



House of Commons
Home Affairs Committee

**The work of the UK
Border Agency
(April–July 2011)**

Fifteenth Report of Session 2010–12



House of Commons
Home Affairs Committee

The work of the UK Border Agency (April–July 2011)

Fifteenth Report of Session 2010–12

Report, together with formal minutes

*Ordered by the House of Commons
to be printed 1 November 2011*

The 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)
Nicola Blackwood MP (*Conservative, Oxford West and Abingdon*)
James Clappison MP (*Conservative, Hertsmere*)
Michael Ellis MP (*Conservative, Northampton North*)
Lorraine Fullbrook MP (*Conservative, South Ribble*)
Dr Julian Huppert MP (*Liberal Democrat, Cambridge*)
Steve McCabe MP (*Labour, Birmingham Selly Oak*)
Rt Hon Alun Michael MP (*Labour & Co-operative, Cardiff South and Penarth*)
Bridget Phillipson MP (*Labour, Houghton and Sunderland South*)
Mark Reckless MP (*Conservative, Rochester and Strood*)
Mr David Winnick MP (*Labour, Walsall North*)

The following members were also members of the committee during the parliament.

Mr Aidan Burley MP (*Conservative, Cannock Chase*)
Mary Macleod MP (*Conservative, Brentford and Isleworth*)

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), Joanna Dodd (Second Clerk), Sarah Petit (Committee Specialist), Eleanor Scarnell (Inquiry Manager), Darren Hackett (Senior Committee Assistant), Sheryl Dinsdale (Committee Assistant), Victoria Butt (Committee Assistant), John Graddon (Committee Support Officer) 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 3276; the Committee's email address is homeaffcom@parliament.uk.

Contents

Report	<i>Page</i>
Introduction	3
Remuneration of staff	3
Foreign National Prisoners	4
Asylum Cases	7
Controlled Archive	10
Enforced Removals	12
Intelligence	13
Immigration Tribunals	16
Exclusion from the UK	16
Student visas and ‘bogus’ colleges	18
MPs’ correspondence	20
Government pledge to cut net migration	21
Scrutiny of the UK Border Agency	23
Conclusions and recommendations	25
Appendix 1	30
MP Account managers by area	30
Formal Minutes	31
Witnesses	32
List of printed written evidence	32
List of Reports from the Committee during the current Parliament	33

Introduction

1. Since 2006, we and our predecessor committee have received regular updates from the UK Border Agency (in the form of letters and subsequent evidence sessions) on issues facing the Agency, including the deportation of foreign national prisoners and the backlog in asylum cases. We publish with this report, which covers the period of April–July 2011, the latest letter¹ (dated 24 August 2011), and oral evidence given by Mr Jonathan Sedgwick, then acting Chief Executive of the Agency and further correspondence as a result of that evidence session.²

2. We have undertaken to examine the UK Border Agency every four months meaning that the next period will be August–November and then December–March. We ask the UK Border Agency for comparable data and so are able to monitor any change in the standard of work. The report follows a basic template in order to make it accessible and allow our fellow members of Parliament and the wider public to scrutinise the Agency with consistency.

Remuneration of staff

3. In our previous report on the work of the UK Border Agency, we recommended that senior staff did not receive bonuses in light of the economic crisis.³ This recommendation was not accepted and the arrangements for financial year 2010–11 are set out below.

Officials	Salary £'000	Bonus Payments £'000
Lin Homer chief executive (until 9 January 2011)	160-165 (205-210 full year equivalent)	5-10
Jonathan Sedgwick Deputy Chief Executive Acting Chief Executive (from 10 January 2011)	105-110	5-10
Brodie Clark Director Border Force	130-135 ⁴	5-10
Matthew Coats Director Immigration Group	145-150	5-10
Justin Holliday Director Resource Management Group	130-135	5-10
Joe Dugdale Director HR & Organisational Development	130-135	5-10
Tamara Finkelstein Director of UK Border Agency Programme (until 25 April 2010)	5-10 (85-90 full year equivalent)	0
Martin Peach Director Intelligence Group	105-110	0
David Wood Director Criminality & Detention Group	100-105	5-10

1 Ev 15–404

2 Ev 409

3 Home Affairs Committee, Ninth Report of Session 2010–12, *The work of the UK Border Agency (November 2010–March 2011)*, HC 929, para 39

4 Mr Clark also received benefits in kind worth £2,500.

Barbara Woodward Director International Group (from 4 March 2009)	100-105	5-10
Robert Yeldham Director Communications	85-90	0-5
Jonathan Payne Chief of Staff (until 28 June 2009)	0	0
Zilla Howell Chief of Staff (from 3 August 2009)	65-70	0-5
Philip Duffy Acting Director Policy & Strategy (from 10 January 2011)	15-20 (80-85 full year equivalent)	0

4. The appointment of Mr Rob Whiteman as the new Chief Executive of the UK Border Agency was announced on 15 July. In a previous report, we recommended that the Chief Executive’s annual salary should be significantly lower than the £208,000 his predecessor earned, and more in line with the Permanent Secretary range.⁵ **We therefore welcome the appointment of Mr Whiteman on a lower salary of £175,000 and look forward to taking evidence from him in December.**

5. We consider it unacceptable that bonuses were paid when the annual report and accounts show that £7 million was spent writing off bad debts and £4 million was spent on overpayments to staff and asylum claimants.⁶ When we questioned what percentage of illegal working civil penalties had been collected in the financial year 2010–11, we were informed that 56% had been collected.⁷ **The level of waste at the UK Border Agency is unacceptable. We recommend that the Government undertake and publish the results of a detailed investigation into this and consider how the UK Border Agency can improve its financial and data management.**

Foreign National Prisoners

6. In 2006, it emerged that some 1,013 foreign national prisoners who had served their sentences were released back in to the community rather than being considered for deportation. The UK Borders Act 2007 introduced an ‘automatic deportation’ provision whereby the Secretary of State is required to make any non-EEA foreign national prisoner who has received a sentence of 12 months or more, or any custodial sentence for specified serious crimes, subject to a deportation order (with certain exceptions).⁸ In our report published in January of this year we identified the need to ensure that all eligible foreign nationals currently serving sentences were removed from the UK expeditiously and, wherever possible, were not held for long periods in prison at the taxpayers’ expense when

5 Home Affairs Committee, Fourth Report of Session 2010–12, *The work of the UK Border Agency*, HC 587, para 16

6 UK Border Agency, *UK Border Agency annual report and accounts*, 7 July 2011, Pg 79,81 and 93

7 Ev 410

8 Sections 32 & 33. The serious crimes are those specified by order of the Secretary of State under section 72(4)(a) of the Nationality, Immigration and Asylum Act 2002.

they could be deported.⁹ When the Home Secretary came before us in September she stated that

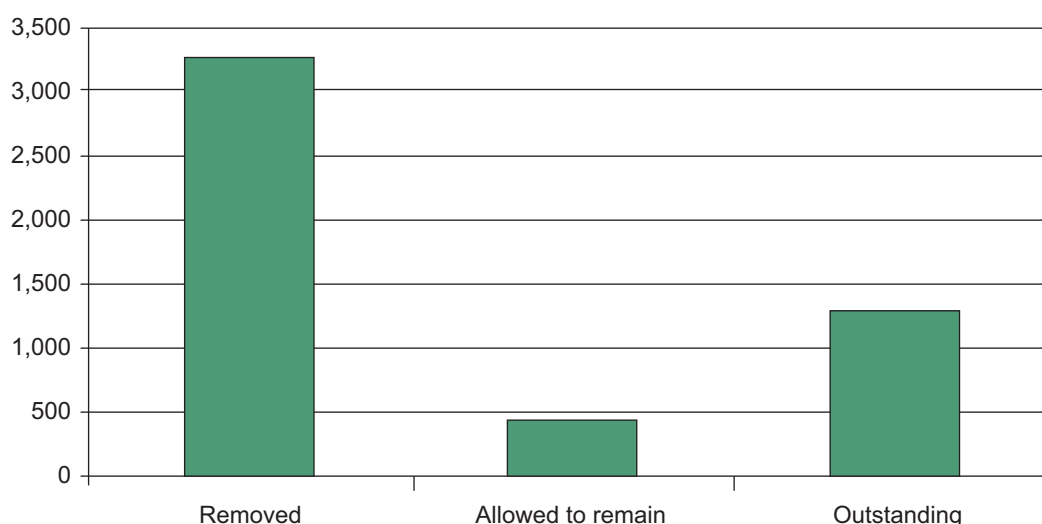
I can tell the Committee that according to the most recent figures, in 2009–10, under the last Government, there were 64 cases where a foreign national prisoner had not been referred to them for consideration for deportation. In 2010–11—i.e. mainly under this Government—the figure was 28, and that compares to that 1,013 in 2006.¹⁰

We note the considerable number of prisoners whose deportation has been delayed by casework issues and by further legal challenges. We suggest that the Government review these areas to see if the deportation process can be streamlined.

