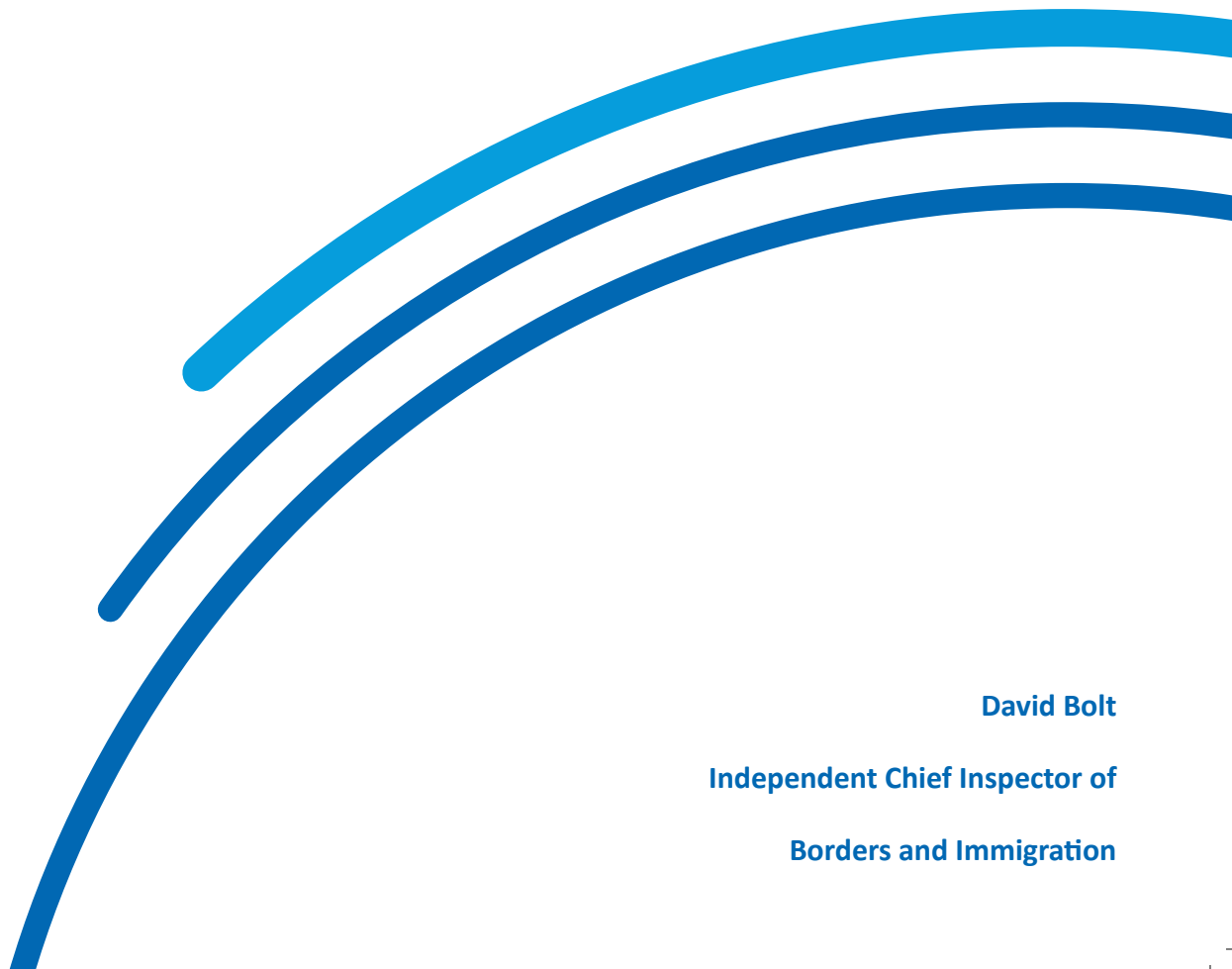




An inspection of the Home Office's management of non-detained Foreign National Offenders

December 2016 – March 2017



David Bolt

Independent Chief Inspector of
Borders and Immigration

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Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

November 2017



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Foreword

Failure to remove Foreign National Offenders (FNOs) from the UK has long been the subject of parliamentary and public concern. From time to time, that concern intensifies because an FNO who has been released from prison commits a serious crime.

In August 2016, 2 Turkish FNOs were convicted of the murder in the UK of a third man and sentenced to life imprisonment. The Home Office conducted an internal investigation that sought to identify lessons and recommend improvements. From this, the relevant Home Office managers developed a list of action points.

In my first 3-year Inspection Plan,¹ published in April 2016, I indicated my intention, under the theme of 'Compliance Management and Enforcement', to inspect 'Contact management: Reporting arrangements, including Reporting Centres' and 'Removals' in 2018/19. In June 2016, the Home Secretary asked if I would bring these pieces of work forward to late 2016/17, and include an assessment of the improvements made following the internal investigation.

This inspection therefore examined the efficiency and effectiveness of the Home Office's management of FNOs, focusing on the progression of cases involving non-detained FNOs towards their removal from the UK, and with particular reference to the actions taken from 2016 onwards.

A parallel inspection report, published separately, examined the efficiency, effectiveness and consistency of the Home Office's Reporting and Offender Management (ROM) system, focusing on its understanding and management of the whole reporting population, and the implementation of policy and guidance relating to the management of absconders.

The monitoring of non-detained FNOs is a challenging business, as is their removal from the UK. It carries risks for public protection, and for the Home Office staff involved there are regular frustrations. This inspection has identified a number of necessary improvements, including completing some of the work begun in 2016. While these will not change some of the underlying risks, they are important in ensuring that processes are as efficient and effective as they can be.

The report makes 8 recommendations. It was sent to the Home Secretary on 21 June 2017.

David Bolt
Independent Chief Inspector of Borders and Immigration

¹ <http://icinspector.independent.gov.uk/wp-content/uploads/2016/03/Forward-Plan-2016-17-2018-19.pdf>.

1. Purpose and scope

- 1.1 This inspection examined the efficiency and effectiveness of the Home Office's management of non-detained Foreign National Offenders (FNOs), focusing on the progression of cases towards removal from the UK.
- 1.2 The inspection did not look in detail at the management of detained FNOs. This will be the subject of a later inspection.
- 1.3 The overall efficiency and effectiveness of the Home Office's Reporting and Offender Management (ROM) system was inspected in parallel. This is covered in a separate report 'An inspection of the Home Office's Reporting and Offender Management processes (December 2016 – March 2017)'.

'Operation Zincs'

- 1.4 In late 2015, 2 Turkish nationals who had previous criminal convictions in the UK were charged with the murder in the UK of a third man. In August 2016, both were convicted and sentenced to life imprisonment.
- 1.5 In October 2015, Immigration Enforcement (IE) instructed the Home Office Professional Standards Unit (PSU) to conduct a review of the handling of the cases of the 2 FNOs. PSU reported in December 2015, making 10 recommendations and identifying 15 action points.
- 1.6 In March 2016, IE established a 'Gold Group' to review and manage the implementation of PSU's recommendations. The Group examined 'the controls in place to ensure FNOs are swiftly identified and progressed towards return; the culture of staff to do all they can to identify and progress FNOs to return; and any other challenges that stand in the way of these controls and culture'. It added 6 action points of its own to PSU's list.
- 1.7 The actions taken following the PSU report, which was given the project name 'Operation Zincs', were examined as part of this inspection.

