



# **An investigation into the progress made on legacy asylum and migration cases**

January – March 2013



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# Overall Findings and Conclusions



In my previous report on the UK Border Agency's handling of legacy asylum and migration cases, I found that the Case Audit and Assurance Unit (CAAU) was overwhelmed with unresolved casework. I found that security checks had not been undertaken routinely or consistently since April 2011 and cases had been archived without checks having been undertaken

to trace applicants. This was contrary to assurances given to Parliament. My inspection also highlighted poor levels of customer service, in addition to poor implementation of a policy change which led to legacy asylum applicants being granted discretionary rather than indefinite leave to remain.

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*The Home Secretary asked me to conduct an independent investigation into the operation of the CAAU to establish what progress had been made towards the conclusion of the legacy archive and the re-opened cases*

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As a result, the Home Secretary asked me to conduct an independent investigation into the operation of the CAAU to establish what progress had been made towards the conclusion of the legacy archive and the re-opened cases that now formed part of the live cohort. I was also asked to investigate the consistency and effectiveness of management assurance processes and to establish what progress the Agency had made in implementing the recommendations I set out in my legacy inspection report.

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*Caseworkers were correctly following relevant policies and guidance when making decisions to grant or refuse leave in live cases*

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I can report that progress had been made against my previous recommendations. I noted that CAAU had been renamed the Older Live Cases Unit (OLCU) which more accurately describes its purpose. I found that the Agency had improved governance in a number of areas, including management information, resource management and risk management and that it had increased resources to tackle some of the challenges I identified in my inspection report into the handling of legacy asylum and migration cases. I was also pleased that the Agency was introducing the national Quality Assurance Framework into legacy casework. It will be important to ensure that this framework is embedded into the unit effectively to help improve decision-making.

Caseworkers were correctly following relevant policies and guidance when making decisions to grant or refuse leave in live cases. However, further guidance needs to be issued so that caseworkers understand and can apply the 'Residual Discretion' test in cases where it is appropriate to do so.

I was surprised that the submission to Ministers on the proposed closure criteria to be used for legacy cases failed to highlight the risks associated with not examining paper files. As it did during my earlier legacy inspection, file sampling again highlighted the risks of missing important data contained in paper files, and I believe these risks should have been properly assessed and communicated to Ministers.

My file sampling showed that there was still a proportion of cases in which there was information contained in paper files that could have been used to trace applicants. This mirrors the findings of

my previous report and highlights the dangers of relying solely on the information contained on the Case Information Database (CID). The Home Office should undertake its own sampling of these cases to determine whether it can trace a greater number of applicants. I consider that the Home Office needs to proceed more cautiously if it intends to widen the policy of not reviewing paper files for other types of older cases.

I found that data-matching of archived cases had now taken place. The additional step taken by the Agency to write to individuals where there was less certainty to the match has also helped to locate individuals. These activities resulted in cases either being reopened (25,500) or being closed because individuals could not be found (80,300).

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*I found that data-matching of archived cases had now taken place*

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In contrast, the Agency had not reviewed Police National Computer (PNC) information, either to obtain addresses for the 3,077 positive hits, or to take any action in relation to 'maybe' hits.

The purpose of undertaking bulk data-matching, including PNC checks, should have been to try and locate individuals, regardless of criminality. By not using PNC data in this way, the Agency missed an opportunity to identify and locate applicants. The Home Office should therefore review all 3,077 positive hits and repeat the data-matching exercise to follow up all 'maybe' hits to determine whether these records contain contact information that can be used to locate and trace applicants.

The Home Office needs to take these actions to demonstrate to applicants, Parliament and the public that it has taken all reasonable steps to determine whether individuals remain in the UK illegally.

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While action had been taken to reopen archived cases following positive data-matching results, I was concerned that no work had actually started on them. This was also true of active reviews, which, although no longer classified as legacy asylum cases, remain the responsibility of the Older Live Cases Unit.

The Home Office will now need to ensure that these cases are afforded priority and to publish a realistic and achievable timescale for the completion of all legacy asylum and migration cases.



**JOHN VINE CBE QPM**

**INDEPENDENT CHIEF INSPECTOR OF BORDERS AND IMMIGRATION**

# Summary of Recommendations

## **We recommend that the Home Office:**

1. Publishes a realistic and achievable timescale for the completion of all legacy asylum and migration cases.
2. Prioritises the implementation and conclusion of all outstanding recommendations from my previous report.
3. Should undertake its own sample of closed legacy asylum and migration cases in order to determine whether information contained in the paper files can help it trace a greater number of applicants.
4. Takes action to:
  - review all 3,077 PNC positive hits to determine whether these records contain contact information that can be used to locate and trace applicants; and
  - refine its bulk data-matching methodology and follow up all 'maybe' hits to determine whether applicants can be traced.

# CHAPTER 1: THE INVESTIGATION

## **Role and Remit of the Chief Inspector**

- 1.1 The role of the Independent Chief Inspector ('the Chief Inspector') of the UK Border Agency (the Agency) was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the Agency. In 2009, the Chief Inspector's remit was extended to include customs functions and contractors.
- 1.2 On 20 February 2012, the Home Secretary announced that Border Force would be taken out of the Agency to become a separate operational command within the Home Office. The Home Secretary confirmed this change would not affect the Chief Inspector's statutory responsibilities and that he would continue to be responsible for inspecting the operations of both the Agency and the Border Force.
- 1.3 On 22 March 2012, the Chief Inspector of the Agency's title changed to become the Independent Chief Inspector of Borders and Immigration. His statutory responsibilities remained the same. The Chief Inspector is independent of the UK Border Agency and the Border Force, and reports directly to the Home Secretary.
- 1.4 On 26 March 2013 the Home Secretary announced that the UK Border Agency was to be broken up and, under a new package of reforms, brought back into the Home Office reporting directly to Ministers. The Chief Inspector will continue to inspect UK immigration functions previously carried out by the Agency, border customs functions, and contractors employed by the Home Office to deliver any of those functions.

## **The Agency's handling of legacy asylum and migration cases**

- 1.5 In March 2011, the Agency stated that it had completed its review of all outstanding legacy cases within the Case Resolution Directorate (CRD). It created a Case Assurance and Audit Unit (CAAU) to manage those legacy cases which CRD had been unable to conclude, typically because there were significant barriers to conclusion (the live cohort) or where exhaustive checks had failed to locate the applicants (the controlled archives).
- 1.6 In late 2012, the Chief Inspector completed his inspection of the Agency's handling of legacy asylum and migration cases. This looked at the transition of work from CRD to CAAU, in addition to examining the efficiency and effectiveness of the handling of legacy asylum and migration cases.
- 1.7 The Chief Inspector subsequently published his inspection findings on 22 November 2012, in a report entitled An inspection of the UK Border Agency's handling of legacy asylum and migration cases<sup>1</sup> (the legacy inspection report). The Chief Inspector set out in his report a number of significant failings that he had identified. These included:
  - a lack of effective governance in relation to the transfer of this work, which resulted in an extremely disjointed and inadequately planned transition;

<sup>1</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2012/11/UK-Border-Agency-s-handling-of-legacy-asylum-and-migration-cases-22.11.2012.pdf>

- the provision of inaccurate information to the Home Affairs Select Committee (HASC);
- security checks<sup>2</sup> not being completed on controlled archive cases and almost no tracing work being done with other government Departments to locate legacy asylum and migration applicants prior to their cases being placed into the controlled archives;
- ineffective quality assurance processes; and
- poor customer service outcomes for asylum applicants, their legal representatives and MPs.

- 1.8 The inspection also found that a significant volume of legacy casework had not been properly concluded (the definition of 'concluded' at that time being the granting of Indefinite Leave to Remain (ILR) or removal from the UK) by CRD. This created an overwhelming volume of casework and correspondence for CAAU, which it was simply not resourced to deal with. This in turn created significant further delays in decision-making, especially for those asylum applicants who had been compliant with the Agency's instructions to wait for a decision in their case.
- 1.9 As a result we made ten recommendations to improve the effectiveness of the handling of these legacy cases. Nine of these recommendations were accepted in full by the Agency and one was partially accepted. We set out the Agency's progress against these recommendations in Chapter 2.
- 1.10 On 13 February 2013, the Agency renamed CAAU the 'Older Live Cases Unit' (OLCU) which formed part of the new Complex Casework Directorate established in June 2012 to locate, maintain and conclude all older asylum cases and defined complex work streams.

### Terms of Reference

- 1.11 On 21 November 2012, the Home Secretary commissioned an investigation by the Chief Inspector, pursuant to section 50 of the UK Borders Act 2007, into those matters set out in the Terms of Reference in Figure 1.

#### Figure 1: Terms of reference for CAAU investigation

1. To investigate and report on progress made towards the conclusion of archived cases that have been re-opened and live cases identified from the CAAU.
2. To establish whether caseworkers are correctly following relevant policies and guidance when making decisions on these cases.
3. To investigate the consistency and effectiveness of management assurance processes in CAAU.
4. To ensure that implementation of the recommendations in respect of CAAU made in the Chief Inspector's report of November 2012 has been carried out.
5. To make further recommendations on whether CAAU operational/casework changes are required to ensure that all cases are being handled in an appropriate manner to conclusion.
6. This investigation should commence in January 2013 with an intention to report in April 2013.

