponsors

100. The table below shows the number of sponsors that had their licences revoked or suspended in the first two quarters of this year.⁷⁷

	Q1 2012		Q2 2012	
	Suspended	Revoked	Suspended	Revoked
Tier 2	125	101	73	55
Tier 4	32	21	81	68
Tier 5	13	8	8	8

76 Ev 19, para 41 [Rob Whiteman, Chief Executive, UK Border Agency]

77 Ev 21, para 59 [Rob Whiteman, Chief Executive, UK Border Agency]

101. The Agency however is unable to provide us with a figure for how many sponsors have had the number of Certificates of Sponsorship or the number of Certificates of Acceptance for Study that they can issue reduced. **This is a concern for this Committee as we remain sceptical that simply reducing the number of people an institution can sponsor is an effective way of combating abuse of the immigration system either by wilful misuse or negligence. We reiterate our previous recommendation that a sponsor found to be failing to comply with their duties should have their licence suspended in the first instance and revoked if remedial action is not taken. We are concerned that the Agency is not monitoring how many sponsors are subject to this weaker sanction and we expect to hear from the Agency how it will ensure that institutions subject to these penalties are monitored more closely than others.**

London Metropolitan University

102. On 29 August the Agency revoked the licence of the London Metropolitan University to sponsor international students from outside the EU. The Agency says this is due to the university's failure to address systemic issues in complying with its duties as a Tier 4 sponsor that were identified in an inspection in March. The main compliance issues in question were listed as being:

- Some 20 of 50 checked files found “no proper evidence” that the students’ mandatory English levels had been reached.
- Some 142 of 250 sampled records had attendance monitoring issues, which meant it was not possible for the university to know whether students were turning up for classes or not.⁷⁸
- A sample of 101 students whose visa applications were refused by the Agency were reviewed, 25% of them were found to be studying at London Metropolitan.⁷⁹

103. The Agency was not able to comment further on the case of London Metropolitan University at the time of our inquiry as its case was *sub judice*. We were concerned however to learn that the Agency was not aware of the number of London Metropolitan students who did not have leave to be in the UK. Mr Whiteman told us that it was the job of the sponsor, not the Agency to know how many international students were conforming to the rules.⁸⁰ He further told us that the Agency would not be taking steps to identify students who no longer had any right to remain in the UK until all the students at London Metropolitan have had the opportunity to look for a new course.⁸¹

104. We welcome a robust enforcement system for non compliant sponsors but as so many students are affected by the revocation of an institution’s licence more should be done to help institutions who are struggling to meet their requirements as a sponsor.

78 Immigration Minister, statement to media, 29 August 2012

79 HC Deb, 3 September 2012, col 26

80 Q83

81 Q84

We recommend that if an institution performs poorly in an inspection the Agency should send in a task force to help it improve its procedures.

105. In our view the Agency is not taking sufficient steps to identify genuine international students who have been affected by the revocation of London Metropolitans licence and “students” supposedly attending the university who are not complying with the terms of their visas or do not have permission to be here in the first place. It is important that prompt action is taken both to help genuine students and to identify and remove bogus students before they are able to melt away into the woodwork and add to the Agency’s extensive backlog.

106. We further recommend that the Government review its policies about the fate of genuine students affected by their university losing its licence. If students have leave to be in the UK and are meeting the conditions of their visas it seems unreasonable to expect them to uproot and change course and university in the middle of their degree especially when they have paid substantial fees for their qualification. We recommend that when an institution’s licence is revoked it is prevented from issuing any new Certificates of Acceptance for Study. However, the Agency should carry out checks on students who have received a Certificate of Study but have yet to begin their course, as well as students who are already studying at the University, to establish whether they have leave to be studying in the UK and are complying with their visa conditions. Genuine students should be allowed to start or complete their course at the university in question. “Students” that do not have leave to be here or do not meet the requirements for study should be prevented from entering the UK or removed if they are already here.

Action against individuals

Action taken as a result of sponsor notifications

107. One of the key duties of a sponsor is to notify the Agency when there is a change in the situation of any of the people they are sponsoring, through the Sponsor Management System. Notifications can be for a variety of reasons including notification that an individual is no longer complying with the conditions of their visa (a non-compliance notification). Once the Agency receives a non-compliance notification it is responsible for investigating the report and taking any appropriate action against the individual concerned.

108. In the first quarter of this year the Agency received 3,037 potential non-compliance notifications from sponsors in Tier 2 and 5 and 15,871 potential non compliance notifications from sponsors in Tier 4.⁸² In the second quarter of this year they received 2,983 potential non compliance notifications from sponsors in Tier 2 and 5 and 12,107 from sponsors in Tier 4.⁸³ However the Agency says that it is unable to reconcile

82 Ev 20, para 55 [Rob Whiteman, Chief Executive, UK Border Agency]

The Agency point out that sponsors self select from a number of categories when submitting notifications and that a proportion of notifications are miscategorised.

83 Ev 20, para 56 [Rob Whiteman, Chief Executive, UK Border Agency]

information between its systems to identify how many non compliance actions it follows up or to see how actions relate to notifications received in the corresponding quarter.⁸⁴

our systems do not allow us to reconcile the dates of actions taken with the date that the notification was received. Furthermore, as actions taken are recorded on different systems to notifications received, we are not able to provide figures for follow up actions taken (on the Case Information Database) as a result of notifications flagged as related to non-compliance (on the Sponsor Management System).⁸⁵

109. It is unacceptable for the Agency not to be able to keep track of its performance in this key area of compliance. The sponsorship system cannot be fit for purpose if reports made by sponsors about potential abuse are not dealt with swiftly. We recommend that the Agency immediately instigates a way of tracking follow up actions taken on potential non-compliance reports. Without this we cannot see how it can keep track of the number of people who may be breaking the terms of their visa and therefore remaining in the country illegally.

Migration Refusal Pool

110. The Migration Refusal Pool has been in existence from 2008 and is a count of records of refusal of leave where the Agency lacks evidence that the individual concerned has departed from the UK or obtained a separate grant of leave. Records enter the Migration Refusal Pool as applications are refused or leave expires and leave the pool as people leave the UK (either forcibly or voluntarily), are granted leave, or lodge an appeal or a new application. The pool has increased in size by 8% throughout the second quarter of this year. The Agency says this is due to high levels of student leave curtailment.

Size of Migration Refusal Pool Q1 2012 and Q2 2012⁸⁶

	Q1 2012	Q2 2012
Size of MRP at beginning of the quarter	158,763	<i>161,538</i>
No. of records that left	17,622	15,292
No. of records that entered	<i>20,397</i>	<i>27,811</i>
Size of MRP at end of the quarter	161,538	<i>174,057</i>

111. We are concerned that the pool was never reported to this, or our predecessor Committee or to the Independent Chief Inspector of Borders and Immigration in the four years since it had been in existence. It only came to light as the result of the Chief Inspectors inspection of the Hampshire and Isle of Wight Local Immigration Team. **In its response to this report we expect the Agency to tell us why it did not think it was**

84 Ev 21, para 58 [Rob Whiteman, Chief Executive, UK Border Agency]

85 Ev 29

86 Italicised figures have been calculated by the Committee on the basis of the data provided by UKBA.

Source: Ev 18, paras 34-35 [Rob Whiteman, Chief Executive, UK Border Agency]

necessary to report this to Parliament. We were also concerned to hear from Mr Whiteman that the Agency does not currently have data about the number of records that met the criteria for being in the migration refusal pool prior to 2008. We are encouraged to hear from Mr Whiteman that work is currently underway to construct this data and we expect to hear from the Agency when we will be able to see the results.

112. Initial pilot work done to follow up the records in the pool was carried out by Serco. The results of the pilot suggested that only 20% of the people Serco made contact with had actually left the UK either prior to being contacted by the Agency or within 6 months of being contacted by it.⁸⁷ If a similar proportion were applied to the whole pool over 100,000 individuals could still be in the UK when they no longer have leave to remain.

113. Whilst we acknowledge that the pilot sample is not representative of the whole pool its findings are still deeply concerning. We understand from the Agency that it is signing a contract with Capita to follow up the records in the pool. Given the small proportion of individuals the pilot identified as having left the UK we welcome this development and hope that Capita's progress will be swift. We understand that Capita's reward will be determined by the extent to which it achieves the outcomes the Agency wants such as the number of individuals whom Capita makes contact with who go on to leave the UK as a result. However when we took oral evidence from Mr Whiteman, he seemed uncertain as to how a good performance in this regard would be defined. The Agency have since written to us to say that the negotiations over performance benchmarks are ongoing and that final specific benchmarks will not be disclosed due to reasons of commercial confidentiality. It is unacceptable that a contract with a potential value of £30m and with a payment structure gradated by achievement of outcomes is obscured from proper scrutiny by Parliament. The Agency must provide us with further detail as to the benchmarks Capita will need to achieve if it is to receive the full value of the contract, £30m.

8 Intelligence

Key figures

- 20,812 allegations about possible illegal immigrants or other immigration violations were received from the public in Q2 2012.
- 11,537 allegations contained sufficient information to justify further investigation.
- 795 enforcement actions were taken in Q2 2012.
- 606 allegations based arrests were made in Q2 2012 .

Progress on the national allegations database

114. The launch of the National Allegations Database, which was due in July this year, has been delayed due to final testing and the focusing of resources on the Olympic and Paralympic Games. We understand from the Agency that its new launch date was 30 September.⁸⁸ The Agency tells us the new database will enable the systematic counting of all the allegations received from the public and the tracking of individual allegations through to outcome.

115. **We are disappointed that the launch of the database was delayed. At the time of writing we were told that it would be launched on the 30 September but we have received no confirmation as to whether this deadline has been met.**

116. **We are concerned that the Agency is not able to tell us how many enforcement actions resulted from the 11,537 allegations that were made in the second quarter of 2012 as it is not able to link specific allegations to specific enforcement activity. It is able to tell us that it carried out 795 enforcement actions and 606 arrests in the second quarter of 2012 as a result of previous allegations.⁸⁹ Given the number of allegations made so far this year we are concerned that this appears to be a very low number. We are encouraged to hear that the new database will enable the Agency to track the results of specific allegations. As we have said in previous reports it is important that members of the public who make genuine reports about suspected abuse of the immigration system know that their reports are acted upon and what the result of their allegation was.⁹⁰**

88 Home Affairs Committee, Oral evidence, *Immigration policy*, HC 493-i, Q82 [Damian Green MP]

89 The number of enforcement visits carried out in receipt of an allegation-these are not necessarily linked to allegations received in the same quarter. The Agency is currently unable to link specific allegations to specific enforcement activity. This will be addressed with the introduction of the National Allegations Database.

Arrest information relates to the number of instances an arrest has been made and is not a count of the number of individuals arrested.

90 Ev 24, para 80 [Rob Whiteman, Chief Executive, UK Border Agency]

9 Departmental information and cooperation with Parliament

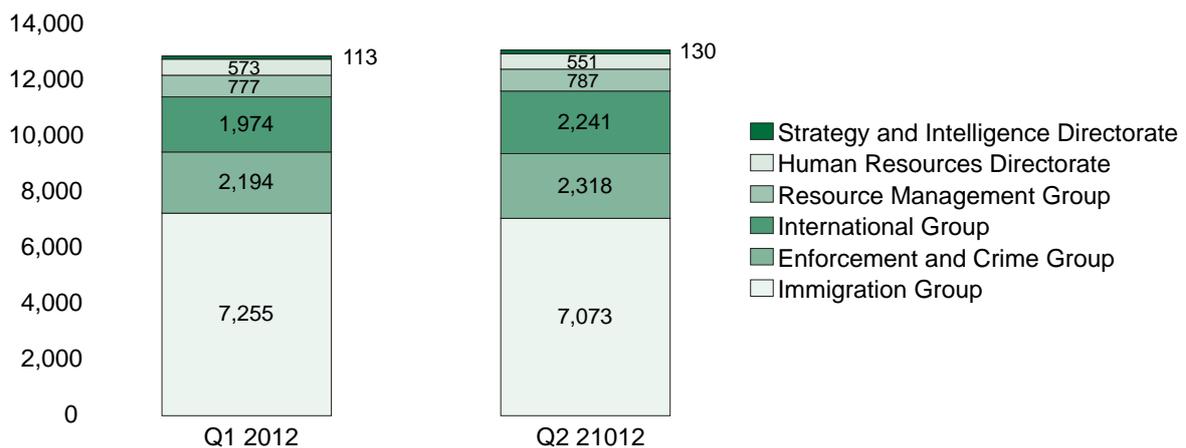
Key figures

- 13,100 — total number of staff currently employed by the Agency as of June 2012.
- 214 new staff joined the Agency between Q1 and Q2 2012.
- 5,200 - the Agency’s target reduction in headcount by 2015 (not adjusted for the separation of the Border Force)
- 54% of all staff worked in the Immigration Group at the end of June 2012.
- 85% of MPs’ emails were answered within 20 working days in Q2 2012.

Number of FTE Agency staff

117. The number of full time equivalent staff employed by the Agency rose by 214 in the second quarter of this year to 13,100.

UKBA full-time equivalent staff by group at the end of each quarter, Q1 2012 - Q2 2012



118. Internal transfers between groups must also have taken place as there are sizeable differences in staff numbers in three groups:

- 267 FTE staff joined the International group
- 124 FTE staff joined the Enforcement and Crime group
- 182 staff left the Immigration group

119. This is in-keeping with Mr Whiteman's stated aim to redirect approximately 1,000 staff into enforcement.⁹¹ **Given the problems experienced by the Agency in tracking and carrying out its enforcement work we welcome the planned increase in resources in this area.**

Senior staff bonuses

120. The Agency awarded bonuses to five of its senior staff in 2011–12.⁹² When he gave evidence to us Rob Whiteman justified the giving of bonuses to high performing staff for the following reasons:

Many staff in UKBA are performing well. Many of my managers are performing well. I completely agree that we need more people performing better, but it would be counterproductive to say to an organisation, "Until you reach really good performance in all areas the civil service scheme, which gives 26% of top performers a bonus, will not be applied to the agency". I think I would not attract high performers. It is an agency that needs to attract good performers and give bonuses where they are fairly given.⁹³

121. We reiterate our previous recommendations that no senior staff should receive a bonus until the Agency has improved on its performance in key areas of its work. If the performance of senior staff is strong then it should soon be reflected in an improved performance.

91 Q36

92 UK Border Agency, Annual Report and Public Accounts, 2011-12, pp 31-33

93 Q97

Responding to MPs' queries

122. The Agency have two service standard targets for responding to MPs' queries:

- to complete 90% of further action referrals within ten working days⁹⁴
- to answer 95% of emails within 20 working days

In the second quarter of this year the Agency improved its performance in both areas achieving an 85% success rate in each. **We welcome the improvement in responding to MPs' queries from the previous quarter and we expect to see further improvement towards both targets made in the next quarter.**

Response to MPs' correspondence in Q1 2012 and Q2 2012

	Q1 2012	Q2 2012
Further action referrals	79%	85%
MPs' emails	89%	85%

⁹⁴ Further action referrals are defined as phone calls from MPs to the UKBA MP enquiry line that cannot be resolved and are referred to the relevant MP account manager for action as appropriate. The Agency's target is to resolve 90% of these cases within ten working days. Source: email correspondence with UKBA 13 September 2012

10 Backlog of outstanding cases

123. A summary of the total number of cases where the agency has yet to:

- Trace the individual
- Make a decision about their case
- Remove them from the UK
- Establish whether or not they have left the UK

Can be seen in the table below:

Category	Number of cases	Increase or decrease since Q1 2012
Live asylum cases	25,500	+ 4,500
Asylum controlled archive	74,000	-6,000
Live immigration cases	3,500	+3,500
Immigration controlled archive	21,000	-500
Migration Refusal Pool	174,057	+24,057
Ex-Foreign National Offenders living in the community	3,954	+54
Ex-Foreign National Offenders untraced	53	-7
Total	302,064	+25,604

124. **The number of cases or records that the Agency has yet to investigate, trace or conclude has now reached over the 300,000 mark. This is an increase of 9% since our last report. We are deeply concerned that, despite all the work the Agency is putting into resolving these cases, the backlog keeps on growing. We hope that we will begin to see a reversal in this trend when we undertake our next report.**

Conclusions and recommendations

Legal cases brought against the agency

1. We are concerned at the findings the court has made about the treatment of the individuals in question. All of those held pending deportation, including ex-foreign national offenders, should be held in appropriate accommodation. If medical practitioners have advised that detainees should be accommodated in hospital or other institutions that care for the mentally ill then that guidance should be acted upon by the Agency and not ignored (Paragraph 13)
2. We recommend that Mr Whiteman write a letter of apology to the claimants concerned, setting out the steps the Agency has taken and is taking to ensure that incidents such as these ones will not reoccur. (Paragraph 14)
3. We are concerned that the cases outlined above may not be isolated incidents but may reflect more systemic failures in relation to the treatment of mentally ill immigration detainees. (Paragraph 15)
4. The Agency must inform us how many individuals the 109 Rule 35 reports relate to and why medical advice was overruled on so many occasions (Paragraph 20)
5. We recommend the Agency immediately carry out an independent review of the application of Rule 35 at Harmondsworth and at its other immigration removal centres across the country. (Paragraph 21)
6. We welcomed this commitment by the Agency and we are disappointed that the Home Office is now reconsidering its commitment (Paragraph 22)