2. Methodology

2.1 Inspectors:

- made familiarisation visits to the Criminal Casework (CC) in Croydon and to the Reporting and Offender Management (ROM) centre in Croydon
- reviewed relevant previous inspections and recommendations, including:
 - a 'Gold Group Summary Report' from July 2016
 - an 'Operation Zincs Refresh Report' from October 2016
 - two 'Summary of Actions' updates, the most recent of which was provided in May 2017 following a request for the latest update
- researched and reviewed open-source information in relation to the management of Foreign National Offenders (FNOs)
- reviewed relevant legislation, Home Office guidance and other documentation (for example training materials) and data
- met FNO policy managers from the Prisons and Probation Service
- examined 100 Home Office case records involving FNOs, comprising:
 - 50 non-detained FNOs subject to reporting restrictions as at 1 December 2016
 - 50 non-detained FNO cases 'owned' and managed by other Home Office units until spring 2016 when they were reviewed and 'ownership' passed to CC in line with Professional Standards Unit recommendations and the 'Gold Group' action plan
- interviewed managers and staff working in CC Liverpool, Leeds and Croydon

3. Summary of conclusions

- 3.1 The Professional Standards Unit's (PSU) report in December 2015 made 10 recommendations and identified 15 action points. The Gold Group established in March 2016 accepted 8 of the 10 recommendations. Two were rejected on legal grounds; however, the Group sought an alternative solution for one of these. The Group added 6 action points of its own, the majority of which sat under 'Recommendation 1', which was concerned with the identification of 'old cases' in the system.
- 3.2 The identification, review and logging of all existing criminal cases became the major theme of the Gold Group's early work. From the written evidence provided, and from the evidence gathered by inspectors in focus groups and interviews, it was clear that considerable effort went into what was, in effect, the creation of a new non-detained Foreign National Offender (FNO) baseline.
- 3.3 As part of this exercise, the Gold Group considered whether Criminal Casework (CC) with Immigration Enforcement (IE) should 'own' all cases 'where there is any level of criminality'. It decided against this, noting that 'where the criminality concerned did not previously or no longer represents harm to the public, outstanding barriers are better dealt with by the specialist units dealing with them across BICS'.²
- 3.4 A taskforce was set up to oversee the process of deciding case 'ownership'. The inspection did not examine individual decisions, but as all the relevant caseworking units were involved with the taskforce, it is reasonable to assume that decisions in individual cases were sound.
- 3.5 However, confidence in a system of distributed 'ownership' relies on several elements all working effectively. These include: effective record and information management in relation to FNO cases, starting with the ability to identify all non-detained FNO cases; and reliable processes for reviewing 'ownership', with mutual understanding, effective communication and efficient 'hand-offs' between all the Home Office units involved. The inspection raised some doubts about how well some of these elements were working.
- 3.6 Historically, the Home Office has had problems with keeping an exact count of FNOs. This is understandable, to an extent, as the FNO population fluctuates daily. For this inspection, the Home Office produced various numbers, including the total number of FNOs, both detained and non-detained; the number of cases 'owned' by CC and by other units; and the number of non-detained FNOs recorded as 'absconders'.

² Borders, Immigration and Citizenship, which includes Immigration Enforcement Directorate, UK Visas and Immigration, Border Force, and HM Passport Office.

- 3.7 Inspectors did not attempt to validate each number, but did look at how they were arrived at and how they were subsequently monitored.
- 3.8 The 'Gold Group Summary Report' stated that the 'total reporting population' was 71,189 for the period December 2015 to February 2016. The follow-up 'Operation Zincs Refresh Report' looked at the period 16 February to 30 April 2016, and quoted a reporting population of 77,347. The parallel inspection of the Reporting and Offender Management (ROM) system was told that the total reporting population was 81,527 for October to December 2015 and 84,722 for January to March 2016.
- 3.9 The Home Office explained that the Gold Group's 71,189 included only those persons with an 'open restriction' who had a 'completed', 'no show' or 'blank' reporting record in the period covered.³ The rationale for this approach was not explained. While it may have been reasonable ultimately to segment the reporting population, it is hard to see why an exercise born of poor record management, and designed to guarantee that all non-detained FNOs had been identified, would start with anything other than the total recorded reporting population for the most recent recognised quarters of the business year.
- 3.10 As it is, the effect of the markedly different numbers referred to as the 'total reporting population' and the different periods covered is to raise questions about how well the data was understood by Gold Group members and by readers of its reports, and about whether all non-detained FNOs were identified.
- 3.11 The initial review identified 1,653 (of the 5,119) cases where 'ownership' was unclear on the Casework Information Database (CID)⁴ record. The Gold Group Summary Report recognised that 'this is linked to a wider issue across BICS about CID data quality'. This has been raised repeatedly in inspection reports and continues to be a cause for real concern.
- 3.12 The way CID is configured around 'cases' (applications or claims) rather than persons creates an additional problem, as the record is fragmented and therefore harder to interrogate. The Summary Report notes that the Home Office's transformation plans include the creation of a Person Centric View (PCV) of its records, and that the Gold Group has 'requested support from Home Office enablers to ensure this area of transformation is prioritised'. The result of this request was not recorded in the evidence provided for this inspection. Given the public protection arguments, non-detained FNO records should be given the highest priority.
- 3.13 Having reviewed the identified criminal cases and decided on 'ownership', the Home Office introduced a system called Pathfinder to keep track of criminal cases, importing them daily from CID into a spreadsheet. However, while Pathfinder enabled CC managers to manage and allocate cases, some managers and caseworkers were using their own spreadsheets where Pathfinder did not yet provide them with the functionality they required, accepting that there were obvious risks in operating with different spreadsheets.
- 3.14 While 4 of the 10 PSU recommendations (and 9 action points) were categorised by the Gold Group under 'Culture', these focused largely on points of detail. The inspection identified wider 'cultural' problems with understanding, communication and collaboration within CC, and between CC and staff working in the ROM system.

³ An 'open restriction' means that the person was still required to report and had not been removed from the UK, granted leave, been recorded as an 'absconder', or excused from reporting for personal reasons for example ill health. Although not explicit in the Operation Zincs Refresh Report, it is assumed that the same methodology was followed to arrive at 77,347.

⁴ The Casework Information Database (CID) is the Home Office's main caseworking and operational database. It is used throughout the Home Office to record personal details of all foreign nationals who pass through the Immigration system.

- 3.15 Some efforts had been made to bring staff from Liverpool and Leeds together (an action point had been to share best practice between them), but staff at both criticised what they saw as the ‘Croydon-centricity’ of CC and relative lack of recognition their work received. Meanwhile, there seemed to be little appreciation within CC of the practicalities of managing reporting events, and ROM staff complained of poor communication and lack of feedback from CC caseowners.
- 3.16 While considerable effort had clearly gone into progressing the PSU/Gold Group action points in 2016, by the time of the inspection the momentum did not appear to have been maintained. In May 2017, inspectors asked IE for the latest update on the PSU recommendations and PSU/Gold Group action points. The ‘Summary of Actions’ document provided was undated, as were the majority of the entries against individual action points, except for 2 entries annotated ‘March update’.
- 3.17 Of 21 original action points, 2 related to rejected recommendations and were not pursued. Of the remaining 19, the Summary showed 13 as ‘closed’, and 6 of them ‘closed with further monitoring’. Five actions were shown as ‘open’, and 2 had been broken down into 5 more detailed actions, of which 2 had been ‘closed’, 2 remained ‘open’, and one was blank, but from the sense of the entry was still ‘open’.
- 3.18 This raised concerns that some of this work had not been seen through to completion. Although each action point had an assigned owner(s), there was no indication of any central oversight or co-ordination to ensure that every action point was fully addressed and that all of the recommended improvements and learning had been turned into ‘business as usual’.
- 3.19 The inspection looked beyond the PSU/Gold Group recommendations and action points at the Home Office’s performance in managing and removing FNOs. The figures show that the number of FNOs removed from the UK from prison or an Immigration Removal Centre (IRC) exceeded non-detained FNO removals in each year from 2009 to 2016. Over the 8 years, the ratio of detained to non-detained removals was more than 2 to 1.
- 3.20 Some CC staff argued that this indicated that non-detained FNOs who had completed their custodial sentences were more likely to have barriers to removal⁵ that were intractable, because if it had been possible to clear known barriers this would have been done while they were still detained. This added to staff in Liverpool and Leeds (the non-detained ‘hubs’) seeing themselves as separate from, and at a disadvantage to, staff in Croydon.
- 3.21 However, there is also considerable evidence of individuals who have been issued with removal directions making ‘last minute’ asylum claims, lodging Judicial Review applications, making further representations and in some cases avoiding enforcement teams, in order to frustrate planned removals. CC had taken some steps to limit the grounds for ‘last minute’ submissions and to clear them before the planned removal, but these were only partially successful.
- 3.22 The parallel inspection of the ROM system looked at the purpose and effectiveness of reporting events. The Home Office is aiming to make these events ‘meaningful’ in terms of moving cases towards removal, which is not currently the case for the majority of them.
- 3.23 With FNOs, the requirement to report regularly (normally weekly) also provides an element of public protection insofar as knowledge of an FNO’s whereabouts and circumstances is a deterrent to reoffending. Therefore, it would be reasonable to expect that if an FNO misses a reporting event, every effort is made to re-establish contact without delay, particularly if the FNO is classed as a ‘high harm’ individual.