<sup>2</sup> Police National Computer (PNC) and Warnings Index (WI) checks



## Methodology

- 1.12 In advance of the on-site phase of the investigation, we made a specific request for documentation detailing the actions which the Agency had taken in response to the recommendations that we made in our inspection report. This included any submissions to Ministers in which the Agency set out its approach to managing legacy asylum and migration cases following our earlier inspection.
- 1.13 We also undertook further file sampling to assess whether the Agency had made progress in either closing down or re-opening cases within the asylum and migration controlled archive, where checks returned positive information to locate applicants. We noted there were three main cohorts of work:
- asylum controlled archive cases (closed in November 2012 following negative check results);
  - migration controlled archive cases (closed in November 2012 following negative check results); and
  - live cases originally transferred from CRD to CAAU for which decisions had still not been made and cases from both the asylum and migration controlled archives which had been moved to the live cohort as a result of positive checking results.
- 1.14 We requested 150 files that we selected randomly for cases:
- decided in CAAU between 1 September and 21 December 2012 (grants and refusals);
  - previously in the asylum controlled archive that were now considered closed because individuals could not be traced; and
  - previously in the migration controlled archive that were now considered closed because individuals could not be traced.
- 1.15 During the onsite phase of the investigation, we interviewed 47 staff across a range of grades (Administrative Officer to Senior Civil Service), observed casework staff, the Judicial Review and Complaints and Correspondence teams at work, as well as holding an open session for staff led by the Chief Inspector. The Chief Inspector also interviewed the Minister for Immigration and the Chief Executive of the Agency.

# CHAPTER 2: Implementation of recommendations in the Chief Inspector's previous inspection report

- 2.1 This chapter investigates how the Agency reviewed and implemented changes following our legacy inspection report in the following areas:
- Governance;
  - Planning and resource management;
  - Quality assurance and decision quality; and
  - Customer service.
- 2.2 In examining these areas the investigation also assessed what progress the Home Office was making in relation to the recommendations which we made in our legacy inspection report and the related terms of reference set by the Home Secretary (Figure 1 refers).

## Chief Inspector's overall assessment

- I found that the Agency had improved governance in a number of areas, including management information, and resource and risk management. It had increased OLCU resources to tackle the issues I raised in my legacy inspection report, in addition to making progress towards the conclusion of existing live cases but not to reopened<sup>3</sup> cases.
- The Agency had taken action in response to my recommendation about the need to be clear and consistent in the terminology it uses, by producing a set of criteria in relation to reviewing files. The name change to the 'Older Live Cases Unit' also more accurately reflected the work of the unit.
- The governance arrangements in relation to the PNC checking process were insufficient, because the Agency had failed to review PNC information properly. There also needed to be a much stronger focus on managing reopened archive and active review cases, which were not being worked on at the time of my investigation. As a result the Agency was failing to manage cases towards conclusion appropriately.
- The Agency's internal target to complete a review of all cases by October 2014 was challenging but achievable, subject to appropriate resourcing. The interim Director General was reviewing this target. Progress against this deadline will need to be closely monitored by the Home Office to ensure that remedial action is taken where necessary. This is especially important bearing in mind the original target to conclude these cases by the summer of 2011. The Home Office must now ensure that these cases are afforded priority and publish a realistic and achievable timescale for the completion of all legacy asylum and migration cases.
- The Agency's plan to introduce the national quality assurance framework into legacy casework was positive, although this framework was still in its infancy during my investigation. The Home Office should not lose sight of this project which will ensure that effective processes are embedded in the Unit and used to improve decision-making and the accuracy of management reporting.

<sup>3</sup> Re-opened in effect meant that the Agency had transferred cases from the controlled archives to the live cohort of work – it did not mean that Agency staff had actually started to casework these files.

- vi. The Agency's project to improve and cleanse data on Case Information Database<sup>4</sup> (CID) had only just begun at the time of my investigation. The outcome of this project will be important in ensuring that staff know exactly what they must record on CID. It will also help to improve Management Information (MI), so that the Home Office can prepare accurate reports on its performance.
- vii. The Home Office needs to link this work to the recommendation made in my legacy inspection report regarding the information that should be stored on file and on the CID, so that the concerns I expressed are addressed.
- viii. I found that the introduction of a telephone enquiry helpline, together with increased resourcing at the mail-opening stage, had improved customer service. In addition, the commitment to work towards achieving customer service accreditation showed a stronger management focus on delivering a better service to applicants. Further progress needs to be made to ensure that all mail opening staff know how to identify complaints.

## Findings

### Governance

- 2.3 Our investigation found that governance arrangements in relation to legacy asylum and migration work were more effective. The Agency had worked hard to improve Management Information (MI) in order to get a firmer grip on the amount and type of work that remained.
- 2.4 Managers commented positively on the role of the newly created Performance and Compliance Unit<sup>5</sup> (PCU), which they considered had helped to introduce an element of perceived independence into the process, especially in helping to validate and assure all MI provided to external stakeholders such as the HASC.
- 2.5 The Agency had created a formal post-inspection review document dealing with the recommendations in our legacy inspection report. This document allocated ownership to managers, and detailed the progress that the Agency had made in a number of areas, for example:
  - clear priorities had been agreed between the Deputy Director responsible for CAAU and the Head of Immigration;
  - approval had been granted for an additional 100 staff (98 extra staff in post at the time of this investigation, increasing staff numbers from 132 in April 2012 to 230 in December 2012); and
  - new assurance processes were being introduced to improve decision-making.
- 2.6 This overarching document also had links to OLCU's formal risk register and we saw evidence that this tool was being used effectively to identify and manage risks related to legacy casework, in addition to the organisational changes which saw the newly named OLCU being placed within the Complex Casework Directorate.
- 2.7 These actions demonstrated that the Agency had better control over governance and planning. Security checks<sup>6</sup> had been completed in each of the cases we sampled (144), indicating that the Agency had implemented our earlier recommendation to routinely and regularly match legacy cases against the PNC and WI until finally concluded. The Agency had also significantly increased resources, although we noted that the backlogs of Pre-Action Protocols<sup>7</sup>, Judicial Reviews<sup>8</sup> and MPs'

4 The Case Information Database is an administrative tool used by the Home Office to perform case working tasks and record decisions.

5 PCU was established by the Chief Executive of the Agency to improve performance and compliance across the organisation, as well as to validate and assure all management information provided to external stakeholders.

6 Police National Computer (PNC) and Warning Index (WI).

7 A pre-action protocol is normally a letter sent to Agency which challenges an action taken by it and threatens that a Judicial Review will be lodged if a satisfactory response is not received.

8 The means through which a person or people can ask a High Court judge to review the lawfulness of public bodies' decisions.

correspondence, although on a downward trajectory, forced OLCU to be reactive to incoming work. Other casework streams suffered as a result, most notably active reviews and archive cases that had been reopened, but which were not being seen to conclusion.

- 2.8 Despite these challenges, OLCU management and staff demonstrated a strong commitment to this work and we found evidence of improving staff morale.
- 2.9 The creation of the PCU has the potential to address our recommendation in relation to the provision of accurate information to Parliament. Its establishment was the subject of a separate investigation report submitted to the Home Secretary in February 2013.
- 2.10 Despite these positive actions, overall we believe that the Agency's approach to closing the asylum and migration controlled archives, most notably in relation to PNC information, was insufficient.
- 2.11 The continuing delay in progressing reopened cases degrades the positive tracing information revealed by external checks. Applicants who have made in-time applications (active reviews), particularly former Unaccompanied Asylum Seeking Children (UASCs), will also continue to suffer severe delays with many waiting several years for a decision in their cases.

### **Planning and resource management**

- 2.12 We found that the Agency had presented options to Ministers, describing timeframes and resource requirements for completing this work. Managers were confident that the increase in resources would allow all remaining legacy cases would be reviewed by October 2014<sup>9</sup>. However, we were made aware that the interim Director General was reviewing this target.
- 2.13 The Agency had failed to meet previous targets relating to the completion of legacy work – our legacy inspection report refers. This investigation also found that the undertaking given during our previous inspection, to recruit 14 additional case workers to deal with the expected 6,500 migration cases, had not been fulfilled.
- 2.14 Based on our evaluation of decision-making, October 2014 is a challenging deadline and the Home Office will need to ensure that this timeframe does not slip. We noted that the Home Office does not intend to publish a deadline for completion of this work. We were told this was because it wanted to ensure that the right case outcomes were made, rather than encouraging a climate where cases might be closed inappropriately in order to meet a deadline. While we understand this concern, we believe it should publish a realistic and achievable timescale for the completion of all legacy asylum and migration cases.

### **Quality Assurance / Decision quality**

- 2.15 We investigated what progress the Agency had made in improving the consistency and effectiveness of management assurance processes in OLCU. Our investigation found that a number of measures had been taken, including:
  - undertaking an audit in September 2012 to identify skills gaps among decision-makers and using this information to target refresher training where it was needed; and
  - improving procedures, particularly in relation to the decision-ready process;
- 2.16 In addition there were plans to implement the national asylum Quality Assurance Framework (QAF) in April 2013, but in the interim a locally designed template based on the QAF had been used since November 2012.

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<sup>9</sup> Figure 2 provides details of the five review categories.

- 2.17 We found that only nine cases had been subject to this quality assurance process in CAAU between November 2012 and February 2013. This was disappointing. While these nine checks were fully effective, it is essential that the framework is fully embedded, or the Home Office will not be able to provide the level of assurance necessary to show that it is progressing this work satisfactorily.
- 2.18 Following a skills audit, significant progress had been made in the area of training. This included delivery of refresher training to existing caseworkers on human rights, further submissions and asylum. Post-course mentoring was also available for caseworkers, in addition to support from senior caseworkers. This focus on training had improved decision-making quality, as demonstrated by our file sampling of live cohort cases.
- 2.19 It was evident that this supervisory checking had supported caseworkers in their decision-making, and that senior caseworkers had helped to raise skill and competency levels amongst staff. This level of supervision is resource intensive, so it will be important, once skills levels are raised, to migrate staff to the QAF, which also delivers a clear audit trail of assurance activity.
- 2.20 Other areas of CAAU's work were similarly covered by QAFs, including Section 4 support,<sup>10</sup> file management, security checks, correspondence and complaints.

### Terminology

- 2.21 We previously drew attention to the number of changes in terminology used by the Agency in relation to asylum legacy work: legacy cases were 'cleared,' 'completed,' 'concluded,' 'reviewed' and 'closed'. This was confusing for stakeholders, especially as no single document set out exactly what these terms meant.
- 2.22 We therefore made a recommendation that the Agency should be 'clear and consistent in the terminology it uses, so that Parliament and the public understand exactly what progress the Agency is making in concluding legacy casework.' The Agency accepted this recommendation and had developed and introduced five possible 'review' outcomes as shown in Figure 2.