7. We welcome the very significant reduction in the number of foreign national prisoners who were released without being considered for deportation, from 1,013 in 2006 to just 28 in 2010–11. In order for performance at the current level to be maintained, the Agency will need to ensure that it communicates regularly with prison services regarding the potential release dates of prisoners. We are nonetheless concerned about the remaining 28 and ask the Agency to take all practicable steps to locate them. We consider that with proper liaison between the HM Prison Service and the Border Agency the numbers of foreign national prisoners released without being considered for deportation will be reduced to zero.

8. As regards those 5,012 foreign national prisoners who finished serving their sentence in the financial year 2010–11, the UK Border Agency have provided the following figures: as of 11 October 2011 some 3,248 had been removed, 471 had been allowed to remain in the country and 1,300 were still outstanding as shown in the graph below.

Figure 1: Foreign National Prisoners who were released between 1 April 2010 and 31 March 2011



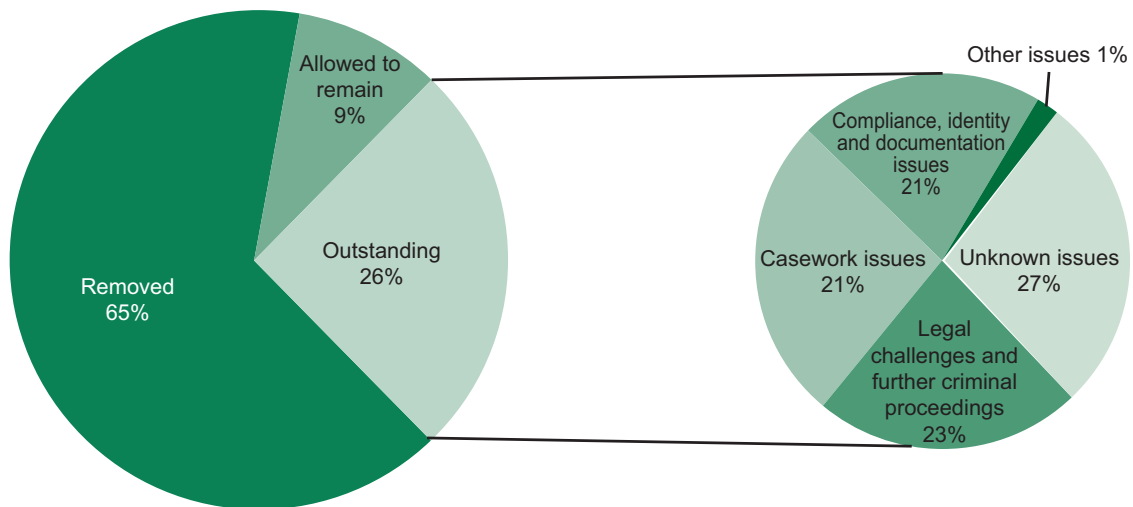
9 Home Affairs Committee, Fourth Report of Session 2010–12, *The work of the UK Border Agency*, HC 587 para 2

10 Uncorrected transcript of oral evidence taken before the Home Affairs Committee on 8 September 2011, HC (2010–12) 1456-ii, Q231

Those 1,300 outstanding are cases where there are difficulties with their deportation including judicial challenges, casework and compliance issues. Those issues are broken down in the table below.

Outstanding cases	Total
Legal challenges and further criminal proceedings	300
Casework issues (including further representations, asylum claims, medical and children issues)	335
Compliance, identity and documentation issues	270
Other issues(including country situation, multiple barriers)	20
Unknown issues (data has not been recorded)	350
Total	1,300

Figure 2: Foreign national prisoners released, 2010/11



In follow up evidence, the UK Border Agency informed us that of these 1,300 only 500 are being detained whilst their deportation is being pursued.¹¹ Figures recently published by the Independent Chief Inspector of the UK Border Agency show that, in May 2011, a total of 3,775 former foreign national prisoners were living in the community.¹² This includes the 800 prisoners from the cohort released in 2010–11 identified above, as well as those released in previous years. The Independent Chief Inspector identified two main reasons for failure to deport—those former prisoners whose country of origin was considered unsafe, and those for whom there was difficulty in obtaining the travel documents

11 Ev 411

12 Independent Chief Inspector of the UK Border Agency, *A thematic inspection of how the UK Border Agency manages foreign national prisoners*, 27 October 2011, Pg 3

necessary for them to re-enter their country of origin.¹³ The Chief Inspector’s findings about the reasons for failures to deport were based on a sample of 132 case files and they are not wholly consistent with the figures supplied to us by the UK Border Agency itself, which show that the single largest category of deportation failure is those classified as “unknown”, accounting for 27% of the total. The fact that the Agency itself does not know why it is unable to deport more than a quarter of foreign national former prisoners is in itself cause for concern.

9. The UK Border Agency is considering whether to deport 1,300 foreign national prisoners who were released in 2010–11. The fact that only 500 of these are detained is troubling, and the Agency needs to provide a full and detailed explanation for why they have released 800 foreign nationals who have previously broken the law. It is unacceptable that in more than a quarter of cases, the Agency is unable to explain why these foreign nationals have not yet been removed. This is another example of poor data management and inconsistent with the UK Border Agency’s stated commitment to transparency. The Agency must improve its systems for recording difficulties in deporting former foreign national prisoners.

10. One of the findings of the Chief Inspector, highlighted in the report, was the fact that improved contact with UK Border Agency immigration teams increased the number of foreign national prisoners participating in the Early Removal System and the Facilitated Returns Scheme. However, the Chief Inspector’s discussions with senior management led him to conclude that the Agency would not be expecting case owners to visit prisons as standard due to ‘insufficient resources’.¹⁴ Given that the Chief Inspector estimates that two months post-prison detention for a foreign national prisoner costs £6,600¹⁵ and in 2005, the National Audit Office estimated that a forced removal would cost £11,000, the value of such a programme seems high.

11. We recommend that the Agency undertake an analysis of contact between case owners and foreign national prisoners. If certain methods are found to increase the likelihood of foreign national prisoners returning to their country of origin, they ought to be invested in as a priority.

Asylum Cases

12. When the legacy backlog was publicised in 2006, the then Home Secretary John Reid made a statement on the floor of the House

In five years’ time, by the end of 2011, we intend to deal with 90 per cent [of asylum applications] within six months, and we have set out plans to achieve that. We will deal with the legacy of unresolved cases in five years or less.¹⁶

13 Independent Chief Inspector of the UK Border Agency, *A thematic inspection of how the UK Border Agency manages foreign national prisoners*, 27 October 2011, Pg 16

14 *Ibid.*, Pg 25

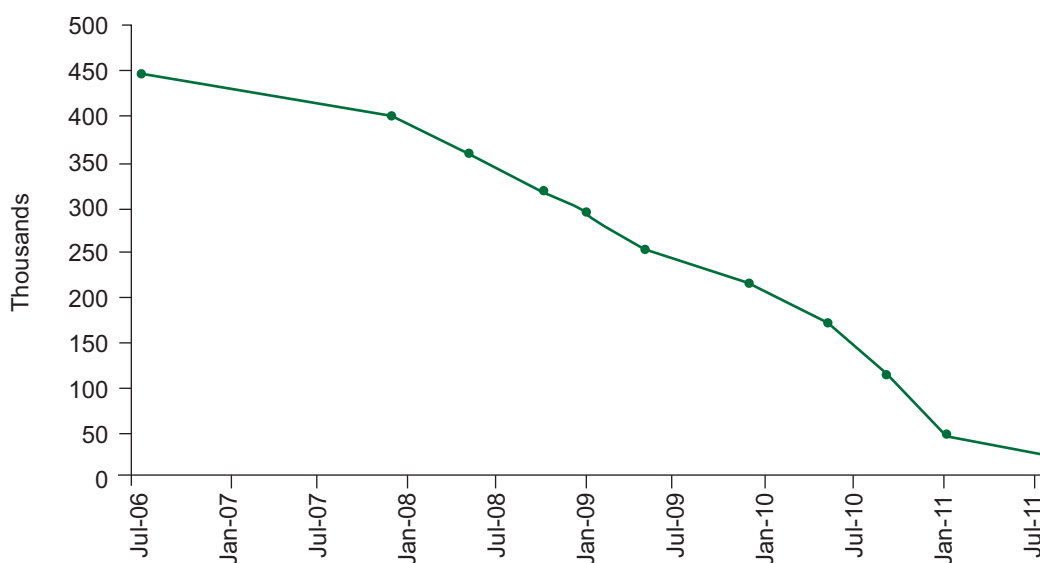
15 *Ibid.*, Pg 12

16 HC Deb 25 July 2006 col. 736

That legacy was, at the time, believed to number somewhere between 400,000 and 450,000 applications for asylum which were described as being “electronic and paper records, which ... are riddled with duplication and errors, and include cases of individuals who have since died or left the country, or are now EU citizens.”¹⁷ In the letter dated 24 August, Mr Sedgwick informed us that the Case Resolution Directorate (which dealt with the legacy cases) had entered its final phase and would have reviewed the entire caseload by the end of August 2011 at which point he would send us updated findings.¹⁸

13. We received the update on 12 September 2011, the day before Mr Sedgwick was due to give evidence to us. We were informed that “the UK Border Agency completed its review of all cases in the legacy cohort at the end of March 2011.” The chart below shows the rate of conclusion of the legacy files.

