



House of Commons
Home Affairs Committee

Home Office delivery of Brexit: immigration

Third Report of Session 2017–19



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*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 7 February 2018*

Home Affairs Committee

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

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1 Introduction

1. The Home Office is one of the key government departments involved in delivering Brexit. We are assessing the Home Office's capacity to meet this challenge in a number of policy areas. We published a report on customs operations in November.¹ We expect to report soon on post-Brexit policing and security cooperation. In this inquiry we have examined the challenges facing the Home Office in delivering immigration services once the UK leaves the European Union.

2. Based on Government announcements so far, new immigration processes are expected first for EU nationals already living in the UK, secondly for those arriving during the transition period and thirdly for the long term once the transition period has ended. However, there is still a serious lack of detail on what the new arrangements will be. We are waiting for the White Paper on immigration that the Home Office originally said would be published in the autumn of 2017. There is now considerable uncertainty about when the White Paper will be published; the Home Secretary has said that it is "likely" to be available before Brexit but that she expected it to be published before the end of this year.² Many of the details will also depend on the Government's negotiations over the transition period and the long-term future relationship with the EU. In the meantime, the Home Office needs to plan for delivery of new arrangements, some of which are due to start later this year and some of which are due to be in place for March 2019. The Home Office has been allocated around £60 million for Brexit contingency planning in the current year, but it is unclear what it is being spent on.³

3. Registration and administration arrangements need to change, new IT systems need to be developed, enforcement mechanisms need to adapt, and customs and border arrangements may have to change too. More than three million EU citizens living in the UK, and a further 230,000 EU citizens a year if current levels of immigration persist, may become subject to immigration control.

4. Responsibility for meeting these demands primarily falls to the Department's three immigration directorates: UK Visas and Immigration (UKVI), Immigration Enforcement and Border Force. The three directorates are already engaged in a substantial programme of transformation as they seek to become fully self-funding by 2019–2020.⁴

5. Our inquiry has focused on the capacity of the immigration directorates to respond to the immigration challenges of Brexit while delivering their existing responsibilities effectively and efficiently. We have also considered whether existing procedures and policies could be improved. Our predecessors identified weaknesses and backlogs in the Home Office's delivery of immigration services over many years. Simply applying existing systems and processes to Brexit will not work. Instead the Home Office should use this as an opportunity to reassess its wider systems and approach.

6. During the inquiry, we heard oral evidence from the then Minister for Immigration, Rt Hon Brandon Lewis MP and the Home Office Second Permanent Secretary, the current

1 First Report from the Home Affairs Committee, Session 2017–19, [Home Office delivery of Brexit: customs operations](#), HC 540. See also Government Response, Fourth Special Report, HC 754

2 BBC, Today Programme, 6 February 2018

3 Answer to Written Question [116808](#), 30 November 2017

4 HM Treasury and Home Office press release, [Home Office's settlement at the Spending Review 2015](#), 25 November 2015

and former Independent Chief Inspector for Borders and Immigration, and a former director general of the Immigration Enforcement directorate; and immigration lawyers and unions representing immigration staff. We also received many written submissions. We are grateful to all those who have contributed to this inquiry.

7. The delay to the proposed White Paper has caused anxiety for EU citizens in the UK, uncertainty for UK businesses, and concern in Parliament about the consistency with which the Government is approaching post-Brexit immigration policy. It is extremely regrettable that the Government has delayed the White Paper and that there now appears to be no clear timetable for it to be published at all, or for the promised Immigration Bill. We recognise the Government's desire to wait for evidence from the Migration Advisory Committee before setting out proposals for the long term. We also recognise that the details of the transition arrangements will be subject to negotiations. Nevertheless, the Government has a responsibility to Parliament, the public, EU citizens who will be affected, employers and the public servants it expects to deliver the policies to provide some urgent clarity on its intentions.

8. The Government should immediately set out more detailed plans for the registration of EU nationals already here, and its objectives for the negotiations over the transition period. Failure to do so soon will deny Parliament and those affected the opportunity to scrutinise or debate the Government's plans before they are finalised with the EU, despite the fact that this is such a crucial policy area. That is unacceptable. It will also make it impossible for UKVI, Border Force and Immigration Enforcement to do their job properly. As we set out in this report, these directorates are already overstretched and face significant challenges in delivering new policies on Brexit. Expecting them to make late changes without time to plan or consult puts them in an impossible position.

2 UK Visas and Immigration

9. The UK Visas and Immigration directorate (UKVI) currently has responsibility for managing around three million visa applications a year from overseas nationals who wish to come to the UK. Under the Government's Brexit proposals, UKVI will be expected to implement a scheme to regularise the status of EU citizens already here, a registration process for new arrivals after March 2019, and any new immigration visa, work permit or registration requirements that the Government proposes after the transition process ends. Whatever the arrangements, this will be a very substantial increase in UKVI workload starting this year.

10. Just over three-quarters of applications currently managed by UKVI are for visas to visit the UK while the remainder are for longer term purposes such as work, study and family reunion. UKVI also considers applications for permanent residency, citizenship, asylum and other forms of humanitarian protection, and manages the system of sponsorship for employers and educational establishments in relation to individuals from outside the EEA.

11. The majority of UKVI's work currently focuses on non-EEA nationals but, post-Brexit, that is expected to change. The Government has set out its intention to require potentially in excess of three million EEA nationals and their family members already resident in the UK to register their status—an exercise that is unprecedented in scale. The Home Office has also said that EEA nationals arriving during the transition period will be subject to a new registration process, and the Prime Minister has suggested that they should not expect to be treated the same as those resident in the UK before Brexit.⁵

European casework

Registering EEA nationals resident in the UK before the date of Brexit

12. On 8 December 2017 UK and European Commission negotiators reached agreement in principle on protecting the rights of EU nationals in the UK and UK nationals in the EU.⁶ The agreement allows—but does not compel—the UK Government to require EU nationals resident in the UK before Brexit to register their status, and provides a timeframe for this process of at least two years from the date of Brexit. The UK Government has indicated that it wishes the process to begin on a voluntary basis six months before the UK leaves the EU.⁷

13. EU nationals and non-EU family members will be able to apply for 'settled status' if they have been resident in the UK for five years or longer. Those who have lived in the UK for less than five years will be required to apply for 'temporary status' before applying for

5 BBC News, [Brexit: Theresa May to fight EU transition plan](#), 1 February 2018

6 HM Government, [Joint report from the negotiators of the European Union and the UK Government on progress made during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the European Union](#), 8 December 2017

7 Q83

settled status once their period of residency reaches five years.⁸ The agreement means that UKVI will have around two and a half years to register over three million people and grant them either temporary or settled status.⁹ This is a huge task, not least given the growing delays which already exist in other parts of the system, and which remain unaddressed. We have not examined the desirability of the registration policy in this report. However, we note that there are alternative ways to recognise proof of rights under the Withdrawal Agreement by means other than a registration document, which might reduce this task considerably.

14. The Government expects to extend the scheme to resident citizens of Norway, Iceland, Lichtenstein and Switzerland living in the UK.¹⁰ However, there has been no firm announcement about whether the arrangements and timetable for these citizens will be exactly the same. It is also not clear what the Government's intentions are towards third-country nationals currently present in the UK under EU-derived rights-based legal judgments—for example non-EU carers of dependent EU nationals covered by the Zambrano case.¹¹

15. There is also a lack of clarity for those EU citizens who have completed five years of continuous residence in the UK but who are temporarily living outside the country, for example an EU national who has lived in the UK for many years but has spent the last 12 months caring for an elderly relative in their home country.¹² The Citizens' Rights Directive establishes that continuity of residence is not affected by periods of absence of less than six months, but those EU citizens in more exceptional circumstances face no guarantees after Brexit.

16. The lack of detail and uncertainty for EEA nationals with just months to go before the process to confirm their status is supposed to start and only a year to go before Brexit is not only difficult and stressful for those affected, it also raises serious questions about UKVI's level of preparedness and ability to deliver a new system. If key questions are not swiftly resolved and delivery plans drawn up, we do not believe that UKVI will be capable of delivering significant changes to the system either at the border or on registration by March 2019.

17. It is deeply regrettable that the Home Office does not now intend to publish the promised White Paper on Immigration until autumn of this year. This means continued anxiety for individuals and heightens the prospect of UKVI having insufficient time to

8 It is expected that those with "settled status" will have the same entitlement to public funds as British citizens. Those with "temporary status" in the UK, i.e. those on a pathway to settled status, will have similar entitlements to those currently applied to EU nationals lawfully present in the UK but with no right to permanent residence. In practice this means that workers and self-employed individuals may have the same access to benefits as British citizens, while those not working will have more limited access, see HM Government, [The United Kingdom's exit from the European Union: safeguarding the position of EU citizens living in the UK and UK citizens living in the EU](#), June 2017

9 The UK Government's approach means that registration casework of this cadre of EU nationals will continue for up to five years beyond the two and a half year window as those initially granted temporary status may then pursue settled status when eligible to do so.

10 www.gov.uk, [Status of EU citizens in the UK: what you need to know](#), 11 January 2018

11 Third country EU-derived rights include those from Zambrano, Metock and Surinder Singh cases. Zambrano allows a non-EU national to reside in the UK if they are a carer of an EU national who is dependent upon them to exercise their Treaty rights. Metock allows a non-EU national in the UK illegally to remain if they form a genuine relationship with an EU citizen. Surinder Singh allows non-EU national partners who have been exercising Treaty rights in another Member State to become resident in the UK under EU, rather than UK, rules.

12 House of Commons Library Briefing Paper Number 8183, Brexit: 'sufficient progress' to move to phase 2, 18 December 2017

plan properly to deliver its services. Much greater clarity is needed now on a series of issues which are causing uncertainty for EEA citizens, employers and UKVI staff. We recognise that some issues will not be resolved until the negotiations on phase 2 have progressed. Nevertheless, there are some issues—such as how the Government plans to address applications from longstanding residents with absences of longer than six months—which it should be possible for the Government to resolve without further negotiations.

18. Further uncertainty has been caused by the Prime Minister's recent comments on arrivals of EEA citizens after Brexit day, during the transition period. The Government needs to provide far greater transparency about its intentions so that people can plan for their futures. For example, we need further clarification on:

- The legal status of EU nationals who have not registered by the time the grace period is over (something the Home Secretary told us would be included in the White Paper);
- Whether the registration process and rights for EEA citizens will be identical to those of EU citizens and how their rights will be enforced;
- The legal status of EU nationals arriving after March 2019 who have not registered—including their entitlement to work and their ability to rent;
- Whether employers, landlords and banks will be expected to check registration documents for EU citizens in the way that they are required to check the immigration status of non-EU citizens;
- The status of EU citizens who have lived in the UK for more than five years but are temporarily not living in the UK in March 2019;
- The status of EU citizens who have lived in the UK for more than five years but have had an absence in another EU country for longer than 6 months;
- The rights of posted workers;
- Family reunion rights for future spouses of EU and UK citizens;
- The legal implications of applying for settled status prior to ratification of any Withdrawal Agreement and the UK leaving the EU (or during any transitional period when free movement rights continue to exist), and the consequences of any refusal of such an application; and
- The status of non-EEA nationals with rights derived from EU law including under Zambrano, Metock and Surinder Singh case law.

19. The Home Office should also draw up contingency plans in case agreement on the transitional arrangements on immigration is not reached this spring making it difficult to get new arrangements in place in time for March 2019. The contingency plan should set out what fall-back policies will operate and what systems and resources will be in place so that UKVI, individuals and employers can plan.

20. **The Government should not wait for the White Paper but should set out now clear and accessible guidance on the rights that EU27 and UK citizens can expect to exercise after Brexit. This should cover not only the implications of the agreement reached in the Joint Report on phase 1 of the Brexit negotiations, but also the Government’s intended solutions to those issues left outstanding. The Government should commit to a process of ongoing communication with those affected by Brexit to provide reassurance and clarity to those whose circumstances will change, including producing material aimed specifically at those in exceptional circumstances.**

21. **Citizens of Norway, Iceland, Lichtenstein and Switzerland living in the UK, and third-country nationals who are in the UK under EU-derived rights based on previous legal judgments currently face even greater anxieties than EU nationals. The Government should specify that EEA citizens will have the same rights as EU nationals and should clarify that they will be covered by the same registration process. Similar concerns apply in relation to the limited pool of non-EEA nationals with derived rights, including under Zambrano, Metock and Surinder Singh case law, who appear to have been ignored during the first phase of negotiations.**

22. The Government has agreed that registration for resident EU nationals will be a simple, online process and that there will be a “presumption in favour of granting status”, a user-focused approach to correcting errors in the application process and a statutory right to appeal. Its intention is to use existing government data to reduce the amount of evidence required: applicants will be asked to confirm their identity and nationality and declare any criminal convictions. The cost of an application will not exceed the cost of a passport and those who have a valid permanent residence document will not face a fee. The Minister for Immigration told us that he expected the necessary IT system to be finished and in test in the first part of this year.¹³

23. **We welcome the Government’s announced intention to make the registration process for EU residents a smooth process, using information shared by other government departments such as HM Revenue & Customs to demonstrate residency. It is important that these commitments are put into practice. However, given previous failures to implement new information-sharing and digital services across government, this carries significant risks.**

Additional resources

24. The Immigration Minister explained to us that UKVI aimed to increase headcount by around 1,200 staff to deal with the processes around Brexit: 700 staff had already been recruited and a further 500 had received job offers and were expected to start by April 2018.¹⁴ He told us that the recruitment of additional staff was based on Home Office analysis of likely volumes and the number of staff required to manage them. The PCS disputed whether an additional 700 staff had been recruited; its assessment was that recent recruitment had only provided an additional 240 staff to deal with European casework in addition to the 540 already in post dealing with existing European casework.¹⁵

13 Q101

14 Q85

15 Written evidence submitted by the PCS [[CTD0030](#)]

25. Forecasting the required staffing levels for a system that has yet to be tested, for a relatively unknown but unprecedented number of applicants whose circumstances will vary, is not a simple task. While many applications will be straightforward and government data will exist to prove five years' residency there will be many people for whom it will be more difficult to prove their right to settled status such as spouses who have not been economically active, people who have worked in the cash economy and individuals who have exercised their rights in different ways or who have been absent from the UK for periods of time.¹⁶ There will also be those who might struggle to engage with the process, for example people who do not have a good grasp of English, who are elderly or very young, particularly children in care, or who lack access to a computer.¹⁷

26. In addition to the problem of complex cases there is also the issue of managing demand. Ian Robinson, Partner at Fragomen LLP, told us that:

[...] the worst thing in the world would be that they launch the policy and within a week they have a million or 2 million applications and they cannot cope, because everybody loses confidence. They need to have the space to identify easy-win groups and push them through first.¹⁸

Mr Robinson suggested EU nationals with permanent residence might be a good starting point on which to test the system.¹⁹

27. UKVI has a poor accuracy record. We and our predecessors have reported on the high levels of errors and delays in other parts of the immigration system. As detailed below, for example, both the ICIBI and internal Home Office reviews of asylum processes have identified poor decisions being made and bad practice in the categorisation of cases as 'non-straightforward' to set them outside the service standards and therefore allow overstretched, understaffed and inexperienced caseworking teams greater leeway. Concern was raised with us that UKVI lacks the resources and decision-making capacity to deal with the challenge of Brexit in light of these existing problems, especially given that workload is expected to increase significantly. The Immigration Law Practitioners' Association (ILPA) told us that "in light of the Home Office's history of errors when under pressure", they were concerned that there "will be more cases of people being wrongly deported or asked to leave the UK or have their bank accounts frozen."²⁰

28. Nor will the additional burden be limited to the Home Office. It remains unclear what enforcement regime will apply to EEA nationals or the extent to which civil society, from banks and hospitals to employers and landlords, will be expected to verify their status before offering a service.

