House of Commons
Home Affairs Committee

Effectiveness of the Committee in 2012–13

Seventh Report of Session 2014–15

Report, together with formal minutes relating to the report

Ordered by the House of Commons
to be printed 25 November 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

Rt Hon Keith Vaz MP (Labour, Leicester East) (Chair)
Ian Austin MP (Labour, Dudley North)
Nicola Blackwood MP (Conservative, Oxford West and Abingdon)
James Clappison MP (Conservative, Hertsmere)
Michael Ellis MP (Conservative, Northampton North)
Paul Flynn MP (Labour, Newport West)
Lorraine Fullbrook MP (Conservative, South Ribble)
Dr Julian Huppert MP (Liberal Democrat, Cambridge)
Tim Loughton MP (Conservative, East Worthing and Shoreham)
Yasmin Qureshi MP (Labour, Bolton South East)
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)
Mark Reckless MP (Conservative, Rochester and Strood)

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), Andy Boyd (Senior Committee Assistant), Iwona 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
## Contents

<table>
<thead>
<tr>
<th>Report</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report</td>
<td>3</td>
</tr>
<tr>
<td>Annex: Effectiveness of the Committee in 2012–13</td>
<td>5</td>
</tr>
<tr>
<td>Formal Minutes</td>
<td>159</td>
</tr>
<tr>
<td>List of Reports from the Committee during the current Parliament</td>
<td>160</td>
</tr>
</tbody>
</table>
Report

1. In order to monitor the effectiveness of its Reports, the Home Affairs Committee maintains a colour-coded grid of its recommendations. Recommendations are coded green if, in our view, the Government has accepted them, red if they have been rejected, and yellow if they have been partially accepted, or if the Government has undertaken to give them further consideration.

2. We published the grid for the Reports of the 2010–12 Session in June 2012. This Report covers the Committee’s work in the 2012–13 Session. The Committee will use the grid to inform its choice of inquiries over the course of the Parliament, returning to earlier recommendations where it appears that there may be some merit in doing so, but avoiding reduplication of earlier work where it appears unlikely to prove beneficial.

1 Effectiveness of the Committee in 2010–12, First Report of Session 2012–13 (HC 144)
### Annex: Effectiveness of the Committee in 2012–13

**Summary of Government Responses 2012–2013**

<table>
<thead>
<tr>
<th>Report</th>
<th>Subject</th>
<th>Response</th>
<th>Accepted</th>
<th>Qualified acceptance</th>
<th>Rejected</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>Effectiveness of the Committee in 2010–12 (HC 144), published 12 June 2012</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Second</td>
<td>Work of the Permanent Secretary April–Dec 2011 (HC 145), published 29 May 2012</td>
<td>Fifth Special Report of the Session 2012–2013 (HC 571), published 18 September 2012</td>
<td>3 (43%)</td>
<td>4 (57%)</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Third</td>
<td>Pre-appointment Hearing for Her Majesty’s Chief Inspector of Constabulary (HC 183), published 27 June 2012</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Fourth</td>
<td>Private Investigators (HC 100), published 6 July 2012</td>
<td>Cm 8691, Published 31 July 2013</td>
<td>5 (42%)</td>
<td>5 (42%)</td>
<td>2 (16%)</td>
<td>12</td>
</tr>
<tr>
<td>Fifth</td>
<td>The work of the UK Border Agency Dec 2011–March 2012 (HC 71), published 23 July 2012</td>
<td>Sixth Special Report of the Session 2012–2013 (HC 825), published 19 December 2012</td>
<td>17 (55%)</td>
<td>3 (10%)</td>
<td>11 (35%)</td>
<td>31</td>
</tr>
<tr>
<td>Sixth</td>
<td>The work of the Border Force (HC 523), published 26 July 2012</td>
<td>Seventh Special Report of the Session 2012–2013 (HC 826), published 19 December 2012</td>
<td>11 (79%)</td>
<td>3 (21%)</td>
<td>0 (0%)</td>
<td>14</td>
</tr>
<tr>
<td>Seventh</td>
<td><em>Olympics Security</em> (HC 531-I), published 21 September 2012</td>
<td>Cm 8500, published November 2012</td>
<td>11 (92%)</td>
<td>0</td>
<td>1 (8%)</td>
<td>12</td>
</tr>
<tr>
<td>Eighth</td>
<td><em>The work of the UK Border Agency April–June 2012</em> (HC 603), published 9 November 2012</td>
<td>Cm 8591, published March 2013</td>
<td>19 (43%)</td>
<td>9 (21%)</td>
<td>16 (36%)</td>
<td>44</td>
</tr>
<tr>
<td>Ninth</td>
<td><em>Drugs: Breaking the Cycle</em> (HC 184-I), published 10 December 2012</td>
<td>Cm 8567, published March 2013</td>
<td>21 (48%)</td>
<td>5 (11%)</td>
<td>18 (41%)</td>
<td>44</td>
</tr>
<tr>
<td>Tenth</td>
<td><em>Powers to investigate the Hillsborough disaster: interim Report on the Independent Police Complaints Commission</em> (HC 793), published 5 December 2013</td>
<td>Cm 8598, published April 2013</td>
<td>11 (84%)</td>
<td>1 (8%)</td>
<td>1 (8%)</td>
<td>13</td>
</tr>
<tr>
<td>Eleventh</td>
<td><em>Independent Police Complaints Commission</em> (HC 494), published 1 February 2013</td>
<td>Cm 8598, published April 2013</td>
<td>14 (56%)</td>
<td>4 (16%)</td>
<td>7 (28%)</td>
<td>25</td>
</tr>
<tr>
<td>Twelfth</td>
<td><em>The draft Anti-social Behaviour Bill: pre-legislative scrutiny</em> (HC 836-I), published 15 February 2013</td>
<td>Cm 8607, Published April 2013</td>
<td>14 (67%)</td>
<td>4 (19%)</td>
<td>3 (14%)</td>
<td>21</td>
</tr>
<tr>
<td>Thirteenth</td>
<td><em>Undercover Policing: Interim Report</em> (HC 837), published 01 March 2013</td>
<td>First Special Report of the Session 2013–14 (HC 451), published 24 June 2013</td>
<td>4 (67%)</td>
<td>2 (33%)</td>
<td>0</td>
<td>6</td>
</tr>
</tbody>
</table>
Effectiveness of the Committee in 2012–13

### First Report, Effectiveness of the Committee in 2010–12 (HC 144), published 12 June 2012

No Government Response required


<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Riot damages</strong></td>
<td>I can report on progress of payments made under the Riot (Damages) Act 1886. While decisions over individual claims are entirely a matter for police authorities, we have worked closely with affected forces to ensure victims are fully compensated. To date 95% of all valid active uninsured individuals’ claims originally made have now been settled by police authorities and we hope to resolve all but a small minority of this category shortly. The Metropolitan Police Service also later received a number of claims, either as a result of businesses claiming insurance excess or insurance companies repudiating claims. Of these cases 81% have been resolved and the majority of cases remaining are for insurance excess from larger high street companies. The final category of RDA claims are from insurance companies seeking reimbursement of costs paid to policy holders. I can report that 83% of these cases have now been resolved. The majority of cases that remain outstanding are awaiting documentation to be sent by insurance companies, some of whom have indicated to police authorities that this will not be sent for some time due to the complexity of the claims involved. However it is important to point out that this does not affect the vast majority of individuals and businesses. The most up-to-date information</td>
<td>The Government is currently consulting on possible arrangements for speeding up the processing of claims under the Act, including the processing of claims by phone and e-mail, the making of interim payments and the establishment of a Riot Claims Bureau.</td>
</tr>
</tbody>
</table>
work with police authorities to publish a timetable for the payment of outstanding claims, so that people who are still awaiting the settlement of their claims have a degree of certainty about when they can expect payment. All those who have made legitimate claims under the Riot (Damages) Act should receive their payments by the first anniversary of the riots at the very latest. (Paragraph 3)

from the ASI indicates that 95% of individuals with insurance have had a payout from their insurer; and 92% of small to medium size businesses with insurance have had a payout. Against this background I am afraid it is not possible to publish a precise timetable for payment of outstanding claims made under the Riot (Damages) Act 1886. There are a number of factors beyond the influence of police authorities that can delay payment of compensation including complexity of claims and reliance on other processes such as planning permission. The majority of delays in outstanding cases, despite the best efforts of police authorities, are as a result of not receiving necessary documentation from claimants or insurance companies.

We are also in the process of reviewing the Riot Damages Act to ensure it protects the most vulnerable and provides value for money for the taxpayer. (page 1)

Procurement savings
2. Dame Helen told the Committee that the Home Office Group Commercial team had generated savings of £41.7 million in the third quarter of the 2011–12 financial year. This is more than in the previous two quarters combined and brings the total savings so far in the 2011–12 financial year to £75 million. To put this in context, the Home Office is required to reduce its total budget by £1.8 billion over the present Parliament. Dame Helen commented that the savings had been “achieved through negotiating price reductions on existing contracts, grouping our needs to benefit from volume discounts and stopping spend where appropriate to do so” and also included “savings on new goods and service requirements generated through effective negotiations with suppliers. She told us that the majority of the savings made in the third quarter—some £24.2 million—were on information and communications technology, and particularly the purchase of hardware, software and ongoing support. The Committee welcomes these savings. (Paragraph 4)
**Number of suppliers**

3. The figure for 2011–12 (for the nine months up to and including December 2011) indicates that the number of suppliers used in this financial year has dropped by more than 1,000. The Committee sees nothing wrong with the Home Office consolidating the number of its suppliers in order to achieve efficiency gains. However, this must not be at the expense of supporting small and medium-sized suppliers. Dame Helen told the Committee: “The Home Office is committed to the small and medium sized enterprises agenda and is implementing a 5 point plan to stimulate greater engagement with the sector.” She also explained that the Home Office had held an event in October 2011 targeted at small and medium sized enterprises who wanted to supply goods and services to Government. The Committee welcomes these efforts to engage with small and medium-sized enterprises. (Paragraph 5)

4. The Committee notes that recent “commercial and operational managers procuring asylum support services” (COMPASS) procurement project, resulted in three preferred bidders: Serco, G4 and a joint venture between Reliance and Clearsprings. These companies will be involved in the provision of accommodation and transport for asylum applicants. Dame Helen, referring to awarding of these contracts, commented: That is not to say that the UKBA has not considered the position of Small and Medium Enterprises (SMEs) within these contracts. There are obligations on all our preferred bidders to manage and maintain a suitable supply chain and I am assured that more than 25% of the contract value will be delivered by SMEs. This exceeds the aspirations set by the coalition Government. The Prime Minister expressed his support for small and medium-sized businesses in a speech on exporting and growth in November 2011. We are anxious to make sure that this is put into

<table>
<thead>
<tr>
<th>Recommendation accepted.</th>
<th>General conclusion — no response necessary</th>
</tr>
</thead>
</table>
| The Home Office is committed to the aspiration that 25% of Government spend on goods and services should go to SMEs and this is recognised in the Home Office Business Plan for 2012 - 2015. A refreshed action plan was published on the Home Office website in May. This plans sets out initiatives to open up opportunities for SME’s to do more business with the Home Office. An SME champion at Senior Civil Servant level has been tasked to deliver the agreed departmental actions and objectives relating to the SME agenda. During 2012 the following has occurred:  
- Increased direct engagement with SME’s through product  
- surgeries and preprocurement events  
- Workshops held to support SME’s who have submitted  
- unsuccessful bids  
- Web site enhancements with more information for SME’s  
- Greater challenge of procurement approaches to ensure  
- fair and open competition exists for SMEs  
- Supply chain analysis to improve understanding of where  
- SME's support through prime contractors and importantly  
- ensure prompt payment terms flow down to the SMEs  
- Working with other departments to jointly drive the SME |
| **Effect by the Home Office and its agencies. (Paragraph 6)** | **Use of consultants**
5. The Home Office’s spending on consultancy services fell by 60% between 2009–10 and 2010–11. The Department’s Annual Report states that this was achieved “by in-sourcing work, re-negotiating rates and ending programmes with high consultancy costs.” Dame Helen stated that “one significant element” of the savings was the ending of the identity card programme. The ending of the identity card programme helped the Home Office to make significant savings on consultants in 2010–11. The Committee expects the Home Office to demonstrate ongoing savings in this area of expenditure, to demonstrate that the reduction does not simply reflect the closure of one programme, but a changed attitude to the employment of consultants, including the use of in-house staff wherever possible and the better letting and management of contracts with consultants. (Paragraph 7) | **Full year spend in FY 2011–12 on external consultancy by the Home Office, including Agencies and NDPBs, was £33.2m. This figure represents a decrease of 50% from 2010/11 spend which was £66m. Good governance exists to challenge requests to use consultancy and to ensure that the department operates in accordance with spending controls set by the Cabinet Office Efficiency and Reform Group. Control processes for consultancy spend requests in excess of £20k include submission to the Home Secretary with business areas needing to demonstrate that in-house staff are not suitable or available to undertake the work and that value for money outcomes will be delivered. To ensure these outcomes are delivered the procurements are managed by the Home Office Procurement Centre of Excellence and the contracts are monitored over their duration. Any extensions or renewals are subject to the same spending control processes.** |

| **Police procurement**
6. As Dame Helen noted, the Home Office expects police forces to achieve a £200 million saving in non-IT procurement over the period from 2010–15. The Home Office now has responsibility for non-IT police procurement, as part of the phasing out of the National Policing Improvement Agency. Dame Helen commented: “We see our role as facilitating, helping them [police forces] to do that with a little bit of a stick as well as a carrot.” She outlined two areas in which progress was being made. Firstly, she said that the aim was to have everything a police force might want to buy in the National Police Procurement Hub—in effect, a central catalogue, which forces use to order goods and services—by the end of the year. She added, that if forces found an item at a price that was genuinely cheaper than that in the Hub, | | **Recommendation accepted**

| **General conclusion — no response necessary** |
“including all the overheads, [and] the subsequent Maintenance. We would want to hear about it and put it in the catalogue.” She stated that use of the Hub would ultimately be mandatory. (Paragraph 8)

7. Dame Helen confirmed that the Home Office would consult on extending compulsory national framework agreements for police procurement. The frameworks currently apply to four categories of equipment: body armour, police vehicles, IT commoditised hardware, and IT commercial off-the-shelf software. Categories that could be subject to compulsory national framework agreements in future include mobile phones, utilities and consultants. In its report on the New Landscape of Policing, the Committee welcomed the introduction of compulsory national frameworks for police procurement and called for them to be extended to other categories of goods and services. The Committee is pleased that the Home Office is acting on this recommendation. The Committee urges the Home Office to extend the frameworks to the new categories as quickly as possible. (Paragraph 9)

The Home Office has taken over the NPIA’s former responsibilities for supporting non ICT police procurement. However, much procurement will continue to be undertaken directly by the police service. The Home Office provides support for particular procurement categories in line with the Police Collaborative Procurement Programme. Consultation has now been completed on extending the range frameworks mandated for police use and the consultation responses are being considered. (page 3)

8. The Committee has a number of concerns about the joint procurement exercise currently being undertaken by Surrey and West Midlands Police. The Committee is not clear about the scope of what is encompassed in the procurement exercise. More worryingly, the Committee is not convinced that Surrey and West Midlands Police fully understand, or are fully able to articulate, the process they are undertaking. The Home Office is partly funding the procurement process, at a cost of several million pounds, and has some responsibility for ensuring that there is an effective communications plan in place to explain the process to interested stakeholders and ultimately to the wider public. The Committee is also concerned about the timing of the procurement exercise. It would have been preferable to wait until Police and Crime Commissioners were in post, in November 2012, before proceeding.

The OJEU (procurement) notice for the Business Partnering for Police procurement, published on Tuesday 24 January sets out a deliberately broad scope of services, in order to leave open the opportunity for a wide range of services to be delivered in partnership with the private sector and to maximise the potential for transformation of forces’ businesses. How, when and also which services are brought into scope for implementation will be for forces (and PCCs as contract signatories) to decide.

The Home Office agrees with the Committee that it has an important role in ensuring that the programme has benefits which are clearly identified and articulated, both to interested parties and the wider public. To this end the Home Office has been providing technical commercial support to both Surrey and West Midlands forces as they developed their strategic case for partnering. This has included some consultancy support to help the forces understand the true cost of their current business and to improve their ability to extract value from a potential future business partner. The Home Office has been working with the forces to extract learning from the process.

The Committee would welcome an update on progress following the consultation exercise.

Surrey Police Authority withdrew from the joint procurement exercise in July 2012. West Midlands Police Authority decided to suspend the procurement exercise until after the election of Police & Crime Commissioners. The incoming Commissioner for the West Midlands, the late Bob Jones, decided to abandon the programme. The Force has since entered into a partnership with a private sector provider to support a new digital policing programme.
with this costly process. (Paragraph 12)

<table>
<thead>
<tr>
<th>Mobile technology for Police Forces</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. The National Audit Office published a critical report on Mobile Technology in Policing, which found that the benefits for most forces of a programme to equip police officers with mobile devices such as BlackBerrys did not extend beyond a basic level and had not achieved value for money, given the £80 million of expenditure. Mobile technology offers the potential to reduce police bureaucracy and to free-up frontline police officers to spend more time on the streets, so the Committee was concerned and disappointed to learn that the programme had not succeeded as well as might have been expected. Dame Helen told the Committee that the Home Office agreed with the National Audit Office about “the importance of learning from those forces where mobile devices have been most effectively implemented”. The Committee is aware that our colleagues on the Public Accounts Committee are currently inquiring into this matter and we await their findings with interest. (Paragraph 13)</td>
</tr>
</tbody>
</table>
### Redundancies

10. In 2010–11, 2,574 staff left the Home Office. Of these, 140 worked for the Identity and Passport Services. Dame Helen stated: “The majority of Identity and Passport Service departures would have been due to the cancellation of ID Cards.” The Home Office spent £1.88 million on redundancy payments between 1 March 2011 and 29 February 2012. However, as the Committee noted above, overall the programme of staff reduction is leading to savings for the Home Office. The Home Office was unable to confirm how much it and its agencies had spent on employment agency fees in the last 12 months. The Committee considers this a shortcoming and recommends that in future this information be collected and recorded centrally. (Paragraph 14)

The Home Office has recently put in place a process to make employment agency fees more transparent and readily accessible. In the 12 month period 28 June 2011 to June 2012, the department paid fees of approximately £2.5m to employment agencies for the sourcing and contract maintenance of non payroll staff. (page 4)

### E-Borders

11. Dame Helen explained that the e-Borders programme is now split into two distinct elements, the first of which is designed to ensure that there is a functional system in place for the Olympics and the second of which will encompass “the expansion into shipping and rail and the capacity we need to integrate the systems so we can do proper exit checks.” The pre-Olympics element of the programme is based on legacy systems and is being delivered by Serco and IBM. There is also a contract with Specialist Computer Centres Ltd. Dame Helen explained: IBM has been contracted by the UK Border Agency to rebuild the Semaphore system in secure data centres with effective disaster recovery capability. Semaphore was originally a pilot system developed by IMB and they continue its operation. The rebuild was necessitated by the termination of the contract with Raytheon, as they were due to deliver replacement systems. As part of the rebuild project, the UK Border Agency contracted with Specialist Computer Centres Ltd for the supply of hardware. Pre Olympic scope

- e-Borders has improved the resilience of its legacy systems and implemented a range of priority capabilities ready for the Olympics. This will support continuity of service and provide a technology platform suitable for future developments.
- e-Borders now has capacity to capture increased volumes of Advance Passenger Information (API). We have increased the range of data captured, improved its quality and are better able to manage the Olympics watchlists.

**Expansion into shipping**

On the 20 June 2012 e-Borders delivered the capability to accept data from ferry carriers. To date we have two carriers providing data, adding an annual volume of 1.25M passenger movements. This solution will also enable the submission of data from Eurotunnel. Some carriers will need a degree of development of their own systems in order to provide the data and the programme is progressing engagement with ferry carriers and Eurotunnel to inform and enable. A second development has been the creation of a new online portal for the submission of advance passenger, crew and service information from the General Aviation and General Maritime sectors. GA and GM craft are unscheduled arrivals. GA includes private leisure pilots as well as business aviation jets, which may be chartered for a specific period. GM is similarly diverse and includes leisure yachts and unscheduled commercial vessels. The portal will make it easier for the sectors to report

---

**Recommendation accepted**

We will pursue the issue of the e-Borders programme further with the Home Secretary and Permanent Secretary when they next give evidence to the Committee.
(servers, storage and racking) and maintenance. The supply contract was let in April 2011. The supply contract includes an element for three years software support and one year’s hardware maintenance for the storage. The maintenance contract was let at the same time and expires in April 2014. (Paragraph 18)

their journey and will automate part of the risk assessment process. It will also make it easier to police the sector by providing accurate information that can be cross-checked against other sources of intelligence. The portal is technically ready to be launched. We are discussing an appropriate launch date starting with the General Aviation and General Maritime (Commercial) sectors. We have standardised the way arriving GA flights are risk assessed and we treat arriving flights in a consistent way wherever they land in the UK. We have standardised the way we collect intelligence from the public and GA & GM communities about suspicious activities in the sector and work with the police to make sure that intelligence is properly acted upon.

Expansion into rail
Eurotunnel has recently re-engaged with the e-Borders Programme to ensure that improvements to their business processes align with the Programme’s requirements. The Frontier Targeting System (FTS) model is also suitable for Eurotunnel. Engagement with Eurostar will progress once Ministerial guidance is confirmed on the handling of the EU position in respect of Freedom of Movement. We have confirmation from Eurostar that they stand ready to engage with the Programme at that point. e-Borders has been included in the initial dialogue with Deutsche Bahn as part of the wider rail liberalisation programme. In summary, the programme will have developed its capabilities to receive data from the majority of these sectors in 2012; specific rollout dates are in many cases subject to individual agreement.

Integration of systems to provide Exit checks
The UK Border Agency and Border Force currently carry out targeted exit checks on a significant number of people as they leave the United Kingdom. This allows us to identify immigration offenders, people involved in smuggling cash out of the UK, people fleeing justice, and those who may be of interest for terrorism purposes. The UK has always retained the ability to mount manual exit checks at ports if required and these controls can be set up at short notice in case of an urgent operational need at most ports, including in response to specific security alerts at the request of the police or other agencies. The Coalition Government made a commitment to reintroduce exit checks by March 2015 and we are currently exploring how the e-Borders system, a key element of our overarching border security strategy, can support this. e-Borders enables us to target the most harmful individuals and supports our ability to undertake effective exit checks as passengers leave the UK. e-Borders are committed to maximising coverage.
of passenger/crew movements. We are currently collecting information on 55% of incoming and outgoing passenger and crew movements. We met the public commitment of receiving data for 100% of aviation routes starting outside the EEA for passengers and crew in April 2012. We are committed to extending our collection of API data to rail and maritime routes as part of our efforts to maximise our collection of advance passenger/crew information. The re-introduction of exit checks will also enable better identification of immigration trends and patterns and increased ability to take action against overstayers. There will be a new data interface between ICW and e-Borders to support this. This will mean that caseworkers will be able to make more robust decisions, as they will be based on a more complete picture of the applicant and their past compliance. This will build more complete travel histories for individuals based on the travel documents they hold, not only from carrier data but also with details recorded at the border by Border Force Officers (BFO). These enhancements will allow searching of an individual’s travel history using a far greater number of search fields including elements of Passenger Named Record (PNR), providing support for intelligence and investigative benefits.

In accordance with the Home Office Business Plan 2012–2015, we are also considering what, if any, further operational changes may be necessary to reintroduce exit checks by March 2015. (page 4)

12. The e-Borders programme has proved highly problematic since work on it began in 2003. The predecessor Home Affairs Committee published a critical report in December 2009 outlining its concerns. This was followed by the termination of contract with Raytheon Systems Limited in July 2010, the outcome of which is still the subject of arbitration. The Committee remains concerned about progress on the programme. The letting of the post-Olympics part of the contract will be a crucial determinant in its overall success or failure. (Paragraph 19)

Following the cancellation of the Raytheon contract in 2010, the programme has made excellent progress in completing the transition from this supplier, stabilising the live technology services to the border and confirming the programme’s scope. The priority pre-Olympics elements have now been successfully delivered and the design phase for the next phase is in progress. There are three parts to the immediate post-Olympics work. Firstly, a set of functional enhancements to Semaphore called Cycle 3, which will be deployed on to the new resilient platform and will be completed by June 2013. Cycle 3 addresses limitations in current functionality and improves operating efficiency against a context of increasing carrier volumes. Secondly, an automated Pre-Departure Check capability will be introduced, providing ‘no-fly’ notices to carriers. Finally the Warnings Index (WI) system will be migrated to purpose built data centres. Approvals have been obtained for all the design phases and proposals for the remaining phases of the projects are being assessed. Delivery is planned to complete by the end of 2013. In parallel, we are undertaking the Border Systems procurement, to acquire a new service provider to take overall responsibility for future border system applications, incorporating the
existing platforms. The procurement exercise, which will be EU advertised, will be initiated in the autumn. The new service provider, due to be appointed in 2014, will undertake support and maintenance of the Semaphore and WI applications and deliver increased functionality and closer convergence of the systems. (page 6)
**Committee recommendation** | **No Government Response required**
--- | ---
**Introduction**
1. The purpose of the pre-appointment hearing is to assess the suitability of the preferred candidate, although that cannot be done effectively in a vacuum. We are disappointed that the Home Secretary initially refused to provide us with any information at all on the selection process or the shortlist, although we are grateful to the Minister for coming before us to explain the process. We recommend that the Government in future provide information about other candidates and the selection process to select committees conducting pre-appointment hearings, in keeping with the recommendation from the Liaison Committee. (Paragraph 8)

We would welcome clarification from the Home Office, before we are next invited to conduct a pre-appointment hearing, about the material that will be supplied to the Committee in advance of the hearing.

**The appointment of a candidate who has not been a police officer**
2. We have no objection in principle to the nomination of a candidate who has not been a police officer, which is consistent with the Government’s stated objective of steering the Inspectorate towards a more regulatory role. However, it raises significant questions about who will discharge the Chief Inspector’s other functions, including the expectation which many have that he will act as the principal adviser to the Home Secretary on policing matters. The new Chief Inspector will also need advice on operational policing matters. The Chief Inspector has been widely perceived as principal adviser to the Home Secretary on operational policing matters, a

We would welcome a submission from the Home Office setting out how the role of HM Chief Inspector of Constabulary has developed since the appointment of Mr Winsor.
situation which will change if the post-holder has no direct experience of operational policing. The Home Secretary must clarify what her sources of advice on operational policing matters will be, and who will provide professional advice and support for Chief Constables. (Paragraph 17)

**The Committee’s view on the suitability of the candidate**
3. We are content for the Home Secretary to proceed with the appointment of Mr Winsor. We urge Mr Winsor, when he takes up the post, to reach out to forces, police officers of all ranks, and their representative bodies. He will also need to create a strong relationship with police and crime commissioners. This Committee will take a continued interest in the work of the Chief Inspector and look forward to hearing evidence from him on a regular basis. (Paragraph 23)

Committee endorsed Government’s preferred candidate
### Fourth Report, Private Investigators (HC 100), published 6 July 2012

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Bolstering law-enforcement**  
1. The business of private investigators is essentially the gathering and reporting of information, with a premium paid for information that is more difficult to obtain, confidential or important to the buyer. They undertake tasks that are important to an individual and to a business and often fulfil and important social role. In future, it is possible that increasing numbers of investigations that are now undertaken by police will fall to private investigators, though whether this is desirable is a matter for further debate. (Para 15)  
2. In its response to this Report, we recommend the Government sets out its assessment of which policing roles could appropriately be undertaken by private investigators and which should not; how it believes cuts to police funding will affect the involvement of private investigators in law-enforcement; and what part private investigators will have in the new landscape of policing. In particular, given the evidence we received, it will be important that this assessment includes an analysis of the role of private investigators in fraud detection, recovery of stolen goods, maintenance of public order and major investigations, such as murder inquiries, with a statement of the risks associated with the involvement of private investigators in each of these areas. (Paragraph 16) | See 2 | General observation: no specific recommendation. |
| **A market in information**  
3. Easy access to information poses a double risk. Personal data is easier than ever to access and a private profile of a person can be built from a | Decisions about engaging the private sector are matters for the locally elected Police and Crime Commissioners to take, in conjunction with Chief Constables. However, we have made clear that there is no intention to allow private companies to carry out police activities which require warranted powers, except to the extent that has already been achieved for detention and escort officers by the Police Reform Act 2002, legislation passed under the previous Government. Therefore private companies, such as those who deploy private investigators, will not be able to carry out police activities which require warranted powers. It is up to the police to decide the best way to achieve transformation in order to maintain and improve services for the public as they face the challenge of reduced budgets. We support the police in considering the value of the private sector to achieving this. The private sector has the skills to drive more efficiency in policing, delivering some services better and at lower cost. (page 2) | General observation: no specific recommendation. |
The ease of access has also opened the information market to new and unscrupulous suppliers, who may not be registered with the Information Commissioner and are unlikely to understand the rules under which they ought to operate. Phone-hacking appears to be the tip of the iceberg of a substantial black market in personal information. This is facilitated by the easy availability of tracking and digital monitoring devices at very little cost. (Paragraph 26)

The Data Protection Act 1998 (DPA) requires every organisation or person who has overall responsibility for deciding how computerised personal data is used, stored or otherwise processed to register with the Information Commissioner (unless they are specifically exempt). The flat-rate annual notification fee of £35 covers the majority of organisations, although a higher fee of £500 is paid by data controllers with a turnover of £25.9 million and 250 or more members of staff (or public authorities with 250 or more members of staff). The ICO issues extensive guidance on notification, which is available on its website. Failure to notify is a criminal offence and could lead to a fine of up to £5,000 in a Magistrates’ Court, or unlimited fines in the Crown Court. The Committee will be aware that the fines available to Magistrates for these offences will be unlimited in the future after commencement of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Involvement in the justice system

4. We were very surprised that the Minister responsible for regulation of the private security industry had not even read the report of the Serious Organised Crime Agency on private investigators. The Government should set out a strategy for mitigating risk for those who are uncomfortable with what data others hold about them or the way in which it is shared. For those who are uncomfortable with what data others hold about them or the way in which it is shared they can raise the matter with the Information Commissioner’s Office, who will advise on the legality of data sharing and take such action as he sees fit as the independent regulator of the DPA. (Page 3)
Effectiveness of the Committee in 2012–13

4)

5. In order to garner “premium” information that commands the highest prices, we heard troubling allegations that private investigators maintain close links with contacts in public service roles, such as the police forces. These links appear to go beyond one-off contacts and therefore to constitute an unacknowledged, but deep-rooted intertwining of a private and unregulated industry with our police forces. The Independent Police Complaints Commission should take a direct control over investigations in cases alleging police corruption. (Paragraph 35)

The National Policing Counter Corruption Advisory Group provides oversight and governance of force anti-corruption units. Police forces and Police and Crime Commissioners are required by law to refer complaints or conduct matters to the Independent Police Complaints Commission (IPCC) if the allegation includes serious corruption. This includes any attempt to pervert the course of justice and passing on confidential information in return for payment or other benefits. The IPCC has made work on police corruption a priority for the past three years. The IPCC report ‘Corruption in the police in England and Wales: Second report – a report based on the IPCC’s experience from 2008-2011’ concluded that corruption in the police is not widespread, or considered to be widespread, but that where it exists it is corrosive of the public trust that is at the heart of policing. The Government welcomes the IPCC’s commitment in the report to tightening up current arrangements for rooting out and dealing with allegations of police corruption and to conducting an increased number of independent investigations into corruption cases.

The Police (Complaints and Conduct) Act 2012 gave the IPCC further powers to interview officers and reinvestigate matters previously investigated by the Police Complaints Authority. In addition to this, the Anti-social Behaviour, Crime and Policing Bill currently before Parliament will confer on the IPCC five new powers to: extend their remit to include contractors; obtain information from third parties; require responses to their recommendations; assume certain powers set out in PACE codes; and, direct unsatisfactory performance procedures measures after a death or serious injury investigation.

On 12 February, the Home Secretary made a statement to Parliament which outlined a package of measures to improve police integrity, including equipping the IPCC to investigate independently all serious and sensitive allegations. We are working closely with the IPCC, the police and other partners in planning the implementation of these measures. They will make a significant and positive contribution to the ongoing programme of police reform and to further professionalisation of policing. (page 4)

Data offences

6. Personal privacy would be better protected by

The Commissioners already work closely together. The Information Commissioner has been working closely with the Chief Surveillance

Rejected. The Commissioners work closely together, whilst their functions and
closer working between the Information Commissioner, the Chief Surveillance Commissioner and the Interception of Communications Commissioner. We recommend that the Government aim, before the end of the next Parliament, to co-locate the three Commissioners in shared offices and introduce a statutory requirement for them to cooperate on cases where both the Data Protection Act and the Regulation of Investigatory Powers Act are relevant. In the longer term, consideration should be given to merging the three offices into a single Office of the Information and Privacy Commissioner. (Paragraph 41)

The Commissioners have been co-operating on the production of a 'roadmap' – this will clarify the roles and responsibilities of the bodies involved in overseeing legislation concerning surveillance in the United Kingdom. The draft roadmap was submitted to the Joint Committee of the draft Communications Data Bill on 21 August. The roadmap is a work in progress, and it will be updated in light of regulatory developments.

Both the ICC and the Office of Surveillance Commissioners have quite focussed and limited remits. The former reviews warrants for the interception of communications issued by the Security Service and other intercepting agencies. The latter oversees the conduct of covert surveillance and covert human intelligence sources by public authorities. On the other hand, the focus of the Information Commissioner's Office (ICO) is to oversee compliance with the obligations imposed by the DPA and Freedom of Information Act 2000. In the case of the DPA the obligations relating to personal data apply where an individual’s personal data is shared or used by an individual or organisation in the UK, other than for transit purposes.

Each Commissioner and their staff work in specialist, technical areas that require extensive knowledge of relevant legislation and procedures. The work they do can often intersect and it is important that the Commissioners work closely together to ensure that overlapping issues are dealt with in the right way. However, the functions are quite distinct and do not duplicate one another.

Since the Home Affairs Select Committee report, both the Joint Committee on the draft Communications Data Bill and Lord Justice Leveson have reported. Similar to the Home Affairs Select Committee, the Joint Committee has made recommendations in respect of rationalising the seven organisations which are currently involved in surveillance (including the three mentioned by the Home Affairs Select Committee). The Joint Committee has proposed a new, unified Surveillance Commission. Meanwhile, Lord Justice Leveson has recommended a fundamental restructure of the governance and powers of the Information Commissioner. (Page 5)
7. Confiscation orders should be sought where a person is convicted of data and privacy offences and has sold the information for profit. (Paragraph 46)

8. We recommend that the Home Secretary exercise her power under section 77 of the Criminal Justice and Immigration Act 2008 to strengthen the penalties available for offences relating to the unlawful obtaining, disclosure and selling of personal data under section 55 of the Data Protection Act. The current fine—typically around £100—is derisory. It is simply not an effective deterrent. (Paragraph 47)

We agree that, in the context of the increasing availability and use of personal data by organisations, any misuse of that personal data needs to be treated very seriously. The Information Commissioner and the Committee have pointed out that, in practice, the fines handed down by the Courts for offences committed under section 55 of the Data Protection Act (DPA) are relatively low. The first principle in relation to fines is that they should reflect the seriousness of the offence. However, it is important to emphasise what the Committee acknowledges (at paragraph 43) that these fines must take account of defendants’ means; many of the cases cited as resulting in low fines relate to one-off, opportunistic actions, rather than the persistent, systemic illegal activity which appears to be the subject of the Committee’s report.

In relation to the more organised activity carried out by (for example) unscrupulous private investigators, we agree that the use of the Proceeds of Crime Act 2002 is an effective way of depriving offenders of the financial benefits obtained from their criminal conduct. The Committee will also be aware that the fines available to Magistrates for these offences will be unlimited in the future (as they are currently in the Crown Court) after commencement of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

The issue of the penalties available for section 55 offences is being looked at in light of Lord Justice Leveson’s Inquiry into the culture, practice and ethics of the press. In his report, published on 29 November 2012, Lord Justice Leveson made a number of recommendations in relation to the existing data protection framework, including a recommendation to introduce custodial sentences for s55 offences and the enhanced public interest defence. Section 77 of the Criminal Justice Act 2008 creates a power to alter the penalty (which can include a custodial sentence) for the unlawful obtaining of personal data, which is an offence under section 55 of the DPA. Section 78 of the 2008 Act creates a new defence for journalistic, literary or artistic purposes.

These provisions were introduced by Government amendment to the Bill but custodial penalties were not introduced nor the new defence commenced by the previous Government after the Bill received Royal Assent.

Given the potentially far-reaching nature of Lord Justice Leveson’s proposals, the Government intends to conduct a public consultation on the full range of data protection proposals contained within the Leveson Inquiry report. The Committee wishes to be updated on the timetable for this
in relation to data protection, in particular for the conduct of responsible investigative journalism, it is the Government’s view that the recommendations require careful consideration by a wide audience. It is therefore our intention to conduct a public consultation on the full range of data protection proposals, including the introduction of custodial penalties, which will seek views on their impact and how they might be approached. The Committee may wish to note that there are a range of offences that cover the misuse of personal data which may be relevant here. The report mentions the Regulation of Investigatory Powers Act 2000, which would apply to a private individual who had unlawfully intercepted communications and unauthorised access to computer material under the Computer Misuse Act 1990 is also relevant to this activity. Both offences carry a maximum penalty of a two year prison sentence. Under the Fraud Act 2006, it is an offence to dishonestly make a false representation (including as to identity) with a view to financial gain, which could cover the activity of “blagging”, depending on the circumstances of the case. The maximum sentence is ten years’ imprisonment. Bribery another (or being bribed), contrary to the Bribery Act 2010, is an offence which carries a maximum penalty of ten years’ imprisonment. Further, a custodial sentence can be imposed for the common law offence of misconduct in public office, which could apply where public officials, such as police officers, were complicit in releasing information illegally to private investigators. (page 6)

The National Policing Counter Corruption Advisory Group is currently actively progressing work on the form of declarable association policies and related preventative measures. The Police Regulations 2003 set a duty for all police officers to declare any business interest that they may have. It is then for the chief officer to decide whether the business interest is compatible with service as a police officer. The Regulations do not set out the matters that should be taken into account in taking that decision, but relevant factors will include the impact on the officer’s impartiality, the impact on the efficiency and effectiveness of the force, the officer’s current performance, the seniority of the officer, the impact on the health, safety and wellbeing of the officer, and any equality and diversity issues that arise. Following the publication of the report ‘Without Fear or Favour: A review of police relationships’ by Her Majesty’s Inspectorate of Constabulary, the Home Secretary asked the Police Advisory Board of England and Wales (PABEW) to consider the guidance for forces when looking at business interests. Consequently the guidance on the management of business

Policing
9. The Metropolitan Police’s system of safeguards for reducing the risks of serving police officers being corrupted by conflicting interests—including declarable associations policies, a register of business interests and a list of incompatible interests—should be standardised across the country. However, these checks alone might not be enough to solve the problem. The Government must act to sever the links between private investigators and the police forces. We recommend that there should be a cooling off period of a minimum of a year between retirement from the police force and working in private investigation. Any contact between police officers and private investigators should be formally recorded by both parties, across all police forces. (Para 50) Work on the form of declarable association policies was being undertaken. The Government was considering the other elements of the Committee’s recommendation. The Committee seeks a further response to this recommendation.
Effectiveness of the Committee in 2012–13

interests and additional occupations for police officers and staff has been revised. Although it is not possible to provide a definitive list of occupations incompatible with the role of police officer, the guidance does include a suggested list which encompasses private investigators. We are currently considering whether it would be appropriate for members of the police to have formal restrictions on employment after leaving the service, and what such measures might entail, particularly as the Leveson report also contained a recommendation to this effect, in connection with employment in the media. As part of this work the Government will consider very carefully the recommendation that any contact between police officers and private investigators be recorded. Furthermore the Government will also consider whether any such restrictions or requirements that are placed on the police should be extended to other agencies with investigative or covert powers and with the potential for contact with private investigators.

The College of Policing has now been established. It is a new police professional body supporting the fight against crime and safeguarding the public by ensuring professionalism in policing. It will set standards to ensure excellence in operational policing – including setting a national policing curriculum, and providing training and promotion standards and guidance. Throughout their careers, officers and staff will have to demonstrate that they meet the relevant standards in order to progress through the profession.