Figure 3: Estimated size of asylum ‘legacy’ backlog since July 2006



14. The table below shows the breakdown of asylum legacy cases concluded over the past year.

	November 2010	March 2011	September 2011
Allowed to remain	139,000 (42%)	161,000 (40%)	172,000 (36%)
Removed	35,000 (11%)	38,000 (9%)	37,500 (8%)
Other(duplicates, errors or controlled archive)	160,500 (48%)	205,500 (51%)	268,000 (56%)
Total concluded	334,500	403,500	479,000

Data compiled from previous reports

17 HC Deb 19 July 2006 col. 324

18 Ev 15

The “other” category has increased quite substantially in terms of the percentage make up since November 2010. We examine the reason for this in the section on the controlled archive below.

15. A total of 500,500 cases were reviewed as part of the programme and the majority (455,000) had been fully concluded.¹⁹

Total number of reviewed cases in the legacy cohort	500,500
Total concluded	479,000
Of which:	
Allowed to remain	172,000 (36%)
Removed	37,500 (8%)
Other(duplicates, errors or controlled archive)	268,000 (56%) Including 98,000 in the controlled archive. A further 500 will be added if not traced within the next 6 months.
Grants subject to final security check	3,000
Outstanding conclusion	18,000

Ev 12

The last category, outstanding conclusion, includes ongoing litigation, impending prosecution, incomplete legal or criminal proceedings, non-compliance, and offenders from difficult-to-remove countries.²⁰ These 18,000 cases were transferred from the Case Resolution Directorate to the Case Assurance and Audit Unit where casework will continue until they are resolved.

16. When we questioned whether the legacy programme could be described as ‘completed’ if there were still 18,000 cases yet to be concluded, Mr Sedgwick responded that

There are 18,000 cases where removal has still to be completed. Removal takes some time. There are documentation issues and there are legal challenges. Those 18,000 cases we are proceeding to try to remove. So therefore, you will see that number of removals going up over a period.²¹

When we pointed out that meant they had not been ‘dealt with’ by July 2011 as the then Home Secretary had pledged they would be, Mr Sedgwick disagreed, pointing out that all decisions had been made and those involved informed.²²

Mr Sedgwick later reiterated that the commitment was “always to decide the cases”, not to “remove every single one of [them] by this summer[...]. That process was always going to take longer.”²³

17. In his statement to Parliament in 2006, the then Home Secretary suggested that the Home Office would deal with the legacy backlog in five years or less. They have concluded 455,000 cases, however we do not consider the 18,000 cases which have received an initial decision but are awaiting removal as ‘dealt with’. No matter how

19 Ev 12

20 Ev 12

21 Q20

22 Q21

23 Q25

those at the UK Border Agency interpreted that pledge, it was not a pledge that all cases would have a decision but rather that all cases would be concluded. We recommend that the Agency establish a challenging target date for the completion of these removals in any case no later than 31 March 2012 and we expect Mr Whiteman to present us with a time table for completion when he next gives evidence.

18. We are also concerned by the transfer of 18,000 outstanding files from the Case Resolution Directorate to the Case Assurance and Audit Unit. This action risks giving the impression that the UK Border Agency are using bureaucratic terms to hide the fact that they were unable to meet the July 2011 deadline. We recommend the Government investigate whether this transfer was simply a name change or whether the files were transferred to a different location to be worked on by different staff. We note that in general the claim that the backlog has been dealt with conflicts with the experience of MPs in terms of what they are told in response to enquiries about individual cases.

Controlled Archive

19. Fifty-six per cent of the legacy backlog were classified as 'other'. These comprised duplicates, errors, EU nationals and cases placed in the controlled archive. The categories of 'duplicates' and 'EU nationals' are self-explanatory. The then Minister for Identity, Meg Hillier MP, explained in a letter in March 2009 that "errors are cases where, for example, someone may have already been removed or granted some form of leave, and the record on our database was not updated correctly."²⁴ 98,000 cases were put into the controlled archive which contains cases in which, despite its best endeavours, the UK Border Agency has been unable to trace the applicant. The cases are checked against watchlists for a period of six months before they are considered to have been 'concluded'.

20. This was a substantial increase when compared to the totals given in previous evidence.

	November 2010	March 2011	September 2011
Number of Asylum legacy cases placed in the controlled archive	18,000	40,500	98,000

Data compiled from previous reports

This shows that the controlled archive increased by 80,000 asylum backlog cases in 10 months.

21. As well as those 98,000 asylum cases there are also a number of migration cases which have been allocated to the controlled archive. These cases are from a review of around 40,000 case files which we were informed about via the UK Border Agency update letter in October 2009.

We are also increasingly giving our attention to our older, archived, non asylum cases, where we have dealt with the application, but where we have no formal record that the individual has left the country. In the last few months we have begun the process of reviewing these files to consider if any further action is necessary or

24 Letter to the Home Affairs Committee, dated 25 March 2009

possible, Around 40,000 of these older, archived, files fall into this category. These will all be reviewed and checked against watchlists and the Police National Computer. ...

These files will, in the main, belong to pre-2003 (i.e. preceding the introduction of our charging regime) cases of visa overstayers or those to whom we have refused an extension of leave, such as students. ...²⁵

22. Our predecessor Committee asked the then Minister and the then Chief Executive of the UK Border Agency, Ms Lin Homer about these cases in November 2009. The then-Minister said the extent of the problem had come to light during the course of “our huge management project to clear up the past archives”²⁶, and emphasised that the 40,000 cases could well contain a number of duplicates so, contrary to media reports, were likely to relate to fewer than 40,000 people. We were told that all 40,000 had been checked against the watch list and Police National Computer to identify anyone likely to cause harm.

23. The UK Border Agency had also assessed a sample of 800 files. Of these, 65% pre-dated 2003, with some going back to 1983. They related to family claims (dependant spouses or other relatives seeking leave to remain), students and other types of migrant who were seeking to extend some kind of temporary leave to visit the UK. For 85% of them, nothing further was known: there were no further applications to which they could be linked, nor had any representations been made about their application. Of the remaining 15%, most had had their initial applications refused but had subsequently submitted more information or another application. We were told: “It is quite likely that a number of those people will have gone on to resolve their case in some way. They may well have made another application that was successful. They may well have left the country. My suspicion is that we will find, as we did with the general legacy cases, many of these cases are resolved”.²⁷

24. When Mr Sedgwick gave evidence to us on 13 September he confirmed that 26,000 of those 40,000 cases had been moved to the controlled archive.²⁸ This means that 65% of those cases which we were told would be resolved, have not been and the UK Border Agency is now unable to find those applicants.

25. Whilst we appreciate the difficulties involved in tracing people with whom the Agency have lost contact, usually for a period of several years, it is clear that the controlled archive has become a dumping ground for cases on which the Agency has given up. The controlled archive has increased significantly as the deadlines for the legacy backlog and the migration case review have approached. From 18,000 files in November 2010, the archive now contains 124,000 files, roughly equivalent to the population of Cambridge. With the end of the legacy backlog and review of the outstanding migration cases, we see no reason why the size of the controlled archive

25 Home Affairs Committee, *The Work of the UK Border Agency*, HC (2009–10) 105-II Ev 39,

26 HC (2009–10) 105, Q213

27 HC (2009–10) 105, Q237

28 Q83

should increase further. We recommend that the Agency produce clear and specific guidance on the controlled archive which covers:

- how often the files will be reassessed;
- how many staff will work on reassessing files in the controlled archive; and,
- when, if ever, files will be closed without the applicant being located.

26. We also object to the term ‘controlled archive’. It is another instance of a bureaucratic term which hides the true nature of a government department’s activity and is designed to deflect attention away from it. The controlled archive would be more appropriately referred to as an archive of lost applicants.

