

The Work and Recommendations of Parliamentary Select Committees on Immigration Policy since 2010

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About RAMP

The Resettlement, Asylum and Migration Policy (RAMP) project works with a diverse network of politicians and other leaders seeking to re-imagine a world-class migration system for a successful and integrated Britain. Working across party and sector, we help those with the power to make decisions around Resettlement, Asylum and Migration Policy to find practical and innovative solutions to some of the most pressing challenges facing Britain.

We are hosted by the Good Faith Partnership and have a small team to execute the project, liaise with parliamentarians and senior leaders, manage, and provide support and training when needed. Our team includes a number of policy advisors with experience in this field.

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Executive Summary

Background

The scale of post-war migration has never rested explicitly upon public consent. In 2011 census 13% of the population of England & Wales (E&W) was recorded as born overseas¹. The expansion of the EU in the new millennium played its part. In 2001, those recorded in E&W as born in Poland numbered 58,000. In 2011 it was 579,000. For much of the post-war period, inward migration was outstripped by those leaving the UK. In 1993, inward and outward flows of long-term migration were in balance. By 1997, net migration was 48,000. By 2001 it was 179,000 and in 2004 it breached 200,000 and remained above 200,000 in every year bar one, peaking at 336,000 in 2016². These figures have remained a stubborn challenge to Government immigration policy since 2010, with an annual net migration target of below 100,000.

Parliamentary scrutiny

The principal agent of scrutiny is the Home Affairs Select Committee (HAC) which has benefitted from having just two chairs in this period. It has only six permanent staff. It is difficult to isolate the impact of select committee activity from other factors, not least since they influence rather than mandate. Under Keith Vaz as chair, the HAC, made extensive use of the press. Tribunals and regulators are more suited to in depth investigation but parliamentary committees perform a public and representative function. Arguably, the activity of HAC triggered the imminent dissolution of the UK Border Agency in 2013. Broadly speaking HAC has sought to (a) judge Home Office performance against its policy objectives; and (b) to assess the desirability of those policies. Other committees that have reported in the area of migration include the Public Accounts Committee, and the Brexit Committee.

Focus of the Home Affairs Select Committee

A key focus of the HAC, especially during the Keith Vaz period, has been the performance of the Home Office in immigration matters. Addressing the asylum backlog and a failure to provide it with correct data was key - the latter provoked the committee to fury in the period 2012-13. The Committee has consistently criticised the Department for the high level of decisions to refuse which are over-turned on appeal. A number of issues are provoked by the imminence of Brexit. In the 2014/15 session, HAC expressed its stark disbelief that e-borders, originally due by 2019 would happen or full exit checks in 2015. The referendum result in 2016 has heightened concern around management of the border, not least by the Brexit Committee & PAC given the enormous flows of people and goods. The Home Office remains robustly confident. The issue of registration of some 3 million EU citizens while subject to a Home Office digital process well in hand leaves some concerned about a proportion who (a) assume they don't need to; (b) assume they don't qualify; (c) don't engage, creating another legacy issue on top of the asylum backlog. Under Yvette Cooper, HAC embarked on an inquiry and public consultation for an immigration consensus in the wake of the vote. This important initiative did not generate media attention. Its findings may yet find purchase if change becomes a possibility over the Windrush scandal.

¹ <http://webarchive.nationalarchives.gov.uk/20160105223025/http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/immigration-patterns-and-characteristics-of-non-uk-born-population-groups-in-england-and-wales/summary.html>

² See <https://migrationobservatory.ox.ac.uk/resources/briefings/long-term-international-migration-flows-to-and-from-the-uk/>



Children of the Windrush Generation

The proximity of the Commonwealth Heads of Government meeting in April and the agitation of Caribbean High Commissions suddenly sent reports, initially restricted mainly to The Guardian, right round media outlets. The stark accusation that the application of a hostile/compliant environment had resulted in the Home Office seeking to detain and remove those arriving lawfully in the 1960s provoked an emergency response from the Department. HAC has secured a compensation for hardship promise from the Department and a “lessons learned” review, but its report of 3 July 2018 is hard-hitting about a rules based culture of disbelief and scepticism with organisation and cultural as well as legal factors at play. Concern is expressed at the length of time the Government took to realise what had happened.

Introduction

The following paper reviews the literature of key parliamentary bodies in engaging with immigration policy since the General Election of 2010. Policy, however confined in conception and operation by external factors, is delivered by Government. The Election in 2010 marked one pivotal turning point in style and content of Government policy with the exit of a party long in power. The paper provides a brief context on what the scale of immigration issues were that informed the new Government on taking office. It further sets out the manner but in particular the content of parliamentary attempts to scrutinise the efforts of the Executive to deliver its policies and meet its obligations and leaves off with some pointers as to how the situation in the summer of 2018 may reflect on a wider programme of influencing the immigration debate as it goes forward.

Context

One of the particular features of post-war Britain is mass immigration. At no point from its inception in the late-1940s did this varying phenomenon rest on explicit public consent. In terms of legislative controls³, commonwealth immigration was curbed for the first time only in 1962. Comprehensive immigration reform only emerged, however, with the Immigration Act 1971 but the concomitant issues of citizenship and immigration was left unresolved until the British Nationality Act 1981 which introduced the category of British Citizen for the first time⁴. However, in common with the first half of the twentieth century this period also sees heavy *emigration* from the UK, fostered by the vast improvement in transport links that enabled people to come to the UK on a long-term basis. Some 500,000 British citizens left for Canada in the quarter century after 1945⁵ and a number of Commonwealth countries maintained offices in Britain encouraging Britons to emigrate on the pre-war pattern. This contributed to a *negative* net migration⁶ figure up to the mid-1980s (as late as 1992 it showed a negative figure of 13,000).

The new millennium showed a marked increase in net migration, not least in EU immigration. The Labour Government had decided not to apply transitional controls on the ten countries⁷ joining the European Union on 1 May 2004. Such transitional controls would have involved restricting freedom of movement (for up to seven years). In 1951, the proportion of the population in England and Wales born overseas was 4.3%, largely from the Republic of Ireland/Irish Free State and from war torn Poland, those on empire service and from European refugee populations. In 1991 it was 7.3%. In 2011, it was 13.4%⁸. Those born in Poland, for example, had grown from 58,000 in 2001 to 579,000 in 2011.⁹

The General Election of 2010 which brought an end to the New Labour period, saw the Conservatives emerge as the largest party on a manifesto acknowledging that immigration had, “enriched our nation over

³ Administrative controls were, however, applied, including refusal in issuing passports. <http://filestore.nationalarchives.gov.uk/pdfs/small/cab-129-40-cp-113.pdf>

⁴ Previously, what was considered *British citizen* did not exist in nationality law: it was a Citizen of the United Kingdom and Colonies. The category of those with right of abode distinguished those not subject to immigration control.

⁵ <http://www.migrationmuseum.org/the-last-great-exodus-of-british-migrants/>

⁶ People entering or leaving the country for any purpose for a period of more than 12 months. The UK applies the UN definition of a (long-term) migrant.