Child Detention

7. We welcome the large decrease in the number of children held in immigration detention since March 2010. However we are concerned that the numbers held are starting to increase again, albeit on a much smaller scale. There are three main situations in which children are placed in immigration detention: at the border on trying to enter the country with no valid visa, while awaiting departure; if the Agency disputes that they are in fact a minor (age-related disputes); and immediately prior to removal from the UK after previous attempts have failed. We recommend that the Agency publish a breakdown of the number of children entering immigration detention by the reason for their detention. This will enable policy-makers to see the extent of the issue at different points in the immigration process and to investigate how to further reduce numbers (Paragraph 24)
8. We welcome the considerable achievements of staff at Cedars in providing a supportive, child centred environment for families going through the distressing process of removal, and recommend that this best practice is shared at any other centres where children are held. We share the concerns of HM Inspector of Prisons however about the use of force on children and pregnant women. We reiterate the conclusion of the inspection report that force should never be used to effect the

removal of pregnant women or children and only ever used in relation to either to prevent harm. We recommend that all staff should receive immediate training on how to manage children and vulnerable adults who become violent. Current training on the use of force against detainees should be reviewed to make sure staff understand clearly what restraints are permitted, the situations in which they are permitted and against whom they can be used. (Paragraph 28)

Progress in dealing with historical problems

9. We are disappointed that the Agency has not made any progress in removing these individuals from the UK. The Agency should inform us what its strategy is for overcoming these obstacles. We would find it helpful if the Agency could provide us with anonymised case studies that demonstrate the range of issues they are dealing with in attempting to deport these individuals. (Paragraph 35)

Ex-foreign national offenders released over the period

10. We accept the Agency's caveat about prisoners released late in the quarter but that does not explain why such a large proportion of cases remain outstanding. We are concerned that continuing high numbers of outstanding cases will add to the backlog of ex-foreign national offenders whom the Agency is trying to deport. We welcome the changes made to the immigration rules by the Home Secretary to make it harder for ex-foreign national offenders to remain in the UK on the basis of their Article 8 rights to a private and family life. We were pleased to hear from Mr Whiteman that these changes will help the Agency to deport more ex-foreign national offenders. We expect to see this begin to take effect soon both on the proportion of ex-offenders the Agency are able to deport on release and in a decrease in the backlog of 3,954 ex-offenders the Agency is still working to deport. (Paragraph 39)
11. In our view it is unacceptable that the Agency is prevented from considering offenders for deportation earlier in their sentence especially when it can take a very long time to secure the necessary travel documents (Paragraph 40)

Size of the Case Assurance and Audit unit

12. We are concerned that new backlog cases may still be coming to light so long after the Agency is supposed to have tackled the backlog. We expect an explanation from the Agency as to where these cases have come from. (Paragraph 45)
13. The Agency gave the size of both controlled archives as 92,000 at the end of August so we are perplexed where the additional 4,000 cases will come from. The Agency must tell us where the extra 4,000 cases they are planning to assess in the closure of the controlled archives have come from and why they are not in the figures given to us for the size of the controlled archives. (Paragraph 48)
14. We accept that in a significant proportion of cases the applications are likely to be duplicates or the applicants are likely to have left the UK voluntarily. However we are not convinced that the Agency's limited checking regime will have picked up all of the applicants who remain in the country. For this reason we are concerned that the final checks made on these cases should be thorough and that they should not be

rushed to meet an artificial deadline. We expect the Agency to provide us with a list of all the checks that will have been carried out on an application before it is closed. (Paragraph 49)

15. We are concerned that preparations should be made for the event that a number of people whose applications are closed may subsequently be discovered to be in the country. We expect to hear from the Agency what the consequence of this would be both for the individual concerned and for the tax payer. We are particularly interested to find out whether any such individuals would be offered an amnesty or if they would have to start their asylum or immigration application again. (Paragraph 50)

Assessing the Agency's performance: initial decisions

16. Mr Whiteman told this Committee that the Agency had “seen the figures on 30 days go in the right direction”. We do not see how this can be the case when less initial decisions are made within 30 days than in the previous year. (Paragraph 58)

Assessing the Agency's performance: conclusions

17. We are pleased to see this progress but we would like to hear from the Agency what the main causes are for an asylum claim taking three years to complete. The Agency should provide us with a breakdown of the length of time it took to conclude the remaining 37% of cases still awaiting conclusion after 36 months in 2010-11 and how many remain outstanding as of the end of June 2012. (Paragraph 60)

Granting of asylum to those previously refused

18. The UK has responsibility under the UN Convention Against Torture to undertake thorough assessments of whether or not individuals returned to another state are in danger of being subjected to torture. We join the Foreign Affairs Committee in welcoming the establishment of a new official dialogue between the Agency, the Foreign and Commonwealth Office, Freedom from Torture and Human Rights Watch to discuss how the risk to those removed from the UK is assessed. We urge the Agency to use this dialogue to promote a thorough evaluation of the risks to Tamil asylum seekers being returned to Sri Lanka. (Paragraph 65)
19. We will continue to monitor the number of individuals granted asylum after having previously had an application refused with a particular focus on individuals who have been returned to Sri Lanka. We expect the Agency to tell us what review processes they have in place to examine why the applications in question were initially refused when individuals have subsequently been found to have had a valid claim. (Paragraph 66)

Student visas

20. We welcome the Minister's announcement that student numbers would be disaggregated in migration figures, but we cannot see how the Government will be able to reach its target of reducing net migration to tens of thousands without

drastically reducing the number of student visas issued. This is a move that the Home Office itself estimated would cost in the region of £2.4bn. We therefore recommend that, in correspondence with the publication of disaggregated figures, the Government should specify that it will remove student migrants from its reduced net migration target. (Paragraph 72)

21. We welcome the introduction of interviews for student visa applicants, a measure this Committee has repeatedly called for. However the Agency should clarify whether and how it intends to use the “intention to leave the UK upon completion of studies” test. We recommend that the Agency also clarifies its position around the use of this test to its team of entry clearance officers. If face to face interviews are to be a success it is important that the interviews are as robust as possible and that officers have recourse to the most useful tests of credibility. We therefore recommend that an assessment of applicant’s intentions upon completion of their course is made as part of entry clearance interviews. Applicants should either intend to return home or have credible plans for further study or skilled post-study work in the UK. (Paragraph 75)

Students registering with the overseas Visitor Records Office (OVRO)

22. We are pleased to hear that the police have taken short term measures to mitigate the queues at ORVO, by allowing individual universities to take a co-ordinating role. However due to the cost and the very limited value the police believe the information to have we do not think that maintaining the current process can be justified. We therefore welcome the commitment from the Immigration Minister to review both the value offered by registration and the list of countries whose citizens are required to do so at the beginning of 2013. (Paragraph 79)

Visa processing times

23. We welcome the Agency’s continued achievement of its targets in this visa processing. (Paragraph 80)
24. In our view, taking six months to process an application that could be processed within 24 hours provides a very poor service to users. We recommend that the Agency alters its in-country service standard to processing 95% of in-country postal applications in 12 weeks, the same standard it works to for settlement applications made from overseas. We also expect to hear from the Agency whether or not the service standard for overseas applications will alter now that all applications from Commonwealth countries (with the exception of Hong Kong) also have to be made by post and not via the relevant British Consulate or High Commission (Paragraph 83)

Progress against Appeals Improvement Plan

25. We are very disappointed to see that the Agency’s progress against this target is backsliding. We acknowledge that the Agency hopes to improve its representation rate in the second half of this year through the short term recruitment of junior barristers to represent the Agency in court and the recruiting of law graduates to this

role from September. In addition the Agency plans to share staff between regional offices to meet hearing volumes. The Agency also hopes that the reduction in family visit appeals will decrease their caseload of appeal hearings. We look forward to seeing an improvement in representation rates in our next report. (Paragraph 87)

26. We recommend that the Agency reviews what it has done differently in the categories where its win rate has improved and tell us how it will be applying these successful changes in practice to other categories of appeal. (Paragraph 90)
27. We would welcome a decline in the volume of appeals if it was shown to be the result of improved decision making on the part of the Agency. However we are concerned that the Family Visit Visa appeal route is being closed off at a time when the majority of appeals made against the Agency's decisions are upheld by the court. We reiterate below the recommendations we made in our previous report which should help to reduce the volume of appeals without closing off important routes of appeal. (Paragraph 91)
28. There are a number of simple changes the Agency could make to reduce the volume of appeals it handles. Firstly the refusal notices it issues should set out in clear bullet points why the application has been rejected. If, for example, it is due to missing documentation the applicant should be asked to provide this to the Agency as part of the same application. It should then be reviewed within an acceptable timescale. This could reduce both the time it would take for the applicant to get a decision and the resources spent on appeals. Secondly, we understand that the Agency does not specify all the documentation it requires to grant an application. For example it asks for "proof of funds" instead of bank statements. We recommend that the Agency list specific documents that they require in order to grant an application. This will ensure that the application process is as clear as possible and should reduce the amount of verification work and appeals work that has to be done at a later stage. (Paragraph 92)
29. The best way to communicate with applicants is through a clear website that works properly and sets out what is expected from the applicant at each stage of the process. The Agency's website is frequently inaccessible as vital pages do not download. The Agency needs to address the problems people are encountering with its website immediately. (Paragraph 93)

sponsors

30. Given the turnaround time of applications in the first quarter of 2012 it is hard to see why so few pre-registration visits were carried out in either quarter one or two. We expect to hear from the Agency what proportion of applicants who applied for sponsorship in the first quarter of this year and in the second quarter have now received a pre-registration visit. (Paragraph 97)
31. We are disappointed that the majority of post licence visits carried out by the Agency are still announced in advance. We reiterate the recommendation made in our last report that the majority of post licence visits should be unannounced. This should ensure that the enforcement system is both rigorous and gives the public confidence that the government is cracking down on illegal immigration. (Paragraph 99)

32. This is a concern for this Committee as we remain sceptical that simply reducing the number of people an institution can sponsor is an effective way of combating abuse of the immigration system either by wilful misuse or negligence. We reiterate our previous recommendation that a sponsor found to be failing to comply with their duties should have their licence suspended in the first instance and revoked if remedial action is not taken. We are concerned that the Agency is not monitoring how many sponsors are subject to this weaker sanction and we expect to hear from the Agency how it will ensure that institutions subject to these penalties are monitored more closely than others. (Paragraph 101)
33. We welcome a robust enforcement system for non compliant sponsors but as so many students are affected by the revocation of an institution's licence more should be done to help institutions who are struggling to meet their requirements as a sponsor. We recommend that if an institution performs poorly in an inspection the Agency should send in a task force to help it improve its procedures. (Paragraph 104)
34. In our view the Agency is not taking sufficient steps to identify genuine international students who have been affected by the revocation of London Metropolitans licence and "students" supposedly attending the university who are not complying with the terms of their visas or do not have permission to be here in the first place. It is important that prompt action is taken both to help genuine students and to identify and remove bogus students before they are able to melt away into the woodwork and add to the Agency's extensive backlog. (Paragraph 105)
35. We further recommend that the Government review its policies about the fate of genuine students affected by their university losing its licence. If students have leave to be in the UK and are meeting the conditions of their visas it seems unreasonable to expect them to uproot and change course and university in the middle of their degree especially when they have paid substantial fees for their qualification. We recommend that when an institution's licence is revoked it is prevented from issuing any new Certificates of Acceptance for Study. However, the Agency should carry out checks on students who have received a Certificate of Study but have yet to begin their course, as well as students who are already studying at the University, to establish whether they have leave to be studying in the UK and are complying with their visa conditions. Genuine students should be allowed to start or complete their course at the university in question. "Students" that do not have leave to be here or do not meet the requirements for study should be prevented from entering the UK or removed if they are already here. (Paragraph 106)

Action against individuals

36. It is unacceptable for the Agency not to be able to keep track of its performance in this key area of compliance. The sponsorship system cannot be fit for purpose if reports made by sponsors about potential abuse are not dealt with swiftly. We recommend that the Agency immediately instigates a way of tracking follow up actions taken on potential non-compliance reports. Without this we cannot see how it can keep track of the number of people who may be breaking the terms of their visa and therefore remaining in the country illegally. (Paragraph 109)

Migration Refusal Pool

37. In its response to this report we expect the Agency to tell us why it did not think it was necessary to report this to Parliament. We were also concerned to hear from Mr Whiteman that the Agency does not currently have data about the number of records that met the criteria for being in the migration refusal pool prior to 2008. We are encouraged to hear from Mr Whiteman that work is currently underway to construct this data and we expect to hear from the Agency when we will be able to see the results. (Paragraph 111)
38. Whilst we acknowledge that the pilot sample is not representative of the whole pool its findings are still deeply concerning. We understand from the Agency that it is signing a contract with Capita to follow up the records in the pool. Given the small proportion of individuals the pilot identified as having left the UK we welcome this development and hope that Capita's progress will be swift. We understand that Capita's reward will be determined by the extent to which it achieves the outcomes the Agency wants such as the number of individuals whom Capita makes contact with who go on to leave the UK as a result. However when we took oral evidence from Mr Whiteman, he seemed uncertain as to how a good performance in this regard would be defined. The Agency have since written to us to say that the negotiations over performance benchmarks are ongoing and that final specific benchmarks will not be disclosed due to reasons of commercial confidentiality. It is unacceptable that a contract with a potential value of £30m and with a payment structure graduated by achievement of outcomes is obscured from proper scrutiny by Parliament. The Agency must provide us with further detail as to the benchmarks Capita will need to achieve if it is to receive the full value of the contract, £30m (Paragraph 113)

Progress on the national allegations database

39. We are disappointed that the launch of the database was delayed. At the time of writing we were told that it would be launched on the 30 September but we have received no confirmation as to whether this deadline has been met. (Paragraph 115)
40. We are concerned that the Agency is not able to tell us how many enforcement actions resulted from the 11,537 allegations that were made in the second quarter of 2012 as it is not able to link specific allegations to specific enforcement activity. It is able to tell us that it carried out 795 enforcement actions and 606 arrests in the second quarter of 2012 as a result of previous allegations. Given the number of allegations made so far this year we are concerned that this appears to be a very low number. We are encouraged to hear that the new database will enable the Agency to track the results of specific allegations. As we have said in previous reports it is important that members of the public who make genuine reports about suspected abuse of the immigration system know that their reports are acted upon and what the result of their allegation was. (Paragraph 116)

Number of FTE Agency staff

41. Given the problems experienced by the Agency in tracking and carrying out its enforcement work we welcome the planned increase in resources in this area. (Paragraph 119)

Senior staff bonuses

42. We reiterate our previous recommendations that no senior staff should receive a bonus until the Agency has improved on its performance in key areas of its work. If the performance of senior staff is strong then it should soon be reflected in an improved performance (Paragraph 121)

Responding to MP's queries

43. We welcome the improvement in responding to MPs' queries from the previous quarter and we expect to see further improvement towards both targets made in the next quarter. (Paragraph 122)
44. The number of cases or records that the Agency has yet to investigate, trace or conclude has now reached over the 300,000 mark. This is an increase of 9% since our last report. We are deeply concerned that, despite all the work the Agency is putting into resolving these cases, the backlog keeps on growing. We hope that we will begin to see a reversal in this trend when we undertake our next report. (Paragraph 124)

Formal Minutes

Tuesday 30 October 2012

Members present:

Keith Vaz, in the Chair

Michael Ellis
Julian Huppert

Bridget Phillipson
Mr David Winnick

Draft Report (The work of the UK Border Agency (April – June 2012)), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 124 read and agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

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

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

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

[Adjourned till Tuesday 30 October at 2.30 pm]

Witnesses

Tuesday 18 September 2012

Page

Rob Whiteman, Chief Executive, UK Border Agency

Ev 1

List of printed written evidence

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| 2 | Letter from Rob Whiteman, Chief Executive, UKBA to Chair, 14 September 2012 | Ev 26 |
| 3 | Letter from Rob Whiteman, Chief Executive, UKBA to Chair, 8 October 2012 | Ev 26 |
| 4 | Email correspondence with the UKBA, 13 September 2012 | Ev 28 |

List of Reports from the Committee during the current Parliament

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

Session 2012–13

First Report	Effectiveness of the Committee in 2010–12	HC 144
Second Report	Work of the Permanent Secretary (April–Dec 2011)	HC 145
Third Report	Pre-appointment Hearing for Her Majesty's Chief Inspector of Constabulary	HC 183
Fourth Report	Private Investigators	HC 100
Fifth Report	The work of the UK Border Agency (Dec 2011–March 2012)	HC 71
Sixth Report	The work of the Border Force	HC 523
Seventh Report	Olympics Security	HC 531

Session 2010–12

First Report	Immigration Cap	HC 361
Second Report	Policing: Police and Crime Commissioners	HC 511
Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587
Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
Eighth Report	Forced marriage	HC 880
Ninth Report	The work of the UK Border Agency (November 2010–March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union	HC 789
Eleventh Report	Student Visas – follow up	HC 1445
Twelfth Report	Home Office – Work of the Permanent Secretary	HC 928
Thirteenth Report	Unauthorised tapping into or hacking of mobile communications	HC 907
Fourteenth Report	New Landscape of Policing	HC 939
Fifteenth Report	The work of the UK Border Agency (April–July 2011)	HC 1497
Sixteenth Report	Policing large scale disorder	HC 1456
Seventeenth Report	UK Border Controls	HC 1647
Eighteenth Report	Rules governing enforced removals from the UK	HC 563
Nineteenth Report	Roots of violent radicalisation	HC 1446

Twentieth Report	Extradition	HC 644
Twenty-first Report	Work of the UK Border Agency (August-Dec 2011)	HC 1722

Oral evidence

Taken before the Home Affairs Committee

on Tuesday 18 September 2012

Members present:

Keith Vaz (Chair)

Mr James Clappison
Michael Ellis
Dr Julian Huppert

Alun Michael
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: **Rob Whiteman**, Chief Executive, UK Border Agency, gave evidence.

