**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**

Rt Hon Keith Vaz MP (Labour, Leicester East) (Chair)
Ian Austin MP (Labour, Dudley North)
Nicola Blackwood MP (Conservative, Oxford West and Abingdon)
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Yasmin Qureshi MP (Labour, Bolton South East)
Mark Reckless MP (Conservative, Rochester and Strood)
Mr David Winnick MP (Labour, Walsall North)

The following were also members of the Committee during the Parliament.

Rt Hon Alun Michael (Labour & Co-operative, Cardiff South and Penarth)
Karl Turner MP (Labour, Kingston upon Hull East)
Steve McCabe MP (Labour, Birmingham Selly Oak)
Bridget Phillipson MP (Labour, Houghton and Sunderland South)
Chris Ruane MP (Labour, Vale of Clwyd)

**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](http://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](http://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), Andy Boyd (Senior Committee Assistant), Iwona Hankin (Committee Assistant) and Alex Paterson (Select Committee Media Officer).

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Third Special Report


Appendix: Government response

**Letter from James Brokenshire MP, Minister for Immigration and Security, 21 July 2014**

I am writing to thank the Committee for their report ‘The Work of the UK Border Agency (April to September 2013)’. Please find enclosed a copy of the Government’s response to this report. I apologise for the delay in providing this response.

**Introduction**

The Home Office would like to thank the Committee for its report published in March on the work of the immigration directorates. The Government has been clear that the UK Border Agency was a troubled organisation since its formation in 2008 and its performance was not good enough. That is why we created Border Force and then split the Agency, bringing its work back into the Home Office under Ministerial oversight.

We have seen a year of solid progress. Border Force is delivering 100% checks and almost no queues; Immigration Enforcement is a visible law enforcement operation; and UKVI has removed backlogs in migration casework. There has also been progress towards replacing the old-fashioned, fragile and fragmented IT with more resilient, integrated and digital systems.

But there is much more for us to do. Our reforms have helped to stabilise the border and immigration system. We must now accelerate root and branch reform of what was a broken system, to deliver the improvements the public and Parliament expect.

The Home Office has considered the recommendations of the report and the Government response is below.

**Migration Statistics**

**Conclusion/Recommendation 1**

It is a travesty that, despite successive recommendations of this Committee, the collection of data of people entering and leaving this country has not happened. The goal set by the Government of full exit checks by the General Election in 2015 is unrealistic. We repeat our previous recommendation that the Home Office set out immediately its timetable for documenting the identity and nationality of all those entering and exiting the UK.

**Government response**
The Government is committed to implementing Exit Checks by 2015, and this will provide the basis for clearer and more comprehensive data that will help us go significantly further over time to reduce the risk of overstaying and tackle those who do. That capability for this will be founded on Advance Passenger Information (API) coverage. API is collected for passengers who travel to and from the UK on routes connected to Semaphore, the system that processes API. The current estimated proportion of passengers who travel to and from the UK on routes connected to Semaphore has increased to in excess of 95% for scheduled air travel and 80% overall. This is a significant improvement on the position at the end of 2009, where API coverage was just under 60%. Exit checks capability will also be supplemented, where necessary, with embarkation checks at ports to bolster border security. Powers in the current Immigration Act will enable those already involved in outbound passenger processes, such as carrier and port operator staff, to carry out these embarkation checks where required.

Conclusion/Recommendation 2

The Committee continues to believe that the Government’s decision not to commission estimates on the number of Romanians and Bulgarians who would come here at the ending of transitional migration controls was wrong. We are concerned that the decision not to commission has increased anti-immigrant prejudice and has been commandeered by those who wish to inflame tensions about immigration for political gain.

Government response

The Government disagrees with the Committee’s suggestion on forecasting the number of Romanians and Bulgarians who might come to the UK. There is no reason to suppose that publication of such a forecast would have provided a significant degree of reassurance. Previous, inaccurate forecasts have misled debate about uncontrolled immigration.

This Government has focused on work to ensure that our controls on access to benefits and services – including the NHS and social housing – are among the tightest in Europe and not open to abuse, so that British citizens can have confidence that those EU nationals who come to the UK do so for the right reasons — to work hard and contribute to society.

