

Rt Hon Yvette Cooper MP
Chair, Home Affairs Select Committee
House of Commons
London SW1A 0AA

25 June 2018

Dear Yvette,

IMMIGRATION ENFORCEMENT

Following the oral evidence session on 15 May 2018 and other, recent hearings, I wanted to supply further information to your committee. In particular, the committee had been asking about target-setting, performance management arrangements for staff, and civil service bonuses; the committee has also asked about wrongful detention, about which I am providing information.

Target setting

2. In my letter to you of 15 May, I set out the approach to target-setting by officials since 2015-16 in relation to enforced and voluntary removals. On 15 May, you asked about historical targets for voluntary removals from the UK. You asked when such targets had first been set, whether those had been agreed with Ministers, and about the intention behind setting targets of both kinds.

3. Quantified targets to remove failed asylum seekers from the UK were set by Ministers in the 2000 and 2002 Spending Reviews. In the *Home Office Strategic Plan 2004-08* (Cm 6287), the target set by Ministers became to secure 75% more removals by 2004 than in 1998, with further increases by 2008. In the 2007 Spending Review, Ministers set a Public Service Agreement for the Department to, "... increase the number of removals year-on-year" (PSA 3), with a quantified baseline and sub-elements related to enforced and voluntary removals. In 2009, Ministers set a target to increase the number of removals year-on-year, again expressing that in terms of enforced and voluntary removals. In the final business plan for the UK Border Agency, agreed with Ministers, there was an unquantified ambition to, "...maintain our performance on the removal and voluntary return of those who are in the UK illegally" (UK Border Agency Business Plan, April 2011 – March 2015).

4. The committee also asked whether removals target-setting was related to the Government's ambition to reduce net migration. Annex A is a note by the Department's independent Chief Scientific Adviser setting out the relationship between enforced removals and the UK's long term migration statistics.

Intention behind target-setting

5. The committee asked about the reasoning behind setting targets.

Enforced Removals

6. In common with normal practice in any large operational organisation, the Home Office has tracked and sought to understand the rate and number of people removed from the UK through enforcement activity; that has been its practice for many years. At aggregate level, those data are reported routinely to Parliament and elsewhere.

7. Broadly I believe the Department has had three objectives: (i) to understand, from a strategic perspective, whether there are shifts in the trend of enforced removals and whether that reflects factors altering operational effectiveness, (ii) to understand differences in relative levels of output, for example between teams, and any factors influencing that (such as resourcing levels, working practices, differences between geographical areas), and (iii) to help managers and their teams identify and pursue improvements in efficiency, to maximise value for money. Those considerations sit alongside considering each case on its individual merits, and the focus on safeguarding and lawfulness.

8. Within its operational divisions, the Department continues to track and use information about workflow and productivity. The Home Secretary told the House on 30 April that he wanted to take stock on targets overall, and the Home Secretary told your committee on 15 May specifically that he does not believe in quantified targets for removals and this, of course, is the basis on which we will be proceeding in future.

9. As you heard in oral evidence on 8 May, in prior years senior officials commonly set particular levels of ambition, for the organisation, in securing enforced removals. The objectives were:

- (i) most importantly, to regulate flow of work – through different parts of the system – to balance capacity at the 'front' or public-facing end of the system (which tends to have higher capacity) against capacity at the 'back' end (securing emergency travel documents, pre-removal detention capacity, flights), which tends to be more constrained;
- (ii) to offer working-level teams a goal to which to aim; and
- (iii) to support the senior team in predicting (including for Ministers) the likely level of enforced removals during any particular year.

10. For enforced removals, the strategic intent – in priority order – has been to remove from the UK those people posing greatest risk of harming the public, those people who choose not to comply with reasonable requests to leave or who actively subvert the immigration control, and also signalling to the wider community that the

UK exercises coercive powers as an enforcement back-stop for its immigration control.

Voluntary Removals

11. You asked on 15 May about the intention in relation to targets for voluntary removals (also set by Ministers and later by officials for more than a decade).

12. Successive governments have wanted to respond to public concern about unlawful immigration and to ensure that the UK's immigration control is effective and credible. To those ends, targets were set for similar reasons as in relation to enforced removals: as a basis for understanding trends, and to help in improving efficiency and maximising value for money.

13. From the perspective of enforcing the law, voluntary or near-voluntary compliance also offers significant advantage over coercive approaches: It is better for individuals, helping with self-determination and dignity; whilst, from the perspective of the State, it enables enforcement resources to be directed towards areas of greatest need and is significantly less costly to taxpayers.

