



THE GOVERNMENT REPLY TO THE  
SECOND REPORT FROM THE  
HOME AFFAIRS COMMITTEE  
SESSION 2003-04 HC 218

# Asylum Applications

**Presented to Parliament by the Secretary of State  
for the Home Department  
by Command of Her Majesty**

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# **THE GOVERNMENT REPLY TO THE SECOND REPORT FROM THE HOME AFFAIRS COMMITTEE SESSION 2003-04 HC 218**

## **Introduction**

The Government welcomes the Home Affairs Select Committee's thorough and helpful report which underlines the complexity of the issues surrounding the asylum system. We particularly welcome the endorsement of the strategic approach to managing the asylum process and the wider immigration system that we have developed from the 2002 White Paper *Secure Borders, Safe Haven*. That approach has three mutually supportive strands:

- robust action to prevent abuse of the asylum system and illegal immigration
- the expansion and management of legitimate routes of entry
- an international approach to helping genuine refugees world-wide, and enhanced integration of those accepted for settlement here.

We welcome the constructive approach the Committee has taken in recognising the need to broaden the discussion to encompass all aspects of the Government's strategy without drifting to either extreme of an emotive debate. At one end this can tend to demonise all those seeking a better life in the United Kingdom, while – on the other – ignore the damage that is being done by abuse – some of which is highly organised – of the asylum process.

It is important to distinguish between those genuinely fleeing persecution, who need to be given refuge here because of danger to their lives, and those seeking to make a better life for themselves and their families. While the Committee rightly points out the categories of 'genuine refugee' and 'economic migrant' may overlap, it is essential that we continue to address abuse of the asylum process by those who are economic migrants but claim to be persecuted. By doing so they make it more difficult for us to identify the genuine asylum cases, which the Report rightly points out is essential. And funds which would be better spent on helping fight poverty in developing world – which is another important element of the Report's recommendations – are taken up by the consideration of claims by and support of asylum seekers in the richer nations.

## **Progress to date**

We have already made significant progress in delivering our strategy, through strengthening border controls, including by introducing high tech x-ray & other equipment to search lorries; security fencing at the Channel Tunnel; closure of the Red Cross camp at Sangatte in Northern France; and pushing the border overseas with juxtaposed controls. We are also well on the way a more effective end to end process from application – through rapid processing – to granting leave to remain or, where appropriate, facilitating early removal. As the Report acknowledges, significant progress has already been achieved, including:

- a 60% fall in monthly asylum applications since October 2002
- year on year increases in the number of removals of failed asylum seekers and others illegally in the UK, to record numbers
- 80% of initial decisions on asylum applications being made within two months.

### **Building on the strategy**

While these developments represent substantial progress the Government is not complacent and accepts there is much still to do – that will of course involve continuing the strategy that the Report endorses. Many of the conclusions and recommendations of the Report will inform that development. Detailed responses to all of these are set out in the main body of this document and briefly summarised below.

### **Strengthening the Border**

We will press ahead with the border control measures which have already been so successful. The Report makes a specific recommendation that this element of the strategy should be under the auspices of a single border control agency. The Government has been looking at this issue in the wider context of tackling organised crime, and will address this point when we publish shortly a White Paper on organised crime.

### **Delivering rapid, robust and fair asylum processing**

We welcome the Report's acknowledgement of this Government's progress in the processing of asylum claims including its support for fast-track processes and the establishment of dedicated induction centres; our plans to introduce accommodation centres; the extension of the language analysis scheme to help detect nationality fraud. We address the specific concerns raised by the Committee in detail below.

The Report draws particular attention to the importance of delivering quality at the initial decision-making stage, with a number of specific recommendations. We welcome the Committee's acknowledgement of the progress recently made to improve the asylum decision making process. We do not accept that the quality of much initial decision making is poor, but we agree that there is more to do to ensure that the highest standards are consistently achieved and demonstrated. We are fully committed to this. We will consider carefully how the recommendations in this Report can strengthen the range of further quality improvements we are putting in place.

The Government does not accept the need for an independent review of the quality of decision making. We have quality systems in place, which we are strengthening in a number of ways, in particular in our discussions with UNHCR about how they might work with us to provide an additional external assessment of the quality of initial decisions. Those systems also provide for the constant assessment and review which the Committee recommends and which the Government fully accepts.

### **Improving removals**

The Committee is right to highlight improved performance in tackling removals as a key component of a successful strategy, helping to deter future unfounded claims; maintain control of the asylum process; and increase public confidence in the system. We have already achieved record levels of removals of asylum failed asylum seekers by increasing the number of Immigration Officers working in this area; a continued expansion the size of the detention estate; and a more intelligence led, targeted approach. We will build on this process through further joined up working across Government to deliver international solutions to the obstacles preventing removal. This approach has already resulted in returns accords with India and Sri Lanka, as well as the proposal for new powers in the Asylum and Immigration (Treatment of Claimants, etc) Bill.

### **Illegal working**

Ensuring a rapid robust process for considering asylum claims and improving the number of removals are important in reducing factors which the Committee identifies as potentially attracting migrants to illegal entry routes. The Committee rightly points out that the availability of illegal work is another key element in this. The Government also recognises that illegal working can have a negative affect on communities and in particular, upon those employers and employees who operate within the law. For that reason we are taking a number of steps to address these including:

- the Immigration Service reported carrying out a total of 446 illegal working operations in 2003,
- introducing new powers to strengthen the enforcement of the law and make it easier to prosecute those employers who knowingly employ those without permission to work in the UK.
- supporting the objective behind the current Private Member's Bill introduced by Jim Sheridan MP to regulate the activities of gangmasters in the agricultural sector.
- Project Reflex, which has been allocated £20 million of new money for each year over three years has been established to tackle serious immigration related crime.
- the Proceeds of Crime Act (POCA) will be used as a major weapon in future to tackle illegal working and to confiscate money accrued through illegal practices.

Addressing illegal working is only one component of our strategy. We also need to ensure that where inward migration is of benefit to the UK it should be managed in controlled systems that acknowledge its value. The systems must address all areas of public concern and deal with the key issues of illegal working, and high and low skilled migration through the management of appropriate legal routes to enter and work in the UK. The Government is committed to improving its communications on managed migration and to stimulating an open and informed public debate.

### **An international approach to helping genuine refugees world-wide, and enhanced social integration of those accepted for settlement here**

It is essential that we take an international approach to helping genuine refugees world-wide, including through engagement at EU level. The Government's Gateway Resettlement Programme offers a legal route for genuinely deserving cases, which will help to ensure that we are offering protection to those who need it. We are additionally pursuing positive discussions to strengthen protection in key refugee-producing regions where the vast majority of the world's refugees are based. We continue to work with UNHCR and to explore innovative approaches to reach international solutions aimed at strengthening protection for refugees and displaced people in their countries or regions of origin. We will also continue to support research to develop further our understanding of migration trends to help our policy making and operational activity. We are also determined that our immigration and integration policies will work to support the Government's commitment to building socially cohesive and stable communities.

### **Support**

We welcome the Committee's assertion that the UK is not a soft touch, however it is important to continue to ensure that levels of support are appropriate and do not become a pull factor for illegitimate migration. We acknowledge the Committee's concerns regarding NASS.

In July 2003, the Home Office Minister for Citizenship and Immigration, Beverley Hughes, published the key findings of the report of the independent review of NASS and, in a statement on 9th February 2004, updated Parliament on the progress made by NASS in implementing the review's recommendations. The decision not to publish the full report was taken as the review was commissioned as advice to Ministers. However, as the process of implementing the review's recommendations progresses, the importance of maintaining the confidentiality of the initial advice diminishes. Therefore given both the level of public interest in the review and the Committee's recommendation, Ministers have decided that the time is now right to publish the report.

IND is undertaking a major programme of reform based on the recommendations of the independent review of NASS. This has already resulted in significant progress being made in key areas of the business, but we are not complacent and accept that there is still much to do.

The Director-General of IND will, as recommended, report to the Committee by the end of the year on the progress that has been made by NASS as a result of the reforms.

The report calls for an independent review of the working of section 55. The Government does not consider that such a review is necessary or desirable. The impact of section 55 has been closely monitored since implementation and adjustments in practice made where necessary. We accept that early on in the development of section 55 processes and policies there were problems in dispersing asylum seekers away from emergency accommodation. However, these issues are increasingly being resolved. From 17 December 2003, those who can give a credible account that their asylum claim was made within three days of arrival in the United Kingdom are normally accepted as having applied as soon as reasonably practicable. These section 55 arrangements provide a balanced but firm policy that discourages economic migration, whilst continuing to offer refuge to those seeking asylum, and providing support for those who qualify or who are vulnerable. While it is true that unsuccessful section 55 applicants cannot be dispersed in the same way, they are then in the same position as any other asylum seeker who is not supported by NASS for any other reason and are still required to inform IND of their whereabouts.

### **Conclusion**

The Government welcomes the Committee's conclusions, and believes they will contribute to the accurate and informed debate that the Government is seeking to promote. Detailed responses to the conclusions and recommendations of the report are set out below. Rather than answer them simply in the order they appear in the report we have grouped our responses under a number of broad headings. The recommendations and the conclusions of the Committee are in **bold** and the Government's responses are in regular type.

## **Analysis of Asylum Intake Patterns and Drivers of Migration**

**2. A proportion of asylum seekers to the UK are not actually fleeing persecution but are seeking economic advantage. According to Home Office estimates, in 2002 only 42% of asylum applications resulted in grants of refugee status, humanitarian leave to remain or allowed appeals. This suggests that even – allowing for some further undetected errors in the system – about half of claimants can justifiably be regarded as ‘economic migrants’ rather than refugees. This is in line with the judgement made by Mr Peter Gilroy of Kent County Council, who estimated that about 50% of asylum seekers were “in the category of coming here because they are trying to seek work and to make a better life for themselves”. (Paragraph 72)**

**3. The categories of ‘economic migrant’ and ‘genuine refugee’ often overlap. We note the research evidence that conflict, not poverty, is the defining characteristic of asylum seekers’ source countries, though not all those who come from such countries are genuine asylum seekers. Equally, people are genuinely seeking asylum may also be seeking to better their own and their families’ lives. Likewise people who do not personally have a well-founded case for asylum may be coming from countries suffering conflict as well as from countries which are not. (Paragraph 73)**

The Committee is right to highlight to complexity of this issue but it is important to distinguish between those genuinely fleeing persecution who are given refuge here because of the danger to their lives, and those seeking to make a better life for themselves. The latter group may come coming from poorer countries but usually not the poorest in those countries, as they have paid the travel costs. If they arrive illegally they will have paid very large sums to people traffickers.