Conclusion/Recommendation 3

We recommend that the Government commission the Migration Advisory Committee to carry out research on the number of Romanians and Bulgarians in the UK with two strands. First to assess those who arrived during the transitional period (1 January 2007 to 31 December 2013), their social and economic impact upon the UK, and the balance between their contribution and their usage of the social security system. Secondly, to assess the number of those who have arrived since 1 January 2014, and, on the basis of this data, make an assessment of how many are likely to come in the near future. The Committee has seen no evidence to suggest that there has been an increase in migration from Romania and Bulgaria. It would appear rather more a trickle than a flood.

Government response
The National Institute of Economic and Social Research (‘NIESR’) report on the potential impacts on the UK of future migration from Bulgaria and Romania, commissioned by the Foreign and Commonwealth Office, was published in April 2013. The report drew together existing research on the migration patterns and social impact of Romanians and Bulgarians resident in the UK, as well as the potential impacts of future migration. The report concluded, “It is not possible to predict the scale of migration from Bulgaria and Romania to the UK with any degree of certainty because of the lack of accurate data on current migration and because of the many factors which determine migration decisions and patterns” [pg 43]1

Assessments for the period since 1 January 2014 will be published in the normal way by the Office for National Statistics and the Department for Work and Pensions.

On 14 May 2014 the Office for National Statistics (ONS) released the Labour Force Statistics for the first quarter of 2014. This release included employment numbers and rates by nationality and country of birth, covering the period January to March 2014.


Neither the Labour Force Statistics nor the statistics on National Insurance Number allocations indicated that there had been a large increase in Romanian and Bulgarian immigration in the period from January to March 2014. The Labour Force Statistics (14 May) showed a slight decrease in the number of Romanians and Bulgarians employed in the UK in the first quarter of 2014 when compared to the final quarter of 2013.

On 28 August 2014 the Office for National Statistics will publish the Migration Statistics Quarterly Report, which will include provisional estimates of long term international migration for the year ending March 2014, including estimates for the European Union.

Given these statistics will be published on a quarterly basis, and the conclusions from the NIESR report, the Government does not intend to forecast future arrivals.

Conclusion/Recommendation 4

We recommend that for any future enlargements the Migration Advisory Committee be tasked by the Government to provide an estimate of the numbers arriving in our country, including how many people have already arrived from these countries under EU treaties. Had they done so for the 2007 enlargement, they would have discovered that 144,000 Romanians and Bulgarians were already working in the UK in December 2013. If the Government refuses to task the Migration Advisory Committee to commission estimates, we will request that they do so.

Government response

Estimates of the numbers of people arriving in the UK from other countries and who become usually resident here are published routinely by the Office for National Statistics. For any future enlargements, the number of people arriving from any new Member State,

1 http://niesr.ac.uk/sites/default/files/publications/NIESR%20EU2%20MIGRATION%20REPORT.pdf
under EU treaties, after the date of accession, will also be reported by the Office for National Statistics which publishes data on the resident population of the UK by country of birth and nationality.

As the Prime Minister announced in November 2013, the Government will be working to ensure that there are effective arrangements in place for any future enlargement, for example, by considering alternatives to the previous time-limited formulations for transitional controls.

EU Immigration and Access to Benefits

Conclusion/Recommendation 5

We accept that it is difficult to assess the actual impact of restricting access to benefits upon migration between individual countries in the EU and the UK, not least because we are unable to measure the nationality of individuals claiming benefits in the UK. The limited evidence that does exist suggests that the scale of so-called 'benefits tourism' is at much lower levels than claimed by the Government.

Government response

DWP and the Office for National Statistics now release quarterly statistics on the allocation of National Insurance Numbers to adult overseas nationals. The latest set of data, which covered the period to March 2014, was published on 22 May 2014 and provided a breakdown of the allocation of National Insurance Numbers by quarter and by region (EU/other parts of the world), and also the allocation by nationality.

In August 2014, DWP will also release data on the nationality, at the point of registration for a National Insurance number, of DWP benefit claimants.