Enforced Removals

27. Since our previous evidence session with Mr Sedgwick, HM Chief Inspector of Prisons has published two reports which focussed on the escort and deportation of detainees on flights to Jamaica and Nigeria. Both reports highlighted the behaviour of the contracted escorts as cause for alarm. In the report on removals to Jamaica, the Chief Inspector was particularly concerned that

some staff used unprofessional language, swearing freely, telling offensive jokes and indulging in sweeping generalisations about national characteristics. The vulnerability of detainees during the process of removal is not to be taken so lightly, and the behaviour of all staff representing UK authorities should reflect better training and higher standards.²⁹

This was reinforced in the report on removals to Nigeria where the Chief Inspector reported that

escorts sometimes spoke to detainees in patronising terms and inspectors were very concerned at the highly offensive and sometime racist language they heard staff use between themselves. Quite apart from the offence this language may have caused to those who overheard it, it suggested a shamefully unprofessional and derogatory attitude that did not give confidence that had a more serious incident occurred, it would always have been effectively dealt with.³⁰

In particular, the report highlighted an incident where as “one detainee tried to explain he had spent most of his life in London, UK escorts mocked his accent.”³¹ Such inappropriate and demeaning behaviour on the part of escorts is shocking. A person who is being deported is often leaving behind family and friends to return to a country which may now seem remote to them. For some individuals, it is a highly stressful moment in their life, at which some may be acutely vulnerable. They should be treated in a professional manner.

29 HM Chief Inspector of Prisons, *Inspection of escort and removals to Jamaica*, July 2011, Pg 4

30 *Ibid.*, Pg 4

31 *Ibid.*, Pg 4

28. During the evidence session, we asked Mr Sedgwick whether he could reassure us that detainees were being treated with respect. He responded

Clearly, I was extremely disturbed to receive those two reports. It was serious, unprofessional and unacceptable behaviour to the individuals by our contractors. We have obviously raised that with the contractors. The individuals concerned have been dealt with and new processes have been put in place in relation to supervising and ensuring that better standards are observed in future, but that is an area that we will very much be keeping under close review because, as you would expect, we take it very seriously.³²

However, given that both reports make mention of UK Border Agency representatives who were present on flights, we feel that all matters of this kind should have been dealt with prior to the two reports being published several months later. The need for respect towards detainees ought to be ingrained in, and should be standard practice for, the staff of the UK Border Agency. The death of Jimmy Mubenga during deportation last year damaged the reputation of the UK Border Agency and put the system of enforced removals under considerable scrutiny.³³

29. We have long been concerned by the conduct of staff towards detainees during enforced removal and have previously questioned contractors, the UK Border Agency and ministers about the issue. We are particularly concerned by reports of the questionable behaviour of contracted staff taking place after the system was put under scrutiny and stated to have been reformed following the death of Jimmy Mubenga. We intend to take evidence from the Chief Inspector of Prisons regarding his recent reports on the treatment of detainees and will produce a report on enforced removals in the near future. However, it should be expected that appropriate disciplinary action should be taken at all times against those who behave in ways that clearly are not acceptable. Companies involved should be made aware that further incidents as described in previous paragraphs could lead to the loss of contracts with the UK Border Agency.

Intelligence

30. The UK Border Agency receives over 2,000 reports from members of the public a week, mainly regarding an individual's alleged transgression of the immigration laws.³⁴ The Agency encourages the public to report those they suspect of breaking immigration or customs laws, giving relevant contact advice on their website. This method was recently supported by the Prime Minister when, during his speech on immigration, he proposed that everyone in the country should

help with this, including by reporting suspected illegal immigrants to our Border Agency through the Crimestoppers phone line or the Border Agency website.

32 Q78

33 HL Deb 20 Oct 2010 col. 826

34 Independent Chief Inspector of the UK Border Agency, *Preventing and detecting immigration and custom offences: A thematic inspection of how the UK Border Agency receives and uses intelligence*, 13 May 2011, Pg 9

Together I do believe we can reclaim our borders and send illegal immigrants home.³⁵

31. On 13 May 2011 the Independent Chief Inspector of the UK Border Agency published a report entitled ‘Preventing and detecting immigration and customs offences: A thematic inspection of how the UK Border Agency receives and uses intelligence’.³⁶ The Report found that the Agency’s process for handling allegations, which involved all allegations being entered onto a national database before a decision was taken whether or not to pursue them, was followed inconsistently. The report details instances where allegations are recorded only onto local databases because recording information onto the national IT system was too time-consuming.³⁷ There were also examples of allegations which were determined to require no further action being omitted from the national database, meaning that information which might eventually prove useful was not being made available to staff within all intelligence units.

32. The Chief Inspector reviewed 70 specific cases, and found that the Agency did not systematically record the outcome of an allegation which required further action. One case study detailed an allegation regarding the arrival of 12 ‘bogus students’ from Sri Lanka at Heathrow the following day. The Agency recorded that the information had been sent to the intelligence unit at Heathrow Airport but there was no record of whether the passengers had been intercepted or questioned nor whether they had been refused entry or allowed in to the country.³⁸

33. As a result, the first recommendation of the Chief Inspector’s Report was that the UK Border Agency “records the outcome of allegations and assesses how often they lead to the development of intelligence and subsequent operations to prevent or detect immigration and customs offences.” The UK Border Agency accepted this recommendation, acknowledging that “we recognise the importance of allegations to the Agency’s work and therefore fully accept this recommendation.”³⁹ When we asked the Agency how many individuals had been removed as a direct result of action taken by intelligence units in 2011, we were told that they “do not hold the specific data requested; intelligence units within the Agency provide intelligence packages for enforcement teams, who carry out removals for the Agency.”⁴⁰ We were told that the reason that the Agency was unable to provide this information was because the allegations and removals information was kept on two different databases, but that work was being undertaken to link the two.

34. It is unacceptable that the UK Border Agency is unable to give us more detailed information about the role that intelligence plays in protecting the UK’s borders. The Independent Chief Inspector’s report suggested that there was inconsistency in the way that intelligence was collected and used and this is also unacceptable. We recognise that

35 www.number10.gov.uk/news/prime-ministers-speech-on-immigration/

36 Independent Chief Inspector of the UK Border Agency, *Preventing and detecting immigration and custom offences: A thematic inspection of how the UK Border Agency receives and uses intelligence*, 13 May 2011, Pg 6

37 *Ibid.*, Pg 10

38 *Ibid.*, Pg 12

39 *Ibid.*, Pg 3

40 Ev 413

the Agency is trying to improve the way it uses intelligence but we feel that in order for its staff and the public to appreciate the importance of individual allegations, the outcomes must be demonstrated.

35. The Prime Minister has called on the public to report those believed to be guilty of immigration offences. We strongly support the Government in this stance but there is no point if the UK Border Agency does not use the intelligence provided. We believe that the vigilance of the public ought to be rewarded by the publication of recorded outcomes. We recommend that the UK Border Agency produces a timetable for the improvement of intelligence processes which contains information on:

- how the agency will process information;
- how many staff will be working on intelligence; and
- the date that the intelligence database will be linked with the recommendations database.

36. We further recommend that the Agency produce quarterly figures showing:

- How many ‘tip-offs’ they have received;
- on how many cases they have taken action; and
- how many people have been removed following a ‘tip-off’.

Immigration Tribunals

37. In previous reports we have drawn attention to the high number of appeals which have been allowed against the UK Border Agency in both immigration and asylum appeals. The information provided to us by the Agency states that there were 154,700 appeals heard last year. 41% of appeals were allowed (the Agency lost), 44% were dismissed (the Agency won) and 15% of appeals were withdrawn. The results are set out in more detail below:

	Allowed		Dismissed		Withdrawn	
	No.	% of total	No.	% of total	No.	% of total
Asylum	4,600	27%	11,400	67%	1,100	6%
Managed Migration	22,800	50%	17,800	39%	4,600	10%
Entry Clearance	12,700	39%	12,300	38%	7,700	23%
Family Visit Visa	22,400	38%	25,900	44%	10,400	18%
Deport and others	280	27%	680	64%	97	9%
First Tier Tribunal (Immigration and Asylum Chamber)	62,800	41%	68,100	44%	23,800	15%

Ev 193

38. The UK Border Agency have said that one of the reason they lose so many cases is because new evidence is often submitted at appeal. There have recently been changes to the appeals system intended to restrict the type of further evidence which can be presented at appeal. Mr Sedgwick assured us that this would greatly improve their success rate at appeal and that there was already a significant improvement of Agency performance at appeals.⁴¹ **The figures for successful appeals at immigration tribunals are worrying. However we have been informed that the success rate of the UK Border Agency will improve following statutory changes restricting new evidence being introduced at appeal. There is no doubt that the outcome of appeals would be improved if the Agency were to improve the quality of its representation. We expect the Agency to be represented at all appeal hearings so that the case for refusal can be properly made.**

Exclusion from the UK

39. The Home Secretary can exclude individuals⁴² from entering the United Kingdom. Exclusions can be on grounds of National Security, Unacceptable Behaviour and other

41 Q8

42 The power to exclude a non-EEA foreign national is non-statutory and is exercised by the Secretary of State in person. It is applied in cases where the Secretary of State considers that the exclusion of an individual from the UK is conducive to the public good. The power to exclude EEA nationals is statutory. It derives from the Immigration

non-conducive grounds, which includes serious and organised crime, foreign policy and war crimes.⁴³ There have been 398 exclusion notices since 2005. In June 2011, Mr Raed Salah, whom the Home Secretary had banned from entering the country, arrived at Heathrow and managed to enter the country without any opposition from UK Border Agency officials working at the airport. It was further contended that Mr Salah had not been informed that he had been banned from the country. There was also some confusion as to how long it took to establish that Mr Salah was actually in the country—when the Home Secretary came before the Committee on 5 July, she was unable to provide the timeline of events: when she signed the exclusion order, when Mr Salah entered the country and when she was told that he had done so.⁴⁴ We are still awaiting the timeline from the Home Secretary, four months later. We have been in regular contact with the Home Office and have been informed that the letter requires further consideration by the Home Secretary. Considering we have asked for factual information, we are puzzled by the length of time we have had to wait. We have now obtained the timeline ourselves from the High Court. We find this approach to transparency a serious matter.