We want to provide safety to genuine asylum seekers. We also have legitimate ways of coming to the UK to work, within limits. The problem lies in the abuse of the asylum process by those who are economic migrants but claim to be persecuted. By doing so they make it more difficult for us to protect the genuine asylum cases, which we want to do and have committed ourselves to do. And funds which would be better spent on helping fight poverty in developing world get used on asylum seekers in the richer nations. This is not fair on the poorest who cannot afford to move.

**4. As we have also seen, there is evidence that most asylum seekers exercise a significant degree of choice in regard to their eventual destination. Amongst the reasons why asylum seekers choose to come to the UK rather than other European countries are historic links between their country of origin and the UK, and the presence of family members, friends or larger diaspora communities already in the UK. (Paragraph 74)**

**5. We think it is likely that there are some factors which over the past ten years or so may have made the UK a relatively more attractive destination than some others in Europe. These may include the perception of low removal levels, lengthy appeal proceedings, the absence of systematic identity checks, the strength of the economy and the opportunity to work legally or illegally. On the other hand, Home Office research published in 2002 found that for the most part potential asylum seekers had “only very vague and general expectations” about levels of welfare support in the UK, and that “expectations relating to welfare benefits and housing did not play a major role in shaping the decision to seek asylum in the UK within the response group”. (Paragraph 75)**

**6. The UK may well be seen also as having a greater commitment to fairness and due process and respect for treaty obligations. Of course, while the need to ensure that asylum systems are not subject to abuse or exploitation is important, so is respect for law and international obligations. Asylum seekers' perceptions of the advantages of the UK may simply reflect this country's longstanding reputation for justice and fairness. (Paragraph 76)**

**7. On balance, it is reasonable to say that a motivating factor for many refugees in choosing to come to the UK will be their expectation that they will receive fairer treatment than in some other European countries, and the employment opportunities (legal or illegal) in the UK. We do not believe that Britain can be described as a soft touch for asylum seekers. However, there are weaknesses in the system that need to be addressed. (Paragraph 77)**

The information cited in the Report underlines the intricacy of the issues surrounding the asylum system.

We are taking a balanced approach, working to disentangle those who are seeking freedom from persecution and therefore deserve refugee status, from those who believe that establishing this status is the best way to start a new life, even though they were not previously threatened.

The combination of measures taken over the past few years has resulted in a number of successes in increasing efficiency and effectiveness of the asylum process:

- monthly asylum applications have fallen by 60% since October 2002
- the numbers of removals of failed asylum seekers and others illegally in the UK have increased year on year to record levels
- 80% of decisions on asylum applications are now made within 2 months – and many are made significantly faster than that
- more robust border controls mean that fewer people have the opportunity to enter the UK undetected
- the average time from asylum claim to removal for cases that have been processed through our pilot Fast Track process is just 42 days

We are committed to investment in long term infrastructure to ensure that the asylum system can run efficiently and swiftly. This should provide medium to longer term benefits, for example:

- expanding our detention capacity for the new removals centre at Heathrow and elsewhere around the UK;
- introducing tougher measures to control our borders, such as the further roll-out of juxtaposed controls in France and Belgium;
- the increased use of detection technology in a number of key ports;
- improved IT systems to support the asylum casework system;
- improved training for caseworkers to improve the quality of initial decision-making; and
- the expansion of the successful Airline Liaison Officers network across the globe.

**1. These UK statistics [cited in paragraph 62] give significant support to the view that “repression and/or discrimination against minorities, ethnic conflict and human rights abuse” are the defining characteristics of the countries of origin cited by asylum seekers. That is clearly true of the majority of asylum seekers in the UK (whether or not their individual cases for asylum are well founded). (Paragraph 65)**

It is important to bear in mind when considering figures on countries of origin that the majority of asylum seekers applying at ports claim not to have



documentation at the time they apply and some may be lying about their country of origin. That is why we have brought forward legislation on tough new measures to prevent document abuse, including new offences and a power to require carriers to photocopy documents of passengers on selected routes.

**69. We support the Government's establishment of a Conflict Prevention Pool. We hope that the Government will pursue the objectives of the Pool at EU level, where commitment to conflict prevention appears to have been hitherto more theoretical than real. We believe that it is a mistake for the Home Office to be excluded from the Pool, and we recommend that they be added. We also recommend that the aims of the Pool be changed to prioritise conflicts likely to produce significant numbers of asylum seekers to the UK. We recommend that the Government should work within the EU to bring a greater external focus to EU policy, and to secure greater use of EU development funds for purpose of conflict prevention. (Paragraph 299)**

The work of the Global Conflict Prevention Pool, set up by the Government in April 2001, is central to dealing both with tyranny and torture and with the causes of poverty in the countries of origin, being aimed at conflict reduction in 15 priority areas. An Africa Conflict Prevention Pool does similar work in relation to Africa. We note the Committee's recommendation about the future remit and scope of the Conflict Prevention Pools which we will discuss with the other departments concerned.

The UK's aid budget – the central purpose of which is poverty reduction – will increase to reach almost £4.6 billion in 2005-06 (from £2.1 billion in 1997-98).

**9. If the Government does not address the problem at both ends, by reducing unfounded applications and by swiftly and humanely removing failed asylum seekers, it is indeed likely that there will be further amnesties. (Paragraph 97)**

**10. Amnesties set up a vicious circle which should be broken by discouragement of unfounded claims, fast and efficient processing of those claims when they are made, and rapid removals when claims have failed. (Paragraph 97)**

The Indefinite Leave to Remain exercise arose out of very specific circumstances and granted indefinite leave to remain to up to 15,000 families who sought asylum, and had children in the UK, before 2 October 2000.

All cases were families, the majority of whom had been in the system since before the end of the 1990s. Additionally, because their claims were lodged before 2 October 2000 they were able to lodge a further appeal against removal on human rights grounds. This avenue was closed in the 1999 Immigration & Asylum Act but would have added further to the costs of removal. Finally, they had school age children who may have spent most of their lives in the UK. We believe that allowing these families to live and work in the UK will enable them to fully contribute to society and save money in support costs and legal aid for highly expensive individual court cases.

However, our new reforms will stop this sort of thing happening in future. Families will in the future no longer be able to claim benefits where they are able to leave the UK. So the circumstances this exercise addressed will not recur. We have speeded up initial-decision making and put additional resources into the system: before we announced this concession the number of claims waiting for a decision was at its lowest for 10 years, and almost 25% lower than it was six months ago.

It is well trodden ground that in the past we have not been good at processing claims quickly or removing people. We are now processing three quarters of new claims in under two months, the number of claims waiting for a decision is the lowest for a decade and we are removing record numbers – up nearly 30% in the last year alone. And additional measures of withdrawing support will offer no incentive to families to stay in the future.

## **The Asylum Process**

**11. We welcome the various specific measures the Government has recently taken to improve border security. These will have contributed to the fall in asylum applications during 2003. We particularly welcome the enhanced co-operation between the British and French Governments, which has led to significant progress in tackling the problem of illegal entry through the Channel ports. (Paragraph 107)**

**12. However, we consider that there has been undue delay in resolving the issues surrounding the creation of a unified frontier force, as recommended by our predecessor Committee in 2001. It is now time for the Government to resolve disagreements between agencies on this proposal and take action to promote their greater integration. (Paragraph 108)**

The Government thanks the Committee for its endorsement of our border security measures.

We have been looking at this issue in the wider context of organised crime, and will address this point when we publish shortly a White Paper on organised crime.

**15. We believe that fast-track processes are justified in principle. (Paragraph 136)**

**16. We support the decision to pilot the fast tracking of incoming airline passengers at Harmondsworth. However, it is important that claimants subject to fast-tracking procedures should be treated humanely and receive a fair hearing, with safeguards to ensure that any genuine refugees who have been sifted in error have their rights protected. We hope that HM Chief Inspector of Prisons will continue to monitor conditions at Oakington and Harmondsworth, as well as at other asylum detention centres, and we expect the Home Office to take action where necessary in response to her findings. We are not satisfied that the Government has done enough to ensure that adequate legal advice is available to asylum seekers and repeat the recommendation in our previous report (see paragraph 130 above) that steps should be taken to remedy this. (Paragraph 136)**

We are pleased that the Committee believes fast-track processes are justified in principle. We consider they are a vital element in our overall strategy of deterring unfounded claims and radically reforming the asylum system.

The Oakington and Harmondsworth processes have proved successful. We have already expanded the Harmondsworth process to 120 beds and will be increasing that further to 160-180 beds from April 2004. Work is in hand to explore how we might further expand and apply fast track procedures.

Claimants subject to fast track procedures are treated humanely and the processes offer them a very full and fair opportunity to make out their claims. All claimants at Oakington and Harmondsworth have access to a legal representative. At Oakington this is through the on-site legal representatives from the Immigration Advisory Service and Refugee Legal Centre. At Harmondsworth this is via the Legal Services Commission administered duty solicitor scheme.

The Oakington and Harmondsworth processes do have 'safety' mechanisms to ensure that, where new or additional information comes to light which suggests that the claimant is not suitable for fast tracking, they are transferred to the 'mainstream' process. At Harmondsworth, where the appeal is also fast tracked, there is the additional safeguard in that an Adjudicator has the power to remove a claimant from the jurisdiction of the Fast Track Appeals Procedure Rules. Their case would then fall to be considered in the normal way.

HM Chief Inspector of Prisons will indeed continue to monitor conditions at all immigration removal centres. The function and responsibility of HMCIP was extended to include immigration removal centres by Section 152 of the Immigration and Asylum Act 1999. Prior to this, HMCIP had inspected Tinsley House in 1997 by invitation of the then Home Secretary.

During 2002, HMCIP inspected seven immigration removal centres. Reports of these inspections were published during 2003 and action plans agreed in response to these reports. HMCIP has announced the inspection programme for the next twelve months. This programme includes inspections of Dover, Oakington and Tinsley House Immigration Removal Centres. HMCIP will visit Yarl's Wood IRC in February 2005.

It remains the case that every detainee is provided with information at the time of detention and within individual removal centres on how to contact the Immigration Advisory Service (IAS) and the Refugee Legal Centre (RLC) for free advice and assistance. In addition, information on local solicitors and other bodies providing advice and representation is available in the individual centres. The Legal Services Commission is continuing to consider the letting of dedicated contracts to solicitors in areas in which removal centres are located.

**17. We commend the Government for its introduction of a comprehensive induction process for asylum seekers. (Paragraph 137)**

**19. We strongly endorse the Government's induction centre strategy. (Paragraph 137)**

We welcome the Committee's commendation of the induction process and endorsement of the Government's Induction Centre strategy.