⁵ An individual cannot be removed from the UK where they have an outstanding asylum claim or other application that requires a decision from the Home Office, or where they are not in possession of a Passport or (Emergency) Travel Document. These are referred to as ‘barriers to removal’.

- 3.24 Inspectors examined a snapshot of data for FNO reporting event 'no shows'. Again, this raised questions about completeness. Inspectors also reviewed CC's processes and practice for declaring an FNO an 'absconder'. While Home Office guidance is clear, inspectors found practice to be inconsistent. In general, there seemed to be a reluctance to begin the absconder process as early as the guidance allowed, with staff waiting instead for 3 consecutive missed reporting events before taking action.
- 3.25 Inspectors were told a system was being devised to support the 'tagging' of all non-detained FNOs, except those under 18 years old or assessed as vulnerable. Whatever happens with these plans, the process for following up reporting event 'no shows' needs to be significantly tightened up. At the same time, the Home Office needs to be collating and analysing data regarding reoffending by non-detained FNOs in order to ensure that policy thinking and operational priorities are properly informed.

4. Recommendations

The Home Office should:

In respect of the Professional Standards Unit (PSU) December 2015 report, the Gold Group Summary Report of July 2016 and the Operation Zincs Refresh Report of October 2016:

1. Produce a clear, single account of what has been done to satisfy each of the recommendations and action points, indicating which are 'closed' and which remain 'open', with milestones/ completion dates for the latter, ownership of actions and oversight/sign off arrangements.
2. Confirm that the explanations of the figures quoted in the Gold Group documents are accurate, and that all non-detained Foreign National Offenders are 'flagged' and known to Immigration Enforcement Directorate's Criminal Casework unit.

In relation to Home Office records for Foreign National Offenders:

3. Prioritise the development of the Person Centric View for non-detained Foreign National Offender caseworking records, fixing a date for its delivery, and ensuring in the meantime that Criminal Casework information management is not reliant on disparate spreadsheets.
4. Systematically quality assure all case notes in respect of Foreign National Offenders to ensure that accurate, up-to-date records are being maintained.
5. Analyse, and continue to monitor, reoffending rates for Foreign National Offenders, distinguishing between those released to a specified address and those released to no fixed abode, to ensure that measures introduced to create a 'hostile environment' for individuals with no right to remain in the UK are not having a perverse effect on Foreign National Offender reoffending.

In relation to guidance:

6. Ensure that Home Office guidance about Foreign National Offenders is kept up to date, including any links and cross-referencing (and liaise with the owners of Multi-Agency Public Protection Arrangement (MAPPA)⁶ guidance to remove obsolete references to the UK Border Agency and ensure that the guidance is otherwise up to date).
7. Ensure that the necessary training, internal communications and assurance measures are in place to guarantee that staff are aware of and comply with guidance in respect of Foreign National Offenders.

⁶ MAPPA Guidance 2012 Version 4.1 (Updated December 2016), available at GOV.UK, explains that the Criminal Justice Act 2003 ("CJA 2003") provides for the establishment of Multi-Agency Public Protection Arrangements ("MAPPA") designed to protect the public, including previous victims of crime, from serious harm by sexual and violent offenders. They require the local criminal justice agencies and other bodies dealing with offenders to work together in partnership in dealing with these offenders. Offenders are placed into one of 3 MAPPA categories according to their offence and sentence, with Level 1 being the lowest and Level 3 the highest. MAPPA processes for FNOs who are living in the community are the same as for UK citizens.

In terms of working relationships:

8. Create and deliver an action plan to improve working relationships across the whole of Criminal Casework and with the other areas of the Home Office responsible for managing Foreign National Offenders, in particular staff within the Reporting and Offender Management system, addressing as a minimum; effective leadership, internal communications, and the alignment of goals and priorities.

5. Background

Home Office objectives in relation to Foreign National Offenders

5.1 Within the Home Office, Criminal Casework (CC) is responsible for the management of most Foreign National Offender (FNO) cases. CC is part of the Immigration Enforcement Directorate, whose strategic objectives include:

- effectively manage high harm individuals to reduce risk to the public
- continue to increase the number of individuals we remove from the UK⁷

5.2 CC's business plan for 2016/17 states that its objective is:

‘to protect the public by deporting or removing FNOs who commit criminal offences, where legislation permits, and to actively monitor and manage FNOs released into the community pending deportation’.

‘Detained’ and ‘Non-detained’ Foreign National Offenders

5.3 The Home Office refers to FNOs as either ‘detained’ or ‘non-detained’. Detained FNOs include those in prison serving a custodial sentence following conviction for a criminal offence, and those held in an Immigration Removal Centre (IRC) in anticipation of their imminent removal from the UK.

5.4 If there is no immediate prospect of deportation or removal, an FNO who has completed their custodial sentence may be released into the community. Normally, a non-detained FNO will be required to report to the Home Office at set times at a specified location, and may also be subject to bail conditions⁸ and/or electronic monitoring (‘tagging’).

5.5 Non-detained FNOs who are required to report do so at a Home Office Reporting Centre or, in certain cases, at a police station. ‘Reporting events’ are managed by staff working within the Home Office’s Reporting and Offender Management (ROM) system, but reporting frequency and any specific aims for a reporting event will normally be set by the Home Office case ‘owner’, which for most non-detained FNOs is CC.

5.6 The case ‘owner’ may also commission ROM staff to use the reporting event to elicit information, for example about the FNO’s current circumstances, or to attempt to progress their removal by encouraging them to consider voluntary departure or to make an application for an Emergency Travel Document (ETD).

⁷ Taken from an internal Home Office document.

⁸ A person may be released from immigration detention if they agree to certain conditions, for example, reporting restrictions, electronic monitoring, and/or provision of a surety to guarantee that the conditions are met.

- 5.7 The ROM system was inspected in parallel with this inspection. The report, 'An inspection of the Home Office's Reporting and Offender Management processes (December 2016 – March 2017)', provides more detail about how the ROM system was found to be working.

Powers to deport Foreign National Offenders

- 5.8 In May 2006, the Home Secretary, John Reid, informed the Home Affairs Committee⁹ that, since February 1999, 1,019 Foreign National Offenders (FNO) who 'ought to have been considered for deportation' had been released from prison without deportation being considered. He pointed out 'failures or inadequacies of the system', which he planned to overhaul, and said that what he wanted was 'that all foreign nationals who have a custodial sentence given to them will face deportation'.
- 5.9 At that time, the Home Secretary had 'the power to deport a non-national if he considers their deportation conducive to the public good'. This power was contained in Section 3(5) of the Immigration Act 1971.
- 5.10 In 2007, the Home Secretary brought forward new legislation. Section 32(5) of the UK Borders Act 2007 sets out that 'the Secretary of State must make a deportation order in respect of a foreign criminal where:
- the criminal was convicted in the United Kingdom and sentenced to a period of imprisonment, and
 - the period of imprisonment is 12 months or more, and
 - the sentence is a single sentence for a single conviction, it must not be an aggregate sentence or consecutive sentences, and
 - the criminal was serving that sentence on or after 1 August 2008, and
 - the criminal had not been served with a notice of decision to deport before 1 August 2008, and
 - none of the exceptions set out in section 33 of the 2007 Act apply'.¹⁰
- 5.11 In September 2007, the Prime Minister, speaking at the Labour Party Conference in Bournemouth, made a further commitment that non-EEA foreign nationals involved in gun crime or a serious drug offence would be considered for removal from the UK regardless of the length of sentence. This became known as the 'Bournemouth Commitment'.
- 5.12 The 'Bournemouth Commitment' was translated into Home Office guidance on 1 August 2008, and at the time of the inspection the information held on the Home Office intranet ('Horizon') stated that the commitment remained 'on-going'.

Removal without a deportation order

- 5.13 It is not necessary in all cases to serve a deportation order in order to enforce the removal of an FNO from the UK. FNOs who have not been granted right to remain in the UK, for example those who have entered the UK illegally, may be removed without a deportation order.

⁹ www.publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052301.htm.