Seasonal Agricultural Workers Scheme

Conclusion/Recommendation 6

With the lifting of transitional controls on Romania and Bulgaria, it seems likely that there will be a shortage of labour in what were the Seasonal Agricultural Workers Scheme and the Sector Based Scheme (food processing) in the near future. It is not clear what the Government’s position is on how to address this problem, particularly as there are no obvious alternative European accession countries that might provide sufficient workers. The previous immigration Minister told us that, where it has proven difficult to entice British workers to take on jobs, such as pizza delivery staff, the answer was for employers to offer better pay. The Government must explain how it intends to fill the void left with the end of the Seasonal Agricultural Workers Scheme so that farmers can find willing workers, or if it expects the void to be filled simply by farmers offering higher wages.

Government response

The Government’s position was set out in Mark Harper MP’s Written Ministerial Statement of 13 September. The MAC’s finding was that there was little evidence that the
horticultural sector would experience a shortage of seasonal labour in the short-term but recruitment difficulties were more likely to develop over time. The Government’s view was that there should be sufficient labour from the UK and EU labour market to meet the horticultural sector’s needs for the present, and that there was an insufficient case for the introduction of a new seasonal labour scheme which would amount to preferential treatment for this particular sector.

The Government does nevertheless recognise that the horticultural sector faces some specific issues in ensuring a reliable supply of labour, and reducing its dependence on migrant labour over the longer term, and that this is not reducible solely to the issue of pay. That is why the Government has established a DEFRA-led working group, involving other government departments, to examine what other steps can be taken to address obstacles to the recruitment of labour (including the role of Job Centre Plus and other recruitment channels, perceptions of work in the industry and accommodation and transport issues) and to monitor the labour supply situation in the sector. The Government’s Agricultural Technologies Strategy will also support innovation in the horticultural sector in order to mitigate levels of seasonal labour need.

The Migration Advisory Committee

Conclusion/Recommendation 7

We are not convinced that the Government has got the right balance between restricting immigration and attracting skilled people in some sectors that have a skills gap.

Taken with

Conclusion/Recommendation 8

We are concerned that in areas such as restaurants, there are many small businesses that can neither afford the wage required under Tier 2, nor have enough time to train the chefs of the future. Skills level assessments must be based on realistic vocational knowledge. Otherwise, this will lead, and has done so already, to the closure of businesses and negative effects on the economy. The Committee recommends that the Migration Advisory Committee and the Home Office should consult with industry, including caterers’ associations and restaurateurs in order to better understand the effects of this policy, with a single focus on the Asian/Oriental restaurant sector.

Government response

The annual limit applied to applications in the Tier 2 category has been undersubscribed since its inception in 2011 and consequently has not prevented a single employer recruiting a skilled migrant worker.

Under Tier 2, employers are able to recruit migrant workers to fill graduate-level jobs that are in recognised shortage occupations, or where they are unable to find enough suitable resident workers. Where jobs are skilled to below graduate level, the Government considers it is reasonable to ask employers to recruit, and if necessary train, resident workers.
The Government’s view is that the UK continues to make an excellent offer for students who wish to work in the UK after their studies. All students have four months following the end of their course in which to apply in a work route. Those with an offer of a graduate level job, paying an appropriate salary, can switch into Tier 2 with no limit on numbers and no resident labour market test. The Tier 1 (Graduate Entrepreneur) route, Tier 4 (Doctorate Extension Scheme) for PhD graduates, and opportunities for professional training or internships in Tier 5 (Government Authorised Exchange) provide further options.

With regard to the restaurant sector, successive Governments and the Migration Advisory Committee have been saying for many years that the sector needs to reduce its reliance on migrant workers and invest in the resident workforce. Tier 2 continues to provide opportunities for skilled chefs who will develop innovative cuisine, but the criteria are set high intentionally. The Government does not intend that employers should be able to recruit migrant workers for low-paid jobs in standard fare restaurants. It is true that skills in this sector are based more on vocational knowledge than academic qualifications, but that is all the more reason for employers and sector bodies to invest in training. The Government has not seen evidence to suggest that closures of restaurants in the Asian/Oriental sector in recent years have been attributable to their inability to obtain permission to work for staff recruited from overseas.