Induction processes are designed to improve on existing arrangements and be the first stage in a more integrated approach to asylum, contributing to a more managed process. Dover Induction Centre which was established in January 2002 has proved a successful pilot and 'proof of concept' of Induction Centres. The lessons learnt and best practice established at this Induction Centre informs the establishment of a national network of Induction Centres across the UK. The first regional Induction Centre was established in Yorkshire and Humberside in June 2003.

**23. We recommend that the Government should move as quickly as possible towards a situation in which all asylum seekers are processed either through an induction centre, accommodation centre or a fast-tracking facility. The investment necessary to expand the IND estate must be made available as a matter of priority. (Paragraph 141)**

It is expected that a national network of Induction Centres will be established during 2004. When the national network of Induction Centres has been established it is expected that all asylum applicants will be processed through an Induction Centre or a fast tracking facility with the exception of those under Social Services care, for whom induction services will be tailored and delivered

differently. Induction Centres are not an alternative to Accommodation Centres. Asylum applicants might go to an Accommodation Centre after leaving an Induction Centre. Working in partnership with Local Authorities requires equal respect for their timescales and political priorities. For that reason we have not been able to establish a national network of Induction Centres as quickly as we would have liked.

The planning process for Accommodation Centres adds considerable time to the programme, but we are nevertheless committed to abiding by it.

The Government is committed to making the necessary investment to establish a network of induction, accommodation, reporting and removal centres, whilst ensuring that this streamlined system provides value for money.

**18. We support the establishment of dedicated induction centres. (Paragraph 137)**

The Government welcomes the Committee's support. Induction Centres bring about obvious benefits in helping us to process asylum applications quickly and efficiently and allowing us to tell asylum seekers what is expected of them and give them health screening. It should be noted that Induction Centre accommodation includes living accommodation and facilities for briefing and induction processes. The living accommodation may be separate from the facilities where briefings and support applications take place. The buildings may be spread over a number of different sites.

**20. We also support the Government's plans to introduce accommodation centres. Such centres, if properly resourced, will operate as 'one-stop shops' to the benefit of asylum seekers, providing board, education, health, interpretation and purposeful activity on one site. They will enable applications to be processed more efficiently and lift some of the burden of asylum support from local authorities. (Paragraph 138)**

We welcome the Committee's support for accommodation centres and its finding that they will benefit asylum seekers by providing them with a range of on-site services tailored to their needs. The centres will also provide the basis for keeping in closer contact with applicants, fairly and speedily processing their applications and, where necessary, enforcing the removal of unsuccessful applicants from the UK. Accommodation centres will contribute towards a more efficient process, and help to alleviate pressures on local services.

**21. Given the delays in opening accommodation centres, and the fall in asylum applications, the Government in its response to this report should clarify how many accommodation centres it intends to establish, with what capacity, on what timetable and at what cost. (Paragraph 139)**

The reforms set out in the White Paper and introduced by the Nationality Immigration and Asylum Act 2002 contained immediate measures (such as the introduction of non-suspensive appeals, strengthened border controls and new visa regimes) which contributed towards reducing the monthly rate of asylum applications by half by September 2003. However this does not negate the need for other measures, such as the introduction of induction and accommodation centres and the expansion of the reporting and removal centre estate. The package must be seen as a whole, and its intention is not solely to reduce the number of applications but, crucially, to establish a more robust and well-managed system. Even though an impressive reduction in asylum applications

has been achieved, the underlying need for a better managed system remains. The trial of accommodation centres is an essential element of our programme of reforms, irrespective of the welcome downturn in the number of asylum applications.

There is an urgent need to get the trial up and running as quickly as possible and, although the planning process adds considerable time to the programme, we are nevertheless committed to abiding by it. Our plans for accommodation centres in Bicester, Oxfordshire, and at RAF Newton in Nottinghamshire remain an integral component of our policy.

Following the Deputy Prime Minister's grant of planning approval for the Bicester proposal in August 2003, the process of appointing a contractor to design, build and operate the centre is underway. A decision on planning approval in respect of the proposed centre at RAF Newton is awaited.

The centres at Bicester and Newton would each accommodate 750 asylum seekers as part of the trial's overall capacity of up to 3,000 places. It remains the Government's intention that the trial will include at least one centre that is smaller than the 750 bed model, and is located in, or near, an urban area. Discussions are continuing with the Refugee Council with a view to development of the core and cluster model originally proposed by them.

Because the appointment of contractors to design, build and operate accommodation centres is being carried out on a competitive basis, the estimated costs are commercially confidential.

**22. There will be some local sensitivities about the siting of both induction centres and accommodation centres. For induction centres, a flexible approach including the use of dispersed accommodation may reduce these concerns. (Paragraph 140)**

The Government is aware that there might be local sensitivities about the siting of Induction Centres. That is why our preferred method of procurement is working in partnership with Local Authorities and Regional Consortia who are required to show evidence of local consultation as part of any proposal for an Induction Centre. It is up to Local Authorities to identify appropriate sites for induction accommodation and processes. The size and model of this accommodation will differ from region to region according to what is proposed by Local Authorities. This will help ensure that the Induction Centre accommodation which is delivered will be acceptable locally.

Where Accommodation Centres are proposed, consultation with the public, local service providers and agencies takes place as an integral part of the planning process, using mechanisms agreed with the local planning authorities. We keep local communities informed by way of a series of different communication channels. These include leaflet drops direct to residents in areas near to the proposed sites and individual websites for each proposed centre.

**42. The danger that restoration of the concession to work after six months may act as a 'pull' factor is a real one. We recommend that the ban on working should remain in place while the applications process is being streamlined, to avoid re-creating a work incentive; but that the Government should make a commitment to eventually restoring the concession. In the long run, the inability to work is not advantageous to asylum seekers themselves (who may sometimes be, for example, engineers or doctors whose skills are in demand) or to wider society. (Paragraph 186)**

The Government welcomes the Committee's recognition that permitting asylum applicants to work may act as a pull factor, but we do not share its view that the employment concession should be restored in the future.

We made clear when we announced the abolition of the employment concession in July 2002 that its existence created an incorrect perception that all asylum seekers had permission to work while their cases were being considered. This was a key factor in encouraging large numbers of unfounded asylum applications from people who sought to use the asylum system for economic rather than humanitarian purposes.

We are committed to ensuring that those who claim asylum in the UK do so only on the basis of a fear of persecution or torture and not for economic purposes. We believe that a commitment to restore the employment concession would significantly undermine the integrity of our asylum system, and would also hamper our efforts to promote policies of managed migration.

One of the other main reasons for the removal of the employment concession was that it had become increasingly irrelevant due to the increasing speed with which we were delivering initial decisions to asylum applicants. The vast majority – around 87 percent – of asylum seekers currently receive an initial decision within six months and we are committed, with our programme of increased resources and on-going legislative reforms, to further improving the timeliness of the system for new applicants.

We accept that some asylum seekers may have skills that could benefit the wider community and are keen to see them make a positive use of their time while waiting for their claim for asylum to be assessed. The Government recently conducted a skills audit of asylum seekers and refugees in the UK, the findings of which are currently being analysed. A range of opportunities are available to all asylum seekers regardless of the status of their claim and they are also able to contribute to their communities through undertaking voluntary work.

Opening up new ways for people to come and work here legally is one of the many ways in which the Government is tackling illegal working and abuse of the asylum system.

**48. We welcome the Minister's evident commitment to improving the treatment of children in detention. We repeat our comment in our earlier report:**

**“Under current practice, children should only be detained prior to removal when the planned period of detention is very short or where there are reasonable grounds to suppose that the family is likely to abscond.”**

**We note that the Government has accepted this in principle, and trust that the Minister's package of proposals will be implemented in accordance with this principle. (Paragraph 220)**

Procedures are now in place to ensure ministerial authorisation for family detention beyond 28 days. Weekly submissions review the detention of any child held for more than 28 days and seek authorisation for continued detention in these cases. In addition, a senior IND official has now been appointed to oversee detained family cases. The senior official reviews weekly all cases of children detained beyond 28 days before submission to the Minister for authorisation for continued detention.



Work is continuing at Dungavel to further improve the education and assessment provision that is already in place. School age children who arrive at Dungavel are assessed and every effort is made to contact a child's previous school (if one has been attended) so that an appropriate learning plan can be devised with minimum disruption. There is ongoing liaison with the educational services of Glasgow City Council and South Lanarkshire Council.

We are continuing to consider ways in which the assessment of the welfare needs of a child detained for more than a short period might be improved. However, we remain confident that, within the context of immigration detention, children at removal centres receive a high standard of care in a safe and respectful environment.

**49. We also note the Chief Inspector of Prisons' criticisms of the regime at Harmondsworth. These reinforce some of the comments in our report on asylum removals, for instance in regard to the inadequacy of legal advice for detainees. We expect the Home Office to take these criticisms seriously and look forward to its formal response to the Chief Inspector's report. (Paragraph 221)**

We have now formally responded to the Chief Inspector's Report on Harmondsworth Immigration Removal Centre. The inspection of the centre took place in September 2002 and the report was published at the end of September 2003. Extensive building work commenced at Harmondsworth soon after the inspection team left. We are confident that the building works, once completed, will go some way to addressing a number of the concerns raised by the Chief Inspector.

More generally, the casework of those in detention is given priority and is expedited at all stages, including appeal. Immigration staff at removal centres have systems in place which facilitate communication with detainees. At Harmondsworth, detention reviews are served in person, using Language Line if necessary.

Every detainee is provided with information at the time of detention and within individual removal centres on how to contact the Immigration Advisory Service (IAS) and the Refugee Legal Centre (RLC) for free advice and assistance. In addition, information on local solicitors and other bodies providing advice and representation is available in the individual centres. The Legal Services Commission is continuing to consider the letting of dedicated contracts to solicitors in areas in which removal centres are located.

Whilst we remain unconvinced that there is a need for dedicated welfare officers at removal centres we are considering how we can deal with the issues of welfare support more effectively. To this end we have commissioned research into the extent of the need for welfare support and effective solutions in meeting this need. We are hoping to receive the conclusion of this research in the next few weeks.

We have no plans to provide paid work to detainees. We are, however, considering ways in which we might provide incentives for participation in the wide range of non-work activities that are available in centres.

**52. We repeat our previous recommendation that – subject to proper evaluation and costing – embarkation controls should be reinstated at UK borders, so that credible estimates can be made of the number of failed asylum seekers who remain in the country. We believe that the Government has by now had ample opportunity to carry out such evaluation and costing. The Government should include details of this work in its formal response to our report. (Paragraph 230)**

We have evaluated and costed the option of reinstating embarkation controls at UK ports. A return to a routine embarkation control on a permanent basis would have considerable resource implications in terms of staff, accommodation and administrative back-up. We estimate that the cost of reintroducing embarkation controls and establishing new ones at ports within the Common Travel Area would be in excess of £26 million per year. We do not consider this a cheap option, especially where there is no evidence that this requirement would contribute greatly to the overall effectiveness of the control, but would be likely to cause significant passenger congestion at ports.