Timeline for exclusion order of Raed Salah Mahajna

23 June 2011—Home Secretary takes decision to exclude Salah from the UK on grounds that his presence is not conducive to the public good.

- Exclusion order (letter) was address to Salah and efforts were made to serve him in Israel—these had not succeeded before he left Tel Aviv

25 June 2011—Salah granted leave to enter the UK as visitor for 6 months—immigration officer had no idea he had been issued with a banning order.

- Salah had a return ticket for 5 July 2011

28 June 2011 (11pm)—Salah arrested and deportation order served

1 July 2011—Appeal papers lodged

18 July—Salah released on bail with stringent conditions

40. The Home Secretary did inform us that HM Inspector of Constabulary had undertaken an investigation and identified six missed opportunities for intervention.⁴⁵ The investigation had produced eight recommendations for the UK Border Agency (which can be found in the evidence attached to this report) and the Home Secretary has accepted all of these recommendations. Compounding this failure, Mr Salah has recently won damages from the Home Office after it emerged that he had not been given sufficient reason for his

(European Economic Area) Regulations 2006 and subsequently by the Immigration (European Economic Area) (Amendment) Regulations 2009. This is applied in cases where the Secretary of State considers that exclusion of an EEA national or family member of an EEA national is justified on the grounds of public policy, public security or public health.”

43 Ev 418

44 Home Affairs Committee, *The Work of the Home Secretary*, HC (2010–12) 1372-i, Q11-15

45 Ev 418

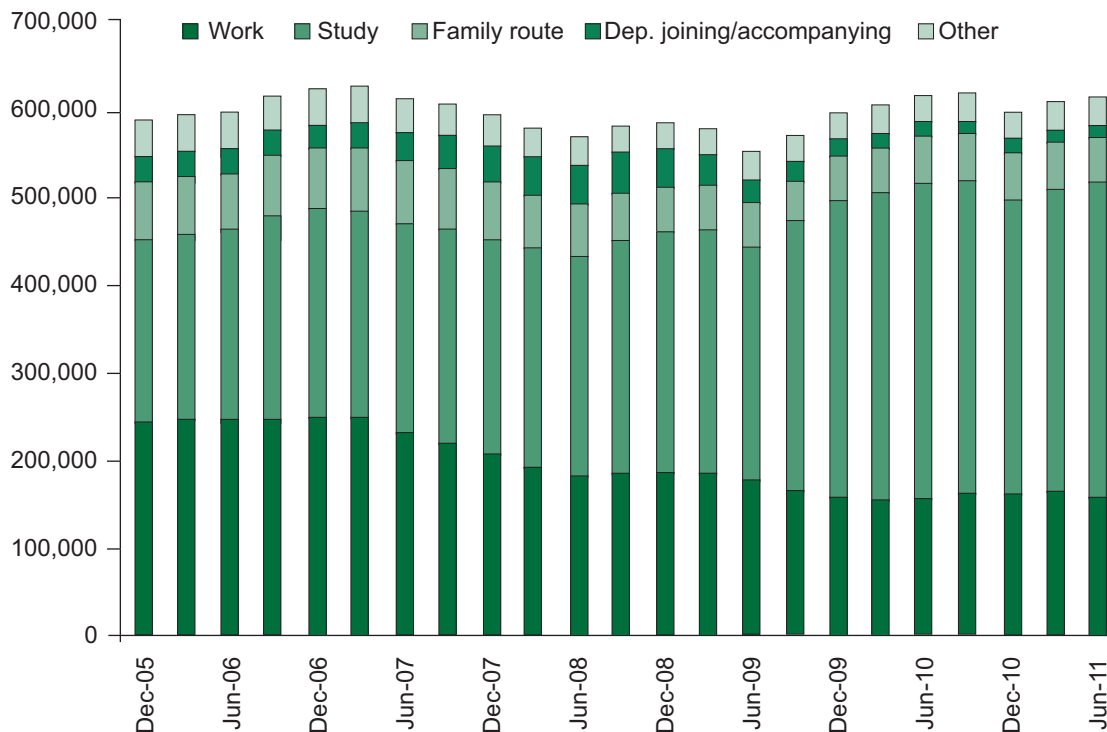
arrest and detention until 30 June, two days after he had been arrested.⁴⁶ Mr Raed Salah is currently on bail and fighting extradition from the UK.

41. **The case of Mr Raed Salah highlighted a number of flaws in the UK’s border control. Six opportunities for intervention were missed. These mistakes were then compounded by the lack of information provided to Mr Salah following his arrest, which mean that the Home Office will now have to pay damages to a man who the Home Secretary believed should never have been able to enter the country in the first place. This is inexcusable and unacceptable. When the Home Secretary signs an exclusion order, it ought to be served. We urge the UK Border Agency to implement urgently the eight recommendations of the HMIC to ensure that this never happens again.**

Student visas and ‘bogus’ colleges

42. Earlier this year, we published a report on Government proposals to change the immigration rules on Tier 4, the study route. The number of international students has increased greatly over the last few years—in the year up to September 2006, some 230,355 people came here to study, in the same period in 2010, that had increased to 355,386. An increase of 125,031, this is equivalent to a 54% increase in the number of student visas issued. In the same period, the number of those applying for work and family visas has dropped leaving study as the main cause of immigration, as shown by the table below.

Figure 4: Entry clearance visas issued (excluding visitor and transit visas) in year to date shown



46 www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/8799574/Palestinian-wins-damages-after-Theresa-May-ordered-his-detention.html

43. The answers to our questions on students and bogus colleges, along with areas of concern highlighted by the Committee can be found in the attached evidence. One of the reasons giving for reforming the study route “to ensure that those who enter on a student visa genuinely come here to study.” We asked for information on how many visas had been refused based on fraudulent evidence—we were informed that out of the 16,605 refused applications in April–July 2011, 2,359 were refused on the basis of fraudulent evidence. We also asked how many students who had broken the terms of their visa had had their leave curtailed or been deported. The UK Border Agency did not have the statistics to answer the question.

44. In the previous Parliament, our predecessor Committee published a report which examined ‘bogus colleges’—colleges which are set up to sponsor people who come to the UK for purposes other than genuine study. We asked a number of questions and we wanted to highlight several answers along with our response below:

- a) How many ‘bogus colleges’ have been closed or removed from the register in that period;

The UK Border Agency does not recognise the term “bogus college” and in any event has no powers to close a college.

We are dismayed that the Agency do not appear to recognise the term given the amount of press coverage ‘bogus colleges’ have received. It is especially concerning given that our predecessor Committee held an inquiry entitled ‘Bogus colleges’⁴⁷ at which the then Minister for Immigration gave evidence. The current Minister for Immigration also referred to ‘bogus colleges’ when he gave evidence to us as part of our inquiry on student visas.⁴⁸

- b) How many sponsors have been fined for misuse of their licence in that period; and how many sponsors have been prosecuted for misuse of their licence in that period;

The UK Border Agency does not have a power to fine or prosecute a sponsor for the misuse of its licence.

Instead we are informed that Sponsors may have their licence downgraded restricting their ability to sponsor new non-EEA students. Re-ratings are based on compliance issues which were not considered serious enough to warrant suspension or revocation of the licence.” They confirmed that the Agency had suspended 76 licences and revoked 11 licences.⁴⁹ We are surprised by this statement as in evidence to our previous inquiries on ‘bogus colleges’ the Home Office stated that individuals who “facilitate the commission of a breach of immigration law by a non-EU citizen” can be prosecuted under the Immigration Act 1971.⁵⁰

47 www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/595/595.pdf

48 Uncorrected transcript of oral evidence taken before the Home Affairs Committee on 8 September 2011, HC (2010–12) 1456-ii, Q238

49 Ev 45

50 Home Affairs Committee, *Bogus colleges*, HC (2008–09) 595, Ev 25

45. We cannot understand why the UK Border Agency is unable to tell us how many students had their leave curtailed or were deported for breaking the terms of their visa. We are surprised that the Agency is unaware of the term ‘bogus college’ as it has been used by Ministers and this Committee. We are also shocked if the worst punishment a sponsor who misuses their licence faces is the revocation of their licence, although previous evidence seems to contradict this statement. We would ask the Agency to confirm this is the case and clarify this point. On previous occasions we have come across anecdotal evidence that the Agency is not always clear, fair and consistent in its dealing with colleges, and while we support efforts to deal with wrongdoers and institutions that fall below the required standard, we are satisfied that most colleges provide an important educational service and contribute to their local economy. It is therefore important that the Agency understands the need to maintain a proper balance and is helpful to genuine educational institutions.