Q1 Chair: Mr Whiteman, welcome back to the Committee. Thank you very much for coming and for your very full letter. The UKBA has got much better at sticking to deadlines and giving information. This Committee is very grateful to you for doing that. Thank you. The problem is when you provide information, of course, it is a source of questions for the Committee, which may not be as pleasant as we had anticipated. I am a little disappointed—I think the Committee is disappointed—that the backlog of outstanding cases has increased since the last time you appeared. The live asylum cohort is up by 4,500. The immigration controlled archive appears to be up by 500. We have a problem also with the migration refusal pool, which we will come on to later. That is up by 24,000. By my mathematics, I think we are now at a total of 295,059 as of this morning. It seems to be going in the opposite direction, and I am puzzled as to why because I know you are very committed to bringing this down. This is going to be your legacy.

Rob Whiteman: It is not going in the wrong direction, Chairman. It is going in the right direction. Perhaps I can explain briefly why and then take further questions. In relation to the controlled archive, it stands at some 29,000 less than a year ago, when I first came to this Committee after taking up appointment at the end of September.

Q2 Chair: Sorry, can I just tell you we like annual comparisons, but this Committee is doing this on the basis of every three months. If we go back to the last figures you gave us, it was 74,000. It is now—?

Rob Whiteman: No, it was 80,000, and it has gone to 74,000. Of course, what I have said to the Committee, Chairman, is that while we now go through the controlled archive—and you will remember these were cases that could not be concluded at the time because the agency was not in contact with the client with whom we would make a decision—and check them against a number of databases to see if there is a footprint in the UK, most of those 74,000 will have gone home, but we will not close the case until we are absolutely certain by carrying out a number of financial checks. We will find cases, and indeed members of this Committee have written to me with your own casework. We have always been clear that the live casework will go up a bit. Elsewhere in the letter, Chairman, I give you the profile, after paragraph

32, of how we now expect to conclude, to close the archive before the end of December.

Q3 Chair: I will come on to that. What you are saying is the good news in the controlled archive, which is down by 6,000, has meant bad news for the live asylum cohort, because that has gone up by 4,500. You are basically the first UK Border chief to tell us that you have gone through this archive and you have found some real live people. In what we thought was the TARDIS where people disappeared for centuries, you have found some real live cases, and that is why the other bit has gone up. Is that right? Is that a fair summary?

Rob Whiteman: That is right, Chairman, and now as the agency looks to the future, as we close the archive, what are the lessons we learn from that? It is clear that in carrying out the checks on the archive some cases were put in there that should not have been. Therefore, we need to learn from that. That is the case, Chair.

Q4 Chair: Let us follow that through. It is minus 6,000. Of that you say the extra 4,500 live asylum cohort are people that you found in the controlled archive. Have any been found and removed from the country? Out of the 6,000, have any been told to leave the country?

Rob Whiteman: At this stage we have—

Chair: Of those 6,000; I know all the other figures, but of those ones you have found. You have sat there and you have scrupulously gone through the controlled archive. You found 6,000 cases. Have any of those 6,000 left the country?

Rob Whiteman: What I give you in the figures, Chair, after paragraph 25, are conclusions that relate to both cases in the archive and those that we move into live. You will see that over the period of time we have removed some of those.

Q5 Chair: Yes. Tell us how many of the 6,000, since we are all dealing with facts here and we are very keen in this Committee to get on to figures?

Rob Whiteman: I am afraid I do not have a breakdown of the number of removals for that particular element. What I do have are the conclusions that have been made and I set out in the letter for you—

18 September 2012 Rob Whiteman

Q6 Chair: What is the total, then?

Rob Whiteman: For example, after paragraph 23, the breakdown that has happened there, you can see that of those 3,800 conclusions in quarter 1, 1,900 were granted, 1,800 were removed. Similarly, in quarter 2, the quarter ending in June in the calendar year, you will see that we granted 900 and we removed 500 of those cases that we reached a verdict on.

Q7 Chair: So 60% of the people you found and you have dealt with are allowed to stay and 40% are removed? Is that a fair percentage?

Rob Whiteman: On those figures, yes, for those particular quarters.

Q8 Chair: Yes, we are happy to accept the quarter figure because we want to look at this quarterly. The other thing I have problems with is you are going to close all this, and I know you are ambitious about sorting out this organisation. There is no doubt that you are, Mr Whiteman, but I think you are being too ambitious in assuming that you will be able to clear all this. Are you telling this Committee it is going to go from 90,000 on 1 October down to 63,000 on 29 October, down to 28,000 on 26 November, down to 6,000 on 24 December, and on New Year's Eve, it is going to be down to zero?

Rob Whiteman: Yes, I can say that, Chairman, because we have done a lot of the work already. It is not that all the work relating to the closure of these cases has to take place for the remainder of the year. You will remember that, with the National Audit Office, we have established some criteria where we will check against a number of databases on a number of different occasions. That work is all in train and has taken place, so I am confident that these figures will be met because we have already done much of the work. We will now conclude it by the final checks that have to be made, and the cases will be closed by the end of December.

Q9 Chair: You are closing 74,000 cases between now and 31 December, and you are doing that with how many members of staff?

Rob Whiteman: We have over 100 members of staff, Chairman, in the CAAU. We carry out manual checks on some of the work, and my staff do that, and we also do bulk checking. What happens, if it helps the Committee—and this is the work we have already been doing and will carry on—we carry out bulk checks against databases, for example HMRC or DWP. If that gives rise to something, the staff in the controlled archive—and we have 100 in that environment—then check the case to see whether it gives rise to finding a footprint or whether it was a match that occurred on the computer but actually we do not have a case there.

Q10 Chair: What puzzles me is it has taken you two months to reduce your total by 2,000 cases. I can't see how you can reduce this by 63,000 in the period that you have envisaged, unless you have some really super-duper people coming in to clear this backlog.

Rob Whiteman: During the Olympics, Chairman, many of the staff who carry out checks, computer

matches and checks, were deployed on Olympic duties for people coming into the country. You will remember that UKBA had an Olympic clearing house, for example, for people who were working or visiting the Olympic sites. We have more people to deploy now that the Olympics are over. Again, I would just reassure you the reason that these figures can be met is not because this is fresh work. We have done the majority of the work on these cases. They will close before December because we will carry out the final check or two of the series. We are up to date with where we should be to reach that deadline.

Q11 Chair: Mr Whiteman, this Committee is very happy to accept your word. One final question on this in respect of this particular archive is will it result in an increase in the number of ongoing immigration cases. There is no doubt about that?

Rob Whiteman: Yes.

Q12 Chair: You promised to send us the last time you appeared, and in your Government response, a copy of one of these files with the names taken out, so we could understand why it has taken so many years to go through them. This never arrived.

Rob Whiteman: I am sorry, Chair. I do not remember making that commitment, if I gave it at—

Q13 Chair: It is page 5 of your Government response in which you said, "We will be providing case studies to the Committee in a separate letter".

Rob Whiteman: I apologise for that, Chair, and we will furnish that.

Chair: That is all right—happily accepted.

Q14 Mr Clappison: Can I ask about the migration refusal pool? When did you begin to implement the count of the migration refusal pool?

Rob Whiteman: The first thing I would say about the migration refusals pool, if I may, Mr Clappison, is this is very different to the controlled archive.

Mr Clappison: I appreciate that.

Rob Whiteman: It is important to stress this because, where the controlled archive were cases where we had applications, we wanted to make a decision and then we lost contact with the person making the application, the migration refusals pool is not cases; they are records. People made application for in-country extensions; we processed that; we made a refusal; we notified them because we were in touch with them. To some extent, the work was done and was zero. However, although we had given a refusal to somebody and we have a record of it, we are, of course, conscious that until e-borders comes into play in 2015 we do not formally have a way of counting everybody in and counting everybody out. What we do with the migration refusals pool is to take records and then to start to say, "Should we turn any of these into cases?"

Q15 Mr Clappison: It is a record of people who may have stayed in the country when they should not have done so, when they do not have permission to be here?

18 September 2012 Rob Whiteman

Rob Whiteman: Exactly, it is a record, and we use that record. That said, I think there is a great deal of work to do on this.

Q16 Mr Clappison: Can you come back to the original question? When did you start to count the migration refusal pool?

Rob Whiteman: The migration refusals pool has been there for some time. It has been there for several years. These are cases—

Q17 Mr Clappison: Can you be a bit more specific about that? When did you actually start the migration refusal pool?

Rob Whiteman: These are cases that have been counted since 2008. Where in the letter to you we say it was 156,000; it is now over 170,000; that includes records going back to 2008. Then we add to it, so, for example—

Chair: Mr Clappison is making a very important point. The fact is that since 2008 we have been writing to Lin Homer and previous Ministers under the previous Government and nobody has mentioned the migration refusal pool until the Minister appeared before us. That is the point Mr Clappison is trying to make.

Q18 Mr Clappison: One of the things one does find on this Committee, particularly on this subject, is that new things keep springing out of the woodwork without anybody being told anything at all about them.

Chair: We know what it is. We do not need an explanation. He just wants to know if it was 2008 that you started counting these figures?

Rob Whiteman: Yes.

Q19 Mr Clappison: So we do not have a record of anybody who would have qualified for the migration refusal pool before 2008?

Rob Whiteman: We will have. We do have some records, and then perhaps I can talk about what we are doing, because—

Q20 Mr Clappison: I would like to come to what you are doing, but I would like to establish first the extent of the problem that there is. We know there is a figure of people who may be here. We do not know for sure whether they are or not, but they may be here. What we do know is that the number of people in this category has been increasing, and it has increased between quarter 1 and quarter 2 of this year quite substantially, by about 12,000 or 13,000 people. It went up from 161,000 to 174,000 and so many hundred. We have the equivalent of a small town being added to the migration refusal pool in just one quarter. Is that an accurate reflection of the problem?

Rob Whiteman: It is important to talk about what we are doing because it is the work we are doing that will give rise to the creation of the migration refusals pool. If you can just indulge me for one second, you will remember that UKBA has been a very regionalised organisation where every region kept their own statistics. What we have been doing over the last six months is creating a number of national commands

where everybody who works in the regions on a particular product is now under one management line. We can talk about that later on in the context of asylum. In relation to the migration refusals pool, therefore, each region was keeping a pool of the refusals that had been made in their particular area, but over the last few months or six months, as we create a new operating model for the agency, so we are pulling these figures together in order to create a national picture. To answer your question, Mr Clappison, at this stage I do not have reliable data to give you in relation to pre-2008, because we are constructing that data at the moment, but post-2008 is more reliable.

Q21 Mr Clappison: Can I stick to what has happened between quarter 1 2012 and quarter 2 2012? Are you saying that the increase that has taken place is as a result of changes in statistic gathering and counting, or is this an increase on the same basis as the same count that there has always been?

Rob Whiteman: No, I am saying that the reason it has gone up is because every year we receive nearly a million in-country applications for extensions and we make refusals on them. You will be aware, for example—I briefed the Committee last time—that we got up to date with curtailment of students. The reason that the figure went up between those quarters, Mr Clappison, is where we have curtailed students and got up to date with that work, it has therefore added to the pool of migration refusals. What happens is that now that pool of records is created, it will go up and down. There will be cases going into it as we make new decisions and new refusals, and we will take cases out of it.

Q22 Mr Clappison: Can I be fairly specific about this, because I only have the figures for the first two quarters of this year. Taking it back to 2008, when you began counting it, has it increased since 2008? Has it been increasing every quarter, or have there been some quarters when it has not increased?

Rob Whiteman: I do not have quarterly information from 2008 onwards. We have quarterly information now that we are counting it on a quarterly basis.

Q23 Mr Clappison: How big was the migration pool when you started to count from 2008?

Rob Whiteman: It will have gone up over that period. I am sorry, Mr Clappison, I do not have the figures from 2008.

Q24 Chair: Mr Whiteman, you may not have quarterly figures since 2008, but it would be helpful to have the annual figures. The concern of the Committee is that nobody in your position, including yourself when you last appeared before us, mentioned the migration refusal pool. This was found by John Vine. We then put it to Ministers. Mr Green, when he was the Minister, said that this was going to be cleared quite quickly. Can you tell me why Serco has been given the responsibility for doing this? Why are they working on a free basis helping the UKBA? Why has this not been done by a proper competitive tender?

18 September 2012 Rob Whiteman

Rob Whiteman: It has, and the work has now been awarded to Capita¹.

Chair: To Capita?

Rob Whiteman: Yes.

Q25 Chair: How many people bid for this contract? When I put down parliamentary questions I was told by the Minister that this was commercially confidential. I only asked for the numbers of people who bid. How many bid for this?

Rob Whiteman: From memory, Chair, we shortlisted four bidders².

Q26 Chair: Do you remember who they were?

Rob Whiteman: I remember Capita and Serco. I do not remember the other two.

Q27 Chair: So Serco were helping you free of charge?

Rob Whiteman: Yes.

Q28 Chair: You then gave the contract to Capita?

Rob Whiteman: Yes.

Q29 Chair: What is the benchmark? What do they have to do for this money? How much is it worth? How much is the contract worth?

Rob Whiteman: It depends how they perform, because the contract is a payment by results where they will make contact with potential overstayers from our records.

Q30 Chair: From the migration refusals?

Rob Whiteman: From the migration refusals pool. The pilot work with Serco suggested that 20% of people that we make contact with left within six months of being made contact with³.

Chair: Excellent.

Rob Whiteman: Therefore, the potential value of the contract, if they performed very well over a four-year period, would be around £40 million⁴.

Q31 Chair: When do you expect the migration refusal pool to be down to zero? You have given us some excellent figures on the control archive, and we are all waiting for 31 December to celebrate the zero backlog. When is this pool going to be empty?

Rob Whiteman: It can't be zero, Chairman; otherwise it would mean we are doing no work.

Q32 Chair: What is an acceptable figure, then?

Rob Whiteman: That is the question.

Q33 Chair: If you have given them a benchmark and you are going to give them £40 million, what is their benchmark?

Rob Whiteman: That is right. What is the frictional amount of work? In other words, bearing in mind all the work that we do, what is a reasonable frictional amount of work that you would expect to have in the system at any one stage?

Q34 Chair: And?

Rob Whiteman: I am sorry to not give you a definite answer. What I would like to say is that at the moment we are—

Q35 Chair: Mr Whiteman, it is very odd. You have given a contract worth £40 million to Capita. You said they are under strict requirements to get things cleared, but you do not have a figure of what you can accept as being a figure that is your frictional work. Capita must be laughing all the way to the bank.

Rob Whiteman: No, Chairman, I am sorry, that is not what I am saying. Capita will be paid for the number of people that they make contact with and who leave, and that is purely on a payment-by-results basis.

Chair: I understand that.

Rob Whiteman: If nobody leaves because they make contact with them, nobody will get paid⁵. The reason that I did not answer your question is reducing the migration refusals pool will not only be dealt with by the Capita contract. What we have to do is a continuum from making contact and asking people to go home through to enforced removal and—

Chair: I think what would be helpful, because it is going to take some time, is if you could tell us the benchmarks. We will write to you. Tell me the benchmarks for Capita. I still think it is not acceptable that you do not have a figure that you want the pool reduced to, bearing in mind you will know how quickly you can refuse admissions, and Capita ought to have been given that figure.

Q36 Mr Clappison: I know it is very difficult, but do you have a broad-brush figure of how many of these people in the migration refusals pool are people who have left without you knowing and how many of them, what proportion, are people who are simply staying here without leave?