⁷ The Coalition Government decided not to apply transitional controls on Croatia which acceded to the EU in July 2013.

⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/immigrationpatternsofnonukbornpopulationsinenglandandwalesin2011/2013-12-17>

⁹ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/internationalmigrantsinenglandandwales/2012-12-11>

the years...” but was, “too high and needs to be reduced” with a commitment to, “net migration to the levels of the 1990s - tens of thousands a year, not hundreds of thousands.”¹⁰ This ambitious commitment, from which the new Government did not resile, was to consolidate around the highest possible figure it could thus decently commit to without severe loss of face - ‘under 100,000’¹¹. This target was to be an important factor behind Government policy in the years that followed in first a Coalition Government with the same Conservative Home Secretary throughout and thereafter in a Tory only administration. Only in July 2018 did ambivalence creep into this hitherto unfulfilled ambition¹².

It is important at this stage to understand what ‘net migration’ officially means. The Office for National Statistics applies the UN definition of a long-term migrant: “A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence. From the perspective of the country of departure, the person will be a long-term emigrant and from that of the country of arrival, the person will be a long-term immigrant.”¹³ Hence students coming to the UK to study (for more than 12 months) are counted as long term migrants. The number of persons leaving the United Kingdom for a long-term purpose is matched against those arriving. In both cases, arrivals and departures, British, other commonwealth and foreign nationals are counted in the figures. For example in 2017, some 630,000 people entered the UK as long-term migrants, and 349,000 emigrated as long term migrants. The net migration figure is thus around 280,000¹⁴.

Select Committees

Of Parliamentary committees, there are several, but only one class of which concerns us here. That is Select Committees of the House of Commons. These have existed for centuries and were appointed on an ad hoc basis by the House, “selected” from the total membership to investigate a particular question in depth. The Public Accounts Committee was set up in 1861 with an ongoing function and for that reason was unusual. But experimentation with subject committees in the 1960s and 70s finally led to a more comprehensive set of recommendations in The Select Committee on Procedure inquiry of 1977–78. From these in June 1979, following the election the previous month, the new Conservative government quickly put down proposals to implement a permanent system of select committees scrutinising the work of major government departments. There are other relevant select committees, including the powerful and venerable Public Accounts Committee (PAC) and the Joint Committee (i.e. with the House of Lords) on Human Rights. Both can and do take an interest in immigration related matters¹⁵.

Effectiveness of parliamentary scrutiny

In a number of legislatures, it is an offence to refuse to answer questions or produce documents upon request. Both houses of the US Congress have the power to subpoena witnesses and documents and it is an offence not to comply with these summons. In the case of the House of Lords and Commons and their

¹⁰ <http://conservativehome.blogs.com/files/conservative-manifesto-2010.pdf> page 21

¹¹ <https://www.gov.uk/government/speeches/david-camerons-immigration-speech> and <https://www.theguardian.com/politics/2015/may/19/david-cameron-reiterates-commitment-to-cutting-net-migration>

¹² “Chair: It is a massive chain around your neck, this net migration target, is it not? Don’t you really want to ditch it? Sajid Javid: Next question.” Cited in HAC Post Brexit Migration Policy HC 857 pb 31 July 2018 p.9 para 19

¹³ <http://data.un.org/Glossary.aspx?q=long-term+migrant>

¹⁴ The Office for National Statistics (2018) Migration Statistics Quarterly Report: July 2018. Available at <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/july2018revisedfrommaycoveringtheperiodtodecember2017#main-points>

¹⁵ The Joint Committee on Human Rights has opened a current inquiry on the detention of the Windrush Generation (6 May 2018) and taken oral evidence and has opened an inquiry on Immigration Detention (23 July 2018).

select committees, it a matter of parliamentary privilege to summon witnesses and documents. Failure to comply may constitute contempt and a sanction imposed as each House directs. However, as the Government review on Parliamentary Privilege points out, none of these sanctions have been used in recent times and some not in centuries.¹⁶

Since 2010, the whips allocate which party shall hold the chair of which committees as before but candidates submit themselves to a ballot of all members of the House. Individual members are supposed to be nominated on the basis of a predilection for the committee and in proportion to party strength. In the 2017 parliament that is at parity between the two main parties.

A select committee, should it choose, at the completion of an inquiry, may publish a report in which it may make recommendations to the Government. It is then for the responsible government department to publish a response within three months. This is not always followed by the Home Office and in some instances, e.g. the report on Immigration Skills shortages (HC 429)¹⁷ published on 9 December 2015, there was no Government response. Neither the Home Affairs Committee nor the Home Office monitors the implementation of any recommendations accepted - and it is clear not all are.

In terms of the assessment of the effectiveness of select committees, there are two key sources readily available. One is by Meg Russell and Meghan Benton at the Constitution Unit of University College, London on the policy impact of select committees (2012)¹⁸. The other is, similarly about the impact of select committees on government by Hannah White and published by the Institute for Government (2015)¹⁹. White's work looks at the work of key committees in the 2010-2015 parliament, including the Home Affairs Committee. During that Parliament, the House of Commons Liaison Committee itself, reflecting on activity in the 2010-2012 parliamentary session published a review²⁰. The Home Affairs Committee has a membership of 11 and a staff of six.

White isolates six factors determining a select committee's influence²¹:

1. **Status:** that of a parliamentary committee; however, in Home Affairs generally and in immigration particularly, it is a crowded field for scrutiny and comment and by itself, insufficient;
2. **Formal powers:** committees may go into 'accountability mode' especially if they feel they are being ignored and will summon rather than request. Confrontation brings risks but it buttresses status;
3. **Relationships** are key to elicit information from witnesses but the key relationship is the Department. Some in the study regarded the Home Office as defensive;
4. **Expertise:** not knowing or appreciating the detail of a subject area diminishes influence. During the Vaz period specialist advice was sought;

¹⁶ Her Majesty's Government (2012) Parliamentary Privilege pp 60-62 Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/79390/consultation.pdf

¹⁷ HAC (2015) Fifth report of session 2015-16 HC 429 <https://publications.parliament.uk/pa/cm201516/cmselect/cmhaff/429/429.pdf>

¹⁸ Russell, M & Benton, M (2012) available at <https://www.ucl.ac.uk/constitution-unit/publications/tabs/unit-publications/153.pdf>

¹⁹ White, Hannah (2015) available at <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Under%20scrutiny%20final.pdf>

²⁰ House of Commons Liaison Committee (2012) Second Report available at

<https://publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/69702.htm>

²¹ White (2015) pp.18-19

5. **Respect:** White says that committees are effective if respected by those they scrutinise and this comes by the judgement shown in laying down inquiries and the manner in which they elicit information;
6. **Communications:** White describes this as not always necessary and media exposure only for impact²², not as an end in itself.