#### Figure 2: Five possible outcomes following case review

1. Identification, following cross-referencing against Agency databases, that the individual has already been granted leave or has left the UK.
2. A decision that the individual should be granted leave.
3. A decision that the individual should be removed.
4. A decision that there is no basis to grant leave but, due to significant obstacles in enforcing returns to the individual's home country, the Agency would not commission removal action at the current time.
5. Identification that the individual has absconded and that the case cannot be progressed further.

- 2.23 These review outcomes must be applied consistently to ensure that applicants, Parliament and stakeholders understand exactly what progress the Home Office is making.
- 2.24 We believe that the name change in February 2013 from CAAU to OLCU was a positive step, as it more accurately represents the work for which the unit is responsible.

<sup>10</sup> Support given to failed asylum seekers under Section 4 of the Immigration and Asylum Act 1999.

## **Information recording on Case Information Database and paper files**

- 2.25 Our inspection report into the handling of legacy asylum and migration cases identified a number of issues relating to the CID, including:
- a lack of understanding amongst casework staff of what should be recorded in a case file, on CID, or both;
  - mail merge activities which resulted in letters being sent to applicants indicating a grant of leave, but this not being recorded on CID, something which impacted adversely on other parts of the Agency; and
  - the receipt of general correspondence from applicants and their legal representatives not being recorded on to CID, so casework staff were not:
    - examining this correspondence to assess what impact, if any, it had on the case; or
    - assessing whether any of this correspondence was in fact a complaint.
- 2.26 The Agency accepted our recommendation that it should clarify for caseworkers exactly what information should be recorded in a paper file and on CID, and incorporate this into a QAF. A Data Cleansing and Data Quality project had been commissioned to investigate, identify and resolve key issues within the Agency.
- 2.27 While this work was in its infancy, we noted that the project had been approved by the Agency's Strategic Board on 8 January 2013. The support of the Home Office will be important in progressing this initiative in 2013.
- 2.28 At unit level we found that OLCU was now recording correspondence on CID before it was sent for linking to files. This is a positive step, as it alerts caseworkers considering whether to close a file based on CID entries only that correspondence has been received by the Home Office.

## **Customer Service and Complaints handling**

- 2.29 Our legacy inspection report identified significant opportunities to improve both customer service and complaints handling, which had been poor in many instances. Clear progress had been made in relation to the receipt of correspondence, with administrative staff sending out acknowledgments to applicants and/or their legal representatives confirming receipt. We also noted that the OLCU was now in control of the post it received, and that there were no backlogs in the handling of correspondence.
- 2.30 Staff considered that the introduction of the enquiry telephone line for legacy applicants had resulted in a better level of customer service, as applicants were now able to get updates on their cases more easily. We asked for the number of calls received for week ending 8 February 2012 and this showed that nearly 500 calls had been received and dealt with. Work had not yet commenced to analyse the purpose of calls in order to identify whether there were opportunities to improve performance, but we were told that this work was about to start.
- 2.31 The Agency had created a new management role at Senior Executive Officer level with responsibility for Customer Service within OLCU and for achieving customer service accreditation. These actions and the others we have described indicate that the importance of a strong customer service ethos was being taken seriously.
- 2.32 The Agency told us that it had improved complaint handling processes. This included allocating complaints responses to the MPs' correspondence team in July 2012 in order to improve the quality of written responses.

2.33 We observed the administration team opening mail and identifying complaints, and we also observed and interviewed the staff who manage and respond to complaints. While there was a stronger focus on customer service and complaint handling more generally, some of our concerns about the ability of staff to identify complaints at the mail-opening stage remained. The Home Office needs to do more to ensure that staff are aware of their responsibilities in this regard.

### Progress against recommendations

2.34 The Agency informed us that it had accepted nine of the recommendations in our legacy inspection report in full, and one in part. Figure 3 details the progress the Agency had made in implementing these recommendations.

Figure 3: Summary of progress against recommendations	
Recommendation	Progress made
<p>1. Routinely and regularly match asylum and migration legacy cases against PNC and WI records until cases are finally concluded.</p> <p><b>Agency response – Accepted and implemented.</b></p>	<p>We found that PNC and WI checks had been conducted in all the cases we sampled.</p> <p><i>However, we were concerned that potentially valuable information from PNC checks was not used appropriately in legacy asylum and migration cases to locate applicants prior to cases being closed.</i></p>
<p>2. Ensure that the information provided to the HASC is accurate and includes all legacy cases where asylum applications were made before March 2007.</p> <p><b>Agency response - Accepted and implementing.</b></p>	<p>The transfer of responsibility for providing this information to the new PCU was a positive step.</p> <p><i>However, it will be important for the PCU to ensure that its procedures are sufficiently robust to provide assurance that Agency reporting on legacy cases is accurate.</i></p>
<p>3. Be clear and consistent in the terminology it uses, so that Parliament and the public understand exactly what progress the Agency is making in concluding legacy casework.</p> <p><b>Agency response - Accepted and implementing.</b></p>	<p>The Agency had developed and introduced five possible ‘review outcomes,’ shown in Figure 2.</p> <p><i>The Home Office must ensure that it applies these review criteria consistently and that reporting accurately reflects progress against them.</i></p>
<p>4. Develop a realistic timescale to conclude all remaining legacy cases and makes a public commitment to do so.</p> <p><b>Agency response – Partially accepted and Implementing.</b></p>	<p>The Agency is working towards an internal target to complete its review of all legacy asylum and migration cases, using its review criteria, by October 2014. Subject to sufficient resourcing, we consider this target is achievable.</p> <p><i>Performance must be closely monitored by the Home Office to ensure that this timeframe does not slip, especially in light of past performance. It should also publish a realistic and achievable timescale for the completion of all legacy asylum and migration cases.</i></p>

<p>5. Clarify the information that should be stored on file and on CID and incorporate checks of this into the QAF.</p> <p><b>Agency response - Accepted and implementing.</b></p>	<p>The Agency had started to address data quality issues on CID through creation of the Data Cleansing and Data Quality Project, which was approved by the Agency's Strategic Board on 8 January 2013.</p> <p><i>The support of the Home Office will be important to ensure that i) relevant casework information is recorded on CID by caseworkers, and ii) that the accuracy of management information reports sourced from CID is improved.</i></p>
<p>6. Introduce a protocol between CAAU and Local Immigration Teams to ensure that, when legacy asylum and migration applicants are refused, removals are expedited.</p> <p><b>Agency response - Accepted and implementing.</b></p>	<p>The Agency had appointed a removals HEO to lead on this work and was planning to recruit a further 10 staff to fully establish the CAAU removals team.</p> <p><i>The Home Office should implement the Agency's plan to recruit 10 additional caseworkers to expedite removal in refusal cases. We remain concerned that a formal protocol has not been developed with Local Immigration Teams (LITs) recognising the importance of legacy removals and their priority.</i></p>
<p>7. Work with the Home Office to ensure that guidance on new policies sets out relevant exceptions, and communicate these effectively to staff so that they are applied fairly and consistently.</p> <p><i>Agency response - Accepted and implementing.</i></p>	<p>The Agency reported that the all relevant guidance – including that on exceptions – was available in Chapter 53 of Enforcement Instructions and Guidance and the Asylum Instruction on Discretionary Leave (the latter was updated on 9 July 2012).</p> <p><i>We found that there was no written guidance in place around the potential application of residual discretion in OLCU cases. The Agency responded that this guidance would be issued in April 2013.</i></p>
<p>8. Ensure that decisions affecting young people are dealt with in a timely way that minimises any uncertainty that they may experience with their applications.</p> <p><b>Agency response - Accepted and implemented (processes already in place).</b></p>	<p>While the Agency had allocated a small casework team to deal with active review cases affecting former UASCs, it was not sufficient to deal with all such cases in a timely manner.</p> <p><i>Further progress needs to be made in this area by the Home Office to ensure that any uncertainty these applicants face is minimised.</i></p>



9. Manage complaint handling processes effectively, ensuring that:

- complaints are recorded accurately;
- responses deal with the substance of the complaint; and
- published service standards are met.

**Agency response - Accepted and implementing.**

The Agency had appointed a Senior Executive Officer with responsibility for Customer Service within OLCU. Responsibilities include overseeing complaints handling and achieving customer service accreditation. The Agency had also changed complaint handling processes to drive improvements, allocating complaints responses to the MPs' correspondence team.

*Further progress needed to be made to ensure staff are able to properly identify complaints.*

10. Embed a stronger quality assurance framework within CAAU which ensures that decisions are made in accordance with the law and policy and are based on all available evidence.

**Agency response - Accepted and implementing.**

Good progress had been made in re-establishing and formalising essential training and mentoring. The QAF had not been introduced, but had a target implementation date of April 2013.

*Further work is required to make quality assurance an integral part of 'business as usual' which is not neglected when work pressure is high.*

# CHAPTER 3: Asylum and Migration – Closure of Controlled Archives

- 3.1 This chapter investigates the Agency’s approach to closing the asylum and migration controlled archives, and to assesses whether all legacy cases had been handled in an appropriate manner to conclusion, whether this resulted in cases being closed because applicants could not be found, or whether cases were reopened as a result of a positive internal or external check.