Rob Whiteman: Thank you, Mr Clappison. At this stage, no. I think we have to do the work. I hope I have been transparent with the Committee. We think we can get better at enforcement, so if I can just set it out for a second. You will know that we encourage about 40,000 removals a year, either through voluntary removal or up to between 10,000 and 15,000 on enforced removal. With the migration refusals pool and the work that we are now doing to put that together to review it and see what sort of cases that may lead to, over the next year, through the transformation programme of the agency, I would like to redirect up to 1,000 extra staff into enforcement. We think from the operations that we already carry out there is scope to make more removals, both from the migration refusals pool and other work.

Chair: Thank you. Mr Clappison?

Mr Clappison: No, I think the answer is—

¹ Note by witness: Capita is our preferred bidder but the contract will not be formally signed until week commencing 8 October 2012.

² Note by witness: There were six bidders but two withdrew before the evaluation process.

³ Note by witness: This includes individuals that had already left the UK prior to being contacted.

⁴ Note by witness: The correct figure is £30million.

⁵ Note by witness: Payment will increase incrementally according to the unit cost of the outcome, which is higher for departures.

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Chair: Yes. Mr Whiteman, since you are on removals, I am going to bring in Mr Winnick who has a number of questions on immigration removals. Let's move topics to immigration removals.

Q37 Mr Winnick: Only one or two, Mr Whiteman. Regarding those with health difficulties who are being held at Harmondsworth, it appears that the majority of those were not released under the rules. I think it is rule 35 on this. They should have been. What is your response?

Rob Whiteman: Within 24 hours of going into detention people are assessed for their medical conditions. If people are deemed not fit for detention then we will release people from detention⁶. Roughly speaking, approximately 1% of cases⁷ released from detention are due to that reason. In particular, of course, we screen for mental health issues, and if the detention screening believes that there are mental health issues, we will refer those to the local mental health services, who can take appropriate action to take people into NHS care or otherwise. There have been some cases where the agency has been criticised for the mental health screening process not working as well as we would wish. In those cases we are reviewing our processes for how health screening works in order that we can improve the quality of it. I would say that in our view the majority of people get appropriately screened. We do not want any cases where that does not happen properly. Therefore, in the light of cases that sometimes come to light, we review those processes with the detention providers.

Q38 Mr Winnick: Mr Whiteman, the High Court found in two cases last year that the continued detention of mentally ill detainees at Harmondsworth had subjected them to inhumane or degrading treatment. That is rather a sharp criticism, to say the least, of the organisation, isn't it?

Rob Whiteman: It is.

Q39 Mr Winnick: Have you apologised for that?

Rob Whiteman: I do apologise, Mr Winnick.

Q40 Mr Winnick: No, previously, not to me. There is no need to apologise to me.

Rob Whiteman: We have, yes, sir. If I could make the point that mental health screening works on a large number of occasions. In terms of people released from detention, around 1% to 2% can be because the screening process and the referral to mental health services at the local NHS by the detention services will deem that people are not fit for detention. I am afraid that there have been some cases where that screening has not worked as well as we would wish. We have been criticised by the court in those cases, and we will learn from them by—

Q41 Mr Winnick: When is the last time you went to Harmondsworth to see the situation for yourself?

Rob Whiteman: I was there last week, Mr Winnick.

Q42 Mr Winnick: To see this particular aspect?

Rob Whiteman: I was at Harmondsworth last week.

Mr Winnick: I expect you to be at Harmondsworth pretty regularly. **Rob Whiteman:** That included asking questions about the health screening process.

Q43 Mr Winnick: No. Sorry, I did not get that. The last time you were at Harmondsworth—you say last week—did you actually look at this aspect? That is what I am asking you.

Rob Whiteman: I did. I met the providers there, as well as our client teams. We went through a number of issues, and this included asking about mental health and health screening.

Q44 Mr Winnick: Are you satisfied that the situation is very different from when the High Court criticised you, as I have just said?

Rob Whiteman: Yes, I am. We will continue to monitor the position and we will continue to look at the procedures that are in place. It is clearly very important that the health screening process that is carried out in detention picks up mental-health issues, and we will endeavour to make that as robust as possible.

Q45 Chair: Thank you. Before we move on to Mr Ellis, can I ask you, in the nine months of this year, there have already been 26 chartered flights deporting failed asylum seekers with more staff than deportees on those flights, and 19 of those flights had over twice as many staff as deportees. Do you think that that provides the taxpayer with value for money, when we are chartering these flights and sending so many officials over with those that they are removing?

Rob Whiteman: The important thing is that we need to make sure that the removal happens as safely as possible.

Chair: Of course, yes.

Rob Whiteman: At times, it does mean that we need to have a large number of escorts.

Q46 Chair: Do you know the cost of all this?

Rob Whiteman: Yes. I just wanted to answer the first part of your question first, if I may, Mr Vaz.

Chair: Yes.

Rob Whiteman: Over the last four years the ratio, where there may be twice or three times as many escorts as returnees, has reduced considerably from about 40, four years ago, down to about a third of that now.

Q47 Chair: So it is fewer staff?

Rob Whiteman: We are working on having fewer staff, but of course people can be very, very disruptive and there are occasions where failed returns occur because people are highly disruptive.

Q48 Chair: We know about this. We have inquired into this. Very quickly, because we want to move on to Mr Ellis, what is the cost of these removals, these chartered flights?

⁶ Note by witness: 'Not fit for detention' may relate to other reasons than health conditions.

⁷ Note by witness: Specifically foreign national offender cases (both the cases referred to in question 38 were FNO cases).

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Rob Whiteman: I do not have those figures to hand, Chair, and I will send a note to the Committee.

Chair: Very helpful.

Q49 Michael Ellis: Disruptive and dangerous prisoners often need more than one guard each, don't they? If there are several disruptive or difficult people, each one will need more than one guard, so that will explain the discrepancy in numbers. Is that what you are saying?

Rob Whiteman: That is what I am saying. I would say behind these figures, Mr Ellis, are individual cases that have to be assessed. In the last couple of weeks—

Q50 Michael Ellis: Yes, but you are happy that those assessments are taking place?

Rob Whiteman: I am. In the last couple of weeks, for example, we returned a Zimbabwean national who had been here since 2006. Three previous attempts at removal had failed because of disruptive behaviour, including a dirty protest on the third attempt for removal.

Michael Ellis: By him?

Rob Whiteman: On the fourth attempt at removal, the removal took place.

Chair: You can write to us with all these details; foreign national prisoners, Mr Ellis.

Q51 Michael Ellis: One moment, if I may, Mr Chairman. I will have the same latitude, if I may, as other questions. As far as that is concerned, I want more details about it, because this is quite important. If there is a suggestion that these prisoners ought to be transported with fewer guards, you would refute that and you would say that the right number of guards are being used to transport these prisoners, bearing in mind how disruptive and dangerous they can be?

Rob Whiteman: Yes. I think cost is obviously important. It is absolutely reasonable for the Committee to want us to bring down the cost and provide value for money of charter flights. It is absolutely right and reasonable to query how many flights. Do we need two or three times the number of escorts to returnees? But, yes, I would say, Mr Ellis, it would be highly foolish to simply reduce the number of escorts without very careful consideration.

Q52 Michael Ellis: If you reduce the number of escorts you would have more failed flights?

Rob Whiteman: We would have more failed removals, and if disruptive behaviour is not controlled on the flight then the captain will not fly. It is also very disturbing for other people who are being returned. Very often, what my staff do is discuss individual cases with the transport providers. For example, again, just because it is in the last few weeks, a Jamaican, where the removal had failed on a number of occasions, thwarted a return by a last minute judicial review. My member of staff made contact with the High Court quickly, got that considered there to be no grounds and therefore we could go ahead with the removal. But because previous removals have been highly disruptive, we made sure that he had extra staff, and on the third attempt for removal he was removed, on 18 July,

because we made sure that we had the appropriate number of escorts to remove him.

Q53 Michael Ellis: How many of these types of cases are there, would you say, as a percentage of your removals? How many of these are being disruptive to anything like that extent?

Rob Whiteman: People are disruptive at different stages, Mr Ellis. I have been through the detention process from the morning through to the flight later on.

Q54 Michael Ellis: Just roughly, how often does it happen?

Rob Whiteman: The question is, "What is the potential disruption?"

Chair: Just give Mr Ellis a figure. I think he is looking for a figure.

Rob Whiteman: We would say that where we need to have two or three times the number of escorts, that is because in our judgement over a quarter to over a third of those flights are potentially very disruptive unless we have the appropriate number of escorts.

Q55 Michael Ellis: Right. I want to ask you about foreign national offenders, because my constituents in Northampton North—and for that matter constituents around the country—simply do not want them here, if they are to be deported; they have committed offences and they are to be sent to their country of origin. That is right, isn't it?

Rob Whiteman: Yes.

Q56 Michael Ellis: Efforts are being made to do that, are they not?

Rob Whiteman: That is absolutely right.

Q57 Michael Ellis: Why is it, in that case, that in the second quarter of this year no progress has been made in removing those ex-foreign national offenders, according to the statistics that I have seen, and that over 2,500 have remained here for more than two years?

Rob Whiteman: The barriers to a removal can be that there are legal barriers where a court may determine that we should not make the removal, because that may create article 3 or article 8 risks for the individual. I have briefed the Committee before, Mr Ellis, that where people are not being held in detention prior to their removal, between 75% and 90%—it varies at different times—of those are decisions by the court to grant bail and hold returnees in the community.

Q58 Michael Ellis: You are saying a large chunk is due to courts, the judges making those decisions?

Rob Whiteman: Yes, that is the largest element. The other element is at different times some countries can be difficult to remove to. We have to have a travel document in order to return somebody to that country if they do not have a functioning Government.

Q59 Michael Ellis: So it is all down to either the judges blocking deportation for some reason best known to themselves, or it is down to countries that

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you are trying to send people back to who are saying, “We don’t want them back.”?”

Rob Whiteman: They are the two absolutely most material reasons, yes.

Q60 Michael Ellis: So it is nothing to do with you at the Border Agency?

Rob Whiteman: It is to do with us. Our job, of course, is to—

Q61 Michael Ellis: It is not because of anything you are not doing?

Rob Whiteman: Our job, though, is to try to overcome those barriers, Mr Ellis, and so where we find it difficult to get documents from other Governments then, through our country planning process, we do work in order to improve the document process. I would say there are some countries to whom we are now making returns and getting documents; there are some countries to which we are now sending charters where we weren’t before. Progress does not happen overnight, but we can see returns taking place to those countries.

Q62 Michael Ellis: Finally from me, I know the Home Secretary changed some rules to do with the Human Rights Act, the rights or the grounds of having a private and family life. I presume that that has helped in the deportation process?

Rob Whiteman: Yes.

Q63 Michael Ellis: People were previously able to claim they ought not to be deported because they had a right to family life and the like. Those rules were changed by the Home Secretary, so that they could no longer say that.

Rob Whiteman: That is right. In fact, when I was in Harmondsworth only last week, a case owner who deals with these cases commented to myself and the new Minister that the way that the article 8 rules have been established greatly helps their job to be clear. What the Home Secretary has said is, where people are committing serious offences, it is reasonable to say that the right to a family life does not overrule the country’s right to deport them. Therefore, the change to the article 8 rules will help. As those cases work through the system, we hope that because of the clarity in the way we are making decisions through those rules, courts will be able to have more confidence and assurance that they are being made properly and that our—

Mr Ellis: Thank you. Thank you, Mr Chairman.

Chair: Thank you, Mr Ellis.

Q64 Mark Reckless: I am delighted that you are going to be interviewing at least a proportion of applicants for student visas. The pilot showed that I think it was up to a third of people who were admitted under the old system were judged by the officers interviewing them not to be credible, and 85% of those were on the basis that the officer did not consider the applicant intended to leave the UK at the end of their studies. Given that, why isn’t the UKBA using that as a criterion in these interviews you are now going to be conducting?

Rob Whiteman: On the criteria of, “Do we think the visa application is credible?” and that people can speak English and will leave at the end of the visa, which is a requirement of the visa, are taken into consideration for the credibility interview, I remember in the pilot we were asking entry clearance officers in several thousand cases in some 40 different countries, “Had you had the ability for a credibility test on interview, would you have made a different decision to the one that you have made under a points-based paper exercise?” The answer to that was in many cases they would. Therefore, over the coming two quarters, we will roll out more interviewing in those countries. We expect to interview between 10,000 to 15,000 additional cases where we would not have interviewed. We will monitor those results, see what happens to the applications and then make a consideration about whether that is the right amount of interviewing. This would roughly be about 5% of our applications. For some places, for example student applications in particular countries where we know there has been abuse of overstaying, the ratio of interviewing will be higher. But we will now conduct some 10,000 to 14,000 interviews over the next year under the new test that has been given to us.

Q65 Mark Reckless: Speaking now, do you think that 5% or so of applicants is enough, or could it be argued that is a drop in the ocean?

Rob Whiteman: That is 5% of all applications. I think what it will mean is 50%, 60%, 70% of interviewing for some particular products in some particular places. We think that is right, Mr Reckless, based on the intelligence and assessment of targeting interviews, but the proof of the pudding will be in the eating. We will now use this interview roll-out and see what happens.

Q66 Mark Reckless: Depending on that, you could raise that?

Rob Whiteman: Then we will raise it if necessary.

Q67 Mark Reckless: Can I just try to clarify something you said just now, not referring to the pilot but referring to the interviews you are now conducting; these 10,000 to 15,000. Can you confirm whether the applicant intends to leave the country at the end of their studies one of the criteria to assess credibility?

Rob Whiteman: Yes. If we believe that there would be visa abuse and that somebody would not leave at the end of their visa, as said, or some other abuse of the immigration system, then we can take that into consideration for the credibility test.

Q68 Chair: The NAO reported that between 40,000 to 50,000 illegal students entered the country between 2011 and 2012, largely from India, Bangladesh and China. You have 100% face-to-face interviews in Pakistan. It is a no-brainer—isn’t it?—Mr Whiteman, that anyone who comes here as a student ought to be interviewed face-to-face, either in the post abroad by entry clearance officers or via Skype. So long as you can confirm identity, that is the best way—is it not?—

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to check on the bona fides of the student before they even enter the country.

Rob Whiteman: Which is why we are now rolling out interviewing.

Q69 Chair: No, we support that. This is the recommendation of the Committee, but it is only for Pakistan. What we are saying is it is bread and butter for every entry clearance officer to be able to see people on a face-to-face basis. Do you not think that will remove much of the problem around the whole issue of bogus students—that if they are interviewed before they get here, we do not have to get the bogus students out?

Rob Whiteman: With some nationalities we have higher degrees of overstaying than others. Looking at the end-to-end process, from interviewing through to removal—to allude to something Mr Clappison was asking me earlier—we know when we carry out illegal working operations that some 30% to 40% of the people that we arrest, working illegally, are students. Taking that to the other end, when we give visas to people, it is to come here and study, not to work illegally. Therefore, what we are aiming to do is to strengthen the visa decision-making process by interviewing. We are aiming to make sure that sponsors comply with their licence.

Chair: Yes, we will come on to that in a moment.

Rob Whiteman: At the other end, as I said to Mr Clappison earlier, we are aiming to redirect more staff into enforcement in order that where people have got through and we do have the problems of overstaying or illegal work—but we do find some nationalities more than others.

Chair: But the issue is—

Rob Whiteman: To answer your question, Chair, at this stage, I do not think it would afford value for money for the taxpayer to interview every single student in every single country as part of their application to come here. I do think it affords value for money for the taxpayer to try to disrupt people that may overstay coming here—

Chair: Yes, but that is after they have arrived.

Rob Whiteman: And therefore we will target the interview.

Chair: The point is it is more expensive once they get here and you have all the problems, as you had with London Met; genuine students who then have a problem. The issue is to make sure that the border is secure. You can do this through Skype, can't you? I have been down to Croydon, and they are looking at Skype as a method of interviewing people. If the issue is English, which it is on many occasions—following London Met, the Minister was very clear that there were lots of people who could not speak even basic English—this is something that is very easily discernible in the post abroad. We are glad you are moving in this direction. We support you, but we need more of it.

Q70 Mr Clappison: I am very keen that we get an accurate picture on this of what is actually happening. You just mentioned that 30% to 40% of the people you detect for illegal working are students. Are you able to put a figure on that, a number?

Rob Whiteman: Yes. During Operation Mayapple, which was our summer enforcement campaign on overstayers, we made some 800 visits that involved an arrest. We removed some 2,300 people on the back of that, and about 30% of those removals from the enforcement campaign—

Q71 Mr Clappison: 2,000 removals, you said?

Rob Whiteman: 2,300 removals during Mayapple, and about 30% of those were students, over 500.

Q72 Mr Clappison: Do you have a record of which institutions they were attending?

Rob Whiteman: I will just check my records, if I may, Mr Clappison. I do not have a breakdown of which institutions they have attended, but in terms of institutions, you will know that we have a compliance system of compliance visits and at the same time we—

Q73 Mr Clappison: I understand all that. I am trying to find out from the figures, so we have an accurate picture, as I said, of those who are detected as involved in illegal working, how many of those are actually students and which institutions they came from?

Rob Whiteman: About a third of the people that we encountered were students, and the institutions that they were found from are notified to the sponsor management compliance team in order that they can build that into deciding which institutions to visit.