We are keeping the option for embarkation controls under review whilst exploring the extent to which new technology could provide us with more efficient ways of checking those leaving the country.

**62. We consider that the current interpretation of the 1951 Convention by the UK courts, to allow non-state persecution as grounds for claiming asylum, is too broad, and exerts an undesirable ‘pull’ factor towards the UK by contrast with Germany and France. We support the need for European harmonisation in this area, but regret that the EU draft Qualifications Directive proposes harmonisation around the broader rather than narrower interpretation of the Convention. We appreciate the difficulty of re-opening negotiations on this issue, although we would support attempts to do so. Nonetheless, we believe that harmonisation on the proposed basis would be better than no harmonisation at all. (Paragraph 269)**

**8. We comment later in this report on the need for the UK Government to work with its EU partners to ensure that there is greater consistency across Europe in the treatment of asylum seekers. (Paragraph 78)**

**63. We believe that there is an urgent need to gather objective evidence on the extent to which EU countries vary in their approach to asylum. We recommend that the UK Government should take steps to secure the agreement of its EU partners to the establishment of a body with appropriate powers and expertise at EU level to monitor and report regularly on the practical operation (rather than the theory of operation) of the asylum system in each EU member state. (Paragraph 271)**

**71. We believe that Mrs Hughes’s scheme is premised upon a degree of pan-European harmonisation in the field of asylum which is not likely to be achieved for many years. In the short to medium term, we consider that a more realistically achievable option for the British Government to pursue would be the establishment of a central European body to monitor and report on the practical implementation of individual member states’ policies, as we recommend in paragraph 271 above. (Paragraph 321)**

Only one Member State is now pressing for a narrower definition of the Refugee Convention in the draft Qualifications Directive. The Government continues to support the majority view and believes that the present definition will decrease the difficulty in returning asylum seekers to the EU Member State responsible for assessing the claim, as well as reducing the relative ‘pull factor’ to claim in the UK.

The Directive must be seen within the context of the broader development of a Common European Asylum System (CEAS) which is intended to create a more level playing field. The UK has been an active partner in on-going negotiations to ensure that the CEAS will enable Member States to deal effectively with asylum issues while retaining sufficient flexibility to deal with domestic concerns. So far, we have opted in to all EU asylum initiatives and played a major role in



shaping the Eurodac and Dublin II Regulations which enable us to identify and return asylum applicants who are the responsibility of another Member State. Negotiating a common approach with other Member States has had the additional benefit of encouraging the adoption of a more global view and approach to refugee protection.

The establishment of a body to monitor the practical operation of asylum systems is in line with the UK view that EU asylum policy should focus on practical measures to deter secondary movements between Member States rather than on harmonisation of legislation. However there are no plans to establish such a body at present.

**33. We welcome the recent fall in applications. There is no doubt that this is due at least in part to the range of measures the Government has introduced over the past 18 months to deter unfounded applications for asylum. It is clear that as the border control and asylum application system is tightened, as incentives to claim asylum in-country are reduced, and as action is taken against people trafficking, the number of applications is being reduced. The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill, currently before Parliament, will have the effect of reducing applications further. It is possible that a future fall in applications may reflect at least in part the increasing difficulty of simply making a claim, whether well founded or spurious. There also remains scope for doubt as to the extent to which the fall may be offset by an increase in the number of people illegally present and undeclared within the UK. (Paragraph 156)**

**34. The recent fall in applications has not been accompanied by a rise in the success rate at the stage of initial decisions. In fact, the success rate has actually fallen. In the case of those granted refugee status, the fall has been a slight one: from 10% in 2002, to 7% in the first and second quarters of 2003, to 5% in the third quarter. In the case of those granted leave to remain on humanitarian grounds the fall has been steep: from 24% in 2002, to 19% in the first quarter of 2003, and then – after the introduction of the two new categories of humanitarian protection or discretionary leave – to 7% in the second and third quarters of 2003. (Paragraph 158)**

**35. The measures in the Asylum and Immigration (Treatment of Claimants, etc.) Bill currently before Parliament, if enacted, are likely to make it even more difficult to make an asylum claim in the UK. (Paragraph 159)**

**36. As it becomes increasingly difficult to get into the UK to make an asylum claim, it must be the case that many people who would have a well-founded case for asylum will be unable to make a claim. In addition, the dependence on people traffickers means that asylum is overwhelmingly an option only available to young men from relatively financially supportive backgrounds. They are not necessarily representative of the refugee population that would potentially be able to claim asylum in the UK. (Paragraph 160)**

**37. This is an inescapable consequence of the border-control and other measures which the Government have taken in order to crack down on abuse. We do not criticise the Government for taking such measures, but we do believe that their full implications for potential genuine asylum seekers must be recognised. The Government should acknowledge that, as genuine claims become harder to make, more needs to be done to fulfil the UK's humanitarian obligations to the world's refugees by alternative means. There is a moral obligation on the Government to provide alternative legitimate routes by which refugees can gain access to this country, to assist refugees closer to their country of origin, and to tackle the roots of enforced migration. (Paragraph 161)**

We have a progressive policy of welcoming migrants where that helps our economy and offering opportunities to people from less developed countries. We are committed to finding better ways of integrating refugees in the UK and helping refugees worldwide. However, we cannot expect to make the case for managed legal migration and providing more help for refugees unless we deal effectively with the misuse of the asylum system and return it to the purpose for which it was intended – the protection of people fleeing persecution. The Bill will provide a quicker and more robust system that protects those in genuine need but deters and prevents behaviour designed to frustrate our processes. The correlation between the fall in monthly asylum intake and the introduction of new measures, such as changes to the rules on support, reinforces our belief that many claims are speculative or unfounded. We are getting tougher on traffickers and others seeking to play the asylum system to ensure that the public has confidence in our immigration controls. In turn this will ensure that genuine refugees and legal migrants continue to be welcomed and valued for the important contribution they make to life in the UK.

The Government's Gateway Resettlement Programme offers a legal route for genuinely deserving cases, which will help to ensure that we are offering protection to those who need it. The vast majority of refugees are unable to pay traffickers and remain in their area of origin, often in very difficult circumstances. The UK has agreed to accept up to 500 refugees a year on this programme. We are additionally pursuing positive discussions to strengthen protection in key refugee-producing regions where the vast majority of the world's refugees are based. This is part of a balanced immigration strategy – tackling abuse of the asylum system by people not in need of protection; open managed migration routes; and better integration of those with the right to settle here.

**64. We strongly support the Government's initiative in exploring ways of assisting the regions in the world most directly affected by refugee flows. The Government is also right to seek to enlist the support of EU partners in doing this. European states have a humanitarian duty to provide assistance and protection not only to the comparatively small number of refugees who succeed in travelling to Europe, but also to the much greater numbers who remain close to their countries of origin. This is desirable not only on humanitarian grounds but because the restrictive measures being imposed at domestic and EU level are significantly reducing the chances of genuine refugees being able to come to Europe to make an asylum claim. (Paragraph 283)**

**65. At present the Government's proposals [for regional protection zones] lack clarity. The Home Office should issue a clear statement of what "regional protection" is intended to achieve, and set out a detailed strategy for achieving it. (Paragraph 285)**

**66. We support measures to enhance assistance to refugees overseas, but believe this must be done in liaison and co-operation with UNHCR. It is essential that the existence of a protection zone does not become a reason for a refusal of an asylum application received in the UK. (Paragraph 286)**

We are seeking instead to develop 'migration partnerships' with individual countries in the region of origin. Such partnerships aim to reduce the pressure on other asylum systems and will facilitate UK assistance with refugee caseloads in the associated countries. We believe our approach in this area is consistent with the High Commissioner's 'Convention Plus' initiative.

**67. We have argued above that if the effect of the British Government's policy is to make it more difficult for genuine refugees to gain access to the UK to claim asylum, then it is essential for the Government to be pro-active in seeking to assist refugees in or near to their countries of origin, as well as to develop a clearer policy for assisting refugees through UNHCR. We believe that this argument holds good on an EU-wide scale as well, and recommend that the Government should seek the implementation of concerted, pan-European policies of active assistance to refugees in or near the countries of origin and co-operation with UNHCR in accepting quotas of refugees. (Paragraph 287)**

The UK has been involved in discussions within the EU on more orderly and managed entry to the EU of persons in need of international protection, including consideration of an EU-wide resettlement programme. The subject was recently discussed at the Immigration and Asylum Committee in Brussels, and the EC are currently drafting a communication on this subject, which will be available in June.

**68. We support the UK's participation in the UNHCR's quota refugee resettlement programme. This will enable the granting of refugee status to be made to those who are adjudged by UNHCR to be most in need and who are likeliest to benefit from relocation to a new life in the UK. The scheme offers an opportunity for asylum seekers to gain refuge in the UK without having to place themselves in the hands of criminal gangs. At present it operates only in West and Central Africa, but we recommend that in future years the scheme should be expanded to cover other parts of the world with acute refugee problems. If the level of asylum applications to the UK continues to diminish in response to the Government's restrictive measures, we believe that this opens up an opportunity progressively to increase the annual resettlement quotas. We recommend that the Government should make a commitment that if the number of successful asylum applications made in the UK declines, Ministers should increase the resettlement quotas each year by a proportionate amount. (Paragraph 291)**

We began our resettlement programme in West Africa on the advice of UNHCR. We had always envisaged that the programme would expand into other parts of the world. We will continue to be guided by the advice of UNHCR as to the refugee populations most in need of resettlement. If the resettlement programme is successful, there would certainly be a possibility to raise the quota. However, it should be noted that no European country has a quota higher than 1000. We don't believe that a strict ratio between asylum applications and resettlement places would allow the flexibility the asylum system needs to respond to the fluxes in refugee movements and changing political situations across the world.

## **Quality of Decision Making**

**24. We support the extension of the language analysis scheme as part of the asylum screening process and believe that this should be developed as quickly as possible. (Paragraph 142)**

We welcome the Committee's support for the scheme. Language analysis has the dual benefit of detecting those who are falsely claiming to be a nationality in order to gain refugee status, humanitarian or discretionary leave but also to assist the caseworker by substantiating that an applicant is the claimed nationality.

The specific focus for the current pilot being undertaken in Asylum Support Units is those applicants claiming to be Somali nationals. This is a strategic target based on information obtained during the previous pilots that this is the most

abused claimed nationality and also due to the high number of applications for asylum made by those claiming Somali nationality.