## Chief Inspector’s overall assessment

- i. I can confirm that progress has been made in data-matching archived cases against external databases owned by DWP, HMRC and Equifax. This has resulted in cases either being reopened as a result of positive matches or being closed because individuals cannot be found. The additional step taken by the Agency to write to all matches of a lower level of confidence was also positive in helping to locate individuals.
- ii. Although good progress was made in relation to the bulk checking of internal records against external partners, I still do not consider that the Agency has handled all archived cases appropriately because it had:
  - not reviewed PNC information to obtain addresses for the 3,077 positive hits; and
  - failed to take any action in relation to PNC ‘maybe’ hits.
- iii. In my interview with the Minister, he confirmed that PNC records should not simply have been checked for high harm<sup>11</sup> cases. He agreed that the purpose of undertaking external and internal bulk data-matching<sup>12</sup> activities was to try and locate individuals, and to mitigate the risks posed by not examining paper files. By not doing so, I consider that the Agency has missed an opportunity to identify and locate applicants who may still be in the UK.
- iv. To make progress in this area the Home Office should:
  - review all 3,077 PNC positive hits to determine whether these records contain contact information which can be used to locate and trace applicants; and
  - refine its bulk data-matching methodology and follow up all ‘maybe’ hits to determine whether applicants can be traced.
- v. It is important that the Home Office takes these actions to demonstrate to Parliament and the public that it has done everything possible to identify whether individuals remain in the UK illegally.
- vi. The Home Office should proceed cautiously if it intends to widen the policy of not reviewing paper files for other types of older cases, particularly in cases where management assurance activities have been ineffective in identifying significant failures within case files. The Home Office should also address data quality issues with CID, and I note that the Agency had started work on this through a Data Cleansing and Data Quality Project.

<sup>11</sup> A person is considered to be ‘high harm’ if their presence in the UK increases the risk of real and immediate, significant physical harm to person(s) or if their presence increases the risk of significant damage to property.

<sup>12</sup> Bulk data-matching involved comparing large amounts of electronic data to identify whether individuals could be traced, either via external partners (DWP/HMRC and Equifax), or internally, including PNC records.

- vii. The approach of not routinely reviewing paper files, together with the issue of CID data quality increased the risk that illegal entrants will be allowed to remain in the UK. The Home Office should therefore undertake its own sample of closed legacy asylum and migration cases to determine whether information contained in the paper files can help it trace a greater number of applicants.

## Findings

### Submissions

- 3.2 On 19 April 2012, the Agency's Operational Director for the North West region sent a submission to the Home Secretary and to the Immigration Minister setting out the Agency's proposals for CAAU. The submission set out:
- the proposed closure criteria for cases assigned to the controlled archive;
  - proposals for handling ongoing asylum intake in the North West region while asylum caseworkers were reassigned to CAAU in Liverpool to deal with legacy cases; and
  - options to resource a live CAAU cohort while allowing for wider asylum performance delivery.
- 3.3 Figure 4 shows the proposed closure criteria set out in the submission for cases assigned to the controlled archive.

#### Figure 4: The Agency's proposed closure criteria

Every case in the controlled archive would be checked twice from April 2012 against the databases of the Department for Work and Pensions (DWP), HM Revenue and Customs (HMRC) and Equifax, a credit reference agency.

Every case in the controlled archive would be checked twice from April 2012 against internal Agency databases.

A final Police National Computer (PNC) check would be conducted prior to case closure.

- 3.4 The Agency reported that it was developing a strategy for processing the live cohort of cases, which it broke down as follows:
- 20,000 existing live asylum cases;
  - 31,000 cases which it forecast would transfer from the asylum controlled archive into the live cohort as a result of positive tracing action; and
  - 6,500 cases which it forecast would transfer from the migration controlled archive as a result of positive tracing action.
- 3.5 In relation to the migration controlled archive cases, the submission noted that the Agency had secured a separate investment for 14 caseworkers to review and, where possible, conclude these migration cases by March 2013.
- 3.6 Finally, the Agency requested the Immigration Minister's approval to approach the National Audit Office (NAO) to endorse its case closure criteria. This approval was given on 23 April 2012.

- 3.7 The NAO subsequently responded to the Agency's case closure approach on 14 May 2012 stating that, while it would not be able to endorse the proposals, it considered that they were 'in principle, sensible and should help the Agency to focus resources where they can have best effect'. The NAO also made three observations:
- the two-stage process of review and the time periods for checking were crucial for the credibility of the Agency's assertion that the proper procedures were followed by its caseworkers;
  - the Agency needed a robust system to capture reliable MI from the controlled archive which was defensible publicly; and
  - some thought should be given as to how cases would be handled if an individual was subsequently found.
- 3.8 We note that this submission did not explicitly advise Ministers that the Agency's closure approach would not involve the examination of paper files.
- 3.9 The Agency sent a further submission, cleared by the Chief Executive of the Agency and the then Permanent Secretary, to the Home Secretary and to the Immigration Minister on 9 July 2012. It advised Ministers of the NAO's response, and described the processes that the Agency was adopting to deal specifically with the observations raised by the NAO, which were that the:
- tracing programme would include quality assurance measures with 10% of records being sampled. One aspect of this would be to ensure that individuals were checked with external partners and the Agency's internal databases twice and at an interval of not less than three months apart;
  - Agency should keep an independent database to identify, monitor and report on the checks made on each case and any subsequent action, which the Home Office Audit Team would be requested to assure; and
  - Agency should carry out final checks against PNC prior to closing cases and, where individuals remained untraced, make suitable entries on the Warnings Index<sup>13</sup> (WI) and CID to enable cases to be reactivated should an individual be found or new information come to light.
- 3.10 The submission also provided further detail about the external checks that the Agency had already started to undertake – Figure 5 refers.

#### Figure 5: Further details on external checks

1. DWP for all current benefits<sup>14</sup> claimants. If there is a current DWP benefit claim, the address would be provided to the Agency.
2. If there was no trace of a DWP claim the search continues amongst HMRC<sup>15</sup> benefits claimants, with the address being provided to the Agency where a match was found.
3. Equifax – a credit referencing agency – ran searches against publicly available records including the electoral register, county court judgements, fraud databases and mortgage records.

- 3.11 We note that this submission – like that of 19 April – failed to explicitly advise Ministers that the Agency's closure approach would not involve the examination of paper files.
- 3.12 Ministers approved this submission on 16 July 2012. It followed the Chief Executive's undertaking to the HASC on 15 May 2012 that the controlled archives would be closed by December 2012.

<sup>13</sup> A database of names available to the UK Border Agency of those with a previous history of immigration offences and those of interest to detection staff, police or other government agencies.

<sup>14</sup> Checks were made against claimants for Jobseekers' Allowance, Income Support, Disability Living Allowance, Pension Credit, Carers' Allowance, Housing Benefit and industrial injuries claimants.

<sup>15</sup> Child Benefit, Working Tax Credit and Child Tax Credit.

3.13 The exclusion of an examination of paper files was unusual, as caseworkers would normally consider both the evidence on file and the data entered on CID prior to making any decisions. We were surprised that the risks associated with this approach were not set out transparently in the submissions to Ministers.

### **Interview with the Immigration Minister**

3.14 We interviewed the Minister on 26 March 2013. He stated that on taking up his appointment in September 2012, he had been fully briefed about the Agency's approach to closing legacy asylum and migration cases that had been placed into the controlled archive. He added that this had included working through the July 2012 submission which the former Immigration Minister had approved.

3.15 The Minister stated that he was not specifically made aware of any risks associated with not examining paper files but he was satisfied that the external checking regime with DWP, HMRC and Equifax (the latter including the electoral register) was a sensible approach and likely to uncover any individuals within the controlled archives who were still in the UK. As a result he considered that the Agency's judgement was broadly right on this issue, bearing in mind the need to use resources effectively and the constraints of cost and timeliness.

3.16 The Minister said this approach was not an amnesty – any cases closed would be suitably marked on Agency systems and if an individual was subsequently encountered then the Agency would then reopen the case. He believed this reduced the risk of not reviewing paper files.

3.17 In relation to adopting the same approach to other types of older asylum and migration cases and not examining the paper files, the Minister stated that this would have to be considered carefully and he would want to be convinced that any such approach mitigated risks effectively.

3.18 The Minister understood that the Agency had started to work on cases that had been reopened as a result of positive data-matching checks. He also recognised that it would take time to process these cases due to the amount of work involved. This meant that the time between a positive match being made and a case being actively pursued would lengthen over time.

3.19 The Minister stated that the purpose of the PNC checks was not solely to identify high harm cases, but also to identify address information. On the issue of 'maybe' hits, the Minister stated that the Agency had told him that the Metropolitan Police do not follow up 'maybe' hits except in high harm cases.

3.20 However, just prior to publication of this report, we were informed by the Home Office that the Metropolitan Police had been misrepresented, and that they do in fact follow up 'maybe' hits in order to eliminate those of no interest.

### **Deloitte – Independent Review**

3.21 The Agency informed HASC that it had asked Deloitte<sup>16</sup> to conduct an external and independent review of the closure of the controlled archives. Deloitte randomly selected 1,000 cases, weighted evenly between the 67,788 closed asylum cases and the 15,953 closed migration cases and representing 1.2% of total cases. Their brief was to verify that for each of the 1,000 cases sampled there was evidence to confirm that:

- two checks had been completed by the Agency, at least three months apart, against data held by DWP, HMRC and Equifax.
- a PNC check and WI check had been completed; and

<sup>16</sup> Deloitte is a professional services firm which provides audit, consulting, financial advisory, risk management, and tax services to its clients.

- the appropriate field on the CID had been completed to confirm that the case had been closed.

- 3.22 Deloitte made clear in its report that the scope of its work was limited solely to those procedures set out above and that its work did not constitute an audit of any kind.
- 3.23 Deloitte identified some inconsistencies with the Agency’s bulk data-matching approach. This included the identification of 14 cases where a valid PNC check had not been undertaken, 10 cases where a valid WI check had not been undertaken and four cases where a positive match had been made against DWP databases but the case had not been transferred to the live cohort.
- 3.24 Prior to beginning its work, Deloitte was informed by the Agency of a data transfer error between it and DWP which had resulted in migration cases being omitted from the first DWP bulk data-matching exercise. Deloitte subsequently confirmed that this issue affected all 190 migration cases that it had sampled, meaning that these cases had not undergone two separate checks as required under the closure criteria.
- 3.25 The Agency set out its response to these findings in its Controlled Archive Closure Report. This included re-running cases against PNC and WI records where necessary (and where data was available); completing a retrospective check against DWP data for the 190 migration cases; and transferring closed cases to the live cohort where positive matches were made against DWP databases.
- 3.26 The Agency stated it had kept the NAO informed about its case closure plans and methodology, adding that the NAO had provided input where appropriate. In conclusion the Agency stated that, as a result of its internal and external bulk data-matching work, the total number of legacy cases being actively pursued numbered 40,900, with a further 80,300 cases having been closed after extensive checks had found no trace of the individual in the UK.
- 3.27 Figure 6 provides details of the number of asylum and migration legacy cases being managed by CAAU in April 2011, June 2012 and November 2012.