MPs’ correspondence

46. One of the reasons that we maintain such strict scrutiny of the UK Border Agency is that immigration cases constitute a huge amount of MPs’ caseload. When we visited the UK Border Agency headquarters in Croydon, we were informed that they had received 66,000 letters from MPs and Peers in the previous year. When we suggested that the situation could be improved if the Agency were more accessible to applicants, there was no acknowledgement that the Agency might be difficult to engage with. MPs do not solicit immigration and asylum cases—every case which an MP takes up with the Agency represents a constituent in need who has exhausted the other options which are available to them.⁵¹ **The involvement of an MP in a constituent’s case often comes as a last resort, when other approaches have failed. The high degree of correspondence between the UK Border Agency and MPs is evidence of failure earlier in the process. We intend to examine this further the next time the Chief Executive of the Agency comes before the Committee in December. In the meantime, we would welcome evidence from MPs and their staff about their dealings with the Agency.**

47. In evidence, Mr Sedgwick stated that all legacy cases had been decided and that decision had been communicated to the applicant. When some members announced that they had a number of cases where no decision had been received, he invited them to send him those cases.⁵² He also acknowledged that it was important that MPs involved with immigration cases be kept up to date and informed when decisions are made so that they can close their files.⁵³ The Chair then wrote to MPs informing them that all legacy cases ought to have been concluded and that any MPs awaiting decisions could contact the UK Border Agency. Hundreds of cases have subsequently been sent to the Agency. **We recommend that it become UK Border Agency policy that if an MP becomes involved in a case then the Agency automatically copies the MP in on any correspondence to the applicant. This will enable MPs to close cases once they have been resolved. This would be both courteous and efficient and should be acted upon at once.**

51 Q39

52 Q27

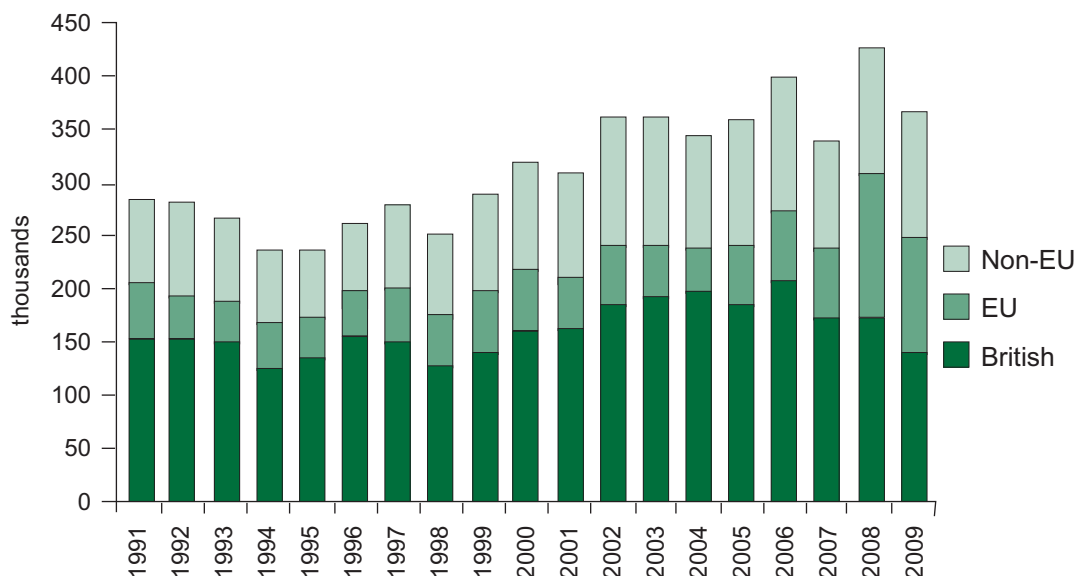
53 Q30

48. One of the more recent innovations to improve issues with MPs correspondence has been the MP account managers which are a point of contact for MPs in the regions. This could lead to improvements, but many MPs find that the initial impact has not been entirely beneficial. **We welcome the introduction of MP account managers but they have to have authority within the Agency and be able to obtain information quickly and accurately in order to provide an improved service to MPs. In order to aid our fellow parliamentarians, we have attached the list of the account managers of each region to this report. We will be asking MPs whether the new system has provided the improvements that are being claimed for it. If the improvements we wish to see take place, it could well be there would be a reduction in the 66,000 letters from MPs and peers in a single year.**

Government pledge to cut net migration

49. The Prime Minister pledged, prior to the 2010 election, to reduce net migration to the tens of thousands, rather than the hundreds of thousands that have become the norm in recent years. Achieving a reduction in net migration is made more difficult by the fact that reduced numbers of UK residents are emigrating while increasing numbers of EU citizens are coming into the UK. In a previous report, we recommended that the Government should exclude student numbers in their statistics about immigrants, since a student only becomes an immigrant when he or she seeks settlement. We appreciate that students are included in the UN statistics, but we believe this to be mistaken and to unduly inflate the targets which the government has to meet in order to deliver its commitment. We maintain this view although so far it has not been accepted. As the graph below shows, in 2006 some 207,000 British citizens emigrated. By 2009 that number had fallen to 140,000.

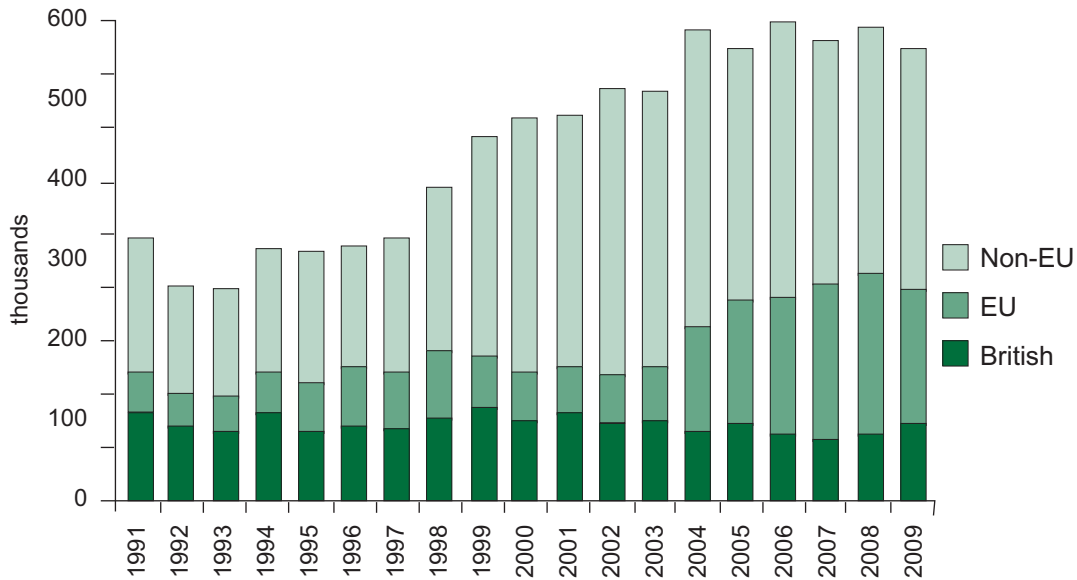
Figure 5: Long-term emigration from the United Kingdom by nationality, 1991-2009



Meanwhile, as the figures below demonstrate, between 1999 and 2009, immigration from EU nationals increased by over 100,000 whereas immigration from countries outside the EU only increased by 30,000 in the same period. In terms of percentage, EU immigration doubled, going from 14.5% of the total in 1999 to 29.5% by 2009.