¹⁰ <http://www.legislation.gov.uk/ukpga/2007/30/section/33>.

6. Inspection findings: Processes

Foreign National Offender case 'ownership' within the Home Office

Criminal Casework

- 6.1 Criminal Casework (CC) has approximately 900 staff, most of whom are based at 1 of 3 locations – Croydon, Liverpool and Leeds. Caseworkers in Liverpool and Leeds are responsible for managing ('own') non-detained Foreign National Offender (FNO) cases, while caseworkers in Croydon are responsible for detained FNO cases. In 2015, '[CC] teams in Croydon were re-focused on detained and custodial cases only'.¹¹
- 6.2 Figure 1 shows the numbers of cases 'owned' by CC as at 7 April 2017.

Figure 1: Cases 'owned' by CC as at 7 April

Location	Number of Cases
Croydon	9,415
Liverpool	2,787
Leeds	1,218
Total	13,420

- 6.3 Non-detained FNOs are 'banded'. The banding is determined by reference to their Multi-Agency Public Protection Arrangements (MAPPA)¹² level or length of sentence, and the likelihood of being able to remove them from the UK – see Figure 2.

Figure 2: Non-detained FNO 'Bands' and description used by CC

Band	Description	Definition
1	Highest Risk	<ul style="list-style-type: none"> • MAPPA Levels 2 and 3 cases • Most harmful MAPPA Level 1 cases • Cases with a sentence over 5 years
2	Lower Risk	<ul style="list-style-type: none"> • MAPPA Level 1 cases • Ex-MAPPA cases
3	Lowest Risk	Non-MAPPA cases, possibly removable
4	Lowest Risk	Non-MAPPA cases, not removable

¹¹ Gold Group Summary Report, July 2016.

¹² See footnote 6

- 6.4 CC Liverpool ‘owns’ cases placed in Bands 1 or 2, while CC Leeds ‘owns’ cases placed in Bands 3 and 4.

Other Home Office ‘owners’ of Foreign National Offender cases

- 6.5 Although in the minority, large numbers of FNO cases are not ‘owned’ by CC or elsewhere within Immigration Enforcement (IE) Directorate. Most of these are ‘owned’ by UK Visas and Immigration (UKVI) Directorate and, in a handful of cases, by Border Force.

Review of case ‘ownership’

Initial review

- 6.6 In 2015, 2 Turkish nationals with previous criminal convictions in the UK were charged with the murder in the UK of a third man. IE Directorate instructed the Home Office’s Professional Standards Unit (PSU) to conduct a review of the handling of the cases of the 2 FNOs, and, in March 2016, established a ‘Gold Group’ of senior managers to identify the actions required to implement PSU’s recommendations and related improvements.
- 6.7 The Gold Group oversaw a review in early 2016 of the case records of all individuals currently reporting to the Home Office to establish the correct Home Office ‘owner’, and to ensure that all identified cases were being actively progressed.
- 6.8 In July 2016, the Gold Group reported¹³ that it had considered whether CC ‘should own all cases in BICS¹⁴ where there is any level of past criminality’. It concluded that:
- ‘although in theory this appears to be a sensible option, it would not be the most viable. Most of the criminal elements of these cases had concluded and where the criminality concerned did not previously or no longer represents harm to the public, outstanding barriers are better dealt with by the specialist units dealing with them across BICS. It is important to note that a case of low harm might fall to the bottom of CC’s priority list, but could be at the top for another caseworking unit’.
- 6.9 The same ‘Gold Group Summary Report’ stated that ‘The total population at the time of the report was 71,189 of which 5,119 individuals had a criminal case type on CID.’ A footnote explained that the total population was ‘based on data between December 2015 and February 2016 – all individuals with an open restriction for reporting’.
- 6.10 Having analysed the 5,119 cases, the Gold Group reported that ‘ownership’ of 1,653 of them was ‘unclear’ on Casework Information Database (CID).¹⁵ More than half were listed as ‘no unit’ or ‘not in use’. Each of the 1,653 cases was therefore reviewed and the most appropriate ‘owner’ identified.
- 6.11 The reviews were carried out by a specially-created taskforce, led by the National Removals Command Gatekeeping Team, and comprising single points of contact from caseworking teams across BICS. The taskforce manually checked each case, confirming both ‘ownership’ and reviewing the progress of the case.
- 6.12 This exercise resulted in almost 1,000 changes in ‘ownership’, with the ‘ownership’ of most of the 1,653 cases going to UKVI’s Complex Casework Directorate and Temporary and Permanent

¹³ Gold Group Summary Report, July 2016 – internal Home Office document.

¹⁴ See footnote 2.

¹⁵ See footnote 4.

Migration Teams. The taskforce decided that CC should be the case owner in less than 9% of the cases, but those cases not 'owned' by CC were flagged 'Operation Zincs' so that they could be tracked.

- 6.13 The review of case progress showed that almost 80% of the 1,653 cases had one or more barriers to removal. Only 194 were considered to be 'removable'. While the review was in progress, 19 of the 1,653 individuals were removed.
- 6.14 Since the review process involved all the competent Home Office units, the inspection did not examine the individual decisions regarding ownership. However, the Gold Group figure of 71,189 for the 'total reporting population' raised doubts about whether the exercise had captured all of the relevant cases as it was significantly smaller than the figures provided by the Home Office to the parallel inspection of the Reporting and Offender Management (ROM) system. The latter were 81,527 for October to December 2015 and 84,722 for January to March 2016.

Further review

- 6.15 Between 16 February and 30 April 2016, the Home Office carried out a second review of the reporting population. The 'Operation Zincs Refresh Report', dated October 2016, referred to a total reporting population of 77,347 during the period 16 February to 31 April 2016, of which 71,834 were 'without criminal activity on CID', and 5,513 cases were 'with criminal activity on CID'. Of the 5,513 cases, 3,789 were confirmed as 'owned' by CC, and 1,387 were 'owned' by another unit and flagged as 'Operation Zincs'.

Unresolved 'ownership'

- 6.16 The 'Operation Zincs Refresh Report' refers to 337 cases where 'ownership' still needed to be decided. The breakdown of these cases is shown in Figure 3.

Figure 3: Case 'ownership' still to be reviewed as at October 2016	
'Owner' according to CID	Cases
Local Immigration Teams	25
Removals Casework (in Family Returns Unit)	92
Asylum Cases	24
Border Force	2
National Removals Command/Detained Casework (inc. duty offices)	21
Unidentified groups	38
Blank	135
Total	337

- 6.17 The Refresh Report recommended that the taskforce should carry out 'a smaller scale exercise' to confirm ownership. In May 2017, inspectors asked the Home Office for the latest update of actions resulting from the Gold Group's work. This indicated that the cases had been reviewed and a report with case allocations had been completed by taskforce members. It concluded 'This data now needs to be sense checked and summarised.' The entry is undated, and the action was shown as 'open'.

‘Operation Nexus High Harm’ cases

- 6.18 The ‘Gold Group Summary Report’ referred to there being 319 cases in the December 2015 to February 2016 reporting population dataset that were flagged on CID as ‘Operation Nexus High Harm’¹⁶ cases. The Summary Report stated that ‘the flag exists to signpost case owners that there is police intelligence relating to the case so that they can contact the Nexus High Harm Team before making a decision’.
- 6.19 The initial review found that 89 of the 319 flagged cases were not ‘owned’ by the Nexus High Harm Team, but noted that this ‘is common practice as many cases do not require further attention from CC if the prosecution has concluded and there is no further action on the criminal aspects of the case’. Following the review, ‘ownership’ of 6 of the 319 cases was assigned to the Nexus High Harm Team.
- 6.20 The Gold Group specified that Nexus High Harm cases should be included in the further review of ‘ownership’ and progression. The ‘Operation Zincs Refresh Report’ refers to 572 ‘cases with a Nexus and/or ACRO¹⁷ flag’, but offers no further details, so it is unclear whether more Nexus High Harm cases had been discovered and if so, how, and who ‘owned’ them before and after the further review. There is no reference to Nexus High Harm cases in the most recent update of actions.
- 6.21 The Gold Group’s list of action points included that CC should ‘ensure that all Operation Nexus High Harm cases are uploaded onto the Pathfinder¹⁸ system by September 2016’. The most recent update stated ‘March update ... all Nexus cases will be on Pathfinder by the end of April 2017’. As this was after the fieldwork stage of the inspection, inspectors did not examine whether this work had been completed.