<b>Figure 6: Asylum and migration legacy cases managed by CAAU</b>			
<b>Case type</b>	<b>April 2011<sup>17</sup></b>	<b>June 2012<sup>18</sup></b>	<b>November 2012<sup>19</sup></b>
<b>Live cases</b>	23 000	29,000	40,900
<b>[of which]</b>	Asylum 23,000 Migration N/A	Asylum 25,500 Migration 3,500	Asylum 33,900 Migration 7,000
<b>Asylum controlled archive</b>	98,000*	74 000	Nil (64,600 cases closed)
<b>Migration controlled archive</b>	26 000	21 000	Nil (15,700 cases closed)

Note: \*This included cases placed into the controlled archive that had yet to ‘mature’.<sup>20</sup>

- 3.28 On 21 November 2012 the Agency’s Chief Executive wrote to the HASC confirming that the asylum and migration controlled archives had been closed.

<sup>17</sup> Figures taken from the Controlled Archives Closure report

<sup>18</sup> Figures taken from: <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhaff/603/60307.htm#a17>

<sup>19</sup> Figures taken from the Controlled Archives Closure report.

<sup>20</sup> Six months after files were placed into the controlled archive, they were considered to have ‘matured’ if no further contact had been made with the applicant. All such cases were considered as concluded for statistical purposes.

## File sampling

- 3.29 Our legacy inspection identified a number of data quality issues relating to CID, in addition to paper files not being examined appropriately prior to being placed into the controlled archives. We also noted that the work Deloitte was asked to do:
- was limited in scope;
  - did not constitute an audit; and
  - had not subjected the information in its report to any further scrutiny (it was not asked to do so).
- 3.30 As a result of these issues we examined both the paper files and the IT case record on CID. Figure 7 provides details of the case files produced by the Agency.

**Figure 7: Categories and number of files sampled**

Category	Requested	Received	Not received*
Asylum Controlled Archive	50	50	0
Migration Controlled Archive	50	48	2
<b>Totals</b>	<b>100</b>	<b>98</b>	<b>2</b>

Note: \*The Agency was unable to locate these files.

- 3.31 The closure criteria adopted by the Agency only required staff to review the electronic CID record in each case, discounting the need to examine paper files. This decision was made on the basis that it was in the interest of the taxpayer ‘to close cases where there is no evidence of an individual and a significant amount of time has elapsed, because the Agency would be employing staff to carry out checks on people who potentially left the UK a decade ago.’<sup>21</sup>
- 3.32 The Agency’s Chief Executive reiterated this point when we interviewed him on 20 March 2013, stating that undertaking a blanket paper file sift closure exercise would have taken up to four years to complete, at an estimated cost of £2M. He added that he had always been clear about the rationale and risks of this approach, referring to his letter to HASC on 21 November 2012 that it was ‘not in the best interests of the taxpayer to employ staff to conduct further checks on cases which we cannot trace’ and that ‘in the meantime we must make reasonable attempts to conclude that someone has left the country based on robust checking.’
- 3.33 The Agency had not undertaken any dip sampling of paper files to either prove or disprove this statement. While we understood this rationale, it took no account of the findings set out in our inspection report into the handling of legacy asylum and migration cases, that over half of the cases we had sampled contained information that caseworkers could have used to:
- either try and locate applicants; or
  - correctly record the closure outcome (removed, voluntarily departed the UK, etc.).
- 3.34 We therefore considered it important to determine whether our earlier inspection findings were indicative of files that had now been closed – i.e. that files had not been properly reviewed to determine whether there was evidence that might help to establish whether individuals were still in the UK.

<sup>21</sup> Quote from the submission sent to Ministers on 9 July 2013.

3.35 We also noted that Deloitte’s terms of reference did not include the examination of the paper files of closed cases to assess whether other relevant information gleaned there might have resulted in a different outcome.

3.36 Figure 8 records our findings in relation to our examination of legacy migration case files.

<b>Figure 8: Closed Migration Cases</b>		
<b>48 cases sampled of which:</b>		
Cases correctly closed as ‘untraceable’	37 (77%)	<p>However, seven files contained information which would have allowed the case to have a correct closure outcome recorded:</p> <ul style="list-style-type: none"> <li>• three cases contained evidence confirming applicants had either been removed from or had voluntarily departed the UK; and</li> <li>• four cases contained evidence showing that the individuals had advised the Agency they were leaving the UK.</li> </ul>
Insufficient leads followed	6 (13%)	<ul style="list-style-type: none"> <li>• Six potential close family or sponsor leads.</li> </ul>
Cases closed incorrectly	5 (10%)	<ul style="list-style-type: none"> <li>• two cases where positive DWP matches had been made but the cases had not been moved to the live cohort of work;</li> <li>• two cases contained evidence from applicants who had responded to CRD or CAAU correspondence; and</li> <li>• one case involving a child under 18 years of age (Agency guidance made it clear that cases where the main or lead applicant was under 18 should not be placed into the controlled archive).</li> </ul>

3.37 Our examination of closed migration files showed 11 cases (23% of our sample) where either the Agency had failed to use information available to it in an attempt to trace applicants (close family sponsors – six cases), or where it had evidence that indicated that applicants were still in the UK (five cases). Our legacy inspection report identified a similar finding in that the Agency had failed to use available information in over half of the cases examined (35 cases – 55%).

3.38 While this investigation identified improvement in this area, our file sampling still showed that in almost a quarter of the cases examined, information which might have resulted in applicants being traced was not considered.

3.39 We asked the Agency specifically why it had not made further enquiries into close family sponsor information. It replied that ‘it fell outside the remit of the CAAU review of cases in the archive to attempt to locate or contact previously declared sponsors’. In other words contacting sponsors fell outside the agreed closure criteria.

3.40 This approach was flawed, especially as the sponsors we encountered in our file sampling were British citizens who had provided substantial levels of documentation to support applications made by close family members to remain in the UK.

3.41 Figure 9 records our findings in relation to our examination of legacy asylum case files.



## Figure 9: Closed Asylum Cases

### 50 cases sampled of which:

Cases correctly closed as 'untraceable'	44 (88%)	<p>Nine files contained information which would have allowed the case to have a correct closure outcome recorded:</p> <ul style="list-style-type: none"> <li>• Seven contained evidence confirming that individuals had either been removed or had voluntarily left the UK; and</li> <li>• Two applicants had been granted leave to remain in the UK.</li> </ul>
Not asylum cases	5 (10%)	<p>These were migration cases, broken down as follows:</p> <ul style="list-style-type: none"> <li>• one applicant was deceased;</li> <li>• one applicant had voluntarily departed the UK;</li> <li>• one applicant informed the Agency they were departing the UK; and</li> <li>• two applicants were untraceable.</li> </ul>
Cases closed incorrectly	1 (2%)	<p>One case where a positive DWP match had been made but the case had not been moved to the live cohort.</p>

- 3.42 The Agency's performance was better in relation to closed asylum cases, where we found only one case that had been closed incorrectly. However, as with our legacy inspection, we identified nine cases (18% of our sample) that had been closed for the wrong reason because there was evidence on file that applicants had been removed from or had voluntarily left the UK, or had been granted leave to remain.
- 3.43 While the overall conclusion in many of the cases we sampled for this investigation would have been the same and the file would still have been closed, we believe it is important that records held by the Agency accurately reflect whether people have been the subject of an enforced removal, have been granted leave to remain in the UK, have left the UK through the Assisted Voluntary Return Programme, or had died.

### DWP, HMRC & Equifax Checks

- 3.44 We examined whether the Agency had followed its closure criteria in relation to the external checks that it conducted with DWP, HMRC and Equifax.
- 3.45 The Agency classified the strength of each match with the DWP database using a one to seven rating scale called a 'matchkey' result. All matchkey results of one, two or three, totalling 6,393 matches, were considered strong enough to automatically move the case to the live cohort.
- 3.46 A similar approach was adopted for Equifax results, where a rating of 1 to 5 was given (one being the strongest and five the weakest). Cases with Equifax results of one or two, totalling 5,233 matches, were also automatically moved to the live cohort. Having examined the ratings criteria for both DWP and Equifax, we believe that the approach adopted by the Agency was reasonable and resulted in a total of 11,626 archive cases being reopened and transferred into the live cohort of work on the basis of positive data matches with these organisations.
- 3.47 We found that all of the files we examined had been appropriately checked with these organisations. However, we agreed with the Deloitte report that not all DWP matchkey 3 hits had been identified and moved to the live cohort by the Agency in accordance with its closure criteria. Indeed we

identified the same issue in three of the cases we examined (3% of our overall sample). The Agency subsequently explained that this problem was due to individual user error.

- 3.48 At the time of our on-site investigation (11-15 February 2012) the Agency had yet to determine the number of cases affected by this issue but it subsequently informed us it had identified a total of 766 cases that had been closed incorrectly as a result of this error. It confirmed that these cases had all been moved to the live cohort.
- 3.49 The Agency told us that, although not set out in its closure criteria, it had written to applicants at the addresses provided by DWP, HMRC and Equifax in respect of the weaker hits.<sup>22</sup> In total, as a result of these checks over 68,000 letters were sent to applicants in an attempt to locate them.
- 3.50 These letters required applicants to provide updated contact details and gave no indication or assurance of any decision that might follow. The Agency told us it had received approximately 4,000 replies. Where these replies confirmed that the applicant was still in the UK with a specific address, cases were transferred to the live cohort.
- 3.51 A further 13,874 cases were reopened and transferred to the live cohort either because of responses to correspondence from the Agency generated by DWP and Equifax data in relation to weaker matches, or in response to bulk checking undertaken by the Agency against its own IT systems.
- 3.52 As a result a total of 25,500 asylum and migration controlled archive cases<sup>23</sup> were transferred to the live cohorts of work. All remaining cases were then closed, with a note being made on CID and WI advising Home Office and Border Force staff to contact OLCU if an applicant came to light.