Q74 Mr Clappison: What about putting it in the public domain, so that we can all know which institutions these people are attending? Is there a problem with that?

Rob Whiteman: The issue is that obviously—

Chair: You think about it and come back and tell us, because we are going to a university that was in the public domain, the London Met.

Q75 Mr Clappison: How many students were university students?

Rob Whiteman: I do not—

Chair: Could you let us have those figures? If you do not know, could you let us have the figures that Mr Clappison has requested?

Q76 Mr Clappison: Also, you have told us the basis of that 500 figure was just one operation that you have carried out. Is that right?

Rob Whiteman: Yes. The operation was all the work that we did over the summer, from May to July. Every year, we have an enforcement campaign where all the teams of the agency come to focus on a particular risk. This year, we wanted to deal with overstayers, and previous years it has been a different risk. That was our enforcement campaign, and during that—

Q77 Mr Clappison: Was that a campaign of visiting premises and seeing if people were illegally working there?

Rob Whiteman: Yes. In the past, the Committee has asked me about the use of intelligence. We get intelligence from a range of sources. There will be

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allegations from the public and from the police. We put those intelligence packages together, made some 800 visits for the period and that led to some 2,200 removals.

Q78 Mr Clappison: Two points if I may, Mr Chairman. First of all, that sounds like that is just dependent upon you having visited somewhere, so we are only getting a part of the picture, the tip of the iceberg as far as this illegal working is concerned.

Rob Whiteman: What I would say, Mr Clappison, is what I said earlier. The job of the agency in the next couple of years is to demonstrate—

Chair: Yes. Mr Whiteman, we do not—

Q79 Mr Clappison: Put it another way. The full extent of illegal working is going to be much more substantial than just that part that you uncover through targeted operations. That must be right.

Rob Whiteman: The fact that we encounter illegal working on our operations means that we want to divert more resources into it and deal with more illegal working, yes.

Mr Clappison: So the answer is yes?

Rob Whiteman: Yes.

Chair: Good. Thank you.

Q80 Mr Clappison: The other point I want to make is, could you give us an annual figure therefore, not just one operation or over one period? Is there an annual figure of all those who are detected illegally working as to how many of them are students?

Rob Whiteman: The figure overall—

Mr Clappison: For a year, to give us the full picture.

Rob Whiteman: is the same, Mr Clappison, on both that sample of a couple of months but also for the period of a year. Where we encounter people on illegal working operations, between 30% and 40%—it varies by region—are students. So we would say there is—

Mr Clappison: I am looking for the number you detect in a year.

Chair: If you do not have a number that is fine. It is all right to say you do not know, Mr Whiteman, but you can write to us and give us the figures. We will write and remind you.

Mr Clappison: The breakdown of institutions as well, if that is possible, please.

Chair: Yes, sure. We will write all that.

Q81 Alun Michael: Can I be clear on the terminology there before I go on to the question I wanted to ask, and that is when you say that that proportion are students, do you mean students or purporting to be students?

Rob Whiteman: Students, and probably, Mr Michael, the number will be higher than those purporting to be students because not everyone will say they are a student when we pick them up. We will then carry out some matching against our student records of those names and those dates of birth, so we have a fair degree of certainty about the figure that I am giving you. I am sorry not to give the absolute number, but around 30% to 40% of what we find—a couple of thousand over the summer enforcement campaign—

are students. Beyond just purporting to be students, we will determine that they are students.

Q82 Alun Michael: Okay. You will appreciate this is enormously important because of the importance of overseas students to the economy, to the universities and to the long-term influence. It is very important that we are absolutely clear about where we are dealing with people who are falsely claiming to be students, or purporting to be students, and those who are here but should not be.

Rob Whiteman: Yes. The points that you make about growth are, of course, recognised by us, Mr Michael. British universities are among the best in the world. The Government wants the brightest and the best from around the world to come and study at our universities. Students have a special place in our immigration controls in that we do not have a cap on the number of students in the way that, for example, there is a cap on skilled workers under elements of Tier 2.

The Government wishes to welcome students from around the world to good institutions, but there are two things. Over the last couple of years clearly there were institutions bringing people to the UK that were bogus. We have dealt with those, and there are now some 400 fewer institutions who are able to bring students here. But now the issue is students who are attending institutions as students. The requirement is to come here to study. Therefore, we do expect institutions to check that people have permission to be in the country, that people are attending their courses and have monitoring arrangements to do so, and to notify us of changes that take place. The system relies on those institutions making sure that people are studying and not working, and notifying us if they find otherwise.

Q83 Alun Michael: I find that description very helpful, because I think it puts the situation into balance. We are trying to deal with the abuse in that context. Turning to the non-EU international students attending London Metropolitan University—and I want to look at the aspects that are not sub judice—how many of those students have now been identified as having no leave to remain in the UK, and what is being done to ensure that they leave?

Rob Whiteman: I will be guided by you, Chair. I would not wish to answer questions about London Met today. There is a hearing on Friday and—

Chair: We understand the sub judice rules. Some of us have been around for a while, so we are not going to ask you about the merits of your case.

Alun Michael: That is all I am interested in questioning about, Chairman.

Chair: As Mr Michael said, he just wants the facts. We do not want the merits. We want to talk about process, not the individual case, because we know you are up in court about this.

Alun Michael: As I said, asking about the non-sub judice elements of this, how many of the non-EU international students attending London Metropolitan University have now been identified as having no leave to remain in the UK and what is being done to ensure that they leave?

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Rob Whiteman: We carried out sampling, which gave rise to the decision to revoke the licence. In those—

Alun Michael: I understand that, but I am asking: how many students have now been identified as not having leave to remain?

Chair: This is not a question about the licence. It is a question of the number of students. Do you know the answer? Do you know how many students had stayed beyond their leave?

Rob Whiteman: It is the job of a highly trusted sponsor—

Chair: No, we know all that, but do you know the answer? It is either a yes or no. We know all about that. Do you know the answer to Mr Michael's question?

Rob Whiteman: The answer is it is not the job of UKBA to know how many people at a college conform to those rules.

Chair: No, we understand that.

Rob Whiteman: It is we rely on the—

Alun Michael: Mr Chairman, can I ask the question, please?

Rob Whiteman: We rely on the college to do that.

Chair: Mr Whiteman, we do understand these things and some of us do know about these things, as does Mr Michael. He is asking a specific question. Can you put it again, please, Mr Michael?

Rob Whiteman: I will answer the question, Mr Michael. At this stage, while the clearing house has been set up to find students alternative courses, we haven't—

Chair: Mr Whiteman, Mr Whiteman, Mr Whiteman—

Rob Whiteman: I am answering the question, Chair.

Chair: It is a simple question.

Alun Michael: Could I ask it, please, Mr Chairman?

Chair: Indeed. Yes.

Q84 Alun Michael: Irrespective of whose responsibility it is, Mr Whiteman, are you clear about the number of students in that category who have been identified as not having leave to remain in the UK, or are you not sure of the numbers?

Rob Whiteman: At this stage, Mr Michael, we have not curtailed leave for students because it has been agreed that students at London Met have the opportunity to look for other courses. Without curtailing leave, we are not in the position to deal with who does not have leave to remain in the country of those remaining students. The position is that we sampled, found error and therefore revoked the licence, but dealing with the remainder of the students at London Met will not now take place until all of those students have had the opportunity to find a course. We have said that we will not curtail, and until we curtail, we would not start to look at who should or should not be in the country, so it is too early to answer.

Q85 Alun Michael: Thank you. That is clear. Obviously, there is the issue of how the system works more generally. Can you tell me how many non-compliance reports you have received responses to in the period, let's say, from April to June this year, and

how many of those non-compliance reports have you followed up?

Rob Whiteman: In my letter to the Committee, I give—

Chair: Can you give us a page, because it will greatly assist the Committee?

Rob Whiteman: Yes, I am just looking for it; sorry, Chairman.

Chair: That is okay.

Rob Whiteman: I am afraid I made the fatal error of mixing up my papers.

Alun Michael: I know the feeling.

Rob Whiteman: So we are on to the section that deals with sponsors and licensing. This is paragraph 36 beginning on page 9. The first table gives the number of people who are registered. The next table deals with the number of applications.

Chair: Is that the document, Mr Whiteman?

Rob Whiteman: I am just getting there. Bear with me, Chair. Paragraph 40, the table, deals with the number of follow-up visits. The follow-up visits, Mr Michael, would be in response either to a report from the institution or from our other compliance work deeming that we wanted to visit.

Q86 Alun Michael: I am sorry; perhaps I have misinterpreted this, because I did not think that this point was covered in the report. If you are visiting an institution, that is not the same—is it?—as the institution, the sponsor, having notified you of non-compliance. You would not require a visit in order for them to notify you of non-compliance?

Rob Whiteman: That is the case, Mr Michael. The point I make is that those visits that would take place could be because we have received a report from the institution or could be for another reason. In relation to the number of notifications that we receive from institutions, the last time I was at the Committee, I set out that we had received details of 125,000 students at that stage where we needed to look at their status. That led to some 30,000 cases where we decided to have follow-up action and consider the leave to remain of the student.

Q87 Alun Michael: I think what is happening is that we are asking a question in a different way from the way you have been explaining what happens. What I would find helpful, if you could look at this and perhaps write to the Committee, is the extent to which specific notifications by institutions—because that would not necessarily be related to a visit—are followed up, and the system by which you make sure that there is monitoring of the follow-up of those reports.

Rob Whiteman: I have given you just now, for example, the number of notifications that we have received about individual systems. I think what you were asking for, Mr Michael, is how are they batched by institutions? How many reports did they give us? I do not think I can give you a figure on that, although I will write to you if we can. What I can tell you is how many notifications we have received in relation to students from the reports we have, which are the figures I have just given.

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Alun Michael: If you are able to do that and also indicate how you track those within the system, that would be helpful.

Chair: Yes, and could we also see an increase in the number of unannounced visits. You have written to me to tell me that only 88 out of the 244 visits you made to Tier 4 institutions were unannounced. The Committee believes it is very important that you do not give people notice. If you are trying to catch out bogus colleges, you just turn up and see if anyone is there. That is always the best way to catch out dodginess.

Q88 Mark Reckless: Over the last year, there has been a 36% increase in the number of asylum claims that have not received a decision within six months. Is there a risk of this developing into a new asylum backlog?

Rob Whiteman: No. We have seen the figures on 30 days go in the right direction. You are right in relation to the 60-day figure, I think, was it that you quoted, or the six months?

Mark Reckless: The six months is the one where there has been a 36% year-on-year increase.

Rob Whiteman: The six-month figure, which in 2011–12 was 53%, is the same as 2010–11, so I think we have seen a steady performance at the six-month stage. As I said earlier in answer to the Committee, I believe that the changes we are putting in place now to the organisation of asylum will lead to better results. All asylum staff up and down the country in different locations are now under one management line. That means that we can take work from one area to another if we are getting a particular backlog. I am fairly confident, Mr Reckless, that when we look at all the figures—because the thing here is to have a balanced workload—we will take the 30-day, the six-month in the right direction over a course of time, because we are now pooling staff around the country under one management line to be able to work on those cases.

Q89 Dr Huppert: I apologise for missing your earlier comments, Mr Whiteman. I was in the Chamber for Justice questions.

UKBA claims to decide most in-country applications for settlement of various kinds, if they are made in person, within 24 hours. If the application is made by post, it takes six months. Why is the post so slow?

Rob Whiteman: We carry out the applications we receive by post in date order from when we receive them. You are right, Dr Huppert, that people can pay a premium charge in order to make those representations in person rather than by post, and as part of the premium service, we aim to process them on the day. The ones that we receive by post we process in date order.

Q90 Dr Huppert: With respect, Mr Whiteman, processing them in date order does not explain why it takes six months.

Rob Whiteman: Earlier on I was saying to the Committee that one of the issues that we now have to deal with is what is a frictional amount of work—that

is, a reasonable amount of work to be normal work-in-progress at any one stage—and what constitutes more work that we should put more staff to. In relation—

Q91 Chair: What is it, in answer to Mr Huppert's question?

Rob Whiteman: In relation to Mr Huppert's question, in relation to temporary and permanent migration applications, as at the end of June, we receive about 1 million applications a year, and the work that we have is about 150,000. Is the 150,000 out of 1 million applications a year frictional, the amount that you would expect to be in the in-tray at any one stage? I think the answer to that is we want to bring that down. So I would want to see the postal applications that you referred to processed more quickly. What has happened is earlier in the year—I think I have briefed the Committee on this before—we had a particular spike in applications for one particular product. We put staff on that in order to deal with it, but, overall, we have seen some other areas decline.

Q92 Dr Huppert: I think six months is very poor service indeed for something that can be done in 24 hours. I have, for example, constituents who came to see me recently who applied for a spousal visa, having previously got a fiancé visa. They applied in March. They were told not to contact UKBA for six months. They waited patiently for the six months. UKBA then got in touch and said, "Yes, sorry, there is a delay. We will try to let you know at some point," which seems somewhat unreasonable, particularly given they had presumably already been through the checks. I have had other stories when I have taken up cases that suggest that what is happening is that the envelopes with the applications in are not even being opened for the first month or two months. Nobody is even having a look or starting to look at the biometric processes. Why is it sitting there? I was told there was a private contractor who was just massively behind. Why is it taking months and months to even start the process?

Rob Whiteman: I would say for a postal application the fee of, say, £990 compared to the premium service of nearly £1,400—£1,377—means that if there are cases where people feel that they need the application much more quickly than the postal service and the service standard that we state of doing them in six months, they have the opportunity to achieve a premium service. The service standard that we state is six months. The reason that it is difficult to bring down a service standard for all cases is that in some cases we will have to carry out extensive investigations. We will have to carry out checks. We will need information from post and other parts of the business. Therefore, we say a settlement application takes six months if delivered by post.

Q93 Dr Huppert: Mr Whiteman, I think we all understand there will be some cases that are more complicated. You do not manage to do all of the in-person ones within 24 hours. You do not manage to do all the postal ones within six months. I have had a written question answered that confirms that just now. But why are the bulk of them taking so long? The bulk

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of them do not require such detailed investigation. The bulk of them could be processed very quickly. I think people reasonably expect that there is what is seen as an emergency 24-hour-type service, but I think people would not expect the alternative to be a six-month delay.

Rob Whiteman: Yes. The point I hope I have made consistently to the Committee is that in my first year here I think the job has been to stabilise performance. There are parts of the agency where we have had particular backlogs—for example, the questions that I was asked earlier about the controlled archive. I think what we now see across all our products—the visa service, settlement applications, the controlled archive, enforcement activity—is that we have stabilised performance on each, so that we are holding the line and/or improving. To answer your point, I do not think we will make big, serious inroads into reducing the time taken to do work without some other actions as well. Some of the issues that I have set out to the Committee about the need to improve our organisation, our processes, improve our IT, improve the quality of leadership, change the nature of the organisation in order that we break down silos, these are things that we are doing a lot of work on at the moment that I believe will yield results in the years ahead but not immediately. The job has been to stabilise performance.

Q94 Dr Huppert: We would welcome all of those changes and improvements, and I hope they happen quickly. If you have now finished the stabilisation process over that year, do you think the next time you come and see us there will be a marked improvement? Will it take a year? What is your estimation of when we should expect to see significant improvements you have delivered?

Rob Whiteman: I would like to see the stabilisation process at an end by the end of this calendar year. It is not there yet. In answer to questions earlier, we have yet to close the controlled archive. We have created a new board. I sent a copy to the Committee of the new organogram. We have created some new commands for areas of activity where we think we need more resource for them, and we have not had specialist commands looking at those.

Q95 Chair: That is very helpful. Can I ask you finally, because we have come to the end of this now, given that the transformation is not complete, and the Home Secretary told us only a few weeks ago that the transformation will take a number of years, you—correctly in our view—did not take a bonus last year? You have a salary of between £175,000 and £180,000 a year. You took no bonus. But David Wood, who is on a salary of £105,000, took a bonus of between £5,000 and £10,000; Jonathan Sedgwick, who is on £110,000, took a bonus of between £5,000 and £10,000; and Jeremy Oppenheim took benefits in kind of £4,800. By my reckoning, if you add that all together, it is about £25,000 in bonuses. You know what the Committee feels about bonuses being given to the UKBA, especially bearing in mind what you have just said. Why do senior members of staff—apart from yourself, and we commend you for not taking a

bonus—keep taking bonuses when this organisation has still not reached the standard of efficiency that we expect and that the Home Secretary expects?

Rob Whiteman: The civil service scheme, Chairman, is that 25% of the senior civil service can be identified for a bonus. This is not a UKBA scheme. This is a civil service scheme.

Chair: We understand how it works.

Rob Whiteman: I think that any organisation that needs to improve will have high performers in it.

Q96 Chair: Did you authorise these bonuses?

Rob Whiteman: I did authorise the bonuses, Mr Vaz, and I think it is right that—

Q97 Chair: Even after what you have just told the Committee—that there is so much work in progress that is necessary, the backlogs have not been cleared—you still authorised these bonuses? You did not take one yourself, but you still authorised them?