On 12 February, the Home Secretary made a statement to Parliament which outlined a package of measures to improve police integrity, including publishing national registers of gifts and hospitality, interests and second jobs. The College of Policing is now developing these registers, with the aim of promoting consistency of approach between forces and visibility of police practice in this area. (page 8)

**The timetable for action**

10. “Private Investigator” should be a protected title—as in the case of “social worker”—so that nobody could use the term to describe themselves without being subject to regulation. (Paragraph 72)

The activity of private investigations is already defined under schedule 2, paragraph 4(1) of the Private Security Industry Act 2001 (PSIA). It is the Government’s intention to enable the Security Industry Authority (SIA) to license private investigators, by designating private investigation activities for the purposes of requiring those undertaking private investigation activities to be required to apply for a licence. It will then become a criminal offence to undertake such activities without a licence, which shall only be issued following satisfactory criminality and identity checks, and competency-based training. The SIA has the power to grant a licence subject to conditions, as well as modifying a licence. Therefore, as the SIA regulates activity rather than the title being protected.
## 11. We recommend the introduction of a two-tier system of licensing of private investigators and private investigation companies and registration of others undertaking investigative work. Full licensing should apply to individuals operating or employed as full-time investigators and to private investigation companies. Registration should apply to in-house investigation work carried out by employees of companies which are already subject to regulation, such as solicitors and insurance companies. Both should be governed by a new Code of Conduct for Private Investigators, which would also apply to subcontracted and part-time investigators. A criminal record for breach of section 55 should disqualify individuals from operating as private investigators. (Paragraph 73)

The Government can confirm its intention to lay a designation order to bring into force schedule 2 paragraph 4 of the Private Security Industry Act 2001, to introduce the licensing by the Security Industry Authority (SIA) of individuals involved in the activity of private investigations. As set out in the Home Office’s consultation of November 2012 on a future regulatory regime for the private security industry, the Government proposes introducing a phased transition to a business regulation regime. However, we do not agree with the proposal that there should be a two-tier system of registration and licensing. We believe that the protection of the public requires that all those working in private investigations need to be regulated to the same standards. As with other sectors of the private security industry which are already licensed by the SIA, all workers undertaking licensable activity will need to meet the same standard to receive a licence, and to be included in the SIA’s register of licensed individuals. This will apply regardless of whether they work part or full time.

Therefore, the Government does not intend to introduce individual registration (which would require primary legislation) as the SIA already licenses individuals. However, the public would still be protected, as any contractors working on private investigation activity for such in-house companies, whether full or part-time, would be licensed by the SIA.

As part of the SIA’s licensing criteria, all private investigators applying for a licence to conduct private investigation activities, would need to attend and successfully complete competency training. Such competency training would require an applicant to have the skills and knowledge to conduct investigations; conduct interviews; search for information and preserve evidence; conduct surveillance; and understand, and work to, relevant laws and standards. Applicants would also be subject to the SIA conducting satisfactory identity and criminality checks. We do not, therefore, agree that there is a need to introduce a Code of Conduct.

We can confirm that a criminal record for breach of section 55 of the Data Protection Act 1998 could prevent an individual from operating as an investigator. This is already included in the SIA’s licensing criteria, so the SIA would take this into account when considering any application.

The SIA would retain the right to refuse or revoke licenses of all current or potential private investigators, regardless of employment status. In these circumstances, we do not consider that a separate Code of Conduct would be necessary. (Page 9)

Rejected.
12. Whereas licensing will impose an additional regulatory burden on the industry, it could also provide the new safeguards necessary to provide some potential benefits. We recommend that the Government analyse the risks and benefits of granting increased access to certain prescribed databases for licensed investigators, in order to facilitate the legitimate pursuit of investigation activities. For example, a licence may confer the right to access the on-line vehicle-keeper database in certain circumstances. It should consider how this would interact with the changes proposed to data protection laws by the European Commission. The United Kingdom has rightly moved to a situation of information management rather than merely looking at data protection. We also recognise that appropriate sharing of data can prevent crime and contribute significantly to other outcomes that are in the public interest. However, any new access should be carefully monitored. (Paragraph 74)

The Government is in favour of wider data sharing in an appropriate context where it is in the public interest and takes account of the safeguards set out in the existing legislation. There is no direct interaction between these proposals and the EU’s data protection proposals published in January 2012, save that those authorised to share data will be subject to the new framework once it is agreed and implemented. The European Commission believes that technological developments since the existing legislation was agreed in 1995 demand an update of European data protection legal rules for general data processing to bring it in line with 21st century realities of data sharing. In addition, a Directive covering law enforcement is also being negotiated. The Directive, as drafted, would apply only to “competent authorities”, such as the police, prosecutors, courts and prisons, whilst the general data protection rules set out in the proposed Regulation [COM(2012)11], would cover the activities of most other data controllers and processors. Once agreed and adopted, the new data protection framework will apply two years from its entry into force. This file is subject to codecision between the Council of the EU and the European Parliament. Given the legislative process, the earliest this would be implemented would be by 2016, but it may well be later given the complexity of the file and the short timescales until the end of this commission term and European Parliamentary elections in June 2014. (page 10)

13. In terms of skills, we are convinced that competency does not ensure conscience. The core of any training regime for investigators ought to be knowledge of the Code of Conduct and the legal constraints that govern the industry. With this in mind, any contravention of data laws should result in the suspension of a licence and prohibition from engaging in investigation activity, linked to meaningful penalties for the worst offences. (Paragraph 75)

Our response to recommendations 7 and 8 make clear that there are already criminal offences relating to the contravention of data protection laws. In line with the changes to the regulation of the private security industry outlined in our response to recommendation 11, we will need to look carefully at how best those offences are factored into any future training and regulation of private investigators. However, there is power in the Private Security Industry Act 2001 for the Security Industry Authority (SIA) to revoke a licence. In deciding whether to revoke a licence, the SIA has to apply its licensing criteria, which includes fit and proper considerations, as well as training and skills considerations, as outlined in our response to recommendation 11. (page 11)

14. It should be possible to implement such a regime quickly after the creation of the new Security Industry Authority, by the end of 2013 at the latest. The Government should include a timetable for implementation in its response to this Report. In view of the response does not address the part of the recommendation calling on the Government to “analyse the risks and benefits of granting increased access to certain prescribed databases for licensed investigators, in order to facilitate the legitimate pursuit of investigation activities”. The Committee seeks a further response to this part of the recommendation.
of the repeated delays, on-going abuses and the risks we have identified, the Government should take action quickly. There is no need to wait for the Leveson Inquiry to report before work to set out the principles of regulation and registration begins. Early publication of a draft bill could allow for public and Parliamentary consideration of potential legislation alongside the Leveson report. (Paragraph 76)
### Fifth Report, The work of the UK Border Agency (December 2011–March 2012) (HC 71), published 23 July 2012

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Progress in locating and deporting the 2006 cohort**  
1. The Home Secretary has announced changes to the immigration rules which will limit the rights of offenders to oppose deportation under Article 8 of the European Convention on Human Rights (ECHR), which guarantees the right to respect for private and family life. These changes are welcome and are long overdue. We expect these measures to drive up the proportion of foreign offenders that the Agency is able to deport. (Paragraph 9) | We welcome the Committee’s positive response to the Immigration Rules changes that took effect from 9 July 2012. The intention of these changes is indeed to cut down on the number of foreign national offenders (FNOs) who rely on Article 8 to avoid deportation and we will be monitoring their impact. These changes apply to Human Rights issues raised after the new rules came in to force on 9 July. (page 1) | Accepted |
| **Total number of foreign offenders living in the community**  
2. We recommend that the Border Agency sets up a team to examine why these offenders have not been deported and to take the action that is necessary to ensure they are. We fear that if it is not dealt with quickly it will become another backlog which will burden the Agency, deflecting its focus from current cases. (Paragraph 14) | The UK Border Agency already has a dedicated team based in Liverpool managing FNOs living in the community who by law can no longer be detained. Cases are prioritised both in terms of the risk the individual poses to the public and removability and the team work closely with local immigration teams and the police to remove offenders. We are continuing to work towards increasing the return of FNOs, closely managing contact with the offender and utilising specialist investigation skills to document individuals. We are also making greater use of prosecution powers against FNOs who do not co-operate with the deportation process or breach bail conditions and we are working more closely with other agencies, including the police, to overcome barriers to removal. We work in partnership with the Ministry of Justice who will also take action when licence conditions are breached. (page 1) | Accepted |
| **Casework and the prisoner referral mechanism**  
3. We recommend that deportation proceedings begin immediately upon a prisoner being sentenced, which would enable an increase in the number of foreign national prisoners the Agency is able to | We are precluded by law from considering FNOs for deportation too early into their sentence. The Immigration Appeals Tribunal found in allowing the appeal of LC (Chindamo) on 21 December 2000 against the deportation decision of 1 March 1999 that deportation action was initiated too early in the custodial sentence; and that making a decision after only 2 ½ years of a life sentence was unlawful since his release date was too far in advance for | The Government is unable to implement the recommendation because it is precluded from doing so by law. The Government has tried to arrange early deportation before. Following Chindamo, the Government cannot start deportation |
deport via the Early Removal Scheme and Facilitated returns scheme. (Paragraph 20)

the Secretary of State to know what his circumstances would be at the time of release. As a result the Tribunal found that not all relevant factors regarding the offender had been taken into consideration, and the action was taken without regard to any rehabilitation which might occur during the sentence. This did not preclude a fresh deportation decision being made nearer the end of his sentence.

FNOs are referred to the UK Border Agency Criminal Casework Directorate (CCD) by the prison service when they begin their prison sentence; the agreement with the National Offender Management Service (NOMS) is that this will be within five working days of their sentencing date. CCD will begin consideration of an individual’s case up to 18 months before the earliest release date ensuring that paperwork is with the individual in good time (and immediately on shorter sentences when the earliest release date is more imminent). Beginning the process 18 months before release is the period that is considered appropriate in order to be lawful and in line with the court judgment in the Chindamo case.

For determinate sentence prisoners who are eligible to be considered for removal under the Early Removal Scheme (ERS) up to 270 days (nine months) before their normal release date, where possible CCD consideration will begin 18 months before the earliest date of removal under ERS with the aim of completing the process in time for deportation to take place on or soon after the ERS date in as many cases as possible.

For prisoners who cannot be removed early under ERS, we make every effort to ensure that deportation coincides, as far as possible, with release from prison on completion of sentence.

For prisoners serving an indeterminate sentence (life or IPP sentenced prisoners), CCD consideration begins 18 months before the tariff expiry date – the earliest point in the sentence the prisoner may be considered for release. Under the Tariff Expired Removal Scheme (TERS), indeterminate sentenced prisoners may now be deported on or any time after their tariff expiry date without the need for a Parole Board release decision.

Our staff embedded in ten prisons work with NOMS to gather nationality and identity information at the earliest opportunity. Where possible, NOMS concentrate FNOs in a few prisons which has allowed the Agency to facilitate the return of FNOs by explaining the facilitated return scheme and

proceedings too early before the FNO's release date. 18 months before the release date is considered to be an appropriate time to start deportation proceedings to be lawful and in line with the court judgment in the Chindamo case.
<table>
<thead>
<tr>
<th>Effectiveness of the Committee in 2012–13</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.</strong> The Agency must have an independent means of checking whether all foreign nationals entering the prison system are referred to it. Mr Whiteman admitted that this is how the situation in 2006 arose but said he is satisfied with the current arrangements. However, the fact that the Agency is still trying to trace 57 of these prisoners, six years after their release, demonstrates that the current arrangements are not acceptable. We acknowledge that Mr Whiteman is working with NOMS to carry out an assessment of the referral process, but this review has no timetable and the Agency needs to take action quickly. In order to prevent a repeat of 2006 we recommend that all foreign nationals are referred to the Agency directly upon sentencing by the Courts. Relying on management data from NOMS to identify any prisoners released in error after the event is not an acceptable or safe backup plan. (Paragraph 23)</td>
<td>Since the publication of this report the Agency has traced a further seven FNOs from the 1,013 cohort. The fact that the Agency is still trying to trace 50 prisoners released six years ago does not demonstrate that the current procedures for identifying and referring sentenced foreign nationals are unacceptable. The systematic failures of 2006 no longer exist and the removal of more than 28,000 FNOs since that date demonstrates this. However establishing identity is one of the biggest challenges the Agency faces. The key determination of deportation powers occurs at the point of sentence (as deportation powers are predicated on sentence length or judge’s directions), therefore it is always most efficient to seek referral as soon as this decision has been made. Our current view is that because of the daily throughput of cases in the courts and the limited knowledge that court staff have of individual offenders, it would be impractical to place the responsibility for referring all prisoners onto them. We believe that staff in prisons, who may have access to information from specialist UK Border Agency staff, are generally better placed to identify prisoners who should be referred. Every effort is made to ensure that all those who are or maybe foreign nationals are identified and referred to the UK Border Agency when they are sentenced. However, we are not complacent and are looking at the referral process to ensure that the pace is applied to the most time critical cases and to refine the arrangements to provide the assurance that all foreign nationals are referred to the Agency. (page 3)</td>
<td>Rejected</td>
</tr>
<tr>
<td><strong>5.</strong> We are encouraged to hear from Mr Whiteman that the Agency is working with NOMS to record the time it takes for NOMS to refer foreign national prisoners to the Border Agency. This information will be available for his next appearance before this Committee and will help us to monitor whether the referral process is working smoothly and contributing</td>
<td>We are currently reviewing the process by which NOMS refer cases to ensure that it is working smoothly and supporting deportation at the earliest possible stage. (page 4)</td>
<td>Accepted</td>
</tr>
</tbody>
</table>
### Casework and international challenges

6. We doubt that much will be achieved by allowing those countries who obstruct the return of their own criminals to carry on evading their international responsibilities by shielding them with a cloak of secrecy. Although we note the Agency’s offer for a confidential briefing we hope that a more robust challenge will be issued publicly to these countries by both the Agency and the FCO. It is not in the UK’s national interest to spare the embarrassment of those countries which refuse to accept the return of their own criminals who have committed offences in this country. We recommend that the government publish this list immediately and update it every 6 months.

(Paragraph 26)

| Both the UK Border Agency and the FCO strongly believe that it would be counterproductive to publish a list of countries which refuse to accept the return of their own criminals. Publishing a list would have the likely result of undermining any diplomatic investment we have made in building up relations with other countries, particularly those which might have less incentive to co-operate with us. In addition any detrimental effect to our relationship with a country may have repercussions wider than returns arrangements: other Government priorities, such as trade and security, with individual countries will inevitably be adversely impacted. (page 4) | Rejected |

### Legal challenges

7. After casework has been concluded, legal challenges are the greatest obstacle to deporting foreign offenders at the end of their sentence. We believe that the interpretation of Article 8 rights currently weighs too heavily on the side of offenders rather than the safety of the public. Such interpretation allows criminals facing deportation to live freely in our communities and to endlessly prevent their removal through spurious claims about their right to a private and family life under Article 8 of the ECHR. The Article 8 rights of offenders must be balanced against the rights of law-abiding citizens to live their lives in peace, free from the threat of crime. We strongly support the Government’s work to prevent the abuse of Article 8 rights, and hope to see robust measures to shift the balance in favour of public safety and against foreign criminals.

(Paragraph 27)

| We welcome the Committee’s support for the changes to the Immigration Rules on Article 8 and deportation. The rules now set out clearly and for the first time, as a matter of public policy, the basis on which a person can enter or remain in the UK as a result of their family life and how the UK Border Agency will balance the factors that can weigh for or against an Article 8 claim. (page 4) | Accepted |

### Methods being used to trace archived cases

| As Rob Whiteman outlined at his appearance before the Committee in May, the UKBA conducts checks | Accepted |
8. We are pleased to see that the asylum backlog is beginning to fall. There has been a reduction of 13,000 asylum cases and 500 immigration cases in the Controlled Archive since December 2011. There are now 80,000 asylum cases and 21,500 immigration cases remaining as of the end of March this year. We expect the Agency’s manual audit to prove useful in identifying new ways to trace individuals and expect an update in our next inquiry. We recommend that in addition to this manual audit, the Agency expands its checks to include a wider range of databases, such as those held by local authorities, the Driver and Vehicle Licensing Agency, and utility company records. If there are any statutory obstacles to this data-sharing, the Agency should identify them in its response to this Report. (Paragraph 36)

We expect that many of the individuals with cases in the controlled archives will have left the UK many years ago. The early results received from data matching with our partners indicate that there is no recent footprint or evidence for many of these individuals. By the end of December 2012, by which time we will have completed our tracing programme with external partners and against our own databases, we will have taken one of two actions on the cases in the controlled archives: those cases we have been unable to trace will be considered closed and those we trace will have their cases passed to one of our casework teams to progress. These two actions will lead to the closure of the controlled archives by the end of December 2012. By this time it would not be in the best interests of the taxpayer to continue to employ staff to conduct further checks on the cases that cannot be traced.

We already conduct checks with a range of external partners, including the Department for Work and Pensions (DWP), HM Revenue and Customs (HMRC) and Equifax.

We are in the process of negotiating a new credit reference agency (CRA) UKBA-wide contract based on a recently implemented DWP negotiated framework agreement, which was published in August. The specification for the new tender includes a requirement for CRAs to include data from utility companies - water, gas, electricity, TV licensing and telephone accounts (including mobile).

We will also be participating in the bi-annual National Fraud Initiative which is due in January 2013. This will match the Agency’s data against a wide range of databases including local authorities.

We already have a Memorandum of Understanding (MoU) with the Driver and Vehicle Licensing Agency which includes data sharing. We are currently reviewing this MoU to see how it can be improved. On page 32 of its report the Committee states that the Agency appears to be choosing the path of least resistance to resolve its backlog. This is not the case. We are doing what is right by the individual and by our own immigration rules. When leave is granted it is consistent with Agency-wide policy and has always been part of the pre-enforcement action consideration. It takes into consideration a number of factors including length of stay in the UK, compliance with the immigration process, criminality, etc. (page 5)
**Assessing the Agency’s performance: Initial decisions**

9. The Agency has had a historic problem with a large backlog of asylum cases awaiting initial decision. This backlog peaked in January 2000 at 120,400 cases awaiting an initial decision. Given this track record we are concerned that the Agency seems unprepared to allow us to regularly keep track of how quickly it gives initial decisions on asylum cases. In the evidence he gave to us Mr Whiteman restated his commitment to transparency and openness but this will prove to be a hollow commitment unless the Agency is willing to provide information that will allow its performance to be monitored regularly. Parliament must be in a position to know at once if a new backlog starts to build up at the initial decision stage. (Paragraph 40)

10. We note that 63% of cases are now being concluded within 12 months an improvement on the previous year where 56% of cases were concluded within this timeframe. However we are concerned at the large number of cases that remain outstanding for years. We acknowledge that there will be difficulties in resolving a proportion of complex asylum cases. However, to have resolved only 63% of cases after a three-year period seems to us to be a very slow rate of conclusion. We believe this could lead to a new backlog building up as more cases are added to the “awaiting conclusion” pile. We expect the Agency to tell us what the main obstacles to concluding these cases are and we hope that its new performance statistics released in August will show an improvement. (Paragraph 43)

<table>
<thead>
<tr>
<th>Number of visas issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. We are pleased to see that students remain a core part of the migrant flow into the UK. The UK has a</td>
</tr>
<tr>
<td>The Government is committed to reducing net migration, and eliminating the abuse of the student migration route which has occurred in recent years is a key part of that programme. It has always been very clear that it</td>
</tr>
</tbody>
</table>
Effectiveness of the Committee in 2012–13

market in international higher education worth £7.9bn and it is important that we continue to encourage this sector to flourish. The Prime Minister's aim to reduce migration from “the hundreds of thousands to the tens of thousands” cannot be achieved without drastically reducing the number of people who come to study in Britain. It is likely that this would damage a strong sector of our economy and also the cultural diversity of our universities. We recommend that the government should exclude students from their net migration target. This will enable the government to encourage students to come to the UK whilst maintaining their position on curbing immigration. It is important that the UK does not fall behind its international competitors in this market by making itself a less attractive option for international students. We do not believe that the UK would benefit if the government achieved its aim of reducing the number of student visas issued by 25%.

(Paragraph 46)

<table>
<thead>
<tr>
<th>Student visas: nationality</th>
</tr>
</thead>
<tbody>
<tr>
<td>12. In order to maintain public confidence in the immigration system it is important that only genuine students are able to come to the UK via the student route. We welcome this development, which is in keeping with previous recommendations from this Committee. We recommend the Agency makes face to face interviews compulsory for all foreign students where it is practical and appropriate to do so. The option of an online interview could overcome problems with distance. This will deal with concerns before the students enter the UK, not after. This will uphold public confidence in the immigration system and help to counter damaging Government rhetoric which conflates a reduction in the number of student visas with eliminating fraud in the system. (Paragraph 48)</td>
</tr>
</tbody>
</table>

Recognises the important contribution that international students make to the UK economy, and it remains committed to the sustainable growth of a sector in which the UK excels.

To support this, the Government welcomes all genuine students, coming to attend any university or college that meet our requirements, and there is no visa limit on the number of overseas students who are eligible to attend institutions in the UK. However, it has put systems in place to tackle immigration abuse, and ensure there is no opportunity for bogus colleges or students to operate in the UK.

Transparency in the immigration statistics is vital. The independent Office for National Statistics (ONS) is responsible for producing net migration statistics, based on the International Passenger Survey (IPS), which it runs. The ONS is planning improvements in its methodology so that in future it will be possible to better identify those who were in the UK as students in the emigration flows. In due course this will allow the contribution of students to overall net migration to be identified more accurately in the ONS statistics and contribute to policy development. (page 7)

<table>
<thead>
<tr>
<th>Visa processing times</th>
</tr>
</thead>
<tbody>
<tr>
<td>We welcome the Committee's acknowledgement of our improvements in this area.</td>
</tr>
</tbody>
</table>

Rejected.
13. We note that the Agency has improved its processing times for Tier 4 visa applications in the first quarter of this year and is consistently meeting its targets. We expect to continue to see a strong performance from the Agency in this area. (Paragraph 50)

Immigration casework in progress

14. We recognise that the changes to the family route may have precipitated an increase in applications before the changes come into force, but we are concerned that resource is being concentrated in some areas at the expense of others and we will expect evidence on this point when Mr Whiteman next appears before the Committee. We hope that in its efforts to address individual problem areas the Agency is not causing backlogs to build in others. (Paragraph 53)

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

15. We recommend that the Agency be represented at 100% rather than 90% of all tribunal hearings. As we have said previously it is unacceptable for the Agency not to appear in court to defend its decision, a no-show on their part may waste court time and taxpayers' money. If the Agency is going to withdraw its objection in a particular case it should do so much earlier in order to:

- reduce the uncertainty and pressure on appellants as well as
- reducing the costs on the public purse avoiding additional pressure on the tribunals system. (Paragraph 64)

We deploy our resources flexibly to offer the best possible service across a range of immigration categories. We make regular adjustments to our resource deployment plans to ensure that we strike the best balance across all routes.

As well as seeing unusually high numbers of applications earlier this year — particularly before the closure of Tier 1 Post Study Work and before the changes to the Family routes — we must also deal with a number of seasonal fluctuations in volumes (students, Highly Trusted Sponsors etc) and with the peaks and troughs in the four year sponsor licence cycle. (Page 9)

We aim to achieve 100% representation at Tribunal hearings and currently successfully maintain 100% at the Upper Tribunal and at many of the Tribunal hearing centres.

We are working hard to ensure that cases where withdrawing the appeal before the hearing is the most appropriate step to take (usually because additional evidence has been submitted) are identified earlier in the process. Whenever an appeal is withdrawn feedback is given to the decision maker in order to assist with improving the decision making process.

On page 25 of its report the Committee comments that it can see no evidence to support Rob Whiteman’s assertion that our appeals performance is improving. Mr Whiteman’s statement relates to our overall appeals performance, whereas this section of the Committee’s report focuses on appeal win rate only. As Mr Whiteman made clear in his written evidence to the Committee in May, our performance has improved in a number of areas: bundling performance has increased from 49% (appeals bundles received by proscribed date) in 2010/11 to 62% in 2011/12; while total appeal volumes are decreasing significantly (from 188,700 in 2008/9 to 112,500 in 2011/12). Mr Whiteman acknowledged that there are further improvements to be made and we continue to drive this forward. (Page 9)
Target 4: Reduced appeal volumes

16. A poor performance in appeals should instigate a drive to improve initial casework decisions and guidance for applicants. Closing off a route of appeal by preventing appeals against Family Visit Visa decisions, is not an acceptable way in which to reduce the number of appeals. The aim must be to give clear and speedy clearance to those whose application is genuine and to give a clear and speedy rejection to those whose application is being refused. (Paragraph 67)

We are not removing the family visit visa appeal right in order to reduce the number of appeals. We are doing so because it is out of step with the rest of the appeals system and because it does not adhere to the principles on which it was introduced in 2000. No other visitor category attracts a full right of appeal and it is a disproportionate use of taxpayer funding for the benefit sought (a short visit to the UK). It is often the case that applicants are coming for a time-specific family event yet the appeal system can take up to eight months, by which time the event is likely to have passed, whereas a new application for a family visit visa will usually be decided within 15 days.

Where an application is refused it is accompanied by a comprehensive letter detailing the reasons for refusal, offering the applicant an opportunity to quickly identify and address any minor issues with their application.

The Independent Chief Inspector of Borders and Immigration, in his recent report on the visa section in Abu Dhabi and Islamabad, commented that “the quality of refusal notices... was good. They were generally well written, easy to understand, and tended to be personalised…” (page 10)

17. There are a number of simple changes the Agency could make to reduce the volume of appeals it handles. Firstly the refusal notices they issue should set out in clear bullet points why the application has been rejected. If, for example, it is due to missing documentation the applicant should be asked to provide this to the Agency as part of the same application. This could reduce both the time it would take for the applicant to get a decision and the resources spent on appeals. Secondly, we understand that the Agency does not specify all the documentation it requires to grant an application. For example they ask for ‘proof of funds’ instead of bank statements. We recommend that the Agency list specific documents that they require in order to grant an application. This will ensure that the application process is as clear as possible and should reduce the amount of verification work and appeals work that has to be done at a later stage. (Paragraph 68)

This recommendation refers to both rejection and refusal notices. These notices provide two separate functions. A rejection notice is sent to an applicant when the application submitted is not valid and does not result in an appeal. Applications can be rejected for a number of reasons, for example because the correct fee has not been paid or cannot be collected, or because a mandatory element of the application has been omitted.

Refusal notices are issued following consideration of a valid application and will provide detail of the reason the application has been refused. It is recognised that there will always be room for improvement and we are not complacent about the need to continually improve the level and quality of information provided to those who use our services. Work will be undertaken to improve the quality of decision letters and consideration will be given to the suggestion that bullet points be included.

Work is already in hand to improve the quality of the guidance that both case owners and applicants can access. A comprehensive work programme has been put in place to update and modernise the guidance available. New guidance is now produced in a uniform format and in a plain English style; applicants can access the information via the UK Border Agency web site.

Broadly accepted that information for the applicant is important when their application is refused, but Government disagrees with the Committee as to why the Family Visit Visa appeal route is being closed.
The guidance makes clear the consideration process and the documentation that is required. Forms also contain information in relation to what constitutes evidence of funds and the online application process, i-Apply, also provides specific information on what form evidence of funds can take.

Due to the wide and diverse range of applications available it would not be possible to supply a fully prescriptive list of evidence which should be supplied with an application. Our published guidance and website make clear the criteria and requirements that need to be met for each application type. However, the specific documentary requirements will vary depending on the personal circumstances and immigration history of the applicant, the level of risk attached to the application and a number of other variables. (page 11)

18. The best way to communicate with applicants is through a clear website that works properly and sets out what is expected from the applicant at each stage of the process. The Agency’s website is frequently inaccessible as vital pages do not download. The Agency needs to address the problems people are encountering with its website immediately. (Paragraph 69)

We are aware of the importance of our digital channels and are continuously examining ways to improve our website, whether that be enhancing the content and structure, or the technology that supports it. Last year we integrated hundreds of websites overseas into the main UK Border Agency website, making a much clearer and simpler process for all applicants to the UK Border Agency, whether in the UK or overseas. We also added a third server to our website at the end of April 2012 to address stability issues.

As part of the review of digital services across government, we are working closely with the Government Digital Service (GDS) to join other departments and agencies on a single government platform, leaning lessons from Direct Gov and Business Link’s customer focused approach. This site will offer a single point of contact for government services firmly based on user need. (page 12)

Pre-registration inspections

19. We acknowledge that the Agency carries out pre-registration visits for all Tier 4 sponsors but recommend that this should be extended to cover all sponsors in Tier 2 and Tier 5. The proportion currently receiving a pre-registration visit is insignificant. Proper pre-registration scrutiny of sponsors is the key starting point for preventing abuse of the immigration system. We are concerned that the Agency’s approach may be more risk based than risk-based. We will require

Our visit strategy for sponsors has been developed in line with the Hampton Principles for regulatory enforcement. We use methods such as risk assessments to guide our compliance activity so that we focus visits and other activity on the areas of highest risk.

We will undertake a feasibility study and impact assessment of undertaking visits in relation to 100% of pre-licence applications. This will analyse whether the risk and decision patterns alter under this approach, and potentially what impact this would have on service standards and resourcing availability for other sponsorship compliance work such as postlicence compliance visits. This impact assessment will be completed by the end of
### Additional Information

Additional information from the Agency as to how it assesses the risk posed by sponsors in this area. (Paragraph 72)

March 2013, and the findings will be used in formulating the 2013/14 national visit strategy. (Page 12)

Our visit strategy for sponsors has been developed in line with the Hampton Principles for regulatory enforcement. Not all visits to sponsors are made in response to perceived risks or intelligence: we also undertake pre-licence visits to all Tier 4 sponsors regardless of their level of risk, and sometimes conduct visits at the request of sponsors.

Furthermore there are certain situations in which we are unable to undertake unannounced visits. For example, we are expected to announce visits to schools because of keeping children safe requirements. In relation to tasked compliance visits we currently undertake unannounced visits in 54% of cases.

We will, however, test the approach of undertaking 100% unannounced visits on sponsors where we have significant concerns about non-compliance by the end of March 2013.

Where we are unable to meet the sponsor’s key personnel or view documentation on an unannounced visit then we can complete follow-up interviews and document review at a later date either in the sponsor’s premises or our own offices. However, this can lead to delays in visit outcomes being communicated as we are not able to make a final decision on a case until all information has been assessed. Additional visits and interviews also have resource implications, both for the Agency and sponsors.

We have previously invited sponsors to attend meetings in our offices to save time and money and will continue to do so where it is deemed suitable for both parties. (Page 13)

### Action Against Non-Compliant Sponsors

21. We are sceptical about the efficacy of reducing the number of Certificates of Sponsorship or Confirmations of Acceptance for Studies that a sponsor can issue. This is tantamount to endorsing fraud, provided that it is confined to a small scale. If a sponsor is failing to comply with their duties or is

Restricting the number of Certificates of Sponsorship (CoS) or Confirmations of Acceptance for Study (CAS) is a compliance tool that we use when we are satisfied that the failings are administrative in nature or that the sponsor had already been pro-actively addressing the issues before any UK Border Agency intervention. We only use this approach when we are satisfied that the sponsor no longer poses an immediate threat to immigration control.

Rejected principle that fraud should mean licence revoked as enforcement should be proportionate.
Deceiving the Agency then their licence should be revoked. The Agency should take tough enforcement action against those who abuse the immigration system. (Paragraph 77)

Restricting the number of CoS or CAS is only one course of action we can take where we have concerns about a sponsor’s compliance with their sponsor duties. We would not reduce the CoS or CAS a sponsor could issue where we had evidence of serious noncompliance or if we had identified serious immigration abuse. In these circumstances we would immediately revoke the sponsor’s licence.

We do take tough action against sponsors who abuse the immigration system. The action we take is proportionate to the issues identified and includes limiting or removing completely the number of CoS or CAS the sponsor can assign as well as downgrading, suspending or revoking their sponsor licence.

We also refer sponsors to other government departments (such as HMRC and DWP) for further investigation and to the police for criminal investigations. (Page 13)

Action taken against Tier 4 works liable for curtailment action
22. We recommend that the Agency urgently reviews its operations in this area to pinpoint the cause of the problem. If we are to maintain public confidence in our immigration system then it is vital that we have prompt and robust enforcement mechanisms. We will keep a close watch on this area of the Agency’s work and investigate the causes of the continuing backlog. We regard enforcement action against individuals as a key indicator of the Agency’s work and we will be monitoring it closely. (Paragraph 82)

We agree with the Committee that enforcement action is a key part of the Agency’s operations. In July we centralised the system for managing notifications from all Points Based System sponsors and administering related curtailments. This work is now delivered by a single unit. A review of those operations has already commenced to identify and deliver improvements to how we complete notification and curtailment action promptly and enforce our decisions robustly. Our 2012 summer enforcement campaign against overstayers demonstrates a clear link between curtailment action and enforcement against those individuals. (Page 14)

Response accepted

Migration refusal pool
23. We are extremely disturbed to hear that there is yet another large group of individuals who the Agency are unable to account for. We expect the Agency to set out, in its response to this report, its action plan and timeline for dealing with the problem. (Paragraph 83)

The Migration Refusal Pool is not a backlog of cases, nor a list of those waiting to be removed. It is an internal report of those who have had an application to extend their leave refused but further checks are needed to establish if they have either left the UK or have further outstanding issues that need to be resolved. This includes checking passenger records using our e-borders database which now covers all flights outside Europe. We are also reintroducing exit checks by 2015 in order to track all those leaving the UK.

We are contracting with a private provider who will deal with all migration refusal cases, with a service to be up and running in the Autumn. Under the contract, all cases, including recent refusals, will be contacted within nine months.

Response rejected premise of recommendation, but did set out what action the UKBA was taking.
months to alert them to the requirement to leave the UK. Where individuals with no leave do not leave the UK voluntarily, the team will deal with barriers to removal such as obtaining travel documentation and will pass cases to Local Immigration Teams (LITs) to enforce removal.

In the meantime, LITs across the country continue to pursue the removal of those with no right to remain in the UK, focussing on those considered to be most harmful. Our summer enforcement campaign targeting visa overstayers led to over 2,000 removals in its first two months. (page 14)

24. We repeat our previous recommendation which is that people who make genuine complaints need to be told about the outcome. (Paragraph 86)

Progress on the National Allegations Database

25. Overall, only 4% of the intelligence reports received from the public resulted in an enforcement visit taking place. The Agency is performing well in assessing tip-offs from the public quickly but we are interested however in the low yield of actionable intelligence that results from these tip-offs. We will be asking the Agency to identify the main reasons for this. We understand it may be the result of the quality of the information reported to the Agency and we expect to hear from the Agency what its plan is to improve the quality of the information it receives when the database goes live. (Paragraph 88)

Following the introduction of the national allegations database, scheduled for 30 September, we will have the ability to effectively track an allegation through to outcome. This will enable us to obtain a more systematic picture of which tip offs lead to successful enforcement activity.

In addition, early next year we will introduce a fully revised e-form on the Home Office website. The new form will guide members of the public in providing the key information needed to identify immigration and border crime. This is critical to improving the quality of the information that we receive from members of the public and, alongside analysis of what type of allegations provides us with successful outcomes, will form the basis of our work in increasing the utilisation rate of allegations received. The reform of the public facing elements of how we receive allegations will enable us to identify clearly those who wish to obtain feedback and we are currently considering how to introduce this in a legal and safe manner. (page 15)

Accepted. UKBA is addressing use of intelligence and who among the public might want feedback.

26. It is important for the public to know how many of the Agency’s enforcement visits result in arrest and removal. We expect the Agency to provide a full breakdown of the outcomes of its enforcement visits over the period 1 December 2011 to 31 March 2012 in its response to this report. (Paragraph 89)

Between 1 December 2011 and 31 March 2012 the Agency conducted 4,200 enforcement visits, resulting in 2,575 arrests. Of these visits 1,608 were illegal working enforcement visits, resulting in 1,261 illegal working arrests.

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

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

In relation to the overall enforcement process, a project is underway to collate enforcement information to represent the end to end enforcement process from initial application, arrest and removal. (page 16)

<table>
<thead>
<tr>
<th>Changes in staffing and remuneration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>27.</strong> We are pleased to see that the Agency is sharing support staff with Border Force, which will help to reduce costs. We also welcome the increase in the Enforcement and Crime group, an area of the Agency’s work that has long needed addressing. We are pleased that despite the need for budget cuts the Agency is keeping a flexible view of staffing levels, increasing them where there is need to improve results. We expect that it will continue to do so. (Paragraph 91)</td>
</tr>
<tr>
<td>Accepted.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Senior staff bonuses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>28.</strong> In our previous report we stated that the senior Agency staff should not receive bonuses as the Agency’s performance was still poor overall. Since then the 2010/11 bonus figures have been released which show that, despite a reduction in the number of staff receiving bonuses, 24% of them still did. We agree with the Prime Minister that if agencies don’t perform, just like if companies don’t perform, there should not be bonuses—that is absolutely clear. As this report makes clear the Agency is not performing as it should do in a number of important areas. Until it improves its performance its senior staff should not receive bonuses (Paragraph 95)</td>
</tr>
<tr>
<td>Rejected. Taken with Rec 29</td>
</tr>
</tbody>
</table>

| 29. We further recommend that bonuses that have been paid in the past contrary to the |
| As the Committee is aware, the Home Office follows Cabinet Office guidance on Senior Civil Servants’ (SCS) performance management, and in | Rejected. |
**Recommendations of this Committee should be repaid by the recipients. (Paragraph 96)**

According to this guidance, only the top 25% of the Department's SCS members are eligible for consideration of the award of a bonus. Awards are determined within these guidelines by the Home Office Pay and Moderation Committee, chaired by the Permanent Secretary, following an objective assessment of individual performance. (Page 17)

**MPs' correspondence**

30. We note that the Agency came within a few percentage points of achieving its target for completing actions in response to referrals by MPs in every quarter of 2011, and that performance is slowly improving. We hope that the Agency will continue to provide this high standard of service. (Paragraph 100)

Accepted. Taken with Rec 31

31. We welcome the good progress the Agency has made towards meeting its target of responding to 95% of emails from MPs within 20 working days. However, we emphasise that its responses must contain the information requested in order to be of value. Otherwise, it is simply pushing the problem further down the line. (Paragraph 101)

We welcome the comments from the Committee on the progress we are making in responding to Members' enquiries. We will continue to work with Members and the Committee to further improve the services we provide. (Page 18)

Accepted.
**Sixth Report, The work of the Border Force (HC 523), published 26 July 2012**

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Border Force’s queue times</strong></td>
<td>Queues of any length above target are undesirable and we are taking action to reduce queuing times. Country-wide performance from 1 April 2011 to 30 April 2012 saw a three percentage point improvement in performance for passengers from the European Economic Area (to 98% of passengers within the 25 min Service Level Agreement) and a one percentage point improvement in more complex non-EEA passengers (to 96% within 45 min Service Level Agreement). We are determined to maintain this strong performance.</td>
<td>In 2012-13, more than 99 per cent of passengers cleared passport controls within the target times of 25 minutes for European arrivals and 45 minutes for those arriving from outside the EEA.</td>
</tr>
<tr>
<td>1. We acknowledge that maximum queue times may only be experienced by a small proportion of passengers although the evidence is not as clear as it should be. However we are alarmed that maximum times have been consistently very high for the last 12 months. Maximum queue times of two hours or more should be a rare occurrence, corresponding to extraordinary levels of traffic, a security alert or a problem at one or more major ports. It is unacceptable for these long queue times to recur on a monthly basis (Paragraph 11)</td>
<td>It has also come to our attention that there was an error in Brian Moore’s letter to you of 20 June which the committee has replicated in paragraph 10, figure 1 of the report. The maximum queue length for both EEA and non EEA passengers (hrs:mins) in January 2012 should be 02:50 rather than 01:58. Although there is a significant difference between the two times, the time of 02:50 is lower than the longest queue quoted. We apologise for this oversight. During August 2012 average queuing time was seven minutes for EEA passengers and eight minutes for non-EEA passengers. Waiting times at Heathrow have been almost non-existent, with every desk manned at peak times, and latest statistics from Heathrow Airport Holdings Limited (formerly known as BAA) show that Border Force outperformed all targets for processing passengers arriving at Heathrow during July. This is during a period where we have seen more than 30,000 athletes, coaches and others officially involved in the Olympics and Paralympics passing through UK border controls. (page 1)</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td><strong>Establishing accurate metrics</strong></td>
<td>Border Force is working closely with port operators, including BAA, to develop and improve the way it measures queues and publicises performance. This includes developing an approach based on shorter sampling intervals and a move towards a more consistent approach to measurement across all ports. There will, however, always be some variance in the approach at different ports depending on the specific circumstances. For example at less busy ports it might not be practical to measure queues more frequently.</td>
<td></td>
</tr>
</tbody>
</table>
### Effectiveness of the Committee in 2012–13

| Accuracy and to inform staff rostering decisions more fully. We recommend that a consistent measurement be used at all major UK ports and that the figures be published monthly so that passengers can see if the situation is improving. We also recommend that maximum queue lengths be measured and published on a monthly basis for all UK ports. This will enable people to judge how well Border Force is performing at peak times as well as overall. (Paragraph 18) | as often as at larger, busier ports. The work to improve operational and command and control arrangements includes use of improved queue and other data, including passenger volumes, to develop more efficient rostering processes. Border Force is reviewing the data it provides on queuing to ensure it is as meaningful as possible, including to give a better sense of queuing times throughout the day. (page 2) |
| 3. We note that BAA has introduced “waiting time” boards at Terminal 4 Heathrow Airport. We recommend that Border Force installs “waiting time” boards in all arrivals halls at major ports that tell passengers how long the queue will take from the point they are at. Whilst this won't help to reduce waiting times it would at least be courteous to passengers and helpful to those who have made onward travel arrangements for a specific time. (Paragraph 19) | Waiting time boards are now in use across all Heathrow Terminals. Border Force will continue to monitor how these are received by passengers and how effective they are, particularly in terms of how easily they are able to respond to the differing speed at which queues progress, before considering whether to use them more widely. (page 2) |
| A decline in secondary customs checks and seizures 4. It is unhelpful for the head of the Border Force to promote his organisation’s success in seizing illegal drugs if he is unable to contextualise the figures to indicate what proportion of illegal drugs they are seizing, or even whether or not this is an improvement on previous performance. We recommend that the Government publish in full such data as is available to it about the estimated proportion of drugs which are seized by the Border Force as they are smuggled into the UK, and the year-on-year performance overall. Parliament, and the public must know whether efforts against drug trafficking are improving or even succeeding. (Paragraph 23) | Border Force is keen to improve the visibility of its contribution to the UK’s work to combat illegal drugs. The annual “Seizure of drugs in England & Wales for 2011/12” was published on 15 November 2012. It detailed quantities seized and the number of seizures made by the Police and Border Force in England and Wales. However, seizures have to be seen in the context of the Government’s overall allocation of resources between supply-side disruption and demand reduction in the Drugs Strategy and also in the change of emphasis to tackling organised crime itself. It is important to note that Border Force’s work in this area goes beyond seizures at the border. Border Force shares intelligence with SOCA (and will continue to do so with the National Crime Agency) to support their upstream work in seizing drugs at the point of production, shipment or transit and collaborates with overseas law enforcement agencies to allow consignments of smuggled drugs to continue on their journey, as a controlled delivery, so that those agencies can secure evidence to dismantle organised gangs. These activities | Government is assessing waiting time boards at Heathrow Terminals, before considering whether to use them more widely. The Government accepts the Committee’s recommendation. |
do not yield seizure results for Border Force but are an essential contribution to multi-lateral efforts to bear down on organised drugs crime. (page 2)

**Loss of revenue**

5. We are concerned that carriers are resigning themselves to reducing their revenue because the Border Force does not have the capacity to provide them with an adequate service. Any impact on the capacity of goods and passengers to enter the country could have implications for the wider economy, not just the travel industry. It is imperative that the problems are resolved before more companies find themselves facing the same choice. (Paragraph 27)

We have been clear that long queues are unacceptable and that is why we have taken, and continue to take, action to reduce the frequency and length of queuing at Heathrow and other ports. This includes providing extra staff for peak times, deploying additional staff to other ports around the country, opening a Control room at Heathrow to bring real-time modelling of arrivals and passenger numbers, and introducing a rota system that allows a greater degree of precision when deploying staff to meet passenger demand. (page 3)

The Government accepts the Committee's recommendation.