### **Police National Computer Checks**

- 3.53 The Agency's approach to checking records against the PNC was achieved through bulk data-matching its records against those of the PNC. In total the Agency checked 94,943 applicant records against PNC records.
- 3.54 In its submission to Ministers dated 5 July 2012, the Agency stated that a PNC check would be undertaken on all cases just prior to closure, following negative results from external data-matching with DWP, HMRC and Equifax. However, the submission was not clear about the purpose of the PNC check, neither did it provide any evidence of the process that the Agency would adopt in completing these checks.
- 3.55 Ministers were therefore not fully apprised of the potential risks of closing cases based on the criteria that the Agency recommended. For example, no consideration was given to using PNC information as a tracing tool, a factor that was identified by the HASC in its report on the work of the UK Border Agency (July – September 2012), published on the 25 March 2013.<sup>24</sup>
- 3.56 The Chief Executive told us that he was committed to running all cases through the PNC. He added that where the information returned was a definite match to the applicant, the case was transferred to the live cohort for review.

<sup>22</sup> DWP matchkey 4 to 7 and Equifax rating 3 to 5.

<sup>23</sup> 18,500 asylum and 7,000 migration cases.

<sup>24</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news/130325-ukba-report-published/>

## PNC – Positive Hits

- 3.57 The Agency prepared a Controlled Archives Closure Report<sup>25</sup> which it sent to the HASC in December 2012. This report stated that although PNC bulk data-matching returned 3,077 positive hits, there was no other relevant contact information which would allow the Agency to progress these cases. This was a surprising statement given that PNC records would normally contain such information.
- 3.58 In its closure report the Agency stated that, from the information available to it, none of the individuals had committed a crime which would enable automatic consideration for deportation. However, as the PNC data suggested that these individuals may have been in contact with the police, it had used individual PNC printouts for each case to establish whether there was information that would provide evidence that any of these individuals were still in the UK. Figure 10 shows the outcome of these checks.

**Figure 10: Breakdown of positive PNC hits**

No:	Description
1,502	Cases with a positive hit had no cautions, convictions, warnings or reprimands (individuals can be on the PNC for non-criminal reasons such as holding a firearm licence). These remain closed cases.
1,468	Cases with convictions <sup>26</sup> that predated April 2011 and so were considered as addressed as part of the CRD controlled archive process and remain closed cases.
83	Cases with a PNC hit which post dated April 2011.
24	Cases listed as pending prosecution.

Note: Information taken from Controlled Archives Closure report <sup>26</sup>

- 3.59 In its Controlled Archives Closure Report the Agency stated it had transferred the last two categories of cases in Figure 10 to the live cohort (107 cases) for further investigation. This could include working with the police and courts in an attempt to trace individuals or establish definitively that the files could be closed.
- 3.60 The Agency informed the HASC that it took no action on the remaining cases, either because there was no record of any criminal convictions or police cautions (1,502 cases), or because it believed that CRD would have taken action in cases where convictions predated April 2011 (1,468 cases). This was based on a presumption that CRD would have dealt with these positive hits. While CRD may have obtained PNC conviction information in relation to these cases, we were not provided with any evidence showing that it actually used PNC address information to try and locate applicants.
- 3.61 We believe that the dramatic rise in the controlled archive over the last ten months of CRD's existence (from 18,000 cases in November 2010 to 98,000 cases in September 2011) is compelling evidence that no such detailed work was undertaken. In the absence of any evidence to the contrary, we believe that all 3,077 PNC positive hits, whether pre or post April 2011, should have resulted in further enquires by the Agency in an attempt to locate the applicants.
- 3.62 Staff told us that a decision had been taken not to write to applicants in relation to PNC checks because PNC information was considered unreliable. We were not provided with any rationale to support this view.

<sup>25</sup> A report sent to the HASC providing an overview of the process and quality assurance framework used by the Agency when closing the controlled archives.

<sup>26</sup> The Agency stated in its Controlled Archives Closure Report that that none of these individuals had committed a crime which would be automatically considered for deportation.

3.63 In our view, PNC information is valuable and might well have resulted in new information coming to light that would have helped the Agency to locate individuals within this cohort of work (3,077 cases), irrespective of any criminality associated with the PNC entries. We note that the HASC formed the same view in its report published on 25 March 2013.

### **PNC – ‘Maybe’ hits**

3.64 ‘Maybe’ hits were returned where PNC checks indicated a possible match against one or more of the names or dates of birth provided by the Agency. These ‘maybe’ hits were returned on a scale of M1 to M3 and reflected the type of match returned, as described in Figure 11.

**Figure 11: ‘Maybe’ hits - M1 – 3 scoring scale**

M1	All names found on Soundex or exact matches in original order.
M2	All names found on Soundex or exact matches but where the order of the names has been jumbled.
M3	Where a sub-set of the full name has been found i.e. where John Henry Smith is the name checked and a record for John Smith has been found.

Notes: (1). Soundex is where names are spelled differently but would sound alike, such as Clark and Clarke. (2). A positive hit is an exact match – it requires the date of birth to match either the file or alias dates of birth exactly. Any type M ‘maybe’ hit only requires the date of birth to be within 10 years or for 2 elements out of Day, Month or Year to match.

3.65 An M1 is a slightly stronger match than M2 or M3 because names are recorded in the correct order on PNC. As a result they would have a slightly higher probability of being a correct match. M2 and M3 matches, which are found using a slightly different and more complex algorithm, are still worthy of examination.

3.66 The Agency has an internal PNC bureau responsible for managing PNC data and for undertaking checks on behalf of Agency staff. Staff there told us that when conducting individual checks they would normally interrogate PNC data further when dealing with ‘maybe’ hits in order to ascertain whether the individual was the same person. However, they confirmed it they not been tasked by CAAU to undertake further interrogative work in relation to ‘maybe’ hits because it was believed that an extremely high percentage (over 90%) of ‘maybe’ hits would not result in a positive match.

3.67 The Chief Executive told us that a ‘maybe’ hit was returned when some details might match but others did not, and that they often occur because of common names related to specific nationalities. He added:

- that the vast majority of ‘maybes’ turn out not to be the person in question;
- that further investigation of the PNC ‘maybe’ hit might require a check of the paper file, which was outside the scope of the bulk checking exercise, was considered unlikely to yield formal identification and would not represent best value to the taxpayer; and
- the Metropolitan Police had confirmed they do not generally pursue PNC ‘maybe’ hits unless a high harm individual is being actively targeted.<sup>27</sup>

3.68 The Agency told us that it had received a total of 32,358 PNC ‘maybe’ hits. It was unable to break this figure down into M1/2/3 categories. OLCU staff told us that they had taken no action with any of these ‘maybe’ hits, as they only provided partial information. It therefore recorded that the checks

<sup>27</sup> The Home Office later confirmed that the Metropolitan Police had been misrepresented, and that they would in fact follow up on maybe hits in order to eliminate those of no interest.

had been completed and annotated CID and WI that, should the person subsequently come to light, OLCU should be notified.

- 3.69 A 10% positive hit rate against all 'maybe' hits<sup>28</sup> may have resulted in approximately 3,250 positive matches, although it is possible that this figure would have been lower, due to the inclusion of the slightly weaker M2 and M3 'maybe' hits.
- 3.70 It is surprising that the Agency went to the trouble of trying to identify PNC 'maybe' hits only then to take no action on them. While we note the Chief Executive's view that the vast majority of 'maybe' hits turn out not to be the individual the Agency is looking for, we note that no dip sampling was undertaken to assess this view or determine what proportion of 'maybe' hits would successfully identify an individual of interest to the Agency.

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<sup>28</sup> Based on the feedback received from the PNC bureau at Paragraph 3.65.

# CHAPTER 4: Asylum and Migration – Live Cohorts

4.1 This chapter investigates the progress the Agency was making in concluding archived cases that had been re-opened, in addition to the live legacy cohort that OLCU had inherited from CRD. We did this to examine whether:

- caseworkers were correctly following relevant policies and guidance when making decisions on these cases;
- the quality assurance processes relating to the decisions that were made was effective and was conducted sufficiently frequently;
- live legacy cohort cases<sup>29</sup> were being handled in an appropriate manner to conclusion – whether this resulted in the granting or refusal of leave to remain;
- the exceptions which allowed the granting of Indefinite Leave to Remain (ILR) had been implemented effectively; and
- removals were prioritised in relation to CAAU refusal cases.

4.2 We randomly selected 50 asylum cases where leave to remain had either been granted or refused by CAAU in decisions made between 1 September 2012 and 31 December 2012. The Agency was unable to locate two of these case files, and a further two were deemed out of scope because the CID reference number had been duplicated. We therefore sampled 46 cases, of which 34 were grants and 12 were refusals.

## Chief Inspector's overall assessment

- i. While I found that action had been taken to reopen archived cases following positive data-matching results with external partners and Agency databases, I noted that the Agency had not actually started working on them. I identified a similar picture in relation to active reviews which, although no longer classified as legacy asylum cases, remained the responsibility of OLCU.
- ii. Related to this was the Agency's inability to identify the exact number of active review cases that it actually had. This highlighted further concerns about ongoing CID data quality, which severely limits the Agency's ability to accurately record and report on cases where further applications have been made. This meant that active review and reopened archive cases were continuing to experience delays.
- iii. The Agency stated that it intended to commence work on reopened archive and active review cases in April 2013. The Home Office will now need to ensure that these cases are afforded priority, because:
  - further delays adversely affect applicants who have been compliant with Agency processes, particularly young people;
  - information gleaned from positive data matches will degrade over time and have to be refreshed; and
  - refusals and removals will be more difficult to achieve.