29. The Home Office has failed to convince us that UKVI will have the necessary resources to manage the huge challenge of Brexit. We do not believe sufficient staff and systems are yet in place to operate a smooth and effective registration system for EU citizens currently resident here. While we welcome the Government's decision to increase the number of staff who handle European casework, the evidence we

16 Q55 [Colin Yeo]; Written evidence submitted by Danielle Cohen [CTD0006]; Q320 [Adrian Berry] Written evidence submitted by Coram Children's Legal Centre [CTD0013]

17 Guardian, [Hundreds of thousands of EU nationals 'may not get right to stay in the UK'](#), 13 December 2017

18 Q47

19 Q47

20 Written evidence submitted by ILPA [CTD0021]

heard suggests the Home Office is planning moderate adjustments for an immense bureaucratic challenge. We are also concerned that it will not be sufficient to cope with surges in demand or large numbers of applications that are not straightforward. A failure to deal with such demands efficiently is likely to undermine confidence in the system.

30. We recommend that the Government clarify its recruitment and retention plans for immigration services and publish concrete and evidence-based strategies for managing the workload. In addition, the Home Office should develop a clear process to manage the flow of applications to ensure peaks in demand are avoided and put in place robust contingency plans to deal with any backlogs that may develop. The Government should not rule out an extension of the grace period as a contingency plan. It should also ensure that cost is not a barrier and be prepared to waive the fee for particular groups of applicants, such as children in care, who often face insecurity when they transition to being treated as adults. The delays to the White Paper and the lack of any timetable for answering the basic, unresolved questions about the registration process make it even more difficult for the Home Office to deliver the scheme.

Permanent residence and citizenship

31. The European casework section of UKVI that will be responsible for processing applications for settled and temporary status is currently clearing a backlog of applications for permanent residency after the referendum result in June 2016 led to a surge in applications. At the beginning of 2017, there were 115,875 applications for permanent residency outstanding, a threefold increase on the year before. The number of outstanding applications has since halved and casework staff have managed to keep average processing times within the six-month target, though many individuals have been waiting much longer.²¹ The backlog was dealt with by a mix of recruitment, agency staff and overtime.²² Lewis Silkin LLP praised the commitment and hard work of UKVI's European casework team, but joined many other witnesses in criticising the overall application process and the failure of the Home Office to anticipate increased demand for its services.²³

32. The process for applying for permanent residency involves a lengthy form, requires evidence of comprehensive sickness insurance for people who have not been in employment and onerous demands for information, including details of absences from the UK over the qualifying period. Some of the information required—such as details of employment—will already be held by government.²⁴ Danielle Cohen, an immigration lawyer, questioned the need to supply details of absence from the UK, arguing that either the Government already had the information or, if it did not, would not be able to verify the accuracy of what was provided.²⁵ There is a narrow margin for error—around one in four applications are refused or marked invalid, often due to perceptions that insufficient information had been provided. Magrath Sheldrick LLP told us they were receiving refusal letters based

21 Free movement blog, [Fol response: waiting times for permanent residence certificates triples](#), 18 October 2017; and Written evidence submitted by Magrath Sheldrick LLP [CTD0016]

22 Written evidence submitted by the PCS [CTD0029]

23 Written evidence submitted by Lewis Silkin LLP [CTD0022], ILPA [CTD0021], Magrath Sheldrick LLP [CTD0016], and Danielle Cohen [CTD0006]

24 Written evidence submitted by Danielle Cohen [CTD0006]

25 Q65

on “extremely light reasons” and that they had been advised by the Home Office that it was not feasible for UKVI staff to request missing documents so applications judged incomplete were rejected.²⁶

33. Since November 2015 a permanent residence document has been a necessary step on the way to citizenship. Witnesses to our inquiry suggested that this requirement, besides being bureaucratic, was unnecessary and should be scrapped.²⁷ Danielle Cohen explained:

We have invented a requirement for permanent residence before you become a British national. We know that the whole point of getting permanent residence is to become a British national, so there is an application that the Home Office is dealing with now that is completely unnecessary. [...] Having obtained the permanent residence for my client now, I will advise them that they will have to do exactly the same process again in two years’ time.²⁸

Another immigration expert, Ian Robinson, suggested that if the Home Office had removed the requirement to obtain a permanent residence document before applying for citizenship, it would have freed up resources and might not have needed to recruit so many new staff.²⁹

34. There are indications that Brexit has caused an increase in the number of applications for citizenship in some categories and processing times are reported to have lengthened significantly.³⁰ ILPA told us that overburdened resources meant that the Home Office “lacks the capacity to effectively plan and anticipate changing service needs.”³¹ They believed that “this reactionary state of constantly putting out fires, rather than preventing them [is] the greatest threat to the Home Office’s capacity to deliver Brexit.”³²

35. We welcome the Government’s announcement that EU citizens with a permanent residence document will not have to provide any further proof of residence, and we urge the Government to make the process as automatic as possible to reduce unnecessary burdens on both individuals and the UKVI. We recommend that the Government remove the requirement for EEA nationals to obtain a permanent residence document before applying for citizenship. The process is bureaucratic and unnecessary and scrapping it would immediately free up much needed resources and make it easier for people to apply for citizenship—something which we believe the Government should seek to encourage.

36. The Government failed to put resources in place in time to meet the predictable post-referendum surge in applications for a permanent residence document, and a backlog developed. Many of those who applied for permanent residency may now be considering applying for citizenship. The Government should prepare for such a scenario, including by exploring whether the process can be streamlined.

26 Written evidence submitted by Magrath Sheldrick LLP [CTD0016]

27 Written evidence submitted by Magrath Sheldrick LLP [CTD0016] and Danielle Cohen [CTD0006]

28 Q48

29 Q49

30 Financial Times, [Applications for UK citizenship from EU14 nations rise threefold](#), 22 September 2017

31 Written evidence submitted by ILPA [CTD0021]

32 Written evidence submitted by ILPA [CTD0021]

EU nationals arriving during transition

37. Both the UK and EU have called for a transition period between the date of Brexit and the UK moving to new post-Brexit arrangements. The Prime Minister has stated that the transition period should last around two years while the EU's negotiating directive, adopted on 29 January 2017, calls for a slightly shorter period that "should not last beyond 31 December 2020" mirroring the end-point of the EU's current multi-annual budget.³³ It is unclear whether the Government's proposals for a two-year grace period for those applying for settled or temporary status are linked to the proposed two-year transition period or what the implications will be for UKVI operations if the grace period extends beyond the transition period.

38. It is not yet clear how the Home Office is preparing for any transition period. Adrian Berry of ILPA told us that one of his key concerns was "the lack of preparation for any transitional arrangements both in the period down to the date of Brexit and any transitional period thereafter".³⁴ The Government has indicated that post-Brexit it wishes to maintain visa-free entry for EU nationals and that it will introduce a "straightforward system of registration and documentation" for those arriving during the period of transition and who wish to remain in the UK for an extended period.³⁵ A registration scheme is permissible under Freedom of Movement rules and is already a requirement in several other EU Member States. The scheme, described by the Minister for Immigration as "an essential preparation for the new regime", is expected to apply for the duration of the transition period before the Government moves to longer term arrangements based on the economic and social needs of the UK, guided by advice from the Migration Advisory Committee (MAC).³⁶

39. The Government has not yet set out what it wants the proposed registration scheme to look like or whether conditions would be attached. Nor is it clear whether the Government intends registration of arrivals after March 2019 to be required before people could start work or rent a house.

40. The Secretary of State for Exiting the European Union has stated that, during the transition period, the UK will continue with "the existing EU structure of rules and regulations" and that "people will of course be able to travel between the UK and EU to live and work".³⁷ The Prime Minister, by contrast, has suggested that EU nationals arriving during transition should not expect to be subject to the full rights available under Freedom of Movement rules or expect to be treated the same as those resident in the UK before Brexit.³⁸

33 BBC News, [EU says Brexit transition to end by 31 December 2020](#), 20 December 2017

34 Q311

35 www.gov.uk, [Letter from the Home Secretary to Professor Alan Manning, Chair of the Migration Advisory Committee](#), 27 July 2017

36 WQ 1111 9 answered 2 November 2017. The MAC have been commissioned by the Government to "complete a detailed assessment of the role of EU nationals in the UK economy and society" and is expected to report in autumn 2018.

37 HM Government, [David Davis' Teesport Speech: Implementation Period – A bridge to the future partnership between the UK & EU](#), 26 January 2018

38 BBC News, [Brexit: Theresa May to fight EU transition plan](#), 1 February 2018

41. The EU negotiating position is that it wants to see the continued application of Freedom of Movement rules for the duration of the transition period. This would include the right for EU nationals moving to the UK during transition to join the pathway to settled status and to bring with them non-EU family members.

42. Given the difference of view between the EU and the Government on the rights of EU nationals arriving in the UK during transition, it appears that there will not be final clarity until the completion of phase two negotiations. It is concerning that we do not have clarity about what the Government actually wants the rules, rights and registration for new arrivals after 2019 to look like, and we do not even know what the Government is seeking to achieve from the negotiations in this area. The Government should set out now what its proposed arrangements are for EU citizens arriving during the transition period so that they can be debated in Parliament, so that the public, employers and EU citizens who may be planning to come here after March 2019 have an idea what they might expect, and so that UKVI can plan. The Government should also set out how these will be different from the arrangements for EU nationals living here already. If, instead, the Government expects to apply the same arrangements as for existing residents, it should say so. We had hoped that these issues would be resolved in an imminent White Paper. Given the delays, this cannot wait for the White Paper at the end of the year, because by then it will be too late to plan and too late for Parliament to scrutinise the Government's intentions.

43. If a new registration scheme and set of arrangements for people arriving during the transition period is adopted, the scheme will need to be developed from scratch and be operational by 30 March 2019. MillionPlus conveyed their doubts that the Home Office “has anywhere near the capacity (both in terms of resource and infrastructure) to perform this task successfully.”³⁹

44. We heard from union officials that a lack of clarity and direction about the Department's plans for Brexit was frustrating an already over-stretched workforce.⁴⁰ They told us that it can take up to nine months for new staff to be recruited and trained.⁴¹ On current figures the Government's proposals would require Home Office staff to register—and potentially enforce immigration rules—for an additional 230,000 people in each year of the transition period.

45. For a new registration scheme for EEA nationals arriving post-Brexit to be operational from 30 March 2019 we would expect key resources to have been allocated by now, recruitment plans to be in progress and the development of necessary IT systems to be underway. If this remains the Government's intention, it should now set out the details, cost and resource implications of the proposed scheme as well as indicating the data it intends to collect, the criteria which will be applied, and the extent to which the proposed scheme will be subject to negotiation with the EU.

46. The Government is currently resourcing the European casework section in UKVI to cope with applications from EEA nationals resident in the UK before 30 March 2019. It will need to recruit additional staff if the qualifying period is to be extended to include the transition period or if a separate registration scheme is introduced.

39 Written evidence submitted by MillionPlus [CTD0015]

40 Written evidence submitted by the PCS [CTD0029]

41 Q355

In the absence of early decisions and answers, we do not believe that it is feasible for the Government to establish two smoothly functioning registration schemes (one for existing residents and one for new arrivals after Brexit day) by March 2019.

Post-transition arrangements for EU nationals

47. Beyond the transition period the Government has not set out yet what immigration approach it believes should apply to EU migration, nor has it said whether it intends this to be considered as part of the Withdrawal Agreement or future trade agreement with the EU. The Government has said it plans to wait for the findings of the study commissioned from the Migration Advisory Committee on the economic and social impact of EU migration.

48. We welcome the Government’s decision to commission evidence from the Migration Advisory Committee before making decisions on the long-term immigration framework, but this should not prevent it consulting more widely in the meantime.

49. Leaving the European Union is likely to require a reconsideration of existing immigration policy, as a consequence of changing trends in immigration to the UK. For example, in January 2018 the cap on Tier 2 (general) visas was reached for the second successive month, causing minimum salary requirements to jump from £30,000 to over £50,000. Cambridge University Hospitals reported that the increase had prevented it from recruiting three doctors—two for intensive care and one specialist in liver and pancreatic surgery.⁴²

50. We recommend that the Government assess whether falling EEA net migration has increased employer attempts to recruit from outside the EEA. If the Government finds there is a link between the fall in EEA net migration and the increase in the number of non-EEA nationals whom employers are applying to sponsor to come and work in the UK, we recommend reviewing the current operation of the Tier 2 system.

51. The Government has not yet provided details about what the post-Brexit immigration arrangements might look like, what the costs and benefits might be or what it hopes to achieve—beyond reducing immigration and continuing to attract the ‘brightest and the best’.⁴³ We will be examining policy options, and the significant trade-offs in relation to economic integration as part of our inquiry into post-Brexit migration policy which will begin shortly. We will also look at the delivery implications of any new system.

52. During our inquiry we heard that implementing changes to immigration policy for EEA nationals would require significant resources and time for both the Home Office and businesses and education establishments seeking to recruit from the EEA. Universities have indicated that they will need sufficient notice to enable them to make the necessary changes to their own processes and systems, as will prospective candidates, to enable them to make informed decisions about their future plans.⁴⁴ The Home Office will need to implement the new systems while continuing to aim to deliver its existing functions effectively. The options for post-Brexit migration policy towards EEA citizens will also form part of our forthcoming inquiry.

42 Financial Times, [UK hits cap on letting in skilled non-EU migrants](#), 30 January 2018

43 www.gov.uk, [We will create a fairer society: article by Theresa May](#), January 2017

44 Written evidence submitted by the Russell Group [[CTD0009](#)]

53. Below we examine the capacity, effectiveness and wider operations of the UKVI to see how it might cope with additional Brexit pressures. We were concerned to ensure that the extra Brexit workload does not impact on the rest of the immigration system. We were also concerned to ensure that weaknesses we have previously identified in the UKVI's current operations should not become problems in the new EU and EEA operations.

