House of Commons
Home Affairs Committee

The work of the Immigration Directorates (October–December 2013)

Third Report of Session 2014–15

Report, together with formal minutes relating to the report

Ordered by the House of Commons to be printed 22 July 2014
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.

Current membership

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Nicola Blackwood MP (Conservative, Oxford West and Abingdon)
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The following were also members of the Committee during the Parliament.

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Powers

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

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom

Committee staff

The current staff of the Committee are Tom Healey (Clerk), John-Paul Flaherty (Second Clerk), Dr Ruth Martin (Committee Specialist), Duma Langton (Committee Specialist), Beejal Popat (Senior Economist, Scrutiny Unit), Andy Boyd (Senior Committee Assistant), Ivona Hankin (Committee Assistant) and Alex Paterson (Select Committee Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Home Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2049; the Committee’s email address is homeaffcom@parliament.uk.
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Sham marriages

1. The Home Office has described sham marriages and sham civil partnerships as posing “a significant threat to UK immigration control.”\(^1\) A sham marriage is a marriage or civil partnership of convenience,\(^2\) contracted for the purpose of avoiding the effect of one or more provisions of UK immigration law or the immigration rules, by a couple who are not in a genuine relationship.\(^3\) Typically, one party is from within the European Economic Area (an EEA national) and the other is a non-EEA national, usually with temporary or uncertain immigration status.\(^4\) By marrying the EEA-national, the non-EEA national acquires the right to reside in the UK under the 2004 Free Movement Directive.\(^5\) Of course, not all marriages between EEA and non-EEA nationals are sham marriages, and it is important to distinguish between marriages of convenience and genuine marriages between couples of different nationalities. Our concern is with marriages which are entered into solely to circumvent the immigration laws.

2. We are grateful for the work of John Vine CBE QPM, the Independent Chief Inspector of Borders and Immigration, who has carried out two relevant inquiries into this matter recently, and gave oral evidence to us. In his opinion, the problem of sham marriages is “an increasing threat to immigration control”.\(^6\) He pointed out that someone who marries an EEA national acquires the same Treaty rights as the EEA national, including the right to reside indefinitely in the UK and to bring their descendants, their children or dependent children or grandchildren, and their dependent parents or grandparents to live in the UK.\(^7\)

3. We agree with the Independent Chief Inspector when he said that sham marriages represent a significant threat to immigration control. The bogus spouse acquires not only the right to reside in the UK, but the right to bring their children, grandchildren, parents and grandparents to live here with them. Thus one sham marriage can provide UK residence rights to an entire extended family who would otherwise have no right to be here.

4. We carried out an on-line survey of registrars across the country, asking for details on the number of marriages and civil partnerships in their area, and the number of suspect

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\(^1\) The Home Office, Sham Marriages and Civil Partnerships, November 2013

\(^2\) Hereafter, we use the term “sham marriage” to refer to both sham marriages and sham civil partnerships, except where otherwise specified.

\(^3\) Immigration and Asylum Act 1999, s. 24 (Duty to report suspicious marriages). See also Immigration Act 2014 s. 55 and s.56

\(^4\) For example, someone with a visa or limited leave to remain which is unlikely to be extended, or who has been refused an extension to their current visa or limited leave to remain, or who has already over-stayed, or is an illegal immigrant

\(^5\) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

\(^6\) Independent Chief Inspector of Borders and Immigration, A Short Notice Inspection of a Sham Marriage Enforcement Operation 14-24 October 2013, January 2014

\(^7\) Q 135
sham weddings they had reported since 2011. The Committee is grateful to the registrars who provided data, and particularly to Jonathan Kershner, Registration and Coroner Services Manager at Manchester Registrar Office, and Alicja Gilroy, Superintendent Registrar at Oxford Register Office, for giving oral evidence.8

Marriage and immigration

5. At the moment, all those who wish to have a church wedding have to give notice to the church. If they wish to have a civil ceremony then they have to give notice to the registry office. The couple must be resident in England or Wales for at least 7 days. The notice must state where the marriage will take place and both partners are required to provide evidence of name, date of birth, marital status and nationality. Giving false information is a criminal offence. At present, the minimum time period between giving notice and the date of the ceremony is 15 days. If one partner is a non-EEA national then they have to register at a “designated” register office.9

6. Following the passing of the Immigration Act 2014, this notice period will be extended from 15 days to 28 days,10 and a couple that includes a non-EEA national who wish to marry in the Anglican Church in England or Wales must also follow civil preliminaries first. All notices for a marriage in England and Wales involving a non-EEA national who might benefit with regard to their immigration status will be referred to the Home Office for a decision on whether the proposed marriage is a potential sham. If the Home Office decides to investigate further, it can extend the notice period to 70 days in order to examine the genuineness of the couple’s relationship. Failure to comply with the requirements of a Home Office investigation will mean the couple cannot get married. The Act will also require non-EEA nationals to provide evidence of immigration status. The documents that will be accepted as proof of identity or nationality are to be prescribed in regulations.11

Residence card applications

7. Marriage to an EEA national does not necessarily mean the non-EEA spouse gains indefinite leave to remain, but it enables a non-EEA national to:

• apply under the Immigration Rules to stay in the UK as the spouse or civil partner of a British Citizen or a non-EEA national settled in the UK; or

• reside as the spouse or civil partner under the Immigration (EEA) Regulations 2006, or

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8 A list of the Registrars who responded is included as an annex.
9 A list of the designated registry offices is attached as an annex.
10 The extension to 28 days will apply to all weddings, including those between two British citizens. Marriages in the Church of England or Wales involving a non-EEA national will only be able to go ahead following the civil preliminaries.
11 Immigration Act 2014 s.28
• do nothing, allow any current leave to lapse and, if detected, seek to remain in the UK on the basis of their right to respect for family life under Article 8 of the European Convention on Human Rights.\textsuperscript{12}

The non-EEA spouse of an EEA national who is exercising Treaty rights can choose to apply to the Home Office for a residence card as confirmation of their right to reside in the UK. They are not required to do so, and the residence card does not itself confer any new rights on the holder, but it confirms their existing right to be in the UK by virtue of their marriage.\textsuperscript{13}

8. All these pathways allow the applicant to remain in the UK without applying for immigration status in their own right, a process which would require a more onerous burden of proof. As John Vine explained:

In effect, somebody who is married to an EEA national acquires the Treaty rights, the same Treaty rights of the EEA national, and can reside indefinitely in the UK and can also bring their descendants, their children or dependent children or grandchildren or, indeed, can bring their dependent parents or grandparents.\textsuperscript{14}

9. Furthermore, the spouse and civil partner route for non-EEA nationals under the 2006 Regulations is open to visitors to the UK—there are no maintenance, accommodation or language requirements—and the couple do not need to show, at the time the non-EEA national applies for a residence card, that the marriage or civil partnership remains or that they still intend to live together.

10. The UK can refuse a residence card application in a marriage or civil partnership where:

• the EEA spouse/civil partner is not present in the UK,

• the EEA spouse/civil partner is present in the UK, but not exercising Treaty rights,

• the couple are not lawfully married or in a civil partnership, or

• the marriage or civil partnership is one of convenience (i.e. a sham).

In order to prove that the marriage is a sham, the Home Office must prove that the marriage or civil partnership was not genuine at the moment it was entered into, regardless of its status at the point of application.\textsuperscript{15}

\textsuperscript{12} The Home Office, Sham Marriages and Civil Partnerships, November 2013
\textsuperscript{14} Q 135
\textsuperscript{15} The Home Office, Sham Marriages and Civil Partnerships, November 2013
11. The Independent Chief Inspector looked at a sample of residence card applications made by non-EEA nationals on the strength of their relationship, often marriage, with an EEA national. He found that 43% of the refusals for residence cards were from over-stayers or illegal immigrants. He found that it was common for the non-EEA national to make an application and, if refused, simply to repeat the application. Under EU Treaty rights law, there is no limit on the number of applications that can be made, and in the meantime no enforcement action can be taken if there is an application pending. Mr Vine said 72% of the refusals were repeat applications.