Police National Computer checks

- 6.22 The ‘Gold Group Summary Report’ stated that ‘the reporting population of 71,189’ had been checked against the Police National Computer (PNC) ‘to identify individuals involved in criminality not previously known’. The checks had produced 32,991 ‘potential individual matches’ of which 5,000 had been analysed to identify ‘the more serious offenders’. This found 24 individuals who were ‘potentially unknown to Immigration Enforcement according to CID’.
- 6.23 The Gold Group commissioned work to analyse the remaining 27,991 individuals and to find a suitable ‘owner’ for future bulk checks against the PNC. The latest ‘Summary of Actions’ update, which is undated, states that ‘the analysis of the results is due to commence ... The results will be reported back.’ It quotes from the Summary Report that ‘This work will continue beyond the date of this report and feed into longer term work to conduct bulk checks against the PNC’, but offers no completion date nor any indication of how this work will be taken forward.

16 Operation Nexus was launched in 2012. Under Operation Nexus, Immigration Enforcement Directorate and police forces work jointly to tackle offending by foreign nationals through closer and smarter use of police and immigration interventions. Nexus High Harm Casework Teams assess criminal convictions, criminal history, criminal associations including ties to gangs and/or criminal organisations, and level of harm posed to the public. The High Harm criteria cover arrests or previous convictions for grievous bodily harm (or worse), human trafficking, sex offences, firearms offences, knife offences, other weapons offences, and/or ‘prolific robber or burglar’, which Nexus defines as having been convicted of robbery or burglary 3 or more times.

17 The ACRO Criminal Records Office manages criminal records data on behalf of the police, including requesting criminal records checks for foreign nationals arrested in the UK.

18 Pathfinder is a spreadsheet that receives data from CID. It was created after the initial review of case ownership. All CID records with a criminal case type are imported daily into the spreadsheet.

Deportation decisions

- 6.24 The data presented to the Gold Group in early 2016 identified 116 cases in the 71,189 reporting population where a deportation decision had not been made despite the FNO being 'time served' for more than 12 months. The initial review found that 86 of these still required a decision.
- 6.25 The latest 'Summary of Actions' update, again undated and shown as 'open', stated that 'Director's weekly assurance meetings will be tracking progress on this specific set of cases ... every 6 weeks ... as of 18 November 2016 ... 58 of the 86 cases referred to still require a deportation decision.' It noted that 26 of the 58 cases had 'outstanding asylum/refugee matters which has delayed progress. Others are being prioritised according to risk (Criminal Casework non-detained banding system)'. The original review had identified that 19 of the 86 cases were in the top band.

Routine identification and management of Foreign National Offender

- 6.26 As well as looking at the remedial actions taken by the Gold Group and others to analyse and assign 'ownership' for the non-detained FNO population as at 2016, inspectors looked at the processes in place at the time of the inspection for ensuring that FNOs would be identified and cases managed going forward. Inspectors began with the guidance available to staff.

Current guidance for Criminal Casework

- 6.27 At the time of the inspection, guidance in relation to CC was in the process of being updated. It had previously been found in 'Enforcement Instructions & Guidance (EIG)', which was being replaced as the source of all guidance for IE Directorate activity.
- 6.28 As at May 2017, the Home Office intranet included a page devoted to CC with links to each piece of current guidance, of which there were over 20, covering topics including:
- CID and database
 - criminal casework: modernised guidance
 - deporting foreign nationals
 - non-detained cases, contact management, absconders
 - workflow
- 6.29 'Criminal casework: modernised guidance' was broken down into:
- early removal and financial assistance schemes for FNOs
 - detention of foreign national offenders
 - release and bail for foreign national offenders
 - post departure of foreign national offenders
 - other actions in foreign national offender cases
 - criminal casework administration

- 6.30 In focus groups and interviews with CC staff and managers, inspectors found there was some uncertainty about the current guidance and where it could be found. Some staff believed it was still set out in the EIG. This pointed to poor internal communication, not helped by the fact that some pages of the revised guidance on the Home Office intranet contained links to EIG, which when clicked produced 'page not found' responses.

Referrals of imprisoned Foreign National Offenders to Criminal Casework

- 6.31 The Prison and Probation Service (PPS) is responsible for referring FNOs sentenced to a period of imprisonment to the Home Office. This is done using an electronic referral form. The PPS has a target, agreed with the Home Office, of completing 90% of these referrals within 10 working days of the FNO arriving at a prison. At the time of the inspection, PPS was meeting this target. Inspectors did not examine the process in any further detail as the management of detained FNOs was out of scope for this inspection.

Internal Home Office referrals

- 6.32 Home Office guidance instructs staff to refer to CC all non-EEA nationals who have served or are serving periods of 12 months or more, either in one sentence or as a combination of 2 or 3 sentences over a 5-year period.
- 6.33 The guidance also covers where a foreign national is convicted of a criminal offence but is not given a custodial sentence. Again, the instruction is to refer such cases to CC.
- 6.34 Where a criminal offence is below the threshold for automatic referral to CC, the case can still be referred if 'by its nature or circumstances, the offence suggests that it is not conducive to the public good to let the applicant remain in the UK'. The guidance states that such offences include (but are not limited to):
- offences which involve violence
 - sexual offences
 - offences against children
 - serious drug offences

Workflow

- 6.35 Internal referrals are sent to a CC mailbox using an online referral form available on the CC intranet page. A CC intake team in Croydon is responsible for determining if there are any outstanding applications or decisions relating to the FNO. If not, it distributes detained cases to the Croydon CC caseworking team and non-detained cases to a Compliance Monitoring & Workflow Team (CMWT) in Liverpool.
- 6.36 If there are outstanding applications or decisions, Croydon must attempt to clear them before forwarding the case. It has an agreement with the CMWT that it will forward cases within 28 days of the referral, and senior managers from Liverpool and Croydon meet monthly to review performance against the 28-day target.

- 6.37 Operational managers told inspectors that sometimes a case is referred with an outstanding application or decision 'if the 28 day target is not met'. However, CMWT takes a 'zero tolerance' approach, checking the referral before requesting the hard copy file, and if the case cannot be progressed it sends it back to Croydon.
- 6.38 CMWT distributes cases that can be progressed according to their 'banding'. Bands 1 and 2 (the higher risks) go to CC Liverpool, and Band 3 and 4 cases go to CC Leeds.

Public Protection Team

- 6.39 In March 2017, CC received additional funding to create a 'Public Protection Team' to receive referrals from the police, courts, and Immigration Compliance and Enforcement (ICE) teams regarding foreign nationals who have committed offences and received non-custodial sentences. CC will seek, where possible, to remove these individuals from the UK.

'Pathfinder'

- 6.40 Having completed the case 'ownership' review in 2016, the Home Office introduced a system called Pathfinder to keep track of criminal cases. Pathfinder is a spreadsheet that receives data from CID. All CID records with a criminal case type are imported daily into the spreadsheet, which is annotated with any additional information, for example any barriers to removal.
- 6.41 The 2016/17 Criminal Casework Business Plan contained the aim to 'develop Pathfinder to ensure that it enables staff to carry out tasks promptly and that deportation is effected efficiently; Pathfinder will also enable more accurate reporting on case progression'.
- 6.42 Inspectors found that Pathfinder enabled CC managers to manage their local stock of cases and to allocate cases to individual case owners. Diary events could be added to the spreadsheet, and management information tools were built in to facilitate statistical reporting.
- 6.43 However, CC caseworkers told inspectors that Pathfinder was of little or no benefit to them in their day-to-day work, while updating it to enable statistical reporting had added to their workload. As Pathfinder did not provide them with all of the functionality they required, some managers and caseowners continued to use their own spreadsheets, which were bespoke to each location. The information duplicated some of the information on Pathfinder.
- 6.44 Senior managers told inspectors that they were aware of the risks of operating with different spreadsheets and had begun to phase out the use of 'master spreadsheets' with a view to using only Pathfinder 'within 6 months'.