In terms of isolating a committee's influence into cause and effect, this is well-nigh impossible. Russell & Benson (2012) cite Philip Norton (2005): "cause and effect...cannot be proved: the government may have intended to take the action anyway' (2005: 130). Where change is directly observable and in line with committee recommendations, it may not be the committee – or only the committee – that is responsible." Multiple factors may be in play. This does not exclude a role for select committees in shaping policy outcomes nor does it deter people from trying to influence their reports. The point of scrutiny itself does this, "Former MoD civil servant, Sir Ian Andrews told us, 'They have an impact by their very existence... because as a civil servant you are always thinking about how your actions are going to play in terms of democratic accountability.'"²³

The House of Commons Liaison Committee also made some interesting observations and recommendations which in turn reflects something of best practice and (by association) what select committees were not doing. It commended the '60% rule' - the requirement that members attend at least 60% of the meetings in any parliamentary session. This indicates a degree of non-attendance. The Liaison Committee (LC) further recommended joint working between committees and the use of different methods of working such as 'short, sharp inquiries' and informal seminars. The LC affirmed that the primary purpose of such scrutiny committees is to influence Government. In terms of increasing impact, the select committee should set out objectives for the full parliament and consult on them; be forward looking rather than reviewing past activity; pay particular attention to financial implications of departmental activity, keep reports short and focus on improving communication.

Russell & Benson (2012) calculated for the previous parliament the Home Affairs Committee had 38% of all its recommendations accepted in full or in part by the Home Office, with a further 30% where the department neither accepted nor rejected the recommendation. 39% of its recommendations were judged by the study to have been implemented fully or in part.²⁴ In terms of fully or partially accepted (38%), this compares with 52% for Business, 44% for Defence, and 36% for Health. This does study not extend to later parliaments or distinguish which recommendations.

White makes an interesting comparison between HAC and the Defence Select Committee (DSC): "Both committees spent around a third of their time on forward looking inquiries – with the HAC doing more blue-sky exploratory work, and the DSC doing more work to inform specific policy areas. In terms of retrospective inquiries, the main differences were that the HAC did more examine aspects of current administration of the Home Office while the DSC did a greater proportion looking at expenditure and performance of the MoD and following up its own work."²⁵ White calculate that the DSC uses more specialist advisers, 17, compared to HAC's seven.

²² Not only was the Chair open to give interviews, but the HAC issued 533 news releases during the 2010-15 parliament. <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news/?page=50>

²³ White (2015) p.18

²⁴ Russell & Benson (2012) p.49 & p.51

²⁵ White (2015) p.10

White (2015) makes use of more qualitative evidence than that of the University College, London study, not least in interviews. Of the two chairs of the Home Affairs in our period, Keith Vaz (July 2007-September 2016) was in post for the entirety of the period of her review and is one of a number of long serving and influential HAC chairs. Yvette Cooper was elected by the House of Commons on 19 October 2016 to replace him as chair following his resignation.

Performance

A good deal of time, of the Home Affairs Committee in this period has been spent reviewing performance. The Vaz period saw the HAC spending much of its time reviewing the performance of the Home Office in immigration matters through the agency of directorates, Border Force and the Borders Agency itself. In this it did not follow the advice of the Liaison Committee on adopting a forward looking approach to influencing government (however, see paragraph — above). The Committee at the time may have argued that it had a great many performance issues to review. So much so that it was, between July 2012 and September 2016 it published quarterly reports, firstly on the UK Borders Agency and thereafter on the Immigration Directorates. This particular regime of inquiry and reporting ended with the advent of the Rt Hon Yvette Cooper as the new Chair of the Home Affairs Committee.

The Home Affairs Committee did not spare the **UK Borders Agency** its displeasure in highlighting what the committee saw as shortcomings in performance, not least in the deportation of foreign offenders.²⁶ HAC also noted that the backlog of individuals to be traced, have a decision made in their case or to be removed was 276,460. Greater than the population of Newcastle Upon Tyne, it wryly observed.²⁷ On intelligence, whereas the Committee observed that 60% of allegations contained sufficient information to warrant further investigation, only 4% of allegations resulted in an enforcement visit²⁸. The report noted but did not comment upon the 11% reduction in staff in the previous year together with the stated intention by the Agency to reduce its staff by a total of 5,200 by 2015.²⁹

By the time HAC was reporting the following March³⁰, there was a major bone of contention with the Agency. It referred to the September report of the Chief Inspector of Borders and Immigration on the UK Borders Agency's handling of legacy asylum and immigration cases. This report concluded that that prior to April 2012, the Agency had not been properly carrying out its programme of checks on legacy³¹ applications in order to trace applicants; that "the Agency had repeatedly supplied this Committee with incorrect information about the programme of checks"; and "the Agency had not informed the Committee about 33,000 asylum legacy cases being worked on by the Case Assurance and Audit Unit"³² While HAC noted the attempts to ensure compliance, it was not impressed that they had not been informed of what the Agency knew, nor of ongoing problems.

That report was published on 25 March 2013. The following day, the Home Secretary, Theresa May made an unscheduled Commons statement announcing the abolition of the Borders Agency and bringing its functions back within the Home Office. While it is impossible to demonstrate cause and effect without the

²⁶ HAC (2012) Fifth Report of Session 2012–13 HC 71 p. 5 <https://publications.parliament.uk/pa/cm201213/cmselect/cmhaff/71/71.pdf>

²⁷ HAC (2012) HC 71 p.42

²⁸ HAC (2012) HC 71 p.34

²⁹ HAC (2012) HC 71 p.36-37

³⁰ HAC (2013) Fourteenth Report of Session 2012– 13 HC 792

³¹ Old cases not resolved - in particular pre 5 March 2007 asylum cases, of which in 2011 it was estimated there were 100,000.

<https://www.migrationwatchuk.org/briefing-paper/349>

³² HAC (2013) HC 792 p.6

testimony of the key actors, given the statement was the day after and unscheduled and that the Permanent Secretary claimed the decision was taken that morning, then the timing of the report, at the very least, was likely instrumental in bringing this Executive Agency to an end. This episode was one of the most distinctive features of the Home Affairs Committee's recent history.

Hannah White asks whether this result was by itself a positive outcome and cites the following: "Keith Vaz would certainly claim credit for the abolition of the UKBA (UK Border Agency). Now, he regards that as a result. I would say it's a possible vehicle to achieve the result you want, which is improved Home Office visas and immigration operation. But it's a mistake to regard that as a result in its own right. So it's an impact but it's not necessarily a good impact. I also think that that has been achieved at the expense of some pretty serious damage to morale within the organisation (HAC stakeholder)."³³ When it came to its next report, however, the HAC was critical of assurances by the Permanent Secretary that the same staff would continue to do the same job reporting to the same people. It expressed scepticism that the department could "tackle the 'closed, secretive and defensive culture' if it is made up of the same people as before."³⁴

The HAC continued to monitor performance throughout around asylum and immigration casework, not least on the legacy backlog, visas, handling of MPs' cases and on child detention, all as routine items on a quarterly basis. For example, on child detention in that report it noted that in Q4 of 2012, 61 children had entered detention up from 48 in the previous quarter; but that in Q3, 59 had left detention, 92% having been detained for less than 3 days, an improvement from 87%. The revelation of further backlog cases in the permanent and temporary migration pool (some 190,000 of them), alarmed the committee, taking the total backlog from 321,726 in Q3 of 2012, to 502,467 of Q4³⁵. It is unclear how else this would have been revealed.