Individual performance objectives for officials

14. The committee also asked about annual performance objectives for officials. The Department's current guidance in relation to performance objectives for staff in 'delegated' grades (those grades below the Senior Civil Service) is that,

Goals should reflect Departmental and team priorities as set out in business plans and may be agreed on a team, individual or wider organisational basis.

Business areas should agree relevant standards that apply to particular jobs and communicate these to staff at the start of the year. Goals must also reflect Home Office wide standards from the 'Performance Grid', a document which covers the outputs and behaviours that employees are expected to meet. Goals should be short, clear, specific and measurable. They should be stretching and achievable, taking account of working patterns and any reasonable adjustments required in individual circumstances.

15. Thinking about how annual objectives are constructed for individual members of staff, a sample goal for "product design" would have the following approach, set within explicit, wider expectations about working within the law and within the *Civil Service Code*:

Sample work goal 'Product design'

Goal description: Developing new products to present existing information including:

- Producing at least 3 new major reporting tools.
- Taking responsibility for relevance/quality/ timeliness/commissioning of the appropriate supporting data. For instance, forecasts to be within 10% of actuals.
- Seeking out new methods to improve data presentation.

- Matching tools to methods to ensure most appropriate, engaging delivery format (using graphs, graphics, stories, infographic and interactive displays as appropriate to each product).

Success criteria: The 3 star performance level of the performance grid, especially indicators in "I am professional and work to improve continuously".

16. During the hearing on 15 May, you said that 'assurances had been given' that no individual members of staff had had performance objectives (and hence also performance bonuses) related to removals. That is not the case: such assurances had been given neither by Ministers nor by officials.

17. Senior Civil Servant heads of unit (SCS Pay Band 1) and more junior staff, in delegated grades, have routinely had annual objectives linked to business goals (following the approach set out at paragraphs 14 and 15). In relevant teams and roles within Immigration Enforcement, and the UK Border Agency before it, therefore this included members of staff having had personal objectives linked to targets to achieve enforced removals.

Performance bonuses for staff working in Immigration Enforcement

18. My letter of 15 May had set out performance bonuses paid to Hugh Ind. During that day's oral evidence session, the committee asked also about performance bonuses paid more widely.

19. Immigration Enforcement was created, as a separate directorate general of the Home Office, following the abolition of the UK Border Agency in March 2013. Annex B sets out numbers of staff and bonuses in the ten years since 2007-08, distinguishing between those two periods. The committee will recall that former UK Border Agency functions are also now distributed between UK Visas & Immigration and Border Force – in addition to Immigration Enforcement – which is why there is not perfect read-across between the two data series.

20. Staff are employed and receive bonuses within two groups: members of the Senior Civil Service, and staff employed in 'delegated' grades.

21. As I wrote in my letter of 15 May, the Department follows the Cabinet Office's performance management system for Senior Civil Servants. All SCS year-end performance assessments are subjected to a moderation process undertaken by the Senior Pay and Performance Committee chaired by the Permanent Secretary, during which they are ranked relative to their peers. The moderation process looks at an individual's performance against objectives, both 'what' has been achieved and 'how' they have achieved. That includes: leadership behaviours exhibited; the management of resources; sound financial management; job weight; and contribution to the Civil Service. In addition, a member of staff can only be placed in the 'top' 25% performance group if they have exceeded at least one finance/efficiency objective. Only those in the 'top' performance group are eligible for an end of year bonus. In addition, the Cabinet Office introduced greater flexibility for the 2016-17 performance year, allowing for up to 10% of a department's SCS members to receive an in year bonus.

22. In relation to more junior staff, up until the 2016-17 performance year, the Department operated a similar system of moderation as that described above for the senior civil service. Only those employees placed in the 'top' 25% performance group were eligible to receive a bonus following objective assessment of their performance when compared to their peers. In 2017-18, the Department introduced a new approach, whereby staff would receive a bonus at the end of the performance year if they receive a top (4*) marking for the achievement of goals set during the year. This performance rating would reflect a range of goals, standards and behaviours that are relevant to a particular role.

Wrongful detention

23. Your committee asked about the number of people detained wrongfully, and about compensation payments. As Mr Ind told the committee in his evidence on 8 May, £3.3m was paid in compensation during 2015-16; £4.1m had been paid during the previous year. The tables at Annex C set out the total amounts in compensation that were paid, and numbers of cases closed, in 2015-16 and 2016-17; 2017-18 data will be available in due course. Data for earlier years had been laid before Parliament during October 2016 and is also included and updated in Annex C.