<sup>29</sup> Includes cases that had been reopened following positive data-matching checks.

- iv. I found that OLCU caseworkers were following policy and guidance when making decisions to grant or refuse leave in live cases. However, further guidance needs to be given so that caseworkers understand and can apply the ‘residual discretion’ test in cases where it is appropriate to do so.
- v. I remain concerned that applicants who had been compliant with CRD processes have continued to be disadvantaged as a result of the change to grant DL instead of ILR. However, as a number of test cases on this issue are to be heard before High Court in June 2013, I make no further comment on this issue.
- vi. The Agency had improved its quality assurance processes to ensure that decisions made by staff were reviewed by senior caseworkers prior to decisions being communicated to applicants. Staff were also confident that the referral process to senior caseworkers was working well.
- vii. The appointment of the Removals HEO was helping to prioritise and focus refusal cases for removal. However, key to making further progress will be the:
  - recruitment of additional casework staff in OLCU to remove barriers to removal; and
  - the development of a protocol between OLCU and LITs which recognises the importance of legacy removals and prioritises them accordingly.

## Findings

### File sampling results – cases granted leave

4.3 Figure 12 shows the case outcomes from our sample of cases granted leave.

<b>Figure 12: Types of leave granted</b>	
Indefinite Leave to Remain	19
Discretionary Leave	13
Humanitarian Protection	1
Family Leave to Remain	1
<b>Total</b>	<b>34</b>

- 4.4 Valid PNC and WI checks had been completed in all 34 cases. We found that ILR had been granted appropriately in all 19 relevant cases, being 56% of the total. All 19 had also undergone a quality check in the form of a ‘second pair of eyes.’
- 4.5 The 13 cases granted DL were also given appropriate leave in line with Home Office policy.<sup>30</sup> However, we could find no evidence in three of these cases that caseworkers had considered whether ILR should have been granted on the basis of ‘Residual Discretion.’
- 4.6 Residual discretion allows caseworkers to consider whether an applicant’s asylum legacy case had been ‘seriously mishandled’ by the Agency to the extent that a grant of ILR was appropriate. Such factors would include multiple and serious administrative delays in a case being considered through no fault of the applicant. This was an issue we raised in our inspection report on the handling of legacy and migration cases.

<sup>30</sup> <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/discretionaryleave.pdf?view=Binary>

4.7 The Agency accepted that there were grounds in all three cases to reconsider the type of leave that had been granted, based on the proper application of the Residual Discretion test. It added that instructions had now been issued to caseworkers that minutes must contain the reasons why the Residual Discretion either did or did not apply when granting leave.

### **Policy and Guidance**

4.8 The policy and guidance in place at the time these decisions were made had changed since we conducted our inspection of legacy asylum cases in the first half of 2012. The most significant change related to the deletion of Paragraph 395C of the Immigration Rules,<sup>31</sup> which was used in the majority of legacy asylum cases considered by CRD and CAAU. Paragraph 395C was replaced with Paragraph 353B on 13 February 2012.<sup>32</sup>

4.9 Initially, cases that qualified for leave under Paragraph 353B were entitled to three years' Discretionary Leave. However, from 9 July 2012, this changed to 30 months' Discretionary Leave, unless the Agency:

- had made a written commitment that a case would be considered either before 20 July 2011 or before 9 July 2012 (see paragraph 4.10 ), but failed to do so, and the UK Border Agency later decided that a grant was appropriate; and
- made a decision either before 20 July 2011 or before 9 July 2012 that a grant of leave on the grounds then listed in Chapter 53 was not appropriate, but after that date reconsidered that decision and, on the basis of the same evidence, decided that the earlier decision was wrong and that leave should have been granted.

4.10 Where one of the exceptions above applied and the relevant date was before 20 July 2011, caseworkers were instructed to grant ILR outside the Immigration Rules. This was because before 20 July 2011 ILR was granted in cases which met the exceptional circumstances in Chapter 53 of the Enforcement Instructions and Guidance (IEIG). Where one of the exceptions above applied and the relevant date was before 9 July 2012, caseworkers were instructed to grant three years Discretionary Leave.

4.11 We found that the Agency had made progress in updating its DL Asylum Policy Instructions<sup>33</sup> to reflect the circumstances under which grants of ILR or three years' DL should still be considered in legacy cases. Although this went some way to meeting the recommendation we made on this issue in our legacy inspection report, we remain concerned that written guidance was still not available to caseworkers setting out the circumstances that should lead to consideration of the exercise of residual discretion, an issue the Agency has been aware of since June 2012. The Agency confirmed that it would be issuing new guidance on the application of Residual Discretion in April 2013.

4.12 In our legacy inspection report, we criticised the Agency for its approach following the policy change it made in CAAU on 20 July 2011 which resulted in applicants being granted DL rather than ILR, the type of grant that was used routinely by CRD caseworkers when granting leave to legacy asylum applicants. We identified similar issues in eight of the cases that we sampled where the outcome was a grant of DL rather than of ILR. We set out our concerns in relation to these eight cases and invited the Agency to respond. It told us:

- Statements that made reference to the general aim to decide cases in the legacy cohort by summer 2011 are not regarded as constituting a written commitment to conclude the individual's case by a specific deadline and are not therefore considered to fall within the 'written commitment'

31 <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part12/>

32 A small number of previous sampled cases may have fallen under 353B consideration as this Rules came into effect on 13 February 2012 and the original investigation sampled cases where decisions were made up until 28 February 2012.

33 <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/discretionaryleave.pdf?view=Binary>



exception set out in the Agency's Discretionary Leave Asylum Instruction. The written commitment refers to a specific commitment made to an individual that their case would be decided by a certain date.

- For completeness, we have rechecked this matter again with colleagues in Immigration and Border Policy Directorate, who have confirmed that the approach taken with these cases has correctly taken into account the policy.

4.13 We remain concerned that applicants and their legal representatives, who were compliant with Agency requests during the lifetime of CRD, have continued to be adversely affected because the Agency:

- made public announcements about completing this work by the summer of 2011, both at stakeholders events and on its website; and
- referred to this specific timeline in general correspondence, whether asking for or acknowledging the receipt of further information from applicants or their Legal Representatives.

4.14 The Agency informed us that a number of test cases on the issue were due to appear before the High Court in June 2013. We therefore make no further comment on this issue.

### **Cases refused leave**

4.15 Applicants in 12 of the cases we sampled had been refused leave between 1 September 2012 and 31 December 2012. We found that the decisions in 11 of these cases were reasonable. The Agency acknowledged there had been a 'clear error' in the final case and that the decision would be reconsidered as a matter of urgency.

### **Removals**

4.16 We found that none of the applicants in the 11 refusal cases that we sampled had been removed. Over half of these cases were subject to legal challenges (PAPs, JRs and one injunction) and three cases were not being actively pursued towards removal due to a lack of travel documents.<sup>34</sup>

4.17 During the period 1 April 2012 to 31 December 2012, the Agency removed 113 individuals out of 804 refusals made by CAAU (14%). This was an identical removal rate to that in our legacy inspection report, indicating that further progress still needed to be made to improve removal performance.

4.18 To address this issue, the Agency appointed a Higher Executive Officer<sup>35</sup> (HEO) in November 2012 to improve liaison with LITs to promote CAAU cases for removal.

4.19 The Agency informed us that it planned to recruit an additional ten staff to form a removal team under the HEO in order to overcome barriers so that LITs would be presented with cases where removal could take place. This action should alleviate the problems previously experienced, where LITs were either unable or unwilling to undertake casework themselves to resolve final barriers to removal due to other work priorities.

4.20 Key to making further progress in this area will be the recruitment of the additional ten staff. A protocol between OLCU and LITs also needs to be developed which recognises the importance of legacy removals and prioritises them accordingly.

<sup>34</sup> The issue of how the Home Office obtains and uses travel documentation to facilitate the removal for foreign nationals will be subject to an inspection later in 2013.

<sup>35</sup> A second tier manager.

## Active Reviews

- 4.21 Active Review cases are those where individuals have been granted Limited Leave to Remain and on the expiry of their limited leave, should these individuals wish to remain in the UK, they will need to make a fresh application for further leave.
- CAAU had not been resourced to undertake active reviews;<sup>36</sup> and
  - active reviews were not included within the asylum legacy reports provided to the HASC, even though they fitted the criteria for asylum claims made prior to March 2007.
- 4.22 The Chief Executive informed HASC on 18 December 2012 that, while active review cases were captured as conclusions in former legacy reports, the Agency had now discontinued this practice. This was because, on the expiry of their limited leave, applicants would need to make a fresh application for further leave if they wished to remain in the UK. As a result there was no action that either CRD or CAAU could have taken to progress active review cases while this leave was still extant. He added that these cases would now be managed as part of a new Directorate, the ‘Complex Casework Directorate’, which was being established in early in 2013 to manage the Agency’s older and more complex cases.
- 4.23 The PCU had identified 12,529 cases where leave had expired, and any applicants who had applied in time to extend their leave retained the same entitlement. They reported that in 3,811 of these cases, individuals had submitted an application for active review. Figure 13 refers.