Decision-making processes

54. During our inquiry, we heard that the sheer complexity of the immigration rules and pressure on staff resources were leading to concerns about decision-making processes within UKVI, both in terms of the accuracy of the decision being made and the procedures being followed.

55. UKVI divides applications into straightforward and non-straightforward cases.⁴⁵ Cases that are designated as non-straightforward are not subject to service standards. The internal rules for the Home Office state that cases should not be marked as non-straightforward if the reason for potential delay is within the Department. A snapshot of work in progress at the end of Q3 2017 showed that 139,314 in-country applications were classed as straightforward, and all but 818 of them still fell within designated service standards. 71,355 cases (34%) were classed as non-straightforward/complex of which 11,660 were over a year old—a significant increase from 2,372 cases that had been outstanding for more than a year in Q3 2016.⁴⁶ More than half of asylum applications waiting for an initial decision have been classified as non-straightforward. At the end of Q3 2017 almost 7,000 out of the 11,830 asylum cases categorised as non-straightforward had been waiting more than a year for an initial decision.⁴⁷

56. In his inspection of the Croydon processing centre the ICIBI found that a third of the cases his team examined were inappropriately being marked as non-straightforward to set them outside the service standards.⁴⁸ In 15 of 36 non-straightforward asylum cases, inspectors noted the absence of any evidence that managers had considered whether the barrier to processing could be cleared quickly enough for the decision to be made within six months.⁴⁹ Internal Home Office reviews of non-straightforward asylum cases found significant overuse of the categorisation and 'bad practice' in failing to resolve inappropriate or out of date barriers.⁵⁰ The ICIBI suggested that staffing problems, particularly staff turnover and a shortfall at manager level, could explain the poor categorisation of cases and delays in processing them.⁵¹ Staff in the asylum casework unit told inspectors that the

45 Straightforward cases are non-complex cases where the customer has been compliant and met all of their obligations. Service standards (target processing times) apply to these cases. Non-straightforward cases are more complex cases, for example Human Rights claims. In this type of case the department informs the customer of their non-straightforward status and where appropriate takes additional steps such as gaining additional information from the customer, interviewing the customer or undertaking additional checks. Service standards do not apply to these cases.

46 Home Office migration transparency data, [Table InC 05](#), 30 November 2017

47 Home Office migration transparency data, [Table Asy 11](#), 30 November 2017

48 Independent Chief Inspector of Borders and Immigration, [An inspection of entry clearance processing operations in Croydon and Istanbul](#), July 2017

49 Independent Chief Inspector of Borders and Immigration, [An inspection of asylum intake and casework](#), November 2017

50 *ibid*

51 Independent Chief Inspector of Borders and Immigration, [An inspection of entry clearance processing operations in Croydon and Istanbul](#), July 2017

pressure to clear straightforward asylum cases within the six-month target had resulted in a reduction in the quality of interviews and decisions and the de-prioritisation of non-straightforward cases.⁵²

57. For many applicants, a case being classed as non-straightforward means being without a passport for a long time while they wait for the Home Office to process their case. A BBC investigation found that the longest time an applicant for Indefinite Leave to Remain (ILR) had to wait for a residency decision between January 2014 and June 2017 was 719 days.⁵³ An applicant pays a fee of £2,297 but the cost to the Home Office to process it is only £252. Danielle Cohen told us:

If you look at the cost [for Further Leave to Remain], my client will pay on average £993 plus £500 for the NHS. If you are an applicant with a wife and two children, this is £5,000. If you break it down to the hourly rate, it is approximately £700 an hour for a caseworker to discuss the case. You would expect for this level of expenditure that we will have somebody who is trained to deal with this. If you compare it to any other service that the person will be able to get for £700 an hour, you would be expecting a certain level of service.⁵⁴

The Independent Chief Inspector found that UKVI lacked a process to ensure that decisions were still made as quickly as possible once a case had been marked as non-straightforward. In his report on asylum casework he called for a 12-month service standard for non-straightforward cases.⁵⁵ The Home Office did not accept the recommendation but has committed to reviewing guidance and processes for non-straightforward cases. It has developed the Next Generation Casework project, based in Bootle, to recruit 140 new Decision Makers for a period of 12 months to concentrate on clearing non-straightforward cases.⁵⁶ When the ICIBI went to inspect operations at Bootle in July 2017 he found only one member of staff in place out of a projected 250. When challenged the Department cited delays in the recruitment process, particularly around the vetting of staff.⁵⁷

58. We have also been made aware of errors made elsewhere in the administrative process. Magrath Sheldrick LLP told us that the transfer of entry clearance processing to Sheffield had resulted in an increase in mistakes, including incorrect requests for supporting documents and settlement applications not being marked as a priority despite that service being purchased.⁵⁸ They report being told that staff were under ‘huge pressure’.

59. In addition to mistakes in administrative processes we were told that poor decisions were being made.⁵⁹ In his inspection of the Croydon processing centre, the ICIBI found that over a third of refusal notices inspected were unsatisfactory due to reasons including

52 Independent Chief Inspector of Borders and Immigration, [An inspection of asylum intake and casework](#), November 2017

53 BBC News, [Home Office visa delays ‘inhumane’](#), 3 October 2017

54 Q52

55 Qq268–270; Independent Chief Inspector of Borders and Immigration, [An inspection of asylum intake and casework](#), November 2017

56 Home Office, [Response to an inspection report on the Home Office’s asylum intake and casework](#), 28 November 2017

57 Q251

58 Written evidence submitted by Magrath Sheldrick LLP [[CTD0016](#)]

59 Q60

factual inaccuracy, inappropriate grounds for refusal and unclear refusal reasons.⁶⁰ A 2016–17 Home Office internal quality assurance analysis of asylum decisions found 24% to be below satisfactory.

60. The Independent Chief Inspector told us that staffing problems had contributed to poor decision-making, a view echoed by the PCS union.⁶¹ In Croydon he found that staffing levels were almost permanently well below headcount, that there was a lack of experienced staff, particularly at quality assurance level and that there were high turnover rates.⁶² In the ICIBI inspection of asylum caseworking, screening officers told inspectors that they were being ‘pushed to the limit’ while Decision Makers reported that a ‘relentless’ focus on meeting the six-month target meant they felt under extreme pressure. The ICIBI found that a focus on keeping application throughput within service standards had led to few opportunities to identify poor decision-making and improve it.⁶³ He told us:

I think there has been a lot of pressure on those first-line managers to get through the volumes and so there is less capacity to provide that support, challenge, assurance function that is needed. That is an area where I have repeatedly said that more needs to be done.⁶⁴

61. The concerns of the ICIBI were echoed by a former Home Office employee who reported that his asylum workload was driven by targets to the extent that casework which would not contribute towards meeting a target—such as calling social services about a child—was disincentivised. The former employee noted new recruits dealt with traumatic claims with little emotional training, preparation or support and that changes to immigration rules had been accompanied by very little training in how to implement them properly.⁶⁵ We heard concerns from the PCS that caseworkers on Family and Human Rights Cases (FHRU) faced pressure to reduce a 49,000 caseload but that there was a lack of training, support and mentoring. The PCS told us that there was an 18-month delay on FHRU cases and high staff turnover had led to a heavy reliance on agency staff to do the casework with one week’s training.⁶⁶

Litigation

62. Appeals against Home Office decisions relating to permission to remain in the UK, deportation from the UK and entry clearance to the UK can be made to the First-tier Tribunal Immigration and Asylum Chamber (FTTIAC). The number of appeals has fallen significantly since the 2014 and 2016 Immigration Acts reduced appeal rights, the introduction of the policy of ‘deport first, appeal later’ and removal of eligibility for legal aid from most mainstream non-asylum immigration cases.⁶⁷

60 Independent Chief Inspector of Borders and Immigration, [An inspection of entry clearance processing operations in Croydon and Istanbul](#), July 2017. A number of decisions have since been revoked

61 Written evidence submitted by the PCS [[CTD0029](#)]

62 Independent Chief Inspector of Borders and Immigration, [An inspection of entry clearance processing operations in Croydon and Istanbul](#), July 2017

63 Independent Chief Inspector of Borders and Immigration, [An inspection of asylum intake and casework](#), November 2017

64 Q264

65 Guardian, [I worry asylum caseworkers are failing people in their darkest hour](#), 8 April 2017

66 Written evidence submitted by the PCS [[CTD0029](#)]

67 In July to September 2017, FTTIAC receipts decreased by a third (to 9,700) compared to the same period in 2016 continuing the decline seen following the introduction of the Immigration Act 2014.

63. While the number of people appealing decisions has fallen, the proportion being upheld has remained relatively constant. In Q3 2017 the FTIAC disposed of 17,203 appeals; of the 14,113 determined, 49% were allowed/granted, although this varied across the Immigration Act 2014 categories.⁶⁸ Danielle Cohen told us that “many of my colleagues who are judges complain [...] that the first time a case gets a proper consideration is when it gets to court, and that is not the best use of court time.”⁶⁹ The Government argued in response to concerns raised by our predecessors about the high number of decisions being overturned that “An allowed appeal is not in itself an indication that the initial decision was incorrect at the time” and suggested that successful appeals may be due to evidence being submitted that was not available at the time of the initial decision.⁷⁰ Adrian Berry, Chair of ILPA, told us that appeals are often made when a person has access to legal advice for the first time.⁷¹

64. In Chapter 4, we consider enforcement, and it is unclear currently what additional enforcement action there is likely to be for EEA nationals. Recent statistics are already showing a steep increase in the number of enforcement actions taken against them.⁷² Any increase in action against EEA nationals may have a knock-on effect on tribunal workloads as decisions and enforcement actions are appealed. Tribunals are already under pressure; although backlogs are reducing it can still take many months for cases to clear the FTIAC. It currently takes 28 weeks for an asylum case to be heard, while most of the other appeal categories take over 52 weeks to be cleared.⁷³ It is not uncommon for appeals to be listed only to be adjourned for many months due to a lack of court time on the day.

65. Colin Yeo told us that an effective way for the Home Office to stop cases going to court was to have good “feedback loops” and to learn from mistakes, but that restricting access to justice was not helpful.⁷⁴ The ICIBI has recently undertaken an inspection focusing on the Department’s approach to litigation. Inspectors heard Litigation Operations Managers in Croydon describe their relationship with decision-making units as “poor”. They explained that they experienced resistance from Decision Makers when they asked them to reconsider a case because Decision Makers “would always defend their decision and want to contest a claim.”⁷⁵ The ICIBI concluded:

[...] longer-term, the greatest potential for reducing the scale and costs of litigation appear to lie in improved initial decision making, so that fewer individuals have cause to make a claim and fewer of those who do so progress beyond the PAP [pre-action protocol] stage.⁷⁶

68 Ministry of Justice, [Tribunals and gender recognition certificate statistics quarterly - July to September 2017, Tables FIA 1–3](#), 14 December 2017; for example 41% of asylum/protection appeals were allowed, 42% of deportation appeals and 58% of human rights appeals.

69 Q52

70 Home Affairs Committee, Second Special Report of Session 2017–19, [Asylum Accommodation: Government response to the Committee’s Twelfth Report of Session 2016–17](#), HC 551

71 Q343

72 Written evidence submitted by Bail for Immigration Detainees [[CTD0010](#)]

73 Ministry of Justice, [Tribunals and Gender Recognition Statistics Quarterly, July to September 2017](#), 14 December 2017

74 Q61

75 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s mechanisms for learning from immigration litigation](#), 30 January 2018

76 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s mechanisms for learning from immigration litigation](#), 30 January 2018

66. The inspection also found that budgets for legal costs and compensation payments were overspent in 2016–17 but that equivalent budgets are planned to reduce by almost a fifth in 2019–20. The ICIBI reported that “This will require an exceptional level of cost saving efficiencies. The inspection found no evidence to support such optimism.” Responding to concerns raised in the ICIBI’s asylum report the Government said it was improving feedback loops so that asylum Decision Makers received more regular information from Home Office Presenting Officers about the quality of decisions and why they might be overturned on appeal.⁷⁷

67. After a decision by a judge in the FTTIAC, either the appellant or the Home Office can apply for permission to appeal against the decision at the second level—the Upper-tier Immigration and Asylum Chamber (UTIAC)—but only on the basis that the First-tier judge made an error of law in the judgment. The Home Office has been accused by the President of the UTIAC of ‘slavishly’ appealing deportation cases to the UTIAC and applying ‘insufficient care’ in identifying errors of law. In the first three quarters of 2017 the Home Office was successful in just 55 out of 276 appeals to the UTIAC and 291 of 1,160 non-asylum appeals.⁷⁸

68. Complaints have also been made concerning the competency of Home Office Presenting Officers.⁷⁹ However, ICIBI inspectors found during their inspection of Country of Origin information that Presenting Officers were often faced with defending untenable positions. Our predecessor Committee repeatedly pointed to high error rates in decisions regarding Eritrean asylum seekers, particularly once the Independent Advisory Group on Country Information (IAGCI) had found that Home Office policy relied on a discredited Danish report and was “completely divorced from, and unconnected to, relevant objective evidence”. With reference to these cases, Presenting Officers described the Home Office’s Country Policy and Information Team position at that time as “embarrassing” and “basically undefendable”. The ICIBI report noted that one official summed it up by saying: “It was agonising to deal with Eritrea cases after the Danish report was rubbish [...] We had cherry-picked and flawed information”; and another said: “We are told to argue ‘black is white’ to remove people”.⁸⁰

69. The evidence we have received in this inquiry has revealed a picture of Home Office teams struggling with a lack of resources, high turnover of staff and unrealistic workloads. A lack of experienced staff and pressure to meet targets has meant that mistakes are being made that have life-changing consequences. A lack of first-line supervision is leading to mistakes not being identified or rectified and effective feedback to improve learning from errors is absent. Cases are being moved outside of service standards often with little or no justification, causing delay and frustration

77 Home Office, [Response to an inspection report on the Home Office’s asylum intake and casework](#), 28 November 2017

78 Ministry of Justice, [Tribunals and gender recognition certificate statistics quarterly - July to September 2017, Main Tables: Statistical table: Immigration and asylum disposals and outcome by party](#), 14 December 2017; Home Office appeals to the UTIAC: asylum cases 55 cases were allowed, 129 dismissed, 72 remitted to the First-tier and 20 withdrawn; non-asylum cases 291 were allowed, 560 dismissed, 260 remitted to the First-tier and 40 withdrawn

79 Free Movement blog, [Slavish lodging of appeals against deportation determinations deplored by President of Upper Tribunal](#), 23 November 2015; Free Movement blog, [Upper Tribunal criticises Home Office for unfair and unrealistic appeals](#), 9 February 2016; The Times, [Immigration officials worse than useless says Judge Nicholas Easterman](#), 9 November 2017; JCWI

80 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s production and use of Country of Origin Information](#), 30 January 2018

for the applicant and too frequently the first time a case receives adequate attention is when it goes to court. We note that the number of cases going to court has fallen but this is largely because access to justice has been restricted, not because initial decisions have improved. This is an unacceptable way to run an immigration system.