**Effect on international business**

6. Since the government has set targets of doubling the UK’s annual exports to £1 trillion by 2020 and getting a further 100,000 UK firms exporting, it should not want to make getting into the UK an ordeal for potential international clients. This applies equally to legitimate overseas visitors of all kinds—tourists, students, employees and business people—all of whom contribute to the UK economy. We recommend that the Border Force should adopt a target for reducing the maximum queuing time at the border, applying to all ports of entry, in addition to its existing service standards. (Paragraph 30)

We have been clear that long queues are unacceptable and that is why we have taken, and continue to take, action to reduce the frequency and length of queuing at Heathrow and other ports. This includes providing extra staff for peak times, deploying additional staff to other ports around the country, opening a Control room at Heathrow to bring real-time modelling of arrivals and passenger numbers, and introducing a rota system that allows a greater degree of precision when deploying staff to meet passenger demand. (page 3)

The Government accepts the Committee’s recommendation.

**Post-Olympic fears**

7. We welcome the move by the Minister to bring forward the recruitment of 70 new border officers for Heathrow. However we are concerned that other ports have already experienced significant problems with their staffing levels at peak times this year. We recommend that a full reappraisal of the number of Border Force staff needed across the UK be carried on.

Work is in progress to ensure that Border Force continues to meet its border security obligations and its SLA targets into September and beyond. This includes improved use of data to inform staff rosters, better and more flexible use of resource including mobile teams and, where necessary, recruitment of staff.

We have brought forward recruitment for Heathrow Terminal 2 and through a mix of internal and external recruitment are starting to deliver new recruits. The length of training prior to deployment varies according to

The Government accepts the Committee’s recommendation.
<table>
<thead>
<tr>
<th>Effectiveness of the Committee in 2012–13</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Out immediately if the Home Office wishes to persist with 100% entry checks for all passengers. (Paragraph 34)</strong></td>
</tr>
<tr>
<td><strong>Return to risk-based immigration checks</strong></td>
</tr>
<tr>
<td><strong>Change the Border Force’s rostering pattern</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
**Information provided by airlines**

10. We are of the opinion that the information airlines are providing the Border Force with is largely accurate, though it may be subject to small last-minute variations as additional tickets are sold shortly before departure. Many airlines have years of experience in providing advanced passenger information to the United States and are now obliged to provide advanced information to e-Borders before departure. The issue lies more with the Border Force’s ability to use the information properly. It is important that Border Force staff, especially those in charge of rosters, fully understand the information that is available to them to help plan shifts, and how best to use it. Border Force must use this information to ensure all desks are manned at peak times. We recommend that the Border Force immediately provide training on these topics to its officers so as to manage the number of staff more effectively. (Paragraph 46)

A key element in Border Force’s short and medium term improvement work is to understand and use available demand data as efficiently as possible, including to inform rostering and other staff deployment decisions.

At Heathrow, we are developing a model that converts passenger forecast information from BAA into a staff deployment plan. This model has been used for one off events and obvious peaks in demand and we are developing it further so it can be used to accurately plan deployment as part of business as usual. We have adapted rosters so that they match business demand more closely and ensure that we have the right people in the right place at the right time to manage passengers and goods effectively.

The data we receive through the e-borders programme is important. However, as it can be submitted right up until the time of departure, it is not practical to use it for detailed staff planning. (page 5)

---

**e-Gates**

11. We recommend that the Border Force works with airport operators to identify the reasons why more people are not using e-gates and to ensure that clear information is on display at airports for members of the public about who is eligible to use e-gates and how they should be used. Border Force should also seek to ensure that e-gates remain operational at all times when flights are arriving. (Paragraph 52)

Transaction numbers for e-Gates in June 2012 reached an all-time high and numbers are expected to increase as more e-Passports are issued. Rejection rates have also fallen following improvements to hardware and software to reduce false rejections. Referral rates from the e-Gates were 6.85% in June 2012, and 5.86% in July 2012, down from 12.56% in January 2012.

We recognise that there is a need to improve passenger awareness of e-Gates as well as encouraging more EEA passengers to use e-Passports to travel (as opposed to ID cards) so that they can use e-Gates. Extra signage and “hosts” have been introduced across several sites and this has also helped to improve passenger take-up. At Luton, for example, extra hosting has been introduced alongside extended opening times which has significantly increased e-Gate usage.

e-Gates are an important part of our arrangements at the border but it would not be the most effective use of resources to have them open at all times when flights are arriving. There will be occasions where it is a more
effectiveness of staff to use other forms of clearance over e-Gates, for example where there is a high proportion of non-EEA passengers expected to arrive. We do keep hours of operation under review and recently extended opening hours across several ports during the Olympics. Furthermore, ports can and do open the e-Gates outside the published opening hours if the operational manager considers this is a reasonable response to deal with the passenger flow. (page 6)

**Smart zones**

12. Advance clearance offers great gains in fast processing, especially on low-risk flights. It seems unwise to waste the investment we have made in technology that allows passengers to be processed quickly. We are pleased to see that the Home Office has committed to developing smart zones by December 2012 in the latest update of its Departmental Business Plan. However, given the current difficulties with reducing queue times, we recommend that it brings this work forward as a matter of urgency. (Paragraph 55)

The Smart Zone concept trial undertaken by Border Force between August 2010 and August 2011 aimed to test a way of using advance screening capabilities provided by the e-Borders system and the National Border Targeting Centre. The Smart Zone trials were halted to enable a full evaluation to take place. An evaluation of the trial concluded that the pre-screening of passengers is consistent with the effective, secure border operation of the future, alongside the use of e-Gates and traditional PCP controls. The evaluation also identified a range of key areas where further work would be necessary to establish the feasibility of Smart Zones as a potential component of a secure border operation.

Those areas include the development of an evidence base and risk model to support a targeted approach to checks at the border; a high integrity passenger information regime focused on complete and accurate data provision; a process design and operational modelling to ensure that pre-cleared passengers can be separated securely from other passengers.

This work is being carried out now and will inform how and when we take forward the commitment to develop Smart Zones within the wider context of our border security operation and the role of targeted checks at the border. (page 7)

**The Government accepts the Committee’s recommendation.**

**Rail**

13. We welcome the full coverage of flights from outside the EU in time for the Olympics. We are also reassured by the progress made in covering private maritime and aviation as well as canalised maritime traffic. We are however concerned about the lack of specific commitments over the roll out to commercial general maritime traffic and international rail. We recommend that Border Force should liaise with the rail providers in question and establish specific dates 1. e-Borders has delivered many tangible benefits since its pilot system (Semaphore) was launched in 2005:
   - e-Borders has analysed over 470 million passenger movements and issued over 215,000 alerts resulting in over 12,000 arrests and the refusal of entry to the UK for many immigration offenders
   - As a result of e-Borders, there have been seizures of large quantities of all classes of dangerous drugs, cigarettes and tobacco, as well as seizures of lost, stolen or forged passports.
   - We are making good progress with e-Borders rollout to ferry maritime traffic.

The e-Borders programme has been terminated.
on which the roll-out will be achieved. We have waited too long already for the e-Borders programme to yield benefits and it is not acceptable for vague commitments to disguise any further delay. (Paragraph 60)

- traffic and now have the technical capability to process data from the general maritime sector. Implementation will commence in the autumn and involve commercial general maritime traffic. Timescales for getting data live into the e-Borders system will be dependent on individual carriers and we are currently working with industry sectors to understand the most efficient way to implement electronic reporting.

We are also working with our European Partners to align our technical and implementation activity with EC Directive 65 2010, on reporting formalities for ships arriving in and/or departing from ports of the Member States.

e-Borders has also been working with the commercial general maritime sector through trade bodies and associations, including the Institute of Chartered Shipbrokers, the Passenger Shipping Association and the British Ports Association. On rail, e-Borders has been working with Eurostar for some time now and has held initial engagement meetings with Deutsche Bahn and with the London Direct Sleeper Group (LDSG) concerning their new services to the UK. In developing this area we need to work within European and domestic legislation, including Data Protection laws. We are currently holding a series of productive technical discussions with each of these operators to ensure speedy implementation once the legal obstacles are overcome.

We are also working with Eurotunnel to obtain advance passenger data and have identified a number of potential solutions for the delivery of e-Borders capability within their unique operating environment.

Specific dates for implementation are difficult to establish for these operators and in a lot of cases the pace of progress is dictated by the limitations placed on rail companies by their domestic legislation. In the case of Eurotunnel, progress is dependent on the development by Eurotunnel of systems infrastructure that does not yet exist. (page 8)

<table>
<thead>
<tr>
<th>National Border Targeting Centre alerts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>14. If large numbers of alerts about passengers who pose a potential threat to our national security are being issued, but the passengers concerned are not being intercepted, then either the alert system is deficient or the passengers in question are passing</strong></td>
</tr>
</tbody>
</table>

Border Force has previously highlighted to the HASC that not all alerts issued are designed to require a passenger to be encountered. For example intelligence gathering may be the primary focus and no intervention with a passenger is required. As a result the 27,759 alerts issued between November 2011 and April 2012 do not equate to the number of passengers intercepted at the border as not all alerts are issued for this purpose.

The Government accepts the Committee’s recommendation.
through undetected. Either of these scenarios would be alarming. Things will not improve however if the Border Force is allowed to sweep failure under the carpet. We recommend that an assessment of alerts that have not been intercepted be carried out at once to identify what the core issues are and that Border Force make itself accountable to Parliament for its performance in this crucial area of its role. (Paragraph 66)

We continue to identify ways to strengthen actions on alerts. We have introduced full briefing for officers on any NBTC alerts relating to their port when they arrive on shift with further updates throughout the shift if additional alerts are received. Border Force is leading work with the principal agencies in the NBTC to review the end-to-end alert process with a view to recommending further changes to improve on the current system. (page 8)
## Seventh Report, Olympics Security (HC 531-I), published 21 September 2012

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Early warnings</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Reports commissioned by LOCOG in the months preceding the Games indicated clearly that there were problems with G4S’s recruitment, training and communications. They also found that the management inform action presented to LOCOG by G4S were fundamentally unreliable. G4S, meanwhile, continued to insist that it was in a position to deliver its contract. <strong>Although Mr Buckles claims to have acted on all the relevant recommendations, the final outcome suggests that the changes to the data G4S were reporting to LOCOG were more presentational than substantial. The data were at best unreliable, if not downright misleading, and the most senior personnel in the company must take full responsibility for this.</strong> (Paragraph 13)</td>
<td>G4S commissioned their own review, supported by PwC, into the failings before the summer, the results of which were published on 28 September. A set of actions they were taking as a result were appended to the report, including changes in their senior management team and new procedures for oversight of major contracts. The Government understand a complaints procedure has also been set up for those who feel they were not treated fairly by G4S and that G4S are working through the claims being made. It is for G4S to indicate in more detail how they will prevent future issues of this sort. (page 1)</td>
<td>Retrospective conclusion accepted; no further action required</td>
</tr>
<tr>
<td>2. It is surprising that the four reports on the Olympic security plan were not shared more widely among Olympic Security Board members, and it may well be that, had this been done, the potential scale of the problems might have been realised sooner. We recommend that the presumption should be, when planning for major events, that any reports commissioned from external bodies be shared with all stakeholders. (Paragraph 14)</td>
<td>The Government agrees with the Committee’s view, expressed in conclusion 2, that transparency and sharing of information is desirable. The two HMIC reports referenced, which the Home Secretary commissioned, were about LOCOG, including LOCOG’s oversight of the G4S contract, and it would not have been appropriate to share them with G4S. The reports produced by Deloitte and KPMG were not commissioned by, or the property of, the Government. The Government notes that G4S’s recent internal review concluded that: “the failure to disclose these reports to the company was not a significant contributory factor to the company’s failure to perform the Olympics contract”. (page 1)</td>
<td>Retrospective conclusion accepted; no further action required</td>
</tr>
</tbody>
</table>
3. It seems that the penny finally dropped with G4S management on 3 July, when Mr Taylor-Smith telephoned Mr Buckles to inform him there would be a shortfall of staff. Mr Buckles was on holiday at the time, which suggests that this was something more than a routine call. But Mr Buckles did not mention the scale of the problem to the Home Secretary when he spoke to her on 6 July, the same day on which Mr Horseman-Sewell was boasting recklessly in the press that G4S would have been more than capable of simultaneously delivering multiple Olympic security projects around the world. Neither did Mr Buckles disclose the scale of the problem when he met the Home Secretary on 10 July. It is clear that by this stage the Home Office had realised that something might be seriously amiss, as Charles Farr had already begun to put contingency plans into place. But it is astonishing that G4S took a further week to tell its partners how bad things were. (Paragraph 20)

4. The contingency plan was by common consent a huge success. We commend the contribution that the armed forces made to the Games. Their ultimate success in delivering a safe and secure Games suggest that, in the planning of future major events, the military might more appropriately be considered as a first choice for venue security, rather than a back-up, with appropriate recognition and reward for the personnel concerned. We also commend the police on the additional contribution which they made to support Games security and make good the failings of G4S. (Paragraph 23)

The Government endorses the Committee’s appreciation, noted at conclusion 4, of the work of the Armed Forces and the police.

The United Kingdom has previously had a good track record of hosting significant sporting and other events very successfully using the private sector. The scale of the Olympics venue security task was however unprecedented. Venue security is not something that the Armed Forces would be trained or equipped for under normal circumstances. The Ministry of Defence holds elements of the Armed Forces at readiness as a routine, to meet a range of contingencies at home and overseas. These standing formations formed the basis of the bespoke contingency arrangements created for the Olympics and were able to be drawn on when venue security numbers showed a shortfall. (page 1)

The Government shares the Committee’s appreciation of HM armed forces’ contribution to security at the 2012 Olympics. However, the Government has not accepted the Committee’s recommendation that HM armed forces should be used as a first-choice provider for security for major events.
<table>
<thead>
<tr>
<th>G4S’s treatment of applicants and staff</th>
<th>See 1.</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. G4S’s poor communications with its staff and prospective staff was no doubt a contributory factor to the overall failure of the company’s Olympic contract. It has also had an impact on those prospective employees who went through the selection, training and screening process in good faith, only to be left without work at the end of it because of G4S’s poor management. In our view, it is clear that G4S is under a moral obligation to immediately make generous ex gratia payments by way of apology to those applicants who were left out of pocket because they were not offered work despite successfully completing the training and accreditation process. We are clear that this was not a fault of either the Home Office or LOCOG but many people undertook training and made themselves available not just because work was being offered, but because they believed that they would be helping in a national initiative, and the Government should therefore satisfy themselves that G4S does generously and efficiently meet this moral obligation. (Paragraph 26)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Redress</th>
<th>Conclusions 6, 7 and 8 relate to the financial settlement which LOCOG and G4S might eventually reach. Negotiations between the two organisations continue. The Government hopes that these negotiations will be resolved rapidly so that the final position is understood. (page 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. We recommend that LOCOG and G4S quickly seek to reach a common position on exactly how far short G4S fell from its contractual requirements. (Paragraph 29)</td>
<td></td>
</tr>
</tbody>
</table>

| Complaints procedure introduced for staff and prospective staff who felt that they had suffered as a result of G4S’s mishandling of the recruitment and rostering arrangements. |

<table>
<thead>
<tr>
<th>LOCOG reached a settlement with G4S in February 2013.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The settlement, which had full Government approval, imposed a total reduction of £85m in the payment due to G4S. This was to meet the step-in costs and to reflect their very serious failure to deliver. The settlement also recognised that G4S did provide around 80% of its contracted workforce hours over the course of the pre-Games, Games-time and post-Games periods.</td>
</tr>
<tr>
<td>The Government contribution to the LOCOG venue security budget was set at £553m in December 2011. The final settlement brought the total savings on</td>
</tr>
</tbody>
</table>
7. The blame for G4S’s failure to deliver on its contract rests firmly and solely with the company. There is no suggestion that LOCOG, the Home Office or anybody else involved in the process contributed to the problem in any way. All our witnesses, including those from G4S, were in agreement on this point. It is understandable that G4S, having taken a £50 million loss on the Games, alongside a significant fall in its share price, should now seek to minimise the scale of any further losses. But we believe that the company should look to the bigger picture, and its long-standing relationship with its biggest client in the UK: the taxpayer. By waiving the £57 million management fee in its entirety, a small fraction of the £759 million that it receives from the British taxpayer every year, G4S would send a strong signal to the public that it is serious about offering fair and reasonable redress when things go badly wrong. By doing so, the company would accept, and be seen to accept, responsibility for its failings in respect of this extraordinary and uniquely high-profile contract, and therefore draw a line between that failure and the continued fulfilment by this important UK company of other contacts, both in the UK and internationally. (Paragraph 33)

8. It is clearly a matter for LOCOG to examine the legal position and to protect the public interest as robustly as possible, but Parliament and the general public would regard it as absurd for the company to be claiming a management fee which was clearly negotiated on the basis of the delivery of services which were not delivered. We were shocked by Mr Buckles’ apparent reluctance to grasp this point. (Paragraph 34)
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>Mr Buckles confirmed to us that G4S would not be bidding for the Rio Olympics in 2016. We believe this is the right decision, given that their chances of winning the bid on the strength of their performance at London 2012 would be slim, at best. (Paragraph 35)</td>
<td>No response required</td>
</tr>
<tr>
<td>Lessons for the future 10.</td>
<td>We look forward to receiving a copy of the PwC Report on G4S’s performance on its Olympic contract. A detailed, internal review is clearly necessary if the right lessons are to be learned from this experience, but it is no substitute for Parliamentary scrutiny. (Paragraph 37)</td>
<td>Review completed</td>
</tr>
</tbody>
</table>
| 11.      | Few would have expected a company the size of G4S to fail in delivering such a high-profile contract. But it did fail. By contrast, LOCOG was able to recruit and deploy 70,000 volunteers, nearly seven times the number of people that G4S was asked to provide, working to the same timescale and under similar constraints. In letting major contracts, a company’s past performance is clearly an important factor, but government departments, police forces and other public bodies must not place too much weight on a company’s size and reputation alone. We also wish to see evidence that the company’s recruitment, training, personnel management and cash recovery systems have been reviewed in the light of the experience of so many of those recruited for employment during the Olympics who were severely let down by G4S. We expect this to be fully covered in the PwC report or in a separate independent report commissioned by G4S. Cost effectiveness and savings in the delivery of public services should not be at the cost of exploitation and neglect of management responsibilities to staff and potential employees. The Government should satisfy itself as to the quality of these aspects of G4S’s practices in respect of the delivery of other services, given that these failings only came to light as a result of the high public profile failure of the G4S Olympic contract. | The Committee seeks assurance in conclusions 11 and 13 that HMG will exercise caution in terms of its future engagement with both G4S and other private companies bidding for Government contracts. The Government, through the Cabinet Office Crown Representative network and supported by departments, will continue to review the performance of its cross government strategic suppliers, of which G4S is one. The Minister for the Cabinet Office and Paymaster General has defined a policy with respect to the performance management of strategic suppliers. The responsibility for execution of this policy lies with the Chief Procurement Officer, in coordination with Departments and the Crown Representatives. This is designed to ensure that those strategic suppliers identified as being high risk in terms of their performance across government will be monitored by the Cabinet Office, informed by Departments and also the Crown Representative commercial network. Policy documents relating to this area are available at:  
http://www.cabinetoffice.gov.uk/resource-library/type/1384

and

http://www.cabinetoffice.gov.uk/resource-library/list-strategic-suppliers

(page 2) | The Government accepts the principle of the Committee’s recommendation, that it should to continue to monitor the performance of its strategic suppliers across a range of contracts, to inform future procurement decisions. |
<p>| (Paragraph 38) | 12. When he was asked whether staff were paid for training, Mr Buckles said 'They will be if they come to work' but a significant complaint set out in evidence to the Committee and widely reflected in the press and media was that people were not paid for training if they were ready and willing to work but were not offered a time and place to report for work. Others were expected to pay for their own uniforms unless they worked a number of shifts. We can understand a company wishing to recover costs if an individual benefits from training but then fails to turn up for work without good reason, but when the lack of shifts work is entirely due to the company's failure to provide employment, this is an entirely different matter. We expect the company to make public a means by which people can be recompense in such circumstances and to be quick and generous in settling such claims. (Paragraph 39) | See 1. | See above |
| (Paragraph 40) | 13. The Government should not be in the business of rewarding failure with taxpayers' money. As private sector providers play an increasingly important role in the delivery of police and criminal justice services, it is vital that those commissioning services look at the track-records of prospective providers. We commend that the Government establish a register of high-risk providers, who have a track-record of failure in the delivery of public services. This would provide a single source of Olympics security 19 information for those conducting procurement exercises about companies which are failing or have failed in the delivery of public contracts. (Paragraph 40) | See 11. | See above |</p>
<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Legal cases brought against the agency**  
1. We are concerned at the findings the court has made about the treatment of the individuals in question. All of those held pending deportation, including ex-foreign national offenders, should be held in appropriate accommodation. If medical practitioners have advised that detainees should be accommodated in hospital or other institutions that care for the mentally ill then that guidance should be acted upon by the Agency and not ignored (Paragraph 13) | The UK Border Agency takes seriously any instances in which it is found by the courts to have acted unlawfully and this is particularly so in cases of unlawful detention. On the rare occasions when such cases occur, the Agency seeks to learn lessons from them to prevent a recurrence. The detention of persons suffering from mental disorders inevitably raises difficult issues, particularly where the individuals concerned are foreign national offenders (FNOs). The UK Border Agency remains committed to ensuring that it deals fairly and humanely with those with whom it comes into contact, especially those it detains, whilst ensuring that it discharges its core functions of maintaining an effective immigration control and protecting the public from harm. In the case of detained persons, that commitment translates into a need to ensure that the dignity of detained persons is respected and that they are held in secure but safe and humane conditions, with access to appropriate healthcare services when necessary. Where medical practitioners advise that detained persons are suffering from mental ill-health and need to be transferred to hospital for assessment and/or treatment, the UK Border Agency acts on that advice in liaison with the relevant health authorities. (page 3) | Accepted |
| 2. We recommend that Mr Whiteman write a letter of apology to the claimants concerned, setting out the steps the Agency has taken and is taking to ensure that incidents such as these ones will not reoccur. (Paragraph 14) | As Rob Whiteman said in his letter to the Committee of 8 October 2012, the UK Border Agency has not formally apologised outside the settlement process, but has agreed appropriate damages in line with the Administrative Court’s findings that limited periods of detention had been unlawful. (page 4) | Rejected. Mr Whiteman did not write the letter of apology we asked him to. |
| 3. We are concerned that the cases outlined above may not be isolated incidents but may reflect more systemic failures in relation to the treatment of mentally ill immigration detainees. (Paragraph 15) | The UK Border Agency does not consider that the regrettable cases highlighted by the Committee provide evidence of a systemic failure in relation to the treatment of mentally ill detainees. The UK Border Agency is not complacent about the challenges presented by the detention of persons with mental health conditions and, where things do go wrong in individual cases, the Agency is keen to ensure that it learns from the experience and, if appropriate, make any necessary improvements to its policies and processes. | Rejected. UKBA does not accept systemic failure. |
| 4. The Agency must inform us how many individuals | The purpose of Rule 35 is to ensure that particularly vulnerable detainees are | Rejected. Committee asked for information |
brought to the attention of those in the UK Border Agency with responsibility for authorising, maintaining and reviewing their detention. The information contained in a report needs to be considered carefully in deciding whether continued detention is appropriate in each case.

Rule 35 of the Detention Centre Rules lays out three types of report that the medical practitioner must issue when appropriate:

"(1) The medical practitioner shall report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention;

(2) The medical practitioner shall report to the manager on the case of any detained person he suspects of having suicidal intentions, and the detained person shall be placed under special observation for so long as those suspicions remain, and a record of his treatment and condition shall be kept throughout that time in a manner to be determined by the Secretary of State;

(3) The medical practitioner shall report to the manager on the case of any detained person who he is concerned may have been the victim of torture."

It will usually be only Rule 35(1) that contains medical advice as to whether ongoing detention is medically advisable or not. Rules 35(2) and 35(3) alone will not address concrete concerns about health in the same way, but will instead provide information which must be taken into account in considering whether ongoing detention is appropriate, alongside wider information about the individual.

It is not therefore the case that the existence of a Rule 35 report necessarily requires the release of a detainee, and it is not the case that continued detention necessarily indicates that medical advice has been overruled.

An audit of Rule 35 processes was undertaken in 2010-11, and identified a number of areas in which the process required improvement. Immediate steps were taken to improve administration. Further discussions with corporate partners have since identified further improvements which could be made to Rule 35 processes. Work to develop and finalise the revised process instructions plus training packages has been ongoing over the last year, in consultation with corporate partners.
A revised Detention Service Order (DSO) which provides guidance to Immigration Removal Centre (IRC) healthcare teams on how to complete Rule 35 reports was issued on 19 October 2012. Training sessions on the DSO have been delivered to IRC healthcare representatives. Separately, a revised Asylum Instruction on Rule 35 for use by case owners is due to be published in the near future, with associated training to follow.

Once the revised Asylum Instruction on Rule 35 is issued and associated training of officers has been undertaken, a further audit will be carried out to measure the effectiveness of the implementation and the impact that the new range of measures has had.

One of the improvement measures introduced after the earlier audit was to record Rule 35 activity on our Casework Information Database (CID), including the report subtype. This will enable us to record those cases where a report (if properly issued) contains medical advice about an individual’s health in detention (Rule 35(1) cases). This system was not in place throughout the 2011 period so to identify which of the 109 reports was issued under Rule 35(1), and to provide details of the reasons for ongoing detention in each case would require a case by case examination, which could only be achieved at disproportionate cost. We can confirm however that the Harmondsworth report refers to 106 separate individuals.

5. We recommend the Agency immediately carry out an independent review of the application of Rule 35 at Harmondsworth and at its other immigration removal centres across the country. (Paragraph 21)

6. We welcomed this commitment by the Agency and we are disappointed that the Home Office is now reconsidering its commitment (Paragraph 22)

Child Detention

7. We welcome the large decrease in the number of children held in immigration detention since March 2010. However we are concerned that the numbers held are starting to increase again, albeit on a much smaller scale. There are three main situations in which

<table>
<thead>
<tr>
<th>Item</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>We recommend the Agency immediately carry out an independent review of the application of Rule 35 at Harmondsworth and at its other immigration removal centres across the country. (Paragraph 21)</td>
</tr>
<tr>
<td>6.</td>
<td>We welcomed this commitment by the Agency and we are disappointed that the Home Office is now reconsidering its commitment (Paragraph 22)</td>
</tr>
<tr>
<td>Child Detention 7.</td>
<td>We welcome the large decrease in the number of children held in immigration detention since March 2010. However we are concerned that the numbers held are starting to increase again, albeit on a much smaller scale. There are three main situations in which</td>
</tr>
</tbody>
</table>

| 5. | See 4. Rejected: The Dept has undergone an audit of Rule 35 but it was not independent |
| 6. | UKBA is reconsidering its policy relating to the detention of persons with mental health problems due to court judgment. |
| Child Detention 7. | The UK Border Agency publishes information on the number of children entering detention and the place of detention on a monthly and quarterly basis. As the Committee notes, the detention of children in immigration removal centres and pre-departure accommodation happens only in the following very limited circumstances: |

- Children, as part of a family group, may be accommodated at Cedars pre-

| 5. | We recommend the Agency immediately carry out an independent review of the application of Rule 35 at Harmondsworth and at its other immigration removal centres across the country. (Paragraph 21) |
| 6. | We welcomed this commitment by the Agency and we are disappointed that the Home Office is now reconsidering its commitment (Paragraph 22) |
| Child Detention 7. | We welcome the large decrease in the number of children held in immigration detention since March 2010. However we are concerned that the numbers held are starting to increase again, albeit on a much smaller scale. There are three main situations in which |

| 5. | See 4. Rejected: The Dept has undergone an audit of Rule 35 but it was not independent |
| 6. | UKBA is reconsidering its policy relating to the detention of persons with mental health problems due to court judgment. |
| Child Detention 7. | The UK Border Agency publishes information on the number of children entering detention and the place of detention on a monthly and quarterly basis. As the Committee notes, the detention of children in immigration removal centres and pre-departure accommodation happens only in the following very limited circumstances: |

- Children, as part of a family group, may be accommodated at Cedars pre-
Effectiveness of the Committee in 2012–13

61

children are placed in immigration detention: at the border on trying to enter the country with no valid visa, while awaiting departure; if the Agency disputes that they are in fact a minor (age-related disputes); and immediately prior to removal from the UK after previous attempts have failed. We recommend that the Agency publish a breakdown of the number of children entering immigration detention by the reason for their detention. This will enable policy-makers to see the extent of the issue at different points in the immigration process and to investigate how to further reduce numbers (Paragraph 24).

- Departure accommodation immediately prior to their ensured return from the UK, and after advice has been sought from the Independent Family Returns Panel;
- Children, as part of a family group, may be accommodated at Tinsley House for the following reasons:
  - While a decision is made as to whether to grant them entry to the UK or, if this is refused, while awaiting a return flight;
  - Where, very exceptionally, a family presents risks which make the use of Cedars pre-departure accommodation inappropriate;
  - Where a foreign national mother and baby from a prison mother and baby unit are being returned during the Early Removal Scheme (ERS) period but it is not practicable or desirable, owing to time or distance constraints, to transfer them direct from prison to the airport for removal.
- Occasionally we encounter cases in the immigration removal estate where the person’s age is disputed. An individual who is defined as an ‘age dispute case’ will not remain in detention pending a Merton compliant age assessment. He/she will be released and the Merton compliant age assessment will be conducted in the community. He/she must be released into the care of the local authority as soon as appropriate arrangements can be made for his/her care because of the possibility that he/she is under 18 years of age;
- In criminal cases, detention of a foreign national offender under 18 may be authorised in exceptional circumstances where it can be shown that they pose a serious risk to the public and a decision to deport or remove has been taken. This detention is subject to Ministerial authorisation and advice is also sought from the Independent Family Returns Panel. These cases are very rare and would not be detained in an IRC until the age of 18.

The Agency does not publish details of the individual reasons why children enter immigration detention but does publish information on the location of children held in immigration detention, which provides a good indication for the reason for detention. The Agency carefully monitors the numbers of children entering detention to ensure this only occurs as a last resort and only in one of the circumstances set out above. (page 6)

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

required to ensure they leave the UK.

Escort officers may also be used for a variety of other reasons, either because the person is vulnerable, because it is a requirement of another country through which the detainee is transiting, or for safety and security reasons on board a chartered flight.

The UK Border Agency has used private sector escorting companies to undertake this work for nearly 20 years and in all but a handful of cases their staff have acted professionally, ensuring those being removed are treated with dignity and care. These officers are highly trained and operate in very difficult circumstances in which they sometimes suffer serious verbal and physical abuse from those being removed.

All escort officers complete a comprehensive training course, the contents of which are approved by the Agency. This encompasses human rights, diversity, self-harm and suicide prevention, child protection, first aid, the work of the UK Border Agency and use of control and restraint (C&R). Officers are required to report any use of restraint or use of handcuffs; this is covered in the initial training. Officers receive regular refresher training in the use of restraint every twelve months.

The UK Border Agency would prefer that pregnant women, vulnerable adults and under 18s who form part of family groups in Cedars left the UK voluntarily and compliantly. It would not be practical to consider a blanket ban on the use of physical intervention on pregnant women and under 18s as this might encourage non-compliance and render the Agency unable to maintain effective immigration controls. Force must only be used when it is:

- Honestly perceived that the use of force is necessary in the circumstances;
- The degree of force used is reasonable; and
- The force used is proportionate to the seriousness of the circumstances.

Any physical intervention on a pregnant woman for the purposes of removal would be subject to rigorous risk assessment and take place on a planned basis with advance authority from the Director of the Returns Directorate (or his deputy).

Although there may be occasions when it is necessary to use physical intervention with under 18s for the purposes of removal, this will always be as a last resort, and only with the advance approval of the Minister for Immigration.

ban on physical intervention on pregnant women and under 18s.
Established principles for managing difficult behaviour by children at Cedars are already in place which emphasise verbal de-escalation and persuasion techniques and engaging with family members, including children, to help them work through their concerns and the source of their anxiety. Only as a last resort is non-compliance managed through other means by staff who have received the appropriate training. (page 7)

**Progress in dealing with historical problems**

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

We have attached at Annex A some anonymised cases studies as requested.

The UK Border Agency Criminal Casework Directorate has a dedicated team in Liverpool managing FNOs living in the community who by law can no longer be detained. FNOs are prioritised in terms of the risk the individual poses to the public and their removability. Our Trace and Locate specialists use a range of sources, including social media, to track down absconders. They also work closely with the police and probation services to locate these individuals and return them to prison. Some absconders leave the country without detection and they are subsequently added to UK Border Agency watch lists in case they seek re-entry. This is difficult casework and around 20 non-detained cases are removed from the UK each month.

The use of judicial challenges as a means to frustrate removal is being tackled through improved legal case working in the UK Border Agency. The judiciary are also addressing abusive judicial reviews through recent judgements.

There may be delays in deportation if FNOs do not co-operate with the documentation process. The UK Border Agency works with the Foreign and Commonwealth Office (FCO) in order to engage foreign embassies and High Commissions to ensure that the documentation process for the removal of their nationals is efficient. There are no countries to which, as a matter of immigration policy, we cannot remove. However there are countries where it is extremely difficult to undertake enforced removals, or where there are legal barriers.

Checks for a valid or expired travel document are undertaken routinely during the initial stages of receiving a referral. Where a valid travel document is not traced we attempt to obtain relevant bio-data so that a travel document can be obtained as quickly as possible.

Some of our staff have specific in-depth country knowledge and the most

Broadly accepted, the UKBA provided some information on its strategy for removing FNOs and some anonymised case studies.
complex cases are reviewed on a country specific basis in order to identify any issues and escalate cases with all possible partners responsible for liaising with the relevant foreign Governments.

Operation Nexus is a new partnership between the UK Border Agency and the Metropolitan Police Service to intervene on FNOs wherever they are encountered.

This creates a working relationship that uses intelligence and better information sharing. That includes working on immigration offenders who have absconded.

The aim of this project is to design and implement a new operating model for enforcement in London, providing more resources, tools and intelligence to target offending and establish nationality and identity at an earlier stage. For those who cause most harm, we will bring the combined forces of the police and the UK Border Agency to remove or disrupt them. (page 9)

Ex-foreign national offenders released over the period 10. We accept the Agency’s caveat about prisoners released late in the quarter but that does not explain why such a large proportion of cases remain outstanding. We are concerned that continuing high numbers of outstanding cases will add to the backlog of ex-foreign national offenders whom the Agency is trying to deport. We welcome the changes made to the immigration rules by the Home Secretary to make it harder for ex-foreign national offenders to remain in the UK on the basis of their Article 8 rights to a private and family life. We were pleased to hear from Mr Whiteman that these changes will help the Agency to deport more ex-foreign national offenders. We expect to see this begin to take effect soon both on the proportion of ex-offenders the Agency are able to deport on release and in a decrease in the backlog of 3,954 ex-offenders the Agency is still working to deport. (Paragraph 39)

The UK Border Agency is continuing to work towards increasing the return of FNOs, closely managing contact with the offender and using specialist investigation skills to obtain travel documents for non-compliant individuals. We are also making greater use of prosecution powers against FNOs who do not cooperate with the deportation process or breach bail conditions and are working more closely with other agencies, including the police, to overcome barriers to removal. We work in partnership with the Ministry of Justice who will also take action when licence conditions are breached.

The FCO helps to engage with foreign embassies to ensure that the documentation process of the removal of their nationals is efficient. In some cases Ministers will raise specific cases with their foreign counterparts.

The UK has established safe routes and re-documentation arrangements with a significant number of countries and this is aiding our ability to return prisoners and immigration offenders. (page 10)

The Committee is aware, following the judgment in the case of Chindamo, we are precluded by law from considering FNOs for deportation too early into their sentence. The Agency can therefore consider an individual’s case up to 18
**Effectiveness of the Committee in 2012–13**

### Months before the earliest release date

- Months before the earliest release date. However, where a shorter sentence is given or where a sentence is in part served on remand, this will mean that consideration is made immediately upon referral from the prison. 18 months is sufficient time to secure a travel document for compliant FNOs, and given that some such documents have limited validity there may be little value in obtaining one much earlier in the process. Upon referral of a potential FNO the Agency takes steps to establish identity at the earliest stage, as this is a crucial element of the subsequent consideration of deportation action. The Agency's prison-based staff are successful in persuading around half of all FNOs to take up the early release scheme to return to their own country.

- If an FNO does not comply with our attempts to gather information for a travel document, this can delay removal, sometimes indefinitely. In some cases the current relationship with a foreign government prevents the UK from working effectively with them. For diplomatic reasons it would be unhelpful to name countries publicly but we would be happy to brief the Committee privately.

### Size of the Case Assurance and Audit unit

12. We are concerned that new backlog cases may still be coming to light so long after the Agency is supposed to have tackled the backlog. We expect an explanation from the Agency as to where these cases have come from. (Paragraph 45)

**Rejected.** The Government disagreed that the cases were new, and that the Committee had been informed about what happened when the controlled archives were closed in December 2012.

### The Agency gave the size of both controlled archives as 92,000 at the end of August so we are perplexed where the additional 4,000 cases will come from. The Agency must tell us where the extra 4,000 cases they are planning to assess in the closure of the controlled archives have come from and why they are not in the figures given to us for the size of the controlled archives. (Paragraph 48)

**Rejected.** The Government disagreed that the cases were new, and that the Committee had been informed about what happened when the controlled archives were closed in December 2012.

### 14. We accept that in a significant proportion of cases the applications are likely to be duplicates or the applicants are likely to have left the UK voluntarily. However we are not convinced that the Agency’s limited checking regime will have picked up all of the applicants who remain in the country. For this reason

**Rejected.** The Government did not provide the Committee with a list of checks on applications, but said that its checking process had been thorough.