Long-term immigration to the United Kingdom by nationality, 1991-2009									
	British	EU	Non-EU	Total		British	EU	Non-EU	Total
1999	115	66	273	454		25.3%	14.5%	60.1%	100.0%
2000	99	63	316	478		20.7%	13.2%	66.1%	100.0%
2001	110	58	313	481		22.9%	12.1%	65.1%	100.0%
2002	98	61	356	515		19.0%	11.8%	69.1%	100.0%
2003	100	66	344	510		19.6%	12.9%	67.5%	100.0%
2004	89	130	369	588		15.1%	22.1%	62.8%	100.0%
2005	98	152	316	566		17.3%	26.9%	55.8%	100.0%
2006	83	170	344	597		13.9%	28.5%	57.6%	100.0%
2007	74	195	305	574		12.9%	34.0%	53.1%	100.0%
2008	85	198	307	590		14.4%	33.6%	52.0%	100.0%
2009	96	167	303	566		17.0%	29.5%	53.5%	100.0%

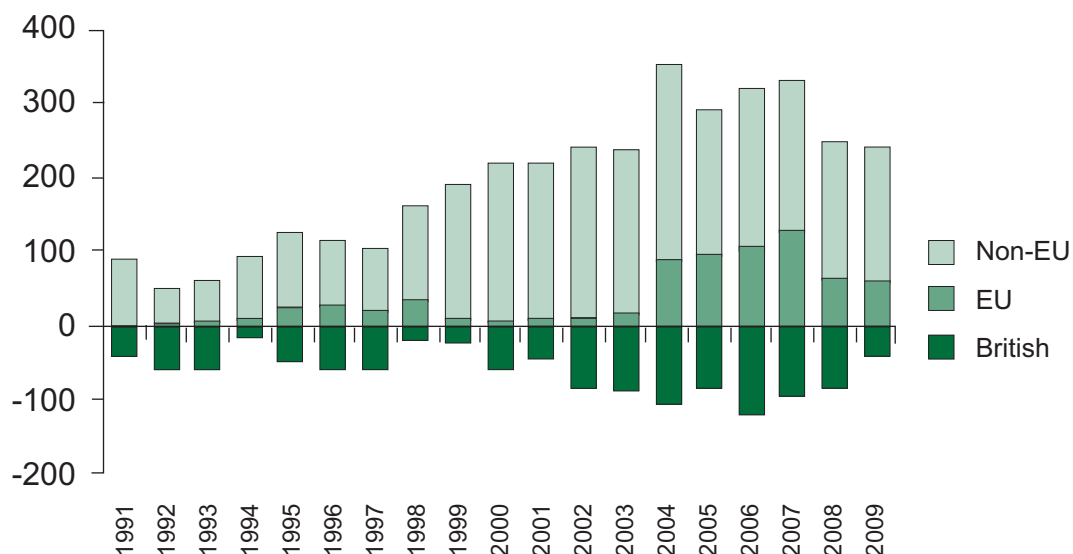
Figure 6: Long-term immigration to the United Kingdom by nationality, 1991-2009



The chart below demonstrates that emigration has not kept in line in with immigration. As a consequence, net migration has increased substantially from 163,000 in 2008, to 198,000 in 2009 to 239,000 in 2010.⁵⁴

54 www.number10.gov.uk/news/prime-ministers-speech-on-immigration/

Figure 7: Long-term net migration to the United Kingdom by nationality, 1991-2009



50. One of the ways that this figure could be reduced is if those who overstayed their visas were deported. In March this year, the National Audit Office published a report which estimated there could be as many as 181,000 migrants in the UK whose visas have expired since December 2008.⁵⁵

Scrutiny of the UK Border Agency

51. The UK Border Agency is an executive agency of the Home Office and so falls within the remit of our Committee. We take our scrutiny of this agency extremely seriously and so we require that the Agency provides us with updates on a range of performance measures every four months. On 24 August, we received our latest letter from the UK Border Agency. In response to 10 of our questions, the Agency referred us to previously published figures available on their website.

52. The Government's own guidance on the provision of information to select committees is quite clear. The Ministerial Code states that

Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies.⁵⁶

The Osmotherly Rules state that

The Government is committed to being as open and as helpful as possible with Select Committees. The presumption is that requests for information from Select Committees will be agreed to.⁵⁷

This is reinforced in the draft Cabinet Manual, which notes that "Ministers and civil servants [...] supply written evidence [to select committees] when it is requested".⁵⁸

55 National Audit Office, *Immigration: the Points Based System - Work Routes* (HC 819) 15 March 2011 pg 32

56 Cabinet Office, May 2010, paragraph 1.2.b.

57 Cabinet Office, *Departmental Evidence and Response to Select Committees*, July 2005, paragraph 68.

53. The history of the UK Border Agency (and its predecessors) is chequered and a number of failings, including the scandal of foreign national prisoners and the backlog of asylum cases, have been exposed by select committees of this House.

54. When we received the letter with the required data attached it was mostly in spreadsheet form and was not easily accessible. We have attached the letter as evidence to our report and have included the annexes as they appeared. **The UK Border Agency's provision of information to this committee falls short of the standards that the House is entitled to expect and on which the Government itself insists. The Agency has certainly not been "as open and helpful as possible", as civil service guidance requires. There is every risk that the Agency's failure to provide us with the information we require, in a format which is appropriate for our needs and within the time requested will undermine effective Parliamentary scrutiny of the Agency's work. We hope that the standard of information provided by the Agency will improve in response to this Report. If it does not, then we will seek the information from the Home Secretary in person, in accordance with the principles set out in the Ministerial Code and related guidance on the provision of information to select committees.**

55. The UK Border Agency comes before us three times a year, more often than the Home Secretary or the Permanent Secretary, both of whom are expected to appear twice yearly. A further reason that we require the UK Border Agency to give evidence to us on such a frequent basis is that these evidence sessions usually require quite a degree of follow up. **Despite the scandals of both foreign national prisoners and the legacy backlog happening in 2006, they have still not been completely resolved five years later. Immigration is an issue which affects the safety, the social cohesion and the economy of Britain as well as its standing on the world stage. For that reason we will continue to hold sessions with the UK Border Agency every four months or possibly even more frequently.**

Conclusions and recommendations

1. We welcome the appointment of Mr Whiteman on a lower salary of £175,000 and look forward to taking evidence from him in December. (Paragraph 4)
2. The level of waste at the UK Border Agency is unacceptable. We recommend that the Government undertake and publish the results of a detailed investigation into this and consider how the UK Border Agency can improve its financial and data management. (Paragraph 5)
3. We welcome the very significant reduction in the number of foreign national prisoners who were released without being considered for deportation, from 1,013 in 2006 to just 28 in 2010–11. In order for performance at the current level to be maintained, the Agency will need to ensure that it communicates regularly with prison services regarding the potential release dates of prisoners. We are nonetheless concerned about the remaining 28 and ask the Agency to take all practicable steps to locate them. We consider that with proper liaison between the HM Prison Service and the Border Agency the numbers of foreign national prisoners released without being considered for deportation will be reduced to zero. (Paragraph 7)
4. The UK Border Agency is considering whether to deport 1,300 foreign national prisoners who were released in 2010–11. The fact that only 500 of these are detained is troubling, and the UK Border Agency needs to provide a full and detailed explanation for why they have released 800 foreign nationals who have previously broken the law. It is unacceptable that in more than a quarter of cases, the Agency is unable to explain why these foreign nationals have not yet been removed. This is another example of poor data management and inconsistent with the UK Border Agency's stated commitment to transparency. The Agency must improve its systems for recording difficulties in deporting former foreign national prisoners. (Paragraph 9)
5. We recommend that the Agency undertake an analysis of contact between case owners and foreign national prisoners. If certain methods are found to increase the likelihood of foreign national prisoners returning to their country of origin, they ought to be invested in as a priority. (Paragraph 11)
6. In his statement to Parliament in 2006, the then Home Secretary suggested that the Home Office would deal with the legacy backlog in five years or less. They have concluded 455,000 cases, however we do not consider the 18,000 cases which have received an initial decision but are awaiting removal as 'dealt with'. No matter how those at the UK Border Agency interpreted that pledge, it was not a pledge that all cases would have a decision but rather that all cases would be concluded. We recommend that the Agency establish a challenging target date for the completion of these removals in any case no later than 31 March 2012 and we expect Mr Whiteman to present us with a time table for completion when he next gives evidence. (Paragraph 17)

7. We are also concerned by the transfer of 18,000 outstanding files from the Case Resolution Directorate to the Case Assurance and Audit Unit. This action risks giving the impression that the UK Border Agency are using bureaucratic terms to hide the fact that they were unable to meet the July 2011 deadline. We recommend the Government investigate whether this transfer was simply a name change or whether the files were transferred to a different location to be worked on by different staff. We note that in general the claim that the backlog has been dealt with conflicts with the experience of MPs in terms of what they are told in response to enquiries about individual cases. (Paragraph 18)
8. Whilst we appreciate the difficulties involved in tracing people with whom the Agency have lost contact, usually for a period of several years, it is clear that the controlled archive has become a dumping ground for cases on which the Agency has given up. The controlled archive has increased significantly as the deadlines for the legacy backlog and the migration case review have approached. From 18,000 files in November 2010, the archive now contains 124,000 files, roughly equivalent to the population of Cambridge. With the end of the legacy backlog and review of the outstanding migration cases, we see no reason why the size of the controlled archive should increase further. We recommend that the Agency produce clear and specific guidance on the controlled archive which covers:
 - how often the files will be reassessed;
 - how many staff will work on reassessing files in the controlled archive; and,
 - when, if ever, files will be closed without the applicant being located.(Paragraph 25)
9. We also object to the term ‘controlled archive’. It is another instance of a bureaucratic term which hides the true nature of a government department’s activity and is designed to deflect attention away from it. The controlled archive would be more appropriately referred to as an archive of lost applicants. (Paragraph 26)
10. We have long been concerned by the conduct of staff towards detainees during enforced removal and have previously questioned contractors, the UK Border Agency and ministers about the issue. We are particularly concerned by reports of the questionable behaviour of contracted staff taking place after the system was put under scrutiny and stated to have been reformed following the death of Jimmy Mubenga. We intend to take evidence from the Chief Inspector of Prisons regarding his recent reports on the treatment of detainees and will produce a report on enforced removals in the near future. However, it should be expected that appropriate disciplinary action should be taken at all times against those who behave in ways that clearly are not acceptable. Companies involved should be made aware that further incidents as described in previous paragraphs could lead to the loss of contracts with the UK Border Agency. (Paragraph 29)
11. It is unacceptable that the UK Border Agency is unable to give us more detailed information about the role that intelligence plays in protecting the UK’s borders. The Independent Chief Inspector’s report suggested that there was inconsistency in the way that intelligence was collected and used and this is also unacceptable. We

recognise that the Agency is trying to improve the way it uses intelligence but we feel that in order for its staff and the public to appreciate the importance of individual allegations, the outcomes must be demonstrated. (Paragraph 34)