Rob Whiteman: Because, Mr Vaz, many staff in UKBA are performing well. Many of my managers are performing well. I completely agree that we need more people performing better, but it would be counterproductive to say to an organisation, “Until you reach really good performance in all areas the civil service scheme, which gives 26% of top performers a bonus, will not be applied to the agency”. I think I would not attract high performers. It is an agency that needs to attract good performers and give bonuses where they are fairly given.

Q98 Chair: Mr Whiteman, you came before this Committee, and as a direct result of what the Permanent Secretary and you did concerning Brodie Clark, the taxpayer is £100,000 worse off. That is a matter of fact, and the Permanent Secretary agreed to this when I put it to her. As someone who leads this organisation, everyone would understand you saying to people like Jonathan Sedgwick, David Wood and Jeremy Oppenheim, “We lead from the front. We are not taking our bonuses. We will take our bonuses when this organisation is fit for purpose”. You clearly did not take your bonus. Why are you authorising these bonuses?

Rob Whiteman: Because UKBA does not have its own bonus scheme. We are part of the civil service bonus scheme. I think it would be wrong not to award bonuses to exceptional performers in an organisation where we wish to see improvement. I wish to attract top performers from across the civil service, and I think it is right that up to 25% of our civil servants can be identified for a bonus.

Chair: In concluding on this before I ask Mr Winnick to say something, can I say we do not think it is acceptable, and we have made this very clear in all our reports, that people should be given bonuses at the UKBA, at the highest levels, until this organisation is fit for purpose, and it is not at the moment? It is moving in the right direction, but it has not got there.

Q99 Mr Winnick: Mr Whiteman, you are not responsible for the civil service bonus scheme—I accept that—but would you understand that my constituents who are on an average salary of £23,000

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would find it very difficult to understand how those on over £100,000 need a bonus of any kind? Do you recognise, especially in these times, how difficult it is to try to justify this bonus business?

Rob Whiteman: Yes, of course, Mr Winnick. I recognise that during a recession, of course, whether or not bonuses are being paid comes under the spotlight, including with your constituents. For those of us who have higher salaries, I can understand an argument that at a time of austerity when we are making savings, cuts and efficiencies—over the last year UKBA has successfully delivered £270 million in savings, which I think is commendable in terms of meeting our CSR requirements—senior executives should not receive a bonus because the taxpayer may think that unwarranted. But the point I would make is that has been considered by the Government, and the Government has decided that—

Q100 Chair: But, Mr Whiteman, you authorised this.

Rob Whiteman: No, but the Government—

Chair: You authorised these bonuses. I know there is a Government scheme, but it has to cross your desk and you have to sign this off. All we are saying is, we commend you for not taking your bonus, but we think it is wrong that you have authorised bonuses to people who sit on your board because we do not believe the organisation is fit for purpose at the moment. That is all we want to say to you.

Rob Whiteman: I think that is my answer, Mr Vaz and Mr Winnick. If the Government had no bonus scheme, then, of course, I would not award bonuses. The Government has looked at this matter, determined that it thinks that, in the round, up to a quarter of top earners should receive a bonus. It would be wrong of me not to reflect that UKBA has some high performing managers.

Chair: Yes. We need to conclude this. Mr Whiteman, thank you very much. It is usually the Opposition MPs that blame the Government, but it is unusual to have the head of UKBA doing it. Thank you very much for coming in. We are most grateful.

Written evidence

Letter from Rob Whiteman, Chief Executive, UK Border Agency, to the Chair of the Committee, 7 September 2012

Thank you for your letter of 30 July requesting information ahead of my appearance before the Committee early next month.

Answers to the Committee's questions can be found below. Please note that the majority of figures quoted are management information. This information has not been quality assured under National Statistics protocols.

Please also find attached (at Annex A) an organisational chart showing the new command structure of the Agency which I hope is useful.

I look forward to discussing this with you at my evidence session.

FOREIGN NATIONAL OFFENDERS (FNO) (QUESTIONS 1–17)

1. The table below provides a breakdown of the status of the 2006 cohort of 1,013 FNOs released without consideration for deportation, as at the end of the first two quarters of 2012:

	<i>Cases concluded</i>	<i>Of which removed /deported</i>	<i>Concluded —not removed</i>	<i>Going through deportation process</i>	<i>Serving custodial sentence</i>	<i>Not located</i>	<i>Total</i>
At end of Q1 2012	844	399	445	93	19	57	1,013
At end of Q2 2012	853	401	452	91	19	50	1,013

2. Of the nine cases concluded in quarter 2 of 2012, two were deported, six were granted leave and one is deceased.

3. Following additional work on our data records in quarter 2 of 2012 we have established that a further six cases previously listed as “not located” were in fact going through the deportation processes and another had left the country voluntarily.

4. As recommended by the Committee we are currently reviewing the process by which the National Offender Management Service (NOMS) refers cases to ensure that it is working smoothly and supporting deportation at the earliest stage. The referral of foreign offenders is vastly improved since 2006 but is not without challenges. The receiving prison is required to make a judgement on an offender's nationality and in some cases offenders will seek to obfuscate the process. The referral process is currently not always sufficiently timely and that is something we are seeking to improve. For example we would prefer that the Criminal Justice System checked nationality at an earlier stage in the process.

5. In the first two quarters of 2012 four cases were released without consideration for deportation in these circumstances. Two were released upon sentencing having served their time on remand and two were not given a custodial sentence but were recommended for consideration of deportation by the court. We are in contact with all four. One further FNO was released without consideration for deportation during this period. He has subsequently left the UK and been excluded by the Home Secretary.

6. We make every effort to ensure that deportation coincides, as far as possible, with release from prison on completion of sentence. Our staff embedded in 10 prisons work with NOMS to gather nationality and identity information at the earliest opportunity and, where possible, NOMS concentrate FNOs into these prisons. This enables the Agency to facilitate removal at the offender's earliest release date, including explaining the Facilitated Return Scheme on induction. We are also working with prisons and the police to gather intelligence information on nationality at an early stage.

7. With regard to the cohort of 28 FNOs released without consideration for deportation in 2010–11, three remained untraced. We are continuing to trace these individuals and their details have been circulated on the Police National Computer stating that the UK Border Agency should be contacted if they are encountered. We have also sought information on their whereabouts using internal and external databases. All were convicted of offences in the “other” category—the least serious category of offence.

8. The table below shows the number of FNOs released from prison and transferred into immigration detention in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Released from prison	318	318
Transferred in to immigration detention	1,168	1,045

9. The table below shows the status of the FNOs released from prison in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Deported	4	2
Concluded ¹	11	18
Outstanding	303	298
Total	318	318

10. The table below shows a breakdown of the status of the outstanding cases:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Being caseworked ²	157	152
Legal issues ³	105	92
Removal issues ⁴	38	51
Further criminal proceedings	1	1
Other ⁵	2	2
Total	303	298

11. Note these figures refer to FNO cases outstanding at the end of the same quarter in which they were released. Some will have been released late in that quarter and so while they remain outstanding they may have only been so for a short period of time.

12. The table below shows the number of FNOs facing removal or deportation who at that time could not be removed, the number of FNOs who had been waiting 12 months or more for a travel document to enforce their removal, and the number of FNOs subject to deportation action living in the community, at the end of the first two quarters of 2012:

	<i>End of Q1 2012</i>	<i>End of Q2 2012</i>
FNOs facing removal or deportation who at that time could not be removed	451	456
FNOs waiting 12 months or more for a travel document to enforce removal	95	103
FNOs subject to deportation action living in the community ⁶	3,943	3,954

13. The table below shows details of failed removals of FNOs, and the average time taken to remove an FNO, in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Number of failed removal attempts	210	200
Percentage of failed removals	15%	16%
Average time (in days) taken to deport ⁷	106	108

14. This relates to removal attempts, not individuals. One individual may account for multiple failed removals, and in most instances individuals involved in failed removals are successfully removed at a later date.

¹ This includes those subsequently found to have a form of nationality / status that precluded deportation and also those for whom we chose not to pursue the deportation due to the loss (or the likely loss) at appeal.

² Includes cases that are currently being caseworked, application to revoke deportation order, children issues, further representations, medical reasons, awaiting travel documents, deportation order not yet served, awaiting removal, decision served.

³ Appeal against deportation, asylum claim, judicial review.

⁴ Emergency Travel Document (ETD) compliant but country situation prohibits removal; ETD required, non compliant and unwilling to go voluntarily.

⁵ Nationality not confirmed, unable to revoke asylum.

⁶ Includes absconders and those who for legal reasons we are unable to detain.

⁷ The length of time between date time served and removal date.

15. Removal Directions are set a minimum of 72 hours prior to the scheduled removal time and may not proceed for a variety of reasons, primarily last minute legal challenges and disruption by the individual. There are other reasons such as logistical and documentation failures. In cases where there are no legal barriers we aim to reset removal directions as a priority.

16. The table below shows a breakdown of the length of time since release of the FNOs living in the community at the end of the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Less than six months	327	346
Less than 12 months	316	333
Less than 24 months	662	606
More than 24 months	1,654	1,619
More than 60 months	819	888
Data quality issues ⁸	165	162
Total	3,943	3,954

17. The main barriers to removing these individuals are the situations in countries of return, which can lead to long-term legal or logistical difficulties, and non-compliance on the part of individual which means we have insufficient evidence of nationality and identity to obtain a travel document. There may also be ongoing complex legal proceedings, including other non-immigration matters, which prevent removal.

18. The table below shows the percentage of FNO removals that were made during their Early Release Scheme (ERS) period and under the Facilitated Returns Scheme (FRS) in the first two quarters of 2012:⁹

	<i>Q1 2012</i>	<i>Q2 2012</i>
ERS	44%	43%
FRS	38%	39%

19. We always aim to deport FNOs as soon as possible upon completion of their sentence. We are however precluded by law from considering FNOs for deportation too early into their sentence. The Immigration Appeals Tribunal found in allowing the appeal of LC (Chindamo) on 21 December 2000 against the deportation decision of 1 March 1999 that deportation action was initiated too early in the custodial sentence; and that making a decision after only 2 ½ years of a life sentence was unlawful since his release date was too far in advance for the Secretary of State to know what his circumstances would be at the time of release. As a result the Tribunal found that not all relevant factors regarding the offender had been taken into consideration, and the action was taken without regard to any rehabilitation which might occur during the sentence. This did not preclude a fresh deportation decision being made nearer the end of his sentence.

ASYLUM AND IMMIGRATION CASELOAD (18–21)

20. The table below shows the number of cases in the asylum and migration live cohorts and the asylum and migration controlled archives at the end of the month specified (figures are to the nearest 500):

	<i>April 2011</i>	<i>September 2011</i>	<i>December 2011</i>	<i>March 2012</i>	<i>June 2012</i>
Live asylum cohort	23,000	21,500	17,000	21,000	25,500
Asylum controlled archive	75,500	98,000	93,000	80,000	74,000
Migration live cohort ¹⁰	N/A	N/A	N/A	N/A	3,500
Migration controlled archive	26,000	26,000	22,000	21,500	21,000

21. As you are aware, cases move between the controlled archive and live cohorts. Cases were added to the controlled archive between April and September 2011 as they reached the six month timescale since our last attempt to contact them. Since then the combined number of cases in both controlled archives has decreased by 29,000 cases. As cases in the controlled archive are located through our data checking and matching exercises they may be added to the live cohort to be caseworked to conclusion.

22. Due to the way we record our data, I am unable to provide figures exactly in the format requested. For example I am unable to split granted figures by permanent and temporary grants of leave as we do not hold this information historically.

⁸ These are cases where the custodial end date or early release date were not recorded at the time. We are manually checking these cases in order to establish their release date so that we can report more accurately.

⁹ Note that individuals may be removed under FRS as well as during their ERS period, therefore some records will be included in both categories.

¹⁰ Reactivated from Migration Controlled Archive.

23. However I can set out the breakdown of what has happened to the legacy asylum cases that were concluded by the Case Audit and Assurance Unit (CAAU) in the first two quarters of 2012:

	<i>Conclusions in Q1 2012</i>	<i>Conclusions in Q2 2012</i>
Grant	1,900	900
Removal	1,800	500
Duplicate	100	0
Deceased	*	*
Total	3,800	1,400

* Negligible (50 or less)

24. You also requested a further breakdown of the *total* number of asylum and immigration cases concluded at the end of the first two quarters of 2012.

25. The table below shows this in respect of legacy *asylum cases* (rounded to the nearest 100):

	<i>Conclusion total at end of Q1 2012</i>	<i>Conclusion total at end of Q2 2012</i>
Grant	7,000	7,900
Removal	2,800	3,300
Duplicate	2,800	2,800
Deceased	*	*
Total	12,600	14,000

* Negligible (50 or less)

26. The table below shows this in respect of legacy *migration cases* to the end of June 2012 (rounded to the nearest 100). I am unable to provide figures for the number of concluded cases at the end of quarter 1 2012 as the database can only extract live, rather than historical, data.

	<i>Conclusions total at the end of Q2 2012</i>
Grant	1,000
Removal	500
Duplicate	200
Deceased	*
Total	1,700

* Negligible (50 or less)

27. Of the legacy *asylum cases* granted by the CAAU between April 2011 and August 2012 36% were granted permanent status and 64% were granted temporary status.

28. Of the legacy *migration cases* granted by the CAAU over the same period 53% were granted permanent status and 47% were granted temporary status.

29. The controlled archive is managed within the CAAU and is not a stand alone unit. Therefore the controlled archive Full Time Equivalent (FTE) is included in the total CAAU FTE as follows:

	<i>End of Q1 2012</i>	<i>End of Q2 2012</i>
FTE employed in CAAU (including agency staff)	134	149

30. As I outlined at my appearance before the Committee in May, we expect that many of the individuals with cases in the controlled archives will have left the UK many years ago. The early results received from data matching with our partners' databases indicate that there is no recent footprint or evidence of many of these individuals still being in the UK.

31. By the end of December 2012, by which time we will have completed our tracing programme with external partners and against our own databases, we will have taken one of two actions on the cases in the controlled archives: those cases we have been unable to trace will be considered closed and those we trace will have their cases passed to one of our casework teams to progress. These two actions will lead to the closure of the controlled archives by the end of December 2012. By this time it would not be in the best interests of the taxpayer to continue to employ staff to conduct further checks on the cases that can not be traced.

32. We are currently projecting to close around 80,000 cases in this way and reactivate around 16,000 cases from the archive and transfer them in to the live cohort. The projected estimated reduction in the number of cases in the controlled archive between now and the end of the year is shown in the table below:

Date	27/08/12	03/09/12	01/10/12	29/10/12	26/11/12	24/12/12	31/12/12
Size of controlled archive	92,000	91,000	90,000	63,000	28,000	6,000	0

Migration Refusal Pool

33. The Migration Refusal Pool (MRP) is a count of *records* of refusals of leave where we lack evidence of departure from the UK or a separate grant of leave. It does not contain outstanding decisions to be made by the Agency. Records will flow in to the pool as applications are refused or leave expires and out of the pool as people leave the UK (forcibly or voluntarily), are granted leave, lodge an appeal or new application etc. This cannot legitimately be described as a number of people yet to be removed from the UK.

34. Internal management information records that the MRP stood at 158,763 records at the beginning of quarter 1 of 2012. 17,622 records came out of the pool during quarter 1. The total pool stood at 161,538 records at the end of that period.

35. A further 15,292 records came out during quarter 2 of 2012; at the end of the period the MRP stood at 174,057 records. The high levels of student leave curtailment during 2012 have added to this pool.

SPONSORS AND LICENSING (22–29)

36. The table below shows the number of sponsors registered at the beginning of quarters 1 and 2 of 2012:

	Q1 2012	Q2 2012
Tiers 2 and 5 ¹¹	24,336	24,828
Tier 4	2,126	2,118

37. The table below shows the number of sponsor applications made in each Tier in the first two quarters of 2012:

	Q1 2012	Q2 2012
Tier 2	1,907	550
Tier 4 ¹²	52	34
Tier 5	512	81

38. It is not possible to provide percentages for the proportion of new applicants in a particular quarter that receive a pre-registration visit in the same quarter, as many of these visits will occur in a later quarter. As such many of the new sponsor applications received in quarter 2 of 2012 will not yet have received a visit but will do so in due course.

39. The table below shows the number of new sponsor applicants that received a pre-registration visit in the first two quarters of 2012:

	Q1 2012	Q2 2012
Tier 2	282	141
Tier 4	28	8
Tier 5	19	10

40. The table below shows the number of follow up visits made to sponsors in each Tier in the first two quarters of 2012:

	Q1 2012	Q2 2012
Tier 2	1,554	1,677
Tier 4	348	244
Tier 5	120	87

¹¹ Tier 2 and Tier 5 sponsors appear on the same sponsor register.

¹² Not all of these applications are for new licences. For example, the figures also include reinstatements.