CID records

- 6.45 The almost 1,000 changes in 'ownership' resulting from the Gold Group's initial review of the reporting population gives some sense of the general state of CID records for non-detained FNOs prior to 2016. The reference to Local Immigration Teams (LIT) ownership of 25 cases at Figure 3 further highlights the failure historically to keep records up to date, as LITs were replaced by Immigration Compliance and Enforcement (ICE) teams on 1 April 2013.
- 6.46 The 'Gold Group Summary Report' acknowledged 'the wider issue across BICS about CID data quality', but none of the PSU's recommendations or the recommendations of the Gold Group's

action points addressed this directly. However, current guidance for CC includes 'CID and database', and this contains detailed instructions to case owners about updating CID, together with screenshots and examples, and extensive general guidance about how to use CID can be found elsewhere on the Home Office intranet.

- 6.47 At least some of the issues with CID stem from the way the system is configured according to 'cases' (each application or claim is a case), which leads to information about individuals being fragmented. File sampling for this inspection identified a problem with case notes that were recorded in different places on the system, making it difficult to grasp the full and up-to-date picture of the Home Office's dealing with an individual.
- 6.48 Senior managers told inspectors that a new caseworking system will replace CID and will provide a 'Person Centric View (PCV)' of each record, replacing the different notes screens for each 'case' with one location for all notes relating to an individual. Roll out of the new system, called Atlas, is due to begin in 2017.

Communication and collaboration within Criminal Casework

- 6.49 Following the PSU investigation, the Gold Group identified an action for the Liverpool and Leeds teams to 'exchange examples of good practice regularly so that both teams benefit from the innovation taking place in both teams'.
- 6.50 The 2 'Summary of Actions' update documents provided to inspectors referred to shared staff communications between Liverpool and Leeds, joint projects, a jointly developed non-detained strategy, communication of initiatives and adoption of best practice involving all teams, and the development of a best practice guide.
- 6.51 At the time of the inspection, the action point had been 'closed' as a Business Assurance Team, comprising staff from Liverpool and Leeds, was 'sharing best practice and updating guidance', and 'this had led to continuous improvement principles being embedded as business as usual'.
- 6.52 During onsite visits, inspectors were told that exchange visits had taken place between the Liverpool and Leeds teams, organised by senior managers, for the teams to gain an appreciation of their different workloads and responsibilities. Staff and managers reported that this had had a positive impact on the relationships between the 2 sites.
- 6.53 However, no consideration seemed to have been given to exchange visits with Croydon. Croydon deals with detained FNOs. It was not included in the Gold Group action point. However, there are dependencies and opportunities to share experiences across the whole of CC. Instead, inspectors found a degree of disharmony. Staff in Liverpool and Leeds expressed the view that CC was 'Croydon-centric' and that the staff in Croydon got more recognition because it achieved larger numbers of removals.
- 6.54 The PSU investigation recommended using the cases of 2 Turkish FNOs who murdered a third man as 'an example to promote cultural change within the teams involved'.¹⁹ The IE Directorate Assurance Management and Risk Assessment Team (AMRA) was given an action, from July 2016, to communicate the lessons learned.

¹⁹ The 2 were convicted of murder and sentenced to life imprisonment in early August 2016.

- 6.55 The most recent 'Summary of Actions' listed what had been done to communicate lessons learned. This included team meetings, presentations, and a new referral form enabling 'unmanaged risks' to be reported. The undated entry ends with 'More general root and branch review of handoffs to be considered for AMRA 2017 assurance review plan'. The action point is shown as 'open'.

Working with UK Visas and Immigration

- 6.56 The Gold Group identified an action point in relation to case progression that involved assisting UKVI staff to monitor criminal and harm related cases in their caseload. The action was for the UKVI Security Team to work with the Performance Reporting & Analysis Unit to devise a tool for this purpose.
- 6.57 The most recent 'Summary of Actions' report described what had been done. A reporting tool had been developed for the areas of UKVI with the greatest volumes of FNO cases. However, this would not work for all areas of UKVI, which 'will require a larger change to existing processes and so will take a longer time to implement'. This entry was undated. Based on the wording, the action point remained 'open', although this was not clear from the report.

Working with the Reporting and Offender Management System

- 6.58 FNOs released from detention, normally on Temporary Release or on bail, will be subject to restrictions which are likely to include the requirement to report at set times to a specified Home Office Reporting Centre or police station.
- 6.59 CC guidance entitled 'Non-detained cases, contact management, absconders' outlines the steps CC caseworkers should take when setting up and amending reporting restrictions. The stages include:
- setting up initial reporting
 - managing failures to report and other breaches of restrictions
 - varying reporting restrictions or bail conditions
 - tasking Reporting Centres (or an ICE team) to detain a non-detained FNO
- 6.60 The parallel inspection of the ROM system found that communication between CC and Reporting Centres was limited. Staff working in Reporting Centres described communication as 'one way'.
- 6.61 ROM staff notified CC by e-mail of any relevant information, such as a failure to report ('no show') or the outcome(s) of a 'mitigating circumstances' interview, or Emergency Travel Document (ETD) interview, which might bear on an individual's removability. However, there was little if any feedback. When CC changed an individual's reporting restrictions, Reporting Centres found out only when they reviewed the CID record of the person reporting.
- 6.62 During this FNO inspection, both CC and ROM staff referred to an 'Us and Them' environment, with limited collaboration between both, and inspectors found that each lacked an understanding of the aims and objectives of the other.

- 6.63 For non-FNOs, who make up the vast bulk of the reporting population, Reporting Centres are empowered to set and vary the individual's reporting frequency, taking into account previous compliance with reporting restrictions, safeguarding and medical issues, and the progress of any application or any other casework activity. In practice, the Reporting Centre's capacity is the key factor, and over 95% of those reporting do so at intervals of between a fortnight and 3 months, with the majority reporting monthly.
- 6.64 In contrast, the majority of non-detained FNOs 'owned' by CC are required to report weekly. CC sets the reporting frequency, but is bound by CC guidance, which specifies weekly reporting for certain types of case. For bail cases, the guidance states: 'When a bail application is received from a FNO, and a bail summary is going to be prepared, you must remember that a weekly reporting schedule must be recommended in all cases if bail is granted.'
- 6.65 For non-bail cases that are subject to other restrictions, the guidance states:
- 'It will be appropriate for all FNOs released by the Secretary of State to report weekly, with the exception of where the subject:
- has a history of compliance with restrictions
 - is considered low-harm (categorised for harm matrix purposes as 'D')²⁰
 - has a low likelihood of removability in the near future'
- 6.66 However, the guidance does not instruct CC how to set the 'reporting window' for an FNO's reporting event. To manage the volumes and their workflow, Reporting Centres normally set a reporting window for non-FNOs of one hour, for example 10.00 – 11.00 on a given day. Inspectors found that CC often set a much longer 'reporting window' for FNOs, for example 10.00 to 16.00. This was unhelpful, particularly where the Reporting Centre was tasked by CC to detain the individual on reporting (for imminent removal), since it meant an arrest team waiting around for the FNO to arrive, which was a poor use of resources.
- 6.67 In the context of the 2 FNO cases it investigated, the PSU identified issues with a particular Reporting Centre with regard to case progression and raised a series of action points specific to that Centre, which is the busiest in the country. However, the Gold Group decided to widen its examination to take in all Reporting Centres. The Group was satisfied that CC and ROM had agreed an administrative process that ensured CC carried out case progression reviews and that ROM provided an assurance check and signposted any cases that have missed their review date.
- 6.68 The Gold Group recommended that this process should be reviewed ahead of this inspection. This was done by the IE Directorate's AMRA Team in Q3 2016/17. The action point was subsequently 'closed with further monitoring'.
- 6.69 The Gold Group described the administrative process as 'interim', pending the transformation of the ROM system, when the new IT systems and tools would automatically identify cases 'ripe for progression' and highlight 'key points of cases to staff interacting with the record'. Transformation of the ROM system is covered in the parallel ROM inspection report.

²⁰ This refers to the banding described at 6.3.

- 6.70 CC senior managers told inspectors they were aware of the lack of joined-up working with Reporting Centres, and an Operations Manager in Liverpool had been assigned to chair meetings between the CC and ROM to improve the level of engagement. As at November 2016, a group had been set up, a number of meetings had taken place and more were planned.
- 6.71 The group had identified specific actions to address the 'detention on reporting' issue, including reducing the 'reporting window' for FNOs, and developing a Service Level Agreement between CC and Reporting Centres. However, inspectors found that this had not been cascaded down to 'front-line' staff. In March 2017, almost 4 months after the initial meeting, both sets of 'front-line' staff were still speaking to inspectors in negative terms about the working relationship.