HAC remained critical of service standards around visas well into 2013. It further criticised the initial contract to Capita for £4m in assessing the Migrant Refusal pool, although it did not involve Capita actually engaging in activity to remove anyone³⁶. The Government's response was that the reason for setting up UK Visas & Immigration within the Home Office out of the demise of the UK Border Agency was to offer a more focused service on visas. In the case of Capita, the firm offered as speedy administrative solution.³⁷ However, for the three quarters in 2014 for which HAC produced a performance report, the Government made no formal response.

Responses resumed, albeit much delayed in 2016, by which time the Committee's all-compassing interest in performance data was narrowing, but it retained concerns that on the present rate of clearance, it would take 24 years to clear the back log of cases. It was fierce in issuing its third criticism on the proportion of refused asylum cases from Eritrean nationals, who went on to have their refusal over-turned on appeal. The Home Office remained/s unrepentant in its assessment of such cases.³⁸

³³ White (2015) p.22

³⁴ HAC (2013) Fourth Report of Session 2013–14 HC 486 p.6

³⁵ HAC (2013) HC 486 p.16

³⁶ HAC (2014) Fifteenth Report of Session 2013-14 HC 820 p. 26 & pp 16-17.

³⁷ <https://publications.parliament.uk/pa/cm201415/cmselect/cmhaff/610/61004.htm#a7>

³⁸ The work of the Immigration Directorates (Q1 2016): Government Response to the Committee's Sixth Report of Session 2016–17 First Special Report of Session 2017–19 HC 547 pb 3 November 2017 p. 8 & pp. 4-5

Asylum

Asylum is one of the key responsibilities of the Home Office and one of the major operational issues faced by it and of interest to a wide range of stakeholders. Performance in handling new and old cases was reviewed quarterly in the Vaz period 2012-16 with abundant statistical material, not all of it accurate, to the Committee's fury. The United Kingdom is a signatory to the United Convention on the Status of Refugees (1951) which defines who is a refugee, what legal rights they can expect and the liabilities of signatory nations. It was intended to deal with the refugee problem generated by the Second World War in Europe, but became the benchmark for refugee matters. Thus, in the 1967 Protocol, the time and geographical limits were removed. A refugee is someone who has fled their country and cannot return by reason of a well-founded fear of persecution. The UK is also subject to the "Dublin System" of EU Law, first introduced in 1990.

Asylum applications in the UK increased from just under 4,300 in 1987 to 84,100 in 2002, before dropping sharply to 25,700 in 2005. Applications remained level until 2009, declining temporarily to 17,900 in 2010. Numbers rose each year to 32,700 in 2015 but fell back to 30,700 in 2016.³⁹ The sharp rise in applications in the late 1990s and early 2000s does much to explain the back-log that was to overwhelm the handling of the system. A detained fast track system (DFT) was introduced in 2003 with the aim of a decision in an application within three days. DFT was ruled unlawful in June 2015 and the Government's appeal dismissed⁴⁰. This was a judicial, not a parliamentary intervention but is important background.

Other than the examination of asylum data, the HAC opened an inquiry into asylum issues on 25 February 2013⁴¹, reporting (in two volumes) on 11 October.⁴² The Government published its response on 13 December 2013.⁴³ This was a set piece report on a key issue of policy and its operation. The Committee referred back to the legacy backlog from 2006 of 500,000 cases.⁴⁴ Key findings were that just over half of all new applications for asylum were determined within a year. That 2012 had seen a 63% rise in those waiting more than six months for an initial decision. The Committee sought to put some flesh on this by referring to evidence it received of the deskilling of professionals still awaiting a final decision after eight years and the distress of women in abusive marriages where their partner is the principal applicant. They also cited the impact on mental health that long delays had on those who had undergone torture. The Committee referred to one case of 14 years duration. HAC was also concerned by the evidence of the Scottish Refugee Council that whereas 49% of women applicants had waiting 2 years for their current status, the comparable figure for men was 22%⁴⁵. The legacy backlog remained at 32,600. The Committee made the following observation, "The task of staff examining claims for asylum is to judge fairly, not to make it as difficult as possible." The Committee believed a 'culture of disbelief' was in operation.⁴⁶ Among other points HAC made forcefully:

- In 2002, the proportion of appeals allowed against refusal was 52% for Syrian applicants, 41% for Sri Lankans, 34% for Iranians, 45% for Eritreans, and 43% from Sudanese;

³⁹The Migration Observatory (2017) Migration to the UK: Asylum figure 1 <https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/>

⁴⁰<https://www.ein.org.uk/news/supreme-court-refuses-government-permission-appeal-over-detained-fast-track>

⁴¹<https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news/130225-new-inquiry-asylum/>

⁴²HAC (2013) Seventh Report of Session 2013–14 Vol 1 & 2 HC 71

⁴³HM Government (2013) Asylum Cmd 8769

⁴⁴HAC (2013) HC 71 vol 1 p.9

⁴⁵HAC (2013) HC 71 vol 1 pp.9-10

⁴⁶HAC (2013) HC 71 vol 1 p.11

- Concerns about the complexity and time for family reunion;
- Cases in the controlled archive (to which UKBA staff did not have access)⁴⁷;
- Whether the New Asylum Model (NAM) screening would simply misallocate large number of cases; (p.19)
- Concerns about the in-country guidance, one of which had to be amended on the direction of the Upper Tier Tribunal and the selective use of country information documents; (p.20 & 21)
- Welfare of those on support and denied the right to work; (p.33)
- COMPASS programme and sub-standard housing (pp. 38-43).

The Home Office response was largely uncompromising. It gave as a reason for delays, applicants contesting refusals even beyond the exhaustion of their appeal rights⁴⁸. “The Government does not accept there is a “culture of disbelief”, meaning a prejudice on the part of caseworkers. All cases are considered on their merits in the light of the evidence and the law.”⁴⁹ On the high level of refusals overturned on appeal, the Department cited the availability of new evidence, independent judgement of the tribunal, “but we were entitled to take the decision we took.”⁵⁰ On financial support for asylum seekers, the response included, “Failed asylum seekers can reasonably be expected to avoid the consequences of destitution by returning to their own country.”⁵¹ The Home Office sought to reassure the Committee on the New Asylum Model that the intention was to build up thematic expertise, rather than have a single caseworker deal longitudinally with a case. The Department agreed on the need for customer focus.⁵² On such a high-profile issue with such clear findings and messages, the Committee had, ostensibly, failed to influence the Department to any significant extent.