41. The table below shows the number of unannounced follow up visits made to sponsors in each Tier in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Tier 2	646	708
Tier 4	136	88
Tier 5	28	29

42. I am unable to provide figures for the percentage of Tier 4 sponsors that held Highly Trusted Sponsor (HTS) status at the end of quarters 1 and 2 of 2012 as the database can only extract live, rather than historical, data. As of 3 August 74% of Tier 4 sponsors had HTS status.

43. All Tier 4 sponsors must apply for and achieve HTS once they have been licensed for 12 months. As of 3 August the remaining 26% of Tier 4 sponsors are either A-rated sponsors new to the sponsor register and working towards HTS, sponsors with an outstanding application for HTS, or are suspended.

44. The table below shows the average and maximum time taken to process a sponsor application in the first two quarters of 2012:¹³

	<i>Q1 2012</i>	<i>Q2 2012</i>
Average	36 days	82 days
Maximum	503 days ¹⁴	205 days

45. The time taken to process an application may be extended for a number of reasons, including awaiting the outcome of investigations by other government departments and agencies. Where an institution that applies for a sponsor licence is already, or becomes, under investigation by, for example, the police, we will co-operate fully with their investigation which may mean delaying issuing our decision. Additionally our decision may rest upon the outcome of these external investigations which we have no power to accelerate.

VISA APPLICATIONS (30–34)

46. The table below shows the percentage of visa applications processed within the Agency's service standards in quarter 1 of 2012:

	<i>15 days (target: 90%)</i>	<i>30 days (target: 98%)</i>	<i>60 days (target: 100%)</i>
Tier 1	93%	98%	100%
Tier 2	98%	99%	100%
Tier 4	92%	98%	99%
Tier 5	98%	100%	100%

47. The table below shows the percentage of visa applications processed within the Agency's service standards in quarter 2 of 2012:

	<i>15 days (target: 90%)</i>	<i>30 days (target: 98%)</i>	<i>60 days (target: 100%)</i>
Tier 1	84%	97%	100%
Tier 2	94%	99%	100%
Tier 4	95%	99%	100%
Tier 5	97%	100%	100%

48. The table below shows the number of in-country cases in progress on the last working day of each month in quarter 2 of 2012:

<i>Workstream</i>		<i>April 2012</i>	<i>May 2012</i>	<i>June 2012</i>
Temporary Migration	Family Route	19,002	20,049	20,768
	Employment	20,151	20,237	19,789
	Study	16,688	15,553	15,734
	Visiting the UK	417	393	371
	Protection	911	927	968
	Sponsor License	648	622	757
	ECAA	1,147	1,427	1,470
	A2—Worker Cards and Registration Certificates	9,602	9,530	9,217
	Travel Documents	3,716	4,882	5,475
	Temporary Migration TOTAL	72,282	73,620	74,549

¹³ Our service standard is to process 80% of sponsor applications within four weeks.

¹⁴ This was an exceptional case that we were asked to put on hold pending an investigation by the Gangmasters Licensing Authority.

<i>Workstream</i>		<i>April 2012</i>	<i>May 2012</i>	<i>June 2012</i>
Permanent Migration	British Citizen	32,382	37,224	35,562
	Permanent Resident	17,516	16,625	16,458
	European Casework (Euro)	20,802	22,345	24,939
Permanent Migration TOTAL		70,700	76,194	76,959
Total Work in Progress		142,982	149,814	151,508

49. The table below shows the average, maximum and minimum length of time between receipt of an application for refugee/humanitarian family reunion and the applicant being notified of the decision in quarters 1 and 2 of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Average	50 days	49 days
Maximum	977 days ¹⁵	320 days
Minimum	Less than 1 day	1 day

50. I am unable to provide figures for the age of outstanding cases at the end of quarter 1 2012 as the database can only extract live, rather than historical, data.

51. The table below shows the number and percentage of applications for refugee/humanitarian family reunion still pending at the end of quarter 2 of 2012 that had been pending for more than six months:

	<i>Pending 6–12 months</i>	<i>Pending over 12 months</i>
Number	21	393
Percentage	2%	34%

ENFORCEMENT (35–42)

52. In quarter 1 of 2012 we issued 347 civil penalties to employers caught employing migrant workers illegally. At time of writing 47 of these penalties had been reviewed and cancelled following an objection or appeal and 36 are still in the appeal process. Of the remaining 264 we have collected payments of over £400,000. We expect this figure to increase as many charges have not yet reached the final payment due date, and many pay in instalments.

53. In quarter 1 of 2012 we issued 287 section 40 (Carriers Liability) invoices. To identify what proportion of these was collected by the due date would require a manual check of each record which would incur a disproportionate cost. I can however confirm that 211 (74%) of the invoices issued in quarter 1 of 2012 have been collected at time of writing. I expect this figure to increase.

54. Hauliers' Civil Penalties are a matter for Border Force.

55. The table below shows the number of sponsor notifications regarding non-compliance received in quarter 1 of 2012:

	<i>Total notifications received</i>	<i>Notifications in a potential non-compliance category¹⁶</i>
Tiers 2 and 5 ¹⁷	9,335	3,037
Tier 4	28,561	15,871

56. The table below shows the number of sponsor notifications regarding non-compliance received in quarter 2 of 2012:

	<i>Total notifications received</i>	<i>Notifications in a potential non-compliance category¹⁸</i>
Tiers 2 and 5 ¹⁹	8,523	2,983
Tier 4	17,631	12,107

¹⁵ This was a single exceptional application. The next longest gap between receipt of an application and notification of the decision was 437 days.

¹⁶ Note that sponsors self-select from a number of categories and a proportion are miscategorised.

¹⁷ The Sponsor Management System (SMS) does not distinguish between Tier 2 and Tier 5 employers for the purposes of sponsor notifications.

¹⁸ As per note 16.

¹⁹ As per note 17.

57. The table below shows the number of notifications followed up in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Tier 2	3,219	833
Tier 4	15,882	33,298
Tier 5	193	45

58. At this stage we are unable to reconcile information between our systems to identify how actions relate to notifications received in the corresponding quarter. Notifications followed up will include all notifications, not just those in a potential non-compliance category.

59. The table below shows the number of sponsors that had their licences suspended or revoked in the first two quarters of 2012:

	<i>Q1 2012</i>		<i>Q2 2012</i>	
	<i>Suspended</i>	<i>Revoked</i>	<i>Suspended</i>	<i>Revoked</i>
Tier 2	125	101	73	55
Tier 4	32	21	81	68
Tier 5	13	8	8	8

60. It is not possible to provide a figure for the number of sponsors that had the number of Certificates of Sponsorship or Certificates of Acceptance for Study they could assign reduced without conducting a manual check of each sponsor's record which would incur a disproportionate cost.

61. If a sponsor fails to comply with their sponsor duties then they are not breaking the law. Therefore the UK Border Agency does not have the power to prosecute sponsors for misuse of their licence, although suspension and revocation action may be taken. Where the owner or an employee of a sponsor has committed an immigration offence then we can, and have, prosecuted those individuals as this is a criminal offence.

APPEAL TRIBUNALS (43–49)²⁰

62. The table below shows the number of First Tier Tribunal cases promulgated, allowed, dismissed and withdrawn in quarter 1 of 2012:

<i>First Tier Tribunal (Immigration and Asylum Chamber)</i>	<i>Promulgated</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Withdrawn</i>
Asylum	3,125	870 (28%)	2,000 (64%)	250 (8%)
Managed Migration	6,210	2,750 (44%)	2,785 (45%)	670 (11%)
Entry Clearance	6,545	2,340 (36%)	2,380 (36%)	1,825 (28%)
Family Visit Visa	12,355	4,050 (33%)	5,820 (47%)	2,485 (20%)

63. Between January and March 2012 the Agency won 46% of all appeals at the First Tier and 64% of asylum appeals. The overall win rate has improved from 42% in the preceding quarter.

64. The table below shows the number of Upper Tribunal cases promulgated, allowed, dismissed, withdrawn and remitted in quarter 1 of 2012:

<i>Upper Tribunal</i>	<i>Promulgated</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Withdrawn</i>	<i>Remitted</i>
Asylum	610	200 (33%)	345 (57%)	50 (8%)	10 (2%)
Managed Migration	1,050	440 (42%)	505 (48%)	90 (9%)	12 (1%)
Entry Clearance	720	310 (43%)	370 (51%)	21 (3%)	20 (3%)
Family Visit Visa	185	80 (43%)	90 (49%)	10 (5%)	5 (3%)

65. The table below shows the number of First Tier Tribunal deportation appeals promulgated, allowed, dismissed and withdrawn in quarter 4 of 2011 and quarter 1 of 2012:

<i>First Tier Tribunal (Immigration and Asylum Chamber)</i>	<i>Promulgated</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Withdrawn</i>
Q4 2011	225	90 (39%)	120 (53%)	20 (8%)
Q1 2012	195	65 (34%)	125 (63%)	5 (3%)

²⁰ Note figures in this section may not sum due to rounding.

66. The table below shows the number of Upper Tribunal deportation appeals promulgated, allowed, dismissed, withdrawn and remitted in quarter 4 of 2011 and quarter 1 of 2012:

<i>Upper Tribunal</i>	<i>Promulgated</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Withdrawn</i>	<i>Remitted</i>
Q4 2011	55	15 (27%)	40 (71%)	0	1 (2%)
Q1 2012	65	20 (29%)	40 (62%)	6 (9%)	0

67. The table below shows the percentage of appeals at which the UK Border Agency was represented in quarter 1 of 2012:

	<i>Representation rate</i>
First Tier Tribunal	80%
Upper Tribunal	100%
Deportation	100%
All appeal hearings	83%

68. The table below shows the number of cases where leave to remain was granted in quarter 1 of 2012 following an appeal withdrawal between April 2011 and March 2012:²¹

	<i>Asylum</i>	<i>Deportation</i>	<i>Human Rights</i>	<i>Permanent migration</i>	<i>Temporary migration</i>	<i>Total</i>
First Tier	42	3	5	10	173	233
Upper Tier	4	0	0	1	13	18
Total	46	3	5	11	186	251

69. Please see below an update on our performance against targets in the Appeals Improvement Plan:

Bundling performance

70. We aim to get appeal bundles to courts by target timescales which are in advance of the appeal hearing. Management information indicates performance against these timescales has improved from 49% in 2010/11 to 63% in 2011/12.

Representation

71. We continue to achieve a 100% representation rate in the Upper Tribunal and deportation appeals. Overall representation rates from January to March 2012 continue to be around the 80% mark but will increase from mid 2012 due to:

- (i) Short term recruitment into the presenting role, including establishing a pool of junior barristers working as presenting officers for three months and recruiting law graduates to start in early September;
- (ii) Sharing staff resource between regional offices to meet hearing volumes; and
- (iii) Reducing the volume of appeals proceeding to hearing. This will occur partly as the result of measures to restrict the family visit appeal right and also through measures such as withdrawing unsustainable cases.

Reducing appeal volumes

72. Appeal volumes continue to reduce. In 2010–11 there were 136,800 appeals compared to 112,500 in 2011–12.

73. I am unable to supply management information in relation to the length of time taken between receipt of appeal outcome and the sending of status documents in allowed “in country” appeal cases: the Case Information Database (CID) is unable to link the two events in a way to automatically generate a report with any reliability. To manually collate the information would require searching through case notes in each allowed appeal case which would incur disproportionate cost.

²¹ To obtain this data a timeframe is needed for the date of withdrawal. The 2011–12 financial year is the period within which the vast majority of appeals which led to a grant of leave between January and March 2012 were withdrawn.

74. For entry clearance and visit visa appeals I am able to provide a breakdown from the date when the appeal determination was received at the overseas post to the issuing of a visa/entry clearance. The relevant figures relating for quarter 1 of 2012 are shown in the table below:

Average time taken	27 days
Shortest time taken	Less than one day
Longest time taken	173 days

MPs' CORRESPONDENCE (50–51)

75. The table below shows the percentage of further action referrals that were completed within service standard and the percentage of MPs' emails that were answered within service standard in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Further action referrals ²²	79%	85%
MPs' emails ²³	89%	85%

DETENTION (52–54)

76. The table below shows the number of children that entered immigration detention in the first two quarters of 2012, and the length of time for which they were detained:²⁴

	<i>Q1 2012</i>	<i>Q2 2012</i>
Children entering detention	53	60
Held less than three days	35	46
Held four to seven days	14	10
Held eight to 14 days	2 ²⁵	1 ²⁶
Held 15 to 28 days	0	1
Held 29 days to two months	2 ²⁷	2 ²⁸

77. It is not possible to provide definitive information on the number of people held in immigration detention found to have suffered a breach of Article 3 of the ECHR due to multiple grounds of challenge and the fact that cases are managed separately by different business areas. From a manual search based on locally held management information there were no cases brought against the Home Office where a person held in immigration detention was found to have suffered a breach of Article 3 of the ECHR in quarter 1 of 2012, and there was one case brought against the Home Office where a person held in immigration detention was found to have suffered a breach of Article 3 of the ECHR in quarter 2 of 2012. This litigation continues.

INTELLIGENCE (55–60)

78. We expect to introduce the National Allegations Database on 30 September. This will allow the Agency to count systematically the allegations received from members of the public, currently done on a manual basis. We will also obtain the ability to track individual allegations through to outcome, a key recommendation of the Independent Chief Inspector. The database will also allow us to introduce a centralised approach for those allegations received by letter.

79. This will be followed in the first quarter of 2013 with the launch of a fully revised e-form on the Home Office website. The new form will guide members of the public in providing the key information needed to identify immigration and border crime. This is critical to improving the quality of the information that we receive from members of the public and will form the basis of our work in increasing the utilisation rate of allegations received.

²² The service standard is to complete 90% of cases within 10 working days.

²³ The service standard is to answer 95% of emails within 20 working days.

²⁴ All people held are detained in the UK solely under Immigration Act powers and exclude those in police cells, Prison Service establishments, short term holding rooms at ports and airports (for less than 24 hours), and those recorded as detained under both criminal and immigration powers and their dependants. Some detainees may be recorded more than once if, for example, the person has been detained on more than one separate occasion in the time period shown, such as a person who has left detention, but has subsequently been re-detained. All figures are provisional.

²⁵ These are all exceptional age dispute cases in which the individual was initially assessed as being over 18 or claimed to be under 18 after release.

²⁶ As above.

²⁷ As above.

²⁸ As above.

80. The table below contains details of the allegations received, and action taken, during the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Total allegations received ²⁹	20,464	20,812
Given an initial assessment within 48 hours of receipt	20,094 (98%)	20,640 (99%)
Subsequently investigated by UKBA ³⁰	12,678	11,537
Allegations-based enforcement action taken ³¹	777	795
Allegations-based arrests ³²	588	606

81. Removals information is currently recorded on a separate system therefore data matching has to be carried out between the National Operations Database and the Case Information Database to identify those individuals arrested subsequently removed. When the National Allegations Database is operational a unique reference number will be applied across both systems to allow the UK Border Agency to track the outcome of allegations based activity.

82. In relation to the overall enforcement process, a project is underway to collate enforcement information to represent the end to end enforcement process from initial application, arrest and removal.

ASYLUM (61–62)

83. The table below shows the number of individuals removed from the UK and subsequently granted refugee status or humanitarian protection in the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
Individuals removed from the UK and subsequently granted refugee status or humanitarian protection	6	7

84. These figures are made up of nationals of Albania, China, Eritrea, Iraq, Sri Lanka, Sudan, Syria, Uganda and Zimbabwe.

STAFF NUMBERS AND REMUNERATION (63–65)

85. The table below shows the number of full time equivalent (FTE) staff employed by the Agency, by group, at the end of the first two quarters of 2012:

	<i>Q1 2012</i>	<i>Q2 2012</i>
International Group	1,974	2,241 ³³
Resource Management Group	777	787
Human Resources Directorate	573	551
Strategy and Intelligence Directorate	113	130
Enforcement and Crime Group	2,194	2,318
Immigration Group	7,255	7,073
Total	12,886	13,100

86. The Agency spent £217,000 on external consultants in quarter 1 of 2012 and £115,300 in quarter 2 of 2012.

7 September 2012

²⁹ A breakdown of the type of allegations received is not currently recorded.

³⁰ Following initial assessment, details of allegations are logged and sent to the appropriate teams for research and development. High harm or time sensitive allegations are prioritised and disseminated to specialist teams for immediate investigation. The remaining allegations are initially assessed and logged. No further action may be taken either because they were not linked to Agency priorities, they do not contain enough information to identify an immigration or other crime, or they contain information which had been provided previously or which was known to be incorrect or vexatious.

³¹ This details the number of enforcement visits as a result of the receipt of an allegation by the UK Border Agency Intelligence Unit, not necessarily linked to allegations received in the same quarter. We are currently unable to link specific allegations to a specific enforcement activity. This will be addressed with implementation of the National Allegations Database.

³² Arrest information relates to the number of instances an arrest has been made and is not a count of the number of individuals arrested. Not all the individuals arrested are subject to immigration control and therefore are not removable. For example a British citizen may be arrested for facilitation and would not be removed.