24. Inevitably, whilst providing a clear sense of overall scale, the numbers are a bit complicated: (i) 'number of cases' is drawn from records of unique names of people, solicitors acting for them and Government Legal Department reference numbers; (ii) amounts paid are the amounts paid in each year (individual cases might see payments in more than one year, for example if there are staged payments that fall across financial year end boundaries).

25. By way of scale comparison, to support enforcement of the UK's immigration law over 27,000 people are detained each year under immigration powers, with up to 3,000 people detained in either the detention estate or prisons at any one time. 95% of people who are liable to removal are managed in the community, rather than in detention.

26. Annex C also shows the distribution of payments, that are driven strongly by the way compensation arrangements are geared: most payments are of no more than £20,000 (in 2016-17, 60% of cases had payments of £20,000 or less), although compensation is higher in a small number of cases and is nominal (£1) in others. For example, in 2016-17 the median payment across 143 cases was £15,000 and the highest payment was £125,000.

27. In terms of payments to individuals (as opposed to any related payment for legal costs), the bulk of any award has been for the fact of wrongful detention having happened. Compensation levels are based on case law and precedent, with the starting point being whether there was any 'initial shock' of detention and whether the person detained had pre-existing criminal convictions; thereafter, awards are based progressively on whether any damages were basic, aggravated, exemplary or special. The approach rests on two, key judgments:

R v Governor of Brockhill Prison Ex p. Evans (No2) [1999] QB1043 is used where there is no "initial shock" of unlawful detention and, in that particular case, found that there was no entitlement to aggravated/exemplary damages or damages for injury to feelings. And, where there was initial shock,

Thompson & Hsu v Commissioner of the Police for the Metropolis [1998] QB 498 factored in the initial shock of detention and looked at the first hour, then 24 hours and thereafter damages reduced on a sliding scale as the initial shock "wore off". The Court found aggravated damages should not exceed twice basic damages.

28. As always, the Department stands ready to address any further questions from your committee. I am grateful to Departmental Ministers for placing copies of this letter in the Libraries of both Houses.

Yours sincerely,
Philip Rutnam

SIR PHILIP RUTNAM

ANNEX A – LONG TERM IMMIGRATION STATISTICS & ENFORCED REMOVALS

A1. The assessment of net migration is drawn from the Office for National Statistics' (ONS) analysis describing long term immigration and long term emigration, using its Long Term Migration Estimates Methodology¹. The most recent ONS figures show that in the year ending September 2017, the estimate of net migration was 244,000 (with a 95% confidence interval of +/- 42,000 due to sampling variability).

A2. While several components are used to calculate the estimate of net migration, the two most relevant for this discussion are the ONS International Passenger Survey (IPS) and the enforced returns statistics (part of the Immigration Statistics series) published by the Home Office. The IPS is a sample survey (and hence produces estimates) carried out at all main ports in the UK. However, those subject to enforced removal are not available for interview as part of the IPS, and therefore the net migration estimates are biased if only based on the IPS. To create an accurate estimate of net migration, the IPS figures are adjusted to account for enforced removals.

A3. The latest enforced return statistics (calculated from administrative data, and not subject to sampling error) show that there were 6,950 non-asylum enforced removals in the year ending March 2018. However, many of these removals were of people who would not have been classed as migrants in the IPS, for example, those who entered on a short-term visit visa. Therefore, the ONS calculated adjustment is based on administrative data indicating whether the return is of someone originally designated as a migrant. ONS reports "the approximate impact of applying the adjustment is to increase emigration estimates by 2,000 to 3,000 per year and reduce net migration by around 1%"¹

A4. It should be noted that the ONS's adjustment for non-asylum enforced removals is not only approximately 100 times smaller than the net migration figures themselves, but is also much smaller than the 95% confidence intervals in the net migration statistics (in other words, enforced removals make only marginal difference to the net migration figures and uncertainties due to survey sampling in the IPS are likely to have much more effect on the figures than enforced removals).

Professor John Aston
Chief Scientific Adviser

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<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/methodologies/longterminternationalmigrationestimatesmethodology>

ANNEX B – NUMBERS OF BONUSES PAID TO STAFF WORKING IN IMMIGRATION ENFORCEMENT

Table B1: The total number of staff in delegated grades in IE, and the proportion who received bonuses at the year end.