The Public Accounts Committee picked up on the COMPASS contracts - the centralisation of the provision of asylum accommodation into six large providers in a report on 24 April 2014. They were unimpressed by the transition or the quality of the accommodation⁵³. The Government replied in June by accepting all its recommendations (e.g. about business case, adequate plans for transition and proper use of data) and assured the PAC that it aimed to realise savings of £136.4m in the lifetime of the contract⁵⁴.

HAC itself returned to the issue of asylum accommodation, publishing a report of an inquiry on 31 January 2017⁵⁵. It raised a number of issues about crowding, appropriate handling of issues specific to women and mental health, the condition of some properties and vermin. The Government’s response⁵⁶ while it took ten months to issue, was more considerate of the points the Committee made than on the wider ranging asylum report in the autumn of 2013: was clearly designed to reassure the Committee, manage its expectations and strike a different note. Thus the Home Office response referred to the increased money going in, the different contractual terms within COMPASS to ensure sufficient initial accommodation and higher

⁴⁷ HAC (2013) HC 71 vol 1 pp. 12-13

⁴⁸ HMG (2013) Cmd 8769 p.3

⁴⁹ HMG (2013) Cmd 8769 p.4

⁵⁰ HMG (2013) Cmd 8769 p.5

⁵¹ HMG (2013) Cmd 8769 p.19

⁵² HMG (2013) Cmd 8769 pp. 9 & 10

⁵³ PAC (2014) Fifty-fourth Report of the Session 2013-14 HC 1000 p.3

⁵⁴ HM Treasury (2014) Treasury Minutes Government responses on the Forty Fifth to the Fifty First and the Fifty Third to the Fifty Fifth reports from the Committee of Public Accounts: Session 2013-14. pp 34-36

⁵⁵ HAC (2017) Twelfth Report of Session 2016-17 HC 637

⁵⁶ Asylum accommodation: Government Response to the Committee’s Twelfth Report of Session 2016–17 HC 551 November 2017

price bands should additional property be needed (p.1). The response on the rate of refusal of Eritrean applications overturned on appeal was more emollient than before (p.3), some assurance on health facilities was offered, as was action on dispersal to deprived areas (the Committee was a more mixed dispersal locale). Both the Committee and Department seemed agreed on the value of Strategic Migration Partnerships in managing local issues and the Home Office tried to sound the right note around funding (p.5, 8). The Committee was critical of some of the estate maintained particularly by G4S and SERCO whereas the Home Office tried to assure them that its inspection regime was robust: 4,000 inspections of property in 2016. The Department agreed to revisit the performance regime for 2019 (p.14) and noted that it had funded more welfare officers for applicants in accommodation (p.16).

Student visas

The issue of student visas was an early concern given the Government's commitment to bring net migration below 100,000. HAC published an inquiry report on 17 March 2011⁵⁷. The Business, Skills, and Innovation Committee published a report, Overseas Students and Net Migration on 4 September 2012⁵⁸. HAC was responding to a Government consultation on overseas students, which it noted had received 31,000 responses, including from overseas governments (p.5). It was supportive of raising the level at which students from abroad were admitted for study (p.4). It agreed with the Government that an actual cap on Tier 4 was undesirable (even though this would return net migration). It noted evidence that suggested that education was the UK's seventh largest export industry and second highest contributor to balance of payments (p.8). It was sceptical of abuse of the labour market by students (p.26) and generally called on the Government to base policy firmly on evidence. It was critical of the International Passenger Survey which contributes to migrant data (pp.37-8). It was not persuaded, despite the UN definition, that students are long term migrants (p.40.). BIS, similarly because of the value of overseas students recommended classifying students separately in migration figures (p.16).

The Home Office response to HAC coolly disagrees with the Committee in its assertions about better use of evidence, justifies the ongoing plans, upholds the use of the International Passenger Survey, and rejects any alteration in the definition of a migrant.⁵⁹ The Home Office response to BIS was that the ONS was 'independent', student figures already disaggregated (the Committee wanted them classified separately) and that the ONS followed the UN definition.⁶⁰ Other than agreeing the value of the sector, the Home Office did not yield anything of substance. It had already agreed internally and importantly, not to cap tier 4.

Borders

e-borders is a significant ongoing issue for the entirety of the period of this review. A programme to gather, process and access data on millions of passengers prior to arrival in the UK was initiated in 2007 with a major contract awarded to Raytheon. It was to supplant existing Semaphore and Warning Index systems. However, in late 2010, the Home Office cancelled the contract. As part of its ongoing review of performance, HAC castigated the Home Office in its quarterly report, "It is a travesty that, despite successive

⁵⁷ HAC (2011) Seventh Report of Session 2010–11 HC 773

⁵⁸ BIS (2012) Fourth Report of Session 2012–13 HC 425

⁵⁹ HC 1445 26 July 2011 pp.8-12

⁶⁰ HMG (2013) Overseas Students and Net Migration Cm 8557

recommendations of this Committee, the collection of data of people entering and leaving this country has not happened. The goal set by the Government of full exit checks by the General Election in 2015 is unrealistic.” The Government responded that its Advanced Passenger Information using Semaphore covered 95% of passengers using scheduled flights and 80% overall.⁶¹ A successor programme (2014) to build the resilience of pre-existing systems is scheduled for completion in 2019. The Public Accounts Committee issued a very unhappy report in March 2016⁶² about the £830m spent thus far, querying the use of fixed price contracts for major IT projects, warning against allowing critical staffing to move and commenting on failings in stakeholder management. It was sceptical about the 2019 timeline and not impressed that this will be eight years off the original deadline⁶³.

The Migration Crisis and Calais

In its report of 19 July 2016⁶⁴ on the Migration Crisis, HAC, after a year-long inquiry showed, not least in the Vaz period, its grasp of topicality, albeit in this case with a lengthy period of investigation. It noted the estimated 227,316 migrants who had entered Europe by sea in 2016 up to the beginning of July and the 2,992 deaths recorded of migrants making the crossing. There were in 2015, 1,255,640 first time applications for asylum in the EU states compared with 562,680 the previous year.⁶⁵ Other than humanitarian concern, the direct migration impact upon the UK were those migrants gathering around Channel ports, trying to cross into Britain. Their principal make-shift camp was adjacent to Calais. The Prime Minister agreed in September 2015 to take 20,000 vulnerable Syrian refugees by 2020. Both the Syrian Vulnerable Persons Resettlement Scheme and the Vulnerable Children’s Resettlement Scheme were covered piecemeal by the Home Affairs Committee in their quarterly performance reviews. Although HAC has contrasted aspects of the SVPRS favourably with, say, asylum accommodation⁶⁶ arrangements generally, it remains persistently concerned about meeting the 20,000 figure⁶⁷ promised by the then Prime Minister, David Cameron. The Home Office response centred on its need to work with local authorities.⁶⁸

While HAC reported on 3 August 2016, the Home Office did not publish its response until 22 February 2017.⁶⁹ It is a detailed response, arguing, in the face of the HAC report that it is contributing to the disrupting of criminal gangs facilitating the movement of peoples, investing in joint working with France (the Calais Camp now cleared by the French) and in providing material and financial assistance to EU wide programmes. Against the argument that the UK should do more than take 20,000 refugees⁷⁰, the argument remains that the UK invests in supporting refugees nearest to their country of origin. It assured the committee that it had taken 900 unaccompanied child migrants from the EU, including 750 from the Calais Camp (half the total)⁷¹.