12. Mr Vine also noted that it was easier to become a naturalised citizen in some EEA countries than in others. In the UK it takes five years. In Italy, a spouse can apply for citizenship after being married to an Italian national and resident for one year if there is a child involved. In Germany, it is possible for a partner to become naturalised after three years of residency. It is not uncommon for someone born outside the EEA to live in a European country and become a naturalised citizen. They then can marry someone from the country of their birth and sponsor their application for a residence card. In John Vine’s sample, these applications were more likely to be refused: between October 2013 and January 2014, the refusal rate for applications from EEA nationals who were naturalised citizens was 59%, compared with a refusal rate for western Europeans generally of 53%.

13. The most common non-EEA nationals involved in John Vine’s sample were those from Pakistan, Nigeria, Ghana, and Brazil. The EEA nationalities were more evenly spread, though with slightly more nationals from Eastern Europe. Below is a table from the Independent Chief Inspector’s report on European casework listing the nationalities of the EEA nationalities and the nationalities of their partners:

<table>
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<th>Nationalities of partners of the East European EEA nationals in sample</th>
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<td>EEA nationalities</td>
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<td>Romania</td>
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16 Q 136
18 Q 148
20 Q 149
21 Footnote from the European casework report, “It is not clear why a Romanian national was a sponsor during this time period.”
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14. The Registrars who gave evidence to us said the nationalities of those involved tended to come in waves, but the current countries of origin they mentioned included Portugal, Lithuania, Poland and Slovakia. 22 Alicja Gilroy, Superintendent Registrar of Oxford Register Office, said that some of the Eastern European women were young and vulnerable, and suspected they had been offered money to go through with the marriage and make a new start in Britain.23

The size of the problem

15. The Home Office has estimated that about 4,000 to 10,000 applications to stay in the UK in 2013 were made on the basis of a sham marriage,24 although it has said that this broad estimate should be approached with caution.25 When asked his view on the 4,000 to 10,000 estimate, John Vine said “the Home Office does not really know” the scale of the problem and “the fact that we are estimating in the first place says it all.” Furthermore, Mr Vine got the impression from talking to Home Office staff that the issue was “more widespread” than the figures suggested.26

Reporting suspicious marriages

16. If a registrar has reasonable grounds for suspecting that a marriage of which notice has been given will be a sham marriage, they have a duty under sections 24 of the Immigration and Asylum Act 1999 to report their suspicions to the Home Office without delay. In 2010, some 934 suspect sham marriages were reported in this way. By 2013, this had more than doubled to 2,135.27

17. The first priority for registrars, as those who gave evidence told us, is to make sure that genuine couples, who want to get married for the right reasons, share one of the happiest days of their lives. John Kershner, Registration and Coroner Services Manager, Manchester Registrar Office, described to us how offensive it was for registrars to find themselves having to carry out sham ceremonies:

As a registrar one of the difficulties is [...] that you are forced to participate in that charade of a marriage, which is not a pleasant thing. I think all registrars—certainly the ones I spoke to in my office—said it is almost liked being mocked in your own job. We take our jobs very seriously. We want to deliver a good service to genuine couples, and to have to perform what is a

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22 Q 176-178
23 Q 190
24 Home Office, Sham marriages and Civil Partnerships, November 2013. There are an estimated 35,000 marriages and civil partnerships in the UK each year involving a non-EEA national
25 Home Office, Sham marriages and Civil Partnerships, November 2013, Appendix A
26 Q 127 and Q 130
27 HC Deb 4 Jun 2014, Col 605W

18. There are areas, like Manchester and Oxford, where the Registrars are reporting shams and addressing the problem. However, when the Independent Chief Inspector looked at the figures for section 24 reports from 2012, he found “there were certain cities in the UK where there were no sham marriages reported.”

He did not name particular places which appeared to be under-reporting, as he was conscious of the risk of displacing criminal activity from one place to another, but he did say in evidence that he was not satisfied that some registrars were doing their job in this respect.

19. The responses from registrars to our on-line survey showed variation in the number of suspect sham marriages over time and from place to place. In some places the level of reporting was zero, whereas staff in Manchester were submitting section 24 reports on a daily basis. We showed Mr Vine the responses we had received from registrars across the country and he said the evidence backed up what he had found, that there are huge variations in the number of reports, and that “this inconsistency is crying out for analysis.”

20. The fact that the burden is on the Home Office to show that a marriage was a sham when it entered into, regardless of its current state, means that intervening at or before the point of marriage will usually be the most effective way of tackling this growing problem. We would also suggest that early intervention in cases of obvious shams is likely to be more cost-effective, as it reduces the scope for lengthy casework and possibly legal appeals after the event. Effective joint working between the Home Office’s Immigration Enforcement Directorate and local authority registrars is therefore the key to tackling the problem of sham marriages.

21. We accept that there might be some registration districts where the number of sham marriages is very small indeed, but we find it implausible that there should be sizeable cities in the UK where there are no sham marriages at all. Registrars need to be aware that sham marriages appear to be a growing problem and that they have a duty to report those that they suspect are sham marriages. We recommend that the Home Office provide additional training for registrars, targeted at those registration districts where the number of section 24 reports is unusually low in comparison to similar districts, on how to recognise the signs of a possible sham marriage and the circumstances in which a section 24 report should be made.

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28 Q 189
29 Q 132
30 Q 126 and Q 137
31 Q 172
32 Q 146
33 Q 132
22. We should not under-estimate the duplicity of those involved in organising sham marriages, which has turned into an industry and appears to be increasing at an alarming rate. Given the Home Office’s stated strong commitment to enforcement, all those involved in the process must remain vigilant to those individuals trying to exploit loopholes in the system.

23. The Independent Chief Inspector of Borders and Immigration told us that the Home Office does not appear to know how many people are securing the right to stay in the UK on the basis of a sham marriage. Whilst we are aware that publishing data that shows hot-spots of sham marriage activity might give information to organised criminals, we want the Home Office to demonstrate that they take the issue seriously. The Home Office should publicise the data that they have on the levels of reporting, the number of interventions, the number of arrest, the number of prosecutions and the number of removals.

**Home Office and enforcement**

24. The registrar has a role in registering the marriage or civil partnership, and possibly in officiating at the ceremony, but the decision on whether or not to intervene is the responsibility of the Home Office Immigration Enforcement team. The purpose of the extension to the notice period in the Immigration Act 2014 is to provide the Home Office with more time to decide before the marriage or civil partnership takes place. In the absence of Home Office intervention, the registrar is obliged to proceed with the marriage.

25. Alicja Gilroy described an example of when Home Office Enforcement investigated a suspicious marriage she had reported. The section 24 report had been based on three reasons: there was little interaction between the couple, they did not share a common language, and one party was an over-stayer. She pointed out that recognising the non-EEA person was an over-stayer was not justification by itself to report the marriage. When they arrive at a suspected sham marriage, the Home Office team explain to the bride and groom who they are, then interview them separately. In this example, the interviews lasted for an hour and a half. At the end, the wedding did not take place. If the Home Office decide not to act upon the section 24 report, then the Registrar has no choice but to proceed.