Conclusion/Recommendation 9

The Migration Advisory Committee is due to present the results of its study into migrants and low skilled work to the Minister by April 2014. We look forward to the publication of this research and intend to take evidence from the MAC on the results as soon as possible afterwards.

Government response

None needed

Conclusion/Recommendation 10

The Committee was alarmed by Professor Sir David Metcalf’s admission about the purchase of gilts for citizenship. The current evidence suggests that there appears to be very little benefit. While the Government considers the options for a system more beneficial to the UK, as outlined in the MAC report, we recommend the Home Office suspend the Tier 1 (Investor) visa route. The practice of other European Union Member States selling citizenship is extremely worrying. As the Minister for Immigration pointed out, the UK has neither power nor control over the policies of other EU States in this regard. We do not believe Britain should follow the example of Malta, for the reasons stated in evidence. The Committee recommends that the Home Office seek urgently to petition the European Commission about this practice. Otherwise Britain’s immigration controls would be in danger of being sidestepped by those with sufficient wealth.

Taken with

Conclusion/Recommendation 11
We are perturbed at the new recommendations by the Migration Advisory Committee to sell British settlement by auction. This process is riddled with difficulties and combined with the reduction in standards required of those gaining citizenship, including limited or no English or Welsh language skills, will be a recipe for disaster. A requirement to speak English or Welsh has been a cornerstone of the development of immigration policy under successive Governments. If the Home Office are to accept these proposals, there must be thorough and robust due diligence applied to these potential new citizens to ensure that they are fit and proper persons to be admitted to settle in this country and placed on the path of citizenship. We will examine the Home Secretary on this when she next appears before the Committee.

Government response

The Government is currently giving careful consideration to the MAC’s findings in respect of the Tier 1 (Investor) category and the extent to which the route delivers its intended benefits to the UK. On auctions, the MAC did not seek to present a fully worked out scheme but it was clear that the proposed bidding system should not substitute for the usual due diligence checks on prospective migrants. Nor did it suggest that its proposal should involve any dilution of the language requirements applied to those seeking citizenship.

On the policies adopted by other Member States, other countries have the right to determine their own citizenship laws. The Government will monitor the schemes adopted by other Member States and will make clear its concerns if it appears those schemes will give rise to the abuse of free movement rights.

The Migration Refusal Pool and Capita

Conclusion/Recommendation 12

We remain seriously concerned about the cost of outsourcing this contract to Capita. The changes to the contract suggest that Capita are being remunerated for identifying those who have left and not for action leading to these departures. The Committee cannot understand why this work could not have been undertaken by the Home Office directly. We reiterate our call for the terms of the contract to be immediately made public.

Government response

Engaging a contractor to pursue contact management work, perform checks, analyse the results and update individual records has allowed for the work to be completed speedily. The benefits of swift mobilisation of a contractor result in quicker delivery. It also means that the work can be scaled down quickly if required. There is no commitment to provide further work through the contract if it is not required.

The work that Capita has been contracted to undertake includes making checks on cases to identify if there is evidence to show people have left the UK. Cases are closed where it is clear that no further enforcement activity is required, regardless of the dates on the immigration case in respect to the contract. The purpose of the work is to close off cases and progress others as far as possible prior to passing them to Home Office teams for
further work, as well as delivering a contact management solution that encourages and supports voluntary departures. Capita has delivered above prediction on departures, having recorded 47,300 departures by the end of Q4, 2013.

**Conclusion/Recommendation 13**

The Home Office should make clear why changes were made to the contract with Capita regarding their work on the Migration Refusal Pool, and what led to the “significant increase” in the number of barrier cases being passed back to the Home Office. The barrier cases have to go back into the system to be addressed by Home Office staff, presumably back into the established Migration Refusal Pool backlog. We welcome the fact that the Capita exercise appears to have been successful in removing duplicate and erroneous records. The next test is to see how quickly the cases which have been identified with barriers to removal are addressed and closed.

**Government response**

There have been no major changes to the contract with Capita since it commenced in December 2012 (there have been a small number of minor contract amendments).

Between Q3 (September) and Q4 (December) the Committee will have noticed a significant increase in the number of cases reported as being returned to the Department as having a barrier to further contact. This was not due to a contract change, but rather that the contact cycle had not been concluded for cases until after the end of Q3.