⁶¹ HAC (2014) Third Special Report of Session 2014–15 HC 610 pp.1-2

⁶² Public Accounts Committee Twenty-seventh Report of Session 2015–16 (2016) HC 643 especially pp.12-13

⁶³ HC 643 p.1

⁶⁴ HAC (2016) Seventh Report of Session 2016–17 HC 24

⁶⁵ HAC (2016) HC 24 p.3

⁶⁶ HAC (2017) HC 637 p.44

⁶⁷ For example, HAC (2016) Sixth Report of Session 2016-17 HC 151 pp.18-19

⁶⁸ HAC (2016) The work of the Immigration Directorates (Q1 2016): Government Response to the Committee’s Sixth Report of Session 2016–17 p. 6

⁶⁹ Migration Crisis: Government Response to the Committee’s Seventh Report 22 February 2017 HC 1017

⁷⁰ HAC (2016) HC 24 p.22 & HC 1017 (2017) pp.11-12

⁷¹ HC 1017 (2017) p.7

Child Migrants

With Cooper in the chair, the Committee convened a short report and inquiry on concerns on numbers the Government was taking in the “Dubs amendment”. The report, published on 2 March 2017⁷², notes some 95,000 unaccompanied child refugees in Europe. In May 2016, the Government had accepted an amendment to the Immigration Bill ‘which committed it to accepting a “specified number of unaccompanied refugee children from other countries in Europe”.’⁷³ The figure, when announced, of 350, 200 of whom were already here was far lower than had been anticipated. The Committee took evidence that indicated that local authorities could provide up to 4,000 additional places if central government funding were provided.⁷⁴ The Government response, extraordinarily given the topic, came nine months later (rather than the required three) informed the Committee that it had misunderstood the methodology behind the 4,000 figure being used.⁷⁵

Brexit Issues

The referendum result for 23 June 2016 for the United Kingdom and Gibraltar, with the vote (of just under 51.9% of the votes cast) to leave the European Union had its roots partly in immigration issues which figured prominently in the Leave Campaigns.⁷⁶

The Home Affairs Committee opened an inquiry into implications of the UK's exit from the European Union and took evidence from the Home Secretary and Glyn Williams, Director, Immigration and Border Policy Directorate on 31 January 2017. However, while it published the brief evidence it took,⁷⁷ it did not produce a report from this inquiry, possibly because of the dissolution of Parliament at the beginning of May. The concerns raised were Europol, about which the Home Secretary tried to reassure the committee as to ongoing or associate membership but remained guarded in comments around immigration, for example, to what extent the loss of treaty rights would have on EU citizens moving into tier two. She accepted there was an ongoing business need for skilled workers from the EU but did not commit to how that would be achieved in lieu of negotiations. The then MP for Kingston on Thames pointed out that Kingston Hospital obtained 20% of its staff from the EU and local care staff were a higher proportion.⁷⁸ It was an engagement with the Committee some seven months after the referendum result. The Committee did not put out an assessment of what it thought. It did spend some time raising non-Brexit matters with her.

The Public Accounts Committee whose remit in public expenditure has allowed its role to rove widely picked up on preparedness in its report, *Brexit and the UK border*, published 8 December 2017.⁷⁹ PAC noted that in 2016 around 310 million people and 500 million tonnes of freight crossed the UK border and that the Home Office made 16.3m decisions about citizens from outside the European Economic Area. “Once the UK leaves the EU, the number of decisions needing to be made about permitting people or

⁷² HAC (2017) Thirteenth Report of Session 2016–17 HC 1026 note page 3 on key figures

⁷³ HAC (2017) 1026 p.3

⁷⁴ HAC (2017) 1026 p.7

⁷⁵ Unaccompanied child migrants: Government Response to the Committee's Thirteenth Report of Session 2016–17 pb 22 December 2017 HC 684 It does refer to a court case in November buttressing the Government's action. This may have delayed publication.

⁷⁶ http://www.voteleavetakecontrol.org/briefing_immigration.html. Also see <https://www.independent.co.uk/news/uk/home-news/brexit-latest-news-leave-eu-immigration-main-reason-european-union-survey-a7811651.html>

⁷⁷ HC 494 24 October 2017 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/implications-of-the-uks-exit-from-the-european-union/oral/46493.pdf>

⁷⁸ HC 494 Q238

⁷⁹ Public Accounts Committee Seventh Report of Session 2017–19 (2017) HC 558 <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/558/558.pdf>

goods to cross the border could increase by 230% and 360% respectively, depending on the outcome of negotiations.”⁸⁰ Not surprisingly, its view is that the cross-departmental Border Planning Group’s “assumption that the risks to border activity will remain unchanged immediately post-Brexit is a risky approach.”⁸¹ They asked the planning group to come back to them by March 2018 on risk management and leadership. They referred to e-borders and their scepticism of Government’s ability to manage such projects or to manage the border with enough staff.⁸²

The Home Office response is to engage not so much with the conclusions as to agree with the recommendations which avoids having to disagree with PAC on the former. It points out that two Permanent Secretaries have been appointed to the Border Planning Group, giving it the required leadership and leverage (p.13), that the Department has invested £700m in Brexit preparations but the Chancellor of Exchequer has made provision for £3b for Brexit scenarios (p.14). The Border Planning Group has been working on a no-deal scenario but prefers a pragmatic approach, particularly at roll-on/roll-off termini to avoid backlog (p.13). Whether the March & June 2018 submissions were as advanced as PAC would like is not yet known.

HAC sought an innovative way through immigration policy in the wake of divisive campaigning in the referendum. It sought to find the basis for **building a consensus around immigration** issues. Its inquiry died with the 2015/17 parliament but was pursued in the new one and the report published on 15 January 2018⁸³. This was a signal change for HAC to try and influence outcomes on a broad canvas at an existential moment. This was not least because the Committee concluded that the target of tens of thousands was unworkable (pp.9-10), data unreliable (p.10 & 12), and rules complex and unfairly enforced (pp.16-22). In the latter category, the Committee raised concerns about the ‘hostile environment’, including it being directed at those lawfully here (p.20). Conversely, the Committee heard evidence that immigration enforcement had never been properly resourced and the PCS Union reported that a cut of 400 staff in that area had its impact on handling intelligence and taking enforcement action (p.19).