26. John Vine reported that, between 14 January and 30 September 2013, the Home Office carried out 500 such operations, leading to 334 arrests and 78 people being removed from
the country.\textsuperscript{39} James Brokenshire MP, Immigration and Security Minister, told us that in the period July to December 2013, Immigration Enforcement carried out 796 interventions, which led to 466 arrests. That was as compared to 221 arrests during the whole of the previous year, “so there has been a step up on enforcement”.\textsuperscript{40}

27. John Vine found that there was a great deal of disparity in levels of activity between the 19 immigration enforcement teams across the UK.\textsuperscript{41} Part of this appeared to be resourcing:

There needs to be the sort of relationship that we showed was in existence in West London and was operating effectively in Brent, and there needs to be the resources made available by the Home Office to ensure that this is tackled. I think that is the crux of it. It is okay in changing the law and making legislative changes to enable the Home Office to be more effective, but that has to be matched with appropriate resourcing and appropriate direction in terms of it being a priority.\textsuperscript{42}

28. Part of the problem appears to be the relationship between registrars and the Home Office enforcement team. In areas of high activity, such as Brent, the enforcement team and the registrars have good relationship.\textsuperscript{43} The response from registrars to our request for data on sham marriages revealed that even in places where there was a high number of shams reported, there was almost no feedback from the Home Office as to what action they took as a result of section 24 reports. Alicja Gilroy told us that, while there was work at a high level between the National Panel for Registration and the Home Office, individual registrars “don’t have much feedback, not on how to improve our section 24 reports”.\textsuperscript{44} The section 24 report is submitted electronically,\textsuperscript{45} so the feedback could be electronically.\textsuperscript{46}

29. Manchester reported 166 suspected sham marriages in 2013 yet received no feedback as to whether any of these reports led to any action. Jonathan Kershner told the Committee that his office reported a suspect sham marriage and then found out about the prosecution afterwards by reading the \textit{Manchester Evening News}. Mr Kershner said “If I had not bought the paper on that day I would not have known about it.”\textsuperscript{47}

30. The Immigration Act 2014 has extended the minimum time between a couple giving notice of their intent to marry and the ceremony, allowing more time for the Home Office to act on reports sent from registrars. The registrars represent a crucial

\textsuperscript{39} Independent Chief Inspector of Borders and immigration, \textit{A Short Notice Inspection of a Sham Marriage Enforcement Operation, 14–24 October 2013}, January 2014
\textsuperscript{40} Q 70
\textsuperscript{41} Q 125
\textsuperscript{42} Q 136
\textsuperscript{43} Independent Chief Inspector of Borders and Immigration, \textit{A Short Notice Inspection of a Sham Marriage Enforcement Operation, 14–24 October 2013}, January 2014
\textsuperscript{44} Q 195
\textsuperscript{45} Q 191
\textsuperscript{46} Q 179
\textsuperscript{47} Q 203
source of intelligence to the Home Office about potential sham marriages and we expect the Home Office to act upon those reports. We recommend that the law be changed so that if the Home Office enforcement team do not act upon the section 24 report, and the registrar is confident the wedding is a sham, then the registrar should have the power to not proceed with the wedding.

31. It is clear that there is a blind spot which leads to the under-reporting of sham marriages. The registrars that gave us evidence told us that they received little or no feedback from the Home Office in response to their section 24 reports. Registrars were consistently unable to tell us how many of their reports led to further action or no action, or, more, importantly whether or not they led to a prosecution.

32. The Home Office must, as a matter of routine, provide registrars with feedback on every section 24 report: whether it resulted in no action, in an individual being removed from the country, in prosecution, or some other outcome. This will help to reinforce to registrars the importance of reporting potential sham marriages, it will help them over time to develop a better understanding of the nature of the problem, and it will help to foster a spirit of mutual co-operation between registrars and the Home Office. Crucially, it will reassure the public. Similarly, we believe that there should be an opportunity for registrars to provide feedback to the Home Office in cases where they feel their well-founded suspicions were not acted on, and to receive an explanation for the Home Office’s action in the case.

33. It is apparent from the reports of the Independent Chief Inspector that the level of resources applied to this problem is critical, and we are not convinced that the current level of resourcing is sufficient compared to the scale of the abuse.

**Prosecutions**

34. Anyone who commits a criminal offence related to a sham marriage, such as perjury, can be prosecuted. In reality, this happens only rarely. John Vine told us that there was “no evidence of individual abuse being pursued by way of prosecution and I cannot understand the reason why that is the case”. He added this lack of prosecution sends the wrong message:

I think much more should be done and I think it is one of the biggest potential threats to immigration control at the moment, not least because of the lack of prosecution in individual cases.

35. Where there were prosecutions, they appeared to be in cases involving organised crime, but that information was anecdotal. The Home Office was unable to provide the Chief Inspector with any management information about the number of prosecutions or

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49 Q 147
50 Q 137
removals from the UK as a result of sham marriage because it was not being captured routinely. He understood the Home Office was trying to establish an intelligence unit in Liverpool to provide better intelligence but it was not able to inform his inspection carried out from October 2013 to January 2014. Mandie Campbell, Director General of the Immigration Enforcement Directorate, told us in April that the “the move into a new enforcement command has seen a significant increase in the relationship and the numbers of interventions in relation to potential sham marriages.”

36. The Home Office was unable to provide the Chief Inspector of Borders and Immigration with management information on the number of prosecutions or removals from the UK as a result of sham marriage. Without any such data it is hard to believe any assurance from the Government that they are prioritising the problem and pursuing those who are attempting to circumvent immigration rules. Successful and well publicised prosecutions would help deter those from considering taking part in a sham marriage and incentivise registrars, and the general public, to report their suspicions. The number of section 24 reports more than doubled between 2010 and 2013. The Home Office should be able to tell the Committee what impact that increase had on prosecutions and on removals.

37. The Home Office should write to the Embassies of those European nationals who are most commonly involved in sham marriages, and encourage them to inform those who pass through their Embassy or Consulate that being involved in a sham marriage can lead to a criminal record and removal from the UK.

Proxy marriages

38. Some countries, such as Nigeria and Ghana, allow proxy marriages in which one or both partners are not present. Proxy marriages may take place where the wedding ceremony takes place in a different country, or even a different continent, from both the people involved. At the same time, both partners are living in the UK and, if genuine, could more easily get married here. In cases of proxy marriage entered into overseas, the question for the Home Office is not so much whether the marriage is genuine, but whether it was lawfully conducted in the country where it took place. British common law recognises marriages within the traditions of other countries, as long as those marriages are lawfully conducted. The burden of proof is on the Home Office to show, on the balance of probabilities, that the ceremony was unlawful. John Vine spoke to one member of Home Office staff who described it as a “nightmare” trying to gather evidence and documentation on proxy marriages overseas. In the sample of residence applications he examined, the
ones that relied upon a proxy marriage were refused as the ceremony was found to be unlawful.56

39. While we agree with the general principle of respecting marriage ceremonies held in other countries, it seems absurd that two people, both resident in the UK, can be lawfully married for the purposes of British law by means only of a proxy ceremony carried out overseas. At the moment, the burden of proof is on the state to prove the proxy marriage is unlawful. The burden of proof should be on the couple applying for a residence card, based on a proxy marriage, to prove the proxy marriage is lawful.

56  Q 138. In countries like Nigeria and Ghana a relative often stands in at the marriage ceremony.
2 Key indicators of the Immigration Directorate’s performance

40. The Committee assesses the Home Office’s report on a quarterly basis against a number of indicators covering the major aspects of its work. This chapter looks at Quarter 4 2013. The chapter is split into two sections, reflecting how the work is divided in the Home Office.

41. Part one covers the work of UK Visas and Immigration
   - Visa applications
   - Sponsors and licensing
   - New asylum and immigration cases
   - Asylum and immigration caseload
   - Appeals and tribunals performance
   - Lost documents
   - MPs correspondence
   - Staff numbers and remuneration

Part two covers the work of Immigration Enforcement
   - The Migration Refusal Pool
   - Intelligence
   - Enforcement action
   - Foreign national offenders
   - Immigration detention

These lists are not definitive and the Committee may decide to add further indicators.
3 UK Visas and Immigration

Visa applications

42. The UK point based system provides for visas in separate categories: Tier 1 is for “high value” individuals. Tier 2 is for skilled workers from outside the EU with a skilled job offer, and is subject to an annual upper cap of 20,700. Tier 4 is for students and Tier 5 is for people whose reason to work in the UK is temporary and not for work reasons, e.g. artists. The service standard target for in-country postal visa applications is 90% in four weeks. The service standard target for premium visa applications is 90% in 24 hours.