The Committee was provided with figures up to the end of Q4 by letter in March. This shows that to date, Capita has completed its work on 218,400 cases. Of these, 22% (47,300) have been confirmed departures, 23% (50,000) have resulted in no contact being made, and 55% (121,100) have been identified as having barriers to contact management. This includes updating and closing cases where there are duplicate records or errors.

The contract involves progressing large volumes of cases utilising both Home Office systems and the contractor’s contact management technology. In the earlier stages of working through the first 150,000 cases, many were in the contact cycle as the contractor either (i) worked with the individuals to progress their cases, or (ii) because the contractor made further checks against other databases in order to source updated contact information.

The period during the middle of last year saw a combination of impacts on the contact cycle. Some cases, where contact had not led to a voluntary departure and an enforced return was required, were passed back to the Home Office. Many cases saw a barrier put up by the individual as a result of the contact process. As larger numbers of cases were worked by the contractor following the initial mobilisation period, the numbers of duplicate and error cases also increased as the stock of the work was completed.

Cases with barriers that are passed back into the Home Office may remain in the Migration Refusal Pool report, but the report is not a backlog. In many cases individuals within the MRP have already submitted further applications for leave to remain, or have raised fresh legal barriers to removal that are under consideration. Cases are progressed and prioritised for enforcement action by the newly established, dedicated removals casework teams.
Allegations Database

Conclusion/Recommendation 14

The Committee recognises that action on illegal immigration should be intelligence led. We have commented in the past about the risk of the Home Office developing communication strategies to encourage reporting but those strategies undermining confidence in the system if they do not lead to action being taken. At the moment only a small proportion of allegations are investigated. The Committee finds it completely unacceptable that only 1.5% to 2.5% of allegations lead to a removal.

Taken with

Conclusion/Recommendation 15

The Committee recognises that action on illegal immigration should be intelligence led. We have commented in the past about the risk of the Home Office developing communication strategies to encourage reporting but those strategies undermining confidence in the system if they do not lead to action being taken. At the moment only a small proportion of allegations are investigated. The Committee finds it completely unacceptable that only 1.5% to 2.5% of allegations lead to a removal. The Home Office should be clear whether this is because most allegations are unfounded or because they are not taking action. We are concerned that a whole unit exists to deal with these allegations, yet the results are so poor. The Government must clarify why this figure is so low, what is the cost of policing these allegations and what further action they are taking to improve the proportion leading to a removal.

Government response

The Home Office takes reports of immigration abuse very seriously and is committed to achieving the best results from the information it receives from the public. The Intelligence Management System (formerly Allegation Management system) was rolled out in September 2012 and, since then, all allegations received from the public are recorded on one central, searchable database.

Regrettably, around 30% of the information we receive cannot be processed further either because it is incomplete or as a result of its quality. When this is taken into account, the arrest levels we achieve are very similar to the results the police achieve from Crimestoppers information. For example, in 2013 8.5% of the actionable information we received resulted in an arrest, compared with 7% of the actionable information received by Crimestoppers.

We will be delivering further improvements to IMS in 2 phases during the summer and autumn of this year. These will include a new version of the online form for the public to use. The changes follow public user-testing and will help to ensure that we are receiving more comprehensive information to act on. We are also making changes to improve the management information available so that we can prioritise our activity to get better results.
**Foreign National Offenders**

Conclusion/Recommendation 16

We are astonished that the Home Office has not learnt the lessons from the Raed Salah case. The Bushati case reinforces the necessity of ensuring that systems are put in place that can identify individuals that the UK does not want to allow in. If Baksim Bushati had been listed on the National Warnings Index, his re-entry and subsequent criminality could have been prevented. It is clear that the National Warnings Index is not being properly maintained. To allow Baksim Bushati back into the country was a serious and unacceptable failure. This should never be allowed to happen again. Despite the provisions made to prevent foreign offenders returning to the UK after deportation, it is clear more needs to be done. Further steps should be taken immediately to close the gaps in the process. There is a real possibility that other dangerous criminals may have been able to enter the UK in a similar way. The Home Office needs to publish its list of co-operation agreements with all other countries to enable convictions to be shared.