A further recommendation of the initial pilots was the completion of a feasibility and scoping study into how the use of language analysis can be extended within UKIS. This study will consider the following areas:

- the feasibility of extending language analysis outside Croydon
- how those applicants who are refused asylum due to language analysis can link into the removals process
- costs against benefits
- to explore the potential of establishing a Language Bureau within the United Kingdom

A business case has been submitted for authority for a consultant to assist and ensure that the study is completed as soon as possible.

**25. Notwithstanding these positive initiatives, there are still grounds for concern about the poor quality of much initial decision-making by immigration officers and caseworkers. (Paragraph 143)**

**26. The pressure to speed up the process and increase through-put may have led to an erosion in the quality of some initial decision-making. (Paragraph 143)**

We welcome the Committee's acknowledgement of the progress recently made to improve the asylum decision making process. The Government is committed to delivering high quality decisions at all stages of the asylum system. We do not accept that the quality of much initial decision making is poor, but we agree that there is more to do to ensure that the highest standards are consistently achieved. In parallel with the investment made to speed up the asylum system, we have introduced quality assurance systems and made quality a specific element of our asylum PSA target. We will consider carefully how the recommendations in this report can strengthen the range of further quality improvements we are putting in place.

**27. We support the calls for greater 'front loading' of the applications system, that is, putting greater resources into achieving fair and sustainable decisions at an early stage. It is essential that better provision is made of good quality legal advice and interpretation services at the initial stage will not only serve the interests of justice, but also eliminate much of the need for initial decisions to be reconsidered through the appeals process. We also recommend that the Home Office should seek to recruit a greater number of interpreters or caseworkers with specialist knowledge of asylum seekers' claimed countries of origin, to enable more informed decisions to be taken at the initial stage. Claimants whose applications have been accepted as genuine may, after suitable screening, be suitable candidates for these posts. (Paragraph 144)**

The Government shares the Committee's view that it is essential to provide asylum seekers with comprehensive information about the asylum process and their roles and responsibilities within it at the earliest opportunity. That, of course, is one of the key objectives of the introduction of Induction Centres. They will enable asylum seekers to be fully briefed on the process and the need for them to set out the full facts of their claim when interviewed.

The Government agrees that where legal advice is provided at the initial decision stage it should be of good quality so as to assist the full facts of the case to be established at the earliest opportunity. In April the Legal Services Commission

is introducing a number of measures to ensure that publicly funded legal advice is to that standard. Accreditation of publicly funded legal advisers is being introduced from April 2004, to become mandatory by 1 April 2005. The accreditation scheme will ensure that publicly funded clients will have access to high quality legal advice. Those suppliers that fail to meet the quality standards, or are found to be abusing the scheme, will be excluded from publicly funded work. This builds on work the LSC has already undertaken to exclude firms that provide poor quality advice, and to recover costs where over-claiming is identified on audit.

These measures should encourage timely, good quality advice to be given.

The Government does not exclude the possibility that refugees or others with specialist knowledge of countries of origin might be suitable candidates for appointment as interpreters or caseworkers, subject to the need for suitable screening as the Committee acknowledges. However, it is clearly not the case that mere possession of such specialist knowledge of countries of origin is sufficient to be an effective asylum caseworker or interpreter. The skills required go much wider than knowledge of the country of origin and country conditions are constantly changing, so any knowledge that the individual brought to the post could rapidly become out of date. There is no one segment of our society which particularly equips a suitably qualified individual with the skills needed for asylum casework and we are pleased to draw our caseworkers from as diverse a background as possible. What is important is that all caseworkers are fully trained and have accurate, objective and up to date country information. It is then essential that, having been properly equipped, they go on to decide each claim individually on its merits.

**28. The overall calibre and training of the immigration officers and caseworkers who take the initial decisions also needs to be reviewed. (Paragraph 145)**

We are currently undertaking a review of the length, content and delivery of initial training for asylum caseworkers. The review encompasses both interview skills training and decision-making. We are also working up a programme of basic refresher training for more experienced caseworkers, supplemented as necessary to meet new or individual requirements. One of the most important aspects of the current initiatives to improve the training of caseworkers is a commitment to strengthen external input to initial and refresher training. For example, we are giving caseworkers access to the skills and experience of other key asylum stakeholders such as the United Nations High Commissioner for Refugees (UNHCR) and the Medical Foundation who care for the victims of torture. We are providing opportunities for caseworkers to attend appeal hearings to see the use of their decision letters at appeal and exploring the possibility of external accreditation of initial and refresher training programmes.

We are also looking in depth at our procedures for recruiting and retaining caseworkers with the necessary skills to carry out the demanding task of deciding asylum applications.

**29. We recommend that the Government should publish details of the Treasury Solicitors' assessment of the quality of IND decision-making on asylum applications. We further recommend that the Home Office should commission an independent review of the quality of that decision-making, and publish its results. We also recommend that the Public Service Agreement targets for future years should be more challenging. A reduction in the current relatively high proportion of successful appeals should be formally included as part of the target. The system of decision-making should be subject to constant assessment and review. (Paragraph 146)**

The Government is committed to publishing the results of both the internal and Treasury Solicitors' assessment of the quality of IND decision-making on asylum applications at the end of each year.

The Government does not accept the need for an independent review of the quality of decision making. Quality must be objectively assessed. That is the purpose of the quality systems we have in place and which we are strengthening in a number of ways, in particular in our discussions with UNHCR about how they might work with us to provide an additional external assessment of the quality of initial decisions. Those systems also provide for the constant assessment and review which the Committee recommends and which the Government fully accepts.

The Government will review the quality targets for future years in order to ensure that they remain both realistic and challenging. The Government agrees that there should continue to be a target for the proportion of successful appeals, but does not accept that such a target provides a direct or reliable measure of initial decision quality. The quality of initial decisions is, of course, an important factor in the outcome at appeal, but it is by no means the only one. The outcome at appeal is the product of a range of factors. The passage of time between the decision and the appeal may mean that individual circumstances, country conditions or evolving case law may have changed and so should the outcome. Where the process is faster as in Harmondsworth there is a considerably lower proportion, around 2%, of successful appeals. The outcome may also be affected by whether and how effectively the parties, including the Home Office, are represented at appeals – particularly where the issues are complex. Finally, Adjudicator decisions are at times overturned on appeal. For all these reasons we do not consider the headline figure for allowed appeals to be a reliable quality indicator.

**30. The aim with regard to initial decisions should be, as elsewhere in the system, to combine efficiency with fairness. This means holding early interviews, but in circumstances where their fairness cannot be challenged, i.e. conducted in the presence of interpreters, with legal advice, medical reports and accurate country information available at the right stage in the process, thereby minimising grounds for appeal. (Paragraph 147)**

We now have a system where the number of cases awaiting an initial decision is the lowest it has been for a decade and where around 80% of new substantive applicants receive their decisions within two months of making their claim. The Government believes that such an environment is conducive to good quality initial decision-making. We want fair and fast decisions that identify genuine asylum seekers accurately and integrate them quickly into communities. Within that process, we want asylum seekers to have access to good quality information about the asylum process and their roles and responsibilities within it. Asylum caseworkers also need accurate and objective country information and, where appropriate, reliable and unbiased supporting information from legal representatives and other professionals involved in the process.

The Government does not consider that the attendance of legal advisers (often unqualified clerks or agents) at the substantive interview adds any value to the process and does not provide sufficient value for money to warrant its continuance in any but exceptional cases. Advisers play a limited role at interview, and there is very little evidence that their attendance rarely makes a difference. We have said that attendance will in future be funded on an exceptional basis, primarily in cases involving minors, clients suffering from



mental incapacity and clients in a fast track procedure. In these cases a qualified solicitor or other accredited legal adviser could provide support to applicants who may have difficulties with the interview process.

The Government shares the Committee's view that it is desirable for an asylum seeker to receive an early interview. We also recognise the importance of the role of the interpreter at the asylum interview. That is why we are considering the introduction of an assessment of the quality of the interpreter, as part of the assessment of the quality of an asylum interview as whole.

**31. Finally, it is essential that the system of processing asylum applications should be properly resourced. (Paragraph 148)**

The Government agrees that the system of processing asylum applications should be properly resourced. There has been a substantial investment in that system in recent years with the result that the number of applications awaiting an initial decision has been reduced to the lowest level for a decade, decisions are being taken much more quickly and quality assurance systems have been put in place. The Government is committed to providing the resources necessary to sustain those improvements taking account of the likely level of new asylum applications, continued investment in the quality of initial decisions and further process improvements.

**13. It is clear that the decision-making capacity of the asylum system was badly affected by the failure in the late 1990s to introduce an operational computer system. This was a classic case of botched IT procurement, made worse by the failure of Home Office contingency planning. (Paragraph 134)**

**14. Since then much effort has been put into, in the Minister's words, restoring "order and management and rationality" to the system, and it is right that the progress made towards this end should be acknowledged – even though much remains to do. (Paragraph 135)**

**32. A failure to fund the system adequately during the period of the computer crisis undoubtedly exacerbated that situation. It is profoundly unsatisfactory that a key service has to operate without a defined budget. While this remains the case, it is difficult to have any confidence that the necessary 'front-loading' of the applications system will take place. We strongly urge the Treasury and the Home Office to reach agreement on the extra investment needed in the asylum system in good time for the next spending round, and for that investment to be keyed significantly to the 'front-loading' of the system. (Paragraph 149)**

The Government notes the committee's comments on the IT failure of the late 1990's and welcomes their acknowledgement of progress made since then to recover the position. IND's budget for 2004–05 has been settled, and the requirements for later years (including for IT) are being addressed in the 2004 Spending Review.

## **Support and Citizenship**

**39. We believe that Mr Jeffrey [Director General of IND] is right to regard an improvement in the performance of NASS as a very high priority. We are disappointed that the Government has not published the full text of the**

**independent review of NASS. Nonetheless, the summary which has been published makes clear that many of its findings are highly critical. This reinforces the great weight of evidence we have received from our witnesses, to the effect that NASS is under-resourced, has too few trained staff, and insufficient local knowledge. Members of Parliament in their constituency work know at first hand the innumerable difficulties that dealing with NASS entail. (Paragraph 179)**

IND is undertaking a major programme of reform, led by the Director-General, Bill Jeffrey, based on the recommendations of the independent review of NASS. This has already resulted in significant progress being made in key areas of the business, but we are not complacent and accept that there is still much to do. Two new senior civil service posts within NASS have now been filled, and management training has been delivered to 150 managers throughout the organisation to ensure that NASS is equipped to meet the challenges that lie ahead.