70. We recognise and pay tribute to the hard work of individual staff members and teams within UKVI. We are concerned, however, that frontline staff are poorly supported and overworked. UKVI needs improved recruitment and retention and more resources, not just to deal with the forthcoming challenges of Brexit but to reduce existing backlogs and the pressure on the current workforce.

71. Brexit pressures make it even more important that the Home Office addresses UKVI's serious resource problems. The Home Office should not allow the new challenges arising from managing EU migration to distract or prevent it from addressing these problems, nor do we believe that resources from the rest of the immigration system can be moved away to support Brexit. In addition, the Home Office needs to ensure that weaknesses in the current immigration system—including on recruitment, retention, training, decision-making and management—will not be replicated in the new EU operations.

72. We welcome the opening of the Next Generation Casework project based in Bootle and efforts to increase digitisation but these initiatives will not be enough to solve the serious problems we have identified. As a priority, the Home Secretary needs to focus on addressing the causes of high staff turnover, improving quality assurance processes and feedback loops, and learning from poor decisions, particularly with respect to decisions that are overturned in the courts. Unless urgent remedies are put in place to address failures in recruitment, retention and training, we fear that, because of the extra pressures on the system precipitated by Brexit, current performance will deteriorate in the coming years, compounding the significant problems which already exist.

Potential for improving non-EU migration operations

Simplifying rules and guidance

73. As we have discussed, one of the most important steps the Government can take to improve and streamline the immigration system is to reduce the complexity of the rules and the frequency with which they change. The Supreme Court has described UK immigration law as “an impenetrable jungle of intertwined statutory provisions and judicial decisions”.⁸¹ We heard that the guidance is equally inaccessible with much of it aimed at Decision Makers rather than individual applicants.⁸² There was overwhelming consensus in the evidence we received for reform. Yet, if delivered poorly and in a piecemeal fashion, changes to the immigration system to incorporate EEA nationals risk causing further damage to the integrity of the rules and legislation. The Home Secretary told us that simplifying the system was a ‘personal mission’ and that she had asked the Law Commission to review the rules with the aim of making the system more user-friendly.⁸³

81 Supreme Court, [Patel and others \(appellants\) v Secretary of State for the Home Department \[2013\]](#) UKSC 72

82 Written evidence submitted by Coram Children’s Legal Centre [[CTD0013](#)]

83 Oral evidence taken on [17 October 2017](#), HC 434, Q84

74. We welcome the review of the immigration rules which the Home Secretary has initiated and urge the Home Office to ensure this work is expedited and its findings implemented. Efforts to simplify the system should not be undermined by the development of rules to incorporate EEA nationals into the immigration system post-Brexit; rather, this should be seen as an opportunity to make bold changes.

Reducing bureaucracy

75. Beyond simplifying the rules there are other areas where there is considerable repeated bureaucracy in the system. We have already discussed how removing the requirement for a permanent residence document for citizenship applications would immediately reduce a caseload and allow resources to be directed elsewhere.⁸⁴ We heard similar calls to simplify the process for granting residency. For example, Coram Children’s Legal Centre told us that, where leave is granted for children it is now for very short periods of time with very long routes to settlement. They gave the following example:

A young person who has lived at least half their life in the UK will still only be granted an initial period of leave for 30 months and will not be entitled to indefinite leave to remain until they have accumulated ten continuous years of such leave, requiring a total of five applications to be made costing up to £8,269 at the current rates.⁸⁵

76. Colin Yeo described to us the additional caseload that the Home Office might face once EEA nationals are included in the immigration system: “it is not just the initial entry, it is also the extension and then the settlement application and then perhaps nationalisation further down the line if they do want to become British. That is a lot of extra work for the Home Office.”⁸⁶

77. In requiring people to apply for repeated extensions before they can achieve settlement the Home Office has increased its own workload as well as added to the costs and complexity for the applicant. We recommend that the Government review and attempt to streamline the process for those who apply based on long residence and where it is recognised they should be able to remain in the UK.

78. The Home Office is working on increasing the digitisation of application processes. Accepting scanned documents, particularly those that are independently verifiable such as council tax bills, electoral register and HMRC and NHS records, would speed up application processes and allow missing documents to be more easily found, which should reduce the frequency with which UKVI reject or refuse applications on the basis that it is unfeasible to request further or missing information. ILPA submitted that the Home Office should allow greater flexibility by empowering solicitors to verify passports; currently only local authorities can offer this service.⁸⁷

79. We do not agree that rejecting an application due to missing information and requiring the applicant to apply again is more efficient than asking people to address perceived problems with their applications. The Government has already accepted that this is the wrong approach for EU citizens in the new registration scheme. It should

84 Written evidence submitted by Magrath Sheldrick LLP [[CTD0016](#)]

85 Written evidence submitted by Coram Children’s Legal Centre [[CTD0013](#)]

86 Q48

87 Written evidence submitted by ILPA [[CTD0021](#)]

now consider changing the approach to non-EU migration. UKVI needs to take a more user-focused approach and give people the chance to amend administrative errors before an application is rejected. The increasing digitisation of the application process should help to enable UKVI to embed this change in approach across its work.

Dublin III Regulation

80. The European Union’s Dublin III Regulation determines which EU state decides a person’s asylum application and the arrangements for transferring asylum-seekers between EU states, including transfers back to the country through which they first entered the EU, and reunion of unaccompanied asylum-seeking children (UASC) with family members in other states. Dublin requires Member States always to assess the “best interests of the child” by taking account of options for family reunion, and the child’s wellbeing, safety and security and their views.⁸⁸

81. Under Dublin III, the definition of family is broader than under the UK’s Immigration rules—encompassing siblings, aunts and uncles, not just parents. In 2016, under the Dublin III Regulation, more than 700 children were transferred from other European countries to be reunited with family in the UK. Many of these children were joining relatives who were not their parents. UNICEF and Save the Children have raised concerns that the European Union (Withdrawal) Bill, as it stands, would transpose the EU’s Dublin III Regulation but, due to the nature of the Regulation, would have no legal effect. They argue that without remedy, this would result in fewer safe and legal routes for UASC to reach the protection of family members in the UK.⁸⁹ In response to a recent Parliamentary Question on Dublin, the Immigration Minister stated:

We are considering the options to ensure effective cooperation on the country responsible for processing asylum claims when we leave the EU. This will be a key consideration as part of the process of establishing a new relationship with our European partners.⁹⁰

82. **The Government needs to ensure that there is no diminution in the UK’s approach towards meeting its international humanitarian obligations as it leaves the European Union. It should clarify now whether it intends that the Dublin family reunion arrangements will continue to apply during the transition. When the UK’s participation in Dublin ends, whether that is at the moment of Brexit, the end of transition or the introduction of Dublin IV, the Government should make provision for an unaccompanied minor who has a family member in the United Kingdom, who is a refugee or has been granted humanitarian protection, to have at least the same reunion rights with family members in the United Kingdom as they would have had under the Dublin III Regulation. There are also concerns about asylum-seeking children who reach adulthood without their immigration status being determined and who also need certainty and security.**

88 AADH, [Concise overview of the Dublin III Regulation](#)

89 Written evidence submitted by UNICEF and Save the Children [[CTD0011](#)]

90 Answer to Written Question [125384](#), 5 February 2018

IT systems

83. Brexit will place increased demand on existing Home Office IT systems and new systems will need to be developed, including for the registration of EU nationals already in the UK and for those who arrive during transition. The Home Office is already in the process of overhauling many of its digital platforms and digitising existing paper-based processes. Sarah Wilkinson, the previous Home Office Chief Technology Officer, set out the scale of the challenge:

We already had an agenda that was bigger than anything the Home Office has ever attempted before. And we were attempting to change every system simultaneously. [...] Add Brexit on top of that, and you start to become absolutely brutal about prioritisation. [...] We're going to have to let go of, or postpone, some of the stuff we wanted to do in a pre-Brexit world.⁹¹

84. The Minister for Immigration explained to us that the system for registering resident EU nationals would be based on existing structures and systems that are used by the Home Office in working with HMRC and the Department for Work and Pensions but that a new user interface would be built. He told us: “We want to make that really simple, intuitive and quick for people”, and that “I want a system in which somebody who completes their part of the process hears from the Home Office in a couple of weeks”.⁹² The Home Office does not proactively seek data from other government departments to support visa applications as a matter of routine. To do so for an exercise of the scale of registering more than three million people will rely on a strong commitment from and data compatibility with other departments and agencies.

85. The Home Office has a poor history in developing IT systems. The final cost of the e-borders programme is expected to be over £1 billion and will be delivered at least eight years late.⁹³ In 2001 a £77 million programme with Siemens for a Casework Application system was cancelled. The objective had been to create a ‘paperless office’, help reduce a backlog of 66,000 asylum cases and provide a single view of individuals. In 2010 a similar scheme called Immigration Case Work (ICW) was developed. It was expected to replace both the legacy Casework Information Database (CID) and 20 different IT and some paper-based systems by March 2014. The National Audit Office (NAO) reported that the ICW programme was closed in August 2013 “having achieved much less than planned, at a cost of £347m.”⁹⁴ The PCS also told us that it had raised concerns with the Minister that there are major problems with the new Disclosure and Barring Service IT system.⁹⁵ Lewis Silkin also pointed to delays and errors in the issuing of biometric permits that had been common for several months, leaving some applicants unable to demonstrate their right to work or to rent, and complicating or preventing travel.⁹⁶

86. The Infrastructure and Projects Authority’s latest update on Major Projects in the Home Office shows the scale of the overhaul within the Department and identifies a number of risks. Projects directly relating to immigration include Digital Services at the Border (DSaB) (rated Amber/Red by the IPA); the Home Office Biometrics Programme

91 Computer Weekly, [CIO interview: Sarah Wilkinson, Home Office](#), 6 March 2017

92 Oral evidence taken on [21 November 2017](#), HC 421, Qs 94–99

93 National Audit Office, [E-borders and successor programmes](#), HC [2015–16] 608

94 National Audit Office, [Reforming the UK border and immigration system](#), HC [2014–15] 445

95 Q364

96 Written evidence submitted by Lewis Silkin LLP [[CTD0022](#)]

(rated Amber/Green) and the Immigration Platform Technologies (IPT) Programme—the latest iteration of a scheme to replace the key Casework Information Database (CID) (rated Amber).

87. Effective IT systems need to be at the heart of improving delivery of the existing immigration system and, crucially, available to facilitate the increased workload which will inevitably arise from Brexit, whatever the precise terms of the new migration policy turn out to be. We welcome the Government’s commitment to a smooth and streamlined online process for EU citizens who are resident in the UK, and the Minister’s indication that the IT system for registration of EU citizens will be ready for testing early this year. However previous performance provides no assurance that the Home Office is likely to have the necessary systems developed, in place and operating efficiently by the end of March 2019. We request that the Home Office sets out in response to this report an update on the progress of major IT projects across the department and the specific steps it is taking to ensure that IT solutions are in place to accommodate the considerable challenges it will face in delivering post-Brexit immigration services. Effective IT systems also rely on clear and early policy decisions so that they can be designed and tested to deliver effectively. In the absence of a White Paper, or a timetable for it, or answers to a series of basic delivery questions, we believe the risks of IT problems and delays are high.

3 Border Force

88. The Border Force directorate is responsible for securing the UK border, protecting against the movement of illegitimate goods, collecting customs revenues and controlling immigration at 140 ports, airports and train stations across the UK and overseas. In terms of immigration services, Border Force is responsible for checking every passenger at the border and preventing illegal immigration (for example via lorry drops). In 2016, over 37 million non-British EEA nationals, 16.3 million non-EEA nationals and 76 million UK nationals arrived in the UK.⁹⁷ Under Brexit, Border Force will have to implement any changes to immigration checks at the border, as well as changes to customs checks at the border.

Resources

89. In 2016–17 there were an average of 7,670 full-time Border Force officers, a reduction from the 8,332 officers employed in 2014–15.⁹⁸ The reduction in officers has meant members of staff being diverted regularly from customs operations to the priority service of immigration control.⁹⁹ Mike Jones, Home Office Group Secretary for the PCS union, told us that staff shortages and high levels of turnover were leading to shifts not being covered adequately and existing staff working additional hours and six-day patterns.¹⁰⁰

90. In the 2017 civil service staff survey Border Force scored second lowest of all parts of government for acceptable workload and just three out of ten officials described it as a “great place to work”.¹⁰¹ Mike Jones described “constantly [getting] messages from people saying morale is at an absolute all-time low [...] They’ve never seen it so bad.”¹⁰² In his 2017 inspection of Gatwick airport the Independent Chief Inspector reported that operations appeared to be under considerable strain overall with some groups of staff feeling undervalued.¹⁰³ He found Border Force to be overly reliant on mobile and seasonal staff who have limited training. He told us the same was true at Stansted airport and elsewhere.¹⁰⁴

91. The ICIBI’s inspection of east coast sea ports revealed that “coverage of smaller, normally unmanned, east coast ports and landing places was poor, with almost half of them not having had a visit from a Border Force officer for more than a year.”¹⁰⁵ In our recent report *Immigration policy: basis for building a consensus* we noted two occasions in which there were no Border Force officials available to meet incoming flights at regional airports causing passengers to be held until officials could be transferred from other

97 Home Office migration data, [Table AD 01](#), 30 November 2017

98 Home Office, [Annual Report and Accounts 2016–17](#), HC 20 and [2014–15](#), HC 12

99 Independent Chief Inspector of Borders and Immigration, [Border Force operations at Gatwick, July 2017](#), 12 July 2017

100 Q353

101 HM Government, [Civil Service People survey](#), 2017

102 Buzzfeed news, [The people guarding the UKs borders say they’re struggling to cope, and it’ll only get worse, after Brexit](#), 2 January 2018;

103 Independent Chief Inspector of Borders and Immigration, [Border Force operations at Gatwick, July 2017](#), 12 July 2017

104 Q284

105 Independent Chief Inspector of Borders and Immigration, [Border Force operations at east coast seaports, July 2017](#), 12 July 2017

locations.¹⁰⁶ It has also been reported that waiting time targets at airports are regularly breached; at Heathrow, Border Force failed to meet waiting-time targets more than 100 times on 29 December 2017, which Lucy Moreton, General Secretary of the Immigration Services Union (ISU), put down to staffing pressures.¹⁰⁷ In response to our report on *customs operations*, the Home Office stated that “workflow is actively monitored to ensure sufficient resources are in place to meet demand at the border.”¹⁰⁸ The evidence we have received would suggest that this is not the case, and Home Office policy is not to release data on staff presence at key ports of entry.