³³ Increase is due to seasonal temporary workers, mainly overseas.



**UK BORDER AGENCY
SENIOR MANAGEMENT TEAM**
1 August 2012

Chief executive
Rob Whittoman

Philip Auzer Non executive Chair	Mark Thomson Non executive	Arundell Sims Non executive
Katharine Newell Non executive	Mike Hawker Non executive Chair of audit committee	Chris Constantine Meriel Borer Non executive

Director of operations and deputy CEO David Wood	Director of resources and organisational development Paul Darling	Director of strategy and intelligence Emma Churchill	Director of immigration and settlement Jeremy Oppenheim	Director of crime and enforcement Hugh Ind	Director of international operations and visas Jonathan Sedgwick	Director of Migration, Foreign & Commonwealth Office Susannah Simon
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Day to day delivery management

Operational Intelligence (PB1)

Operations and Assurance (PB1)

Identity & Data Integrity (PB1)

Professional and Customer Standards (PB1)

2 x Special Projects and Management Support (G6)

Money, support services and market strategy

Financial Planning (PB1)

Financial Control (PB1)

Commercial & Property Strategy (PB1)

HR & Skills Development (PB1)

IT & Digital Strategy (PB1)

IOW Programme (Temp PB2)

IOW Programme Control (Temp PB1)

ICW & Transformation Finance (Temp PB1)

Medium term strategy and business assurance

Strategic Intelligence (PB1)

Business & Customer Strategy (PB1)

Business Process Design (PB1)

Operational Policy & Rules (PB1)

Performance & Compliance (PB1)

Chief Executive's Chief of Staff (PB1)

Operating Model (Temp PB1)

Transformation (Temp PB1)

In-country applications and decision casework

Asylum & Complex Casework (PB2)

Asylum Casework (PB1)

National Asylum Operations (Temp PB1)

Asylum Operating Model (Temp PB1)

Complex Casework (PB1)

Appeals & Judicial Review Casework (PB1)

Migration & Customer Contact Operations (PB2)

Permanent Migration (PB1)

Temporary Migration (PB1)

3 x Customer Contact Coordinators – correspondence, telephony and public enquiry offices (G6)

Border Casework Coordination (G6)

Removing criminal and irregular migration

Crime & Detention (PB2)

Criminal Investigations (PB1)

Special Cases (PB1)

FNO Deportation (PB1)

Removals & Compliance Casework (PB1)

Removal Logistics & Detention (PB1)

3 x Enforcement Engagement Area Directors (PB1) – Scotland & NI, London & South and Wales, Midlands & North

Overseas operations and visa decisions

International Contracts & Visa Coordination (Temp PB2)

International Partnerships & Country Planning (PB1)

Business, Growth & Premium Services (PB1)

2 x Regional Director (PB1) – Europe & Mediterranean and SE Asia & Pacific

4 x Regional Director (G6) – Gulf, Africa, Americas, South Asia

Returns and reintegrations and Migration, policy and returns

KEY

Executive Board	
Group director	
Non-executive director	

**Letter from Rob Whiteman, Chief Executive, UK Border Agency, to the Chair of the Committee,
14 September 2012**

I am looking forward to appearing before the Committee on Tuesday, and attending the opening of the BRP Enrolment Centre with you in Leicester on Friday.

I understand that the Committee would like to hear more surrounding the revocation of London Metropolitan University's licence to sponsor non-EEA students under Tier 4 of the Points Based System, and I am keen to keep you informed.

You will be aware that London Metropolitan University submitted a legal challenge this week against our decision to revoke their licence. The application is currently before the courts, and an initial hearing has been listed for Friday 21 September.

As a result of the current proceedings for judicial review and an injunction, I will be unable to answer questions about London Metropolitan University on Tuesday. This is because, if reported, the information may be capable of prejudicing the department's position in those proceedings.

However, I am of course keen to update the Committee as soon as I am able to do so, and I will be happy to provide the information to you by letter, or when I next appear, following conclusion of the legal proceedings.

14 September 2012

**Letter from Rob Whiteman, Chief Executive, UK Border Agency, to the Chair of the Committee
8 October 2012**

Thank you for your letter of 26 September following my evidence session in front of the Committee on 18 September. Please find the additional information requested below.

1. CONTROLLED ARCHIVE

Anonymised case studies of controlled archive cases can be found at Annex A. I apologise for the delay in providing these.

2. MIGRATION REFUSAL POOL

You have asked for annual figures on the size of the Migration Refusal Pool (MRP) on 30 June between 2008 and 2011. Unfortunately reliable data for the MRP prior to October 2011 are not available and it is not possible to run this report retrospectively. The size of the MRP quarterly in that period is as follows:

End of October 2011:	156,451
End of December 2011:	158,763
End of March 2012:	161,538
End of June 2012:	174,057

As discussed at the Committee, the spike in the second quarter of 2012 is largely down to our work curtailing student leave.

3. CHARTER FLIGHTS

The cost of charter flights was £2,122,831 in quarter 1 of 2012 and £3,471,457 in quarter 2 of 2012. Please note that charter flights may be used to remove all types of immigration offenders, including failed asylum seekers and overstayers, as well as foreign national offenders.

4. CAPITA

Capita is our preferred bidder to complete the contact management work for the MRP, but we have yet to formally sign the contract. We expect to do so very shortly. The value of the contract is £2.5—£3 million for the initial contact management, £150,000 to develop the casework processes and £2.5 million for caseworking 50,000 cases (subject to the UK Border Agency agreeing the casework processes). In addition further migrant work could be put through the contract and could rise to £30 million over four years depending on their Performance.

There will be strict performance criteria established for this contract. The contract will have a graduated payment structure where Capita will be paid more for the outcomes we want, such as departures from the UK. Negotiations are ongoing and for reasons of commercial confidentiality I am not able to disclose the specific benchmarks that will be set.

At my evidence session I said that I thought that we had shortlisted four bidders. In fact there were initially six bidders, but two dropped out before the evaluation process.

5. SERCO

Between January and July 2012 we undertook a pilot in the London and South East area to ascertain the cost and effectiveness of this approach to tackling the MRP. Serco worked on a small subset of 7,600 Cases as a proof of concept ahead of a competitive tender. They did not receive a payment for conducting this exercise. The pilot showed that in around 20% of the cases that reached an outcome the Individual had already left the UK or did so within six months of being contacted.

Operation Mayapple

You have asked for the number of university students removed as a result of Operation Mayapple, and a breakdown of the institutions that they were attending. The system that we use to record removals does not record details of the individual's sponsor (if they have one), therefore it is not possible to provide this information.

Students

It is not possible to provide a definitive measure of the number of students breaking the terms of their visas. However during the first two quarters of 2012 we curtailed the leave of 14,100 students following a notification from a sponsor. This is a manual recording of the reason for curtailment subject to a margin of error and was not available prior to 2012.

Students may be found by our enforcement teams to be breaking the conditions of their visa by working illegally or overstaying, however figures for this are not recorded centrally and could only be obtained at disproportionate cost.

Finally, in relation to the separate issue of cases referred to by Mr Winnick during my evidence session (paragraphs 38 to 40 of the written transcript), I should clarify that the UK Border Agency has not formally apologised outside the settlement process, but has agreed appropriate damages in line with the Administrative Court's findings that limited periods of detention had been unlawful.

Rob Whiteman
Chief Executive

Annex A

CONTROLLED ARCHIVE CASE STUDIES

Case Study 1: asylum

Mr A entered the UK and claimed asylum on 27 August 2002. His asylum application was refused on 23 April 2004. Following unsuccessful appeals he became appeals rights exhausted on 12 April 2005.

Mr A made an initial application for assisted voluntary return (AVR) on 5 January 2005 which was approved by the UK Border Agency on 7 January 2005. Mr A's AVR application was withdrawn by the Agency on 17 February 2006 after Mr A failed to comply with his reporting conditions and did not respond to correspondence.

Mr A made contact with the UK Border Agency again on 7 February 2007 to submit fresh submissions in relation to his asylum claim, The UK Border Agency refused these on 13 February 2007. Refusal papers issued to the applicant by the UK Border Agency in February 2007 were returned unopened in March 2007. No other contact address was held on file for Mr A.

In January 2010 the case was reviewed by the Case Resolution Directorate (CRD). Letters sent to Mr A's last known address and previous legal representative were unanswered. CRD checked Mr A's details against the Police National Database. Checks were also carried out in March 2010 with a credit reference agency and against DWP and HMRC data. Results were received in April 2010 with no details of applicant.

The case was reviewed again in May 2010 and January 2011 by CRD with no trace of applicant.

In March 2012 the UK Border Agency carried out a project in which cases held within the Case Audit and Assurance Unit (CAAU) were checked against Advance Passenger Information (API) lists provided by airlines to the UK Border Agency. These checks revealed that Mr A had left the UK of his own accord on 30 April 2011.

CAAU marked the case as concluded on 29 March 2012.

Case Study 2: asylum

Mr B claimed asylum on his arrival in the UK on 1 July 2005. His asylum application was refused on 15 July 2005 and on 18 September 2005 he was interviewed and advised that he had no lawful basis of stay in the UK. Mr B confirmed that he understood but advised that he would not return to his country of origin. Mr B was detained pending his removal.

On 28 October 2005 Mr B applied for leave to remain as a self employed person and on 7 November 2005 he lodged an application for a Judicial Review. His application for leave to remain was refused on 15 November 2005 and he was refused permission to proceed to Judicial Review on the papers on 28 November 2005. Mr B was released from detention on 28 November 2005 and on 21 December 2005 Mr B renewed his application for a Judicial Review for an oral hearing. He later withdrew his application for Judicial Review on 23 June 2006 and in August 2006 our records note Mr B as an absconder.

On 21 October 2009 Mr B made further representations for leave to remain in the UK on human rights grounds. On 23 April 2010 Mr B's details were checked against the Police National Computer (PNC) and against the UK Border Agency's watchlist and on 25 April 2010 Mr B was encountered by the police and detained in immigration detention. On 30 April 2010 Mr B's outstanding representations were considered and leave was refused. The same day Mr B lodged a further application for leave to remain in the UK on human rights grounds and this was refused on 4 May 2010.

On 6 May 2010, removal directions were set for 13 May 2010. On 11 May 2010 Mr A lodged an application for Judicial Review and the directions for his removal were deferred. Mr B was retained in immigration detention until 25 May 2010 when he was granted bail on application to the Asylum and Immigration Tribunal. On 26 May 2010 Mr B was refused permission to proceed to Judicial Review and the application was noted as completely without merit.

Mr B failed to keep the terms of his bail conditions and failed to report to UK Border Agency as required. On 10 September 2010 Mr B's surety forfeited the bail money provided in support of Mr B's bail. In November 2010 CRD wrote to Mr B and his representatives at the last addresses noted and completed checks confirming Mr B was not in receipt of asylum support and against the PNC and against the UK Border Agency's watchlist. No response was received from Mr B and no trace was found from the checks conducted. On 28 February 2011 Mr B's case was placed in the controlled archive.

Following checks made with a credit reference agency, DWP and HMRC an address was provided for Mr B. We wrote to Mr B at that address on 13 August 2012 to re-establish contact and his representatives have responded to us on 19 September 2012. His case has now been referred to a casework team who will review Mr B's case.

Case Study 3: migration

Miss C arrived in the UK on 2 March 2002 on a two week visitor visa. She applied for and was granted an extension of stay for six months.

Miss C did not leave at the end of her permitted stay and did not contact the UK Border Agency until August 2005 when an application for leave to undertake a nursing course was received. This application was refused in May 2007 with no right of appeal.

On 15 June 2007 reporting restrictions were imposed however Miss C failed to report on several occasions and her details were subsequently circulated on the PNC as an absconder.

In May 2011 the case was reviewed by CRD. Letters sent to Miss C's last known address were not answered. CRD checked Miss C's details against both the PNC and the Home Office watchlist but no traces were found and the case was placed in the controlled archive.

Since the case has been in the migration controlled archive we have completed checks against our internal databases and a check against the PNC. We have also checked with a credit reference agency and against DWP and HMRC data.

Our check with the credit reference agency provided a recent address for Miss C and CAAU wrote to her on 3 August 2012 at this address to re-establish contact. No response has been received and her case remains in the controlled archive.

UK Border Agency

September 2012

Email correspondence with UK Border Agency, 13 September 2012

The Committee have several queries which I have listed below, please could you respond to these by 5pm on Wednesday 12th?

1. *Page 7 Paragraph 26 (relates to Q20 of the HASC RFI)—reads: “I am unable to provide figures for the age of outstanding cases at the end of Quarter 1 as the database can only extract live, rather than historical data”. This relates to Q 20 of the HASC RFI which does not ask about age, do you mean that you are unable to provide a breakdown of the number of conclusions in each category at the end of Q1? Please could you clarify?*

Correct—the paragraph should read “number of concluded cases” rather than “age of outstanding cases.” This has been amended in the attached.

2. *Page 8 Paragraph 29—this states that you are unable to provide separate numbers for staff working on the Controlled Archive within the CAAU. Please could you let me know how the staffing model has changed and when it changed as we were provided with separate figures in Rob’s letter to the Committee of 3 May (see top of page 7)*

Since the letter in May the staffing structure within CAAU, and indeed most of the Agency, has been made more flexible. The number of staff allocated specifically to the controlled archive varies and as such it is no longer possible to provide a reliable figure for the number of FTE staff deemed to be working on it.

3. *Page 9 Paragraphs 26 and 27—the number of records entering the MRP in Q2 2012 appears to have been omitted. From the numbers you have given I calculate it to be 27,811. Please can you confirm or correct this figure?*

Yes.

4. *Pages 12–13 Paragraphs 52–55 (relates to Qs 38–41 of HASC RFI)—Q39 and Q41 of the HAS RFI ask for the number and percentage of non compliance sponsor notifications that had been followed up in each respective quarter broken down by Tier. You have replied with the number of all notifications that have been followed up. Please provide us with the number and percentage of non compliance notifications followed up in Q1 2012 and in Q2 2012 broken down by Tier (2, 4 and 5). This was provided in Rob’s previous letter to the Committee of 3 May for Tier 2 (page 17). I understand from Rob’s letter to the Committee of 14 June that this facility should have been available for Tier 4 from the 6 April 2012 (page 5).*

The Committee’s letter asked for the number and percentage of sponsor notifications regarding non-compliance followed up in the same quarter in which they were received. As paragraph 55 of the response states, our systems do not allow us to reconcile the dates of actions taken with the date that the notification was received. Furthermore, as actions taken are recorded on different systems to notifications received, we are not able to provide figures for follow up actions taken (on the Case Information Database) as a result of notifications flagged as related to non-compliance (on the Sponsor Management System). We have therefore provided the nearest alternative, which is total notifications followed up in the specified quarter.

In our letter of 3 May we did not specify that the figures for notifications followed up related to action taken in the same time period that they were received, or that the actions taken relate specifically to notifications regarding non-compliance. The Committee’s letter at that time asked for the number of notifications that had been investigated, without specifying the time period within which they should have been investigated, and did not specify that actions taken should follow specifically from notifications regarding non-compliance only.

Additionally, as noted in the letter, although the Sponsor Management System now enables sponsors to categorise reason for the notification, on further investigation some are found to have been miscategorised by the sponsor.

5. *Page 15 paragraph 67 (relates to HASC RFI Q48)—We have asked for an update on the AIP that covers Q2 2012 not for annual figures. Please could you provide equivalent percentage figures based on the Agency’s performance in Q2 2012 as was requested?*

As all the Committee’s other questions on appeals were for Q1 2012 we had kept to this period for consistency. I can confirm that the Agency’s performance on preparing appeals bundles within target timescales in quarter 2 of 2012 was 66%.

6. *Page 15 paragraph 68 (relates to HASC RFI Q48)—Figures given for representation rates relate to Q1 2012 and not Q2 2012, please can you provide them for Q2 as was requested?*

As all the Committee’s other questions on appeals were for Q1 2012 we had kept to this period for consistency. I can confirm that the Agency’s representation rate for all appeals in quarter 2 of 2012 was 76%. Our representation rate at Upper Tribunals and Deportation appeals in Q2 of 2012 was 100%.

7. *Page 16 paragraph 72—please define what a “further action referral” is?*

The Committee’s letter asked for the proportion of further action referrals completed within service standards. These are phone calls from MPs to the UKBA MP enquiry line that can not be resolved and are referred to

the relevant MP account manager for action as appropriate. Our target is to resolve 90% of these cases within ten working days.

8. *Page 18 paragraph 81(relates to HASC RFI Q61–62)—we requested a breakdown by nationality of the number of individuals removed from the UK and subsequently granted refugee status. We have been given the number of individuals and a list of nationalities but the two are not related. Apologies if we did not make our requirements clear please could a breakdown by nationality for each quarter be provided?*

It is our standard statistical protocol not to provide specific figures of less than three, as this could lead to an individual being identified and consequently breach data protection legislation. As the numbers here are so small we are unable to break them down by nationality as requested in order to comply with our data protection obligations.

UK Border Agency

September 2012

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