HAC teamed up with the think tank, British Future and campaign group Hope not Hate, which organised a series of focus groups in some 60 locations to ask the public what they thought of immigration issues. Broadly, they found people to be pragmatic in terms of wanting to weigh benefits and problems (p.7). On asylum, however, there were some rooted misconceptions in terms of what asylum seekers could claim in benefits or seek in employment (p.26). HAC is keen that the Government challenge misconceptions about the process of asylum and the numbers applying. HAC instead sees that a policy needs to be built that will aim to tackle a lack of trust in official data (some of which it shares, partly the absence of data e.g. around illegal migrants and partly the use of measures such as the International Passenger Survey); targets and decision making; dealing with rules that are complex and hard to understand, either not enforced or unfair, not to treat all immigration the same, and to make a stronger and explicit link with labour market policy (p.4). It is open to the idea (no more than that) of regional immigration policy (Pp.38-9) and keen on focused local integration strategies.

The Home Office responded in April 2018 without any counter-offer on anything like a consensus.⁸⁴ It was, in brief, treated much like any other HAC report. On simplification, it was updating rules and agreed to a Law Commission project to redraft for clarity but with no change in policy (pp. 1 & 6), it regards the target

⁸⁰ PAC (2017) HC 558 p.4

⁸¹ PAC (2017) HC 558 p.5

⁸² PAC (2017) HC 558 p.6-7

⁸³ HAC (2018) Second Report of Session 2017–19 HC 500

⁸⁴ Immigration policy: basis for building consensus: Government and Office for National Statistics Responses to the Committee’s Second Report HC 961 April 2018

of 'tens of thousands' as a 'clear direction of travel' (p.2). The ONS gave some useful response on more localised statistics (p.2). Importantly, the Home Office did agree to consider an Annual Migration Report which the Committee thought a worthwhile idea from Canada, but only once the long-term arrangements for immigration post-Brexit were in place (p.5). On the hostile environment, the Department insisted that the "Compliant Environment is one element, albeit an important one, in our comprehensive enforcement strategy to tackle illegal migration Errors are rare."⁸⁵

The HAC has gone on to publish an interim report on a post-Brexit immigration policy for EEA nationals⁸⁶ on 31 July 2018. HAC regrets "There has been no attempt by the Government to build consensus on future migration policy".⁸⁷ The report looks at various options. It notes that within the EU/transition there are actions that a Government may legitimately take around registration, skills, enforcement, and labour market reform (pp.15-20). These were options available to the UK had we decided to remain in the EU, a point likely to be academic now, but not taken up by the Government and still available during transition. If membership of the European Economic Area (with access to the single market) were used as a short term measure, it affords, says HAC, a "safeguard clause embedded in Articles 112 and 113, which provides that in the circumstances of "serious economic, societal or environmental difficulties of a sectoral or regional nature", a contracting party may unilaterally take appropriate "safeguard measures" to restrict the rights in the Agreement. This means that an EEA member can apply an emergency brake on free movement from other EEA countries."⁸⁸

HAC also took evidence to suggest that a national emergency break, such in the agreement between the EU & Switzerland would be possible, or a regional one, or to require, as suggested by IPPR, a prior job offer by EU citizens wishing to travel to the UK. (pp.26-8).

The Exiting the European Union Committee published a report on 23 July 2018 on *The progress of the UK's negotiations on EU withdrawal: the rights of UK and EU citizens*⁸⁹. In this the Committee vents its concern that the reciprocal rights of British Citizens in the EU and EU citizens here has not been finalised, despite support for this from the European Parliament. One very particular domestic concern it has is over the system of digital registration the Home Office has introduced for EU citizens as of June. Settlement is confirmed online and a digital code is sent by the Home Office which the EU citizen shares with landlords and employers. The Committee shares the preference of some EU citizens for a hard copy document as proof as an easier means to navigate life (p.4). Those without a tablet, PC or phone will receive the code by letter (p.21). The Committee noted concerns about those who might not apply: children, the very elderly, very long-term residents, and those who (wrongly) think themselves ineligible (p.23). It would not need a very high percentage of the estimated 3 million EU citizens in the UK to fall into any of these categories to create a substantial legacy problem. HAC in its report on Windrush refers to the potentially looming problem of an assumption that children born here to EU citizens are British and do not need to register.⁹⁰

⁸⁵ HC 961 April 2018 p.8

⁸⁶ HAC (2018) Eighth Report of Session 2017–19 HC 857

⁸⁷ HAC (2018) HC 857 p.3

⁸⁸ HAC (2018) HC 857 p.21

⁸⁹ Brexit Com (2018) Eighth Report of Session 2017–19 HC 1439

⁹⁰ HAC (2018) HC 990 p.42

The role of the Independent Chief Inspector of Immigration & Borders

The Chief Inspector of Immigration & Borders is not a parliamentary post. It is established under section 48 of the UK Borders Act 2007 and the post holder is appointed by the Secretary of State. His or her role is to include (under s.48), looking at consistency of approach, practice and procedures in making decisions, the treatment of claimants and applicants, the exercise of enforcement powers, compliance with the law around discrimination, the provision of information and the handling of complaints. It follows from this, that a good deal of what the HAC committee was doing in the period 2012-2016, overlapped with the remit of the Chief Inspector of Immigration & Borders (CIIB) who had the capacity to look at performance issues in an operational environment, in greater detail and with greater capacity. The Home Affairs Committee is used to operating in a crowded field and in this instance brings a level of public and parliamentary accountability, not least through its public hearings. However, the CIIB can follow things through in detail. His report on the Vulnerable Persons Resettlement Scheme in May⁹¹, while little commented upon, demonstrates some of what is achieved. It was the then CIIB who revealed additional back logs of cases to the HAC in 2012 as a prelude to the demise of the UK Border Agency. However, it was HAC which took the public role. The CIIB reports to the Secretary of State who lays their report before parliament. Their publications are available here:

<https://www.gov.uk/government/publications?departments%5B%5D=independent-chief-inspector-of-borders-and-immigration>

‘Children of the Windrush Generation’

This relates to individuals who typically arrived in the UK as children accompanying relatives from Commonwealth countries in the 1960s and 1970s. As all the cases which have come to light are people who originated from the Caribbean, they have been called ‘the children of the Windrush Generation’, after the HMT Empire Windrush which docked at Tilbury in 1948 with 802 passengers from the Caribbean. Technically, as the cases became publicly known, they are undocumented Commonwealth Migrants (and therefore, as is often overlooked, not restricted to the West Indies). The demands for documentary evidence in the 2012 and 2016 Immigration Acts, or applications late in life for passports found certain individuals who had never registered for British Citizenship or with other documentary proof of settled status under suspicion. On 29 November 2017, Amelia Gentleman published the first in a series of reports in *The Guardian* on the plight of such individuals. This one focused on Paulette Wilson who had arrived in the UK aged 10 in 1968 from Jamaica. In October 2017, she was detained in Yarls Wood removal centre.⁹² It was not, however, until the proximity of the Commonwealth Heads of Government Meeting in April 2018 and the agitation of the Caribbean High Commissioners in London that the story caught fire across the media and became a storm. On 25 April, asked at HAC about immigration targets, the Home Secretary replied “If you are asking me if there are numbers of people we expect to be removed, that is not how we operate.”⁹³ Following controversy about whether targets were set and leaked documents, the Home Secretary resigned

⁹¹<https://www.gov.uk/government/news/inspection-report-published-vulnerable-persons-resettlement-scheme>

⁹²<https://www.theguardian.com/uk-news/2017/nov/29/family-of-woman-facing-deportation-after-50-years-in-uk-demand-apology>

⁹³data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/windrush-children/oral/82003.html

on 29th April, in letter to the Prime Minister, she said, “I inadvertently misled the Home Affairs Select Committee over targets for removal of illegal immigrants during their questions on Windrush.”⁹⁴ A unit was set up in the Home Office to help undocumented individuals to sort out their situation.