92. The Home Office is seeking to employ more Border Force staff. The Permanent Secretary told us that 300 additional officers were being recruited, with the aim of them being in place by September 2018 and trained by March 2019, “to ensure that we can deal with the consequences of leaving the European Union with a deal or without a deal”.¹⁰⁹ However, the ISU believed that the additional numbers would do no more than backfill existing vacancies while the PCS told us that the figure was in fact 252 new officers.¹¹⁰

93. We are increasingly alarmed about the impact that inadequate resources are having on the capacity for Border Force to operate effectively. This is a system which has not functioned properly for a number of years, in large part due to insufficient staffing. The consequences of a lack of resources have implications for the smooth operation of the border, the morale and wellbeing of staff, and the quality of frontline immigration services.

Border checks after Brexit

94. As we noted in our report on customs operations, if the UK leaves the EU without a deal or if there is no customs union or partnership, then there will be a significant increase in demand on customs services, which will have a knock-on effect on the ability of Border Force officials also to deliver frontline immigration services.¹¹¹ It is clear that a Brexit which involves leaving the customs union will have significant impacts. Any additional controls on goods or passengers crossing from Ireland to the UK will place an extra burden on Border Force resources. The PCS voiced concerns over the lack of clarity about what is planned for the border. They explained that there are currently 57 Border Force officers in Northern Ireland covering four major sea ports, three main airports and a land border over 335 miles long, and pointed out that the workforce will increase by just six following the recent recruitment exercise.¹¹²

106 Home Affairs Committee, Second Report of Session 2017–19, [Immigration policy: basis for building consensus](#), HC 500

107 Mail on Sunday, [Welcome to Britain? Hardly. Heathrow border chaos is forcing passengers to endure queues of up to two-and-a-half hours at passport control](#), 6 January 2018; Border Force operates maximum waiting time targets. The Key Performance Indicators are 25 minutes for EEA visitors compared to 45 minutes for non-EEA citizens. On 29 December 2017 queue targets were missed on 101 occasions when queue times were checked every 15 minutes during the day. In 17 cases queue times for non-EEA travellers exceeded 85 minutes. The longest queue time was 150 minutes at Terminal 4 for non-EEA travellers; Written evidence submitted by the Airport Operators Association [[IMM0005](#)]

108 Home Affairs Committee, Fourth Special Report of Session 2017–19, [Home Office delivery of Brexit: customs operations: Government response to the Committee’s First Report](#), HC 754

109 Oral evidence taken on [17 October 2017](#), HC 434, Q125

110 Written evidence submitted by the PCS [[CTD0029](#)]

111 First Report from the Home Affairs Committee, Session 2017–19, [Home Office delivery of Brexit: customs operations](#), HC 540. See also Government Response, Fourth Special Report, HC 754

112 Written evidence submitted by the PCS [[CTD0029](#)]

95. The latest National Strategic Assessment of Organised and Serious Crime from the National Crime Agency (NCA) identifies illegal immigration facilitated by criminal gangs as an increasing threat to the UK.¹¹³ London First suggest that any further restriction on legitimate travel to the UK from the EU has the potential to increase demand for forged or stolen documentation and more forms of illegal travel. They noted that this threat would “necessitate greater intelligence sharing as well as joint working, all of which require investment in new technology and sufficient numbers of Border Force officers on the ground and at sea”.¹¹⁴ This view is supported by RUSI who caution that if adequate provision is not made to ensure a secure and efficient border then “there is no doubt that highly agile and resourceful Organised Crime Groups will be quick to capitalise on the vulnerabilities this will present.”¹¹⁵ The Home Office told us that it had set up a specific work-stream to analyse the requirements which might arise from EU exit and that it was “actively planning for contingencies”.¹¹⁶

96. British citizens, nationals of other EEA countries and people with ‘Registered Traveller’ status are subject to minimal immigration checks and can use electronic (‘e-passport’) gates if they travel with the required ‘chipped’ passport.¹¹⁷ Non-EEA nationals have to undergo a basic passport check, possibly accompanied by a further fingerprint check to ensure a biometric identity match with a visa application, and can expect to spend twice as long at the border before being cleared for entry.

97. Any changes in the way entry to the UK is controlled will need to take account of the potential impact on flows and throughput at the border. The Government has been clear that it wants visa-free travel for EEA nationals to remain after the UK leaves the EU but it has yet to say whether existing entry arrangements will continue.¹¹⁸ London First has argued that, if the Government wishes to apply similar checks to EEA nationals as it does to non-EEA nationals, then questions arise over the ability of Border Force to cope with the increased workload and the physical capacity of receiving points of entry.¹¹⁹ The Airport Operators Association (AOA) predict that a hard border regime would require Border Force to commit significantly more resources to processing EEA travellers and that queueing times for them would still almost double.¹²⁰

98. The AOA notes that Border Force has asked some airports where redevelopment of terminals is taking place or is planned to make changes to their plans to safeguard space for changes in the border halls. It states that this approach is “costing those airports tens of millions of pounds in additional development costs without it being clear if they will ever need to be used.”¹²¹ The AOA also told us that Border Force resources were “already

113 National Crime Agency, [National Strategic Assessment of Serious and Organised Crime](#), 2017

114 London First, [Securing UK Borders: An examination of the implications of leaving the EU for UK Border management](#), 2017

115 RUSI, [Brexit: Nothing to declare? The future of border security](#), 4 December 2017

116 Home Affairs Committee, Fourth Special Report of Session 2017–19, [Home Office delivery of Brexit: customs operations: Government response to the Committee’s First Report](#), HC 754; Oral evidence taken on [17 October 2017](#), HC 434, Q41

117 Registered Traveller membership is available to nationals of 40 countries and territories. It allows members to use UK and EU passport lanes and e-passport gates. To be a member an individual must have a UK visa or entry clearance or have visited the UK at least four times in the last two years. See <https://www.gov.uk/registered-traveller/eligibility>; EEA nationals are currently permitted to travel using passports or their national ID cards.

118 Q313 [Lucy Moreton]; Written evidence submitted by the PCS [[CTD0029](#)]

119 London First, [Securing UK Borders: An examination of the implications of leaving the EU for UK Border management](#), 2017

120 Written evidence submitted by the Airport Operators Association [[IMM0005](#)]

121 Written evidence submitted by the Airport Operators Association [[IMM0005](#)]

stretched to breaking point” and that airports across the UK had seen significant increases in queue lengths at passport control in recent years. The AOA believes that the primary reason for this was that Border Force’s budget had not kept up with passenger growth.¹²²

99. **The Government needs to clarify whether it wants additional checks at the border on EEA nationals entering the UK after March 2019 or not. It is clear to us that Border Force does not currently have the capacity to deliver this and will struggle to put sufficient additional capacity and systems in place—particularly if it also faces additional pressure to carry out customs checks as a result of the Government’s decisions on a customs union. We have warned in a previous report that it would be unacceptable to switch Border Force staff away from security and immigration checks to deal with new customs checks.**

100. **Border Force’s staff are committed and professional but they are already overworked and there is an over-reliance on agency workers who lack the experience and skills of their permanent colleagues. We welcome the decision to recruit more staff but in our view the number identified by the Home Office is very likely to be insufficient to backfill existing vacancies, let alone deal with any additional workload that different entry requirements would present. We recommend that the Home Office increase the number of permanent Border Force staff. It should also recognise and urgently address the problem of low morale amongst Border Force staff who carry out such crucial and sensitive work.**

101. **The terms of the UK’s exit from the European Union will have a significant impact on the management of both goods and people at the border. There are real concerns that Border Force will struggle to cope with an expansion of its activities, and that airports and other points of entry to the UK lack the physical capacity to carry out additional checks on people and goods. We urge the Government to be realistic about the current limitations in the way Border Force operates and the lack of time left to make substantial changes to the border arrangements for either goods or people before March 2019 without significant disruption, problems or security challenges. Rushed and under-resourced changes will put border security at risk. The lack of clarity on the future relationship with Ireland also poses particular challenges for Scottish and Welsh ports, and of course for Northern Ireland. As we recommended in our report on customs, we believe that the Government should aim to agree transitional arrangements with the EU which involve no practical change to customs operations, either in the UK or the EU.**

E-passport gates

102. E-passport gates are viewed by the Home Office as being one of the main ways in which Key Performance Indicators (KPIs) for passenger processing can be maintained in the face of reduced Border Force funding.¹²³ They are available to passengers with a ‘chipped’ passport, and allow them to pass through immigration control much more quickly than via a staffed kiosk, whilst requiring fewer operational resources. The Home

122 Written evidence submitted by the Airport Operators Association [[IMM0005](#)]. In 2012–13, the budget was £617 million while in 2016–17 it was £558.1m – a 10% reduction (see HC Deb [20 April 2016](#) col 923). Over the same period, passenger numbers have increased by 15%, according to figures from the Civil Aviation Authority.

123 Written evidence submitted by the Airport Operators Association [[IMM0005](#)]

Office is increasing the number of e-passport gates available at ports. It has also trialled doubling the number of e-passport gates that a Border Force Monitoring Officer can oversee (from 5 to 10) and is now in the process of rolling out this change more widely.

103. During his inspection of Gatwick airport the ICIBI found that there were occasions when some e-passport gates were closed due to insufficient monitoring staff and other times when the gates were in operation but with no staff present, which is a breach of the ministerial conditions for their use.¹²⁴ The Chief Inspector told us that while the e-passport gates can ease the burden on staff,

[...] the issue for me is whether the e-gates are dealing sufficiently with more vulnerable arrivals, particularly the safeguarding aspects for children and victims of modern slavery, who might be going through those gates and whether the level of coverage of the gates is sufficient to give assurance that those risks are being properly managed.¹²⁵

104. The Home Office states that the 'revised IT system' in the gates will reduce the amount of 'button pressing' required, which means that a Monitoring Officer can reasonably be asked to monitor up to 10 gates. The PCS have raised concerns about workload impact and error rates and are pushing for an additional Roving Officer to oversee e-passport gates.¹²⁶

105. The roll-out of more e-passport gates at ports is welcome and may help free up Border Force resources if EEA nationals can continue to use them after Brexit. As the Independent Chief Inspector has made clear, there need to be sufficient staff to monitor e-passport gates, particularly when there are safeguarding concerns in respect of children and potential victims of modern slavery. The Government should set out what action it is taking to ensure this risk is properly managed.

124 Independent Chief Inspector of Borders and Immigration, [Border Force operations at Gatwick, July 2017](#), 12 July 2017

125 Q284

126 PCS Home Office branch website, [Departmental proposals to increase e-gate monitoring role to 10 gates, 8 November 2017](#)

4 Immigration enforcement

106. Immigration Enforcement is responsible for identifying and dealing with people who are in the UK illegally. This can include individuals who have entered the country unlawfully, breached their original conditions of entry, or have failed in their application for asylum. It oversees the removal of immigration offenders and is ultimately responsible for immigration removal centres such as Brook House and Yarl's Wood. Individuals who are found to be in the UK illegally may be required to report regularly at immigration centres or police stations while officials from Immigration Enforcement make preparations to remove them.

107. In our recent report on building consensus on immigration policy, we described the challenges facing Immigration Enforcement. They included difficulties tracking overstayers and removing offenders, constrained resources, and mistakes in data leading to attempts to remove people who were lawfully resident in the UK. We discuss some of those challenges in more detail below, and assess the potential impact of Brexit on the work of the directorate.

108. The Government's approach to meeting freedom of movement obligations has meant that EEA nationals have so far been largely beyond the scope of enforcement action. For example, under freedom of movement rules the Government could have chosen both to require the registration of EEA nationals, and to take steps to remove people who were not self-sufficient after three months, but has not done so. The Government's approach is expected to change once the UK leaves the EU—or at the end of any transitional arrangements—and the Home Office will have to engage with a large new cohort of people. However there is currently no clarity about how the new registration scheme for existing EEA nationals resident in the UK or the new registration scheme for new EEA arrivals after March 2019 will be enforced. For example, it is unclear what enforcement the Government anticipates for resident EEA nationals who fail to apply for temporary or settled status before the end of the two-year grace period or for arrivals during transition who fail to register their presence. It is therefore impossible to assess how far the Immigration Enforcement directorate is equipped to deal with changes after March 2019 or after the transition period. The Government's decision to require existing EU nationals resident in the UK to register in order to secure settled status may suggest that those who do not register in the grace period will be subject to enforcement; if this is the case, it could clearly result in a hugely significant increase in caseload compared to there being no such requirement.

109. Any changes to immigration rules for EEA nationals which makes admission time-limited will create additional challenges for Immigration Enforcement. If the number of people subject to visa restrictions increases so too will the need for enforcement action against those who breach their visa restrictions.

110. Enforcement is important for the credibility of any system. Clarity is needed for the public, EEA citizens who could face enforcement action and for Parliament on what the Government intends on enforcement. Immigration Enforcement need to know so that they can make plans, and there also needs to be proper opportunity to scrutinise the Government's proposals to make sure they are effective, credible and fair. We recommend that the Government sets out as soon as possible what enforcement arrangements it believes are appropriate for EEA nationals in relation to registration

of both existing residents when the grace period ends, and of new arrivals after March 2019. It should also set out a strategic plan for Immigration Enforcement including any additional resources and staff it will need.