In country processing

The chart below shows the proportion of in country visas applications process within target by Tier for postal and premium applications in Q4 2013.

- Performance on postal applications is below target for Tiers 1 and 4. Performance on premiums applications for Tiers 1, 4 and 5 is below target.

Work in progress

- In Q4 2013, there were 113,243 in country visa applications which were work in progress of which 22% were un-input cases. In Q3 2013 there were 141,005 in country visa applications which were work in progress, of which 7% were un-input cases.
Out of country processing

The chart below shows out of country visa applications processed within 15, 30 and 60 days by Tier in Q4 2013.

- Performance in Tier 1 is below target.

![Out of country visa applications processed chart]

Improved performance

- There are 58,919 out of country visas applications that are work in progress in Q4 2013. This is a decrease from 67,078 in the previous quarter.

The chart below shows the proportion of in country postal visa applications processed in the target time. Performance across all Tiers has improved in 2013, although for Tier 1 only 61% of postal applications were processed in target time in Q4 2013.

![In country postal applications processed in time chart]
Performance for in country premium applications also improved in 2013 for Tiers 2 and 5. However, still only 70% of Tier 4 premium applications are processed in the target time in Q4 2013.

**Sponsors and licensing**

43. Applications under Tier 2, Tier 4 and Tier 5 require a sponsoring body. Under Tier 2 and Tier 5 (Temporary workers) the sponsor must be an employer based in the UK. Under Tier 4, the sponsor must be an education provider. Such organisations have to apply to UKVI to get sponsor status.

**Applications**

The chart below shows sponsor application made by Tier.

- In Q4 2013 2,296 applications were made in Tier 2, 54 applications were made in Tier 4 and 128 applications were made in Tier 5.
Improved performance

- In Q4 2013, it took 20 days on average to process a sponsor application, down from 26 days in the previous quarter.

Follow up visits – Worse performance

- In Q4 2013, 1,536 follow up visits were made to visa sponsors in Tiers 2, 4 and 5. This is a decrease from 1,571 in the previous quarter.

Unannounced visits – Improved performance

The chart below shows the number of follow up visits that were unannounced.

- In Q4 2013 there was an increase in the number and proportion of follow up visits that were unannounced.
New asylum cases

- There were 7,513 applications were made for asylum (main applicant and dependents) in Q4 2013.
- 3,964 initial decisions were made in Q4 2013, a substantial fall from 5,421 initial decisions in the previous quarter. 38% of the initial decisions were grants (some of these decisions may related to applications made in previous quarters).

Asylum applications pending initial decision - Worse performance

- The chart below shows that 23,070 asylum applications were pending an initial decision in Q4 2013, up from 20,809 in the previous quarter.

Asylum applications pending initial decision for more than 6 months – Worse performance

- There has been a rise in the proportion of cases waiting more than 6 months for an initial decision. In Q4 2013 37% of cases had waited more than 6 months.

44. The total number of asylum applications pending a decision has increased, as it has done each quarter since the beginning of 2012. Within that total, the proportion of those cases waiting more than six months for an initial decision has continued to grow. The Government has said that clearing the older cases would enable more resources to be focussed on the new cases. In response to a question about the low proportion of asylum decisions being made within six months, Sarah Rapson said:
There are two aspects to this. One is that intake is up and it is up for a number of reasons, things like what is happening in Syria, so world events. But also the tightening up of policy, people using it—I am afraid—a route of last resort to stay here, whether they have been encountered as part of an enforcement operation or whatever, and possibly a consequence of clearing the backlogs in temporary and permanent migration when we have refused people who are then using this as a route to try to stay. That is the intake story. It is also fair to say that our capacity to be able to deal with these cases quickly has been reduced as a consequence of a restructuring that was announced by UKBA, as was, which basically was intended to re-grade case workers, which has had a very negative impact on the numbers of people we have making these decisions. A restructure—I have to tell you—that we stopped last summer and our plans now are about bringing more people in, training them, and we have plans to bring that back into service standard, if you like, over the next year. It is true to say that there are issues here that we are working through.\(^{58}\)

45. The Government published its response to our Report on Asylum in December 2013, in which it said:

> Sometimes cases will take longer than 6 months for an initial decision for reasons beyond our control, e.g. when we await expert medical reports or where there are issues relating to national security. But we do accept that we should be taking well over 90% of initial decisions within 6 months.\(^{59}\)

46. In oral evidence to the Committee, in April 2014, Sarah Rapson said:

[… I think we will start to make inroads into the backlogs about November time, with our people being trained up properly, and by the end of this financial year we will be in a position to say that all cases will get a decision within that six month period.

And when asked to clarify what proportion would get a decision within six months,

**Dr Huppert:** All or 90%?

**Sarah Rapson:** All.\(^{60}\)

The Minister later wrote to the Committee, to explain that Sarah Rapson wished to clarify her answer, and that “All” should read “all straightforward claims” would receive a reply within a six month period. Straightforward claims are those where the Home Office is not waiting “for resolution of circumstances beyond our control”.\(^{61}\)

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\(^{58}\) Q 114


\(^{60}\) Q 115

\(^{61}\) Letter from James Brokenshire to the Chair, *Abuse of immigration student route*, 25 June 2014
47. In our last Report we commented on the increase in the number of asylum cases waiting more than six months for an initial decision. This trend has continued for the last eight quarters. We consider this unacceptable, and see no evidence that the government is achieving either its stated aim of making over 90% of initial decisions within six months or Sarah Rapson’s aim of all straightforward cases getting a decision within six months. We agree with Sarah Rapson that there is no reason not to make an initial decision on straightforward cases promptly, and urge the government to take steps to achieve this aim.

**Legacy asylum cases**

<table>
<thead>
<tr>
<th>Asylum cases concluded – Improved performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>- The chart below shows that in Q4 2013 1,846 legacy asylum cases were concluded, up very slightly from 1,806 in the previous quarter.</td>
</tr>
</tbody>
</table>

The chart below shows the total number of asylum cases in the Older Live Cases Unit has reduced slightly since Q4 2012.
24 The work of the Immigration Directorates (October-December 2013)

At the end of Q4 2013, 52% of all legacy asylum applications concluded had been granted leave to remain, 25% were removed and 22% were found to be duplicates.

Asylum backlog

48. The number of asylum cases in the older live cases unit decreased slightly through 2013, from 33,500 in Q4 2012 to 28,391 in Q4 2013. This is because the number of asylum cases being added to the older live cases unit has fallen through 2013 while the number cases being concluded has risen. For example, in Q4 2013 only 251 cases had been added while 1,846 asylum cases were concluded.

49. At the current rate, it will take until 2019 to clear the backlog, an unacceptably long delay and much worse than the Home Office committed to. We were told that reducing the older asylum cases would free up staff to address the new asylum cases, and make it more likely that the Government would meet its own aspiration of 90% of initial asylum decisions being made within six months. Progress has been unacceptably slow, and the Home Office’s continued failure to deal with the backlog is jeopardising prompt and fair treatment of new applicants. This must be addressed.

Legacy immigration cases

Legacy immigration conclusions - Improved performance

The chart below shows the number of legacy immigration applications concluded since Q2 2012.

- 4,045 legacy immigration applications were concluded in Q4 2013, up from 3,500 in the previous quarter.
At the end of Q4 2013 46% of all legacy immigration applications concluded had been granted leave to remain and 25% of applications were removed. 29% were found to be duplicates. Q4 2013 saw another quarterly increase in duplications, and a fall in the proportion of grants and removals.