HAC published an early report⁹⁵ on 13 June 2018 on the need to set up quickly a hardship fund for those who had expended money on legal fees, lost jobs and even homes. The new Home Secretary, Sajid Javid replied on 28 June to say that the Home Office was designing a compensation scheme⁹⁶.

HAC then published a report dealing more extensively with the issue and why it arose (3 July 2018).⁹⁷ It is worth quoting extensively from it as to how the Committee saw the issue and its genesis:

“Members of the ‘Windrush generation’—people who came to the UK from Commonwealth countries after the Second World War and before 1973—have been denied their rights. Many have been treated as if they were in the country illegally despite being lawfully resident for many decades. People have lost their homes and their jobs and been refused healthcare, pensions and access to social security. In some cases, people have been subject to immigration enforcement measures and held in immigration detention; others may have been removed or deported from the UK. Some, having left the UK on holiday or for a similarly short period, have been refused re-entry and had their settled life in the UK unjustly taken away from them.

“Specifically, we found that the Windrush generation was caught up by a series of different policy, cultural and organisational changes in the Home Office. These include the removal of Home Office caseworker discretion, the use of targets, restrictions on independent checks and appeals, stronger controls at the border and a raft of laws collectively known as the ‘hostile’ or, more recently, the ‘compliant’ environment. Within the Home Office a policy shift towards an increasingly rigid, rules-based culture had led to an environment in which people wishing to document their status appear to have been automatically treated with suspicion and scepticism. They had been made to follow processes that appear designed to set them up to fail, while at the same time vital avenues for support such as legal aid and the right of appeal had been removed. We welcome the Home Secretary’s pledge that this culture will change and we will monitor the work of UK Visas and Immigration to ensure his words are followed through with action.

“We are deeply concerned that it took so long for the Government to acknowledge and address the situation of the Windrush generation. Either people at a senior level in the Home Office were aware of the problems being caused but chose to ignore them, naively expecting caseworkers to correct any wrongs, or oversight mechanisms failed.” *From summary page 3*


HAC notes (p.9) the ONS estimate that of 599,000 commonwealth citizens born in Commonwealth countries prior to 1971 (1 January 1973?), 542,000 have UK passports, leaving an estimated cohort affected of 57,000, although they may have other documentary proof such as certificate of registration (pp.9-10). The Committee is particularly keen to know how many affected individuals have been subject to enforcement action, including detention and removal, including offenders. HAC was concerned both in the origin of these cases and going forward that confirmation of No Time Limit was being based on far too high a threshold of evidence and a more sensible approach is needed (pp.13-14). The Committee is concerned that Wendy Williams, the HM Inspector of Constabulary appointed to lead the lessons learned review was identified

⁹⁴ <https://www.bbc.co.uk/news/uk-politics-43944710>

⁹⁵ HAC (2018) Fifth Report of Session 2017–19 HC 1200

⁹⁶ <https://www.parliament.uk/documents/commons-committees/home-affairs/Correspondence-17-19/Government-Response-Windrush-hardship%20fund.pdf>

⁹⁷ HAC (2018) Sixth Report of Session 2017–19 HC 990



several weeks after the review began and are concerned about its independent and the public accountability of government in this issue (p.17-18).

HAC is quite explicit when it says, “We are concerned that a target-led approach may have led immigration enforcement officers to focus on people like the Windrush generation, who may have been easier to detain and remove than those less vulnerable ...”⁹⁸ They return to their call for the net migration target to be replaced (p.23). It remains concerned about the hostile environment, noting from the CIIB that 10% of bank account checks throw up erroneous results (p.27).

⁹⁸ HAC (2018) HC 990 p.23

Conclusion

The literature issued by Commons select committees, on select committees and the Government's responses throw up a number of points.

Firstly, it is clear that Government regards public policy as an executive function. After all, it is for this that Ministers and their departments are held to account and their resources dwarf that of the legislature. However, it is also clear that select committees (and in this area, particularly the Home Affairs Committee) do not merely wish to scrutinise the performance of departments or the use of money, but become partners in shaping policy. The relational aspect between committees and department then, as Hannah White points out, becomes key. That the department in this case has resisted HAC's blandishments around how the former performs and the culture it exhibits is an inhibitor in HAC's capacity to gain influence. Thus the high profile calamity for an institution or individual tends to become more notable.

Parliamentary scrutiny at the moment does, however, have a window of opportunity through the penitential season opened up by the Windrush saga. The Home Secretary has acknowledged the need for a change in culture. The Department itself is facing the inexorability of time with the need for a White Paper, the first on Immigration since 2002. The current Home Secretary who has, for example, gone silent on the Government's hitherto inflexible ambition of reducing net migration to tens of thousands, may be more amenable to an attempt, such as the one HAC made with its report in January, to sketch out the means to build a consensus on immigration. This would mean taking up the Committee's challenge to address misconceptions about migration as well as tackle issues around culture and enforcement which may require policy reform. Given that the consensus is not going to abandon immigration *control* as the proper function of the state, this could mean taking on board concerns about data capture, better resourcing of enforcement and tackling a subject which the committee system has not tackled in a systematic way - the use of intelligence. An early reassurance for a number of committees - would be comprehensive action to capture the registration of EU nationals in the UK in a way those citizens would find easy. Harder to tackle, because the Home Office has become habituated on the income, is the scale of fees for immigration and nationality but would be an issue which a number of charities (and individuals) would wish to see addressed. There remain those (HAC included) who want to see students removed from the definition of long-term migrants and the issue of regional immigration policy is attracting interest. How migrants in one region can be inhibited from moving to another region is an interesting policy question.

There remain a number of questions ongoing for the Home Affairs Committee in particular and for the parliamentary system of scrutiny, which are prefigured for its way back with the introduction of tribunals after the First World War: its interrogative function over matters of detail, especially performance.

The existence and very full workload of the Chief Inspector of Immigration and Borders overlaps with much of what the HAC has tried to do since 2010. It remains the case that HAC operates in a crowded field. There are even All Party Parliamentary Groups on Migration and Refugees which have produced their own "independent" reports.

However, the select committee retains its public role of accountability which public representatives are unlikely to relinquish and remain for many people, a proper role in a functioning democracy.

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