Resources

111. The Immigration Enforcement directorate has seen its workforce fall from 5,315 in 2014–15, to 4,969 in 2016–17. In their report on Implementing Brexit, the Institute for Government concluded that “enforcement teams must be appropriately scaled up to ensure they can police an EU immigration regime on top of the non-EU activity.”¹²⁷ Lucy Moreton of the ISU told us that she expected a small-scale recruitment exercise to begin shortly but that it was unlikely that such an exercise would do more than backfill existing vacancies. David Wood alerted us to £30 million in grants from the EU to fund measures such as charter flights for removals that will end once the UK leaves the EU. He told us that “there is going to be enormous pressure on resources and the ability to cope with this, which if well planned, thought of and resourced can be managed.”¹²⁸ Other evidence we received suggested that the Home Office might struggle to meet Mr Wood’s three conditions, not least because existing resources were already under pressure.¹²⁹

Monitoring of non-compliant individuals

112. Home Office guidance states that a ‘reporting event’ must be a means of bringing a case to a conclusion, through removal, voluntary departure or the granting of leave. In November 2017, two ICIBI reports were published on the Home Office’s management of the reporting and removal system.¹³⁰ The inspection found that clarity of purpose, and the intention that reporting events should be meaningful, were seriously compromised by the practical difficulties of managing a large reporting population (around 80,000) and by poor communication and coordination between different Home Office units. It was noted that “recording and treatment of non-compliance with reporting restrictions was inconsistent, and there was little evidence of effective action to locate absconders.”¹³¹

113. Previously, in December 2016, the Chief Inspector had found almost 7,000 recorded instances of a scheduled reporting event not being completed. Home Office guidance sets out a ‘three stage process’ when an individual fails to report, starting with a telephone call or letter to re-establish contact, progressing to a home visit, and finally putting the case forward for “absconder action”. As at 31 December 2016, there were almost 60,000 declared absconders. The Independent Chief Inspector reports that in both inspections:

I found people and processes under strain. The numbers required to report routinely mean that it is extremely difficult for staff at Reporting Centres to ensure that reporting events are ‘meaningful’, in terms of encouraging

127 Institute for Government, [Implementing Brexit: Immigration](#), May 2017

128 Q2

129 Written evidence submitted by MillionPlus [[CTD0015](#)], Joint Council for the Welfare of Immigrants [[CTD0019](#)], Magrath Sheldrick LLP [[CTD0016](#)]

130 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s management of non-detained Foreign National Offenders, December 2016 – March 2017](#), 2 November 2017; Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s Reporting and Offender Management processes December 2016 – March 2017](#), 2 November 2017

131 Independent Chief Inspector of Borders and Immigration, [An inspection of the Home Office’s Reporting and Offender Management processes December 2016 – March 2017](#), 2 November 2017

voluntary departures or resolving barriers to removal. Meanwhile, the removal of FNOs is regularly frustrated, often by last minute legal challenges, and monitoring non-detained FNOs effectively is a challenge and one that raises obvious public protection concerns.¹³²

114. The longer someone is in the country unlawfully the more difficult it is for them to be removed. In our previous report, we concluded that the introduction of exit checks would make it easier to identify those who had overstayed their visa but warned that sufficient resources needed to be in place for the process to work efficiently.¹³³ Immigration Enforcement is reliant on information from other Home Office directorates. The PCS told us that a lack of resources in other parts of the Home Office meant that by the time Immigration Enforcement officers were notified of a decision to remove, individuals had moved on.¹³⁴

115. We have previously called on the Government to improve its enforcement of the immigration rules to help build confidence in the system and thereby move towards greater consensus on immigration policy. Improved enforcement requires the efficient identification and removal of those in breach of immigration laws. The reintroduction of exit checks will contribute to this but only if there are sufficient staff in place to process the casework. Current resources are clearly stretched even in advance of any Brexit changes. The Government should set out plans to improve the resourcing of Immigration Enforcement and recruitment and retention of its staff. As with UKVI and the Border Force, it is important that Brexit does not distract from or prevent action to improve enforcement across the rest of the immigration system.

Hostile environment

116. Over recent years the Government has increasingly chosen to outsource much of the enforcement function to employers, educators, landlords and providers of public services under the policy known as the ‘hostile environment’. This has involved implementing a series of measures aimed at making it so difficult to live unlawfully in the UK that those here illegally will leave and those seeking to come without permission will be deterred from doing so. The policy includes measures to limit access to work, housing, healthcare, and bank accounts, to revoke driving licences and to reduce and restrict rights of appeal against Home Office decisions.¹³⁵

117. If the Government was to extend the hostile environment to include EEA nationals, it would mean that many people who have not previously come into contact with immigration rules and processes, such as small businesses employing one or two EEA nationals, would be required to understand and apply them. There is also evidence that hostile environment measures are changing behaviour towards people lawfully resident

132 ICIBI press release, [Chief Inspector publishes reports on the Reporting and Offender Management processes, and the Management of non-detained Foreign National Offenders](#), 2 November 2017

133 Home Affairs Committee, Second Report of Session 2017–19, [Immigration policy: basis for building consensus](#), HC 500

134 Q361

135 Most of the hostile environment proposals became law via the Immigration Act 2014, and have since been tightened or expanded under the Immigration Act 2016.

in the UK. Studies show that some landlords and employers are refusing to engage with foreign nationals for fear of criminal sanctions if they make a mistake in applying the rules.¹³⁶

118. There are also concerns that people are refusing to report crime or seek medical help because they are afraid their details will be shared with the Home Office; and indeed it has been reported that a victim of rape was herself arrested when immigration checks conducted after she reported the crime identified that she was in the UK unlawfully.¹³⁷ On 31 January 2018 the Health Select Committee wrote to NHS Digital asking it to withdraw immediately from a Memorandum of Understanding with the Home Office that allows for the sharing of patients' addresses for immigration tracing purposes, whilst it conducts a full review of its decision on the public interest test for such requests.¹³⁸ David Wood cautioned that, post-Brexit, with pressure on resources there was a risk of an "over-concentration on simple-to-remove Europeans" while "more harm-based cases" received less attention.¹³⁹

119. The Home Office has not set any targets against which to measure the effectiveness of the hostile environment policy. In fact, since its inception, the number of both enforced and voluntary returns has fallen. The Independent Chief Inspector told us:

Of the 40 reports that I have produced since I have been doing this, the one that has caused me the most irritation was the report into the hostile environment and the response that I got from the Department, where I believe they do need to do more to understand the effects of the provisions that have been brought in through the 2014 and 2016 Immigration Acts and to be able to give an account of the effectiveness of those measures, or not.¹⁴⁰

He went on to explain that what he would have expected to have seen by now is some evidence that the hostile environment is working "so that there is some justification for the two pieces of legislation and for all of this effort that is being put into this by a whole variety of people."¹⁴¹

120. The hostile environment is a policy that is broad in scope and which relies for its implementation on many different parts of society, including colleges, landlords, employers, and banks. We find it unacceptable that the Government has not yet made any assessment of the effectiveness of the policy and call on them urgently to do so.

121. We question the appropriateness of a policy that discourages individuals from reporting a crime or seeking medical attention. We call for this aspect of the policy to be reviewed and recommend that sensitivity and discretion be used while that review is underway. We note that the Health Select Committee has asked NHS Digital to cease sharing patient data with the Home Office for immigration enforcement purposes whilst it carries out a review of the process.

136 Independent, [Landlords admit turning away EU citizens to avoid Government regulations](#), 6 September 2017; Guardian, [No Europeans need apply: evidence mounts of discrimination in the UK](#), 11 September 2017

137 Guardian, [Rape victim arrested on immigration charges after going to police](#), 28 November 2017; Written evidence submitted by the Joint Council for the Welfare of Immigrants [CTD0019]

138 Health Select Committee, [Letter from the Chair of the Committee to the Chief Executive of NHS Digital](#), 31 January 2018

139 Q2

140 Q295

141 Q300

122. We are very concerned at the possibility that the hostile environment could be extended to include EEA nationals and apply to an estimated three million more people living legally in the UK without any evidence that the policy is working fairly and effectively. This has the potential to create further errors and injustices, which we have already seen causing unnecessary distress, and to increase the administrative burden on individuals, employers and landlords, without any evidence that the system works. It also cuts across the strong words of the Prime Minister that the UK wants EU citizens living here to stay, if the Government then chooses to subject them to a policy described as the ‘hostile environment’.

Detention

123. Individuals who are subject to immigration control may be detained in an Immigration Removal Centre while their case is resolved or until they can be removed. Medical Justice report that there is already a trend toward an increase in the detention of EU nationals. They warn that a significant increase in the detention of EU nationals following Brexit would potentially put increased pressure on a detention system which is already struggling to cope with the current volume of people detained, and which fails properly to safeguard vulnerable individuals.¹⁴² We are considering the Government’s use of detention in a separate inquiry, launched following revelation of abuse at Brook House Immigration Removal Centre.

Errors in enforcement

124. While the hostile environment is aimed at individuals without valid leave to be in the UK, there are regular reports of people with a lawful right to be here being caught up in the system, often via errors in the application process or problems with the data retained by the Home Office. For example, in September 2017 Haruko Tomioka, a Japanese woman, lawfully present in the UK, was given seven days to leave the country. This followed a two-year period during which time her driving licence had been rescinded, child benefit payments had been stopped (she had also been ordered to repay £5,000), and she was made to report to Becket House Immigration Office on a regular basis. Ms Tomioka had made several attempts to notify the Home Office that she was in the UK legally as her husband was an EU national in employment. The immigration enforcement procedures followed Ms Tomioka making an application for permanent residency. The Home Office have now accepted that Ms Tomioka is in the UK legally.¹⁴³

125. The expansion of immigration powers and functions has extended the scope for mistakes to be made.¹⁴⁴ An inspection by the ICIBI found that a 10% error rate in data provided to banks for enforcement purposes was leading to people lawfully resident in the UK being threatened with removal. In September 2017 Dr Mohsen Danaie, a Canadian/Iranian joint national, was incorrectly identified as a disqualified person during checks by his bank. He was told by the Home Office to take steps to leave the UK immediately and the letter to him stated that he could face six months in prison, forcible removal from the UK and a ban on returning for up to 10 years if he did not leave the country. Dr Danaie’s

142 Written evidence submitted by Medical Justice [CTD0026]

143 Guardian, [Fighting the Home Office: Woman’s traumatic two year battle to stay in the UK](#), 18 September 2017

144 Written evidence submitted by Amnesty International [CTD0024]

visa was valid until September 2019.¹⁴⁵ The Independent Chief Inspector told us that he expected the Home Office to check the accuracy of its data before it sent it on to be used for enforcement purposes but that the Home Office had rejected his recommendation for it to do so.¹⁴⁶ Dr Danaie’s case also raises concerns about the Home Office’s communication processes—that although there are often specific instructions on whom to call to facilitate removal, contact details are frequently not provided for those who need to query the basis of a letter from the Home Office challenging an individual’s right to be in the UK.¹⁴⁷

126. Although Home Office advice on its website is clear that EU nationals remain subject to freedom of movement rules, this has not prevented officials from telling some EU nationals that they should leave the country following the rejection of applications for residency. In August 2017, Dr Eva Johanna Holmberg and 105 other EU nationals were wrongly threatened with removal. The European Commission’s chief negotiator, Michel Barnier, cited the Home Office error involving Dr Holmberg as underlining the need for EU citizens’ rights to be under the jurisdiction of the European Court of Justice. In September 2017, Guy Verhofstadt, the European Parliament’s Brexit negotiator, wrote to the Home Secretary in similar terms citing the case of Ms Tomioka. He raised MEPs’ concerns at the recent mistakes by the Home Office and warned: “As you are aware, the interests of both the EU and UK citizens are of paramount concern to the European parliament and the institution will act to protect their interests throughout the process leading to the UK’s withdrawal from the EU.”¹⁴⁸

127. The volume and complexity of cases in the immigration system means that it is unreasonable to expect mistakes to be entirely eradicated. However, there needs to be an accessible means for mistakes in enforcement to be rectified quickly. At the moment, it appears that the most effective means for drawing attention to an error is for the case to be highlighted by a national newspaper or raised by a Member of Parliament. As we set out in our previous report, urgent action is needed to address errors in the enforcement process. While the expeditious response to such cases is often welcome, it is no substitute for a proper reconsideration mechanism. We recommend that a dedicated helpline is established for individuals threatened with removal so that they can bring errors to the attention of the Home Office as a matter of urgency.

145 Guardian [‘Leave UK immediately’: scientist is latest victim of Home Office blunder](#), 26 September 2017; the Home Office has since ‘apologised for any inconvenience caused’ and updated its records

146 Q300

147 Dr Mohsen Danaie found that when he was mistakenly threatened with removal there was a phone number to call for assistance with removal but no number to dispute the basis of the letter. Instead, he had to rely on “sending an email and hoping somebody would respond within a 10-day deadline”.

148 Guardian, [Britain’s treatment of foreign nationals colours MEP’s view of Brexit](#), 27 September 2017

5 Conclusion

128. In this report, we have examined the capacity of the Home Office to deliver new immigration processes to support the UK's decision to leave the European Union. We have found that many existing processes are under strain, and under-resourced. We were told that pressure on staff in the immigration directorates is considerable, that it is contributing to high turnover rates and that poor decisions are being made as a result. The Home Office is recruiting more staff but we believe that the planned recruitment appears insufficient in scale to alleviate existing burdens let alone provide the resources required to cope with the increased workload and challenge that Brexit will bring.

129. We conclude that the Home Office needs rapid action to improve delivery across the existing immigration system in advance of any Brexit changes, urgent clarity about what the Government intends for EEA nationals' registration and immigration, so that it can be scrutinised and debated before implementation, and a serious and properly resourced implementation plan for all three immigration directorates, with a realistic timetable for change.

130. We find the Government's delays to the promised White Paper, and the lack of any timetable for resolving questions about registration and transition, to be completely unacceptable. These delays risk not only making it impossible to deliver on time, but also distracting UKVI, Border Force and Immigration Enforcement from their wider vital work on immigration and border security.

Conclusions and recommendations

Introduction

1. The delay to the proposed White Paper has caused anxiety for EU citizens in the UK, uncertainty for UK businesses, and concern in Parliament about the consistency with which the Government is approaching post-Brexit immigration policy. It is extremely regrettable that the Government has delayed the White Paper and that there now appears to be no clear timetable for it to be published at all, or for the promised Immigration Bill. We recognise the Government's desire to wait for evidence from the Migration Advisory Committee before setting out proposals for the long term. We also recognise that the details of the transition arrangements will be subject to negotiations. Nevertheless, the Government has a responsibility to Parliament, the public, EU citizens who will be affected, employers and the public servants it expects to deliver the policies to provide some urgent clarity on its intentions. (Paragraph 7)
2. The Government should immediately set out more detailed plans for the registration of EU nationals already here, and its objectives for the negotiations over the transition period. Failure to do so soon will deny Parliament and those affected the opportunity to scrutinise or debate the Government's plans before they are finalised with the EU, despite the fact that this is such a crucial policy area. That is unacceptable. It will also make it impossible for UKVI, Border Force and Immigration Enforcement to do their job properly. As we set out in this report, these directorates are already overstretched and face significant challenges in delivering new policies on Brexit. Expecting them to make late changes without time to plan or consult puts them in an impossible position. (Paragraph 8)

UK Visas and Immigration

European casework

3. The lack of detail and uncertainty for EEA nationals with just months to go before the process to confirm their status is supposed to start and only a year to go before Brexit is not only difficult and stressful for those affected, it also raises serious questions about UKVI's level of preparedness and ability to deliver a new system. If key questions are not swiftly resolved and delivery plans drawn up, we do not believe that UKVI will be capable of delivering significant changes to the system either at the border or on registration by March 2019. (Paragraph 16)
4. It is deeply regrettable that the Home Office does not now intend to publish the promised White Paper on Immigration until autumn of this year. This means continued anxiety for individuals and heightens the prospect of UKVI having insufficient time to plan properly to deliver its services. Much greater clarity is needed now on a series of issues which are causing uncertainty for EEA citizens, employers and UKVI staff. We recognise that some issues will not be resolved until the negotiations on phase 2 have progressed. Nevertheless, there are some issues—

such as how the Government plans to address applications from longstanding residents with absences of longer than six months—which it should be possible for the Government to resolve without further negotiations. (Paragraph 17)