<table>
<thead>
<tr>
<th><strong>very long time to secure the necessary travel documents (Paragraph 40)</strong></th>
<th>months before the earliest release date. However, where a shorter sentence is given or where a sentence is in part served on remand, this will mean that consideration is made immediately upon referral from the prison. 18 months is sufficient time to secure a travel document for compliant FNOs, and given that some such documents have limited validity there may be little value in obtaining one much earlier in the process. Upon referral of a potential FNO the Agency takes steps to establish identity at the earliest stage, as this is a crucial element of the subsequent consideration of deportation action. The Agency’s prison-based staff are successful in persuading around half of all FNOs to take up the early release scheme to return to their own country. If an FNO does not comply with our attempts to gather information for a travel document, this can delay removal, sometimes indefinitely. In some cases the current relationship with a foreign government prevents the UK from working effectively with them. For diplomatic reasons it would be unhelpful to name countries publicly but we would be happy to brief the Committee privately. (page 11)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Size of the Case Assurance and Audit unit</strong></td>
<td>These are not new cases. The additional 3,000 cases noted in the live migration cohort as at June 2012 came from the 26,000 original cases in the migration controlled archive. (page 11)</td>
</tr>
<tr>
<td>12. We are concerned that new backlog cases may still be coming to light so long after the Agency is supposed to have tackled the backlog. We expect an explanation from the Agency as to where these cases have come from. (Paragraph 45)</td>
<td>Rejected. The Government disagreed that the cases were new, and that the Committee had been informed about what happened when the controlled archives were closed in December 2012.</td>
</tr>
<tr>
<td>The Agency gave the size of both controlled archives as 92,000 at the end of August so we are perplexed where the additional 4,000 cases will come from. The Agency must tell us where the extra 4,000 cases they are planning to assess in the closure of the controlled archives have come from and why they are not in the figures given to us for the size of the controlled archives. (Paragraph 48)</td>
<td>Rejected. The Government disagreed that the cases were new, and that the Committee had been informed about what happened when the controlled archives were closed in December 2012.</td>
</tr>
<tr>
<td>14. We accept that in a significant proportion of cases the applications are likely to be duplicates or the applicants are likely to have left the UK voluntarily. However we are not convinced that the Agency’s limited checking regime will have picked up all of the applicants who remain in the country. For this reason</td>
<td>On 18 December 2012 Rob Whiteman sent the Committee on a full closure report on the controlled archives which confirmed the checks that had been undertaken on cases before being closed. We believe that this process was thorough. (page 12)</td>
</tr>
<tr>
<td></td>
<td>Rejected. The Government did not provide the Committee with a list of checks on applications, but said that its checking process had been thorough.</td>
</tr>
<tr>
<td>Paragraph</td>
<td>Text</td>
</tr>
<tr>
<td>-----------</td>
<td>------</td>
</tr>
<tr>
<td>49</td>
<td><strong>We are concerned that the final checks made on these cases should be thorough and that they should not be rushed to meet an artificial deadline. We expect the Agency to provide us with a list of all the checks that will have been carried out on an application before it is closed.</strong> (Paragraph 49)</td>
</tr>
<tr>
<td>50</td>
<td><strong>We are concerned that preparations should be made for the event that a number of people whose applications are closed may subsequently be discovered to be in the country. We expect to hear from the Agency what the consequence of this would be both for the individual concerned and for the tax payer. We are particularly interested to find out whether any such individuals would be offered an amnesty or if they would have to start their asylum or immigration application again.</strong> (Paragraph 50)</td>
</tr>
<tr>
<td>58</td>
<td><strong>Mr Whiteman told this Committee that the Agency had “seen the figures on 30 days go in the right direction”. We do not see how this can be the case when less initial decisions are made within 30 days than in the previous year.</strong> (Paragraph 58)</td>
</tr>
<tr>
<td>16</td>
<td><strong>We have ensured that processes are in place so that where UK Border Agency staff encounter individuals with closed cases through allegations, representations, intelligence or enforcement activity we can reactivate and consider these cases. Where individuals have absconded and deliberately evaded immigration control, such non-compliance will be taken into consideration and where we find individuals have no right to be in the UK we will seek to remove them from the country. Where individuals with a closed case apply to re-enter the UK they will be required to make a fresh application and their previous immigration history will be taken into account. Such individuals will not be offered an amnesty.</strong> (page 12)</td>
</tr>
<tr>
<td>17</td>
<td><strong>We are working hard to increase the speed with which we achieve case conclusions. As stated above, we have pushed conclusions within 12 months up from 56% in 2010-11 to 63% in 2011-12 and we will continue to drive performance against this indicator. We have also increased conclusion rates at 36 months driving them up from 63% in 2010-11 to 70% in 2011-12.</strong> (page 12)</td>
</tr>
</tbody>
</table>

### Assessing the Agency’s performance: initial decisions

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

- **Accepted.**

**Mr Whiteman was referring to internal figures for initial decisions made within 30 days which had been improving in the months before his appearance in front of the Committee in September 2012. He also made the point in his evidence that it is important to take a balanced approach to tackling the asylum workload, making progress on both old and more recent cases. Whilst we experienced a drop in our adult initial decisions within 30 days from 59% in 2010-11 to 47% in 2011-12, we improved performance on concluding and removing older cases over this period. Conclusions within 12 months were up from 56% in 2010-11 to 63% in 2011-12 and conclusion rates at 36 months were up from 63% in 2010-11 to 70% in 2011-12.** (page 12)

- **Rejected. Published data shows less initial decisions are made within 30 days. The Government gave an answer based on figures the Committee had not seen.**

### Assessing the Agency’s performance: conclusions

**17. We are pleased to see this progress but we would like to hear from the Agency what the main causes are for an asylum claim taking three years to complete. The Agency should provide us with a breakdown of the length of time it took to conclude the remaining 37% of cases still awaiting conclusion after 36 months in 2010.**

- **Accepted.**

**We are working hard to increase the speed with which we achieve case conclusions. As stated above, we have pushed conclusions within 12 months up from 56% in 2010-11 to 63% in 2011-12 and we will continue to drive performance against this indicator. We have also increased conclusion rates at 36 months driving them up from 63% in 2010-11 to 70% in 2011-12. The main causes for an asylum claim taking three years or more to complete are significant barriers to removals. There are a number of countries to which**

- **Accepted.**

The Government provided the main reasons for decisions in asylum cases sometimes taking three years, and data on the cases that were still awaiting conclusion after 36 months.
Effectiveness of the Committee in 2012–13

11 and how many remain outstanding as of the end of June 2012. (Paragraph 60)

making returns is extremely challenging because of issues around co-operation on documentation and/or on the acceptance of returned individuals. The compliance of an individual in the re-documentation and return process is also a major factor.

A further 29% of the remaining cases that had not been concluded after 36 months in 2010-11 had been concluded by the end of June; in total 76% of the cases in this cohort had been concluded by this time. Please note that the statistical information for June 2012 is provisional and may be subject to change. It has not been quality assured under National Statistics protocols. (page 13)

Granting of asylum to those previously refused

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

The UK fully complies with all of its international obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the European Convention on Human Rights (ECHR). The Government believes that the right approach is to consider the needs of individuals and their particular circumstances. Every application is given careful scrutiny, bearing in mind the potentially serious consequences if a mistake is made. Where a decision has been made by the Agency and by the Courts that a person does not require international protection and there are no remaining rights of appeal or barriers to their return, individuals are expected to return to their country of origin and assistance is available to them to do so.

The UK Border Agency has fully considered the allegations made of mistreatment, amounting to torture, of returnees to Sri Lanka and published its policy position in a Bulletin, available on the Agency’s web site, in October 2012. The Agency does not accept that the evidence published by Freedom from Torture or Human Rights Watch supports their assertion that Tamils in general are at risk on return to Sri Lanka. The Agency and FCO’s dialogue with Freedom from Torture and Human Rights Watch is ongoing. (page 13)

Accepted. The Government said it had fully considered the allegations of mistreatment of Sri Lankans, and that its dialogue with Freedom from Torture and Human Rights Watch was ongoing.

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

The UK Border Agency measures interview and decision quality by auditing 10% of all first instance decisions against a framework drawn up and agreed with the United Nations High Commissioner for Refugees (UNHCR). This reflects our obligations under the Refugee Convention and the European Convention on Human Rights (ECHR), our published policies and asylum instructions and allows us to quantify performance on quality.

From April 2011 to March 2012 we assessed over 1,400 cases against specific criteria and standards to quality assure the decisions we make and identify key

Accepted. The Government audit their initial decisions, and use analysis of allowed appeals to feed into their quality assurance processes.
issues affecting quality. During this period, our figures showed that UK Border Agency case owners were correctly applying 88.9% of the decision criteria. This indicates that decision quality is generally very high, although we recognise that there is still room for improvement and we are taking action to do so through our quality assurance processes.

We have also incorporated analysis of allowed appeals as part of quality assurance processes. Our analysis has highlighted that a key reason why well-reasoned decisions are overturned is due to provision of additional post-decision evidence (including medical reports, expert reports and witnesses). In 56% of all cases allowed during the last financial year, there was some form of further evidence adduced post-decision. We are currently working with corporate partners to design a system of information, advice and support for applicants that will help facilitate earlier disclosure of information crucial to the decision. (page 14)

**Student visas**

20. We welcome the Minister’s announcement that student numbers would be disaggregated in migration figures, but we cannot see how the Government will be able to reach its target of reducing net migration to tens of thousands without drastically reducing the number of student visas issued. This is a move that the Home Office itself estimated would cost in the region of £2.4bn. We therefore recommend that, in correspondence with the publication of disaggregated figures, the Government should specify that it will remove student migrants from its reduced net migration target. (Paragraph 72)

The Government is committed to reducing net migration, and to eliminating the abuse of the student migration route. It is also committed to the sustainable growth of a sector in which the UK excels. The Government welcomes all genuine students coming to attend any university or college that meets our requirements and has always been very clear that it recognises the important contribution that international students make to the UK economy.

There is no visa limit on the number of overseas students who are eligible to attend institutions in the UK. However, we have put systems in place to tackle immigration abuse. The National Audit Office estimated that 40,000-50,000 of those who entered the UK under Tier 4 in its first year of operation came to work rather than study. By requiring all institutions to meet the standards demanded by the educational oversight regime and making Highly Trusted status compulsory, we are ensuring there is no opportunity for the bogus colleges who were sponsoring these entrants to operate in the UK. That means that as student visa grants have fallen overall, we have seen a small rise in visa applications for universities.

Net migration statistics are produced by the independent Office for National Statistics in accordance with the UN definition. All the UK’s major competitors report a net migration figure that includes students. The UK will continue to comply with the international definition of net migration. (page 15)

21. We welcome the introduction of interviews for

The guidance currently in use by entry clearance officers makes it clear that

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

when applying the genuine student rule, they should consider the application in the round, using their expertise in assessing entry clearance applications and taking all the available evidence into account. It specifies that the applicant’s post-study plans are one of a range of factors to be considered as part of the holistic assessment of the applicant and their circumstances. The lack of an intention to leave the UK is therefore one of the factors that entry clearance officers should take into account when assessing whether an application should be refused.

Clearly, however, as students are able to extend their visas or switch into other migration routes such as work, an intention to leave test cannot be applied in the same way as it is for a visitor. Therefore, the guidance makes clear that where the officer believes the applicant is a genuine student, it would not be appropriate to refuse them solely on the basis of intention to leave if there would be no abuse of the immigration system.

It is therefore already the case that an assessment of applicants’ intentions upon completion of their course is made as part of entry clearance interviews, and that applicants should either intend to return home or have credible plans for further study or skilled post-study work in the UK.

Entry clearance officers have received training on the application of the genuine student rule and they report it is working effectively to enable them to identify and tackle residual abuse in the system. The Agency will continue to monitor how the rule is working as the new powers bed in. (page 15)

We note the Committee’s comments. (page 16)
<table>
<thead>
<tr>
<th>Visa processing times</th>
<th>23. We welcome the Agency’s continued achievement of its targets in this visa processing. (Paragraph 80)</th>
<th>We note the Committee’s comments. (page 17)</th>
<th>Conclusion and statement of fact: no recommendation for the Government to respond to.</th>
</tr>
</thead>
<tbody>
<tr>
<td>24. In our view, taking six months to process an application that could be processed within 24 hours provides a very poor service to users. We recommend that the Agency alters its in-country service standard to processing 95% of in-country postal applications in 12 weeks, the same standard it works to for settlement applications made from overseas. We also expect to hear from the Agency whether or not the service standard for overseas applications will alter now that all applications from Commonwealth countries (with the exception of Hong Kong) also have to be made by post and not via the relevant British Consulate or High Commission (Paragraph 83)</td>
<td>The Agency will review service standards within broader work to implement a new, tighter and more progressive performance framework in time for the start of the 2013-14 financial year. (page 17)</td>
<td>Rejected. The Government said it would conduct a review of service standards within a broader piece of work. The Government did not accept the specific recommendation to alter in-country postal applications in line with overseas settlement applications, nor mention whether the service standard for overseas applications will alter as part of having to be made by post not via Consulate or High Commission.</td>
<td></td>
</tr>
<tr>
<td>Progress against Appeals Improvement Plan</td>
<td>25. We are very disappointed to see that the Agency’s progress against this target is backsliding. We acknowledge that the Agency hopes to improve its representation rate in the second half of this year through the short term recruitment of junior barristers to represent the Agency in court and the recruiting of law graduates to this role from September. In addition the Agency plans to share staff between regional offices to meet hearing volumes. The Agency also hopes that the reduction in family visit appeals will decrease their caseload of appeal hearings. We look forward to seeing an improvement in representation rates in our next report. (Paragraph 87)</td>
<td>Our internal management information suggests there has been significant increase in overall representation at First Tier hearings since June 2012, from 78% in July to 92% and 95% in August and September respectively. This is compared to 76% in April to June 2012. This improvement is due to recruitment and resource sharing, as set out by the Committee above. We are still monitoring the impact of restricting family visitor appeal rights. The changes were made in July and the immediate impact has been diluted by the seasonal global surge in visit and other entry clearance applications. However, overall intake is showing a downward trend compared to the period April to June 2011 (25,500 compared to 26,700). (page 17)</td>
<td>Accepted.</td>
</tr>
<tr>
<td>26. We recommend that the Agency reviews what it has done differently in the categories where its win rate has improved and tell us how it will be applying these successful changes in practice to other categories of appeal. (Paragraph 90)</td>
<td>Court statistics show that between October and December 2011 and January and March 2012 there has been improvement in win rates in visit visa, managed migration and out of country appeals. The overall win rate also increased by 3%. We acknowledge the need to improve win rates. Factors affecting win rates are varied, and vary between categories, and it is difficult to isolate particular initiatives that are guaranteed to lead to improvement. In</td>
<td>Accepted.</td>
<td></td>
</tr>
</tbody>
</table>
addition factors leading to success in one category may not be applicable in others. For example, successfully arguing against the credibility of an asylum claim requires different evidence and knowledge to a visit visa appeal.

However we have a number of initiatives in place that aim to improve the win rate by continuously learning from what is working:

- we conduct regular detailed analysis of samples of appeal determinations across different categories of appeals, and hold workshops with decision makers to feedback the key trends and agree how specific issues identified can be tackled;
- we are focusing on improving representation rates and have recently seen representation rise to over 90% nationally. Through the measures we have taken we expect to see further improvements towards consistently achieving 100% representation;
- the quality of representation and advocacy skills are also critical in ensuring more appeals are won. The Agency has an accreditation programme and measures to monitor the individual win rates of presenting staff – and the quality of their representation in court - so that development needs can be identified and addressed. (page 18)

27. We would welcome a decline in the volume of appeals if it was shown to be the result of improved decision making on the part of the Agency. However we are concerned that the Family Visit Visa appeal route is being closed off at a time when the majority of appeals made against the Agency’s decisions are upheld by the court. We reiterate below the recommendations we made in our previous report which should help to reduce the volume of appeals without closing off important routes of appeal. (Paragraph 91)

Decision quality is monitored robustly both within the UK Border Agency and externally by the Independent Chief Inspector of Borders and Immigration whose findings we consider carefully. We are working to improve decision quality on all application routes, irrespective of whether or not a refusal leads to an appeal. Through training, performance monitoring and continuous feedback loops, we seek to ensure that all decisions are of the highest quality. That work will continue to be strengthened across our entire decision making areas, regardless of the categories which attract a full right of appeal.

Removing the appeal right will also provide better value and deliver quicker and cheaper outcomes for applicants. The cost of a visit visa is £78, the cost of lodging an appeal is £80 for a hearing on the papers or £140 for an oral hearing.

We constantly look to improve our decision-making, and while we accept there are erroneous decisions, we do not agree that the majority of visit visa appeals are being upheld by the courts. In 2011/12, 32% of appeals were upheld (compared to 44% that were dismissed by the courts). Between April and June 2012, 30% of appeals were allowed. (page 18)
28. There are a number of simple changes the Agency could make to reduce the volume of appeals it handles. Firstly the refusal notices it issues should set out in clear bullet points why the application has been rejected. If, for example, it is due to missing documentation the applicant should be asked to provide this to the Agency as part of the same application. It should then be reviewed within an acceptable timescale. This could reduce both the time it would take for the applicant to get a decision and the resources spent on appeals. Secondly, we understand that the Agency does not specify all the documentation it requires to grant an application. For example it asks for “proof of funds” instead of bank statements. We recommend that the Agency list specific documents that they require in order to grant an application. This will ensure that the application process is as clear as possible and should reduce the amount of verification work and appeals work that has to be done at a later stage. (Paragraph 92)

All applicants who are refused receive a written notice explaining why the application was rejected. These notices set out clearly why the application was refused. Each paragraph of the notice links to relevant sub-paragraph(s) of the Immigration Rules that the applicant does not meet.

The Immigration Rules already set out precisely what documentation is required to support an application in many instances, particularly under the Points Based System routes. Where the Rules do not specify the documentation required for an application to be granted, instead they lay out a set of requirements that applicants must meet. There are then a number of different types of documentation that an applicant could use to demonstrate that they have met the Immigration Rules, depending on the type of visa they have applied for, the context in which they are applying, and their individual circumstances. Always insisting on a specified set of documents could place an unreasonable or disproportionate obligation on some applicants, given the diverse range of situations this would need to cover. The Agency does provide guidance on its website on the types of documentation that make good evidence in support of an Entry Clearance application.

Where a decision maker believes that an applicant is likely to meet the Rules subject to some further piece of evidence needed for the decision, there are circumstances in which they will provide the applicant with an opportunity to submit this before the decision is finalised. However, it would not be proportionate for decision makers to introduce delays and offer case-by-case guidance on how to meet the rules for each application. It is the responsibility of the individual making an application to demonstrate that they meet the criteria set out in the Rules. Decision makers may reject applications where there is insufficient evidence of the requirement being met, but are instructed not to refuse on the basis that a particular document is missing. (Page 19)

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

We did experience performance problems with our online application and booking service between April and June 2012. During this period the contractual availability of the i-Apply website (excluding planned time for routine maintenance) was 96.9%. Since then a number of changes and improvements have been implemented, and the comparative availability for the three months from August to October was 99.3%.

The UK Border Agency is continuing to implement changes to improve the performance of the website, seeking to enhance applicants’ online engagement. The Agency is currently working closely with Government Digital
Effectiveness of the Committee in 2012–13

<table>
<thead>
<tr>
<th>Sponsors</th>
</tr>
</thead>
<tbody>
<tr>
<td>30. Given the turnaround time of applications in the first quarter of 2012 it is hard to see why so few pre-registration visits were carried out in either quarter one or two. We expect to hear from the Agency what proportion of applicants who applied for sponsorship in the first quarter of this year and in the second quarter have now received a pre-registration visit. (Paragraph 97)</td>
</tr>
</tbody>
</table>

| 31. We are disappointed that the majority of post-licence visits carried out by the Agency are still announced in advance. We reiterate the recommendation made in our last report that the majority of post licence visits should be unannounced. This should ensure that the enforcement system is both rigorous and gives the public confidence that the government is cracking down on illegal immigration. (Paragraph 99) |

<table>
<thead>
<tr>
<th>32. This is a concern for this Committee as we remain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where there are significant concerns that a sponsor may not be complying with their duties the Agency does, wherever possible, undertake an unannounced visit. From March 2013 we will increase the number of unannounced visits to the maximum number possible. We cannot undertake to complete all visits unannounced as we must balance our needs with the needs of businesses and educational institutions. Not all post-licence visits are related to potential abuse and we do not believe there is a need to make unannounced visits in every case. There are some instances where factors beyond our control require an announced visit to be made; for example, we always make announced visits to schools due to the need to safeguard children and to sponsors where the health and safety of our staff may be an issue, such as animal testing laboratories. We are also sensitive when planning visits to religious premises. (page 21)</td>
</tr>
</tbody>
</table>

Service (GDS) to join other departments and agencies on a single government platform – GOV.UK. Learning lessons from Direct Gov and Business Link’s customer-focused approach, this site will offer a single point of contact for government services firmly based on user need and enhance the customer experience. (page 20)

| Accepted. |

| Accepted in part, UKBA will aim for the maximum number of unannounced visits possible but there are reasons why not always possible and reasons why not always desirable. |

| Broadly agreed with the principle of |
sceptical that simply reducing the number of people an institution can sponsor is an effective way of combating abuse of the immigration system either by wilful misuse or negligence. We reiterate our previous recommendation that a sponsor found to be failing to comply with their duties should have their licence suspended in the first instance and revoked if remedial action is not taken. We are concerned that the Agency is not monitoring how many sponsors are subject to this weaker sanction and we expect to hear from the Agency how it will ensure that institutions subject to these penalties are monitored more closely than others. (Paragraph 101)

<table>
<thead>
<tr>
<th>33. We welcome a robust enforcement system for non-compliant sponsors but as so many students are affected by the revocation of an institution’s licence more should be done to help institutions who are struggling to meet their requirements as a sponsor. We recommend that if an institution performs poorly in an inspection the Agency should send in a task force to help it improve its procedures. (Paragraph 104)</th>
</tr>
</thead>
<tbody>
<tr>
<td>When an education institution obtains a sponsor licence it commits to meeting the Tier 4 duties and obligations which are set out in published policy guidance on our website. Sponsors should be clear about what is expected of them. We have to use our available resources to best effect and we cannot send in a task force in every case where a sponsor is not meeting its duties. We do work closely with sponsors who are struggling to meet the sponsorship requirements and are proactive in approaching us for help. In addition, we have recently delivered a joint workshop with Universities UK which focussed on sponsor compliance visits including what to expect and how to prepare for a visit. As explained above, where a sponsor is found to be performing badly following an inspection we will take action proportionate to the issues identified. (page 22)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>34. In our view the Agency is not taking sufficient steps</th>
</tr>
</thead>
</table>
| We do not accept this point. The UK Border Agency has made considerable}
### Effectiveness of the Committee in 2012–13

<table>
<thead>
<tr>
<th>Page</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>It is important that prompt action is taken both to help genuine students and to identify and remove bogus students before they are able to melt away into the woodwork and add to the Agency’s extensive backlog. (Paragraph 105)</td>
</tr>
</tbody>
</table>

On 12 October 2012, the UK Border Agency wrote to all students supported by London Metropolitan University and all students previously supported by London Metropolitan University who they did not wish to re-enrol. We asked the students to respond to us by 31 October to tell us whether they wished to remain at London Metropolitan University, transfer to a new sponsor or leave the UK. Genuine students who have expressed their wish to continue studying at London Metropolitan University will be able to do so. We have agreed that such students can continue studying until their course has ended or until the end of the academic year, whichever is sooner, subject to them continuing to meet the necessary requirements.

We have curtailed the leave of students who responded to say they will be leaving the UK, and those who have not responded. We also curtailed the leave of students who were previously sponsored by London Metropolitan University, but from whom London Metropolitan University have now withdrawn sponsorship. Similarly we have curtailed the leave of students who indicated they would transfer sponsors, but from whom we have not received a further application for leave to remain. Those whose leave has been curtailed will be referred for enforcement action through our National Tasking and Coordination Board. (page 23)

### Further Recommendations

<table>
<thead>
<tr>
<th>Page</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>We do not accept that a wide scale review of policy is necessary. It is a fundamental principle of sponsorship that those who benefit most directly from migration (employers, education providers or other bodies that bring in migrants) help to prevent the system being abused. We engage in consultation with sponsors before we reach the point of revocation of a licence and we work hard in partnership with sponsor bodies to ensure they fully understand their duties. There is also a period of suspension before full revocation of a licence. We have to retain the power of revocation (and the associated impact on students who are about to begin or in the middle of a course) as an ultimate sanction for non-compliant sponsors. However, as shown in the work the Agency did following the revocation of London Metropolitan University’s licence, we are keen to support genuine students and will work collaboratively with sponsors to do this. Equally, we will enforce the removal of those who are not genuine students and who have no leave to be in the UK. (page 24)</td>
</tr>
</tbody>
</table>
whether they have leave to be studying in the UK and are complying with their visa conditions. Genuine students should be allowed to start or complete their course at the university in question. “Students” that do not have leave to be here or do not meet the requirements for study should be prevented from entering the UK or removed if they are already here. (Paragraph 106)

### Action against individuals

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

It is important to recognise that not all notifications by sponsors to the Sponsor Management System are to report abuse. We have undertaken extensive work in improving systems and data management to better identify those notifications which signal potential abuse and where curtailment action may be appropriate. We are continuing to build on these improvements to enhance and accelerate the process still further. (page 24)

The UKBA said it would be improving systems to better identify when notifications by sponsors trigger action, but it is not clear if this enable tracking of reports to actions on non-compliance.

### Migration Refusal Pool

37. In its response to this report we expect the Agency to tell us why it did not think it was necessary to report this to Parliament. We were also concerned to hear from Mr Whiteman that the Agency does not currently have data about the number of records that met the criteria for being in the migration refusal pool prior to 2008. We are encouraged to hear from Mr Whiteman that work is currently underway to construct this data and we expect to hear from the Agency when we will be able to see the results. (Paragraph 111)

The Migration Refusal Pool (MRP) is a tool to help case workers identify and track suspected overstayers that have seen their extensions of leave in the UK refused, and for whom we have not yet confirmed their departure from the country. By doing this, it enables officers to proactively and efficiently target those who are eligible for removal rather than deal with them on a reactive basis. Therefore it is not a list of those waiting to be removed but a referral mechanism that helps UKBA more efficiently identify and remove those who are ready to leave from those who are not.

The number of cases in the MRP was previously in the public domain. The National Audit Report ‘Immigration: The points based system – work routes’ commented on the size of the MRP on 15 March 2011. At paragraph 17 the NAO reports cites ‘the Agency estimates there may be up to 181,000 migrants in the UK of all visa types whose permission has expired since 2008’.

The Agency is currently conducting a data cleansing exercise in respect of this data, and we will be able to provide the Committee with an update on progress in the Spring of 2013. (page 25)

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

As a major part of our work to understand and reduce existing caseloads within the Agency, we awarded a contract to Capita to progress and close cases within the post 2008 MRP. We are proceeding now with the initial element of the contract, costing up to £5 million over a nine month period. This will include triage and contact management of 150,000 cases (including checking and confirming records where e-borders indicates a possible departure), as well as casework on 50,000 cases. Of the 150,000 cases we expect to refer to Capita, 20% are expected to be confirmed departures, 65% are expected to have barriers to removal and 15% are expected to be cases which we cannot positively trace.

We have not yet finalised unit pricing and incentives on the casework element of the contract (and this aspect of the work will not begin until we do so). The contract itself provides for further joint developmental work before we reach that stage. As previously advised, the contract will have a graduated payment structure where Capita will be paid more for the outcomes we want, such as departures from the UK.

Should Capita demonstrate a successful set of outcomes, we have, subject to Treasury approval, the potential to extend their work under this contract beyond this initial pool of cases, up to a value of £30 million over four years. (page 25)

Accepted. The Government did provide the Committee with further information on the benchmarks by which Capita’s performance will be assessed.

Progress on the national allegations database

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

As the Agency informed the Committee by letter on 8 October 2012, our national allegations database went live on 30 September 2012.

The Allegation Management System (AMS) system now enables us to track an individual allegation through to outcome, and will allow us to address the concern of the Committee regarding our inability to link specific allegations to specific enforcement activity.

As we informed the Committee in our last response, the 30 September launch was only for the initial elements of the AMS and we are developing it further. The current plan includes the introduction in 2013 of a fully revised e-form on the Home Office website. The new form will guide members of the public in

Broadly accepted as UKBA did launch the allegations database on the 30 September but it was only the initial elements of the allegations database.
providing the key information needed to identify immigration and border crime. This is critical to improving the quality of the information that we receive from members of the public and, alongside analysis of what type of allegations provides us with successful outcomes, will form the basis of our work in increasing the utilisation rate of allegations received.

With regard to the public facing elements we are happy to invite the Committee to see the proposed form when we move to user acceptance testing.

The reform of the public facing elements of how we receive allegations will enable us to identify clearly those who wish to obtain feedback and we are currently considering how to introduce this in a legal and safe manner. (page 26)

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

Number of FTE Agency staff

41. Given the problems experienced by the Agency in tracking and carrying out its enforcement work we welcome the planned increase in resources in this area. (Paragraph 119)
<table>
<thead>
<tr>
<th><strong>Senior staff bonuses</strong></th>
<th>The Home Office follows Cabinet Office guidance on Senior Civil Servants' (SCS) performance management and the payment of bonuses. In accordance with Cabinet Office guidance, only the top 25% of the Department’s SCS members are eligible for consideration of the award of a bonus. Bonus payments are kept under constant review and are only awarded to the top performing SCS following objective assessment of individual performance. Information on bonuses paid to the Department’s SCS is published in the autumn by the Cabinet Office and is available on data.gov.uk. This information gives the total amount spent on bonuses to the SCS and the total number of SCS members who received a bonus. Information on bonuses awarded for the 2011/12 performance year was published on 20 December. (page 27)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Responding to MP’s queries</strong></td>
<td>We welcome the Committee’s positive comments on the progress we are making in responding to Members’ enquiries. Our MP Account Manager teams will continue to work proactively with MPs and their offices to further improve the services we provide. (page 28)</td>
</tr>
<tr>
<td><strong>44. The number of cases or records that the Agency has yet to investigate, trace or conclude has now reached over the 300,000 mark. This is an increase of 9% since our last report. We are deeply concerned that, despite all the work the Agency is putting into resolving these cases, the backlog keeps on growing. We hope that we will begin to see a reversal in this trend when we undertake our next report. (Paragraph 124)</strong></td>
<td>We note the Committee’s comments. (page 28)</td>
</tr>
</tbody>
</table>

**Rejected.**

**Conclusion and statement of fact: no recommendation for the Government to respond to.**
## Ninth Report, Drugs: Breaking the Cycle (HC 184-I), published 10 December 2012

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Recommendations from the last Home Affairs Committee report on drugs Policy**  
1. The Department for Transport has set up a panel of experts to advise on those drugs which should be covered by the new offence driving with concentrations of drugs in excess of specified levels and, for each drug, the appropriate maximum permissible level of concentration in a person’s blood or urine. We believe that this maximum should be set to have the equivalent effect on safety as the legal alcohol limit, currently 0.08 mg/ml. (Paragraph 2) | The Government welcomes the Committee’s support for the new offence of driving, or being in charge of, a motor vehicle, with a concentration of a specified controlled drug in excess of the specified limit for that drug. Alongside this Command Paper, the Government is today publishing the Report from the Expert Panel on Drug Driving “Driving Under the Influence of Drugs”. The Government would like to acknowledge the hard work undertaken by the Expert Panel in seeking to tackle this complex issue. In due course the Government will make specific proposals regarding the drugs to be specified in regulations for the new offence. These proposals will be subject to a public consultation. After taking account of any responses received, regulations containing the final proposals would then need to be approved by Parliament before they could become law. **Building Recovery**  
We believe recovery means being free from dependence on drugs and alcohol. Our ambition is to provide services that an individual may need in order to achieve and sustain recovery, which would also encompass housing, employment, and appropriate support to maintain a stable family life and a life free from crime. We are making good progress implementing major reforms. We have:  
- incentivised and worked with the drug treatment sector to shift the focus to enable all individuals to achieve recovery;  
- co-designed an innovative, world-first payment by results approach to incentivise recovery outcomes, currently being piloted in eight areas;  
- committed to creating drug-free environments in prison and are therefore increasing the number of drug-free wings, where increased security measures prevent access to drugs. We are also renewing our efforts to disrupt the trafficking of drugs into prisons and the activity of organised criminals coordinating the trafficking of drugs from prisons. Recent years | The Government stated that it would make specific proposals regarding the drugs to be specified in regulations for the new offence, which would be subject to a public consultation. The Department for Transport concluded consultations on drug driving in March 2014. |
Effectiveness of the Committee in 2012–13

- Have seen a significant decrease in the numbers of prisoners testing positive for drugs;
- Made radical reforms to the social housing system with greater flexibility in the way people access social housing and the types of tenancies which are provided. The Localism Act 2011 includes: changes to the rules on tenure; the management of waiting lists; and the homelessness duty, which are designed to make the system fairer, striking a proper balance between the needs of new and existing tenants. By making full use of these new freedoms, councils will be able to target social housing on those who genuinely need it the most for as long as they need it. We have also worked with the housing and drug sectors to develop case studies to support closer working relations; and
- Introduced welfare reforms so that Job Centre Plus provide further help and support to claimants with a drug or alcohol dependency. Under Universal Credit, from October 2013, benefit claimants with a drug or alcohol dependency will have their job search conditions relaxed if they take up the offer of treatment for their addiction. This will give them the time and space to focus on their recovery and move towards employment.

2. We recommend that the Government continue to monitor the decisions of the Health and Wellbeing Boards as to allocation of treatment places, recording each request, monitoring waiting times to enter treatment and assessing the success rate of those dependent on different drugs. The Government should publish this information in an easily accessible and understandable format and consider developing a league table of Health & Wellbeing Boards’ performance on local drugs provision while taking care in selecting assessment criteria not to introduce perverse incentives into the decision making process. This will allow Boards to benchmark their provision against each other, having due regard to local need. (Paragraph 7)

High quality drug treatment is the most effective way of reducing drug misuse and reducing drug related mortality. Treatment helps drug misusers to tackle their dependence and contribute productively to society. Treatment also results in improved health, stability and social functioning and crime reduction.

We are creating a public health system that will promote public health and encourage behaviour change to help people live healthier lives and help reduce mortality. The Health and Social Care Act 2012 made commissioning drug services a responsibility of local authorities from April this year. Local Health and Wellbeing Boards will oversee commissioning decisions by local authorities as part of their role in undertaking the Joint Strategic Needs Assessment and publishing the Health and Wellbeing Strategy.

Access to treatment and its effectiveness will continue to be monitored through the National Drug Treatment Monitoring System (NDTMS), which is a National Statistic assessed by the UK Statistics Authority and which will be collected by PHE. Data are collected on the treatment of adults for dependence on drugs and/or alcohol and on the treatment of substance misuse by young people. These are published monthly and are available at local level. The Public Health Outcomes Framework will enable local authorities to benchmark their

The Government broadly accepts the Committee’s recommendation.
3. New evidence which has emerged in the decade since our predecessor Committee’s Report on drugs suggests that diamorphine is, for a small number of heroin addicts, more effective than methadone in reducing the use of street heroin. It is disappointing therefore that more progress has not been made in establishing national guidelines for the prescription of diamorphine as a heroin substitute. We recommend that the Government publish, by the end of July 2013, clear guidance on when and how diamorphine should be used in substitution therapy. (Paragraph 10)

We agree with the importance of having clear guidelines on the use of diamorphine for the treatment of addiction. The 2007 publication ‘UK guidelines on clinical management of drug misuse and dependence’ contains advice on the prescription of diamorphine for heroin dependence. The Department of Health provided funding for the Randomised Injectable Opioid Treatment Trial (RIOTT) the results of which were published in The Lancet in May 2010. This demonstrated the clinical effectiveness of supervised injectable opioid treatment. RIOTT was one of the studies which contributed evidence to the report on ‘New heroin-assisted treatment’ published by the European Monitoring Centre for Drugs and Drug Addiction in 2012. The Department of Health is building on the earlier work by funding three pilots to explore the cost-effectiveness of supervised injectable opioid treatment and its contribution to recovery-oriented care pathways. These pilots are being funded until March 2015. The Department of Health has convened an expert group to advise on the development of guidance for commissioners using the evidence from the pilot sites.

We agree that it is for the individual prescriber to decide which drug is clinically most appropriate in discussion with their client. NICE issued guidelines in 2007 on opioid substitution treatment, including the use of methadone and buprenorphine. It reviewed those again in 2010 and made no changes.

The NHS Constitution affirms the commitment that patients should receive NICE approved treatment. The NHS Constitution will continue to apply to public health services commissioned by local authorities. NICE found that methadone and buprenorphine maintenance were similarly effective and recommends both for treating opioid dependence. NICE also recommends that when methadone and buprenorphine are equally suitable for a patient, methadone should be first choice as it is more cost effective. As a first treatment methadone also has better retention rates. This evidence was built upon by the expert group led by Professor John Strang, whose report ‘Medications in Recovery: re-orientating drug dependence treatment’ was published in 2012.

Individual clinicians should decide with patients whether to use methadone or buprenorphine on a case-by-case basis. (page 16)
The aims of drugs policy

4. Drug use can lead to harm in a variety of ways: to the individual who is consuming the drug; to other people who are close to the user; through acquisitive and organised crime, and wider harm to society at large. The drugs trade is the most lucrative form of crime, affecting most countries, if not every country in the world. The principal aim of Government drugs policy should be first and foremost to minimise the damage caused to the victims of drug-related crime, drug users and others. (Paragraph 14)

Current international drugs policy

5. The Committee saw for itself during its visit to Colombia the effect of the drugs trade on producer and transit countries—the lives lost, the destruction of the environment and the significant damage caused to governance structures by corruption and conflicts. We recognise and sympathise with the immense suffering and slaying of innocent people which tragically has taken place over the years in Colombia and other Latin American countries, as a result of the murderous rivalry between drug gangs. (Paragraph 25)

The Government’s Drug Strategy is ambitious – we aim to reduce illicit and other harmful drug use and increase the numbers recovering from their dependence. We are doing this in the context of the wider criminal justice and health reforms, in particular, the election of Police and Crime Commissioners (PCCs) and the shift of accountability for local health service provision to local authorities.

The Public Health Outcomes Framework sets as its ultimate aim increased healthy life expectancy (i.e. taking account of the health quality as well as the length of life), and reduced differences in life expectancy and healthy life expectancy between communities. Drugs policy has supported this. England has a high rate of heroin users in treatment (close to 60%). This figure has remained relatively stable over the last few years – and represents a genuine success story – it has been key in keeping rates of HIV among injectors low. Only 1.3% of drug injectors in England have HIV, compared to 3% in Germany and 37% in Russia. However approximately 90% of cases diagnosed with hepatitis C are related to injecting drug use. Improving and protecting people’s health remains a key component of treatment. (Page 4)

The Government accepts the Committee’s recommendation.

Conclusion and statement of fact: no recommendation for the Government to respond to.
6. We believe it is important that countries remain inside the Single Convention on Narcotic Drugs of 1961, rather than entirely outside it. We therefore believe that Bolivia should be allowed to re-access the Convention, with the reservation they require for traditional practices. We recommend that the UK Government support this position and encourage other countries to do likewise. (Paragraph 27)

The Government agrees that it is important that countries remain inside the Single Convention on Narcotic Drugs 1961. The UK objected to Bolivia’s reapplication with a reserve on 14 December 2012. This objection was one of principle relating to Bolivia’s proposed reservation and not its re-accession. Our primary concern remains that a reserve weakens the convention by legitimising coca production and increasing the risk of diversion to the cocaine trade.

The UK did not make representations to any other Member State to object or influence their decision. 61 objections were required to block re-entry and 15 objections were deposited. Our priority now will be continuing our cooperation with the Bolivians on drugs policy. (Page 30)

---

The impact of globalisation on the drugs trade

7. We were concerned to discover that the Maritime Analysis and Operations Centre (Narcotics) has seen a sharp fall in its rate of drug interdiction and now faces an uncertain future over its funding, 95% of which is currently provided by the European Commission. Gathering reliable intelligence about the maritime trafficking of illegal drugs is a crucial part of the international fight against the drugs trade. While recognising that this is not a matter for the UK Government alone, we urge the Government to work with both EU countries and other key international partners to ensure more effective drug interdiction in the future. (Paragraph 35)

See 9.

The Government broadly accepts the Committee’s recommendation.

---

The balloon effect

8. Targeting supply at an early stage is the most effective way of reducing supply, as larger amounts can be intercepted higher up the supply chain. Even so, we do not believe that it will be possible to reduce the overall volume of the international drugs trade dramatically only by tackling supply — it is too easy for narco-criminals to respond by diversifying their supply routes. (Paragraph 41)

See 9.