Grants of settlement

The chart below shows grants of settlement by category.

There were 32,632 grants for settlement in Q4 2013, 39% of which were for employment and 40% for family formation and reunion.
**Appeals and tribunals performance**

**First Tier Tribunal**

The chart below shows First Tier Tribunal disposals that were determined. Cases can be either allowed or dismissed.

![First Tier Tribunal Chart]

**Bundling performance - Worse performance**

The Home Office aims to get bundles to court five days in advance of the appeal hearing. The Home Office say that performance in recent quarters has been stable in the 65% to 67% range.

**Representation rates - Improved performance**

In Q4 2013 the Home Office achieved a 99% representation rate at First Tier Tribunal, up from 98% in the previous quarter.

**Immigration appeals**

In the Q4, 44% First Tier Tribunal (Immigration and Asylum Chamber) appeals were allowed down from 45% in the previous quarter.

In Q4 2013, the proportion of successful asylum appeals at First Tier Tribunals was 29%, up from 28% in the previous quarter.
**MPs correspondence**

The chart below shows the proportion of MPs emails and inquiries made via the MPs inquiry line responded to in target time.

![MPs' correspondence chart](chart.png)

**Response to emails - Improved performance**

The Home Office aims to respond to 95% of emails within 20 days.

- 83% of emails were responded to within 20 working days in Q4 2013, an increase from 70% in the previous quarter.

**Response to MPs inquiry line - Worse performance**

The Home Office aims to resolve 90% of queries via the MP’s inquiry line within 10 working days.

- In Q4 2013 69% of queries were resolved in 10 working days, down from 73% in the previous quarter.
4  Immigration Enforcement

The Migration Refusal Pool

**Improved Performance**

- At the end of Q4 2013, there were 179,932 cases in the Migration Refusal Pool (MRP) down from 182,251 in the previous quarter.

- By the end of Q4 2013, Capita has assessed 248,800 cases. Of these, 47,300 (19%) cases were confirmed as departed.

- 121,000 (49%) of cases were assessed as having a barrier to removal and were passed back to the Home Office. A further 50,000 (20%) cases had the confirmed outcome that no contact can be made.

**Suspension and revocation of sponsor licences**

50. Sponsors are required to inform UKVI if there is a change in certain circumstances regarding the migrant they have sponsored, for example if a person with a Tier 2 visa no longer works for the sponsoring employer. If the information provided by the sponsor about the change in circumstances suggest that the employee is in breach of their visa then enforcement action can be taken against the employee. Employers that qualify for a Tier 2 sponsorship licence are required to follow various procedures, for example maintaining accurate records. If the Home Office suspects that a sponsor is not acting according to the stipulated criteria then they may investigate the sponsor. This can lead to the licence being either suspended, downgraded or revoked.

**Non-compliance notifications**

The chart below shows the number of notifications of potential sponsor non-compliance received.

![Sponsor notifications regarding potential non-compliance chart]

- **Sponsor notifications regarding potential non-compliance**
  - Q1 2013: Tier 2, 7,000; Tier 4, 25,000
  - Q2 2013: Tier 2, 10,000; Tier 4, 20,000
  - Q3 2013: Tier 2, 15,000; Tier 4, 22,000
  - Q4 2013: Tier 2, 20,000; Tier 4, 30,000

- **Tier 2 and 5**
- **Tier 4**
27,078 notifications of potential non-compliance were received in Q4 2013 for Tier 4, up from 21,678 in the previous quarter.

- 5,518 notifications were received in Q4 2013 for Tiers 2 and 5, down from 5,717 in the previous quarter.

- A total of 23,252 notifications of potential non-compliance were followed up in Q4 2013, up from 19,779 in the previous quarter.

- 131 Tier 2 sponsors had their licenses revoked in Q4 2013, down from 174 in the previous quarter. 214 Tier 2 sponsors had their licenses suspended, up from 77 in the previous quarter.

- 12 Tier 4 sponsors had their licenses revoked in Q4 2013, down from 23 in the previous quarter. 23 Tier 4 sponsors had their licenses suspended, down from 46 in the previous quarter.

- 11 Tier 5 sponsors had their licenses revoked in Q4 2013, down from 18 in the previous quarter. 31 Tier 5 sponsors had their licenses suspended, up from 11 in the previous quarter.

**Suspension of education sponsor licences**

51. In June 2014, the Home Office suspended the sponsor licences of Glyndwr University, the University of West London and at the University of Bedfordshire, and 57 privately operated further education colleges following abuse of the English language test that overseas students take to demonstrate they can speak English at an appropriate level. On 24 June, James Brokenshire, Immigration and Security Minister, told the House that if students had to cheat to pass an English language test, then it was it was “highly doubtful that many of the colleges, and some universities, that sponsored them in numbers were fulfilling their duties as “highly-trusted sponsors”.62 In a letter to the Committee, Mr Brokenshire revealed that there may have been as many as 48,000 test results of serious concern, and that:

> UKVI and immigration enforcement officers have been investigating many of these colleges and universities because of wider concerns about their conduct. The evidence they have provided of what is going on in these institutions is cause for serious concern.63

52. The recent episode of English Language testing abuse illustrates the need for UKVI and Immigration Enforcement to continue to inspect education providers, and for as many of the visits as possible to be unannounced. We note that the greatest proportion of unannounced follow-up visits is overwhelmingly to Tier 2 employers and that a

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62  HC Deb 24 June 2014, col 206
63  Letter from James Brokenshire to the Chair, Abuse of immigration student route, 25 June 2014
much smaller number is to education sponsors under Tier 4. The Home Office should explain why the number of unannounced visits are so overwhelmingly for Tier 2 employers rather than Tier 4 education providers.

53. We have repeatedly called on the Home Office to increase the number of unannounced follow-up visits to visa sponsors and we welcome the dramatic improvement during 2013.

54. While we entirely support the government’s aim to crack down on bogus colleges and any organisations that have wilfully helped people to evade immigration controls, it is not appropriate to punish institutions where there is no evidence to support allegations of wrongdoing. The Home Office should act promptly to tell suspended organisations exactly what they are accused of, and to immediately end suspensions unless there is clear evidence.
**Immigration detention**

**Rule 35 reports**

Rule 35 of the detention Centre Rules states that medical practitioners are required to report to the Home Office any detainee whose health is likely to be injuriously affected by detention or any condition of detention and any detainee they are concerned may be a victim of torture.

**Worst Performance**

The chart below shows the number of Rule 35 Reports made to the Department since the beginning of 2012.

- 436 reports under Rule 35 were made in Q4 2013. This is an increase from 431 in Q3 2013.
- In Q4 2013 only 9% of reports under Rule 35 resulted in the individual being released.