5. Further uncertainty has been caused by the Prime Minister's recent comments on arrivals of EEA citizens after Brexit day, during the transition period. The Government needs to provide far greater transparency about its intentions so that people can plan for their futures. For example, we need further clarification on:
 - The legal status of EU nationals who have not registered by the time the grace period is over (something the Home Secretary told us would be included in the White Paper);
 - Whether the registration process and rights for EEA citizens will be identical to those of EU citizens and how their rights will be enforced;
 - The legal status of EU nationals arriving after March 2019 who have not registered—including their entitlement to work and their ability to rent;
 - Whether employers, landlords and banks will be expected to check registration documents for EU citizens in the way that they are required to check the immigration status of non-EU citizens;
 - The status of EU citizens who have lived in the UK for more than five years but are temporarily not living in the UK in March 2019;
 - The status of EU citizens who have lived in the UK for more than five years but have had an absence in another EU country for longer than 6 months;
 - The rights of posted workers;
 - Family reunion rights for future spouses of EU and UK citizens;
 - The legal implications of applying for settled status prior to ratification of any Withdrawal Agreement and the UK leaving the EU (or during any transitional period when free movement rights continue to exist), and the consequences of any refusal of such an application; and
 - The status of non-EEA nationals with rights derived from EU law including under Zambrano, Metock and Surinder Singh case law. (Paragraph 18)
6. The Home Office should also draw up contingency plans in case agreement on the transitional arrangements on immigration is not reached this spring making it difficult to get new arrangements in place in time for March 2019. The contingency plan should set out what fall-back policies will operate and what systems and resources will be in place so that UKVI, individuals and employers can plan. (Paragraph 19)
7. The Government should not wait for the White Paper but should set out now clear and accessible guidance on the rights that EU27 and UK citizens can expect to exercise after Brexit. This should cover not only the implications of the agreement reached in the Joint Report on phase 1 of the Brexit negotiations, but

also the Government's intended solutions to those issues left outstanding. The Government should commit to a process of ongoing communication with those affected by Brexit to provide reassurance and clarity to those whose circumstances will change, including producing material aimed specifically at those in exceptional circumstances. (Paragraph 20)

8. Citizens of Norway, Iceland, Lichtenstein and Switzerland living in the UK, and third-country nationals who are in the UK under EU-derived rights based on previous legal judgments currently face even greater anxieties than EU nationals. The Government should specify that EEA citizens will have the same rights as EU nationals and should clarify that they will be covered by the same registration process. Similar concerns apply in relation to the limited pool of non-EEA nationals with derived rights, including under Zambrano, Metock and Surinder Singh case law, who appear to have been ignored during the first phase of negotiations. (Paragraph 21)
9. We welcome the Government's announced intention to make the registration process for EU residents a smooth process, using information shared by other government departments such as HM Revenue & Customs to demonstrate residency. It is important that these commitments are put into practice. However, given previous failures to implement new information-sharing and digital services across government, this carries significant risks. (Paragraph 23)
10. The Home Office has failed to convince us that UKVI will have the necessary resources to manage the huge challenge of Brexit. We do not believe sufficient staff and systems are yet in place to operate a smooth and effective registration system for EU citizens currently resident here. While we welcome the Government's decision to increase the number of staff who handle European casework, the evidence we heard suggests the Home Office is planning moderate adjustments for an immense bureaucratic challenge. We are also concerned that it will not be sufficient to cope with surges in demand or large numbers of applications that are not straightforward. A failure to deal with such demands efficiently is likely to undermine confidence in the system. (Paragraph 29)
11. We recommend that the Government clarify its recruitment and retention plans for immigration services and publish concrete and evidence-based strategies for managing the workload. In addition, the Home Office should develop a clear process to manage the flow of applications to ensure peaks in demand are avoided and put in place robust contingency plans to deal with any backlogs that may develop. The Government should not rule out an extension of the grace period as a contingency plan. It should also ensure that cost is not a barrier and be prepared to waive the fee for particular groups of applicants, such as children in care, who often face insecurity when they transition to being treated as adults. The delays to the White Paper and the lack of any timetable for answering the basic, unresolved questions about the registration process make it even more difficult for the Home Office to deliver the scheme. (Paragraph 30)
12. We welcome the Government's announcement that EU citizens with a permanent residence document will not have to provide any further proof of residence, and we urge the Government to make the process as automatic as possible to reduce

unnecessary burdens on both individuals and the UKVI. We recommend that the Government remove the requirement for EEA nationals to obtain a permanent residence document before applying for citizenship. The process is bureaucratic and unnecessary and scrapping it would immediately free up much needed resources and make it easier for people to apply for citizenship—something which we believe the Government should seek to encourage. (Paragraph 35)

13. The Government failed to put resources in place in time to meet the predictable post-referendum surge in applications for a permanent residence document, and a backlog developed. Many of those who applied for permanent residency may now be considering applying for citizenship. The Government should prepare for such a scenario, including by exploring whether the process can be streamlined. (Paragraph 36)

EU nationals arriving during transition

14. Given the difference of view between the EU and the Government on the rights of EU nationals arriving in the UK during transition, it appears that there will not be final clarity until the completion of phase two negotiations. It is concerning that we do not have clarity about what the Government actually wants the rules, rights and registration for new arrivals after 2019 to look like, and we do not even know what the Government is seeking to achieve from the negotiations in this area. The Government should set out now what its proposed arrangements are for EU citizens arriving during the transition period so that they can be debated in Parliament, so that the public, employers and EU citizens who may be planning to come here after March 2019 have an idea what they might expect, and so that UKVI can plan. The Government should also set out how these will be different from the arrangements for EU nationals living here already. If, instead, the Government expects to apply the same arrangements as for existing residents, it should say so. We had hoped that these issues would be resolved in an imminent White Paper. Given the delays, this cannot wait for the White Paper at the end of the year, because by then it will be too late to plan and too late for Parliament to scrutinise the Government's intentions. (Paragraph 42)
15. For a new registration scheme for EEA nationals arriving post-Brexit to be operational from 30 March 2019 we would expect key resources to have been allocated by now, recruitment plans to be in progress and the development of necessary IT systems to be underway. If this remains the Government's intention, it should now set out the details, cost and resource implications of the proposed scheme as well as indicating the data it intends to collect, the criteria which will be applied, and the extent to which the proposed scheme will be subject to negotiation with the EU. (Paragraph 45)
16. The Government is currently resourcing the European casework section in UKVI to cope with applications from EEA nationals resident in the UK before 30 March 2019. It will need to recruit additional staff if the qualifying period is to be extended to include the transition period or if a separate registration scheme is introduced. In the absence of early decisions and answers, we do not believe that it is feasible

for the Government to establish two smoothly functioning registration schemes (one for existing residents and one for new arrivals after Brexit day) by March 2019. (Paragraph 46)

Post-transition arrangements for EU nationals

17. We welcome the Government's decision to commission evidence from the Migration Advisory Committee before making decisions on the long-term immigration framework, but this should not prevent it consulting more widely in the meantime. (Paragraph 48)
18. We recommend that the Government assess whether falling EEA net migration has increased employer attempts to recruit from outside the EEA. If the Government finds there is a link between the fall in EEA net migration and the increase in the number of non-EEA nationals whom employers are applying to sponsor to come and work in the UK, we recommend reviewing the current operation of the Tier 2 system. (Paragraph 50)

Decision-making processes

19. The evidence we have received in this inquiry has revealed a picture of Home Office teams struggling with a lack of resources, high turnover of staff and unrealistic workloads. A lack of experienced staff and pressure to meet targets has meant that mistakes are being made that have life-changing consequences. A lack of first-line supervision is leading to mistakes not being identified or rectified and effective feedback to improve learning from errors is absent. Cases are being moved outside of service standards often with little or no justification, causing delay and frustration for the applicant and too frequently the first time a case receives adequate attention is when it goes to court. We note that the number of cases going to court has fallen but this is largely because access to justice has been restricted, not because initial decisions have improved. This is an unacceptable way to run an immigration system. (Paragraph 69)
20. We recognise and pay tribute to the hard work of individual staff members and teams within UKVI. We are concerned, however, that frontline staff are poorly supported and overworked. UKVI needs improved recruitment and retention and more resources, not just to deal with the forthcoming challenges of Brexit but to reduce existing backlogs and the pressure on the current workforce. (Paragraph 70)
21. Brexit pressures make it even more important that the Home Office addresses UKVI's serious resource problems. The Home Office should not allow the new challenges arising from managing EU migration to distract or prevent it from addressing these problems, nor do we believe that resources from the rest of the immigration system can be moved away to support Brexit. In addition, the Home Office needs to ensure that weaknesses in the current immigration system—including on recruitment, retention, training, decision-making and management—will not be replicated in the new EU operations. (Paragraph 71)

22. We welcome the opening of the Next Generation Casework project based in Bootle and efforts to increase digitisation but these initiatives will not be enough to solve the serious problems we have identified. As a priority, the Home Secretary needs to focus on addressing the causes of high staff turnover, improving quality assurance processes and feedback loops, and learning from poor decisions, particularly with respect to decisions that are overturned in the courts. Unless urgent remedies are put in place to address failures in recruitment, retention and training, we fear that, because of the extra pressures on the system precipitated by Brexit, current performance will deteriorate in the coming years, compounding the significant problems which already exist. (Paragraph 72)

Potential for improving non-EU migration operations

23. We welcome the review of the immigration rules which the Home Secretary has initiated and urge the Home Office to ensure this work is expedited and its findings implemented. Efforts to simplify the system should not be undermined by the development of rules to incorporate EEA nationals into the immigration system post-Brexit; rather, this should be seen as an opportunity to make bold changes. (Paragraph 74)
24. In requiring people to apply for repeated extensions before they can achieve settlement the Home Office has increased its own workload as well as added to the costs and complexity for the applicant. We recommend that the Government review and attempt to streamline the process for those who apply based on long residence and where it is recognised they should be able to remain in the UK. (Paragraph 77)
25. We do not agree that rejecting an application due to missing information and requiring the applicant to apply again is more efficient than asking people to address perceived problems with their applications. The Government has already accepted that this is the wrong approach for EU citizens in the new registration scheme. It should now consider changing the approach to non-EU migration. UKVI needs to take a more user-focused approach and give people the chance to amend administrative errors before an application is rejected. The increasing digitisation of the application process should help to enable UKVI to embed this change in approach across its work. (Paragraph 79)

Dublin III Regulation

26. The Government needs to ensure that there is no diminution in the UK's approach towards meeting its international humanitarian obligations as it leaves the European Union. It should clarify now whether it intends that the Dublin family reunion arrangements will continue to apply during the transition. When the UK's participation in Dublin ends, whether that is at the moment of Brexit, the end of transition or the introduction of Dublin IV, the Government should make provision for an unaccompanied minor who has a family member in the United Kingdom, who is a refugee or has been granted humanitarian protection, to have at least the same reunion rights with family members in the United Kingdom as they would

have had under the Dublin III Regulation. There are also concerns about asylum-seeking children who reach adulthood without their immigration status being determined and who also need certainty and security. (Paragraph 82)

IT systems

27. Effective IT systems need to be at the heart of improving delivery of the existing immigration system and, crucially, available to facilitate the increased workload which will inevitably arise from Brexit, whatever the precise terms of the new migration policy turn out to be. We welcome the Government's commitment to a smooth and streamlined online process for EU citizens who are resident in the UK, and the Minister's indication that the IT system for registration of EU citizens will be ready for testing early this year. However previous performance provides no assurance that the Home Office is likely to have the necessary systems developed, in place and operating efficiently by the end of March 2019. We request that the Home Office sets out in response to this report an update on the progress of major IT projects across the department and the specific steps it is taking to ensure that IT solutions are in place to accommodate the considerable challenges it will face in delivering post-Brexit immigration services. Effective IT systems also rely on clear and early policy decisions so that they can be designed and tested to deliver effectively. In the absence of a White Paper, or a timetable for it, or answers to a series of basic delivery questions, we believe the risks of IT problems and delays are high. (Paragraph 87)

Border Force

28. We are increasingly alarmed about the impact that inadequate resources are having on the capacity for Border Force to operate effectively. This is a system which has not functioned properly for a number of years, in large part due to insufficient staffing. The consequences of a lack of resources have implications for the smooth operation of the border, the morale and wellbeing of staff, and the quality of frontline immigration services. (Paragraph 93)
29. The Government needs to clarify whether it wants additional checks at the border on EEA nationals entering the UK after March 2019 or not. It is clear to us that Border Force does not currently have the capacity to deliver this and will struggle to put sufficient additional capacity and systems in place—particularly if it also faces additional pressure to carry out customs checks as a result of the Government's decisions on a customs union. We have warned in a previous report that it would be unacceptable to switch Border Force staff away from security and immigration checks to deal with new customs checks. (Paragraph 99)
30. Border Force's staff are committed and professional but they are already overworked and there is an over-reliance on agency workers who lack the experience and skills of their permanent colleagues. We welcome the decision to recruit more staff but in our view the number identified by the Home Office is very likely to be insufficient to backfill existing vacancies, let alone deal with any additional workload that different entry requirements would present. We recommend that the Home Office increase

the number of permanent Border Force staff. It should also recognise and urgently address the problem of low morale amongst Border Force staff who carry out such crucial and sensitive work. (Paragraph 100)

31. The terms of the UK's exit from the European Union will have a significant impact on the management of both goods and people at the border. There are real concerns that Border Force will struggle to cope with an expansion of its activities, and that airports and other points of entry to the UK lack the physical capacity to carry out additional checks on people and goods. We urge the Government to be realistic about the current limitations in the way Border Force operates and the lack of time left to make substantial changes to the border arrangements for either goods or people before March 2019 without significant disruption, problems or security challenges. Rushed and under-resourced changes will put border security at risk. The lack of clarity on the future relationship with Ireland also poses particular challenges for Scottish and Welsh ports, and of course for Northern Ireland. As we recommended in our report on customs, we believe that the Government should aim to agree transitional arrangements with the EU which involve no practical change to customs operations, either in the UK or the EU. (Paragraph 101)
32. The roll-out of more e-passport gates at ports is welcome and may help free up Border Force resources if EEA nationals can continue to use them after Brexit. As the Independent Chief Inspector has made clear, there need to be sufficient staff to monitor e-passport gates, particularly when there are safeguarding concerns in respect of children and potential victims of modern slavery. The Government should set out what action it is taking to ensure this risk is properly managed. (Paragraph 105)

Immigration enforcement

33. Enforcement is important for the credibility of any system. Clarity is needed for the public, EEA citizens who could face enforcement action and for Parliament on what the Government intends on enforcement. Immigration Enforcement need to know so that they can make plans, and there also needs to be proper opportunity to scrutinise the Government's proposals to make sure they are effective, credible and fair. We recommend that the Government sets out as soon as possible what enforcement arrangements it believes are appropriate for EEA nationals in relation to registration of both existing residents when the grace period ends, and of new arrivals after March 2019. It should also set out a strategic plan for Immigration Enforcement including any additional resources and staff it will need. (Paragraph 110)
34. We have previously called on the Government to improve its enforcement of the immigration rules to help build confidence in the system and thereby move towards greater consensus on immigration policy. Improved enforcement requires the efficient identification and removal of those in breach of immigration laws. The reintroduction of exit checks will contribute to this but only if there are sufficient staff in place to process the casework. Current resources are clearly stretched even in advance of any Brexit changes. The Government should set out plans to improve the resourcing of Immigration Enforcement and recruitment and retention of its staff.