General observation: no specific recommendation.
9. The global nature of the drugs trade, and the potential for displacement of drug cultivation and supply routes in response to law enforcement measures, means that the international drug trade can only ever be tackled effectively by co-operative, coordinated international efforts. We must recognise that no one nation can do this on its own. (Paragraph 42)

Tackling the threat from drugs is a global challenge. Practical cooperation between international partners therefore continues to form a vital part of our response to the illegal drugs trade. Since publication of the strategy, the Home Secretary has met the Presidents of Colombia and Panama to discuss our mutual cooperation on drugs and Home Office Ministers have met the Interior Ministers of Colombia and Brazil, the Foreign Ministers of Bolivia and the Dominican Republic, and visited Peru and the Caribbean to discuss cooperation on tackling drugs. We have also signed Memoranda of Understanding outlining our drugs cooperation with Brazil and Bolivia.

SOCA has been at the forefront of driving forward activity with a wide range of international partners to improve the capacity of source and transit countries to tackle drug trafficking impacting on the UK. Our diplomatic assets and operational experts have been working to ensure that these capabilities are strong and comprehensive, particularly in relation to law enforcement (including mentoring activities), criminal justice, rule of law and tackling the proceeds of crime. Our upstream effort forms part of the “golden thread” of law enforcement in the UK and allows end-to-end disruption of organised crime groups.

This Government acknowledges SOCA’s excellent reputation, its strong relationships with partners and the excellent results that it has produced. It welcomes the Committee’s recognition of SOCA’s international achievements that include:

- in West Africa, SOCA leads the International Liaison Unit (ILU) in Ghana, an international platform with a mixed European and US membership, designed to help coordinate law enforcement activity and share operational or strategic intelligence. The ILU is an excellent example of joint working, sharing of intelligence and a coordinated approach to capacity building. The platform has the primary aim of exchanging technical and operational information, and coordinating technical cooperation. Through the platform there is extensive international support available to Ghana in its fight against the drugs trade. For example the Accra ILU aided the dismantling of an organised crime group trafficking cocaine to the UK from Latin America via West Africa, facilitated by corrupt airport employees in Accra and London; and
- Operation Captura is a partnership between the UK charity Crimestoppers, SOCA and the Spanish Government and Police to locate

The Government accepts the Committee’s recommendation.
UK fugitives based in Spain and return them to face British justice. Since 2006, SOCA has identified 654 UK fugitives located in Spain. As of 31 March 2012, 48 of the 65 Captura subjects had been arrested and returned to the UK. Although the campaign is not specifically focused on drugs trafficking, 24 of the 65 serious offenders were wanted in connection with drug related crime.

This Government believes that it is SOCA’s officers and the success of their work in partnership with international colleagues, and not the SOCA branding, that has been the real success story. These partnerships are important, and will continue. The NCA and its officers will be able to build on previous successes and quickly develop a strong NCA brand which is recognised by our international partners.

The Government agrees that gathering reliable intelligence on the maritime trafficking of illegal drugs is a crucial part of the international fight against the drugs trade. The Government continues to discuss this matter with other EU Member States and the Commission and continues to support the excellent work undertaken by both the Maritime Analysis and Operations Centre (Narcotics) (MAOC(N)) and Europol.

Through the EU’s Standing Committee on Operational Cooperation on Internal Security (COSI), the Cypriot Presidency recently facilitated a discussion on options for Europol to potentially assume responsibility for coordinating MAOC(N) missions and around improving intelligence flows between MAOC(N) partner countries and Europol. Through the Military and Maritime Intervention Cell (MAMIC) the UK currently supplies all relevant maritime intelligence to Europol, whilst coordinating interdictions with MAOC(N). Whilst we would support and encourage increasing intelligence sharing between MAOC(N) partner countries and Europol, thereby utilising Europol’s analytical capabilities to best effect in support of Member States’ investigations and operational activity, we would not be in favour of Europol coordinating military assets or missions, which falls outside of Europol’s mandate and should remain within the jurisdiction of Member States. (page26)

10. The potential for “substance displacement”, where users switch from one drug to another in response to changes in supply, has clear implications for public policy. In particular, the Government must be mindful of the fact that tougher measures against one drug can As the Committee acknowledges, all drugs are harmful, albeit some more harmful than others. This is broadly reflected in our drug classification system, with Class A drugs being considered the most harmful. The choices that drug users make around their drug taking can be multiple and complex, the more obvious one being ease of access and availability. Displacement is an inevitable

The Government accepts the Committee’s recommendation.
lead to increased consumption of another. Where the drug that is being targeted is less harmful than its substitutes—and all recreational drugs are harmful to a greater or lesser extent—there is the clear potential for measures which are intended to tackle the supply and consumption of drugs to result in an overall increase in the harm they cause. We recommend that, where decisions about the classification of drugs are concerned, the opinion of the Advisory Council on the Misuse of Drugs should be sought on the potential for substance displacement, and the comparative risk associated with the likely substitutes. (Paragraph 44)

In providing advice on drug control matters, in particular with regard to new psychoactive substances, the ACMD has been mindful of the potential for the drug market to develop with new and emerging drugs. For this reason, the ACMD has considered not only the principal drugs of concern but also their related family of compounds. In doing so, on the expert advice of the ACMD, the Government looks to control those related substances which would arguably be those most likely for displacement of use.

The provision of credible and accurate public health messages is vital to enable potential users to understand the choices that they are making and the harms associated with drugs, including new psychoactive substances. The ACMD keeps under review harmful new psychoactive substances that are alerted to the Government via, for instance, the early warning systems, so that information can be up to date, credible and relevant to potential users. Where appropriate, and on advice from the ACMD, the Government looks to send clear public messaging through the FRANK campaign and other appropriate channels. (page10)

Links between drugs, organised crime and terrorism

11. We are concerned that despite significant international efforts to disrupt supply of illegal drugs and bear down on demand, the illegal drugs trade remains a hugely profitable enterprise for organised criminals and narco-terrorists. In part this is due to the highly inflated prices of the drugs in question, inevitable in a high demand underground market, and in part due to very low production costs, arising from cheap labour costs where many workers are exploited and the fact that most illicit drugs are very simple and inexpensive to make. This ultimately causes massive harm and deaths around the world. We urge the Government to continue to factor this unintended consequence into considerations on drugs policy. (Paragraph 55)

The Government broadly accepts the Committee’s recommendation.
Human rights abuses

12. The Government should not turn a blind eye to capital punishment and other human rights abuses affecting those involved in the drugs trade. In particular, we recommend that the Government ensure that no British or European funding is used to support practices that could lead to capital punishment, torture, or other violations. (Paragraph 61)

Drug education in schools

13. The evidence suggests that early intervention should be an integral part of any policy which is to be effective in breaking the cycle of drug dependency. We recommend that the next version of the Drugs Strategy contain a clear commitment to an effective drugs education and prevention programme, including behaviour-based interventions. (Paragraph 75)

We welcome the Committee’s recommendation that the next version of the Drug Strategy contains a clear commitment to an effective drugs education and prevention programme. We also agree that early intervention should be an integral part of any policy, which is to be effective in breaking the cycle of drug dependency, as set out in the Drug Strategy already. Our current strategy is flexible and we will focus on this in Year 3 of implementation.

Our expectation is that targeted support and early intervention for young people is planned and organised at local authority level, funded by both the Business Rates Retention Scheme (which replaced the Early Intervention Grant) and the Public Health Grant.

It will be for Directors of Public Health and Children’s Services and other relevant local partners to develop services to meet local needs in their area. At a national level, we can support local commissioners through the Centre for Analysis of Youth Transitions, the new drug and alcohol information and advice service and by promoting the learning and effective practice from the Choices prevention programmes.

PHE will provide central funding for FRANK, which provides information for young people to access directly as well as a source of information that parents and teachers can draw upon, and be a source of expertise on how to encourage young people to make healthy choices. The Department of Health and PHE will also continue to share evidence with the Department for Education to inform future work they undertake in this area. The Government expects all schools to provide a broad and balanced education that will develop young people’s resilience.

Restricting Supply

Tough enforcement activity by UK law enforcement agencies to reduce the supply of drugs is a fundamental part of the Drug Strategy. The illegal drugs
trade, driven by organised crime, impacts individuals, families and communities. Since the introduction of the Drug Strategy we have made real progress in targeting all points along the drug supply chain from disrupting street level dealers to tackling organised crime groups and producers' in supply countries. This is emphasised in our 2011 organised crime strategy ‘Local to Global: Reducing the Risk from Organised Crime’. The low purity levels and high wholesale prices of both cocaine and heroin in the UK, coupled with our law enforcement activity at home and overseas, indicate that we are having a real effect on drug flows into the country. We are making progress through:

- UK law enforcement agencies seizing significant quantities of drugs off the streets. In 2011/12, over 81 tonnes of Class A drugs were seized by the Serious Organised Crime Agency (SOCA) with partners at home and abroad. The police and the UK Border Force made 216,296 drug seizures in England and Wales in 2011/12 – a two per cent increase on 2010/11;
- establishing the NCA, that will lead the fight against serious, organised and complex crime, including enhancing the security of our borders. Subject to the passage of the Crime and Courts Bill, the NCA will be fully operational by the end of 2013, but a number of its commands are already operating in shadow form and driving early operational results;
- local criminal justice partners across England and Wales managing 88,000 class A drug misusing offenders into treatment and recovery services in 2011/12 through the Drug Interventions Programme (DIP). DIP is estimated to help prevent around 680,000 crimes per year; and
- a range of operational successes against top-end criminals by SOCA and its partners. For example, in October 2011, 24 members of an organised crime network were handed jail terms totalling more than 250 years for their roles in plots to smuggle up to 40 tonnes of drugs into the UK, which included a significant amount of cocaine from Latin America. The complete dismantlement of the entire network was only possible because of joint working with a number of law enforcement agencies which included partners in Latin America. (page25)

14. We recommend that Public Health England commit centralised funding for preventative interventions when pilots are proven to be effective. (Paragraph 76) See 13.

The Government broadly accepts the Committee’s recommendation.

The Inter-Ministerial Group on Drugs

15. We believe that the current, inter-departmental approach to drugs policy could be strengthened by

The Drug Strategy is a coherent cross-government approach that reflects the need for coordinated action to tackle the problem in all its dimensions. In order that there is effective coordination of a complex strategy it is important that
identifying a Home Office Minister and a Department of Health Minister, supported by a single, named official, with overall responsibility for coordinating drug policy across Government. We recommend that the Home Secretary and the Secretary of State for Health should be given joint overall responsibility for coordinating drug policy. By giving joint lead responsibility to the Home Office and Department for Health, the Government would acknowledge that the misuse of drugs is a public health problem at least as much as a criminal justice issue. (Paragraph 83)

there is clear accountability. For that reason the Home Secretary will continue to be accountable for the overall Drug Strategy and the central governance structures will be continue to be supported by a secretariat based in the Home Office.

Within the overall Drug Strategy the Home Office leads on action to protect society by stopping the supply of drugs, and tackling the organised crime that is associated with the drugs trade. Crime is a major component of the social and economic costs of class A drug use. Current estimates suggest that crime accounts for 90% of the total cost - and the UK's response relies on the crime fighting capabilities coordinated by the Home Office. The UK has consistently sought to help individuals who are dependent on drugs by treatment rather than the application of criminal sanctions. Healthcare is the responsibility of the four UK administrations’ Health Departments. In England, the Department of Health leads the delivery of the Drug Strategy's ambition for more and more individuals each year to achieve and sustain recovery.

The Home Office and the Department of Health make a shared contribution in key areas. In respect of legal substances, the Home Office and Department of Health both lead respective strands of the alcohol strategy and the Department of Health leads Government's work to tackle addiction to medicines. The secretariat of the Advisory Council on the Misuse of Drugs (ACMD) draws on the resources of both departments, and both departments share responsibility, as appropriate to the nature of its advice, for responding to ACMD reports. Both Departments contribute funding to the FRANK service in order that young people and their families have access to accurate information about drugs and the harms that they can cause.

Other departments across government make their own contribution to the overall success of the Drug Strategy, as set out elsewhere in this Command Paper. (paged)

16. We recommend that the agenda, a list of attendees and minutes of each meeting of the inter-ministerial group on drugs be published on a government website. We would also welcome work addressing the harmful effects of drug consumption. (Paragraph 84)

We strongly support the principle of transparency of government business and place more information into the public domain than previously. In accordance with the provisions of the Freedom of Information Act 2000, a limited number of documents relating to the meetings of the Inter Ministerial Group (IG) on Drugs have been released into the public domain. We have been unable to publish all the documents that have been requested because they have been assessed as exempt from public disclosure under the provisions of the Act. (page 6)
Current treatment options

17. Different treatment regimes will work for different patients. It is clear that, for some people, residential rehabilitation is the most effective treatment, backed by proper aftercare in the community. Although it is expensive when compared to treatment entirely in the community, it is cost-effective when compared to the cost of ongoing drug addiction. While we welcome the Government’s focus on recovery in the Drugs Strategy 2010, we have consistently been told that there is a shortage of provision, and in particular provision for specific groups such as teenagers. We recommend that the Government expand the provision of residential rehabilitation places. In addition, we recommend the Government review the guidance for referrals to residential rehabilitation so that inappropriate referrals are minimised and amend the National Drug Treatment Monitoring System form so that where incidents of inappropriate referral do occur they can be captured and an accurate picture of the effectiveness of residential rehabilitation as a treatment option can still be obtained. (Paragraph 94)

We agree that different treatment regimes will work for different patients. As the NHS Constitution confirms, care pathways needs to be based on shared decision making and tailored to the needs of the individual.

Local authorities are best placed to meet local needs and so the Health and Social Care Act 2012 made commissioning drug services, including residential rehabilitation, a local authority responsibility. The ‘ Sufficiency Duty’ on local authorities in relation to children also requires that they do more than simply ensure that accommodation be ‘ sufficient’ in terms of the number of beds provided and meet the needs of children.

We recognise the importance of information to support local areas, and so the National Treatment Agency published in July 2012 ‘ The role of residential rehab in an integrated treatment system’. The right residential rehabilitation placement for the right individual at the right time can be a powerful and cost-effective step on their journey to recovery from addiction, with providers and referrers working together to ensure that people are matched up to the services that can meet their needs.

Government is working closely with the sector through the Recovery Partnership to ensure that the National Drug Treatment Monitoring System reflects the work that residential rehabs undertake as part of a holistic recovery orientated treatment system. We are committed to greater transparency in order to inform better decision making. Detailed outcome data for individual residential providers is available via www.NDTMS.net. (page 17)

18. Outcomes which range from 60% of patients overcoming their dependence to just 20% suggest that the quality of provision is very variable. We recommend that, in line with the publication of certain outcome statistics for National Health Service providers, publicly-funded residential rehabilitation providers should be required to publish detailed outcome statistics so that patients and clinicians can make better informed choices of provider. (Paragraph 96)

See 17.

The Government broadly accepts the Committee’s recommendation.

19. We make no comment on the relative merits of methadone and buprenorphine. It is for the individual prescriber to decide which drug is clinically indicated for each patient. However, we note that recent

See 3.

Rejected. The Government states that individual clinicians should decide with patients whether to use methadone or buprenorphine on a case-by-case basis.
Pharmacological advances in opioid substitution therapy mean that there are other options to patients being “parked” on methadone are notably treatment using buprenorphine which was less widespread when our predecessor committee published its report in 2002 and that it is possible that OST could in the future become a more effective route to abstinence than it has been in the past. Policy makers should understand the potential for more effective OST treatments and, rather than ignoring reports of the negative side effects of current OST drugs because they are available, familiar and cost-effective, should continue to keep sight of a greater emphasis on buprenorphine relative to methadone prescription to lead to better patient and societal outcomes. (Paragraph 100)

**Implementation of the Government’s goal of recovery**

20. Drug treatment in prisons is a point of critical intervention—if a drug-dependent offender is treated effectively then it greatly improves their chance of rehabilitation on release. Given that drug and alcohol dependence treatment in prisons has been so heavily criticised for the lack of co-ordination with treatment in the community, we are concerned that new structural changes may reverse the gradual improvement we have seen in treatment for drug-dependent offenders. We recommend the Government closely monitor the transition of treatment funding responsibilities to the Health and Wellbeing Boards and the NHS Commissioning Boards respectively. (Paragraph 106)

We recognise the opportunities for effective drug treatment in prisons and its importance in reducing re-offending and making communities safer. The Government has unified commissioning for all assessment and treatment of drug dependence in prisons in order to improve the efficiency and effectiveness of provision.

The agreement made between the Secretary of State for Health and the NHS Commissioning Board under Section 7A of the National Health Service Act 2006 explicitly requires “continuity of care between secure environments and community” as part of a fully integrated, recovery-orientated and outcome-focused service. As the National Drug Treatment Monitoring System collects data on prison, community and residential drug treatment, we will be using it to monitor the continued effectiveness and continuity of treatment in all settings. (Page 18)

The Government accepts the Committee’s recommendation.

21. The Government goal of recovery will require the co-ordination of several government departments: the Department of Health to ensure that effective treatment is being funded, the Department for Work and Pensions to support patients to re-enter the workforce and local authorities which must take responsibility for ensuring that they have appropriate accommodation. We believe that giving the Home Secretary and the Secretary of State for Health joint

See 15.

Rejected.
overall responsibility for coordinating drug policy (see paragraph 83) will help to improve the focus on the goal of recovery. We recommend that the Inter-Ministerial Group works with the Recovery Committee of the Advisory Council on the Misuse of Drugs to carry out an assessment of how the situation is working once the changes have been fully implemented, and to publish its findings by July 2013. (Paragraph 109)

22. Payment by results potentially produces a very cost-effective system in which the taxpayer pays only for successful outcomes. However, past experience in other areas such as employment has shown that it is easy for the market to become dominated by a small number of large providers, leading to the marginalisation of smaller, innovative voluntary sector organisations. Another risk is that the most difficult to treat patients may be denied access to services. We recommend that the Government establish ways to create provider diversity to ensure that smaller providers and civil society are not excluded and that a wide range of services are available. This could be achieved by ring-fencing a certain proportion of expenditure for such providers. The model will also need to ensure that providers are rewarded appropriately for taking on the most difficult patients, so that those who are harder to help will not be denied services. (Paragraph 114)

We are committed to exploring the value of payment by results (PbR) as an effective approach to commissioning. One of the goals of PbR is to allow a wider range of voluntary groups, community groups, charities and social enterprises to enter the market. The Department of Health is supporting local commissioning through running a number of conferences and workshops for commissioners and providers to ensure that these small innovative providers are supported to access the market. The Inter-Ministerial Group on Drugs is also taking an active interest and Ministers have visited all PbR pilot areas. Ministers also attended a roundtable with commissioners from the eight PbR pilots hosted by the Minister for Public Health.

The extensive co-design process for the pilots put service users at the heart of the approach. Data modelling took account of the risk that a provider might focus on those service users who are nearest recovery and park those who are furthest, and the models have been developed to avoid perverse incentives. Safeguards include differential pricing, minimum contract specifications, and an independent assessment and referral service (LASARS) at the centre of each of the models. In addition, we have worked across government and with the sector to explore in detail the risks of ‘gaming’ and worked to mitigate against these during the development phase of the individual models. A Gaming Commission was set up in August 2011 to identify ways providers might seek to ‘game’ the system, such as ‘parking’ or delivering minimal treatment to clients, and recommended a number of safeguards which pilot areas have adopted.

The Department of Health has commissioned an independent evaluation of the Drug and Alcohol Recovery Payment by Results Pilots Programme. The evaluation started in November 2011 and will run for three years. It involves a collaborative partnership between the University of Manchester, Birkbeck College London, RAND Europe and User Voice.

The Government accepts the Committee’s recommendation.
The voluntary sector has an important role to play in all elements of the delivery of these services. The Ministry of Justice will be working with the voluntary sector to help design ways in which the process and system can be made accessible to them. In addition, the National Offender Management Service has issued the first part of a two part, £500,000 grant to enable a wide range of VCS organisations to develop the capacity and capability to compete on PbR contracts. (page 21)

The Government's 2010 Drug Strategy highlighted the need to tackle all drugs of dependence, including prescription drugs. The Department of Health commissioned two reports which were published in May 2011 to inform policies and services on addiction to medicines: a literature review by the National Addiction Centre; and a survey by the NTA of service provision. A roundtable of experts, convened by the Minister for Public Health, drew up an agreed list of actions in 2012 to prevent and tackle addiction to medicines.

Department of Health officials have worked closely with the Royal College of General Practitioners and the Royal College of Psychiatrists to take forward these actions. Increasing access to psychological therapies and improved understanding of pain management are helping to prevent the initiation of long-term prescribing of medicines which can be addictive. PHE will also support local commissioning of services to treat patients who are addicted to medicines.

The Government supports the ACMD's commitment to undertake a review into the diversion of prescription medicines covered by the Misuse of Drugs Act 1971 and the harms that are caused by their misuse. In her forthcoming annual commissioning letter to the Council, the Home Secretary will ask the ACMD to start its review at the earliest opportunity in its 2013/14 work programme.

Assessing dependence on prescription drugs and its severity can only be done using local data on a case-by-case basis taking account of duration and impact of use, the condition for which the medicines were prescribed and whether withdrawal symptoms become apparent when the dose is decreased. This can only be done by individual prescribers and their patients. In the commissioning of primary care services by the NHS Commissioning Board, local pharmacy networks will deliver innovative solutions for the safest and best use of medicines. (page 15)
**Effectiveness of the Committee in 2012–13**

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>123</td>
<td>Give us information on the prevalence of dependence on prescription drugs. We welcome the proposed review of prescription medicine diversion by the ACMD. The issue is one which has been highlighted as a growing problem and as the overall trends of drug use change, the Government must ensure that it has access to suitable treatment for dependence on all drugs rather than just focussing on a narrow sub-set. It is ultimately the responsibility of the medical profession to ensure that their prescribing decisions do not lead patients into drug dependency. However, the police and public should be aware of this deeply concerning trend, so they too can be vigilant in seeking to prevent it. (Paragraph 123)</td>
</tr>
</tbody>
</table>

**Misuse of Drugs Act 1971**

25. Our predecessor Committee’s recommendation for an independent assessment of the Misuse of Drugs Act 1971 was rejected on the basis that it gives effect to the UK’s international obligations in this area. That is not, in our view, a compelling reason for refusing to review our own domestic legislative framework, particularly given the growing concern about the current international regime in many producer nations. The message from Colombia and other supplier and transit states is clear—what the international community is currently doing is not working. We are not suggesting that the UK should act unilaterally in these matters, but our Government’s position must be informed by a thorough understanding of the global situation and possible alternative policies. (Paragraph 131)

26. This inquiry has heard views from all sides of the argument and we believe that there is now, more than ever, a case for a fundamental review of all UK drugs policy in the international context, to establish a package of measures that will be effective in combating the harm caused by drugs, both at home and abroad. We recommend the establishment of a Royal Commission to consider the best ways of reducing the

<table>
<thead>
<tr>
<th>Committee’s recommendation.</th>
<th>See 26.</th>
<th>Rejected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>As well as reviewing the Drug Strategy on an annual basis we are committed to undertaking an evaluation to assess the effectiveness and value for money of the current Drug Strategy. This is a more stringent approach than has been adopted for any previous Drug Strategy. The evaluation is an ongoing process which will last throughout the life of the Strategy. We will be providing an update on the evaluation alongside the next Annual Review in 2013. This update will set out at a high level, our approach to evaluation – it is not the evaluation itself.</td>
<td>Rejected.</td>
<td></td>
</tr>
</tbody>
</table>
harm caused by drugs in an increasingly globalised world. In order to avoid an overly long, overly expensive review process, we recommend that such a commission be set up immediately and be required to report in 2015. (Paragraph 132)

We reject the recommendations to establish a Royal Commission, a review of the Misuse of Drugs Act 1971 and the instigation of a public debate on alternatives to the current drugs policy. This is because there are promising signs that, two years since the strategy was launched, our new approach is working. We have:

- incentivised and worked with the drug sector to shift the focus beyond the treatment system in order to help users move to recovery and reintegration into society;
- co-designed an innovative, world-first payment by result approach to incentivise recovery outcomes, currently being piloted in eight areas;
- introduced Temporary Class Drug Orders that enable us to ban newly identified harmful drugs within days and established early warning systems that enables the identification of a new substance within hours of emergence. Methoxetamine, for example, was banned in weeks rather than months;
- developed the Drug Interventions Programme (DIP) to give local areas more flexibility in the way they identify drug misusing offenders (through drug testing) to encourage more offenders into treatment. DIP ceases as a nationally funded programme from April 2013 and it will be for local areas to decide which (if any) interventions they want to utilise to address Class A drug-related offending in their area;
- supported local areas to develop and enhance their local Integrated Offender Management arrangements across England and Wales to break the cycle of offending and reoffending that also impacts on families and communities. The link between offending behaviour and drug misuse is clear;
- rolled out family nurse partnerships, a preventive programme for vulnerable first time teenage mothers, which is showing positive signs of impact on both children and parent’s outcomes; and
- initiated consultations on the National Curriculum and non-statutory Personal Social Health and Economic education.

Looking to the future, PCCs are taking responsibility and local action to drive down drug related crime and anti-social behaviour. Subject to the passage of the Crime and Courts Bill, the NCA will lead the fight against serious, organised and complex crime and bring strong coordination to national and international efforts to reduce the supply of drugs – from local to global. For the first time, a
single agency will pull together the complete intelligence picture on serious, organised and complex crime and have the authority to coordinate and task the national response, working with the police and other law enforcement agencies.

Also from April 2013, Public Health England (PHE) will support local authorities to tackle drug and alcohol misuse as a core part of their work, including supporting recovery orientated drug treatment services and delivery of prevention and other health services.

While we recognise that these changes cannot necessarily be attributed to the impact of our strategy, there are promising signs that the strategy is working, with a continuation of the positive trends of recent years in England in a number of key areas:

- record numbers are recovering from dependence, with nearly 30,000 people (29,855) successfully completing their treatment in 2011-12, up from 27,963 the previous year and almost three times the level seven years ago (11,208);
- a sizeable reduction in the number of adults newly entering treatment for heroin and crack cocaine of 10,000 in two years (from 62,963 to 52,933), reflecting the reduction in the size of the user population;
- continued a high level of access to drug treatment services with average waiting times at five days; and
- falling drug-related deaths over the last three years.

In addition to this activity, drug use remains at its lowest level since measurement began in 1996 and the prevalence of drug use among 11-15 year olds has declined since 2001. These numbers from England and Wales indicate that we are moving in the right direction and enabling people to work towards being free of drugs. The Government is committed to an evidence-based approach, informed by the expert advice of the ACMD. We invited the ACMD to establish its Recovery Committee, an expert group to advise the IMG on Drugs on the recovery strand and enable Ministers to engage openly with the Recovery Partnership, other drug sector organisations and individuals, and medical professionals to inform, challenge and test our policies. (page 6)

27. We endorse the praise from President Santos and others for the work of the Serious and Organised Crime See 9. Rejected.
Agency. In the countries we visited, it was clear that they did an excellent job and were well respected. We encourage the Government to find a way to retain the SOCA brand overseas, in the move to the National Crime Agency, perhaps as a Serious Overseas Crime Arm of the NCA. However, despite their best efforts and considerable success, we agree with President Santos and others that it is impossible for them to prevent drug trafficking completely. (Paragraph 138)

28. Like any business, the international drug trade thrives on profit. Identifying and seizing the profits of the drug trade, wherever they are in the world, must be a central part of the global fight against drugs. In that context, the UK’s approach to money laundering has been far too weak. Whilst we recognise that the financial crisis has occupied the attention of the FSA since 2008, there is little evidence that it treated the issue of money laundering sufficiently seriously prior to that time. We welcome the creation of the Financial Conduct Agency and we recommend that it produce annual reports which show the prevalence of money laundering within the UK financial sector. (Paragraph 151)

We welcome the support of the Committee on the importance of tackling money laundering and the recognition of the use of asset recovery as an effective tool for tackling those involved in the drugs trade. The cross-Government multi-agency strategy – ‘Local to Global: Reducing the Risk from Organised Crime’ – puts the need to tackle criminal finances and money laundering at the heart of our approach to organised crime.

We agree that it is important that we understand better the risks the UK financial sector faces. To this end, in addition to the Financial Conduct Agency (FCA) working more closely with SOCA and the NCA to identify threats and share intelligence, the FCA will also be contributing to a National Money Laundering and Terrorist Financing Risk Assessment being developed by the Treasury and Home Office. This assessment will be used to strengthen the co-ordination of actions to assess risks, apply resources and mitigate those risks in the UK.

We do not however accept that the Government should bring forward new legislation to extend the personal, criminal liability as anyone found to have been involved in money laundering is already subject to criminal investigation and prosecution under the Proceeds of Crime Act 2002. In addition, personal criminal liability exists for those found to have failed to comply with the Money Laundering Regulations that require businesses to know their customers and conduct ongoing monitoring. This includes individuals working for banks, lawyers, accountants and others. The response from the majority of stakeholders to a public consultation on the Money Laundering Regulations in 2011 was that these criminal penalties were important and should be retained and the Government agreed to do so. As such, there is no evidence to suggest new criminal penalties are required. (page 30)

The Government broadly accepts the Committee’s recommendation.
29. Being fined by a regulatory body is an inadequate sanction for complicity—however peripheral, and whether it is wilful or negligent—in an international criminal network which causes many thousands of deaths each year. We recommend that the Government bring forward new legislation to extend the personal, criminal liability of those who hold the most senior posts in the banks involved where they are found to have been involved in money laundering. (Paragraph 152)

The impact of austerity on drug-related policing

30. Drug-related policing is a vital component of reducing supply and the intelligence aspect, whether it be data on supply routes, the trend in available products or the location of markets, assists not just local police forces but other law enforcement agencies. Following the election of Police and Crime Commissioners, the use of police budgets will be decided with increased community input and local accountability. There is a risk that significant variations in the local approach to drugs could lead to geographical displacement of the drugs trade within the UK. Commissioners will therefore need to be fully briefed on the wider impact of decisions which they might take locally. We recommend that the National Crime Agency submit to every Police and Crime Commissioner and Chief Constable an annual confidential briefing setting out the measures they could take to contribute to disrupting the drugs trade nationally and internationally. (Paragraph 157)

The NCA will lead the fight against serious, organised and complex crime and bring strong coordination to national and international efforts to reduce the supply of drugs – from local to global. For the first time, a single agency will pull together the complete intelligence picture on serious, organised and complex crime and have the authority to coordinate and task the national response, working with the police and other law enforcement agencies.

The NCA will regularly update chief constables on the intelligence picture on serious, organised and complex crime in the course of their work together, including specifically on the drugs threat, and will work with them to identify operational opportunities to tackle it. The NCA will also ensure that PCCs have an overview of the range of serious organised and complex crime, including specifically on the drugs threat, and determine the best format for these updates, working with chief constables and PCCs. However, the Government does not consider it appropriate to mandate the production of a specific annual drugs briefing for PCCs and chief constables along the lines proposed.

Since 2003 the Drug Interventions Programme (DIP) has operated in every local area in England and Wales; in 2011/12 DIP managed 88,000 individuals into drug treatment and recovery services. DIP operates under the umbrella of Integrated Offender Management (IOM). It ceases as a nationally funded and managed programme on 31st March 2013. Over the past decade, Drug Action Teams and some 21 police forces have received central government funding for the implementation of DIP.

From April 2013 it will be for local areas to decide which (if any) interventions they want to utilise to address Class A drug-related offending
in their area. The police provisional funding for 2013-14 (announced on 19th December 2012) included an unringfenced Community Safety Fund (CSF) totalling £90 million for PCCs to address crime, drugs and community safety priorities. 

Local IOM arrangements will help to ensure that locally identified priority offenders do not fall between the gaps. This may mean that more offenders are “in scope” (page 31)

<table>
<thead>
<tr>
<th>31. Police time is always limited and needs to be carefully prioritised to have the most impact. As budgets get tighter going forward this situation will intensify. It is important that Police Commissioners carefully consider how best to target drugs crime in their local area. In particular, we encourage Police Commissioners to ensure they are fully informed about the relative effectiveness of different forms of drug related policing, including cannabis warnings and other forms of diversion work, and to carefully consider the issue of how police time is best prioritised between different kinds of drug-related offences, whether simple possession, acquisitive crime, supply or trafficking. (Paragraph 158)</th>
<th>See 30.</th>
<th>The Government broadly accepts the Committee’s recommendation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>32. Identifying drug-related crime is vital in order to ensure that the right approaches to reduce re-offending are targeted and effective. Drug-dependent offenders are often prolific re-offenders—by identifying their prevalence, the Government and local authorities can make targeted interventions in the community. (Paragraph 163)</td>
<td>See 30.</td>
<td>The Government broadly accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td><strong>New psychoactive substances</strong> 33. The market in new psychoactive substances is changing quickly, too quickly for the current system of temporary banning orders to keep up. Forty-nine new substances were found in Europe last year, a rate of development which makes additional measures critical. At the moment, businesses are legally able to sell these products until such time as they are banned with</td>
<td>We have already taken a range of actions to tackle the supply and reduce demand for NPS, often referred to as ‘legal highs.’ The Committee’s recommendations broadly align and build on the Government’s action plan to tackle NPS. Our approach to tackle NPS mirrors the broader Drug Strategy focus on reducing demand, restricting supply, and establishing risks, harms and enabling recovery. We have taken swift and robust action to tackle this fast</td>
<td>The Government broadly accepts the Committee’s recommendation.</td>
</tr>
</tbody>
</table>
apparently no legal consequences when they lead to death or long-term illness. We recommend that the Government issue guidance to Local Authority trading standards departments, citizens advice bureaux and other interested parties on the action which might be taken under existing trading standards and consumer protection legislation to tackle the sale of these untested substances. A restaurant which gave its diners food poisoning, a garage which left cars in a dangerous state, or a shop which sold dangerously defective goods could all be prosecuted for their negligence. Retailers who sell untested psychoactive substances must be liable for any harm the products they have sold cause. It is unacceptable that retailers should be able to use false descriptions and disclaimers such as “plant food” and “not for human consumption” as a defence where it is clear to all concerned that the substance is being sold for its psychoactive properties and the law should be amended. (Paragraph 170)

moving market that include:

- leading the way internationally on this issue in the UN and EU; and
- enhancing existing and establishing new warning systems to give us real time information on the emergence of NPS to ensure that we have an evidence base for the ACMD to make recommendations.

We are committed to keeping the effectiveness of the legal framework in relation to NPS under review and to looking at new evidence on what works in other countries, including the use elsewhere of different types of legislation.

We continue to assess the scale of the threat to the UK from NPS to improve our understanding of the UK drug market. Whilst not underestimating the nature of the market, counting the number of NPS identified should not be a single barometer to judge the extent of the problem in the UK. The Committee refers to the 49 new substances reported by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in 2011. Only 17 of these have been encountered more than once in the UK by the Forensic Early Warning System, of which 14 are already controlled under the Misuse of Drugs Act 1971.

It is the deployment of generic definitions whereby entire families of drugs are brought under the Misuse of Drugs 1971 Act that has placed the UK in a much stronger and more durable position. Temporary Class Drug Orders are intended to supplement this where a more rapid response is needed for an emerging NPS which is causing sufficient concern about both its harms and increased prevalence, as in the case of methoxetamine.

The government welcomes the Committee’s suggestions about the use of wider legislative options to address the supply of NPS. Following publication of the NPS Action Plan in May 2012 we have already stepped up our response to tackle NPS supply, with SOCA leading a multi-agency working group with the police and Border Force to develop new approaches to identify importers, distributors and sellers of NPS.

Products available to the general public should be safe for their intended purpose. We agree with the Committee that those selling harmful substances should face the force of the law. False and deceptive descriptions and disclaimers should be challenged. Whilst current consumer protection was not specifically designed to deal with NPS or other
substances of misuse, Trading Standards Officers across the UK are exploring the use of criminal law under the General Product Safety Regulations 2005, Consumer Protection from Unfair Trading Regulations 2008, and the use of civil enforcement orders for breach of a duty of care under the Enterprise Act 2002. Our understanding of the circumstances in which this type of legislation can be used effectively to tackle NPS sales continues to be informed by this ongoing work. We are also looking for opportunities across government to encourage consideration of this issue at European Union level as much of our consumer protection legislation implements EU legislation.

The Government will work closely with Trading Standards Services to develop guidance for local areas, and we will encourage the Trading Standards Institute, which now has responsibility for advising on enforcement matters, to ensure that local authorities are aware of the harms of NPS and the tools available to tackle their sale. (page 33)

The effect of having a drugs conviction

34. We believe that former drug users should be encouraged to play an active part in society, and that making it harder for them to find employment is likely to hinder that process, and make it more likely they will be unemployed and supported by the state. We therefore recommend that the Government review the inclusion of convictions for offences of simple possession of a controlled substance (as opposed to offences relating to supply, or any other drug-related crime such as burglary) in CRB checks after they become spent, or after three years, whichever is shorter. The review should, in particular, take account of those areas of employment to which drugs convictions are directly relevant. We also recommend that cannabis warnings be treated as spent immediately. (Paragraph 178)

Enhanced criminal record certificates (which are now available from the Disclosure and Barring Service which took over the role of the Criminal Records Bureau on 1 December 2012) are available to those seeking employment in sensitive positions, often working closely with children or other vulnerable people. One of the elements which these certificates always include is all convictions recorded on the Police National Computer. The Government is carefully considering whether some older and more minor conviction information should continue to be included and is seeking to identify an appropriate and workable filtering mechanism.

While we agree with the Committee that former drug users should play an active part in society and that unreasonable barriers to employment should be removed wherever possible, we cannot address this in isolation from the broader disclosure regime operated by the Disclosure and Barring Service. However, we will keep these specific issues in mind as the work on potential filtering mechanisms continues.

Reducing Demand

Drug use remains at its lowest levels since measurement began in 1996. We will continue to do all we can to prevent people from using drugs in the first place and intervene early with those who start to develop problems. We are investing in a range of programmes which have a positive impact on vulnerable young people, giving them the confidence, resilience and risk

The Government broadly accepts the Committee’s recommendation.
management skills to resist drug use. The Drug Strategy sets out how we aim to prevent drug use and reduce demand for drugs not just for children and young people but across the age range. PHE will also have a clear role in achieving demand reduction objectives both at a national and local level. We have taken action to reduce demand and explore effective demand reduction practice. We have:

- re-launched FRANK to support young people, as well as parents, carers and others, by providing confidential, accurate and impartial information and advice about the risks and harms associated with drug use;
- issued revised, simplified guidance for schools on preventing drug and alcohol misuse;
- funded the Family Nurse Partnerships programme which has shown that parents involved in the scheme are reducing smoking in pregnancy; are more likely to breastfeed; have aspirations for the future; are taking up employment and education; are more confident as parents; and are learning how to maintain a good standard of care for their babies. Family Nurse Partnerships have also been very successful in engaging fathers.
- we have also, through the Centre for Analysis of Youth Transitions, set up a database of validated programme evaluations which support those commissioning and delivering to choose evidence-based programmes known to have an impact;
- begun the procurement of a new evidence-based drug and alcohol information and advice service for practitioners who work with young people;
- set up the Early Intervention Foundation, which will support the needs of commissioners in implementing early intervention programmes and practice in their local areas. It will be a central point to help local commissioners make decisions based on robust evidence of cost, benefits, risks and project outcomes; and
- developed the Choices programme which is focused on preventing substance misuse and related offending amongst vulnerable groups of young people aged 10-19. The programme received funding of £4m in 2011/12 and engaged over 10,000 vulnerable young people.

In addition to this, 95% of all local authorities have local joint working protocols in place between substance misuse and children and family services. (page 22)
### Cross-Departmental strategy

35. Tackling drug use touches on issues of criminal justice, social justice, education, health and local authorities, which is why the formation of an Inter-Ministerial Group to coordinate Government policy on the subject makes sense. However, as with any other cross-departmental challenge, driving through reform requires clear, senior leadership. Our recommendation for the Home Secretary and the Secretary of State for Health to take joint overall responsibility for drugs policy will help to strengthen inter-departmental cooperation, with a focus on prevention and public health. (Paragraph 183)

See 15.

### Availability of drugs in Prisons

36. We accept that prisons cannot be hermetically sealed and that it will never be possible to eradicate completely the availability of drugs within prisons. However, the fact that almost a quarter of prisoners surveyed found it easy to get drugs in prison is deeply disturbing. The methods of reducing supply are only effective if they are implemented as intended. We recommend that the National Offender Management Service ensure that measures such as the installation of netting to stop 'throw-over' packages, regular cell searches and regular drug tests based on suspicion are put into operation. (Paragraph 188)

We are renewing our efforts to disrupt the trafficking of drugs into prisons and the activity of organised criminals coordinating the trafficking of drugs from prisons. Recent years have seen a significant decrease in the numbers of prisoners testing positive for drugs.