**Government response**

Baksim Bushati entered the UK by clandestine means. Clandestine entry has been and remains a threat to the UK border. Border Force has invested heavily in the latest available technology and has initiated significant operations, both in number and in scope, focused on preventing and detecting clandestines. Border Force is also working with the French Government on options for further enhancing security in the Nord-pas-de-Calais which is often targeted by would-be clandestines.

**Asylum**

Conclusion/Recommendation 17

We recommend that the Home Office and the Ministry of Justice make clear that the exemption for children from the residency test does apply for all civil proceedings, and ask the Government to make clear as to when the change will be implemented.

**Government response**

The Government believes that, in principle, individuals should have a strong connection to the UK in order to benefit from the civil legal aid scheme and that the residence test we have proposed is a fair and appropriate way to demonstrate that connection. A draft statutory instrument which would implement the test was laid before Parliament on 31 March 2014. Subject to Parliamentary approval, the test will come into effect from 4 August 2014.

There will not be an exception to the residence test for children for all civil proceedings. As set out in the Government Response to the Joint Committee on Human Rights’ (JCHR’s) report on the implications for access to justice of the Government’s proposals to reform legal aid, the Government has made a number of exceptions to the residence test for certain types of case involving protection of children issues. These are in addition to the other exceptions proposed for specific types of case, which may also be relevant for children.
Having listened to the concerns raised by the JCHR, the Government has made a number of further exceptions for certain other types of community care case involving protection of children issues under the Children Act 1989. The full list of exceptions is set out in further detail at paragraphs 7.4-7.5 in the draft Explanatory Memorandum published alongside the draft statutory instrument.

The draft statutory instrument and draft explanatory memorandum can be viewed at http://www.legislation.gov.uk/ukdsi/2014/978011113073/contents

**Visa Applications**

**Conclusion/Recommendation 18**

A major reason for the creation of UKVI is so that it has room to create its own distinct culture, one with a customer focus. We welcome the clarity offered by the new service standards for UKVI. We also note that UKVI has said it will report quarterly on its performance against all applications. We look forward to assessing UKVI’s performance against these new standards and will expect the UKVI to improve.

**Government response**

None needed.

**Sponsors and Licensing**

**Conclusion/Recommendation 19**

In our last report we commented on the significant decline in the proportion of post-license visits that were unannounced in all sponsor Tiers, and reiterate our previous recommendation that the Home Office must undertake 100% unannounced visits on sponsors where it suspects non-compliance as this is the most effective way of dealing with bogus student applications.

**Government response**

The overall proportion of our unannounced visits continues to increase. Where we suspect potential non-compliance, an unannounced visit is the default response.

**New Asylum Cases**

**Conclusion/Recommendation 20**

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 throughout 2013. The Government told us that “getting to grips” with the older cases would allow more resources to be used to address new asylum applications and thus make initial decisions more quickly, but this is not currently happening. This must not happen at the expense of consistency in decision making.

**Government response**
Initial decisions should be taken within 6 months, in general. In 2012-13, 78% of initial decisions were taken within 6 months, and 2013 as a whole saw a 5% increase in total initial decisions served compared with 2012. Some cases take longer than 6 months for reasons outside of our control, such as when waiting for medical reports or elsewhere there are issues relating to national security.

However, we recognise we need to do more and accept that we should be taking over 90% of initial decisions within 6 months. To achieve this, the Asylum Casework Directorate (ACD) has introduced new stretching productivity targets for decision-makers and recruited over 250 new staff, including 160 decision-makers, to increase capacity. In 2014-15, ACD plans to ensure all pre-April 2014 cases have an initial decision, and all straightforward claims received from 1 April 2014 receive an initial decision within 6 months. That would see 90% of cases receiving initial decisions by the end of March 2015.

Offering protection to those most in need is of course our primary aim, but an obstacle to this lies in the fact that the majority of asylum claims are unfounded. In 2013 63% of cases were refused at initial decision stage. Of those who appealed this decision, around 75% were dismissed by the Immigration Tribunal. Much casework resource then goes into dealing with further submissions, after all appeal rights are exhausted and other barriers to removal; that wastes time and effort. The Department would welcome the Committee’s clear support in saying that unfounded claims get in the way of offering protection to those in need, and waste public money.