56. In Q3 2013 there were 431 Rule 35 Reports submitted but only 9% of these reports led to a person being released. Q4 had a similar pattern, with 436 Rule 35 Reports and only 9% of the Reports leading to a release. We have heard concerns about access to doctors in Immigration Removal Centres, inconsistent quality of Rule 35 reports and the mismanagement of detainees’ healthcare. An unannounced inspection of Immigration Removal Centre Harmondsworth by HM Chief Inspector of Prisons also criticized the application of Rule 35 following the death of Alois Dvorzac, an 84 year old Canadian citizen on his way to Slovenia, taken off the plane at Gatwick and detained in Harmondsworth. The HMIP Report said:

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64 DQ40013 Medical Justice
The Rule 35 process did not provide assurance that the most vulnerable would be protected against the effects of detention [...]. All 11 reports that we examined in detail concerned torture and contained body maps but many were of poor quality. Seven reports contained no diagnostic findings and did not comment on whether the medical evidence was consistent with the reported ill-treatment. In five of the seven cases, the Home Office referred to the lack of diagnostic comment as a reason for maintaining detention.65

On 30 January, Mr Dvorzac was seen by a doctor who declared him unfit for detention and said he should be receiving social care. He was not released from detention, but transported back and forth to hospital in handcuffs, before finally passing away on 10 February. He died wearing handcuffs.66

57. We raised concerns about the effectiveness of Rule 35 Reports with the Home Office in April. The Immigration Minister told the Committee that there had been new guidance and instruction on completing Rule 35 reports, mandatory training for officers in immigration detention, and there would be an audit of Rule 35 processes between April and June 2013.67 The Minister wrote to the Committee later to provide more detail on the audit:

The Home Office’s Quality Audit Team, whose role is to assess the quality of decision-making in asylum and other cases, will carry out an assessment of Rule 35 casework between April and June 2014. This will involve an examination of a random sample of 60 cases from the first quarter of 2014 and will consider whether all mandatory processes and actions, as set out in Rule 35 of the Detention Centre Rules 2001 and the Rule 35 Asylum Instruction, have been adhered to. On the basis of its findings, it will identify good practice and make recommendations for improvement where appropriate.68

58. We welcome the audit of Rule 35 casework and look forward to seeing the results, and what action the Home Office will take in light of the audit. We are still concerned that such a small percentage of Rule 35 Reports lead to release. We will continue to look at this subject as part of our ongoing work into Immigration Removal Centres.

65  HM Chief Inspector of Prisons, Harmondsworth Immigration Removal Centre, August 2013, Para 1.81
66  Ibid., Para 1.86
67  Q 105
68  Letter from James Brokenshire to the Chair, Abuse of immigration student route, 25 June 2014
Children in immigration detention

Improved performance

The chart below shows the number of children leaving immigration detention when they had been held for more than 3 days.

- In Q4 2013 63 children entered immigration detention, down from 65 in the previous quarter. 67 children left immigration detention in Q4 2013, up from 63 in the previous quarter.

- Most children who leave detention do so within a short period - 73% had been held for less than 3 days in Q4 2013.
Foreign national offenders

Foreign National Offenders released from prison and transferred to immigration detention

- In Q4 2013 1,029 FNOs were released from prison and transferred to immigration detention, down from 1,050 in the previous quarter.
- In Q4 2013 2 FNOs were released without consideration for deportation.

Foreign National Offenders released into the community

Worse Performance

- 336 ex-FNOs eligible for deportation were released into the community in Q4 2013, 96% of their cases were outstanding, i.e. the Home Office would still like to deport them.

The chart below shows outstanding FNOs released from prison by status.

Removing Foreign National Offenders - Worse performance

- It took 111 days on average to deport an ex-FNO in Q4 2013, up from 99 days in the previous quarter.
- There were 305 failed removal attempts in Q4 2013, up from 265 in the previous quarter.
- 44% of removals were carried out during the Early Release Scheme period in Q4 2013. 29% of removals were carried out under the Facilitated Returns Scheme in Q4 2013.
Ex foreign national offenders living in the community

The chart below shows there were 4,153 ex FNOs living in the community in Q4 2013, compared to 4,169 in the previous quarter. The proportion of ex FNOs living in the community over two years is 66%.

59. Following the evidence session on 1 April 2014, the Home Office sent the Committee a list of the Foreign National Offenders by nationality. The list is published by the Ministry of Justice and is available on their website.

60. The Prime Minister gave evidence to the Liaison Committee in May, and was asked about measures to reduce the number of foreign national offenders in the UK. He said:

I am willing to look at anything. This is one of my bugbears. [...] Since 2010, 19,000 foreign national offenders have been removed, but it is really difficult to get this fixed and I find it immensely frustrating, because having all these people in our prisons when they should be elsewhere is an enormous waste of money. I am very happy to look at the idea of finding out nationality at the point of sentence. I have assigned seven Ministers to the various countries to sort out prisoner transfer agreements with Nigeria, Vietnam and China. So that is one avenue that we are taking. We have got the European prisoner transfer agreement that has not kicked in with some of the key countries, such as Poland, and we need to get that fixed.

61. In our previous report we recommended that the Home Office extend Operation Nexus, an initiative in London where immigration officers are embedded in police custody suites to identify foreign nationals at the point of arrest, to other parts of the country. We welcome that the operating model has been extended to the West Midlands and Greater Manchester, and that the Home Office is considering extending the initiative further. The

70  Oral evidence taken before the Liaison Committee, 13 May 2014, Q 44
purpose of Operation Nexus is to identify and manage foreign national offenders more effectively. Foreign National Offenders currently make up about 13% of the prison population. As the Prime Minister said, having all these people in our prisons is an enormous waste of money. Reducing the number of Foreign National Offenders in our prisons is in all our interests, and finding ways to identify those criminals who could be deported before they enter prison would be an enormous help. The Home Office should publicise any positive impact that Operation Nexus has had and, in particular, the number of foreign nationals identified as foreign nationals and deported as a result. We note the positive steps taken towards starting the deportation process early as part of Operation Nexus. We recommend that the Government go further and compel offenders to prove their nationality at the point of sentencing or face penal sanctions. This would enable the Home Office to start the process of deportation of offenders more quickly and to ensure it runs more smoothly.

62. We also commented in our last report on the mechanism for identifying and stopping undesirable people from entering the country. A recent report from the Parliamentary and Health Service Ombudsman detailed a case where a concerned mother, Mrs A, alerted the Home Office that a foreign national, at the time in a relationship with Mrs A’s daughter, and with a criminal record for violent offences that they had lied about, was about to come into the country. Mrs A provided the Home Office with information but they did not act to stop the individual entering the country, check if he had entered the country, or act once Mrs A again informed them of her concerns that he had entered the country. The man was finally arrest five months later, and only after he had “embarked upon a prolonged and escalating campaign against Mrs A’s daughter and her family” including setting fire to Mrs A’s house. The Ombudsman’s report explained that Mrs A gave the Home Office information on the foreign national’s flight two working days before he was due to arrive and yet his details were only added to the watchlist, or warnings index, after he had arrived and passed through border control.

63. As a result of the Ombudsman’s report, the Home Office will carry out and publish the outcomes of three separate reviews into: checking visa applicants’ statements about their overseas criminal records and good character, handling allegations including their use of and access to the watchlist, and dealing with correspondence.\textsuperscript{71}

64. The case detailed in the Parliamentary Ombudsman’s report clearly shows the importance of constantly updating and monitoring the watchlist. The Home Office must act upon the Ombudsman’s report and ensure that cases similar to that of Mrs A’s family are not repeated.

\textsuperscript{71} Parliamentary and Health Service Ombudsman, \textit{Home Office failures put a family in danger: A report by the Parliamentary Ombudsman on an investigation into a complaint by Mrs A and her family about the Home Office}, July 2014
5 Border Agency Backlogs