We are committed to creating drug free environments in prison and are therefore increasing the number of drug free wings, where increased security measures prevent access to drugs. But the cost and regime implications of these measures have to be part of the picture.

We have strengthened our intelligence capability to improve the range, quality and security of the intelligence collated about prisoners and their known criminal associates. We will also deploy signal denial technology in prisons, to disrupt prisoners' use of illicit mobile phones.

We agree with the Committee that these measures are important and are committed to provide them where they are appropriate and represent good value for money. It is, however, for Governors and Deputy Directors of Custody to determine which security measures are most appropriate, and are affordable, depending on the specific physical layout and design and security risks at each prison. (page 33)

The Government accepts the Committee's recommendation.

### 37. We commend the work taking place on the drug recovery wings and the drug free wings in certain prisons. The examples that we saw of both were inspiring. If the evaluation of the pilots shows them to

See 40.

The Government partially accepts the recommendation on the basis that, if resources permit and the evaluation clearly shows that wings where prisoners are
be successful, we recommend that they be rolled out nationwide as a matter of priority. We also recommend that the Government ensure that they remain fully funded. The matter of the lack of funding for voluntary drug testing in HMP Brixton's drug recovery wing is worrying and we ask that the Justice Secretary reassure us that such a vital strand of the recovery programme remains funded. (Paragraph 201)

38. There is some very impressive work happening in some prisons at present with innovative approaches being formulated in regards to treatment and managing the transition of release but this is not the standard and there is considerable scope to spread best practice (Paragraph 202)

39. Treatment in prisons, just like treatment outside prisons, should be tailored to the individual. Some people will be able to enter abstinence programs, and should be encouraged to do so. For others, such as those who are already being maintained on methadone, prescription alternatives may be the best option, and should be made available. (Paragraph 205)

Lack of reliable data
40. Producing an evidence base of effective interventions is one of the most vital building blocks of drugs policy. We recommend that the Ministry of Justice introduce mandatory drug-testing for all prisoners arriving at and leaving prison whether on conviction, transfer or release. Tests should be carried out for both illegal and prescription drugs. This should be in addition to the existing random testing regime, the principal purpose of which is deterrence. The information obtained from such a test would be very valuable in evaluating the effectiveness of the current systems in place and identifying those prisons which have a serious problem. Prisons are a key point in the cycle of drug addiction and if addicted offenders can be got off drugs, the monetary and societal benefits would

The Government is committed to stopping drugs entering prisons and to getting offenders off drugs. Fewer prisoners are testing positive for drugs than at any time since 1996 – around 7% of prisoners test positive for drug misuse once they are in custody – but there is more to do. The Ministry of Justice and Department of Health are working closely with service providers to create integrated, recovery orientated and outcome focused services. However, mandatory drug testing for all offenders on entry to and release from prison is not the answer.

Knowledge of a test on release may lead prisoners to avoid a positive test through remaining abstinent for that period only. Offenders can also considerably reduce their levels of drug misuse once in custody. Drug testing on release is therefore not a reliable indicator for representing need for treatment and support on release. In addition to this, the application to ‘all prisoners’ would mean carrying out a number of unnecessary tests on prisoners that are unlikely to have a substance misuse issue.

abstinent from drugs are successful, it will extend the programme to prisons where there is operational benefit in doing so.

See 40.

General observation: no specific recommendation.

See 40.

General observation: no specific recommendation.

Rejected.
Investing in costly and comprehensive drug testing programmes on entry and release would be an additional funding and resource burden, with a risk of funds being diverted from treatment provision to bear the costs, without being clear of the benefits that would ensue over and above existing random testing arrangements. We therefore reject the view to introduce mandatory drug testing for all offenders on entry to and release from prison.

The Department of Health has commissioned an independent evaluation of the drug recovery wing pilots programme in prisons, which aims to assess whether or not the drug recovery wing approach is successful. The evaluation evidence will help inform future commissioning strategies. Lessons learned and best practice identified during the pilot phase will also be shared. Whilst we are supportive, it will be for local NHS commissioners and partnerships to decide whether to resource drug recovery wings in the future, and in doing so they will need to balance the risk of funds being diverted from direct treatment provision in order to meet these costs. We partially accept recommendation 37 on the basis that, if resources permit and the evaluation clearly shows that wings where prisoners are abstinent from drugs are successful, we will extend the programme to prisons where there is operational benefit in doing so.

We agree that continuity of care is vital and the Justice Secretary has made clear his desire to see a far greater use of mentors meeting offenders at the prison gate on their release. The Transforming Rehabilitation consultation, which closed on February 22nd, set out plans to change the way we manage and rehabilitate offenders in the community, opening up rehabilitative services to a wide range of new providers in the private and voluntary sectors who will bring their creativity and innovation and be paid by results to drive down reoffending. This includes tackling offenders’ broader life management issues, connecting offenders to mental health, and drug and alcohol treatment programmes. Our proposals should help bridge the gap between prison and the community and improve through the gate services. We partially accept recommendation 41 on that basis. However, we do not accept that connecting prisoners to treatment on release should be related to drug testing on release.

### Recommendation 41

Release from prison is a critical intervention point in the cycle of addiction and reoffending. We welcome the Justice Secretary’s recent announcement that prisoners will be “met at the prison gate” by mentors.
who can help them to settle back into the community. Successful rehabilitation is a challenging outcome to achieve, but it is worth investing the resources necessary to ensure that those leaving prison have the care and support they need in the community, including suitable and stable housing, to provide them with the best possible chance of a long-term recovery. Under the our recommended regime of universal drug testing on release, those who test positive—however long they have served—should be automatically referred to the appropriate community drug rehabilitation service. Given the importance of this point of critical intervention, we intend to return to this issue in the near future to assess whether there has been an improvement following the implementation of the Justice Secretary’s policy. (Paragraph 212)

<table>
<thead>
<tr>
<th>Decriminalisation and Legalisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>42. We were impressed by what we saw of the Portuguese depenalised system. It had clearly reduced public concern about drug use in that country, and was supported by all political parties and the police. The current political debate in Portugal is about how treatment is funded and its governance structures, not about depenalisation itself. Although it is not certain that the Portuguese experience could be replicated in the UK, given societal differences, we believe this is a model that merits significantly closer consideration. (Paragraph 243)</td>
</tr>
</tbody>
</table>

We respect the ongoing debate on the merits of different policies and approaches to tackle the global drugs problem. The UK co-sponsored the resolution on “International cooperation against the world drug problem” at the United Nations General Assembly in December 2012. We will be an active participant in the review of the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem in 2014.

We remain open to the consideration of new evidence, learning from emerging trends and will continue to assess all available evidence on the different approaches to drug policy. The UK is a leading voice in the international community with regard to drug policy and we actively participate in strategy and policy development at the EU, UN and in our engagement with a considerable number of bilateral partners. The UK continues to discuss efforts to tackle the drugs trade with our international partners.

The coalition government has no intention of decriminalising drugs. It is of course important that any debate on alternative approaches should be focussed on clear evidence and analysis. As part of our commitment to this approach, the Minister of State for Crime Prevention, who Chairs the Inter Ministerial Group on Drugs, will lead a review to look at a number of countries that cover a spectrum of approaches to drug policy, and assess their effectiveness in cutting drug use and reducing harm to individuals and
communities. The review will look at best practice as well as different legal responses to new psychoactive substances. The Minister will also lead some fact-finding visits overseas. The Terms of Reference are at Annex A.

We expect to find examples of good practice that might be considered in the UK context but it is important to note that there is no internationally agreed definition of “decriminalisation” and the application of such an approach is dependent upon the legal framework in the country concerned. Equally, we are aware of examples of good practice here in which other countries are interested. (page 9)

43. Following the legalisation of marijuana in the states of Washington and Colorado and the proposed state monopoly of cannabis production and sale in Uruguay, we recommend that the Government fund a detailed research project to monitor the effects of each legalisation system to measure the effectiveness of each and the overall costs and benefits of cannabis legalisation. (Paragraph 248)

See 42.

The Government accepts the Committee's recommendation.

Implications of discussing drugs policy – politics and the media

44. Drugs policy ought to be evidence-based as much as possible but we acknowledge that there is an absence of reliable data in some areas. We therefore recommend that the Government allocated ring fenced funding to drugs policy research going forward. Such a funding stream would most appropriately sit with the Medical Health and Research Council so that the evidence base for prevention and recovery aims of the Drugs Strategy can be strengthened, although cross disciplinary applications in this area will be vital. (Paragraph 257)

The Government welcomes the Committee's focus on evidence and data and has mechanisms in place to address current policy research needs. There are a variety of funding routes for drug research and data collection, reflecting the different types and level of evidence required to support drug policy and advance the evidence base on enforcement, prevention, treatment and recovery. We do not, however, accept the need for allocated ring-fenced funding to drugs policy research. In general, we believe that individual departments are in the best position to identify and take responsibility for gathering the evidence needed to inform their policies, drawing on the specific expertise found in departments and their stakeholders.

The professional analytical community in government also has an important role to play, either through undertaking or commissioning new evidence synthesis or research, or through encouraging the engagement and participation of external bodies such as the research councils and expert academics. For example, the Department of Health’s Policy Research Programme (PRP) has a remit to commission and fund high quality policy research to meet the needs of Ministers and policymakers for research evidence, including evidence relating to drug misuse. The PRP works in close collaboration with other government departments, the research councils and...
other funding bodies to identify and meet priority needs for policy research on drug misuse – including those relating to prevention and recovery – to ensure best value for public money and avoid duplication.

The cross-government Drug Strategy Research Group has also been established to strengthen the coordination of drug research. It brings together analysts from all relevant departments to ensure that knowledge is shared and priorities are coordinated across policy areas. The ACMD and Medical Research Council (MRC) also sit on this group.

In addition, the MRC, in partnership with the Economic and Social Research Council (ESRC), already fund a strategy for addiction and substance misuse research. The strategy funds cross-discipline research to address the biological, medical, social and economic aspects of addiction. The overall budget for this initiative is £6.5 million made available by the MRC and the ESRC. The strategy has so far involved three calls for funding and resulted in thirteen grants being awarded. Further funds may become available. A number of key stakeholders are engaged in ongoing consultation including relevant government departments, the ACMD and research charities. The involvement of stakeholders is crucial to establish research priorities and ensure the pull-through of results into policy and practice.

At a European level the newly founded European Research Area Network on Illicit Drugs, of which the UK is a participant, has been set up to stimulate cross national research cooperation. The requirements for evidence gathering or synthesis vary substantially across different areas of government drug policy, many of which sit outside of the ACMD’s core remit of providing advice on the control of drugs under the Misuse of Drugs Act 1971.

The ACMD continues to carry out extensive evidence gathering exercises as part of its inquiries into the misuse and harms of drugs. While the ACMD is not, nor is expected to be, a research commissioning body, it influences the areas in which new research is undertaken through its recommendations that can be directed to both research councils and government departments (for example, research in the field of new psychoactive substances). In addition, the ACMD is also be responsive to the changing requirements of government where appropriate, for example by instituting its new expert group on recovery, which has been assessing the evidence in this area. (page 11)

45. We recommend that the responsible minister from See 42.
the Department of Health and the responsible minister from the Home Office together visit Portugal in order to examine its system of depenalisation and emphasis on treatment. (Paragraph 258)

46. As our predecessor Committee supported in their 2002 report, we recommend that the Government initiate a discussion within the Commission on Narcotic Drugs of alternative ways—including the possibility of legalisation and regulation—to tackle the global drugs dilemma. (Paragraph 259)

See 42.

47. We welcome the Government’s efforts to make clear its commitment to reducing drug misuse and tackling the consequences of drug misuse. We also recommend that the Government instigate a public debate on all of the alternatives to the current drugs policy, as part of the Royal Commission (see paragraph 132). (Paragraph 260)

See 26.

48. We have made a number of recommendations regarding the need for further evidence gathering. We believe that this would be most effective if it were coordinated through one body. The appropriate body to do this would, in our view, be the Advisory Council on the Misuse of Drugs, which is already tasked with advising the Home Secretary on classification decisions. It is logical that the body which is responsible for formulating scientific advice to ministers should also have a role to play in coordinating the gathering of scientific evidence on the subject. (Paragraph 261)

See 44.
<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Introduction**  
1. New powers are required for the Commission to examine events that took place before it was created. We support the Government’s intention to grant those powers with all haste, in the form of the Police (Complaints and Conduct) Bill. (Paragraph 1) | The Government welcomes, and is grateful for, the support of the Committee on this issue. (page 16) | Police (Complaints and Conduct) Act 2012. |
| **The fast-track legislation**  
2. It is right that the Independent Police Complaints Commission should have a major role in the investigation of the Hillsborough disaster, to ensure that the forces involved are not responsible for investigating themselves. Our evidence on the Hillsborough disaster and the Commission highlighted gaps in the Commission’s powers to investigate old cases and to call officers to interview. We therefore welcome the Bill. (Paragraph 4) | The Police (Complaints and Conduct) Regulations 2013, setting out the practical arrangements for requiring attendance by a serving officer to an IPCC interview as a witness, were laid in Parliament on 14 February 2013. (page18) | Police (Complaints and Conduct) Regulations 2013. |
| 3. The use of fast-track legislation is entirely proportionate in this case. We do note, however, that Clause 1(2) creates a new power for the Secretary of State to make provisions for officers to be required to attend an interview by secondary legislation, subject to negative procedure. It is right to deal with these detailed provisions by Regulations. (Paragraph 5) |  | 

| Clause 2: old cases  
4. Considerable investigation of this matter has already taken place and the Commission must build on that work, rather than starting again at the beginning. Furthermore, other agencies such as the Crown Prosecution Service and coroners courts will also be undertaking an investigative role and it is vital that an... | As stated in the Home Secretary’s Written Ministerial Statement to Parliament of 19 December 2012, it is not possible to appoint a single lead investigator unless that person is a police officer. Given that a previous police investigation into the Hillsborough disaster has failed already, the Government also does not consider that it is appropriate for the police to be solely responsible for investigating the actions of the police again in this case. It is right that the investigation of the police in this case should be undertaken by the IPCC. | Rejected. |
appropriate division of labour is decided quickly to avoid needless duplication of effort and unnecessary delay. We recommend that a single, lead investigator should be identified, with a remit to ensure effective working relationships between the IPCC, CPS and other agencies involved in the investigation. (Paragraph 9)

5. The Commission should work with the Crown Prosecution Service to identify new lines of inquiry that need to be pursued in order to bring any criminal charges or disciplinary proceedings that may be necessary. The Home Secretary should take a coordinating role and publish a plan for action, including a realistic timetable for the completion of these investigations, in consultation with the families and the investigating agencies, particularly the Director of Public Prosecutions. (Paragraph 10)

Clause 1: interviews of persons serving with police etc:

6. At the moment, a police officer could be required to attend an IPCC interview if misconduct is alleged—even for relatively minor matters such as speeding offences— but not if he or she is involved in or witnesses a death or serious injury. It is crucial for public confidence, and for quick and effective investigations, that officers can be compelled to give evidence as witnesses where necessary. We support the principle of Clause 1 and emphasise that it reflects a much wider source of dissatisfaction with the IPCC than the Hillsborough case alone. (Paragraph 14)

7. We welcome the consultations made with chief officers by the Government for this fast-track legislation even though the concerns our witnesses raised have not all been accepted. (Paragraph 18)

8. As only an interview under caution provides officers with the appropriate safeguards in circumstances where there may be criminal or misconduct

<table>
<thead>
<tr>
<th>Clause 1: interviews of persons serving with police etc:</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. At the moment, a police officer could be required to attend an IPCC interview if misconduct is alleged—even for relatively minor matters such as speeding offences— but not if he or she is involved in or witnesses a death or serious injury. It is crucial for public confidence, and for quick and effective investigations, that officers can be compelled to give evidence as witnesses where necessary. We support the principle of Clause 1 and emphasise that it reflects a much wider source of dissatisfaction with the IPCC than the Hillsborough case alone. (Paragraph 14)</td>
</tr>
<tr>
<td>See 3.</td>
</tr>
</tbody>
</table>

The Government accepts the Committee’s recommendation.

The Government takes note of this point. These concerns were considered as part of the process of developing the legislation and the associated regulations. (page 18)

The Government accepts the Committee’s recommendation.

The Police (Complaints and Conduct) Act 2012 and associated Police (Complaints and Conduct) Regulations 2013 relate to IPCC interviews with officers acting in the capacity of witness. As such, the interviews provided for under this legislation do not require a caution. (page 18)

The Government accepts the Committee’s recommendation.

<table>
<thead>
<tr>
<th>Though there are two independent investigations, both will be based in the same office and working together on various parts of the investigation. (page 16)</th>
</tr>
</thead>
<tbody>
<tr>
<td>As stated in the Home Secretary's Written Ministerial Statement to Parliament of 19 December 2012, she will lead in Government on the co-ordination of this work. This process will be supported by the Home Office, who will bring together the individuals and organisations responsible for this work on a regular basis. The Government understands the urgency for completing the investigations, and will provide appropriate challenge to the IPCC on this, but it is also important that these investigations are not rushed. There is a significant amount of material that requires analysis to ensure that, if there are prosecutions, they are based on the most thorough examination of all the evidence available to the prosecution and the defence. (page 17)</td>
</tr>
<tr>
<td>The Government will emphasise the need for new lines of inquiry to be pursued without unnecessary delay.</td>
</tr>
</tbody>
</table>

The Government accepts the Committee’s recommendation.
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
<th>Government's Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>The IPCC is the appropriate body to take the lead in the investigation into the Hillsborough disaster and should be empowered to do so with all haste. The use of fast-track legislation is fully justified in this case: the Hillsborough families have already waited 23 years for a proper investigation. (Paragraph 25)</td>
<td>The Government welcomes, and is grateful for, the support of the Committee on this issue. (page 19)</td>
</tr>
<tr>
<td>10.</td>
<td>The prospect that any professional might refuse to answer basic questions about their conduct or actions and how they have lived up to recognised professional standards—especially in cases that may involve criminality—is totally unacceptable. We note that refusal to attend an interview may result in misconduct or gross misconduct proceedings, but that there is no sanction for refusal to answer questions. We expect that chief constables will indicate to their forces that such uncooperative behaviour would be considered to be at odds with the spirit of professional duty. (Paragraph 26)</td>
<td>The Government agrees with this recommendation. (page 19)</td>
</tr>
<tr>
<td>11.</td>
<td>The IPCC should commit to a more rigorous interpretation of the threshold set out in the Police Reform Act so that it becomes the norm that officers are interviewed under caution in the most serious cases—in exactly the same way that members of the public would be. If, after six months, the Commission could not demonstrate a change in practice to the Government then it should consider a legislative remedy, by reforming the threshold established in the Police Reform Act 2002. (Paragraph 27)</td>
<td>The Government does not agree that the threshold test for special requirements needs to be revised at this stage. The current test has a low threshold – requiring only an indication that a person may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings. The Government will, however, discuss with the IPCC whether more needs to be done to ensure the test is being applied as it should be. (page 19)</td>
</tr>
<tr>
<td>12.</td>
<td>Given the passage of time since the Hillsborough Disaster, it is likely than many of the officers who were</td>
<td>The IPCC were clear that in order to investigate Hillsborough, they only required the witness attendance power in relation to serving officers. Given</td>
</tr>
</tbody>
</table>
directly involved will by now have retired from the force. The Bill does not provide for former officers to be required to attend an interview and there is the risk that the lack of power to require former officers to attend may hamper the investigation. The Government should monitor this situation closely. (Paragraph 28)

<table>
<thead>
<tr>
<th>13. We recommend that the House support this bill in its expedited consideration, subject to assurances from the Government that the weaknesses we have highlighted will be addressed, both for the pursuit of justice for the Hillsborough families and for the future effectiveness of the IPCC. (Paragraph 29)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Government accepts the Committee’s recommendations.</td>
</tr>
</tbody>
</table>
### Eleventh Report, Independent Police Complaints Commission (HC 494), published 1 February 2013

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Introduction</strong>&lt;br&gt;1. Police officers are warranted with powers that can strip people of their liberty, their money and even their lives and it is vital that the public have confidence that those powers are not abused. In this report, we conclude that the Independent Police Complaints Commission is not yet capable of delivering the kind of powerful, objective scrutiny that is needed to inspire that confidence. (Paragraph 4)</td>
<td></td>
<td>Conclusion and statement of fact: no recommendation for the Government to respond to.</td>
</tr>
<tr>
<td>2. Compared with the might of the 43 police forces in England and Wales, the IPCC is woefully underequipped and hamstrung in achieving its original objectives. It has neither the powers nor the resources that it needs to get to the truth when the integrity of the police is in doubt. Smaller even than the Professional Standards Department of the Metropolitan Police, the Commission is not even first among equals, yet it is meant to be the backstop of the system. It lacks the investigative resources necessary to get to the truth; police forces are too often left to investigate themselves; and the voice of the IPCC does not have binding authority. The Commission must bring the police complaints system up to scratch and the Government must give it the powers that it needs to do so. (Paragraph 5)</td>
<td></td>
<td>Conclusion and statement of fact: no recommendation for the Government to respond to.</td>
</tr>
<tr>
<td><strong>The basis of mistrust</strong>&lt;br&gt;3. The public do not fully trust the IPCC and without faith in the Commission, the damaged public opinion of the police cannot be restored. Unfortunately, too often the work of the Commission seems to exacerbate public mistrust, rather than mend it. (Paragraph 15)</td>
<td>The Government agrees that public confidence in the IPCC and the police complaints system more broadly is vital to improving public confidence in the police. The Government therefore welcomes the work that the IPCC are doing to enhance their oversight role of the complaints system and renew their external communications strategy to ensure the positive outcomes of its work are communicated effectively. In this context the Government also welcomes the work IPCC have done to clarify the roles and responsibilities between forces and the IPCC on communications in the aftermath of a death or serious injury</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td>4. The independence and oversight offered by Commissioners is at the heart of the role of the IPCC. It is wrong that their day-to-day work is frequently far removed from the cases being investigated. Commissioners should be given a more active role in overseeing major cases and take personal responsibility for ensuring that a clear process and timetable is laid out for anyone involved in a complaint or an appeal. (Paragraph 16)</td>
<td>All independent and managed IPCC investigations, into the most serious matters, are overseen by an IPCC Commissioner and the Government considers this to be a practical and proportionate way of ensuring that the most serious cases receive scrutiny by Commissioners. By law IPCC Commissioners cannot ever have served with the police. The Government agrees, however, that where it is practical to do so, the IPCC oversight role played by Commissioners should be increased. Whether this extends to the process and timetable for dealing with complaints and appeals is, in the Government’s view, a matter for the IPCC to consider as part of their statutory obligation to increase public confidence in the police complaints system. (page 3)</td>
<td>The Government agrees that, where it is practical to do so, the IPCC oversight role played by Commissioners should be increased. The Government states that whether this extends to the process and timetable for dealing with complaints and appeals is a matter for the IPCC to consider.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>The IPCC’s ability to get to the truth</td>
<td>Recognising that public confidence is greatest when it carries out independent investigations, the IPCC has increased the number of independent investigations in recent years. It now conducts three times more independent investigations compared with 2004-05.</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td>5. More cases should be investigated independently by the Commission, instead of referred back to the original force on a complaints roundabout. “Supervised investigations” do not offer rigorous oversight of a police investigation, nor do they necessarily give the public a convincing assurance that the investigation will be conducted objectively. This kind of “oversight-lite” is no better than a placebo. (Paragraph 23)</td>
<td>The Government agrees that the IPCC should be able to reach and take control of a potential crime scene quickly following a death and serious injury involving police officers. The current IPCC arrangements mean that there is always at least one Commissioner and investigators in every region who are on call. The IPCC has launched a review into how it deals with deaths in custody and deaths following police contact, where Article 2 of the European Convention on Human Rights is engaged. As part of this review the IPCC will want to consider whether their current arrangements for quickly reaching the scene of a death or serious injury are sufficient. (page 4)</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td>6. The IPCC owes it to the families of those who die in cases involving the police to get to the truth of the matter—a botched job is an offence to all concerned. When the IPCC does investigate it often comes too late and takes too long. The trail is left to go cold. IPCC investigators should be able to take immediate control of a potential crime scene during the crucial “golden hours” and early days of an investigation into deaths and serious injury involving police officers. (Paragraph 24)</td>
<td>The Government agrees that the IPCC should be able to reach and take control of a potential crime scene quickly following a death and serious injury involving police officers. The current IPCC arrangements mean that there is always at least one Commissioner and investigators in every region who are on call. The IPCC has launched a review in to how it deals with deaths in custody and deaths following police contact, where Article 2 of the European Convention on Human Rights is engaged. As part of this review the IPCC will want to consider whether their current arrangements for quickly reaching the scene of a death or serious injury are sufficient. (page 4)</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
<tr>
<td>The IPCC can’t afford to do more</td>
<td>The IPCC has put in place arrangements to clear the backlog and reduce delays in relation to reviewing complaints and processing appeals. In conjunction with this the Government has provided the IPCC with additional resources to pay for temporary staff to address the appeals backlog.</td>
<td>The Government accepts the Committee’s recommendation.</td>
</tr>
</tbody>
</table>
and meet public expectations, to the extent that a backlog of appeals is now building up. We recognise that it will not be easy to find significant additional resources. We recommend that the Home Office work with the Commission to identify innovative ways in which the backlog might be cleared, for example by using temporary secondments of staff from other public authorities with relevant expertise, such as the Parliamentary Commissioner for Administration or HM Inspectorate of Constabulary. More robust procedures should be put in place at the permission stage of appeals in order to filter out more minor cases in order to allow the IPCC to focus on the most serious. (Paragraph 32)

Through the Police Reform and Social Responsibility Act 2011 the Home Office introduced changes that have given police forces additional discretion to deal with low level complaints, which will free up the IPCC to deal with the most serious and high profile complaints. (page 4)

The Government agrees that the IPCC’s capacity to deal with the most serious cases needs to be increased. That is why the Home Secretary announced on 12 February the intention to expand the IPCC so that it has the capacity and capability to deal with all serious and sensitive allegations made against the police.

The Government keeps the IPCC’s resources under continuous review and a system is already in place to ensure that where the IPCC needs additional resources to investigate a particularly serious case then the Home Office will consider the IPCC’s request. (page 5)

The Government broadly accepts the Committee’s recommendation.

8. Important cases are under-investigated because of a lack of access to independent specialists. The Home Office should provide the IPCC with a specific budget for a serious cases response team. The resources within individual forces for investigating complaints dwarf the resources of the Commission. It is notable that the IPCC is smaller than the complaints department of the Metropolitan Police alone. In the most serious cases, therefore, there should be a system for transfer of funds from individual forces to the IPCC to cover an investigation. This model is already in place for the IPCC’s investigations into HMRC and UKBA. (Paragraph 33)

The Government agrees that the IPCC’s capacity to deal with the most serious cases needs to be increased. That is why the Home Secretary announced on 12 February the intention to expand the IPCC so that it has the capacity and capability to deal with all serious and sensitive allegations made against the police.

The Government keeps the IPCC’s resources under continuous review and a system is already in place to ensure that where the IPCC needs additional resources to investigate a particularly serious case then the Home Office will consider the IPCC’s request. (page 5)

The Government broadly accepts the Committee’s recommendation.

9. Applying non-discriminatory practices is crucial as a disproportionate number of the cases that cause the most serious public concern involve the black and minority ethnic (BME) communities. All Commissioners, investigators and caseworkers should be trained in discrimination awareness and relevant law, including all the protected characteristics under the Equality Act 2010. Again, leadership in this respect should come from Commissioners themselves, of whom three of thirteen will be from BME communities when the new Commissioners take up office. (Paragraph 35)

The Government agrees that the IPCC should ensure training for IPCC Commissioners and staff adequately addresses equalities issues. (page 6)

The Government accepts the Committee’s recommendation.
Rt Hon Andrew Mitchell MP

10. Public confidence in the police has been shaken: Operation Yewtree, Operation Alice, the Hillsborough Inquiry, Operation Elveden and Operation Pallial all cast doubt on police integrity and competence. It is in these circumstances that the public ought to be able to turn to the IPCC to investigate and we believe that the Commission ought to have a more prominent role in each of these operations. (Paragraph 42)

The IPCC is independent of Government, complainants and the police, and it is for the IPCC to determine the most appropriate form of investigation in individual cases in accordance with the legislation. It would not be appropriate for the Government to interfere or comment on IPCC’s operational decision making in individual cases. (page 6)

11. Some kinds of complaint are simply not appropriate for Police Complaints Departments to investigate themselves. Cases involving serious corruption, such as tampering with evidence, should be automatically referred to the IPCC for independent investigation. The Government has committed itself to provide more resources for the IPCC to investigate the Hillsborough disaster. Once that investigation is complete, that funding should be maintained and dedicated to anticorruption cases. (Paragraph 43)

The IPCC has recently published new statutory guidance containing a new definition of serious corruption and has written to police forces making clear its expectations for referrals. Any officer alleged to have committed serious corruption must by law be referred to the IPCC for investigation straight away. The proposal announced on 12 February to expand the IPCC will ensure it has the capacity and capability to deal with all serious and sensitive cases.

The Government takes any allegation of unlawful or inappropriate behaviour by police officers very seriously. Such allegations can undermine public confidence in the police, which is vital to the effectiveness of the British model of policing, with its reliance on policing by consent. This is why for the forthcoming financial year (2013-2014) the Home Secretary has agreed to provide an additional £2 million to the IPCC to allow it to increase its capacity to investigate police corruption. (page 6)

The Government accepts the Committee’s recommendation.

12. Allegations following the altercation between Rt Hon Andrew Mitchell MP and police officers raise fundamental questions about police honesty and integrity. The alleged unauthorised disclosure of information to the press on the night of 19 September 2012 and the alleged fabrication of an eye-witness account on Thursday 20 September 2012 are extremely serious; if officers could do this in a case involving the protection of the Prime Minister’s own home, it raises the question how often might this be happening outside the gaze of the national media. As Mr Mitchell said, “if this can happen to a senior government minister, then what chance would a youth in Brixton or Handsworth have?”. (Paragraph 44)

The IPCC is independent of Government, complainants and the police, and it is for the IPCC to determine the most appropriate form of investigation in individual cases in accordance with the legislation. It would not be appropriate for the Government to interfere with or comment on IPCC’s operational decision making in individual cases. (page 7)

Conclusion and statement of fact: no recommendation for the Government to respond to.
13. We support the Commissioner’s “relentless pursuit of the truth” in this matter and believe that the West Midlands Police Federation were wrong in calling for the resignation of a cabinet minister. However, it was clearly hasty of the Commissioner to tell the media that he was 100% behind his officers and to say to Rt Hon David Davis MP that the investigation had been closed when it had not been investigated with any rigour. (Paragraph 45)

14. We note the Commissioner’s intention to ask another force to independently review the investigations underway in Operation Alice—while this is a welcome safeguard, it is no substitute for independent investigation by the IPCC. The IPCC should investigate this case independently and the Government should additional provide funds, if necessary, as it has for Hillsborough. (Paragraph 46)

Redirecting the Commission’s work

15. Mediation and restorative justice present rich avenues for improving the handling of police complaints. The Commission should set out best practice protocols for their use in appropriate cases and the use of informal or local resolution systems should be independently monitored to ensure that it is not used inappropriately in relation to conduct that would justify criminal or disciplinary proceedings. (Paragraph 49)

Police complaints statistics

16. The root of the problem is that the front line of the police complaints system is not working. It is unacceptable that Police Standards Departments had made the wrong decision in 38% of appeals. The number of appeal upheld varies wildly from force to force, as does the proportion of appeals upheld by the IPCC and Police and Crime Commissioners must take decisive action where a force is shown to be failing. The Commission’s robust handling of appeals is welcome,

See 12.

Conclusion and statement of fact: no recommendation for the Government to respond to.

See 12.

Rejected.

The Government agrees with this recommendation and will be holding further discussions with the IPCC about what more might be done to encourage such approaches. (page 8)

The Government accepts the Committee’s recommendation.

The Government agrees with this recommendation. As part of their role in holding Chief Officers to account it is important that Police and Crime Commissioners ensure that arrangements for dealing with complaints within their force are effective including in relation to appeals. Under the Police Reform and Social Responsibility Act 2011 Police and Crime Commissioners have the ability to direct a Chief Officer to deal with a complaint in accordance with the legislation if they have not complied with their obligations. (page 8)

The Government accepts the Committee’s recommendation.
but it is costly. Far more effort should be made to ensure that correct decisions are made in the first instance at the level of individual forces. We have written to each chief constable to ask for the staff complement and budget of their Professional Standards Departments. (Paragraph 60)

17. Where a threshold of 25% of appeals are upheld, the Commission must demand a written explanation from Chief Constables and Police and Crime Commissioners, which should be followed by a six month probation period. After that time, if the proportion of appeals upheld is not reduced below the threshold, a “complaints competency investigation” must be held into the reasons for the inaccuracy of decisions made at the local level. This should involve a joint report by the IPCC, HMIC and the local Police and Crime Commissioner, which would lead to proposals that would be binding on Chief Constables. If applied now, these measures would affect all but four forces. (Paragraph 61)

Learning the lessons: giving the IPCC authority

18. It is a basic failing in the system that there is no requirement for forces to respond to recommendations from the IPCC, still less to implement them. We recommend that the Commission be given a statutory power to require a force to respond to its findings. In the most serious cases, the Commission should instigate a “year on review” to ensure that its recommendations have been properly carried out. Any failure to do so would result in an investigation by HMIC and the local Police and Crime Commissioner, as a professional conduct matter relating to the Chief Constable. (Paragraph 69)

A second home for police officers

19. If the Commission’s primary statutory purpose is to increase public confidence, then it must act to rectify the impression that the police are investigating the.

<table>
<thead>
<tr>
<th>Learning the lessons: giving the IPCC authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>18. It is a basic failing in the system that there is no requirement for forces to respond to recommendations from the IPCC, still less to implement them. We recommend that the Commission be given a statutory power to require a force to respond to its findings. In the most serious cases, the Commission should instigate a “year on review” to ensure that its recommendations have been properly carried out. Any failure to do so would result in an investigation by HMIC and the local Police and Crime Commissioner, as a professional conduct matter relating to the Chief Constable. (Paragraph 69)</td>
</tr>
</tbody>
</table>

| The Government agrees that the IPCC should consider how its oversight role can be strengthened. The Home Office has provided the IPCC with £0.4million for 2013-14 to conduct a review of how to improve its oversight role. The IPCC should consider the Committee’s recommended approach to improving police force performance on appeals as part of this review. (Page 9) |

| The Government accepts the Committee’s recommendation. |

| The Government is considering the responses to a consultation on the implementation of a framework to ensure a response to IPCC recommendations. |

| Approximately 90% of IPCC staff come from non-policing backgrounds. Those that do have a policing background provide experience and expertise that allow the IPCC to conduct competent and robust investigations. All IPCC investigators, irrespective of background, undertake a tailored and externally |

<p>| Rejected. |</p>
<table>
<thead>
<tr>
<th>Paragraph 78</th>
<th></th>
<th>Paragraph 79</th>
</tr>
</thead>
<tbody>
<tr>
<td>police. The Commission must improve its in-house investigative resources and move to a target of 20% of investigators who have moved directly from a career as a police officer, or fewer, so that the number of former officers investigating the police is significantly reduced.</td>
<td>accredited training programme. All independent and managed IPCC investigations – into the most serious matters – are overseen by an IPCC Commissioner. The Commissioner is responsible and accountable for the investigation findings. By law, IPCC Commissioners cannot have served with the police, been a member of SOCA and/or an officer of HM Revenue and Customs at any time. Two non-executive part-time Commissioners provide objective challenge and scrutiny to IPCC governance and accountability.</td>
<td>The Government does not agree that there should be an arbitrary maximum limit on the number of ex-police investigators working for the IPCC because it is the skill set of the people performing these roles that is most important. The Government does, however, welcome the work the IPCC is doing to develop its own investigations workforce so that it continues to have investigators who do not have a police background. (page 10)</td>
</tr>
</tbody>
</table>

20. Her Majesty’s Inspectorate of Constabulary must play a more prominent role in investigations of the most serious cases. In cases involving serious police corruption, for example, one of Her Majesty’s Inspectors should review the IPCC’s findings and be tasked with ensuring the implementation of any IPCC recommendations. HMIC’s responsibility for forces effectiveness make it a natural candidate for involvement in the “complaints competency investigation” described above and the inspectorate should ensure that any findings for a particular force are taken up by other forces where necessary. | HMIC is responsible for inspecting the efficiency and effectiveness of the police service in England and Wales. The purpose of HMIC is to ensure standards are achieved, good practice is spread, performance is improved and the public are engaged and assured. The IPCC, meanwhile, is responsible for investigating allegations involving individual officers. It is important that these two roles remain distinct in order to avoid overlap and duplication, and therefore the Government does not agree that HMIC should play a more prominent role in investigations. | Rejected. |

21. The issue of interviewing officers in cases involving death and serious injury is indicative of a culture of treating officers differently from members of the public. Where officers are not interviewed promptly under caution, this can lead to weaker evidence and | The Government does not agree that, at this stage, the threshold test for special requirements needs to be revised. The current test has a low threshold – requiring only an indication that a person may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings. This process may happen at any time during an investigation. Where such an indication arises during a Death and Serious Injury investigation, | Rejected. |

<table>
<thead>
<tr>
<th>Treating officers differently from the public</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>21. The issue of interviewing officers in cases involving death and serious injury is indicative of a culture of treating officers differently from members of the public. Where officers are not interviewed promptly under caution, this can lead to weaker evidence and</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Rejected.
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>85</td>
<td>The matter must be reclassified as a conduct matter and the investigation continued accordingly. The Government will, however, discuss with the IPCC whether more needs to be done to ensure the test is being applied as it should be and will keep this area under review. (page 12)</td>
</tr>
<tr>
<td>86</td>
<td>The IPCC have acknowledged publicly that they made one significant communication error at the start of the investigation into the shooting of Mark Duggan, for which they apologised. Since then the IPCC has published revised guidance clarifying roles and responsibilities between forces and the IPCC on communications in the aftermath of a death or serious injury. Work has taken place to update the agreed media protocol for such cases and to ensure that the guidance is widely understood throughout the service amongst officers of all ranks and not just police communications professionals. More generally the Government welcomes the work that the IPCC are doing to renew their external communications strategy. This is designed to improve communication with a range of key audiences (including complainants). (page 12)</td>
</tr>
<tr>
<td>89</td>
<td>The IPCC already provides information to families and complainants, including indicative timelines for its investigations wherever possible. The Government would expect Police and Crime Commissioners to ensure that all police complaints, including police reinvestigations, are completed within a reasonable period of time as part of their wider role for holding Chief Constables to account for the performance of their police force. (page 13)</td>
</tr>
</tbody>
</table>

**22.** The Government should revise the legislative definition of the threshold. One option would be that death and serious injury cases should be treated as “conduct” matters with special requirements and officers interviewed under caution except where it is “beyond reasonable doubt” that a misconduct or criminal offence has not been committed. (Paragraph 86)  

**See 21.**  

**23.** The adequacy of communications between the IPCC and the public can have serious implications. Some of the violence that raged across London in the summer riots of 2011 may have been avoided if anger had not been intensified by inaccurate statements made by the IPCC. (Paragraph 93)  

**The Government accepts the Committee’s recommendation.**  

**24.** Accurate and timely information is also vital in retaining confidence in the complaints process. The Commission should be required to set out a timetable for an investigation for complainants and to write to them to explain any deviation. If the Commission orders a police complaints department to reinvestigate, it should also set a timetable for that investigation and any deviation should be explained to both the complainant and the Commission. There should be

**The Government accepts the Committee’s recommendation.**
<table>
<thead>
<tr>
<th>Effectiveness of the Committee in 2012–13</th>
<th>123</th>
</tr>
</thead>
</table>

### sanctions if the process and timelines are not followed. (Paragraph 94)

### 25. The Commission should communicate positive outcomes through different channels, including social media. Prosecutions, misconduct findings and recommendations to forces must be more widely publicised in a way that openly demonstrates the scrutiny of the police. (Paragraph 95)

The Government agrees with this recommendation and welcomes the work that the IPCC are already doing to renew their external communications strategy. This is designed to improve communication with a range of key audiences (including complainants). (page 14)

The Government accepts the Committee’s recommendation.

### Widening remit

#### 26. We note that although the IPCC is allowed to hear complaints about the Serious Organised Crime Agency (SOCA), the position regarding the new National Crime Agency (NCA) is less clear. We recommend that the NCA be subject to IPCC procedures in the same way as police forces generally. (Paragraph 102)

The Government can confirm that subject to the passage of the Crime and Courts Bill, the NCA will be subject to IPCC oversight and procedures in broadly the same way as police forces. Clause 10 of the Crime and Courts Bill requires the Home Secretary to make regulations which set out the IPCC’s oversight of the NCA, applying the provisions of Part 2 of the Police Reform Act 2002 subject to any appropriate modifications. (page 14)

The Government accepts the Committee’s recommendation.