**40. We support the policy of ‘regionalising’ NASS. Building bridges with local communities, to reduce hostility to asylum seekers and enhance social cohesion, is an essential part of the way forward. This should involve better mechanisms for joint working with local, health and education authorities. Recruitment and retention of sufficient trained personnel is equally important, as is the investment of resources to enable an efficient telephone answering service. (Paragraph 180)**

Stage 1 of the regionalisation process is now complete and has seen the creation of 12 new regional offices. Responsibility for housing management, outreach and investigation work has been successfully transferred to the regions and NASS is now considering plans for the further devolution of operational functions. In addition to this, projects involving NASS, local authorities, voluntary organisations and other stakeholders have been established in each region to address specific local concerns and promote inter-agency working.

Significant improvements have also been made to the performance of IND’s Telephone Enquiry Bureau (INEB). As part of that, the average time it takes to get through to INEB’s cash support helpline has fallen in the past eight months from over three and a half minutes to under one minute.

**41. We recognise that the Government is in the early stages of implementing the recommendations of the independent review. In order that we can subject to proper scrutiny the Government’s progress in tackling the problems of NASS, we recommend (a) that the full text, including recommendations, of the independent review should be published; and (b) that the Director-General of IND should submit to us by the end of 2004 a progress report on the work of his steering group on NASS reform, with a view to our taking further oral evidence on this subject from him in early 2005. (Paragraph 181)**

In July 2003, the Home Office Minister for Citizenship and Immigration, Beverley Hughes, published the key findings of the report of the independent review of NASS and, in a statement on 9th February 2004, updated Parliament on the progress made by NASS in implementing the review’s recommendations. The decision not to publish the full report was taken because the review was commissioned as advice to Ministers. However, as the process of implementing the review’s recommendations progresses, the importance of maintaining the confidentiality of the initial advice diminishes. Therefore given both the level of public interest in the review and the Committee’s recommendation, Ministers have decided that the time is now right to publish the report.



The Director-General of IND, Bill Jeffrey, would be happy to report to the Home Affairs Committee on the progress that has been made by NASS as a result of the reforms that he is leading.

**43. The implementation of Section 55 raises difficult issues. On the one hand, we agree with the Government that it is reasonable to expect genuine refugees to claim asylum at an early stage during their stay in this country. There is no doubt that many ‘in-country’ applicants in the past have abused the system: for instance, only claiming asylum when they have been detected as illegally working. On the other hand, we are disturbed by the claims by some of our witnesses, and in the press, that asylum seekers from whom benefit has been withdrawn under Section 55 are suffering real distress, and that in some cases the powers under the section are being invoked against people whose asylum claim has been made relatively soon after their arrival in the UK. We are also worried that, for the reasons set out in evidence to us, the operation of Section 55 may be having a counter-productive effect on other government asylum policies such as those on dispersal and on tracking of asylum seekers. (Paragraph 196)**

**44. We welcome the Home Secretary’s announcement that 72 hours rather than 24 hours will henceforward be regarded as the period within which new arrivals in the UK will normally be expected to claim asylum. This will certainly help to make the operation of Section 55 more humane. Nonetheless, we remain concerned that cases of unduly harsh treatment will continue to occur, and will continue to lead to challenges in the courts. We recommend that the Government should commission an independent review of the working of Section 55, so that any decision on whether to keep or repeal the provision can be based on more than merely anecdotal evidence. (Paragraph 199)**

**45. Greater efforts should be made to draw to the attention of potential asylum seekers, on or before their arrival at ports, the provisions of Section 55 and the consequent need for them to make any asylum claim without delay. This should be done through posters prominently displayed. (Paragraph 201)**

The Government does not consider that an independent review of the working of Section 55 of the Nationality, Immigration and Asylum Act 2002, is necessary or desirable. The operation and impact of Section 55 has been closely monitored since implementation on 8 January 2003. As part of these arrangements NASS maintains an open dialogue with the voluntary sector agencies, local government and other stakeholders. The Government has reviewed Section 55 in the light of experience of its operation, the changing pattern of asylum applications since implementation and concerns raised about the impact of the policy. As a result, the Home Secretary announced that from 17 December 2003 those who can give a credible account that their asylum claim was made within three days of arrival in the United Kingdom will normally be accepted as having applied as soon as reasonably practicable.

From 24 November 2003, the Government has also introduced a reconsideration process that consistently delivers decisions in 80%-90% of cases within 24 hours. Applicants who have arguable cases, but where a decision on the request for reconsideration cannot be made on that day, are placed in emergency accommodation overnight. This process provides the appropriate avenue for prompt review of initial refusal decisions following a change of circumstances.

There are, in addition, the statutory safeguards to protect the vulnerable. Families are exempt from section 55, and support will be provided if it is necessary to avoid a breach of Article 3 of the European Convention on Human Rights, even if the asylum claim was made late.

The Government believes that these arrangements for monitoring and reviewing the operation of Section 55 and working with stakeholders, together with the statutory safeguards and the adjustments to Section 55 processes provide a balanced but firm policy that discourages economic migration, whilst continuing to offer refuge to those seeking asylum, and providing support for those who qualify or who are vulnerable.

Following the introduction of section 55, posters were displayed at all ports of entry. Each poster consists of two parts and contains the core message below in a number of languages.

*“If you intend to claim asylum, you must do so as soon as you can on arrival in the UK. This means at the port of entry. From 8th January 2003, it will be against the law to provide support to asylum seekers who delay their claim without good reason. The new law affects most asylum seekers without dependent children”*

Each poster is A2 in size. The original languages displayed on each poster were: Somali, Kurdish Sorani, Arabic, Albanian, Farsi, French, Turkish, Lingala, Russian, Urdu, and Swahili. Additional smaller posters have also been produced in South American Spanish, Mandarin, Cantonese and Brazilian Portuguese and have been displayed next to or attached to the original. The languages were chosen to reflect those most often spoken by asylum seekers.

The posters are displayed in prominent locations to ensure that all potential asylum claimants have the opportunity to read them. Terminal 2 at Heathrow Airport, for example, has four sets of posters displayed. Of the four sets of posters, one set is displayed on each of the two ramps down from the piers to the arrivals hall. The ramps are the only two entrances to the arrivals hall and it is not possible to pass into the arrivals hall at Terminal 2 without passing the posters. A third set is displayed in the holding room, and is available only to Immigration Service detainees and the fourth set is displayed in the interview suite, visible to all those undergoing further examination and their sponsors/solicitors etc.

In addition to the posters the warnings are repeated on A5 leaflets, which are displayed with other official Immigration Service leaflets. At Heathrow's Terminal 2 they are located after immigration control but before customs. These leaflets are available and visible to all passengers and are able to be picked up by any passenger. These leaflets again are written in various languages.

**46. We note the Government's response but do not consider that this is adequate to tackle the problem. We think it likely that significant numbers of failed asylum seekers who are unable to return to their countries are not receiving Section 4 support. That support itself is much more limited than normal NASS support. We suspect that the consequence is that a major burden is being placed on charities and voluntary organisations. We recommend that the review into the operation of Section 55 which we have called for in paragraph 199 above should also investigate the position of welfare support for failed asylum seekers who are unable to return home or be removed. The review should address in particular the numbers involved, the adequacy of existing support, the extent to which the voluntary section is involved in providing support, and the feasibility and desirability of providing such people with either full NASS support or the right to work. (Paragraph 207)**

The Government does not believe it is necessary to review the provision of support for failed asylum seekers who are unable to return home or be removed. We have already made it clear that those failed asylum seekers who are destitute

and unable to leave the country immediately through no fault of their own can seek the provision of accommodation under section 4 of the Immigration and Asylum Act 1999.

Of necessity, the criteria for accessing section 4 support are tight since the provision of accommodation is restricted to those who cannot rather than will not leave. Iraqi Kurds are currently the only group of failed asylum seekers who would qualify for section 4 support on the basis of there being no viable route of return to their own country. The UK is the first country to reach agreement with Coalition Provisional Authority in Iraq to begin returning failed asylum seekers from April, including both voluntary and enforced returns. In line with our section 4 policy for other nationalities, Iraqis will no longer be routinely eligible for section 4 support unless they are co-operating with voluntary returns. In the case of Zimbabwe, it is possible to make voluntary departures and nationals of this country which would not fall within the policy solely on the basis that the Immigration Service does not enforce returns to those countries. To avoid destitution such people can bring themselves within the eligibility criteria for section 4 accommodation by seeking assistance with a voluntary departure under the Voluntary Assisted Return and Reintegration Programme (VARRP) administered by the International Organisation of Migration (IOM).

We are, however, considering ways in which we could better publicise the availability of Section 4 support to those who may be eligible. More readily available information on the existence of Section 4 support may reduce the burdens on voluntary organisations.

The Government does not believe that failed asylum seekers should be provided with full NASS support. These people have had every opportunity to make their case but have been found to have no right to remain in the country. The provision of Section 4 accommodation supports them in the most basic way possible while they make final arrangements to leave. Provision of cash support to failed asylum seekers would thwart the Government's determination to increase the number of failed asylum seekers who leave – providing cash support would act as a disincentive to those who might otherwise leave voluntarily.

The Government maintains its position that it does not believe that it is right to permit failed asylum seekers to work as this would put them in a more favourable position than those awaiting asylum decisions who cannot work.

**47. We recommend that the Government should make appropriate use of the power to grant a strictly temporary right to remain in the UK to those who are genuinely unable, at least for the time being, to return to their countries. (Paragraph 208)**

Where an asylum applicant does not qualify for refugee status they are automatically considered under the Humanitarian Protection (HP) and Discretionary Leave (DL) policies. They will be granted leave if they meet the criteria set out under these policies.

The criteria for HP and DL are strictly defined and leave is only granted where removal is precluded by the ECHR, where an unaccompanied asylum-seeking child does not have adequate reception arrangements available in their own country or where the circumstances of the case are so compelling that it is considered appropriate to grant some form of leave.

Therefore, we already grant limited leave to those whose circumstances engage our obligations under the ECHR and others where special considerations apply.

Where an individual does not qualify for asylum, HP or DL but is unable to leave immediately due to circumstances entirely beyond their control they may be eligible for the provision of accommodation through provisions in section 4 of the Immigration and Asylum Act 1999 (as amended). We think it would be inappropriate to grant even limited leave to this group of failed asylum seekers. To do so would reward those who have made unfounded claims simply because of practical obstacles to removal. It would thus encourage nationals from countries where removal is difficult to claim asylum in the UK.