<table>
<thead>
<tr>
<th>No. of cases</th>
<th>No. of cases</th>
<th>No. of cases</th>
<th>No. of cases</th>
<th>Difference between Q1 and Q4</th>
<th>% change since Q1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1 2013</td>
<td>Q2 2013</td>
<td>Q3 2013</td>
<td>Q4 2013</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Live asylum cohort</td>
<td>32,600</td>
<td>31,407</td>
<td>29,986</td>
<td>28,391</td>
<td>-4,209</td>
</tr>
<tr>
<td>Live immigration cases</td>
<td>7,500</td>
<td>7,242</td>
<td>6,824</td>
<td>6,450</td>
<td>-1,050</td>
</tr>
<tr>
<td>FNOs living in the community</td>
<td>4,002</td>
<td>4,066</td>
<td>4,169</td>
<td>4,153</td>
<td>151</td>
</tr>
<tr>
<td>Migration refusal pool</td>
<td>182,500</td>
<td>194,000</td>
<td>182,251</td>
<td>179,932</td>
<td>-2,568</td>
</tr>
<tr>
<td>No of cases still to be loaded on CID</td>
<td>10,086</td>
<td>3,143</td>
<td>9,490</td>
<td>24,845</td>
<td>14,759</td>
</tr>
<tr>
<td>Temporary and permanent migration pool</td>
<td>176,503</td>
<td>134,572</td>
<td>131,515</td>
<td>88,398</td>
<td>-88,105</td>
</tr>
<tr>
<td>Total</td>
<td>413,238</td>
<td>374,430</td>
<td>364,235</td>
<td>332,169</td>
<td>-81,022</td>
</tr>
<tr>
<td>Within the temporary and permanent migration pool</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FLTR on basis of marriage or civil partnership – cases pending initial decision</td>
<td>3,791</td>
<td>1,806</td>
<td>1,874</td>
<td>2,146</td>
<td>-1,645</td>
</tr>
</tbody>
</table>

65. Although the total number of accumulating Home Office backlogs has decreased, we are concerned by the huge increase in the number of in country applications where the application has been received and is awaiting input onto the Home Office computer system (CID). We repeat our concern that the total number in the migration refusal pool has not gone down by an appreciable amount from when the Home Office had contracted Capita to address this matter. The total backlog remains at 332,169 and does not appear to be reducing at an appreciable rate. The Committee reiterates its previous recommendation that the backlogs must be cleared as a matter of priority.

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72 Q2 2013, Para 16, Q3 2013, Para 13, Q4 2013, Para 13
73 Q2 2013, Para 11, Q3 2013, Para 9, Q4 2013, Para 9
74 Q2 2013, Para 22, Q3 2013, Para 19, Q4 2013, Para 21
75 Q2 2013, Para 41 [Total outstanding], Q3 2013, Para 38 [Total outstanding], Q4 2013, Para 40 [Total outstanding]
76 Q2 2013, Para 40 [Total system WIP], Q3 2013, Para 37 [Total system WIP], Q4 2013, Para 39 [Total system WIP]
77 Q2 2013, Para 40 [Spouse], Q3 2013, Para 37 [Spouse], Q4 2013, Para 39 [Spouse]
Conclusions and Recommendations

Sham marriages

1. We agree with the Independent Chief Inspector when he said that sham marriages represent a significant threat to immigration control. The bogus spouse acquires not only the right to reside in the UK, but the right to bring their children, grandchildren, parents and grandparents to live here with them. Thus one sham marriage can provide UK residence rights to an entire extended family who would otherwise have no right to be here. (Paragraph 3)

2. The fact that the burden is on the Home Office to show that a marriage was a sham when it entered into, regardless of its current state, means that intervening at or before the point of marriage will usually be the most effective way of tackling this growing problem. We would also suggest that early intervention in cases of obvious shams is likely to be more cost-effective, as it reduces the scope for lengthy casework and possibly legal appeals after the event. Effective joint working between the Home Office’s Immigration Enforcement Directorate and local authority registrars is therefore the key to tackling the problem of sham marriages. (Paragraph 20)

3. We accept that there might be some registration districts where the number of sham marriages is very small indeed, but we find it implausible that there should be sizeable cities in the UK where there are no sham marriages at all. Registrars need to be aware that sham marriages appear to be a growing problem and that they have a duty to report those that they suspect are sham marriages. We recommend that the Home Office provide additional training for registrars, targeted at those registration districts where the number of section 24 reports is unusually low in comparison to similar districts, on how to recognise the signs of a possible sham marriage and the circumstances in which a section 24 report should be made. (Paragraph 21)

4. We should not under-estimate the duplicity of those involved in organising sham marriages, which has turned into an industry and appears to be increasing at an alarming rate. Given the Home Office’s stated strong commitment to enforcement, all those involved in the process must remain vigilant to those individuals trying to exploit loopholes in the system. (Paragraph 22)

5. The Independent Chief Inspector of Borders and Immigration told us that the Home Office does not appear to know how many people are securing the right to stay in the UK on the basis of a sham marriage. Whilst we are aware that publishing data that shows hot-spots of sham marriage activity might give information to organised criminals, we want the Home Office to demonstrate that they take the issue seriously. The Home Office should publicise the data that they have on the levels of reporting, the number of interventions, the number of arrest, the number of prosecutions and the number of removals. (Paragraph 23)

6. The Immigration Act 2014 has extended the minimum time between a couple giving notice of their intent to marry and the ceremony, allowing more time for the Home
Office to act on reports sent from registrars. The registrars represent a crucial source of intelligence to the Home Office about potential sham marriages and we expect the Home Office to act upon those reports. We recommend that the law be changed so that if the Home Office enforcement team do not act upon the section 24 report, and the registrar is confident the wedding is a sham, then the registrar should have the power to not proceed with the wedding. (Paragraph 30)

7. It is clear that there is a blind spot which leads to the under-reporting of sham marriages. The registrars that gave us evidence told us that they received little or no feedback from the Home Office in response to their section 24 reports. Registrars were consistently unable to tell us how many of their reports led to further action or no action, or, more importantly whether or not they led to a prosecution. (Paragraph 31)

8. The Home Office must, as a matter of routine, provide registrars with feedback on every section 24 report: whether it resulted in no action, in an individual being removed from the country, in prosecution, or some other outcome. This will help to reinforce to registrars the importance of reporting potential sham marriages, it will help them over time to develop a better understanding of the nature of the problem, and it will help to foster a spirit of mutual co-operation between registrars and the Home Office. Crucially, it will reassure the public. Similarly, we believe that there should be an opportunity for registrars to provide feedback to the Home Office in cases where they feel their well-founded suspicions were not acted on, and to receive an explanation for the Home Office’s action in the case. (Paragraph 32)

9. It is apparent from the reports of the Independent Chief Inspector that the level of resources applied to this problem is critical, and we are not convinced that the current level of resourcing is sufficient compared to the scale of the abuse. (Paragraph 33)

10. The Home Office was unable to provide the Chief Inspector of Borders and Immigration with management information on the number of prosecutions or removals from the UK as a result of sham marriage. Without any such data it is hard to believe any assurance from the Government that they are prioritising the problem and pursuing those who are attempting to circumvent immigration rules. Successful and well publicised prosecutions would help deter those from considering taking part in a sham marriage and incentivise registrars, and the general public, to report their suspicions. The number of section 24 reports more than doubled between 2010 and 2013. The Home Office should be able to tell the Committee what impact that increase had on prosecutions and on removals. (Paragraph 36)

11. The Home Office should write to the Embassies of those European nationals who are most commonly involved in sham marriages, and encourage them to inform those who pass through their Embassy or Consulate that being involved in a sham marriage can lead to a criminal record and removal from the UK. (Paragraph 37)

12. While we agree with the general principle of respecting marriage ceremonies held in other countries, it seems absurd that two people, both resident in the UK, can be
lawfully married for the purposes of British law by means only of a proxy ceremony carried out overseas. At the moment, the burden of proof is on the state to prove the proxy marriage is unlawful. The burden of proof should be on the couple applying for a residence card, based on a proxy marriage, to prove the proxy marriage is lawful. (Paragraph 39)

UK visas and immigration

13. In our last Report we commented on the increase in the number of asylum cases waiting more than six months for an initial decision. This trend has continued for the last eight quarters. We consider this unacceptable, and see no evidence that the government is achieving either its stated aim of making over 90% of initial decisions within six months or Sarah Rapson’s aim of all straightforward cases getting a decision within six months. We agree with Sarah Rapson that there is no reason not to make an initial decision on straightforward cases promptly, and urge the government to take steps to achieve this aim. (Paragraph 47)