### Private firms

#### 27. The landscape of policing is changing and the IPCC must change with it. Increasingly, companies like G4S, Capita, Mitie and Serco are involved in delivering services that would once have fallen solely to the police (we described the involvement of G4S in the Jimmy Mubenga case in our report on Rules governing enforced removals from the UK), yet the public cannot call on the IPCC to investigate their delivery of those services. (Paragraph 109)

The Government agrees in principle with extending the IPCC’s role to cover private sector contractors working with the police. The Government has undertaken a consultation with police partners on the best way to implement this and intends to legislate as soon as Parliamentary time allows. (page 14)

The Government agrees in principle with extending the IPCC’s role to cover private sector contractors working with the police and intends to legislate as soon as Parliamentary time allows.

#### 28. The Commission’s jurisdiction should be extended to cover private sector contractors in their delivery of policing services and appropriate funding should be available for it to undertake all the functions which we consider it should have responsibility for. (Paragraph 110)

See 27.
29. The Commission should be renamed to reflect its broader remit and functions, covering appeals and complaints for police, UKBA, HMRC and the NCA. “The Independent Policing Standards Authority” is one possibility. (Paragraph 111)  

| The Commission should be renamed to reflect its broader remit and functions, covering appeals and complaints for police, UKBA, HMRC and the NCA. “The Independent Policing Standards Authority” is one possibility. (Paragraph 111) | The Government does not agree that changing the IPCC’s name is necessary or desirable. This would be a time consuming and costly exercise. The College of Policing and police forces are responsible for setting standards in policing and renaming the IPCC along the lines suggested could therefore cause confusion. (page 15) | Rejected. |
Twelfth Report, The draft Anti-social Behaviour Bill: pre-legislative scrutiny (HC 836-I), published 15 February 2013

<table>
<thead>
<tr>
<th>Committee recommendation</th>
<th>Government response</th>
<th>Implementation</th>
</tr>
</thead>
</table>
| **Introduction** 1. Antisocial behaviour continues to trouble communities across the country. For some, it is no more than a background irritation, but for others antisocial behaviour can be a debilitating blight on their lives. It can corrode community spirit, creating a breeding ground for more serious crime. (Paragraph 6) | The Committee is right to highlight the impact that ASB can have on the lives of victims and communities. We also agree with the Committee when it notes that the solution does not lie solely with formal interventions. As we have always made clear, informal interventions such as acceptable behaviour contracts, restorative justice, mediation and warning letters can be very effective. However in those cases where informal measures are not successful or appropriate, it is right that frontline professionals have the formal powers they need to deal with the situation quickly and effectively. Victims of ASB have told us what they want. First and foremost they want the behaviour to stop, and the perpetrators to make amends. They want the authorities to take their problem seriously, to understand the impact on their lives and to protect them from further harm. They want the issue dealt with swiftly and they don’t want it to happen again. Formal powers are an important part of the answer, but the Committee is also right to highlight the importance of inter-agency working, support services and responsive court processes, especially when it comes to giving the public the confidence that agencies will take their complaint seriously. The reforms we are introducing to local crime and policing - including the introduction of elected Police and Crime Commissioners, street-by-street crime maps and neighbourhood beat meetings - will help, making police forces and their partners more accountable for the way they deal with the issues that matter most to local people. However, the White Paper highlighted a number of other ways in which the Government is working with local agencies to improve the response to ASB, and ensure it focuses on the needs of victims: | General observation: no specific recommendation. 

- Better handling of ASB calls from the public: The Home Office worked with eight police forces and their local partners in 2011 to trial a new approach to handling calls from the public and managing cases to ensure repeat and vulnerable victims of anti-social behaviour were identified and prioritised more effectively and received a better service. There is still more to do but the eight forces reported encouraging initial results from the trials -
including better working relationships with other agencies, an improved service to the victim and the start of a shift in culture, with call handlers responding to the needs of the victim, rather than just ticking boxes. We are working with police forces and partners to share the lessons from the trials so that every community can benefit.

- Coordinated approach to high-risk cases: Multi-Agency Risk Assessment Conferences (MARACs) are action-oriented sessions where agencies come together to agree specific tasks to help protect vulnerable victims. They were initially developed as a way of dealing with domestic violence, where many different agencies were likely to be involved in supporting one family, but many areas are now using this methodology to deal with high-risk ASB cases. We will continue to encourage other areas to adopt this approach.
- County Courts: We have made changes to the county court system in the Crime and Courts Bill which will provide for greater flexibility to move cases around to take advantage of a court which has greater capacity as compared with its neighbour. The single county court seeks to remove the geographic and jurisdictional boundaries to provide a single court with a national jurisdiction for England and Wales irrespective of where the court is convened.
- Community Harm Statements: We will continue to promote Community Harm Statements, making it easier to demonstrate the harm caused to victims and communities by ASB. This will ensure that terrorised communities’ voices are heard in the court room and will inform agencies’ decisions on what action to take. (page 3)

2. The current antisocial behaviour control regime, though effective in some cases, leaves many people frustrated by a slow and uncoordinated response. Persistent antisocial behaviour, if it is not addressed quickly and conclusively, can be mean months or years of misery for the victims. The impact of anti-social behaviour on the individuals and communities affected must not be underestimated. Perpetrators continue to reoffend and overall levels of antisocial behaviour are stubbornly high. In this context, we welcome the Government’s decision to review and rationalise the statutory framework for dealing with ASB. However, as we go on to explain in this report, dealing with ASB depends on more than just the formal interventions
available—it depends on facilitating inter-agency working, providing support services, and providing a speedy and predictable process through the court system. If the Government is serious about tackling ASB, then it will bring forward proposals on these as companion measures during the Bill’s eventual passage through Parliament. (Paragraph 7)

**Electronic format of the draft Bill**

3. We recommend that the Leader of the House of Commons ensure that in future all draft Bills are published in a form in which the normal features of the chosen format are enabled, so that users can make full use of search, copy and paste, and text-to-speech features. This is not just a matter of convenience—though convenience alone is a compelling argument—it is about providing information in the most accessible formal possible. (Paragraph 11)

The draft Bill was published on 13 December by The Stationery Office. The Government welcomes the Committee raising this issue and will be looking at ways to ensure future publications are accessible.

On timing, frontline professionals from across the country have played a crucial role in developing the new powers over the past two years and will continue to shape the reforms so we can get the legislation right first time. However, it is clearly a concern if witnesses did not feel they had sufficient time to comment on the draft Bill.

As a result, we have considered all the written evidence published alongside the Committee’s report and also organised a number of workshops with interested parties. This includes the police, local authorities, social landlords and victims of ASB so that views could be explored in detail ahead of formally introducing legislation to the House.

The Committee notes that the Community Remedy consultation3 closed on 7 March, three weeks after the publication of its final report. This was to enable a full 12 weeks of public consultation. While the Committee was not able to consider responses to the consultation in preparing its report, we note that many of the written responses submitted to the Committee included views on the remedy. We will ensure that changes identified as part of the public consultation are considered alongside the Committee’s recommendations before legislation is brought forward. (page 5)

4. Publication of the draft bill was delayed by over a month compared with the timetable initially proposed to us by the Home Office. This left us just six working weeks for our inquiry, an unacceptably short period for pre-legislative scrutiny. This was a particular problem for witnesses, who in effect had only the Christmas period to produce submissions to us. It was clear from

```
See 3.
```

Accepted. The Government has sought other ways to gather views before the Bill was introduced to the House.
several responses to our call for evidence that witnesses were basing their responses on the White Paper and had not yet had time to reflect on the detail of the draft Bill. Moreover, the Government will continue to consult on the Community Remedy until 7 March 2013, so its position on this important component of the bill is not yet formed. (Paragraph 13)

Penalty

5. Breach of an Anti-Social Behaviour Order (ASBO) on application was a criminal offence, but breach of an Injunction to Prevent Nuisance and Annoyance (IPNA) is not. We welcome the move away from automatic criminalisation for breach in the case of the IPNA, which is likely to be the main tool in the new ASB regime. (Paragraph 27)

The Crime Prevention Injunction (referred to as the IPNA by the Committee) was designed as a purely civil order that agencies could secure quickly, in a matter of days or even hours if necessary, to protect victims and stop an individual’s behaviour escalating. While the Committee welcomes the lack of criminal sanction on breach, it notes that ultimately, breach of the new injunction could result in a prison sentence on a lower standard of proof than the current Anti-social Behaviour Order.

However, the draft Bill imposes a second condition that must be satisfied before an injunction can be granted, namely that the court must consider that it is “just and convenient” for such an injunction to be granted “for the purpose of preventing the respondent from engaging in anti-social behaviour”. Within this test, the court would consider issues such as proportionality, harm and intent as part of its decision. Housing practitioners who use the current Anti-social Behaviour Injunction (ASBI) have told us that the courts rigorously apply considerations of proportionality. We believe this would continue to be case with the new injunction. Ultimately, we believe the court is best placed to decide on the proportionality and necessity of both an injunction and any prohibitions and positive requirements that it includes, and will do so as a matter of course.

Our rationale for adopting the current ASBI test of ‘nuisance and annoyance’ is that it is supported by 15 years of case law and is well known by the county courts and many ASB practitioners (including many councils and police forces where they work closely with housing providers). Adding to the test could jeopardise that clarity, and slow the injunction process down, without adding any additional safeguards in practice.

However, the principle that the injunction should be used proportionately and, in most cases, after informal measures have been tried, is one we wholeheartedly agree with. We will make very clear in accompanying guidance that the new injunction should only be used when it is appropriate to do so and...
necessary to deal with the behaviour of the individual. We will also continue to stress the important role that informal interventions can play in dealing with anti-social individuals, making clear that, in most cases, these should be considered before formal court action is taken.

The Committee highlighted the fact that for the Criminal Behaviour Order, approved courses are only available for those over the age of 16. We agree that, in principle, this measure should also apply to under-16s. However, there are also significant equality considerations to take into account. It would be unfair if under-16s who had the means to pay for an approved course could shorten the term of their order, whilst those who did not, could not. On the basis that this measure should apply equally or not at all, we will amend the legislation so as to remove the section on approved courses and instead make it clear in guidance that the court can ultimately decide on whether the length of an order should be varied on completion of a specific course, regardless of age or means.

We also accept that an exemption from the dispersal power should extend to all forms of peaceful protest. This will be included in the legislation and will directly replicate the provision in Section 30 of the Anti-Social Behaviour Act 2003, which the new dispersal power replaces. (page 6)

6. However, breach of this civil injunction could still ultimately lead to imprisonment. It is therefore concerning how much easier it is likely to be to obtain an IPNA than an ASBO. The IPNA is available on a lower standard of proof than the old ASBO on application, and available to more agencies than the old Anti-Social Behaviour Injunction (ASBI). Widening access to the IPNA risks imposing severe restrictions on more people and additional safeguards must be applied. For the IPNA, the threshold of “conduct capable of causing nuisance or annoyance” is far too broad and could be applied even if there were no actual nuisance or annoyance whatsoever. A proportionality test and a requirement that either “intent or recklessness” be demonstrated should be attached to the IPNA, as well as the requirement “that such an injunction is necessary to protect relevant persons from further anti-social acts by the respondent”. (Paragraph 28)
7. We also believe that there should be a specific requirement for any individual prohibition or requirement to be necessary and proportionate for the purposes of addressing the behaviour that led to the application for an injunction. (Paragraph 29)

| See 5. | Accepted |

8. We note that there is a mechanism to allow offenders over 16 to shorten the period a Criminal Behaviour Order applied for if they complete an approved course. We see no reason why someone younger should be debarred from this option. (Paragraph 30)

| See 5. | Accepted. Due to equality considerations, the Government would remove approved courses from the legislation, and pursue this through guidance. |

9. We note that there is a specific exemption from dispersal powers for peaceful picketing and recommend that this be extended to cover all forms of peaceful protest. (Paragraph 32)

| See 5. | Accepted |

Other instruments
10. Each time successive Governments have amended the ASB regime, the definition of anti-social behaviour has grown wider, the standard of proof has fallen lower and the punishment for breach has toughened. This arms race must end. We are not convinced that widening the net to open up more kinds of behaviour to formal intervention will actually help to deal with the problem at hand. A duty to consult local authorities must be included in the dispersal power where it is applied for a period of longer than six hours. Public Spaces Protection Orders must include a requirement for six monthly interim approval. There should also be a clear exemption to dispersal powers where there is a genuine need to travel through the area. (Paragraph 35)

| As the Committee itself acknowledges in its report, even apparently ‘low-level’ ASB can have a devastating impact. As such, we believe that the response to ASB should focus on the harm the behaviour is causing, not on some proscribed list of ‘anti-social’ behaviours. One of the mistakes of the past was to introduce new legislation every time a new, potentially harmful, behaviour was identified, leaving frontline professionals with a bloated and confusing set of powers designed to deal with very specific problems. These reforms aim to put that right by rationalising the powers available to practitioners, providing maximum flexibility to deal with the issues that matter to the public, whilst retaining appropriate safeguards. In doing so, we have sought to build on those elements of the current legislation that we know work. As a result, many of the definitions and sanctions in the draft Bill are already in use. We are seeking to make the powers and sanctions more effective, rather than to lower the threshold for what is considered ‘anti-social’ or introduce disproportionate punishments. The new dispersal power is designed to be a dynamic tool, allowing the police to deal with ASB quickly and effectively on the spot and provide short-term (up to 48 hours) respite to communities being blighted by groups or individuals. It is likely that this power will be used in the evenings and at weekends, when the right representative from a local authority may | Government reject that local authorities must be consulted on the dispersal power, and reject that Public Spaces Protection Orders must be reviewed every six months. The Government accepted that the dispersal power would benefit from additional safeguards, and that it should not be used where there is a genuine need to travel through the area. |
not be available to consult. It is also important to note that, whilst local authorities are currently consulted on the designation of a ‘dispersal zone’, they are not consulted on the case-by-case use of existing dispersal powers within that zone, which are operational matters for the police. As a result, we believe the Committee’s recommendation would severely constrain use of the new power to protect communities, and goes well beyond the current consultation arrangements.

We do, however, accept the Committee’s argument that the proposed dispersal power would benefit from additional safeguards to ensure use is proportionate and appropriate. We will change the legislation to state that use of the dispersal power should be approved in advance by an officer of at least the rank of inspector. This will ensure that the wider impacts on, for example, community relations, can be considered properly before use.

We agree with the Committee’s recommendation that a dispersal power should not be used where there is a genuine need to travel through the area and will make sure the legislation allows for this.

We do not agree that the new Public Space Protection Order should be reviewed every six months. The new order will replace three existing orders that do not currently require any formal review and as such, introducing a requirement to review every three years (as drafted in the legislation) is already a proportionate safeguard. Where a decision is taken locally about issues such as dog fouling or drinking in public places, we do not believe it would be right to impose a requirement to review the decision every six months. However, we do accept that there are some situations where a local authority may itself want a shorter review period, particularly where an order is being used to deal with short- or medium-term issues. We will make clear in guidance that local agencies need not wait for three years before reviewing the order and should consider this on a case by case basis.

Young people

11. Anti-social behaviour measures must be a short, focused nudge for young people to set them on the right track, not a millstone that will weigh around their necks for years to come. The bill must include an annual review of all formal ASB interventions imposed on under-18s to ensure that restrictions are not continued

When we published the White Paper, we did not propose a minimum or maximum length of injunction for young people. Feedback from the consultation on this point was mixed and so we agreed to consider the issue further as part of the process of pre-legislative scrutiny.

The Committee makes a compelling case to limit the length of the injunction to 12 months for those under the age of 18. Given that the
unnecessarily if behaviour has changed. (Paragraph 43)

A injunction is specifically designed to be a civil, preventative power (complimenting the Criminal Behaviour Order for more serious anti-social behaviour). I believe this limit would be proportionate. 12 months will provide victims and communities with the respite they deserve, send a strong message to young perpetrators that their behaviour is not acceptable and provide sufficient time for them to work with local agencies to address any underlying issues driving their behaviour, such as substance misuse. As such, we are content to accept this recommendation and will amend the legislation accordingly.

While we agree with the Committee that in most cases, informal interventions should be tried before more formal sanctions, there may be a minority of cases where immediate court action is the right option and frontline professionals must have the flexibility to protect victims in such circumstances. We will therefore make clear in guidance, rather than legislation that informal measures should be considered before applying for an injunction.

With regards to the Criminal Behaviour Order, it has always been our intention to replicate the current annual review process for those under the age of 18. (page 9)

12. For under-18s, IPNAs should be available for a maximum of 12 months and should only be available after attempts to resolve the issue through informal support and acceptable behaviour agreements have failed. (Paragraph 44)

See 11.

“Naming and shaming”

13. Young people’s sense of identity can be influenced by labels at a formative stage in their lives. ASBOs have been both a stigma and a badge of honour because of their infamy—both can undermine the effectiveness of the intervention. However, we are happy to leave the decision not to name a young person to the discretion of the judge, as envisaged by the draft bill. (Paragraph 47)

We welcome the Committee’s recommendation that the court should decide on whether it is right to name a young person when issuing an order. From our discussions with ASB professionals, we are aware that the decision to name an individual under the age of 18 is rarely taken, but can be necessary in certain circumstances. As such, we agree it is right that a final decision should rest with the court in those circumstances when it is right to identify an individual for the protection of victims and communities. (page 9)

We welcome the positive statement made by the Committee about the Community Remedy. It is right that the disposal should be proportionate

Accepted
Effectiveness of the Committee in 2012–13

the ASB response, if it can help to achieve an outcome that satisfies victims and helps to mend the ways of perpetrators without exposing them to the criminal justice system. However, the Community Remedy must not become the modern pillory or stocks. Additional safeguards are needed to ensure that officers have the discretion to choose alternative disposals, where appropriate. Additional assurances are also needed to ensure that victims are not drawn into the process without their full consent and understanding. (Paragraph 54)

and appropriate to the situation. That is why the Police and Crime Commissioner will need to agree the menu of options with the Chief Constable. In addition, the constable considering the use of the Community Remedy will be ultimately accountable for ensuring that the option chosen by the victim and offered to the offender is proportionate. They will also be able to use their discretion and agree an alternative approach with the victim where it is right to do so.

It is also right that victims choosing an option from the menu are fully aware of the overall process and its limitations before taking that decision. We will continue to work with the police to ensure this point is addressed through a combination of adequate training and guidance for officers and awareness for victims. (page 10)

The community trigger
15. We agree that some element of local flexibility is a helpful feature of the Community Trigger, but it will not be an effective backstop against neglect of ASB unless there is a common failsafe. A guaranteed response to ASB must not be dependent on where you live. We recommend a national maximum of five complaints as a backstop for the trigger, with an option to set a lower threshold at local level. We recommend that this quantitative measure must be combined in all cases with a review of the potential for harm, taking into account the nature of the activity and the vulnerability of victims. (Paragraph 63)

In the 2011 public consultation on these reforms, we suggested a threshold of three complaints from one individual and five complaints about the same issue from different households in a particular neighbourhood. There was, however, strong feedback that a national threshold was too prescriptive and agencies needed the flexibility to set a local threshold that best suited their own communities’ needs. This feedback is reflected in the draft Bill, but we believe the Committee’s recommendation of a backstop, rather than a national threshold, provides a suitable safeguard for victims and communities whilst retaining maximum flexibility for local agencies. We will include this backstop in the legislation but will do so at the lower level of three complaints. This is consistent with the maximum threshold set by the four community trigger trial areas.

We agree that the potential for harm should also be a consideration when setting a trigger threshold and will amend the legislation accordingly. We will also make clear in the guidance that a timetable for action should be agreed with the victim, where appropriate, to ensure individuals fully understand what is likely to happen and when.

Local authorities and the police have a statutory duty to deal with ASB when it is reported and not wait until a certain number of calls have been made. However, we are not proposing to amend the current complaints mechanisms to deal with local agencies if victims feel that the process has not been followed. There is no formal legal sanction for an area that fails in its community trigger duties, but we have built accountability into the legislation. Agencies will have a duty to consult the Police and Crime

Accepted
134

Commissioner when devising the procedure and to publish data on how many applications for community triggers are made, how many meet the threshold and how many result in further action. We believe that this is the 'bullet', and consequences for agencies should flow from local accountability, rather than Government.

The Police and Crime Commissioner will have an important part to play in establishing the process to be used in their area. As they are democratically elected, we do not think it is right to dictate from the centre the level of input they should have as this will depend on issues locally. Some will wish to be more involved in the trigger process than others and that should be their decision to take and justify to those who elected them. (page 10)

<table>
<thead>
<tr>
<th>16. If the trigger is activated and a response deemed necessary then agencies should be obliged to agree a timetable for dealing with the problem which they must share with the victims involved. Without a clear timetable for dealing with persistent ASB, then the Community Trigger would be little more than a gimmick. (Paragraph 64)</th>
<th>See 15.</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. The Community Trigger needs a bullet—it must be clear not only what the trigger is, but what response will happen when it is activated. The Minister told us that it will be activated when something has gone wrong and there must be a way of holding agencies to account when they repeatedly fail to act. Otherwise, there is a risk that the trigger could delay action, as authorities wait for the trigger before taking action. (Paragraph 65)</td>
<td>See 15.</td>
</tr>
<tr>
<td>18. But this must not be a disincentive for the trigger to be activated. Police and crime commissioners should therefore be kept informed each time the national backstop of five complaints is reached and audit the case review meetings. In areas where the trigger is set at fewer than five complaints, the involvement of PCCs should come if there are further complaints subsequent to the agreed trigger action. Local councils should be obliged to publish the number of times the trigger is</td>
<td>See 15.</td>
</tr>
</tbody>
</table>
activated on a six-monthly basis. (Paragraph 66)

<table>
<thead>
<tr>
<th>Speed of response: court jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>19. Current court timescales do not reflect the misery caused by ASB. The Government must not exacerbate delays by limiting ASB proceedings on IPNAs to County Courts. The bill must provide for proceedings to take place in Magistrates Courts as well. There must be a strict timescale of 28 days for Courts to deal with any breach of conditions. (Paragraph 72)</td>
</tr>
</tbody>
</table>

It is important that the Crime Prevention Injunction is acknowledged as the purely civil order that it was designed to be. As such, straddling the civil and criminal courts could add confusion and we therefore believe that the injunction should remain clearly in the civil jurisdiction. However, we note the point about unnecessary delays and draw the Committee’s attention to the amendment made to the Crime and Courts Bill which would provide for greater flexibility to move cases around to take advantage of a court which has greater capacity as compared with its neighbour. The single county court seeks to remove the geographic and jurisdictional boundaries to provide a single court with a national jurisdiction for England and Wales irrespective of where the court is convened.

We accept the Committee’s recommendation that there should be a strict 28 day limit for courts to deal with breaches, mirroring the current rules for ASBIs used by the housing sector. This will be made clear in the relevant court rules. (page 12)

The Government rejected the proposal that proceedings might take place in Magistrates Courts, but accepted the strict 28 day limit.

<table>
<thead>
<tr>
<th>Inter-agency cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Victims of anti-social behaviour should receive the correct service, from the correct agency, at the first time of asking. To deal with ASB effectively, there must be good inter-agency working, intelligent information sharing and a network of services to support victims and tackle the underlying causes of anti-social behaviour before it can manifest itself. This early intervention helps to protect the public and helps to keep those who may be prone to committing ASB from setting out on a course that could lead them into trouble. (Paragraph 79)</td>
</tr>
</tbody>
</table>

The Committee is right to identify the importance of strong inter-agency relationships to an effective response to ASB. As mentioned previously, one way to address this is through encouraging the use of Multi-Agency Risk Assessment Conferences. Many areas are already using these forums to discuss high-risk cases and agree interventions to protect victims and communities from further harm. We will continue to promote this kind of approach. In addition, the Home Office runs an effective practice area on its website where agencies can share examples of successful approaches to crime and community safety issues. It includes details of the Tilley Awards, which recognise problem-solving approaches to reducing crime and anti-social behaviour.

On the important issue of information sharing, we have made clear in the legislation that bodies must share information in relation to the community trigger when requested to do so as long as this is in line with the Data Protection Act 1998 and Part 1 of the Regulation of Investigatory Powers Act 2000. This goes further than existing legislation in forcing local agencies to work together to deal with ASB incidents.

We note the Committee’s recommendation to establish a National ASB Forum to look at ‘what works’ in dealing with ASB. However, in light of the...
changes being made to the wider landscape, particularly the establishment of the College of Policing, we do not believe this is necessary. The College of Policing will have five core areas of responsibility:

- Setting standards and developing guidance and policy for policing
- Building and developing the research evidence base for policing
- Supporting the professional development of police officers and staff
- Supporting the police, other law enforcement agencies and those involved in crime reduction to work together; and
- Acting in the public interest.

Identifying and sharing best practice will be central to the work of the College. The College are considering a range of activities, from working more closely with universities and academics to build the evidence base for effective practice, to more innovative solutions looking at how technology can support frontline police officers and staff.

In support of its core areas of responsibility, the College of Policing will be hosting the What Works Centre for Crime Reduction. The Centre’s role will be to identify the best available evidence on approaches to reducing crime and potential savings. The College will work with academics, police and public bodies involved in community safety work, including local authorities and housing associations, to review the evidence base and get the results into the hands of decision makers, including Police and Crime Commissioners. (page 12)

21. This draft bill does nothing to strengthen these vital networks of support. That objective cannot readily be achieved by legislation. However, the bill comes at a time when frontline services tackling ASB—such as youth offending teams—are beginning to feel the effects of the current fiscal climate. If they are to continue to be effective, they must find new and effective ways of working in partnership together, adapting models of best practice to their own local circumstances and building strong local alliances in the fight against anti-social behaviour. (Paragraph 80)

The Government acknowledges that strong inter-agency relationships are required, and states it will continue to promote this approach.

22. In order to support the identification and dissemination of best practice, we recommend that the

| See 20. | Rejected. Unnecessary in light of other changes, particularly the establishment of |
Government establish a National Anti-Social Behaviour Forum—headed by a chief constable, a housing association chief executive, and a local council leader for a term of two years—to identify “what works” in ASB reduction on the basis of cost-benefit evidence and local best practice. (Paragraph 81)
Committee recommendation | Government response | Implementation
--- | --- | ---
**The legal framework governing undercover policing**

1. Forces must have the flexibility to set the parameters of undercover operations in a way that is appropriate to each individual case, balancing risks and benefits as necessary. However, there are some lines that police officers must not cross. Ministers and senior officers have said that officers would not be authorised to engage in sexual relationships while undercover, but could not rule out the possibility of such relationships occurring anyway. We do not believe that officers should enter into intimate, physical sexual relationships while using their false identities undercover without clear, prior authorisation, which should only be given in the most exceptional circumstances. In particular, it is unacceptable that a child should be brought into the world as a result of such a relationship and this must never be allowed to happen again. We recommend that future guidance on undercover operations should make this clear beyond doubt. (Paragraph 14)

| Whilst civil cases involving these issues remain before the courts and the Investigatory Powers Tribunal and a criminal investigation into these allegations is ongoing, it would be inappropriate for the Government to comment on the detail of this recommendation. However, the Government rejects the committee’s assertion that RIPA fails to safeguard human rights. As was made clear during the passage through Parliament of the Regulation of Investigatory Powers Act 2000, the Act provides a clear basis for investigatory powers to be used lawfully and in accordance with human rights. In particular, authorising officers must be satisfied that the use of an undercover officer is necessary and proportionate; RIPA also requires that undercover officers are properly managed and supervised. It is clearly important that these tests are applied correctly and the requirements are adhered to on a case by case basis; the statutory Codes of Practice provide public authorities with additional guidance. The Government does not consider, therefore, that the cases which have recently come to light necessarily demonstrate that a fundamental review of the legislative framework is necessary. (page 2) |

| Many of the issues dealt with in this report remain sub judice. Others are being investigated as part of Operation Herne. We will return to these matters in due course |

2. We make no comments on the merits of the High Court case, but it demonstrates that there is an unsatisfactory degree of ambiguity surrounding these cases. In matters which concern the right of the state to intrude so extensively and intimately into the lives of citizens, we believe that the current legal framework is ambiguous to such an extent that it fails adequately to safeguard the fundamental rights of the individuals affected. We believe that there is a compelling case for a fundamental review of the legislative framework governing undercover policing, including the Regulation of Investigatory Powers Act 2000, in the light of the lessons learned from these cases. This will require great care and will take some time. We |

| See 1. |

<p>| | | |
| | | |</p>
<table>
<thead>
<tr>
<th>Effectiveness of the Committee in 2012–13</th>
<th>139</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recommendations</strong></td>
<td></td>
</tr>
<tr>
<td>The Government should commit to the publication of a Green Paper on the regulation of investigatory powers before the end of this Parliament, with a view to publishing draft legislation in the Session after the next general election. (Paragraph 15)</td>
<td></td>
</tr>
<tr>
<td>The issues around the management of the National Public Order Intelligence Unit (NPOIU) by ACPO were raised in last year's report by Her Majesty's Inspectorate of Constabulary, following which the management of the NPOIU moved from ACPO to the Metropolitan Police Service, where it was absorbed into the National Domestic Extremism and Disorder Intelligence Unit. As such, its work is subject to scrutiny by the Mayor's Office for Policing and Crime and the London Assembly's Police and Crime Committee in the same way as the rest of the MPS.</td>
<td></td>
</tr>
<tr>
<td>The Government has made clear consistently that ACPO as a private company should have no role in operational policing, although its members, as senior police officers with extensive experience of operational issues, clearly have a key role to play. The Government established the College of Policing precisely to address the issues of standard setting and accountability to which the Committee refer; that is also why the work of the former ACPO Business Areas has been moved into the College. The College produces Approved Professional Practice (APP) in a range of operational areas, including undercover policing, which must receive the endorsement of the College's Professional Committee before being adopted by the police. (page 3)</td>
<td></td>
</tr>
<tr>
<td><strong>Standards in undercover operations</strong></td>
<td></td>
</tr>
<tr>
<td>Standards in undercover operations are jeopardised by lack of clear lines of responsibility between ACPO, the NPOIU and the different forces and units involved. Discrepancies in training, tactics and review between different undercover units further muddy the waters and risk ambiguity in what is acceptable conduct for officers working undercover. In the new landscape of policing, standards in undercover policing will transfer to the College of Policing. While it is right that the College should draw on the expertise of chief officers, its overall responsibility must be unequivocal and it must create a coherent set of operational instructions that will apply equally to all units conducting undercover operations, against which officers and forces can be held to account. We do not think it is acceptable for ACPO, a private company, to play any continuing role in this. (Paragraph 19)</td>
<td></td>
</tr>
<tr>
<td>The issues around the management of the National Public Order Intelligence Unit (NPOIU) by ACPO were raised in last year's report by Her Majesty's Inspectorate of Constabulary, following which the management of the NPOIU moved from ACPO to the Metropolitan Police Service, where it was absorbed into the National Domestic Extremism and Disorder Intelligence Unit. As such, its work is subject to scrutiny by the Mayor's Office for Policing and Crime and the London Assembly's Police and Crime Committee in the same way as the rest of the MPS.</td>
<td></td>
</tr>
<tr>
<td>The Government has made clear consistently that ACPO as a private company should have no role in operational policing, although its members, as senior police officers with extensive experience of operational issues, clearly have a key role to play. The Government established the College of Policing precisely to address the issues of standard setting and accountability to which the Committee refer; that is also why the work of the former ACPO Business Areas has been moved into the College. The College produces Approved Professional Practice (APP) in a range of operational areas, including undercover policing, which must receive the endorsement of the College's Professional Committee before being adopted by the police. (page 3)</td>
<td></td>
</tr>
<tr>
<td><strong>Use of dead infants’ identities</strong></td>
<td></td>
</tr>
<tr>
<td>The practice of “resurrecting” dead children as cover identities for undercover police officers was not only ghoulish and disrespectful, it could potentially have placed bereaved families in real danger of retaliation. The families who have been affected by this deserve an explanation and a full and unambiguous apology from the forces concerned. We would also welcome a clear statement from the Home Secretary that this practice will never be followed in future. (Paragraph 22)</td>
<td></td>
</tr>
<tr>
<td>In her evidence to the Committee on 5 February, Deputy Assistant Commissioner Gallan made clear that this practice has ceased and that it could not be authorised under RIPA, as the degree of intrusion into the lives of the innocent and vulnerable families of deceased children could not be justified. DAC Gallan is uniquely placed to make such a statement, having served recently as both the head of Operation Herne and as Chair of the National Undercover Working Group. The Government agrees with DAC Gallan’s position that such practices could not be authorised under RIPA.</td>
<td></td>
</tr>
<tr>
<td>The use of the identities of deceased children by undercover officers was investigated as part of Operation Herne and was the subject of its first Report, Report 1 - Use of covert identities, published in July 2013.</td>
<td></td>
</tr>
<tr>
<td>The use of the identities of deceased children by undercover officers was investigated as part of Operation Herne and was the subject of its first Report, Report 1 - Use of covert identities, published in July 2013.</td>
<td></td>
</tr>
</tbody>
</table>
Ministers or Parliament to interfere in the IPCC’s decision-making processes.

It is right that Operation Herne be concluded as swiftly as possible, and that one of the key tasks of the investigation is to ascertain the truth of the recent allegations and, if they are made out, to inform sensitively the families of those deceased children. It is equally important that the investigation be conducted thoroughly so that criminal or disciplinary proceedings can be brought against any individuals found to be culpable. Chief Constable Creedon is an experienced leader of complex investigations and has in place an experienced team to conduct and manage the investigation.

While lines of accountability do seem to have been less than clear in the past, the Government does not accept that is still the case; with the election of Police and Crime Commissioners and the move of the NPIU from ACPO into the Metropolitan Police, the lines of accountability are now far clearer than they were at the time of the alleged misconduct. I understand you have been in correspondence with Chief Constable Creedon about the progress of his investigation and I hope he has been able to reassure you on this point. (page 4)

Operation Herne

5. For the sake of families whose dead infants’ identities may have been used as legends, it is imperative that Operation Herne is expedited with all possible haste. It is shocking that the practice of using deceased infants’ names was apparently a surprise to senior officers and it is vital that the investigation establish quickly how high up the chain of command this practice was sanctioned. Once the identity of the senior responsible leaders has been established, the matter should be referred directly to the IPCC, which should then investigate the matter itself, rather than sign off on a “supervised” inquiry. (Paragraph 26)

6. DAC Gallan told us that she first knew of the use of dead children’s identities in September 2012, but the parents of that dead child have still not been informed. We cannot understand what is taking so long. Families need to hear the truth and they must receive an apology. Once families have been identified they
Effectiveness of the Committee in 2012–13

1. The Committee should be notified immediately. We would expect the investigation to be concluded by the end of 2013 at the latest. Although we welcome the transfer of responsibility for the Operation to a leader from outside the Metropolitan Police, we are concerned that the appointment of a serving chief constable may not be conducive to a swift conclusion. We have written to Chief Constable Creedon for clarity about how much of his time he will be able to commit to this important work. Responsibility for this matter has already passed from the MPS to local forces, from DAC Gallan to chief constable Creedon and, we trust, from ACPO to the College. Without a clear line of accountability, the risks of malpractice are multiplied. We will return to the question of leadership of internal inquiries and undercover policing standards in our work on leadership and standards in the police. (Paragraph 27)

7. We reiterate that in this kind of serious standards case the IPCC ought to run an independent investigation. This would be in keeping with the Home Secretary’s statement to the House on 12 February 2013 that the IPCC would investigate all serious and sensitive allegations, in line with our recommendations. Funds for such an investigation should be provided by the professional standards department of the Metropolitan Police. In lieu of that independence, we will be asking to be updated on the progress of Operation Herne every three months. This must include the number and nature of files still to review, costs, staffing, disciplinary proceedings, arrests made, and each time a family is identified and informed. We will publish this information on our website. (Paragraph 28)

Conclusion

8. It might not be possible to conduct a proper review of the current legislation until the current legal position has been clarified by the courts, which is why we have suggested a long timescale for new legislation to be

While the Government recognises that this recommendation is in keeping with the intention set out in the Home Secretary’s statement of 12th February, the detailed implementation of the new ways of working is yet to be completed. Current investigations continue under the existing arrangements.

The Government would also ask the Committee to liaise closely with the IPCC in respect of its proposal to ask for and publish regular status updates on Operation Herne. That investigation is now under the direction and control of Chief Constable Mick Creedon rather than the Metropolitan Police Commissioner and continues to be supervised by the IPCC, who are the body responsible in law for overseeing the operation of the police complaints system. The IPCC must be allowed to discharge its functions independently, and the results of the investigation may well be put before the criminal courts in due course. The Government urges the Committee strongly not to request or publish any information that might prejudice any subsequent criminal or disciplinary proceedings. (page 4)

As set out in response to recommendation 2 above, the Government considers that the Regulation of Investigatory Powers Act 2000 already provides the basis for investigatory powers to be used lawfully and in accordance with human rights. Nonetheless, the Government takes these matters very seriously and keep them constantly under review. The Government is already implementing
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>prepared. However, it is important that the Home Office start preparatory work now in order to ensure that there is no further, unnecessary delay. (Paragraph 29)</td>
</tr>
<tr>
<td>5</td>
<td>HMIC's 2012 recommendations on the authorisation of long term police undercover officers under RIPA and the Home Secretary has commissioned HMIC to look at the way the police have implemented the 2012 HMIC recommendations. While the Government does not accept at this stage the committee's suggestion that RIPA requires fundamental review, we will of course take careful note of any evidence in this area that is identified, whether by HMIC, in the litigation currently underway, or as part of Operation Heme. (page 5)</td>
</tr>
<tr>
<td>30</td>
<td>9. It cannot be sufficiently emphasised that using the identities of dead children was not only abhorrent, but reflects badly on the police. It must never occur again. (Paragraph 30)</td>
</tr>
<tr>
<td>5</td>
<td>As set out above, the Home Secretary and I were as astonished and disappointed as the Committee to learn of these allegations. The Government has made clear in response to recommendations 4-6 above that this practice could not be authorised today, as the 6 First Special Report collateral intrusion into the lives of the families of the deceased children could not be justified under RIPA. On behalf of the police as a whole, DAC Gallan was also categorical in her answers to you on this point. I hope that this Government response provides the Committee with an appropriate level of reassurance on the way undercover police officers are deployed and managed today. I look forward to discussing undercover policing with the Committee tomorrow. (page 5)</td>
</tr>
<tr>
<td>Committee recommendation</td>
<td>Government response</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>The Agency’s handling of the asylum and immigration backlog 1. The Inspector’s report makes it clear that, contrary to its public claims, the Agency was not carrying out its full programme of checks on legacy cases either before or after they were placed in the controlled archives. The Agency has repeatedly told this Committee that it could have confidence that legacy applicants were no longer in the country as an extensive checking programme carried out over five years had not found any trace of them. We know that there are a significant number of failed asylum seekers and illegal immigrants living in the UK and avoiding contact with public authorities. Recent figures from the London School of Economics put the number of illegal immigrants in the UK at 618,000 and in 2008 the Red Cross reported that it had been approached for help by 10,000 destitute asylum seekers. Therefore, no tracing programme was likely to discover everyone who had slipped through the net. The fact that a sustained and thorough tracing programme did not even take place makes it even less likely that individuals living here have been identified. It is possible that tens of thousands of individuals whom the Agency has not been able to trace are still here. (Paragraph 10)</td>
<td>It is accepted that there are lessons to be learnt from the handling of these cases. Further measures have been taken to tackle the legacy cases and in November 2012 the controlled archive was closed. All cases previously in the controlled archive have undergone two sets of checks conducted at least three months apart against databases held by the Department of Work and Pensions, HM Revenue and Customs and a credit reference agency with a view to identifying people still in the UK. In addition to identify potential high harm cases a Police National Computer and Watchlist check were undertaken. To ensure that this process had been conducted thoroughly we commissioned an external, independent assurance exercise and kept the National Audit Office informed about our plans and methodology. If an individual’s footprint was not established through this robust electronic checking process of databases held by the Department of Work and Pensions, HM Revenue and Customs and a credit reference agency, it is reasonable to close the case. It was also the most efficient use of resource and represented better value for money for the taxpayer than sifting through the paper files of 124,000 individual cases. There is a robust case reactivation process to re-open cases if individuals should subsequently come to light. Since the closure of the controlled archive 0.7% of closed cases have been re-activated (where the individuals’ whereabouts were made known to the Home Office). (page 2)</td>
</tr>
<tr>
<td>The Agency’s response to the Chief Inspector’s findings 2. Mr Whiteman did not however inform this Committee that the Agency had regularly supplied it with incorrect information since 2006. This in our view is unacceptable and undermines Mr Whiteman’s claims to take the provision of accurate information to the Committee seriously. No senior official in the Border Agency took any steps to alert this Committee to what had happened until the Independent Chief Inspector Mr Rob Whiteman, Mr Jonathan Sedgwick and Ms Lin Homer all apologised to the Committee for inaccuracies in information provided. We did not want to pre-empt the Independent Chief Inspector’s report and wanted to be sure we could update the Committee on the full extent of his findings. Mr Whiteman wrote to the Committee as soon as we had a draft of the final report to provide a full update before the report was published. (page 2)</td>
<td>While the UKBA took steps to inform the Committee eventually, it did not do all it could to inform the Committee as soon as it knew it had provided incorrect information.</td>
</tr>
</tbody>
</table>
published his report. This is hardly the mark of a transparent organisation which recognises its accountability to Parliament. Instead the Agency appears to have tried to sweep its mistakes under the carpet in the hope that they would remain unnoticed. (Paragraph 15)

3. We are astonished that the Agency provided this Committee, and its predecessors, with information that turned out to be patently wrong on so many occasions over the last six years. If it was not attempting to mislead the Committee then it must be a sign that senior officials had no idea as to what was actually going on in their organisation. We find it very hard to believe that no one within the Agency had any idea that checks were not being carried out as they should have been and we expect the Agency to share the findings of its disciplinary investigation with us as soon as it is completed. (Paragraph 16)

Errors in data provided to the Committee were an administrative issue and not a deliberate attempt to mislead the Committee. These errors were caused by failures within the drafting process where what was being said to the Committee was not as robustly checked as it is now. An internal review to establish the facts was carried out by the Home Office Professional Standards Unit in July. As well as establishing the facts, the report also identified some lessons learned on oversight and process that have since been implemented. Subsequent to this review a formal investigation into the conduct of four officials took place. This was completed in November and concluded that all four had a case to answer. It is not the Government’s policy to share detailed findings of internal disciplinary investigations, but all four members of staff have been dealt with in accordance with the appropriate formal departmental policies in place. (page 3)

Accepted. The Government accepted that data put before the Committee was not rigorously checked and that staff had been disciplined.