**Appeals Success Rate**

**Conclusion/Recommendation 21**

In its response to our Report on Asylum, the Government said that UK Visas and Immigration approach to asylum should include taking steps to improve consistency of decision making. We have yet to see much evidence of this. There are ongoing questions about the quality of decision making across UK Visas and Immigration, as shown by the number of successful appeals.

**Government response**

The percentage of asylum decisions being overturned at appeal has decreased year-on-year since 2010, from almost 29% to around 24% in 2013. This suggests that the quality of decision making is improving. But we are not complacent. Our Next Generation Quality Framework is now up and running and audits 5% of all asylum decisions nationally. Local senior caseworkers also review decisions under the same framework. Both of these factors ensure decision-makers are now reviewed roughly every month for decision quality.

**Conclusion/Recommendation 22**

The Committee expresses serious concerns about the removal of appeal rights whilst the quality of decision making continues to be so poor. We hope that the passage of the Immigration Bill through the House of Lords will allow for further scrutiny of the decision to remove these rights.

**Government response**
The work of the Immigration Directorates (April – September 2013) 13

The Immigration Act received Royal Assent on 14 May. Its provisions were scrutinised by Parliament in the usual way.

**MP’s Correspondence**

**Conclusion/Recommendation 23**

We welcome the development of the valuable document bank and the centralised system for tracing documentation. We hope the document bank is appropriately resourced and able to respond to inquiries in a prompt and efficient way. We are however concerned that progress to improve the percentage of responses to MPs’ correspondence remain slow. We expect there to be significant improvement in response rates to avoid creating extra work. We will revisit this subject.

**Government response**

The latest data now published on the gov.uk website, shows improved performance. This performance improvement has been the result of the work that we have done to restructure the teams that deal with MPs’ enquiries, moving to a model of regionally based teams who work closely with their local MPs and building on our successful MP Account Manager approach. As part of this we will shortly be moving all work from the MPs’ Enquiry Line to these, local teams, and anticipate that this will ensure better and more consistent performance in the future.

**Immigration Detention**

**Conclusion/Recommendation 24**

We are concerned that the number of Rule 35 reports has consistently increased over the past four quarters and note that these reports often involve extremely vulnerable individuals. The Committee seeks clarification from the Home Office on this increase and the actions taken in response to it. We will explore the subject in further detail in future evidence.

**Government response**

The purpose of Rule 35 of the Detention Centre Rules 2001 is to ensure that any detainee considered to be potentially vulnerable is brought to the attention of Home Office staff responsible for authorising, maintaining or reviewing their detention. The information contained in such reports needs to be considered in deciding whether the individual’s continued detention is appropriate in each case.

The Home Office is unable to attribute the recent increase in the number of Rule 35 reports issued to any particular cause. However, towards the end of 2012 the Home Office published a revised Detention Services Order (DSO) to provide improved guidance to staff working in Immigration Removal Centres (IRCs) about the operation of the Rule 35 process. This was accompanied by training sessions for doctors working in IRCs to improve their awareness and handling of Rule 35 reports.
It is possible therefore that the increase in the number of Rule 35 reports is reflective of these measures.

Detainees’ access to health care staff is facilitated in all immigration removal centres, all of which provide primary healthcare services equivalent to those available in the community. The only, short term restrictions on detainees’ access to IRC medical staff would be during particularly busy periods in healthcare.

Conclusion/Recommendation 25

The Committee welcomes the fact that many fewer children are now detained than at the beginning of 2012, but is concerned that the numbers have increased in the last two quarters. The Committee notes that pre-departure accommodation in Cedars is different from immigration detention in Yarl’s Wood and calls for the government to clearly distinguish between (a) pre-departure accommodation, (b) short-term facilities at ports, and (c) other immigration detention.

Government response

There will always inevitably be some degree of fluctuation in the number of children entering detention from quarter to quarter. The increase in the number of children entering detention in Q3 2013, as compared with Q2 2013, cannot be attributed to any single cause. However, it will in part have been the result of the establishment of the dedicated Family Removals Team in Removals Casework, with the majority of Family Engagement Managers coming on line from June 2013 onwards.