7. Inspection findings: Performance

Foreign National Offender removal statistics

- 7.1 The Home Office provided statistics for Foreign National Offenders (FNO) removed from the UK in each of the last 8 calendar years, together with the location of the FNO immediately before their removal – see Figure 4.

Figure 4: FNO removals 1 January 2009 to 31 December 2016 showing location before removal

Year of Removal	From Prison	From an IRC	Non-Detained	Others ²¹	Total
2009	1,426	1,335	2,767	5,528	
2010	1,812	718	1,607	1,205	5,342
2011	1,717	698	1,276	958	4,649
2012	2,031	767	1,103	864	4,765
2013	1,965	868	1,146	1,014	4,993
2014	1,781	1,359	841	1,305	5,286
2015	2,111	1,279	1,458	920	5,768
2016	2,272	1,496	1,415	522	5,705
Total	15,115	7,185	10,181	9,555	42,036

- 7.2 The data shows that over half (53%) of the FNOs removed between 2009 and 2016 were removed either from a prison or from an Immigration Removal Centre (IRC), while around a quarter (24%) were non-detained at the time of their removal.

²¹ FNOs who returned but cannot be classified, including Voluntary Departures or absconders who have been identified using exit check data as having left the UK.

Removal schemes for detained Foreign National Offenders

- 7.3 For detained FNOs, Criminal Casework (CC) has 7 Prison Operations and Removals Teams (PORTs) based in 'hub' prisons and travelling to other prisons as required. The PORTs are responsible for inducting FNOs into prisons and maintaining relationships with FNO prisoners, promoting various schemes to facilitate their removal from the UK. The schemes include:

Figure 5: Removal scheme for detained FNOs	
Early Removals Scheme (ERS) ²²	Introduced under Section 260 of the Criminal Justice Act 2003, ERS must be considered for all FNOs who are serving determinate (fixed-length) ²³ sentences and who are liable for deportation or removal from the UK. ERS provides a power for the Secretary of State to release prisoners up to 270 days before the halfway point of their sentence for the purpose of deportation or removal from the UK.
Facilitated Returns Scheme (FRS) ²⁴	FRS is designed to encourage FNOs to leave the UK at the earliest possible opportunity, reducing the time and costs associated with time served in prison and spent in immigration detention.
Tariff Expired Removal Scheme (TERS) ²⁵	Since 2012, the Secretary of State has had the power to remove from the UK FNOs serving an indeterminate sentence once their minimum tariff set by the sentencing court has expired. All FNOs must be considered for TERS.

- 7.4 CC staff and managers told inspectors that many FNOs could not be removed under these schemes, because there were difficulties in obtaining travel documents for them, or in enforcing removal to their countries of origin. As a result, CC's efforts to remove FNOs while in prison were often stymied, and they were released into the community as there was no immediate prospect of removing them.

Progressing non-detained Foreign National Offenders towards removal – performance targets

- 7.5 CC's non-detained casework teams in Liverpool and Leeds are responsible for progressing all non-detained FNOs towards deportation or removal. Caseworkers whose main responsibility is to prepare cases to the point where an FNO can be removed have a performance target of preparing a case within 8 weeks. The 8 weeks are broken down into 2 weeks for initial preparation and 6 weeks to finalise the case in consultation with a senior caseworker or team leader. Performance is monitored by team leaders.
- 7.6 Each caseworker is required to review all of their assigned cases at least once every 3 months. In response to a recommendation²⁶ made following the Professional Standards Unit (PSU) investigation, this process was formalised and documented in guidance dated July 2016, ensuring that caseworkers were able to demonstrate that cases were regularly reviewed and progressed.

22 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534168/early_rem_oval_scheme_v7.pdf.

23 <https://www.gov.uk/types-of-prison-sentence/determinate-prison-sentences-fixed-length-of-time>.

24 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/558202/Facilitated_returns_scheme-v8_0.pdf.

25 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488922/TERS_v4.0.pdf.

26 Recommendation 8 of the PSU Report - 'To conduct case progress checks on all cases'.

- 7.7 In Leeds, there is a separate team of decision makers that deal with fresh asylum claims or further representations that have to be cleared before the case can be progressed. Each decision maker in the team has a target of 3 decisions per month. Managers told inspectors that this target reflected the complexity of the cases managed by the Leeds decision-making unit; however, some complex workstreams, such as modern slavery claims, are excluded from the target. There was no evidence that the target had been benchmarked with other complex casework dealt with across the Home Office.

Barriers to removal

- 7.8 In focus groups, CC non-detained caseworkers told inspectors that they understood the targets and the guidance on case reviews, which they followed. However, they expressed frustration with the factors outside their control that made it difficult to remove FNOs.

Travel documents

- 7.9 Caseworkers told inspectors that there were often difficulties in obtaining travel documents, without which an FNO could not be removed. Certain nationals were a particular problem, because of limited cooperation from their Embassies or High Commissions. Many of the problems were long-standing, and affected anyone the Home Office was looking to remove, and not just FNOs. The underlying issues were often beyond the power of Home Office staff to resolve, and called for ministerial interventions.
- 7.10 The PSU investigation report noted the difficulty of obtaining an Emergency Travel Document (ETD) and recommended 'Criminal Casework caseowners to check their caseloads and ensure that ETD applications are being actively pursued in all cases that require them'. PSU further recommended that ETD interviews²⁷ should not wait until an FNO was Appeal Rights Exhausted (ARE), but that applications should be 'progressed in tandem'.
- 7.11 The 'Gold Group Summary Report' from July 2016 recommended that this action point should be 'closed'. The Gold Group cited the fact that the CC Director reviewed casework barriers as part of a weekly assurance meeting and that CC 'has a country specialist team who facilitate the documentation process for their cases and an investigation team who focus on overcoming particularly challenging documentation barriers'. As of 1 April 2016, the Pathfinder system was seen as enabling CC 'to identify progression with travel document barriers at a glance across its entire caseload'.

'Last minute' barriers to removal

- 7.12 During focus groups and interviews, CC caseworkers and managers told inspectors that a significant number of the FNOs, for whom removal directions were set, were not removed. This was because the FNO submitted a fresh asylum claim, made further representations, or lodged a Judicial Review, after the removal directions had been set. Often these submissions were received shortly before, sometimes on, the planned removal date, and CC believed that they often had no merit and were made with the sole purpose of frustrating the removals process.
- 7.13 Clearing 'last minute' barriers to removal was a significant challenge for CC. The Operational Support and Certification Unit (OSCU), part of the National Removals Command, had responsibility

²⁷ Tasked by caseowners, but carried out by Reporting Offender Management (ROM) staff, used to encourage an individual to cooperate with the ETD application process.

for considering further representations when removal directions for an FNO had been set and removal was due to take place within 24 hours. Inspectors were told that OSCU did not have the resources to process all the cases it received before the time of the planned removal.

- 7.14 In January 2017, CC piloted the use of Removals, Enforcement and Detention (RED) notices in criminal cases to bring them into line with other areas of the Home Office. Once served, a RED.0004 notice enables the Home Office to dismiss last minute claims or applications where the grounds have already been considered, and to proceed with immediate removal.
- 7.15 CC managers told inspectors about the successful removal during the pilot of 6 Pakistani nationals who were served with RED.0004 notices. However, they acknowledged that these notices only went some of the way towards resolving the problem of failed removals as they could not be used if an FNO made a claim or application citing grounds that had not already been considered.

Criminal Casework referral to removal rates

- 7.16 Figure 6 shows the numbers of cases where removal directions were set and removals planned for 2014/15 to 2016/17 (1 April to 31 March), plus the numbers of successful and failed removals. Some FNOs may have been subject of more than one planned removal and more than one failed removal attempt.

Figure 6: Outcome of planned FNO removals 2014/15 to 2016/17			
Year	Planned removals	Successful removals	Failed removals
2014/15	6,958	4,848 (70%)	2,110 (30%)
2015/16	8,043	5,487 (68%)	2,556 (32%)
2016/17	9,288	6,182 (67%)	3,106 (33%)
Total	24,289	16,517 (68%)	7,772 (32%)

- 7.17 The 100 sample files examined by inspectors provided limited insight into why removals failed or succeeded. Only 7 of the 100 FNOs had been removed as at completion of the file sampling. However, inspectors also examined the evidence from 2 charter flights to Jamaica. Figure 7 shows the number of planned FNO removals against the numbers actually removed on these flights.