4. However, we welcome the establishment of the Performance and Compliance Unit within the Agency. We also welcome the oversight that the Chief Inspector will have of its work. We expect this to mark the beginning of a move towards greater transparency on behalf of the Agency; transparency that is evidenced by accurate and clear information provided to Parliament in a timely manner. (Paragraph 17)

Providing accurate, clear and timely information to Parliament is central to the Performance and Compliance Unit’s mission and we welcome continuing oversight by the Chief Inspector and the National Audit Office. (page 3)

Accepted.

Checks against DWP’s databases
5. We expect the Agency to provide us with a copy of the Department of Work and Pensions’ statement about the checks performed by the Agency against its databases. The Agency must also tell us how many of the cases this statement of assurance applies to. (Paragraph 19)

All cases previously in the controlled archive have undergone two sets of checks conducted at least three months apart against the databases held by the Department of Work and Pensions (DWP). 108,534 records were sent to DWP on 4 July 2012 followed by a further 91,952 on 7 September. Pre-audit work carried out by the UK Border Agency in advance of the Independent external assurance exercise revealed 22,100 records that had not received an initial check against the DWP database (but had been subjected to the secondary check). These records were sent to DWP on 13 November to rectify this matter. The DWP statement of assurance refers to these 22,100 records. The statement of assurance is at Annex A. (page 4)

Accepted.
6. We are satisfied that misallocation to the controlled archive of cases with a ‘matchkey three’ against DWP data has, most likely, been corrected appropriately. (Paragraph 20)  

We welcome the Committee’s view that this misallocation has been corrected. For the purpose of clarity the Matchkey three hits were not misallocated to the controlled archive but were misallocated as closed cases having previously been in the controlled archive. (page 4)

<table>
<thead>
<tr>
<th></th>
<th>Accepted.</th>
</tr>
</thead>
</table>

**Security checks**

7. It is totally unacceptable for case records to be missing such fundamental data which enables them to undergo important security checks. We cannot understand how this can have been allowed to happen for so many applications. We recognise that this issue is a historical rather than a current failing on the Agency’s behalf and one that should be attributed to its leadership at the time the applications were made. The Agency says it is satisfied with the action it took to try and improve the data quality by reformatting it. However, given that 328 cases were still unable to undergo a PNC check and 28 were unable to be checked against the Watchlist we regard this as a most unsatisfactory consequence. (Paragraph 22)

Efforts are actively being made to improve the quality of the data and to develop a strategy to identify and resolve data quality issues in the Casework Information Database (CID). A project has been established to improve the quality of CID data going forward and cleanse the data of records already on the system. (page 4)

<table>
<thead>
<tr>
<th></th>
<th>Accepted in part, the Government said it would take steps to improve the quality of data in the casework information database.</th>
</tr>
</thead>
</table>

**Cases with a hit on the Police National Computer**

8. We understand that these individuals are unlikely to pose a security risk but we are puzzled that there is no contact information available for any of them. In the example given by the Agency (holding a shotgun licence), licence-holders have to supply their name and address (Paragraph 23)

The Committee’s recommendation has been noted and those cases where there was a confirmed ‘hit’ on Police National Computer (PNC) will be re-examined to see whether the PNC holds any new address information that can be used to trace these individuals. The findings will be reported back to the Committee. (page 5)

<table>
<thead>
<tr>
<th></th>
<th>Accepted.</th>
</tr>
</thead>
</table>

9. Given the Agency’s poor record in carrying out checks on legacy cases prior to April 2012 we are by no means reassured that this issue has been addressed properly. We recommend the Agency re-examines these cases individually before closing them and reports its findings to this Committee. The public has a right to know about individuals who may be living in their communities with no legal right to be here and who may have committed criminal offences whilst in the country (Paragraph 23)

See 8.

<p>|  | Accepted. |</p>
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
<th>Accepted/Rejected</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.</td>
<td>We are concerned to hear that the authorities do not have contact details for individuals who are awaiting prosecution or who have recently been in contact with the police. It is vital that the Agency continues to work with the police and prosecutors to try and locate these individuals. (Paragraph 23)</td>
<td>We will continue to work with the police and the courts to trace these individuals or establish definitively that the files can be closed. (page 5)</td>
</tr>
<tr>
<td>11.</td>
<td>We are disappointed that even after the Inspector’s discovery in April 2012, the Agency failed to carry out its programme of checks properly. This is especially worrying given that the controlled archives were to be closed upon completion. We had expected the Agency to take a thorough approach to the task, one that demonstrated awareness of its responsibility to trace all the individuals it was possible to trace and to ensure that all cases were closed appropriately. (Paragraph 24)</td>
<td>To be absolutely sure that the programme of checks on the controlled archive had been undertaken properly, Deloitte were asked to conduct an external independent assurance exercise. The controlled archive closure report, which was provided to the Committee in December 2012, confirmed the checks that had been undertaken on cases before being closed and the subsequent assurance provided by Deloitte that the checks the Government committed to had been undertaken. It is not in the best interests of the taxpayer to have staff devoted to endlessly repeating these checks when checks have found there is no recent evidence that individuals are in the UK. Their records will not be deleted or removed from Home Office databases and should they ever come to light again we will re-activate their case and seek to conclude it. (page 6)</td>
</tr>
<tr>
<td>12.</td>
<td>We know that there are a large number of failed asylum and immigration applicants living in the shadows in the UK who are unlikely to have records on many of the databases searched by the Agency. Based on evidence seen so far we do not believe that the checking programme, even when properly completed, can offer reassurance that all 80,300 applicants whose cases the Agency has now closed have left the UK. (Paragraph 27)</td>
<td>See 11.</td>
</tr>
<tr>
<td>13.</td>
<td>We are unsure as to how any matches with the controlled archive cases will be achieved. We expect the Agency to tell us what mechanisms it has in place for flagging up individuals it come into contact with who have a record in the closed archives. (Paragraph 28)</td>
<td>Robust processes are in place so that where staff encounter individuals with closed cases through allegations, representations, intelligence or enforcement activity the case can be reactivated and considered. All closed cases have a special condition flag attached to their CID record and have been flagged on the Warning Index as non-compliant. Should staff encounter either flag there is clear accompanying guidance. (page 6)</td>
</tr>
<tr>
<td>Asylum cases that were not reported to this Committee</td>
<td>14. It is appalling that a senior civil servant should have misled the Committee in the way that Ms Homer did and that she continues, even in the light of the</td>
<td>The Government does not accept that Lin Homer misled the Committee or tried to evade responsibility. The Home Secretary has been clear that the UK Border Agency’s poor performance was caused by structural issues, rather than any failures of leadership or individuals. That is why the Home Secretary</td>
</tr>
</tbody>
</table>
Effectiveness of the Committee in 2012–13

Inspector’s findings, to try and evade responsibility for her failings. Reference to important figures in an obscure footnote in a previous letter is not an acceptable response. The Inspector’s findings about the asylum and immigration backlog are the latest in a long line of failings in the Border Agency, many of which occurred throughout Ms Homer’s time as Chief Executive. (Paragraph 34)

<table>
<thead>
<tr>
<th>Paragraph 34</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. This whole episode raises serious concerns about the accountability of the most senior civil servants to Parliament. It is shocking that after five years under Lin Homer’s leadership an organisation that was described at the beginning of the period as being ‘not fit for purpose’ should have improved its performance so little. Given this background, we are astounded that Ms Homer has been promoted to become Chief Executive and Permanent Secretary at Her Majesty’s Revenue and Customs and can therefore have little confidence in her ability to lead HMRC at what is a challenging time for that organisation. Indeed we note from Ms Homer’s appearance before the Public Accounts Committee in January that one million letters were left unanswered at HMRC throughout 2012 and that 100,000 of these still remained unanswered on the date of her appearance before the Public Accounts Committee. (Paragraph 36)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Paragraph 36</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Government recognises that the current system of accountability - where civil servants are accountable to Ministers, who in turn are accountable to Parliament - is not working effectively. The Government’s Civil Service Reform Plan committed to strengthening the accountability of the Civil Service to Ministers, as well as the accountability of civil servants to Parliament. The Government has confirmed that former Accounting Officers can be called back to give evidence to the Public Accounts Committee (PAC) where there is a clear rationale and is going further by requiring Accounting Officers to sign off implementation plans for major projects. The Cabinet Office is also currently undertaking a review of the Cabinet Office Guidance on giving evidence to select committees (the ‘Osmotherley rules’), governing the interaction between civil servants and parliament. It will work closely with interested stakeholders within Parliament in taking forward this review. The Government notes the recommendation that Parliament should be given a stronger role in the pre-appointment scrutiny of Permanent Secretaries. The relationship between ministers and their permanent secretary is the most important in any department. That is why the Government is committed to strengthening the role of Ministers in the appointments of Permanent Secretaries. The changes that the Commission agreed in December 2012 to the guidance covering appointments are capable of increasing ministerial involvement. The Government is examining how they work in practice before concluding that changes to the legislation are not required. Permanent Secretary appointments are subject to independent regulation, established in the Constitutional Reform and Governance Act 2010, and overseen by the Civil Service Commission. Those involved in Civil Service recruitment are bound by the legal requirement that selection for appointment to a politically impartial Civil Service must be on merit and on the basis of fair and open competition. The introduction of pre-appointment scrutiny would sit at odds with the nature of appointments being made which are very different to public appointments. (Page 7)</td>
</tr>
</tbody>
</table>

The Government agreed that the accountability of senior civil servants to Parliament is not effective. The response did not comment on the performance of Lin Homer.
16. We recommend that Parliament be given a stronger role in the pre-appointment scrutiny of civil servants who will be leading government departments and we believe this strengthens the case for select committees to be given the power of veto. The status quo, in which catastrophic leadership failure is no obstacle to promotion, is totally unacceptable. We recommend that in future any failures of this nature should have serious consequences for the individual’s career. (Paragraph 37)

See 15.

Rejected. The Committee recommended that Select Committees be given a stronger role in pre-appointment of civil servants. The Government response focussed on strengthening the role of Ministers in appointments of permanent secretaries.

17. This statement appears to be at odds with the report from the Chief Inspector which found that these cases represented 30-40% of the CAAU’s casework and that staff were upset that this substantial element of their work was not being reported to this Committee. It is difficult to see how both the Chief Inspector’s findings and Mr Whiteman’s statement can be correct and we expect Mr Whiteman to clarify the issue immediately. (Paragraph 39)

These grants of leave were captured as concluded cases in the legacy reporting and were reported to the Committee as such. They were granted leave in the UK so were not included in the outstanding legacy cohorts because, on the expiry of their limited leave, these individuals need to make a fresh application for further leave should they wish to remain in the UK. The legacy aspect of the cases was therefore concluded at the point leave was granted. (page 8)

Accepted. The Government explained the discrepancy between the number of those granted leave in the UK and why they were not included in the outstanding legacy figure.

18. We expect the Agency to tell us how these 11,000 Active Review cases relate to the group of 33,000 cases uncovered by the Chief Inspector. We also note that, far from having cleared the backlog, the Agency appears to be setting up a new directorate, the Complex Casework Directorate, to solve the more difficult cases which still remain outstanding. The Agency needs to tell us how this new Directorate is related to the CAAU and the backlog casework that they are currently concluding. (Paragraph 40)

As stated in the Independent Chief Inspectors report, the 33,000 cases were made up of:
- asylum applications dated prior to 5 March 2007, with a grant of discretionary leave which expires after 1 April 2011;
- cases granted Discretionary Leave (DL) by Case Assurance and Audit Unit (CAAU) between May 2012 and December 2013.
This is a combination of actual grants of DL as well as possible future grants, based on the number of outstanding cases.

The 11,000 cases referred to by Rob Whiteman in his letter of 18 December 2012 related to people who had already received a grant of Discretionary Leave that may or may not have expired. It did not include an estimate of the total number of future Active Review applications that might need to be dealt with following on-going grants of Discretionary Leave.

The Older Live Cases Unit (formerly the Case Assurance and Audit Unit and renamed in the interests of transparency, as recommended by the Committee) will continue to manage the stock of remaining live legacy cases following the closure of the controlled archive and will also manage the Active Review cases referenced above. The Older Live Cases Unit sits within the Complex Casework Directorate. (page 9)

Accepted. The Government clarified figures on those granted temporary leave, and how the Older Live Cases Unit relates to the Complex casework Directorate.
Use of Terminology
19. The Agency did not conclude its work on the legacy programme within its original target time. Rather than admit this, it simply sent the cases which it had reviewed but not yet concluded off to a new unit, the Case Assurance and Audit Unit (CAAU). We are disappointed that the Agency chose to address the issue in this way. The Agency’s action in setting up a further Directorate, the Complex Casework Directorate, to conclude difficult older cases suggests to us that, despite its claims, the Agency has no intention of taking a more transparent approach to terminology and reporting in the future. (Paragraph 42)

The case resolution programme was a time limited programme which closed on 31 March 2011 having reviewed around 500,000 legacy cases of which 455,000 were concluded at that date. The Case Audit and Assurance Unit (CAAU) was established to handle the remaining cases and those which had been placed into the controlled archives. These cases are now being handled by the Older Live Cases Unit (OLCU) which is part of the Complex Casework Directorate.

It is accepted that there are lessons to be learnt from the handling of the legacy cases and that more thought could and should have been given to the arrangements for handover and transition from Case Resolution Directorate to CAAU. These have been acknowledged with both the Home Affairs Select Committee and the Public Accounts Committee.

The Complex Casework Directorate has, at present, in addition to the OLCU, a small ‘Status Review Unit’ to work on the Active Review cases and a very small number of cases relating to the deprivation of citizenship or revocation of leave, and statelessness. (page 9)

20. Keeping the cases in the Case Resolution Directorate and concluding them properly would have been a more prudent and transparent approach than establishing the Case Assurance and Audit Unit to take on cases which were not concluded by the Case Review Directorate. (Paragraph 44)

See 19.

Correspondence with applicants' legal representatives and MPs
21. We agree that this shambolic approach to correspondence is likely to have led to many cases being placed in the controlled archives when in fact the applicant was trying to make contact with the Agency. The deluge of correspondence was no doubt the result of the Agency publicly claiming to have cleared its backlog when it had not done so and a poorly timed mail merge exercise to the nine thousand or more individuals whose cases were passed to the CAAU without even being reviewed by the CRD. On this issue alone, of totally misplaced boxes of correspondence involving thousands of cases, we can only conclude the organisation has been poorly led and mismanaged. We hope that the Agency will learn from this episode and

Being open and transparent in the way information is presented to Parliament and the public is essential. We welcome the Chair’s comments on the clarity of the information being provided to the Committee improving recently and it is important that continued improvement is made on this to ensure that Parliament and the public can understand the progress being made with the remaining live cases. (page 10)

The Government agrees that it is important to be open and transparent with information provided to Parliament. However, the response does not mention the inadequate management of correspondence.

Accepted. The Government has accepted there are lessons to be learned from the handling of legacy cases, including how to manage the transition to the new unit designed to address legacy cases.
undertake to finish programmes properly in the future instead of fudging its terminology to meet targets. (Paragraph 47)

Key issue: tackling the backlog of ex-FNOs living in the community
22. The Committee is pleased to note that the Agency is making some progress in locating and removing ex-FNOs from the 2006 cohort who were released without being considered for deportation. (Paragraph 49)

We welcome the Committee’s acknowledgment of our progress in this area; we continue to focus on locating and removing ex-Foreign National Offenders (FNO) from this cohort.

We always aim to deport FNOs as soon as possible upon completion of their sentence. The proportion of FNO removals which take place early during the Early Removal Scheme (ERS) period has been increasing year-on-year. In 2008, about 20% of all UKBA removals of FNOs took place during the ERS period but there have been considerable improvements since then – with the Home Office now removing over 40% of their total deport criteria removals within the ERS window. This demonstrates the improvements that have already been made over the last few years.

We are however precluded from considering FNOs for deportation too early into their sentence following the case of Chindamo. Where sentence length allows, consideration of deportation is commenced 18 months prior to the earliest point of removal (ERS date). Even if cases were considered earlier than 18 months before the end of an individual’s sentence we would need to reconsider the case around 18 months prior to the release to consider any changes to the individual’s circumstances. This would not be a cost effective use of resources. Additionally, consideration of the case 18 months prior to the ERS date allows enough time for an individual’s case to make its way through the courts should the individual appeal against the decision to deport.

Despite this we recognise that the number of non-detained FNOs in the UK has remained higher than we would like. We are working on policy solutions to further increase foreign national offender removals and remove some of the principal barriers to removal, such as non-compliance, legal challenges and re-documentation issues.

In addition, Operation Nexus (an operational and intelligence partnership between the Home Office and the Metropolitan Police Service) is helping us more effectively tackle offending by foreign nationals in London. This has led to an increased number and range of checks that are undertaken on offenders arrested in London. We have already removed 450 of the highest harm offenders through Op Nexus.(page 11)

23. However, the overall number of ex-foreign national offenders living in the community whilst awaiting deportation has grown incrementally since the

See 22.

The Government is unable to implement the recommendation because it is precluded from doing so by by law. The
beginning of the year and the backlog of ex-offenders who have been here for over two years remains stubbornly high. The Government is simply not getting to grips with an issue that both endangers and infuriates the public. We reiterate our previous recommendation that ex-FNOs should be considered for deportation earlier in their sentence. The Home Office should work to overcome logistical and legal obstacles to doing so. (Paragraph 50)

<table>
<thead>
<tr>
<th>Key issue: prioritising the conclusion of legacy casework</th>
</tr>
</thead>
<tbody>
<tr>
<td>24. When the controlled archives closed the Agency had 33,900 backlog asylum cases and 7,000 backlog immigration cases that it needs to conclude. Most of the individuals concerned will have waited many years to find out the result of their applications. The Agency must now prioritise the conclusion of their cases and work fast to give them a swift decision. The age of the cases and the controversy surrounding the backlog make it important that the Agency considers the merits of each application properly and records the reasons behind its decision making. As we recommended in our Fourth Report of 2010-12, in cases where severe delays in decision-making have been the fault of the Government and not the applicant, and where the passage of time has made evidence harder to find or has led to the applicant’s being better integrated into British society, there is an argument in favour of granting the applicant leave to remain. (Paragraph 51)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key issue: a growing backlog of cases pending an initial decision for more than 6 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>25. We are concerned to see a 53% rise in the number of asylum seekers awaiting an initial decision for more than six months in the year up to September 2012. The number of cases being concluded within a year has only risen by 3% in the same period, now accounting for only 63% of the total. We recognise that there will be difficulties with some cases but if our asylum system is to function properly the Agency must keep on top of its...</td>
</tr>
</tbody>
</table>

We are committed to reviewing these remaining cases as quickly as possible. These remaining cases are, by their very nature, old and complex cases where in many cases barriers to removal remain. There will be cases among them which cannot be concluded within a set timescale due to external circumstances, such as individuals serving prison sentences. For each legacy case reviewed it is important that they are considered in accordance with the Immigration Rules. When leave is granted it is consistent with wider policy - taking into consideration a number of factors including length of stay in the UK, compliance with the immigration process and criminality. (page 12)

Rejected. The recommendation related to the number of asylum cases waiting more than six months for an initial decision and the Government accepts that the number of these cases is increasing. The response does not comment on performance against the premium service.
The figures for the last year indicate that this is not what is happening, the Agency should review its resource model for processing these cases and make the changes needed to start reversing the increase in the number of cases waiting for an initial decision for longer than six months. (Paragraph 52)

**Premium applications**
The Agency’s premium service is designed to enable users to have their applications for Further Leave to Remain processed within 24 hours. In Q3 2012 the Agency processed only 73% of Tier 1 and 72% of Tier 2 FLTR applications within the 24 hour target time. It processed 73% and 75% of Tier 4 and 5 visas on time. This is an unacceptable performance considering that the Agency is charging main applicants between £661 and £1,800 for premium applications.

26. The Agency has given applicants a notably poor level of customer service which cannot be serving the Government’s aim of keeping the ‘brightest and the best’ in the UK. Parliamentary Questions reveal that it takes 45 minutes to deal with a case. Given that figure, it is inexcusable that so many people are not having their cases processed on time. In total 28,558 visa applications were not processed within target times in Q3 2012, more than double the number that were, 10,842. The delays create a vicious cycle of paperwork as the longer the delay, the more letters MPs will write and the more bureaucracy there will be to handle. People are paying a high cost to obtain their visas, and more for the premium services. The Agency needs to consider these people more as customers, and fulfil its responsibilities in the timescale it has promised. The Agency must explain to Parliament what has gone wrong throughout 2012, what it is doing to solve the problem and when services will be running within target times again. We note that, in contrast, out of country visa applications are processed within target time.

The poor performance in 2012 was caused by several factors but most notably a higher than expected number of applications in certain routes, caused in part by reactions to policy changes such as the closure of Tier 1 Post study work in April. Significant resource had to be dedicated to clearance of those applications during the year but we are now getting the levels of outstanding cases down to manageable levels which will allow us to process future cases within service standards.

We have also identified routes where there is potential abuse. Where this is the case, we have put measures in place to address this but it is important that such cases are considered fully, which can take longer. This has been the case with the Tier 1 entrepreneur route and family cases with Human Rights aspects. Work to reduce the stock of these cases to manageable levels will continue through the summer.

However, as acknowledged by the Home Secretary on 26 March, the UK Border Agency’s performance overall has not been good enough. That is why the decision was taken to split it into two separate entities, reporting directly to Ministers. In doing so, we will be able to create two distinct cultures. For UK Visas and Immigration, which will handle the majority of the casework functions, we will be creating a high-volume service that makes high-quality decisions about who comes here, with a culture of customer service. It will take many years to fix the system, but these changes put us in a much stronger position to do so. (page 13)
times and that the Agency often exceeds these targets, as we saw recently in Abu Dhabi. The Agency needs to examine how the strong performance of the International Directorate can be replicated for in-country applications. (Paragraph 56)

**Key issue: Acting on rule 35 reports**

27. The Agency cannot plausibly claim to take Rule 35 reports very seriously when its Chief Executive does not understand his own guidance. Furthermore Mr Whiteman’s answer gave the misleading impression that a proportion of reports may not have a sound medical basis as they were not necessarily made by medical practitioners. We are concerned at the enormous gap between the number of reports received and the number of individuals released. The Agency must tell Parliament the reasons for which its case workers overrule the advice of medical practitioners. We reiterate our previous recommendation that the Agency should carry out an immediate independent review of the application of Rule 35 in immigration detention. Further intransigence will continue to pose a risk to individuals, as mental health issues may not be properly identified. (Paragraph 62)

In previous evidence sessions, Mr Whiteman has stated that detainees and their representatives may submit information which addresses issues similar to those seen in Rule 35 reports, and it is right that this information be properly considered, but this will not be as part of the Rule 35 process itself. This does not contradict our clear guidance that a report under Rule 35 of the Detention Centre Rules may be issued only by a medical practitioner. Not all Rule 35 reports recommend release from detention and it is therefore not the case that continued detention necessarily indicates that medical advice has been overruled. Rule 35 reports will usually only recommend release if issued under Rule 35(1). Those issued under Rules 35(2) and 35(3) will not address health in the same way, and will seldom if ever make such a recommendation. They will instead provide information which must be considered by the officer responsible for reviewing whether continuing detention is appropriate, alongside wider information about the individual. Some such reports will be detailed and reasoned, whereas others will simply pass on a detainee’s own allegation, complaint or comments.

A revised Detention Service Order (DSO) which provides guidance to Immigration Removal Centre (IRC) healthcare teams on how to complete Rule 35 reports was issued in October 2012, with associated training delivered to IRC healthcare representatives. Separately, a revised Asylum Instruction on Rule 35 for use by case workers was published in January 2013, again with associated training, which is currently being delivered. We will undertake an internal audit on Rule 35 performance once this is complete. An independent review is not considered necessary in these circumstances. (page 14)

Rejected. The Government did not think it was necessary to carry out an independent review of the operation of Rule 35.

**Key issue: closing the Family Visit Visa full right of appeal**

28. We are concerned that the full right of appeal for the Family Visit Visa is being closed off at a time when the Agency is winning only just over half the appeals made against its decisions. We reiterate below the recommendations we made in our previous two reports which should help to reduce the volume of appeals

Removing the full right of appeal in family visit applications brings family visitor cases in line with other visitor categories. Our research has shown that the majority of allowed appeals in this category are successful as a result of fresh evidence being submitted. This is evidence that the Entry Clearance Officer did not have the opportunity to consider when making the decision to refuse. The appeal system should not be a way of submitting new information or evidence. Applicants can reapply, making sure that they address the reasons for their refusal, and in most cases this will be

Rejected. The Government did not agree to the Committee’s recommendation on what could be done to reduce the number of appeals without closing off rights of appeal.
without closing off important routes of appeal. Removing this will create extra pressure on the entry clearance operation with no guarantee it will save time or money. (Paragraph 63)

29. There are a number of simple changes the Agency could make to reduce the volume of appeals it handles. Firstly the refusal notices it issues should set out in clear bullet points why the application has been rejected. If, for example, it is due to missing documentation the applicant should be asked to provide this to the Agency as part of the same application. It should then be reviewed within an acceptable timescale. This could reduce both the time it would take for the applicant to get a decision and the resources spent on appeals. Secondly, we understand that the Agency does not specify all the documentation it requires to grant an application. For example it asks for “proof of funds” instead of bank statements. We recommend that the Agency list specific documents that are likely to be needed in order to grant an application. This will ensure that the application process is as clear as possible and should reduce the amount of verification work and appeals work that has to be done at a later stage. We will return to the issue of the entry clearance operation as the focus of our next report. (Paragraph 64)

Key issue: post licence visits
30. We are concerned that the proportion of post licence visits that are unannounced is declining in all sponsor Tiers. We reiterate the recommendation made in our previous reports that the majority of post licence visits should be unannounced. This should ensure that the enforcement system is both rigorous and gives the public confidence that the government is cracking

All refused applicants receive a written refusal notice which clearly sets out why the application was refused, with clear links to the relevant sub-paragraph(s) of the Immigration Rules that the applicant does not meet. The Immigration Rules set out the documentation required to support an application in many instances, particularly under the Points Based System routes. Where the Rules do not specify the documentation required for an application to be granted, instead they lay out a set of requirements that applicants must meet. There are then a number of different types of evidence that an applicant could use to demonstrate that they have met the Immigration Rules.

We accept that the majority of visits where there is suspected non-compliance should be unannounced but there may always be occasions where it is not practical to do so. In May we piloted 100% unannounced visits for certain categories of visits and more generally we are ensuring that the overall percentage of unannounced follow-up visits across all categories will increase during 2013. (page 16)

Rejected: The Government said a decision is made according to requirements being met or not, and these are communicated to the applicant. The Government said the decision does not rely solely on the presentation of specific documents.

Broadly accepted, the Government is aiming for 100% where possible.
down on illegal immigration. In its Fifth Report of the Session the Agency committed to test the approach of undertaking 100% unannounced visits on sponsors where it suspects non-compliance by March 2013. We will expect to see the results of this test when we next take evidence from the Agency. (Paragraph 65)

**Key issue: tracking the follow up of non-compliance notifications**

31. It is unacceptable that the Agency does not know how many of the potential noncompliance notifications received in Q3 2012 had been followed up by the end of the Quarter. If the Agency does not keep track of its performance in this area then it will undermine the work of Sponsors who are required to make non-compliance reports if they suspect a sponsee of breaking the terms of their visa. We reiterate our comments from our previous report: We recommend that the Agency immediately instigates a way of tracking follow up actions taken on potential non-compliance reports. Without this we cannot see how it can keep track of the number of people who may be breaking the terms of their visa and therefore remaining in the country illegally. (Paragraph 66)

We accept that dealing with notifications received from Sponsors is of great importance and that these should be dealt with in a timely manner. To meet this requirement, in December 2012 a dedicated team of 80 staff was established to consider the outstanding Tier 4 Curtailment notifications submitted by Sponsoring organisations and reduce the volume of notifications pending assessment. There are currently 60 staff dedicated to the consideration curtailment notifications. The team have already made a significant contribution to reducing the number of outstanding notifications. There were 144,552 notifications processed between 1 January and 30 June and we are now considering notifications within the agreed turnaround time of four weeks. (page 16)

**Key issue: tackling the continued growth of the Migration Refusal Pool**

32. The Migration Refusal Pool has increased by 4% since Q2 2012. The Committee welcomes the fact that the Agency has now contracted Capita to concentrate on clearing this backlog and has established performance benchmarks against which to measure the result. The Committee has taken evidence from Capita at the start of this contract and will be closely monitoring its performance throughout. We expect the Government to publish its own assessment of Capita’s performance in delivering this contract twice a year. (Paragraph 67)

We welcome the Committee’s acknowledgement of the benefits of awarding the contract to Capita. The Government will submit its assessment of Capita’s progress through the routine quarterly reports to the Committee to provide the necessary transparency and scrutiny of their delivery of this critical contract.

33. Capita informed the Committee that it was dealing

The contract with Capita will enable cases to be checked in a more timely

Broadly accepted.
with the existing backlog but was not dealing with
more recent refusals. The way to prevent the backlog
from growing is to check applicants as soon as they are
refused, rather than wait months to do so. The Agency
must have sufficient resources in place to carry out
timely checks that individuals refused Leave to Remain
have left the country. Otherwise the backlog will build
in perpetuity. (Paragraph 68)

34. Although we welcome the fact that the Migration
Refusal Pool backlog is now to be tackled in a focused
way it appears that Capita’s contract amounts to
telephoning or sending text messages to individuals
asking them to leave and cleansing the Agency’s data
in the process. This is a contract worth between £2.5
and £3m. We do not understand why the Agency was
not able to do this in a strategic and timely way itself.
(Paragraph 69)

Key issue: an improved intelligence picture about the
results of allegations made
35. In successive reports we have called for the Agency
to inform people who make allegations as to their
outcome. We are particularly concerned that a spouse
reporting marital fraud, for example, is still being
treated as a third party reporting the case. It is
important that where a family member is making a
report, particularly if they have sponsored the
individual in question, they are kept up to date with
progress. We will be monitoring closely the
performance of the National Allegations Database. As a
result of being able to track allegations through the
system we expect to see a proper analysis from the
Agency as to why such a small proportion of allegations
made result in enforcement action being taken.
(Paragraph 70)

Departmental information and cooperation with
Parliament
A new operating model for handling correspondence will mean letters and
emails are dealt with in dedicated responder team hubs, rather than by
36. We are concerned by the Agency's failure to meet targets for responding to MPs, as people only turn to their Member of Parliament as a last resort. For this reason, they need to be dealt with in a timely and proper manner. We note that even if the Agency meets these targets it does not mean that cases are resolved. Part of the problem in responding to MPs is the delay in uploading information to the Case Information Database and this must be dealt with as a first step. (Paragraph 71)

37. It is only because of our questioning of the Minister that we heard about the Migration Refusal Pool and even now we are hearing about further backlogs. This is unacceptable. UKBA must disclose all relevant information to Parliament and not wait until it is asked. (Paragraph 72)

Border Agency Backlogs
38. Bearing in mind that this has been an exceptional Quarter, where 96,000 cases in the controlled archives were simply closed, we find that UKBA's progress in dealing with the backlogs is far too slow. At this rate, it would take years to deal with the current backlog. (Paragraph 73)

39. Senior Agency staff should not receive bonuses until there is evidence that the backlog is being substantially reduced and new backlogs are not emerging. (Paragraph 74)

40. Despite the closure of the controlled archives, 96,000 cases since last quarter, the total backlog has only reduced by 1%. New backlogs are continuing to emerge. The Agency's work affects thousands of people's lives, public safety, public services and the economy, but it continues to be an Agency playing casework or operational staff with competing priorities. This new approach will facilitate stronger relationships with MPs' offices, allow greater expertise to be built up and allow for more flexible use of resources to meet immediate needs. The number of un-input temporary migration cases has been dramatically reduced from around 50,000 at the end of 2012 to just over a thousand at the end of March 2013. New applications are now normally put on to the system within two weeks of receipt. (page 19)

MPs letters, and on reducing the delay
catch up. Until we are able to publish a Report on the Agency both without the discovery of a new backlog and with a decrease in the present backlogs we will not be able to declare it fit for purpose. (Paragraph 75)
Wednesday 25 November 2014

Members present:

Keith Vaz, in the Chair

Michael Ellis
Paul Flynn
Lorraine Fullbrook

Dr Julian Huppert
Tim Loughton
David Winnick

Draft Report (Effectiveness of the Committee in 2012–13), proposed by the Chair, brought up and read.

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

Paragraphs 1 and 2 read and agreed to.

Annex agreed to.

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

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

[Adjourned till Tuesday 2 December 2014 at 2.30 p.m.]
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First Report</td>
<td>Tobacco smuggling</td>
<td>First Report</td>
<td>Police and Crime Commissioners: Register of Interests</td>
</tr>
<tr>
<td>Second Report</td>
<td>Female genital mutilation: the case for a national action plan</td>
<td>Second Report</td>
<td>Child sexual exploitation and the response to localised grooming</td>
</tr>
<tr>
<td>Fifth Report</td>
<td>Police, the media, and high-profile criminal investigations</td>
<td>Fifth Report</td>
<td>E-crime</td>
</tr>
<tr>
<td>Sixth Report</td>
<td>Child sexual exploitation and the response to localised grooming: follow-up</td>
<td>Sixth Report</td>
<td>Police and Crime Commissioners: power to remove Chief Constables</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Seventh Report</td>
<td>Asylum</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eighth Report</td>
<td>The work of the UK Border Agency (Jan–March 2013)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ninth Report</td>
<td>Pre-Lisbon Treaty EU police and criminal justice measures: the UK’s opt-in decision</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tenth Report</td>
<td>Leadership and Standards in the Police: follow-up</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eleventh Report</td>
<td>Khat</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Twelfth Report</td>
<td>Drugs: new psychoactive substances and prescription drugs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Thirteenth Report</td>
<td>The work of the Permanent Secretary</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fourteenth Report</td>
<td>The Government’s Response to the Committees’ Reports on the 2014 block opt-out decision</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fifteenth Report</td>
<td>The work of the Immigration Directorates (April-Sep 2013)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sixteenth Report</td>
<td>Police and Crime Commissioners: Progress to date</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Seventeenth Report</td>
<td>Counter-terrorism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eighteenth Report</td>
<td>Reform of the Police Federation</td>
</tr>
</tbody>
</table>
### Session 2012–13

<table>
<thead>
<tr>
<th>Report序号</th>
<th>报告主题</th>
<th>纸张编号</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Report</td>
<td>Effectiveness of the Committee in 2010–12</td>
<td>HC 144</td>
</tr>
<tr>
<td>Second Report</td>
<td>Work of the Permanent Secretary (April–Dec 2011)</td>
<td>HC 145</td>
</tr>
<tr>
<td>Third Report</td>
<td>Pre-appointment Hearing for Her Majesty’s Chief Inspector of Constabulary</td>
<td>HC 183</td>
</tr>
<tr>
<td>Fourth Report</td>
<td>Private Investigators</td>
<td>HC 100</td>
</tr>
<tr>
<td>Fifth Report</td>
<td>The work of the UK Border Agency (Dec 2011–Mar 2012)</td>
<td>HC 71</td>
</tr>
<tr>
<td>Sixth Report</td>
<td>The work of the Border Force</td>
<td>HC 523</td>
</tr>
<tr>
<td>Seventh Report</td>
<td>Olympics Security</td>
<td>HC 531</td>
</tr>
<tr>
<td>Eighth Report</td>
<td>The work of the UK Border Agency (April–June 2012)</td>
<td>HC 603</td>
</tr>
<tr>
<td>Ninth Report</td>
<td>Drugs: Breaking the Cycle</td>
<td>HC 184-I</td>
</tr>
<tr>
<td>Eleventh Report</td>
<td>Independent Police Complaints Commission</td>
<td>HC 494</td>
</tr>
<tr>
<td>Twelfth Report</td>
<td>The draft Anti-social Behaviour Bill: pre-legislative scrutiny</td>
<td>HC 836</td>
</tr>
<tr>
<td>Thirteenth Report</td>
<td>Undercover Policing: Interim Report</td>
<td>HC 837</td>
</tr>
<tr>
<td>Fourteenth Report</td>
<td>The work of the UK Border Agency (July-Sept 2012)</td>
<td>HC 792</td>
</tr>
</tbody>
</table>

### Session 2010–12

<table>
<thead>
<tr>
<th>Report序号</th>
<th>报告主题</th>
<th>纸张编号</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Report</td>
<td>Immigration Cap</td>
<td>HC 361</td>
</tr>
<tr>
<td>Second Report</td>
<td>Policing: Police and Crime Commissioners</td>
<td>HC 511</td>
</tr>
<tr>
<td>Third Report</td>
<td>Firearms Control</td>
<td>HC 447</td>
</tr>
<tr>
<td>Fourth Report</td>
<td>The work of the UK Border Agency</td>
<td>HC 587</td>
</tr>
<tr>
<td>Fifth Report</td>
<td>Police use of Tasers</td>
<td>HC 646</td>
</tr>
<tr>
<td>Sixth Report</td>
<td>Police Finances</td>
<td>HC 695</td>
</tr>
<tr>
<td>Seventh Report</td>
<td>Student Visas</td>
<td>HC 773</td>
</tr>
<tr>
<td>Eighth Report</td>
<td>Forced marriage</td>
<td>HC 880</td>
</tr>
<tr>
<td>Ninth Report</td>
<td>The work of the UK Border Agency (Nov 2010-March 2011)</td>
<td>HC 929</td>
</tr>
<tr>
<td>Tenth Report</td>
<td>Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union</td>
<td>HC 789</td>
</tr>
<tr>
<td>Eleventh Report</td>
<td>Student Visas–follow up</td>
<td>HC 1445</td>
</tr>
<tr>
<td>Twelfth Report</td>
<td>Home Office–Work of the Permanent Secretary</td>
<td>HC 928</td>
</tr>
<tr>
<td>Thirteenth Report</td>
<td>Unauthorised tapping into or hacking of mobile communications</td>
<td>HC 907</td>
</tr>
<tr>
<td>Fourteenth Report</td>
<td>New Landscape of Policing</td>
<td>HC 939</td>
</tr>
<tr>
<td>Fifteenth Report</td>
<td>The work of the UK Border Agency (April-July 2011)</td>
<td>HC 1497</td>
</tr>
<tr>
<td>Sixteenth Report</td>
<td>Policing large scale disorder</td>
<td>HC 1456</td>
</tr>
<tr>
<td>Seventeenth Report</td>
<td>UK Border Controls</td>
<td>HC 1647</td>
</tr>
<tr>
<td>Eighteenth Report</td>
<td>Rules governing enforced removals from the UK</td>
<td>HC 563</td>
</tr>
<tr>
<td>Nineteenth Report</td>
<td>Roots of violent radicalisation</td>
<td>HC 1446</td>
</tr>
<tr>
<td>Twentieth Report</td>
<td>Extradition</td>
<td>HC 644</td>
</tr>
<tr>
<td>Twenty-first Report</td>
<td>Work of the UK Border Agency (August-Dec 2011)</td>
<td>HC 1722</td>
</tr>
</tbody>
</table>