## **Removal and Voluntary Returns**

### **50. Tackling the problem of removals is a key component of a successful asylum strategy. (Paragraph 229)**

The Government agrees with the Committee's conclusion, and is committed to removing a greater proportion of those whose asylum claims have not been successful and who have exhausted all avenues of appeal. To this end we have increased the number of Immigration Officers working in Removals. We have increased the size of the detention estate and further expansion is planned over the next 12 months, creating an additional 1000 detention spaces by January 2005. We are moving towards a more intelligence led, targeted approach to enforcement activity, based on the National Intelligence Model, in order to optimise our removals productivity. These measures have all contributed to a 23% increase in the number of failed asylum seekers being removed from the United Kingdom in 2003.

### **51. Over the past year there has been a rise in the rate of removals and departures to something like 18,000 a year. This is a significant improvement and we welcome it. However, it remains the case that the rate of removal is still unacceptably low in proportion to the numbers of people eligible to be removed. (Paragraph 229)**

The Government has been fully aware of the need to increase the proportion of failed asylum seekers who can be removed. We have been taking steps to overcome those difficulties that presently prevent us from removing more failed asylum seekers from the main asylum applicant producing countries. The new Asylum & Immigration (Treatment of Claimants, etc) Bill contains measures that will further empower us to tackle these barriers, including penalties for those who destroy their documents or will not co-operate with the authorities to get new travel documents when their claims fail. Whilst speeding up the appeals process will also help facilitate removals. A joint Asylum and Immigration Task Force has been set up to focus efforts on removing routing and documentation barriers that prevent us returning some failed asylum seekers back to their own countries. The aim is to develop a holistic, tailor made response to the particular problems posed by some of the highest-intake countries, identifying appropriate levers to encourage co-operation and developing bilateral agreements on returns and redocumentation. We have reached an accord with India and Sri Lanka to return a monthly quota of failed migrants from April and have made progress with agreeing the redocumentation of some Chinese Nationals.

### **53. We also reaffirm the potential importance of voluntary resettlement, and urge the Government to make greater efforts to draw the Voluntary Assisted Returns Programme to the attention of asylum seekers at all stages of the process. We recommend that the Home Office should work with the**

**International Organisation for Migration to make this service more pro-active – for example, by contacting failed asylum seekers at the time of notification of the failure of their application in order to offer advice and assistance. We also recommend that the Government should consider whether a relatively modest increase in the level of assistance provided, financial and otherwise, might lead to a greater take-up of the scheme and a net saving to public funds arising from a reduction in expenditure on enforced removals. (Paragraph 231)**

The UK is committed to voluntary return as the preferred way for those in the asylum system and rejected asylum seekers to return to their country of origin. We are already working closely with IOM and others in the voluntary sector to ensure voluntary return is as well publicised as possible, and will continue to do so. Since April 2003, information sheets on voluntary return have been issued at the same time as the refusal and other decision papers. In addition, information on the programme can be found in Induction Centres and Removals Centres as well as from the Home Office website. The Refugee Council, Refugee Action and IOM are all involved in the publicity of our voluntary return programmes through outreach work, advice clinics and road shows. Information can also be obtained from their websites.

The Voluntary Assisted Return and Reintegration Programme provides up to £500 worth of reintegration assistance – in kind – for each returnee. The type of assistance includes help arranging initial housing, facilitating access to employment, training opportunities and health services. Reintegration assistance is not so much a key factor in the decision to take voluntary return in the first place, but rather it helps ensure the return is sustainable.

**54. However, we also believe that a more fundamental attempt should be made to integrate asylum decision-making, voluntary departure and compulsory removals. We note that the present system provides little or no support or advice to asylum seekers before they receive their initial or appeal decision. Little is done to prepare them either for a positive or a negative decision. Those whose applications are rejected are left with no support and little advice about the options available to them. (Paragraph 232)**

There are a number of initiatives in operation to provide support and advice to asylum seekers. When a decision is made on an asylum claim each applicant receives a decision leaflets which gives information on: their immigration status; employment and social services; health, social services and education; proof of entitlement and further assistance; welfare support – national asylum support service. For those that are refused asylum outright it also gives advice on returning home. Additionally, NASS funds a group in the voluntary sector to provide support services to destitute asylum seekers. We are also introducing a network of Induction Centres to handle asylum applicants immediately after their application for asylum. In particular, Induction Centres will provide a comprehensive briefing process where applicants are advised about the asylum process, how the NASS support system works and their rights and responsibilities while in the UK.

**55. In most cases it is not possible to know whether removal action will be taken swiftly or even at all. In these circumstances it would not be surprising if many failed asylum seekers simply remain in this country, working illegally if possible, and hoping they may avoid removal. (Paragraph 233)**

**56. As we commented in our recent report on the Asylum and Immigration (Treatment of Claimants, etc.) Bill, “the priority should be to improve the removal system so that it is understood by all parties that a failed claim will lead**

**to swift action to effect a removal". A successful applicant should be given advice and support on becoming a full member of the UK community. This can only be achieved if asylum seekers are prepared for their decision before they receive it, and if the authorities responsible for removals are organised to act once a negative decision has been given. (Paragraph 234)**

**58. We also recommend that they should review urgently the whole system by which failed asylum seekers are advised on their options. (Paragraph 237)**

The Government is committed to focusing removal resources on those asylum seekers whose appeals fail as well as those who choose not to appeal. We are using contact management intelligently and aim to establish reporting regimes that directly support the removal of more failed asylum seekers quickly, as they become removable. IND will also continue to mount operations to counter illegal working, particularly where the potential impact will be high and where the result may lead to the detection and removal of failed asylum seekers who have sought to evade the authorities after becoming removable.

**57. We believe that this option [that of requiring people who are about to receive their asylum appeal decision to attend at a special location in person to receive that decision] should be pursued much more vigorously by Government. On the basis of the evidence we have taken, in this and our previous inquiry, we are far from convinced that every effort is being made to ensure that failed asylum seekers can take an informed decision on the options open to them. Requiring asylum seekers to attend in person to receive their appeal decision, with their dependants, would make it possible for them, if necessary, to be detained immediately with a view to speedy removal. This measure would increase the rate of removals and reduce the likelihood of failed applicants remaining in the UK in a state of destitution. We urge the Government to bring forward new pilots at the earliest possible opportunity. (Paragraph 236)**

The Government agrees that in some circumstances there will be cases where it would be beneficial to serve appeal decisions in person, particularly to support a faster removal process for those with no right to remain. We have been piloting the service of Statutory Review decisions for some applicants at reporting centres across the country. We are looking actively at ways to take advantage of changes in the new Bill that provides for the creation of a single tier appeal system and will look to introduce personal service of these decisions.

## **Illegal Working**

**38. [...] As the system for applications is tightened, we can expect a rise in illegal migration and illegal working, whether by failed asylum seekers or by those who do not make an asylum application. It is important that the Government should devote as much attention to this problem as it has done to the level of asylum applications. (Paragraph 162)**

The Government welcomes the acknowledgement in paragraphs 11 and 33 that the range of measures it has taken to tighten border security has contributed to the significant fall in asylum applications. We are committed to countering all forms of abuse of the asylum and immigration system, and will continue to strengthen UK border controls and thereby to prevent illegal entry.

Whilst the measures we have put in place have reduced unfounded asylum applications, they also serve to prevent would-be illegal migrants from circumventing our immigration controls. Our operation of juxtaposed control operations and deployment of detection equipment overseas impact directly on those attempting to enter the UK illegally, regardless of whether they intend to abuse our asylum system or to reside or work here without entitlement.



We are also working closely with our European and other international partners to tackle illegal entry, and have implemented a range of measures aimed at preventing inadequately documented and inadmissible passengers from reaching the United Kingdom. These include the establishment of the Airline Liaison Officer network and an informed visa strategy.

The Immigration Service is continuing to increase its enforcement of illegal working offences, where our intelligence suggests that this is the most effective use of our resources. In 2002 the Immigration Service reported carrying out a total of 301 illegal working operations, while in 2003 it reported carrying out 446 such operations, of which 181 were aimed at detecting a significant number of offenders.

The Government does not accept that there is a direct correlation between tighter border controls and more effective processes for dealing with asylum cases on the one hand, and an increased incidence of illegal immigration and illegal working on the other; it is an implied and unproven link. In conjunction with our tightening of UK border controls, we have also developed and introduced a number of employment schemes which enable foreign nationals to live and work legally in the United Kingdom. These opportunities have been extended across a range of skill levels and have expanded the routes of legal entry into the UK for both temporary and permanent migrant workers. This development of a coherent programme of managed migration reduces the incentive for illegal entry and illegal working. Our objective in the longer-term is to remove illegality completely from the migration process by continuing to develop a system of secure border controls in tandem with the expansion of legal channels of entry to the UK for those migrant who have skills which our economy needs.

Addressing illegal working and related issues is a high priority of the Government. We are determined to tackle illegal working in this country by strengthening enforcement, working with other government agencies and improving employer compliance. Those individuals who are found within the United Kingdom without proper entry clearance or regular immigration status are liable to be detained and removed. Equally, those who have had their asylum claim considered and found to be unsubstantiated will no longer have a legal right to be in the United Kingdom, and shall be removed wherever possible. We will continue to tighten controls on illegal working, and will shortly be strengthening the document checks which employers are required to carry out on their prospective employees. This will help to prevent illegal workers from obtaining work from employers who comply with the law, and also make it easier to prosecute those employers who flout the law by deliberately using illegal labour.

**59. Illegal working can have a particularly pernicious effect on community relations and an unfair impact on the legally employed workforce. It is important that the Government should be seen to be vigorously tackling the problem. This will help to create confidence in the operation of the asylum system. The extremely low level of prosecutions for employment of illegal workers under Section 8 of the Asylum and Immigration Act 1996 is a cause for concern. We appreciate that there are difficulties in enforcing Section 8 in its current form. We therefore recommend that the Government shortly bring before Parliament legislative proposals to make it easier to proceed against employers of illegal workers. (Paragraph 246)**

The Government recognises that illegal working can have a negative effect on communities and, in particular, upon those employers and employees who operate within the law. The Government is determined to tackle the causes and

effects of illegal working in the UK. We are looking at how we can improve the methods to tackle illegal working, not only within the Immigration Service, but also by strengthening joint working with other departments. The Government supports the objective behind the current Private Member's Bill introduced by Jim Sheridan MP to regulate the activities of gangmasters in the agricultural sector.

The low level of prosecutions under Section 8 are not indicative of the level of work carried out by the Home Office and other Government departments in relation to illegal working and the informal economy.

Our objective is to encourage compliance by employers, and disrupt those who deliberately flout the law. In 2003 the Immigration Service reported carrying out a total of 446 illegal working operations of which 181 were aimed at detecting a significant number of offenders. The aim of all of these enforcement operations is to target employers who use illegal labour, and this can result in the businesses concerned losing valuable contracts and orders, incurring additional recruitment and training costs and suffering bad publicity. There are, therefore, powerful commercial incentives for complying with Section 8, aside from the risk of prosecution.