Figure 7: Jamaica charter flights – Planned FNO removals and numbers successfully removed		
Date	Planned removals	FNOs removed
September 2016	144	42
March 2017	163	32

- 7.18 Of the 163 planned removals on the March 2017 flight, 28 were failed removals from the September 2016 flight, because of barriers to removal. Of the 28, only 3 were actually removed to Jamaica in March 2017. The other 25 made further submissions, raising new barriers.

7.19 Figure 8 shows the most common reasons why removals on the 2 Jamaica charter flights failed.

Figure 8: Most common reasons for failed removals on Jamaica charter flights in September 2016 and March 2017	
Reason	Number
Fresh asylum claim made by FNO after removal directions set	55
Judicial Review lodged after removal directions set	35
'Further representations' received – removal deferred by Operational Support and Certification Unit (OSCU) ²⁸ or case owner	26
Non-detained FNO not encountered on enforcement visit	20
No enforcement visit to collect non-detained FNO due to lack of resources	13

Non-compliance with reporting restrictions

'Non-detained stock'

7.20 CC uses the term 'non-detained stock' to describe the size of its caseload of FNOs who have completed their sentence and been released into the community. At the end of the second quarter of 2016/17, CC recorded its non-detained stock as 5,884, of which 5,180 (88%) were shown as reporting and therefore in contact with the Home Office. The remaining 704 were recorded as 'absconders'.

7.21 The numbers fluctuate, however there is a notable difference between this set of figures and those quoted in the 'Operation Zincs Refresh Report'. The latter stated that there were 5,513 cases 'with criminal activity on CID' within the total reporting population for the period 16 February to 30 April 2016. Of these, 832 had been a 'no show' for a reporting event, and a further 359 records were 'blank', so it was not clear whether the reporting event had been attended. The Refresh Report did not give a figure for 'absconders'.

Absconder guidance

7.22 An individual may have a legitimate reason for missing a reporting event, for example illness. Therefore, a 'no show' is not automatically classified as an 'absconder'.

7.23 Home Office guidance defines an 'absconder' as an individual who 'breaches one or more of the conditions imposed as a condition of TA(TR),²⁹ bail or release on a restriction order served to them on the appropriate notice and, in all cases, whose whereabouts are unknown and all mandatory procedures to re-establish contact with the migrant have failed'.³⁰

²⁸ See paragraph 6.26.

²⁹ Temporary Admission (Temporary Release).

³⁰ Home Office guidance 'Non-compliance and absconder process' Version 7.0, published on 15 December 2016.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/581034/non-compliance-and-absconder-process-.pdf.

7.24 However, in focus groups and interviews some CC staff and managers were uncertain about the current absconder guidance and where it could be found.

Reporting 'breaches'

7.25 Within CC, the Compliance Monitoring & Workflow Team (CMWT) in Liverpool is responsible for monitoring reporting compliance by non-detained FNOs. CID produces a daily report highlighting cases where a 'no show' has been recorded by Reporting and Offender Management (ROM) staff or where the result of a scheduled reporting event has been left blank.

7.26 CC refers to these as 'breaches', and CMWT told inspectors that it receives between 700 and 750 FNO breaches per week. However, it does not take any action until the FNO has had 3 consecutive reporting breaches.

Criminal Casework's Trace and Locate Team

7.27 In 2009, a team was set up to reduce immigration abuse by FNOs by working to locate FNO absconders and bring them back under immigration control, through detention or resumed reporting. At the time of the inspection, the Trace and Locate Team comprised 11 staff. The number of recorded FNO absconders as at April 2017 was 753.

7.28 The Trace and Locate Team prioritises cases according to the level of risk posed by the absconder and how likely it is they can be removed if located. Figure 9 shows the number of absconders that CC caseworkers had referred to the Team in each year since its creation, and the number of absconders successfully traced. The data provided did not show how many FNOs had been referred to the Team and had been located more than once.

Figure 9: Numbers of absconders referred to the Trace and Locate Team and numbers located - 2009 - 2017 (March)

Year	Referred	Located
2009	143	166
2010	351	291
2011	254	186
2012	194	170
2013	192	185
2014	169	174
2015	250	295
2016	313	300
2017	72	57
Total	1,938	1,824

- 7.29 In order to establish an FNO's whereabouts after they have failed to report, the guidance says to make telephone contact to get an explanation for the non-compliance and to give a verbal warning. If no contact is made, the FNO can be referred to an arrest team.
- 7.30 File sampling for this inspection, and for the parallel ROM system inspection, revealed major inconsistencies in the way failures to report were treated and when absconder action was initiated. In both instances, staff referred to waiting until there had been 3 consecutive failures to report before initiating absconder action by issuing a 'Failure to Report' (FTR) warning letter. For this inspection, in the 2 most extreme cases, one FNO had failed to report on 13 consecutive occasions, and another on 19 consecutive occasions, before absconder action was initiated. The Home Office was unable to explain the delays in these cases.

Electronic monitoring

- 7.31 Schedule 10 of the Immigration Act 2016 relates to 'Immigration bail'. It empowers the Secretary of State to impose an 'electronic monitoring condition' on a person released on immigration bail, provided they are 'at least 18 years old'. Under Schedule 10, the Home Secretary may specify arrangements for 'detecting and recording by electronic means [the person's] location at specified times, during specified periods of time' and these arrangements 'may in particular ... require [the person] to wear a device'.
- 7.32 At the time of the inspection, CC was using electronic monitoring ('tagging') for some non-detained FNOs. CC staff told inspectors that approximately 360 FNOs were currently 'tagged'.
- 7.33 Managers said that CC's intention was to use Schedule 10 to 'tag' all non-detained FNOs, except for those under 18 or assessed as vulnerable individuals, and a regime was being developed and would be implemented later in 2017. The new electronic monitoring capability would include GPS and data analytics to enable CC to understand the movements of FNOs, which would help CC to locate an FNO if they were to remove their 'tag'.

Impact of the 'hostile environment'

- 7.34 The Immigration Acts 2014 and 2016 introduced a range of measures aimed at denying individuals, without valid leave to remain in the UK, access to services and benefits and creating a 'hostile environment' that would encourage voluntary departure from the UK. The measures focus on employment, accommodation, the right to drive a vehicle, to open a bank account, to access healthcare and to gain the right to remain through marriage.
- 7.35 Previously, most FNOs were found accommodation³¹ on their release from prison. At the time of the inspection, in line with the idea of a 'hostile environment', many FNOs were not receiving any assistance with somewhere to live. As a result, the Home Office did not have a fixed address for some FNOs at the point they were released.
- 7.36 Managers said that CC was working with the National Offender Management Service (NOMS)³² to consider the reoffending risks in individual cases. CC was considering what it might do to reduce these risks, including those that had possibly been increased because of 'hostile environment' measures, for example granting discretionary leave³³ to non-detained FNOs where

³¹ This could happen in various ways depending on the circumstances of the case, for example their offender manager could refer them to approved premises, or to the council for housing support.

³² <https://www.gov.uk/government/organisations/national-offender-management-service>.

³³ Discretionary leave is a form of temporary leave, normally granted when an applicant does not qualify for leave to remain under the Immigration Rules but where there are exceptional circumstances or compassionate reasons for allowing them to remain.

the conditions in their country of origin were such that there was no prospect of removal in the foreseeable future.

- 7.37 However, inspectors found that the Home Office was not collating statistics for re-offending rates by non-detained FNOs. It was therefore not able to monitor and assess the risks or the possible mitigations.

Annex A: Criteria used in this inspection

Inspection criteria
Operational delivery
1. Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration.
2. Resources should be allocated to support operational delivery and achieve value for money.
Safeguarding individuals
3. Enforcement powers should be carried out in accordance with the law and by members of staff authorised and trained for that purpose.
Continuous improvement
4. The implementation of policies and processes should support the efficient and effective delivery of border and immigration functions.
5. Risks to operational delivery should be identified, monitored and mitigated.

Annex B: Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- the practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within 8 weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

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