12. The Prime Minister has called on the public to report those believed to be guilty of immigration offences. We strongly support the Government in this stance but there is no point if the UK Border Agency does not use the intelligence provided. We believe that the vigilance of the public ought to be rewarded by the publication of recorded outcomes. We recommend that the UK Border Agency produces a timetable for the improvement of intelligence processes which contains information on:
 - how the agency will process information;
 - how many staff will be working on intelligence; and
 - the date that the intelligence database will be linked with the recommendations database. (Paragraph 35)
13. We further recommend that the Agency produce quarterly figures showing:
 - How many ‘tip-offs’ they have received;
 - on how many cases they have taken action; and
 - how many people have been removed following a ‘tip-off’. (Paragraph 36)
14. The figures for successful appeals at immigration tribunals are worrying. However we have been informed that the success rate of the UK Border Agency will improve following statutory changes restricting new evidence being introduced at appeal. There is no doubt that the outcome of appeals would be improved if the Agency were to improve the quality of its representation. We expect the Agency to be represented at all appeal hearings so that the case for refusal can be properly made. (Paragraph 38)
15. The case of Mr Raed Salah highlighted a number of flaws in the UK’s border control. Six opportunities for intervention were missed. These mistakes were then compounded by the lack of information provided to Mr Salah following his arrest, which mean that the Home Office will now have to pay damages to a man who the Home Secretary believed should never have been able to enter the country in the first place. This is inexcusable and unacceptable. When the Home Secretary signs an exclusion order, it ought to be served. We urge the UK Border Agency to implement urgently the eight recommendations of the HMIC to ensure that this never happens again. (Paragraph 41)
16. We cannot understand why the UK Border Agency is unable to tell us how many students had their leave curtailed or were deported for breaking the terms of their visa. We are surprised that the Agency is unaware of the term ‘bogus college’ as it has been used by Ministers and this Committee. We are also shocked if the worst punishment a sponsor who misuses their licence faces is the revocation of their licence, although previous evidence seems to contradict this statement. We would

ask the Agency to confirm this is the case and clarify this point. On previous occasions we have come across anecdotal evidence that the Agency is not always clear, fair and consistent in its dealing with colleges, and while we support efforts to deal with wrongdoers and institutions that fall below the required standard, we are satisfied that most colleges provide an important educational service and contribute to their local economy. It is therefore important that the Agency understands the need to maintain a proper balance and is helpful to genuine educational institutions. (Paragraph 45)

17. The involvement of an MP in a constituent's case often comes as a last resort, when other approaches have failed. The high degree of correspondence between the UK Border Agency and MPs is evidence of failure earlier in the process. We intend to examine this further the next time the Chief Executive of the UK Border Agency comes before the Committee in December. In the meantime, we would welcome evidence from MPs and their staff about their dealings with the Agency. (Paragraph 46)
18. We recommend that it become UK Border Agency policy that if an MP becomes involved in a case then the Agency automatically copies the MP in on any correspondence to the applicant. This will enable MPs to close cases once they have been resolved. This would be both courteous and efficient and should be acted upon at once. (Paragraph 47)
19. We welcome the introduction of MP account managers but they have to have authority within the Agency and be able to obtain information quickly and accurately in order to provide an improved service to MPs. In order to aid our fellow parliamentarians, we have attached the list of the account managers of each region to this report. We will be asking MPs whether the new system has provided the improvements that are being claimed for it. If the improvements we wish to see take place, it could well be there would be a reduction in the 66,000 letters from MPs and peers in a single year. (Paragraph 48)
20. The UK Border Agency's provision of information to this committee falls short of the standards that the House is entitled to expect and on which the Government itself insists. The Agency has certainly not been "as open and helpful as possible", as civil service guidance requires. There is every risk that the Agency's failure to provide us with the information we require, in a format which is appropriate for our needs and within the time requested will undermine effective Parliamentary scrutiny of the Agency's work. We hope that the standard of information provided by the Agency will improve in response to this Report. If it does not, then we will seek the information from the Home Secretary in person, in accordance with the principles set out in the Ministerial Code and related guidance on the provision of information to select committees. (Paragraph 54)
21. Despite the scandals of both foreign national prisoners and the legacy backlog happening in 2006, they have still not been completely resolved five years later. Immigration is an issue which affects the safety, the social cohesion and the economy of Britain as well as its standing on the world stage. For that reason we will continue

to hold sessions with the UK Border Agency every four months or possibly even more frequently. (Paragraph 55)

Appendix 1

MP Account managers by area

Region	MP Account Manager/Local Immigration Team
Scotland and Northern Ireland	Alison Green
Wales and South West	Andrew Davidson
North East, Yorkshire and the Humber	Sharon Chambers
North West	Dave Perkins
Midlands and East of England	Saleah Ahmed
London and the South East	
Barking and Dagenham	Richard Marley
Barnet & Enfield	Janet Moore
Berkshire	Nigel Page
Bexley, Greenwich and Lambeth	Helen O'Brien
Brent, Hammersmith and Fulham, Kensington and Chelsea	Steve Fisher
Buckinghamshire	Rob Scott
Croydon	Frances Beasley
Ealing	Jennifer Money
Hackney & Tower Hamlets	Janet Moore
Hampshire and Isle of Wight	Lyn Sari
Haringey and Islington	Marie Babaoglu
Hillingdon and Harrow	Jennifer Money
Houslow, Richmond and Kingston	Steve Fisher
Kent	Karyn Dunning
Lewisham & Bromley	Simon Schutte
Newham & Waltham Forest	Claire Shacklock
Oxfordshire	Terry Gibbs
Southwark	Helen O'Brien
Surrey	Rob Allen
Sussex	Laila Waters
Wandsworth, Merton and Sutton	Pearl Kuranchie
Westminster, Camden and City of London	Marie Babaoglu

Formal Minutes

Tuesday 1 November 2011

Members present:

Rt Hon Keith Vaz, in the Chair

Nicola Blackwood
Mr James Clappison
Michael Ellis
Lorraine Fullbrook

Steve McCabe
Alun Michael
Mark Reckless
Mr David Winnick

Draft Report (*The work of the UK Border Agency (April–July 2011)*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 55 read and agreed to.

A Paper was appended to the Report as Appendix 1.

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

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

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 7 November.

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

[Adjourned till Tuesday 8 November at 10.30 am

Witnesses

Tuesday 13 September 2011

Page

Jonathan Sedgwick, Acting Chief Executive, UK Border Agency

Ev 1

List of printed written evidence

1	Correspondence from UK Border Agency to the Chair of the Committee	Ev 12, 15, 409, 418
2	Correspondence from UK Border Agency to David Winnick MP	Ev 13
3	Correspondence from UK Border Agency to Michael Ellis MP	Ev 13
4	Correspondence from UK Border Agency to Dr Julian Huppert MP	Ev 13
5	Correspondence from UK Border Agency to Rt Hon Alun Michael MP	Ev 14
6	Correspondence from the Minister for Immigration, Home Office	Ev 14
7	Statistics from House of Commons Library	Ev 405
8	Positive Action for Refugees and Asylum Seekers	Ev 409
9	Correspondence from Home Secretary, Home Office	Ev 418

List of Reports from the Committee during the current Parliament

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

Session 2010–12

First Report	Immigration Cap	HC 361
Second Report	Policing: Police and Crime Commissioners	HC 511
Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587
Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
Eighth Report	Forced marriage	HC 880
Ninth Report	The work of the UK Border Agency (November 2010-March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union	HC 789
Eleventh Report	Student Visas – follow up	HC 1445
Twelfth Report	Home Office – Work of the Permanent Secretary	HC 928
Thirteenth Report	Unauthorised tapping into or hacking of mobile communications	HC 907
Fourteenth Report	New Landscape of Policing	HC 939