Project Reflex, which has been allocated £20 million of new money for each year over 3 years has been established to tackle serious immigration related crime. Between April 2001 and April 2002, Reflex launched 82 operations, and disrupted 14 organised crime groups. 67 facilitators were arrested, resulting in 21 convictions. Since April 2003 to date there have been 30 disruptions (14 of which are significant), 67 arrests, and 28 convictions of smugglers and traffickers involved in organised immigration crime.

A number of new powers have been introduced to strengthen the enforcement of the law and make it easier to prosecute those employers who knowingly employ those without permission to work in the UK. The Nationality, Immigration and Asylum Act 2002 introduced powers for the Immigration Service to enter business premises and seize records where intelligence suggests that a section 8 offence has taken place. It also increased the maximum penalty for facilitation from ten to fourteen years of imprisonment, and allowed for the introduction of regulations to strengthen the documents that employers must check under section 8 to ensure that their prospective employees are entitled to work in the UK. The new regulations will be introduced shortly and will improve the security of checks on entitlement to work by employers, and should also facilitate the identification and prosecution of employers who deliberately flout the law.

**60. We believe that a significant factor in the problem of illegal working is the deliberate decision by some employers to break the law. We recommend that the Government should target such employers, who are not only easier to identify than those they employ but arguably more culpable. We refer below to the Government's commitment to use the Proceeds of Crime Act as a weapon against people traffickers. We recommend that the Act should also be used to seize profits made from the employment of illegal labour. The Home Office should be pro-active within Government in seeking to ensure that other departments take action against illegal working – for instance, by means of a concerted attempt to prosecute employers of illegal labour for other related breaches of employment legislation ( e.g. failure to pay the minimum wage or to observe health and safety regulations). We note the comments by the Environment, Food and Rural Affairs Committee on the collusion of employers with illegal rural labour through the gangmaster system, and support their view that the Government should treat this problem with greater seriousness. (Paragraph 247)**



The Government agrees with the Committee's view that in order to tackle illegal working effectively, effective sanctions must be imposed against those who employ and exploit illegal labour in the UK. We have a range of legislative sanctions under immigration and criminal law to tackle those individuals involved in the trafficking, facilitation, employment and exploitation of migrants in the United Kingdom.

It is envisaged that the Proceeds of Crime Act (POCA) will be used as a major weapon in future to tackle illegal working and to confiscate money accrued through illegal practices. At present, the UK Immigration Service is not an accredited agency to use the investigation and restraint of assets powers in POCA, but these powers can be used by the police and NCS against those who profit directly from the use of illegal labour. In one recent case, the police used the POCA to confiscate £37,000 from a gangmaster.

Consideration should also be given in all cases to bringing prosecutions for money laundering under POCA, as well as for the main offence. Criminal prosecution will remain the priority, in which POCA will be used to obtain a consequential 'confiscation order'. If no criminal conviction and therefore confiscation order can be obtained, other provisions for recovering the proceeds of crime under POCA are available and will be considered in appropriate cases.

The Home Office is aware that illegal working is not limited to those employees working in breach of immigration rules; it also incorporates those who either don't pay the correct level of taxes or claim benefit while they are working. Equally, there are unscrupulous employers who seek to benefit from illegal practices and may take advantage of their workers. It is for this reason that the Nationality Immigration and Asylum Act 2002 introduced new ways in which the Home Office is able to tackle illegal working through work with other Government departments. This will be done by improving the gateways for sharing information and promoting joint working between enforcement agencies to actively tackle illegal working. The Immigration Service already plays a key role in the various Government wide enforcement bodies who have responsibility for tackling illegal working.

The Government takes the issues of gangmasters and illegal rural labour very seriously, which is why the Government is supporting and assisting the current Private Member's Bill introduced by Jim Sheridan MP to regulate the activities of gangmasters in the agricultural sector. However, it should be pointed out that although gangmasters' origins are in agriculture and horticulture, they now operate across a range of economic sectors. Both gangmasters and workers may be working with fresh produce one week but dealing with furniture removals or construction work the following week. Operation Gangmaster is an interdepartmental approach to operations and pursues enforcement against employers and employees operating in the informal economy where a co-ordinated response adds value. This is consistent with the approach recommended by Lord Grabiner in his report on the Informal Economy in March 2000, which the Government accepted.

**61. We agree with the Home Secretary that managed inward migration is of potential value to the UK economy and society. This raises issues which go beyond the remit of our present inquiry, such as how such migration should be managed, what desirable levels of immigration might be, what qualities and skills should be sought in immigrants, how the public should be consulted over immigration policy and how that policy should be policed. It is healthy that a debate should take place on these topics. We recommend that the Government should further clarify and open to wider debate its policy towards economic migration. (Paragraph 255)**

**73. As we have identified, there is more in common between the overall strategy of the main political parties than is apparent at first sight. In particular, they are advocating a reduction in in-country applications for asylum, balanced by a significant increase in the number of refugees accepted through UNHCR. There is broad agreement on the need for more effective processing of claims, a reduction in illegal working and effective action on removals. A greater public understanding of these constructive common elements in the main parties' approach, as well as of the undoubted differences of principle on some issues, would help to make asylum a less divisive issue in the wider community. (Paragraph 332)**

The Government has been working to improve consultation with the general public and the dissemination of information with other agencies. The 2002 White Paper 'Secure Borders, Safe Haven' was published as a consultation paper and invited comments on the proposals for managed migration. This explained our balanced approach to immigration, nationality and asylum including the provision of sensible targeted routes to enable economic migration where it is in the UK's interests. The Home Office welcomes the HASC report's support of managed migration and the report's recognition of the value of inward migration to the UK economy and society.

There was a further public consultation last summer on how the existing legislation on illegal working could be improved, the results of which will be published shortly. In addition, the Minister currently chairs the Illegal Working Steering Group, which is comprised of representatives from a wide variety of interests, including the Small Businesses Service, the TUC, the CBI and the Commission for Race Equality.

We are working on a managed migration strategy that addresses all areas of public concern and deals with the key issues of illegal working, high and low skilled migration and integration into the UK. The Government is committed to improving its communications on managed migration and to stimulating an open and informed public debate. We want to communicate to the general public the benefits that managed migration brings the UK. The Home Secretary's Chatham House speech highlighted this to the public.

As part of our drive to improve communications we have recently launched a new website for those who wish to come to the UK to work.

Our policy is to monitor the needs of our economy for migration in line with the numbers that we can accommodate to take account of the impact on public services, and the integration that has to take place in our communities. We do not have a command economy, and we cannot take a predict and provide approach. We are responding flexibly to the needs of our labour market while making sure that, when we allow people to come here and work, we can integrate them successfully.

The Government agrees with the Committee's conclusion that there is some common ground in the approaches proposed by different political parties, though notes that there are also clear differences. However, given the appreciation by the Committee of the difficulties of managing the asylum process and the genuine areas of overlap, this suggests there is reason for all parties to avoid trying to make political capital out of asylum and immigration issues.

## Conclusion of Report

**70. The greatest gains are likely to be made by continuing with the Government's current strategy and the early adoption of the recommendations made in this report. We believe that this is where the Government's efforts should be concentrated. We think that the following factors should be taken into account:**

**More radical options could take a significant time to implement. We note the slow progress made in setting up accommodation and induction centres and the need to drop proposals for transit processing camps. The more radical options could take even longer to implement, whilst the need is for effective urgent action now.**

**Though we do not have detailed costings, the radical options could cost more. We believe that it would be better for resources to be devoted to improving decision-making and removals, and taking action against illegal working.**

**The proposals do not deal with the key issue of illegal migrants. By discouraging people from claiming asylum they may increase the flow of illegal migrants and illegal workers.**

**The proposals would not resolve all the problems raised by removals, for example the substantial number of failed asylum seekers present in the UK illegally, or failed asylum seekers whom the Government is unable to remove safely to their country of origin.**

**We are not convinced that all the issues of principle arising from the proposal to detain all new asylum applicants, rather than just those who may pose particular problems, have been resolved.**

**Asylum is a complex and sensitive issue to tackle. Care needs to be taken in proposing solutions that may appear simple but which would be hard to implement in practice. (Paragraph 318)**

We concur with the Committee that it would not be cost-effective at this point to expand the detention estate to 100% capacity or to adopt off-shore processing. We agree that the priority is to maintain and build on our considerable achievements so far with regard to speed and efficiency.

**72. We do not favour the option of withdrawal from the 1951 Convention or the European Convention on Human Rights. However, we endorse our predecessors' view that the 1951 Convention needs updating. This should be done on the basis of broad international consensus. We support the work of UNHCR through 'Convention Plus' in attempting to adapt the operation of the convention to modern circumstances, and urge the UK Government to continue to work closely with UNHCR in this endeavour. (Paragraph 331)**

The Government agrees that it is necessary to build on the Geneva Convention in order to deal with today's asylum flows. This is recognised within UNHCR itself, and we strongly support and are participating in its "Convention Plus" programme which aims to facilitate the resolution of refugee problems through multilateral special agreements. There are currently three strands of Convention Plus:

- the strategic use of **resettlement** as a tool of protection, a durable solution and a tangible form of burden sharing;

- more effective **targeting of development assistance** to support durable solutions for refugees, whether in countries of asylum or upon return home; and
- clarification of the responsibilities of States in the event of secondary movements (ie when refugees and asylum-seekers move, in an irregular manner, from an initial country of refuge to another country).

**74. There is an urgent need to maintain recent progress in improving the applications system, to reduce the backlog further and to increase both the fairness and the speed of the system. The measures proposed in this report would command widespread support and would help to develop public confidence in the operation of the asylum system. (Paragraph 333)**

**75. We have set out, as in our previous report on removals, recommendations that the Government should now consider in dealing with undoubtedly very difficult and sensitive issues, which face many other countries as well, and certainly not only in Europe. However, in doing this we have not forgotten that we are dealing with fellow human beings, whether genuine asylum seekers or economic migrants, many particularly of the latter who are the victims of unscrupulous international criminals. (Paragraph 334)**

**76. Britain's reputation for fairness and tolerance should not be exploited by those with no genuine claim for asylum, and even more so by the criminals running the international gangs, nor should it be sullied by ill-informed or exaggerated debate. We hope that our report will contribute to a rational debate about the asylum issue. (Paragraph 335)**

We welcome the Committee's comments, and believe that they will contribute to the accurate and informed debate that the Government is promoting. The Government is confident that through the progress that we have already made and our continuing efforts, that we can welcome people from across the world, both genuine refugee and economic migrant, to our country secure in the knowledge that they are part of a managed system.



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