Year	IE Headcount	% who received an end of year bonus	UKBA Headcount (figures quoted for whole of UKBA delegated grades before IE was formed)	% UKBA delegated grades who received an end of year bonus ^a
2016-17	4,792	23%	-	-
2015-16	4,896	23%	-	-
2014-15	5,111	21%	-	-
2013-14	4,659	18%	-	-
2012-13	-	-	11,111	18.50%
2011-12	-	-	11,510 ^b	27.30%
2010-11	-	-	22,295	28.76%
2009-10	-	-	18,999	32.75%
2008-09	-	-	18,718	31.49%
2007-08	-	-	- ^c	- ^c

^a Data for 2008-09 to 2010-11 also included those staff who received an in-year, one-off payment
^b headcount drops from 2010-11 to 2011-12 because Border Force was created as a separate body in 2012.

^c during 2007-08, staff in delegated grades were employed in the UKBA's predecessor body, the Border & Immigration Agency. It would be disproportionately costly to reconstruct data for that year, in a way that would permit meaningful year-on-year comparison with later years.

Table B2: The total number of SCS staff allocated to IE, and the proportion who received bonuses at the year end.

Year	IE SCS Headcount	% who received an end of year bonus	UKBA Headcount (figures quoted for whole of UKBA SCS before IE was formed)	% UKBA SCS who received an end of year bonus
2016-17	17	23%	-	-
2015-16	17	29%	-	-
2014-15	19	31%	-	-
2013-14	17	23%	-	-
2012-13	-	-	43	23%
2011-12	-	-	54	22%
2010-11	-	-	71	24% ^a
2009-10	-	-	63	67%
2008-09	-	-	51	72%
2007-08	-	-	44	65%

^a SCS performance-related pay dropped sharply in 2010-11 in response to the then-Prime Minister's direction that no more than 25% of all senior civil servants should receive bonuses, as part of the Government's response to the financial crisis.

ANNEX C – COMPENSATION PAYMENTS AND CASE CLOSURES IN RELATION TO WRONGFUL DETENTION

C1. The following two tables set out (i) the numbers of cases, total and average payments (£) related to wrongful detention in 2015-16 and 2016-17; and (ii) the numbers of cases closed during that period. Case numbers in the two tables are not matched precisely because in only some cases are payments made. Information for 2017-18 will be available in due course.

C2. Table C1 also includes information about the highest five payments, alongside the median, to provide a sense of range and average. To set these numbers in context, approximately 27,000 people are detained each year under immigration powers, with up to 3,000 people detained in either the detention estate or prisons at any one time.

Table C1: Numbers of cases, total payments, averages and highest payments in relation to wrongful immigration detention during 2015-16 and 2016-17²

		2015-16	2016-17
Number of cases		171	143
Total Payments (£m)		£4.1m	£3.3m
Average Payment (£)			
	Mean	£24,170	£22,957
	Median	£20,000	£15,000
Highest 5 payments (£)		£120,000	£125,000
		£90,000	£114,000
		£80,000	£96,000
		£80,000	£95,000
		£75,000	£78,500
Lowest payment (£)		£1	£1

Table C2: Numbers of cases recorded as closed, in the Department's lawyers' case work system, in 2015-16 and 2016-17

Final outcome recorded		2015-16	2016-17
	Lost	13	11
	Settled	119	130
	Withdrawn/settled	55	42
Total		187	183

C3. In relation to earlier years, in October 2016 in response to a written question by Tim Farron MP, Rt Hon Robert Goodwill MP had replied as follows. At that time, however, the Department had drawn the number of cases simply from the number of compensation payment instances in its database in each year. That resulted in a small overstatement of the number of cases (as now, in some cases payments were staged), which I have shown after correction in table C3. On behalf of the Department, I apologise to Mr Goodwill and to the House.

² This table reflects, in part, a correction to unaudited information in the Home Office's Report & Accounts for 2016-17.

[47658] Our records indicate that over the past 3 financial years (covering 2012-13, 2013-14 and 2014-15), that a total of £13.8 million has been paid out to 573 claimants, as per the below table. All of whom were paid compensation following a period of unlawful detention.

Table C3: Numbers of cases and total compensation payments in 2012-13 to 2014-15, laid before the House in answer to PQ 47658, but with column three showing numbers of cases adjusted to correct for multiple payments in-year, in a small number of cases

Financial year	Total Unlawful Detention Compensation payments (£ million)	Number of claimants for the last 3 financial years
FY 2012-13	£5.0	495 187
FY 2013-14	£4.8	499 193
FY 2014-15	£4.0	479 173

Caveat to provided data [from the original PQ answer, in October 2016]: This is provisional management information that is subject to change. It has not been assured to the standard of Official Statistics.