As with UKVI and the Border Force, it is important that Brexit does not distract from or prevent action to improve enforcement across the rest of the immigration system. (Paragraph 115)

35. The hostile environment is a policy that is broad in scope and which relies for its implementation on many different parts of society, including colleges, landlords, employers, and banks. We find it unacceptable that the Government has not yet made any assessment of the effectiveness of the policy and call on them urgently to do so. (Paragraph 120)
36. We question the appropriateness of a policy that discourages individuals from reporting a crime or seeking medical attention. We call for this aspect of the policy to be reviewed and recommend that sensitivity and discretion be used while that review is underway. We note that the Health Select Committee has asked NHS Digital to cease sharing patient data with the Home Office for immigration enforcement purposes whilst it carries out a review of the process. (Paragraph 121)
37. We are very concerned at the possibility that the hostile environment could be extended to include EEA nationals and apply to an estimated three million more people living legally in the UK without any evidence that the policy is working fairly and effectively. This has the potential to create further errors and injustices, which we have already seen causing unnecessary distress, and to increase the administrative burden on individuals, employers and landlords, without any evidence that the system works. It also cuts across the strong words of the Prime Minister that the UK wants EU citizens living here to stay, if the Government then chooses to subject them to a policy described as the ‘hostile environment’. (Paragraph 122)
38. The volume and complexity of cases in the immigration system means that it is unreasonable to expect mistakes to be entirely eradicated. However, there needs to be an accessible means for mistakes in enforcement to be rectified quickly. At the moment, it appears that the most effective means for drawing attention to an error is for the case to be highlighted by a national newspaper or raised by a Member of Parliament. As we set out in our previous report, urgent action is needed to address errors in the enforcement process. While the expeditious response to such cases is often welcome, it is no substitute for a proper reconsideration mechanism. We recommend that a dedicated helpline is established for individuals threatened with removal so that they can bring errors to the attention of the Home Office as a matter of urgency. (Paragraph 127)

Formal minutes

Wednesday 7 February 2018

Members present:

Yvette Cooper, in the Chair

Stephen Doughty

Naz Shah

Tim Loughton

John Woodcock

Stuart C McDonald

Draft Report (*Home Office delivery of Brexit: immigration*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 130 read and agreed to.

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

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

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

[Adjourned till Tuesday 20 February at 2.15 pm.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 10 October 2017

John Vine CBE QPM, former Independent Chief Inspector of Borders and Immigration and **David Wood**, former Director General of Immigration Enforcement, Home Office [Q1–46](#)

Danielle Cohen, Danielle Cohen Immigration Law Solicitors, **Ian Robinson**, Partner, Fragomen LLP and **Colin Yeo**, Garden Court Chambers [Q47–81](#)

Tuesday 21 November 2017

Rt Hon. Brandon Lewis MP, Minister for Immigration, and **Patsy Wilkinson**, Second Permanent Secretary [Q82–246](#)

Wednesday 29 November 2017

David Bolt, Independent Chief Inspector of Borders and Immigration [Q247–309](#)

Lucy Moreton, General Secretary, Immigration Services Union, and **Adrian Berry**, Chair, Immigration Law Practitioners Association [Q310–343](#)

Helen Kenny, National Officer, FDA, and **Mike Jones**, Group Secretary, Home Office group, Public and Commercial Services Union [Q344–364](#)

The following witnesses gave evidence on Immigration to the Home Affairs Committee in the previous Parliament. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 24 January 2017

Lord Green of Deddington, Chair, Migration Watch UK, and **Phoebe Griffith**, Associate Director for Migration, Integration and Communities, Institute for Public Policy Research [Q1–72](#)

Professor Alan Manning, Chair, Migration Advisory Committee, and **Madeleine Sumption**, Director, Migration Observatory [Q73–107](#)

Thursday 2 February 2017, Bedford

Dave Hodgson, Mayor of Bedford, and **Philip Simpkins**, Chief Executive, Bedford Borough Council [Q108–160](#)

Sarah Boparan, Recruitment and Key Account Manager, HOPS Labour Solutions, **Andy Coaten**, Managing Director, Butters Group Ltd, **Beverly Dixon**, HR Director, G's Group; and **Chris Newenham**, Joint Managing Director, Wilkin & Sons Ltd [Q161–215](#)

Thursday 2 March 2017, Glasgow

Dr Alasdair Allan MSP, Minister for International Development and Europe, and **Ruth Steele**, Head of Migration Strategy, Scottish Government

[Q216–268](#)

Lorraine Cook, Policy Manager, Convention of Scottish Local Authorities, and **Dr Donald Macaskill**, Chief Executive, Scottish Care

[Q269–308](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CTD numbers are generated by the evidence processing system and so may not be complete.

- 1 Amnesty International ([CTD0024](#))
- 2 Bail for Immigration Detainees ([CTD0010](#))
- 3 British Medical Association ([CTD0018](#))
- 4 Coram Children's Legal Centre ([CTD0013](#))
- 5 Council for Global Immigration ([CTD0017](#))
- 6 Daniel Schofield ([CTD0031](#))
- 7 Danielle Cohen Immigration Law Solicitors ([CTD0006](#))
- 8 Immigration Law Practitioners' Association ([CTD0021](#))
- 9 Institute of Directors ([CTD0007](#))
- 10 Joint Council for the Welfare of Immigrants ([CTD0019](#))
- 11 Lewis Silkin LLP ([CTD0022](#))
- 12 Magrath Sheldrick LLP ([CTD0016](#))
- 13 Medical Justice ([CTD0026](#))
- 14 Migration Watch UK ([CTD0014](#))
- 15 MillionPlus ([CTD0015](#))
- 16 Mr Richard Chaplin ([CTD0003](#))
- 17 Mrs Dominique Zaccari ([CTD0004](#))
- 18 Mrs Petra Suckling ([CTD0005](#))
- 19 Ms Inga Vesper ([CTD0001](#))
- 20 Pact ([CTD0023](#))
- 21 PCS ([CTD0029](#))
- 22 PCS ([CTD0030](#))
- 23 Professor Colin Talbot and Dr Carole Talbot ([CTD0008](#))
- 24 Russell Group ([CTD0009](#))
- 25 Sarah Lee ([CTD0002](#))
- 26 SAS ([CTD0020](#))
- 27 techUK ([CTD0027](#))
- 28 the3million ([CTD0032](#))
- 29 Unicef UK and Save the Children UK ([CTD0011](#))
- 30 Universities UK ([CTD0025](#))

The following written evidence was received by the previous Home Affairs Committee before the general election in 2017. It can be viewed on the [inquiry publications page](#) of the Committee's website.

- 31 #WeAreInternational ([IMM0153](#))
- 32 38 Degrees ([IMM0174](#))
- 33 Airport Operators Association ([IMM0005](#))
- 34 Alice Driver ([IMM0088](#))
- 35 Amnesty International UK ([IMM0172](#))
- 36 Andrea Chlebikova ([IMM0104](#))
- 37 Angela Stoddart ([IMM0109](#))
- 38 Ann Richards ([IMM0020](#))
- 39 ARM ([IMM0183](#))
- 40 Ashliegh Yasar ([IMM0124](#))
- 41 Association of American Study Abroad Programmes United Kingdom ([IMM0026](#))
- 42 Association of Colleges ([IMM0086](#))
- 43 Bail for Immigration Detainees ([IMM0110](#))
- 44 Bail Observation Project ([IMM0122](#))
- 45 Barbara Mark ([IMM0111](#))
- 46 Basit Hameed ([IMM0031](#))
- 47 Bedford Borough Council supplementary ([IMM0190](#))
- 48 Brexit Alliance ([IMM0147](#))
- 49 Brighton Migrant Solidarity ([IMM0175](#))
- 50 British Community Committee of France ([IMM0083](#))
- 51 British Hospitality Association ([IMM0158](#))
- 52 British Medical Association ([IMM0058](#))
- 53 Bupa UK ([IMM0163](#))
- 54 Campaign for Science and Engineering ([IMM0130](#))
- 55 Cancer Research UK ([IMM0072](#))
- 56 Cecilia Kokubu ([IMM0074](#))
- 57 Centre for Economic Performance ([IMM0121](#))
- 58 Citizens UK ([IMM0100](#))
- 59 City of London Corporation ([IMM0177](#))
- 60 CLA ([IMM0069](#))
- 61 Convention of Scottish Local Authorities ([IMM0157](#))
- 62 Coram Children's Legal Centre ([IMM0108](#))
- 63 Cornwall Council ([IMM0186](#))
- 64 Crystal Dickinson ([IMM0032](#))
- 65 D Joshi ([IMM0061](#))
- 66 Daniel Abson ([IMM0180](#))

- 67 David Bell ([IMM0107](#))
- 68 David Goodhart, Head of the Demography Unit at Policy Exchange think tank ([IMM0167](#))
- 69 Detention Action ([IMM0084](#))
- 70 Donald Stickland ([IMM0125](#))
- 71 Dr Bernie Doerer ([IMM0097](#))
- 72 Dr Heather Forland ([IMM0040](#))
- 73 Dr Peter Christie ([IMM0018](#))
- 74 Dr Robert Primhak ([IMM0077](#))
- 75 Dr Stewart Bailey ([IMM0126](#))
- 76 Dr Tom Vickers and Dr John Clayton ([IMM0095](#))
- 77 Ed Sexton ([IMM0014](#))
- 78 English UK ([IMM0080](#))
- 79 Eversheds LLP ([IMM0141](#))
- 80 Felipe Molina ([IMM0060](#))
- 81 Fiona MacGregor ([IMM0029](#))
- 82 Fragomen LLP ([IMM0136](#))
- 83 G5 Group ([IMM0099](#))
- 84 GARAS ([IMM0048](#))
- 85 Gary F S Knight ([IMM0112](#))
- 86 Ged Byrne ([IMM0140](#))
- 87 Genome Research Ltd ([IMM0151](#))
- 88 Giles Waley ([IMM0050](#))
- 89 Greg Fletcher ([IMM0004](#))
- 90 G's Fresh ([IMM0090](#))
- 91 GuildHE ([IMM0041](#))
- 92 Immigration Law Practitioners' Association ([IMM0076](#))
- 93 Immigration Marriage Fraud UK ([IMM0059](#))
- 94 Independent Higher Education ([IMM0133](#))
- 95 Independent Schools Council ([IMM0091](#))
- 96 IPPR ([IMM0085](#))
- 97 Jane Akshar ([IMM0015](#))
- 98 John Cherry ([IMM0044](#))
- 99 John Dunning ([IMM0113](#))
- 100 Joint Council for the Welfare of Immigrants ([IMM0103](#))
- 101 Jonathan Andrews ([IMM0102](#))
- 102 King's College London ([IMM0120](#))
- 103 Kingfisher plc ([IMM0189](#))

- 104 Lane Ward Labour Party branch - Camberwell and Peckham constituency ([IMM0016](#))
- 105 Liberty ([IMM0139](#))
- 106 Lichfield Hope Support Group ([IMM0049](#))
- 107 Liverpool Asylum seeker and Refugee Association ([IMM0123](#))
- 108 London Borough of Newham ([IMM0057](#))
- 109 London Business School ([IMM0142](#))
- 110 London Chamber of Commerce and Industry ([IMM0176](#))
- 111 London First ([IMM0161](#))
- 112 Manchester Migrant Solidarity ([IMM0046](#))
- 113 Mark Rowntree ([IMM0114](#))
- 114 Martin Price ([IMM0181](#))
- 115 Melanie Fraser ([IMM0017](#))
- 116 Michael Cooper ([IMM0191](#))
- 117 Middlesex University ([IMM0047](#))
- 118 Migrants' Rights Network ([IMM0096](#))
- 119 Migration Watch UK ([IMM0021](#))
- 120 MillionPlus ([IMM0003](#))
- 121 Miss Ana Milusheva ([IMM0045](#))
- 122 Miss Daniah Ceylan ([IMM0066](#))
- 123 Mr and Mrs James Baker ([IMM0053](#))
- 124 Mr Antonio Rocha-Ferreira ([IMM0012](#))
- 125 Mr Axel Antoni ([IMM0001](#))
- 126 Mr Chris Fite-Wassilak ([IMM0034](#))
- 127 Mr David Sellers ([IMM0138](#))
- 128 Mr Duncan Bain ([IMM0008](#))
- 129 Mr Martin Turner ([IMM0039](#))
- 130 Mr Martyn Swain ([IMM0184](#))
- 131 Mr Mathew Botwood ([IMM0064](#))
- 132 Mr Paul McMillan ([IMM0002](#))
- 133 Mr Peter Gwilliam ([IMM0030](#))
- 134 Mr Richard Hughes ([IMM0165](#))
- 135 Mr Richard Raggett ([IMM0056](#))
- 136 Mr Tom Trevatt ([IMM0037](#))
- 137 Mrs Emily Cheru ([IMM0043](#))
- 138 Mrs Maria Nicol ([IMM0065](#))
- 139 Ms Carolyn Burch ([IMM0042](#))
- 140 Ms Fran Mosley ([IMM0038](#))
- 141 Ms Gillian Kelly ([IMM0062](#))

- 142 Ms Monica Collingham ([IMM0063](#))
- 143 Ms Sigrid Holmwood ([IMM0067](#))
- 144 Naomi Adelson ([IMM0024](#))
- 145 Naomi Bowen ([IMM0036](#))
- 146 New Economics Foundation ([IMM0156](#))
- 147 Nick Moore ([IMM0087](#))
- 148 Nina Berry ([IMM0178](#))
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- 151 Paul Knights ([IMM0033](#))
- 152 Peter Kellard ([IMM0129](#))
- 153 PhD students at the University of Bristol ([IMM0171](#))
- 154 Philip Wilson ([IMM0137](#))
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- 156 Professor Eric Kaufmann ([IMM0170](#))
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- 159 Purley Society of Friends ([IMM0188](#))
- 160 Quaker Asylum and Refugee Network (QARN) ([IMM0070](#))
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- 163 Renee Groeninx van Zoelen ([IMM0009](#))
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- 165 Richard Annandale ([IMM0179](#))
- 166 Royal Academy of Engineering ([IMM0148](#))
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