**Figure 13: Active reviews and expired leave – pre-March 2007**

In-Time applications	3,019
Out-Of-Time applications	792
<b>Totals</b>	<b>3,811</b>

- 4.24 The figure of 3,811 was significantly lower than the figures provided to us during our legacy inspection,<sup>37</sup> and lower than the figure set out in the Chief Executives response to the HASC on 18 December 2012, which referred to an estimate of 11,000 active review cases.
- 4.25 Due to these significant discrepancies we requested clarification of the numbers. The Agency stated that leave had expired in the remaining 8,718 cases and further checks needed to be undertaken in these cases to establish whether:
- any applications had actually been made, but were not recorded on CID correctly; or
  - a period of further leave had already been granted, but had not been recorded on CID correctly.
- 4.26 These checks will be important, especially as a previous grant of DL confers access to the labour market and to mainstream benefits, factors which make further applications more rather than less likely.
- 4.27 Our investigation findings indicate that the Agency does not have a firm grasp of how many active review cases it has. It also highlights concerns about ongoing CID data quality which severely limit

<sup>36</sup> An active review will be required where an application is made for further limited, or indefinite leave to remain by a person who has been granted: (Their first period of) Humanitarian Protection prior to 30th August 2005; Discretionary Leave; a period of less than four years’ exceptional leave to enter or remain (ELE/R) prior to 1 April 2003 (following refusal of asylum). In some cases, a review will also be required for persons granted Humanitarian Protection on or after 30th August 2005 or refugee status and limited leave on or after 30th August 2005.

<sup>37</sup> CAAU identified that it would have to deal with approximately 16,398 active review cases between April 2012 and April 2017. It was also recognised that a further 17,000 cases, which may be granted discretionary leave between May 2012 and December 2013, would require active reviews from May 2015 onwards.

the Agency's ability to accurately record and report on cases where further applications have been made.

- 4.28 Furthermore, we found that active reviews were not being progressed due to other work pressures in the Unit. We noted that these delays largely affected applicants who were originally Unaccompanied Asylum Seeking Children (UASC) at the time they made their original claim – over 2,800 of the 3,811 active review applications received by the Agency. However, the Agency had:
- appointed a children's champion within OLCU, who was also the liaison point for the British Red Cross and Social Services in order to deal with any specific issues relating to minors; and
  - created a small case work team to deal with UASC active review cases, so the numbers were reducing.
- 4.29 More resources are needed to deal with these types of case to ensure that they are being handled to conclusion in an appropriate manner.

### **Re-opened migration and asylum cases**

- 4.30 Our legacy asylum report identified that CRD did not undertake external data-matching checks on cases before putting them in the asylum and migration controlled archives. This tracing work had commenced by the time of our on-site inspection in June 2012 and we set out earlier in this report that the outcome of these external checks, together with internal data-matching work, was that:
- 18,500 asylum controlled archive cases were transferred to the live cohort; and
  - 7,000 migration controlled archive cases were transferred to the live cohort.
- 4.31 During our last inspection, we were told that the Agency would appoint 14 additional caseworkers to review and, where possible, conclude the 6,500 migration cases that were forecast to become live as a result of external checks. This statement was repeated in a submission to Ministers on 19 April 2012.
- 4.32 We were disappointed to find that these caseworkers were still not in post at the time of our investigation and that work had not begun on these cases. The Agency told us that this work would now be carried out from April 2013 by staff working in CAAU3, the team previously responsible for managing the external and internal data-matching process for legacy cases. This delay means that the positive matches identified as part of the external data-matching last summer (2012) will be at least one year old before work begins.
- 4.33 As these are positive matches, the Agency will need to set out clearly what processes it expects caseworkers to follow when dealing with these cases. We believe this should include undertaking further external data-matching to ensure that the information it is using to trace applicants is accurate and up-to-date. Any such approach should not rely simply on writing to addresses and closing files where no response is received.

# Appendix A - Key terms used in report

Term	Description
Case Resolution Directorate (CRD)  From 1 April 2007 to 31 March 2011	The Case Resolution Directorate was established on 1 April 2007 to deal with an estimated backlog of 400,000 to 450,000 asylum cases which were defined as those not being processed as part of the New Asylum Model (from 5 March 2007 onwards) and which had not been concluded (removed, granted or otherwise closed).
Case Assurance and Audit Unit (CAAU)  From 1 April 2011 to 12 February 2013	A unit set up by the Agency in April 2011 to manage legacy cases that CRD had been unable to conclude, either because they faced significant barriers to conclusion or because applicants could not be traced by CRD.
Older Live Cases Unit (OLCU)  From 13 February 2013 onwards.	Formerly known as the Case Assurance and Audit Unit (CAAU), this unit is responsible for dealing with the older unresolved asylum cases, where the initial asylum claim was lodged before March 2007, and for older migration cases transferred to the live cohort following the exercise to trace cases in the Migration Controlled Archive.
Active review	Active Review cases are those where individuals have been granted Limited Leave to Remain and, on the expiry of their limited leave, should they wish to remain in the UK, must make a fresh application for further leave.
Bulk data-matching	Bulk data-matching is undertaken by the Agency with external partners in order to trace applicants. It allows the comparison of large amounts of electronic data to identify whether individuals were known to any of the partners. Similar exercises were conducted against its internal databases, including WI, and against the PNC (q.v.).
Case Information Database (CID)	An administrative tool, used by the Agency to perform casework tasks and record decisions.
Controlled archives (asylum and migration)	The Controlled archives were a repository for those cases where CRD had tried to establish contact with applicants but had been unsuccessful.
Discretionary Leave (DL)	A form of immigration status where permission to remain in the UK is given to an individual whom the Agency has decided does not qualify for refugee status or humanitarian protection but who does qualify to stay in the UK temporarily.

Department for Work and Pensions (DWP) check	A check against the DWP databases for all current benefit claims including Jobseekers' Allowance, Income Support, Disability Living Allowance, Pension Credit, Carers' Allowance, Housing Benefit and industrial injuries claims.
Equifax check	A check made by a credit referencing agency that runs searches against publicly available records including the electoral register, county court judgements, fraud databases and mortgage records.
HM Revenue & Customs (HMRC) check	A check made against HMRC databases with regard to Child Benefit, Working Tax Credit and Child Tax Credit.
Indefinite Leave to Remain (ILR)	A form of immigration status granted to an individual who qualifies for permission to remain in the UK indefinitely.
Live cases	Legacy asylum cases which were not concluded by CRD because they faced barriers to conclusion such as further submission, cases awaiting removal, or facing impending prosecutions or ongoing litigation.
National Asylum Quality Assurance Framework	A formal framework for ensuring consistency to the asylum process and decision-making.
Police National Computer (PNC)	The PNC holds details of people, vehicles, crimes and property that can be electronically accessed by the police and other criminal justice agencies, including the Home Office for purposes connected with immigration and enforcement.
Warnings Index (WI) checks	A database of names available to the Home Office of those with a previous history of immigration offences and those of interest to detection staff, police or other government agencies.

# Appendix B - Key dates associated with this investigation

## Chronology of key dates associated with this investigation

**1 April 2011:** The Agency establishes the Case Assurance & Audit Unit (CAAU) to work on legacy asylum and migration cases.

**20 July 2011:** The Home Office changes its policy in relation to the type of leave the Agency should grant under Paragraph 395C of the Immigration Rules. This results in legacy asylum applicants being granted Discretionary Leave for three years (where it was considered removal from the UK was not appropriate), rather than Indefinite Leave to Remain.

**13 February 2012:** Paragraph 395C of the Immigration Rules is deleted. It is replaced with Paragraph 353B which covers 'Exceptional Circumstances'. The result in terms of CAAU cases is that any cases which are reviewed have to be considered against this new paragraph.

**19 April 2012:** The Home Secretary and Immigration Minister receive a submission from the Agency setting out its proposals for the future of CAAU.

**3 May 2012:** The Chief Executive writes to the HASC informing them that he aims to 'significantly reduce the number of cases within the Controlled Archive by March 2013.'

**15 May 2012:** The Chief Executive gives oral evidence to the HASC that he has updated his estimate to eliminating the 80,000 asylum cases by December 2012

**9 July 2012:** The Home Secretary and Immigration Minister receive a submission dated 5 July from the Agency seeking their approval of the proposed closure criteria for cases in the asylum and migration controlled archives.

**9 July 2012:** An updated Discretionary Leave Instruction is issued. It advises that, should someone qualify for leave under Paragraph 353B of the Immigration Rules, they will qualify for DL for 30 months rather than three years. Exceptions are also set out in this instruction linked to CAAU cases whereby three years' Discretionary Leave or ILR should still be granted.

**21 November 2012:** The Agency informs the HASC in a letter that the Controlled Archives have been closed and that a full report into this closure will be provided in due course.

**21 November 2012:** The former Acting Chief Executive of the Agency writes to HASC advising that he should have said '...up to 19 databases' and apologises for the inadvertent error. The existing Chief Executive also writes to the HASC about the failings identified in our inspection report and refers to inadvertent errors made by the Agency about:

- failures to complete routine six monthly security re-checks from April 2011;
- the suggestion made in oral evidence in November 2009 and in March 2010 that all of the files had been checked against watch lists and the PNC;
- that all archived cases were checked against all 19 databases; and
- that CRD had completed its review of all legacy cases as at 31 March 2011.

**22 November 2012:** The Independent Chief Inspector of Borders and Immigration publishes his inspection report on the Agency's handling of legacy asylum and migration cases.

**27 November 2012:** The Home Secretary requests the Independent Chief Inspector to investigate and report to her on those matters set out in the Terms of Reference in Figure 1.

**27 November 2012:** A previous Chief Executive and former Acting Chief Executive of the Agency both give evidence to the HASC. The former Chief Executive apologises for being inaccurate regarding the number of cases that had been checked against the PNC. The former Active Chief Executive apologises for misleading the HASC with regard to the number of databases that were checked in a number of legacy cases.

**December 2012:** The Agency provides the HASC with a copy of its Controlled Archives Closure Report.

**13 February 2013:** The Agency is renamed the Older Live Cases Unit OLCU.

**26 March 2013:** The Home Secretary announces that the Agency will be abolished and returned to the Home Office as two separate entities.

**01 April 2013:** The UK Border Agency is reintegrated back into the Home Office, creating two new operational commands, one responsible for visas and immigration and the other for immigration law enforcement

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**Assistant Chief Inspector:**                      **Garry Cullen**

**Lead Inspector:**                                      **Fiona Cooper**

**Inspector:**    **Christolite Ashley**

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