14. At the current rate, it will take until 2019 to clear the backlog, an unacceptably long delay and much worse than the Home Office committed to. We were told that reducing the older asylum cases would free up staff to address the new asylum cases, and make it more likely that the Government would meet its own aspiration of 90% of initial asylum decisions being made within six months. Progress has been unacceptably slow, and the Home Office’s continued failure to deal with the backlog is jeopardising prompt and fair treatment of new applicants. This must be addressed. (Paragraph 49)

Immigration enforcement

15. The recent episode of English Language testing abuse illustrates the need for UKVI and Immigration Enforcement to continue to inspect education providers, and for as many of the visits as possible to be unannounced. We note that the greatest proportion of unannounced follow-up visits is overwhelmingly to Tier 2 employers and that a much smaller number is to education sponsors under Tier 4. The Home Office should explain why the number of unannounced visits are so overwhelmingly for Tier 2 employers rather than Tier 4 education providers. (Paragraph 52)

16. We have repeatedly called on the Home Office to increase the number of unannounced follow-up visits to visa sponsors and we welcome the dramatic improvement during 2013. (Paragraph 53)

17. While we entirely support the government’s aim to crack down on bogus colleges and any organisations that have wilfully helped people to evade immigration controls, it is not appropriate to punish institutions where there is no evidence to support allegations of wrongdoing. The Home Office should act promptly to tell suspended organisations exactly what they are accused of, and to immediately end suspensions unless there is clear evidence. (Paragraph 54)
18. We welcome the audit of Rule 35 casework and look forward to seeing the results, and what action the Home Office will take in light of the audit. We are still concerned that such a small percentage of Rule 35 Reports lead to release. We will continue to look at this subject as part of our ongoing work into Immigration Removal Centres. (Paragraph 58)

19. Foreign National Offenders currently make up about 13% of the prison population. As the Prime Minister said, having all these people in our prisons is an enormous waste of money. Reducing the number of Foreign National Offenders in our prisons is in all our interests, and finding ways to identify those criminals who could be deported before they enter prison would be an enormous help. The Home Office should publicise any positive impact that Operation Nexus has had and, in particular, the number of foreign nationals identified as foreign nationals and deported as a result. We note the positive steps taken towards starting the deportation process early as part of Operation Nexus. We recommend that the Government go further and compel offenders to prove their nationality at the point of sentencing or face penal sanctions. This would enable the Home Office to start the process of deportation of offenders more quickly and to ensure it runs more smoothly. (Paragraph 61)

20. The case detailed in the Parliamentary Ombudsman’s report clearly shows the importance of constantly updating and monitoring the watchlist. The Home Office must act upon the Ombudsman’s report and ensure that cases similar to that of Mrs A’s family are not repeated. (Paragraph 64)

Border Agency backlogs

21. Although the total number of accumulating Home Office backlogs has decreased, we are concerned by the huge increase in the number of in country applications where the application has been received and is awaiting input onto the Home Office computer system (CID). We repeat our concern that the total number in the migration refusal pool has not gone down by an appreciable amount from when the Home Office had contracted Capita to address this matter. The total backlog remains at 332,169 and does not appear to be reducing at an appreciable rate. The Committee reiterates its previous recommendation that the backlogs must be cleared as a matter of priority. (Paragraph 65)
Annexes

Annex A: Designated Register Offices in England and Wales

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<th>NORTH EAST</th>
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http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@government/documents/digitalasset/dg_176374.pdf
Annex B: A list of the registrars who responded to a Committee Survey

Oxfordshire
Manchester
Redcar & Cleveland
Newport
North Yorkshire
Harrow
Borough of Bedford
Bedfordshire
Darlington
Middlesbrough
Liverpool
East Sussex
Cheshire East
Bromley
Wokingham
Monmouthshire
Windsor and Maidenhead
North East Lincolnshire
Gateshead
Formal Minutes

Tuesday 22 July 2014

Members present:

Keith Vaz, in the Chair

Michael Ellis
Paul Flynn
David Winnick

Draft Report (The work of the Immigration Directorates (October–December 2013)), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 65 read and agreed to.

Annexes agreed to.

Resolved, That the Report be the Third 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.

[Adjourned till Tuesday 2 September at 2.30 pm]
Witneses

The following witnesses gave evidence. Transcripts can be viewed on the Committee’s inquiry page at http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2010/immigration-directorates-q4/?type=Oral#pnlPublicationFilter

Tuesday 1 April 2014

Mrs Bageerathi, Lynne Dawes, and David Burrowes MP

James Brokenshire MP, Minister for Security and Immigration, Sarah Rapson, Director General, UK Visas and Immigration Directorate, and Mandie Campbell, Director General, Immigration Enforcement Directorate

Tuesday 24 June 2014

John Vine CBE QPM, Independent Chief Inspector of Borders and Immigration

Jonathan Kershner, Registration and Coroner Services Manager, Manchester Register Office, and Alicja Gilroy, Superintendent Registrar, Oxford Register Office

Dr Bob McGuiness, Interim Chief Executive, UK Central Government Division, and James Thorburn, Managing Director, Home Affairs, Serco

Peter Neden, Regional President UK & Ireland, and Jerry Petherick, Managing Director, Custodial and Detention Services, G4S

Question number

Q 1-17

Q 122-154

Q 154-217

Q 218-288

Q 289-330
Published written evidence

The following written evidence was received and can be viewed on the Committee’s inquiry web page at http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2010/immigration-directorates-q4/. INQ numbers are generated by the evidence processing system and so may not be complete.

1  Home Office (DQ40001)
2  Home Office (DQ40002)
3  Home Office (DQ40003)
4  Home Office (DQ40004)
5  SITA (DQ40006)
6  Black Women’s Rape Action Project (DQ40007)
7  Chris Hobbs (DQ40008)
8  Birnberg Peirce and Partners Solicitors (DQ40009)
9  G4S (DQ40011)
10 Serco (DQ40012)
11 Medical Justice (DQ40013)
List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee’s website at http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/publications/

**Session 2014–15**

| First Report                                      | Tobacco smuggling                    | HC 200 |
| Second Report                                     | Female genital mutilation: the case for a national action plan | HC 201 |

**Session 2013–14**

| First Report                                      | Police and Crime Commissioners: Register of Interests | HC 69 |
| Second Report                                     | Child sexual exploitation and the response to localised grooming | HC 68 |
| Third Report                                      | Leadership and standards in the police                 | HC 67 |
| Fourth Report                                     | The work of the UK Border Agency (Oct–Dec 2012)        | HC 486 |
| Fifth Report                                      | E-crime                                               | HC 70  |
| Sixth Report                                      | Police and Crime Commissioners: power to remove Chief Constables | HC 487 |
| Seventh Report                                    | Asylum                                                | HC 71  |
| Eighth Report                                     | The work of the UK Border Agency (Jan–March 2013)      | HC 616 |
| Ninth Report                                      | Pre-Lisbon Treaty EU police and criminal justice measures: the UK’s opt-in decision | HC 615 |
| Tenth Report                                      | Leadership and Standards in the Police: follow-up      | HC 756 |
| Eleventh Report                                   | Khat                                                  | HC 869 |
| Twelfth Report                                    | Drugs: new psychoactive substances and prescription drugs | HC 819 |
| Thirteenth Report                                 | The work of the Permanent Secretary                   | HC 233 |
| Fourteenth Report                                 | The Government’s Response to the Committees’ Reports on the 2014 block opt-out decision | HC 1177 |
| Fifteenth Report                                  | The work of the Immigration Directorates (April–September 2013) | HC 820 |
| Sixteenth Report                                  | Police and Crime Commissioners: Progress to date       | HC 757 |
| Seventeenth Report                                | Counter-terrorism                                     | HC 231 |
| Eighteenth Report                                 | Reform of the Police Federation                        | HC 1163 |

**Session 2012–13**

<p>| 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 | HC 183 |</p>
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