Section 6 of the Immigration Act will provide a separate legal basis for the Cedars pre-departure accommodation, which is used only for holding families with children as part of the family returns process. The provision in the Act will also give effect to the existing maximum time limits for holding families there.

In addition, pre-departure accommodation will be the subject of new statutory rules governing its operation and management, which will be separate to new statutory rules covering short-term holding facilities more generally. In line with the commitment given by Lord Taylor during Committee Stage of the Immigration Bill, both sets of rules will be laid by summer recess.

Foreign National Offenders and Ex-Foreign National Offenders (FNOs)

Conclusion/Recommendation 26

We welcome the fact that the Home Office has managed to reduce the average length of time taken to deport an ex-FNO from 118 days in Q3 2012 to 99 days in Q3 2013. However, we are concerned that failed removals have risen over the past two quarters. The Home Office must clarify exactly how much these failed removals cost the taxpayer and what steps they are taking to limit their frequency.

Government response
The reporting mechanism for failed removals changed in early 2013. We had previously used manual records to capture removals which had been cancelled within the month of the planned removal itself, which did not record all cancelled removals. Our new reporting process captures all failed removals, including those which have removal directions cancelled in any period ahead of the removal date. The Committee were notified of this change in quarter one of 2013.

We now also provide a breakdown of the number of individuals whose removal has failed, as well as the total number of failed removal attempts (some FNOs have more than one failed removal attempt).

We do not hold records on the cost of failed removals. The cost of each failure would vary significantly, dependant on a number of factors, such as whether contractors were involved and whether the removal was a scheduled or charter flight. We continue to monitor our failed removals closely and work with our removal contractors to maximise the effectiveness of the delivery chain and reduce logistical issues that affect a small number of removals. There will always be failed removals because of last minute attempts to frustrate removal action, such as late applications, asylum claims and legal challenges, but we seek constantly to reduce those which are within our control.

We have ongoing cross Government work to overcome issues affecting FNO removals. We are focusing on improving performance, removing barriers to documentation and addressing legal issues through the Immigration Act.

The Immigration Act will have a significant impact on the ability of FNOs to delay removal by mounting legal challenges whilst in the UK. The current appeals system means that 17 different types of decision can be appealed. The Immigration Act will simplify the appeals system and mean that appeals can only be brought where the Home Office has refused a protection (asylum or humanitarian protection) claim, a human rights claim or a claim based on EU free movement rights. We will also have the power to certify that where deportation will not cause serious irreversible harm, the appeal will be heard after the FNO has left the country.

**Border Agency Backlogs**

**Conclusion/Recommendation 27**

The Committee welcomes the reduction of 49,003 in the number of cases in the backlogs. We note that the largest backlog, the Migration Refusal Pool has barely shifted throughout 2013, yet this is the backlog which the Home Office specifically contracted Capita to address. We remain unconvinced that the Home Office is getting to grips with this issue. The backlog is still at an astonishing 364,235, about the same size as the city of Cardiff, and will take over 5 years to clear at the current rate of action. This assumes there are no new backlogs discovered. The Committee reiterates its previous recommendation made on numerous occasions that the backlogs must be cleared as a matter of priority.

**Government response**
The Temporary and Permanent Migration pool represents our current ‘work in progress’ (WIP). It is not accurate to describe it as a ‘backlog’ because a significant proportion of the cases included within it are still in service standard or are blocked from decision for reasons beyond our control (e.g. where we are awaiting the result of checks; where we are awaiting further evidence; or where we are awaiting the result of a legal judgement). We have provided full details of work in progress in our regular data release, which was published on 30 May.

Regarding the MRP, people flow into this as their applications receive a negative decision. On average, approximately 3,000 cases enter the MRP each week. Capita was contracted to contact manage and cleanse records in this pool, and closes cases where checks show the individual has departed or where enforcement action is not required (for example, if they are granted leave, lodge an appeal, submit a new application). This proactive management of the pool has stabilised its overall number, which would have been substantially higher without the implementation of the Capita contract.

James Brokenshire MP
Minister for Immigration and Security
July 2014