Home Affairs Committee

Oral evidence: Immigration detention, HC 913

Tuesday 8 May 2018

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Watch the meeting

Members present: Yvette Cooper (Chair); Stephen Doughty; Kirstene Hair; Sarah Jones; Tim Loughton; Stuart C. McDonald; Douglas Ross; Naz Shah; John Woodcock.

Questions 175 - 485

Witnesses

I: Peter Clarke CVO OBE QPM, HM Chief Inspector of Prisons; and Hindpal Singh Bhui, Inspection Team Leader (Immigration), HMI Prisons.

II: Rt Hon Caroline Nokes MP, Minister for Immigration, Home Office; Sir Philip Rutnam, Permanent Secretary, Home Office; and Hugh Ind, Director General, Immigration Directorate, Home Office.

Written evidence from witnesses:

– Home Office (IDD0037)
Examination of witnesses

Witnesses: Peter Clarke CVO OBE QPM and Hindpal Singh Bhui.

Q175 Chair: Can I welcome everybody to this session of the Home Affairs inquiry into immigration detention and welcome our first witnesses before us? Can I just ask you to introduce yourselves?

Peter Clarke: I am Peter Clarke. I am the Chief Inspector of Prisons.

Hindpal Singh Bhui: I am Hindpal Singh Bhui. I am the Inspection Team Leader. I lead on immigration for the Inspectorate of Prisons.

Q176 Chair: Thank you very much. We have obviously seen some of your previous reports and so on. What is it that most concerns you about the operation of immigration detention at the moment? Mr Clarke.

Peter Clarke: From my perspective, the biggest issue is the uncertainty and the distress that is felt by so many detainees because of the lack of clarity as to what the future holds for them. Many of them go into detention and they simply do not know how long they are going to be there for, they do not know how their case is going to be resolved, they do not know whether they are going to be released back into the community, and of course some 50% of those who are detained are released back into the community at some stage. That lack of clarity as to the future we have seen cause considerable distress to those held in detention.

Hindpal Singh Bhui: I agree with all of that. I think that the biggest issue when we go into immigration detention is that people are very distressed. There is a very deep level of emotional distress among detainees and uncertainty about when they are going to be released is key in that. We have been concerned as well about the level of vulnerability of detainees over a period of time. One of the biggest issues recently that we have been concerned about, for example, is the number of deaths in detention over the last couple of years. They have risen very markedly, including self-inflicted deaths.

Q177 Chair: We have also seen quite a lot of cases where people seem to be detained for a long time, including individual cases where it is not clear why, cases of people being detained nine months, three months, five months, but with no clarity about why that was needed. As I understand it, 10,000 people last year were detained for more than 28 days. Do those figures sound right to you?

Hindpal Singh Bhui: I am not sure about the figures, but I would not be surprised.

Peter Clarke: In terms of an example, the exact figures globally are not something we would routinely look at, because we are looking at treatment and conditions in individual establishments. In terms of individual establishments, I can tell you that when we inspected...
Harmondsworth last year, there were 23 people there who had been held for more than one year. Although most people do go through reasonably quickly, within a matter of weeks or a low number of months, there are significant numbers—as I say, 23 in Harmondsworth—that are held for extended periods.

Q178 Chair: What tend to be the main reasons why people are held for those extended periods?

Hindpal Singh Bhui: Often there are issues around travel documentation, there are issues around late appeals that are put in, but there are also consistent issues around the efficiency of the Home Office case-working and that can delay someone’s release or someone’s removal. For example, there are a number of people held in prisons at the moment, about 400 or so, who are detained under immigration powers. They should be case-worked from the 18-month period before the end of sentence, but often they are not, so many of them would end up being detained after sentence.

There are a number of people who are waiting for asylum claims to be dealt with. For example, again in Harmondsworth, we found someone who had not had a claim dealt with for a year. In another IRC we found seven months’ delay in dealing with an asylum claim. There are all sorts of issues, but case-working is a concern of ours as well.

Q179 Chair: That was somebody who had been held in an IRC for seven months while an asylum claim was pending and with no progress on that case for the seven months while they were in detention?

Hindpal Singh Bhui: It had not been resolved in that time, that is true, yes.

Q180 Chair: Don’t you find that shocking?

Hindpal Singh Bhui: Yes. We raised it and published in our report, because we were very concerned about the length of time that people who we felt were quite vulnerable were being held.

Q181 Chair: What sense do you get of the response from the Home Office to your reports?

Peter Clarke: I have to say, I am afraid it is variable. You would not want me to be anything other than frank, I am sure. One of the key issues is that we are not a regulator and we do not inspect against Home Office policy, so whether somebody is complying with their internal policies or not is not really our concern. Our concern, as with all the inspection of detention that we do, is the outcomes for either prisoners or detainees and we inspect against international human rights standards. That sometimes causes a certain degree of friction. I have to say that in our dealings—my dealings since I have been in this job and I am now in my third year doing this—remember that we inspect prisons of behalf of the Ministry of Justice, military detentions on behalf of the Ministry of
Defence and court and police custody on behalf of another part of the Home Office, I have found I have had more pushback and resistance to our findings from the immigration enforcement part of the Home Office than anywhere else.

As an example of the slowness of the response, as you know, we inspect immigration removal centres and short-term holding facilities and overseas escorts. The agreement we have with the Home Office is that three months after the publication of our report in any of these cases, an improvement plan or an action plan—call it what you like—will be published by the Home Office. This seems to have fallen away. Last November I wrote to the then Immigration Minister, Mr Lewis, to point out that we had at that stage a dozen outstanding service improvement plans dating back to December 2016. The inspection had been in September 2016 and the action plan had been due in 2016. We still had not received anything in December.

In early February this year, I received a letter from the new Immigration Minister, Caroline Nokes, apologising for that delay and saying that things would improve and that it was her personal priority to make things happen. Unfortunately nothing has happened and now the number of outstanding improvement plans has increased and we still have not had an improvement plan dating back—this is Edinburgh Airport, a short-term holding facility—to December 2016. I suppose—

Q182 Chair: How many of them are there in total?

Peter Clarke: At the moment, 16. I suppose what it leads me to think, rightly or wrongly, is if I have this degree of difficulty in getting a response, what must it be like for detainees?

Kirstene Hair: From that line of questioning, would I be correct in saying that you would both agree—and forgive me if I have interpreted this wrongly—that indeed there should be a time limit on detention?

Peter Clarke: We are, as the Inspectorate of Prisons, members of the National Preventative Mechanism. There are 21 members representing those who monitor, inspect or regulate detention in the UK. The NPM has said that there should be a time limit on detention. They have not specified what that time limit should be, but as members, we accede to that position and agree with it. We too have not articulated a particular length of time, but I think that if there were a time limit, I know the argument that says that would render the system more vulnerable to abuse, but at the same time, it might focus minds on achieving timeliness in casework.

Kirstene Hair: Did you want to come in on that?

Hindpal Singh Bhui: Just to agree. I think there is a fundamental problem with the lack of a time limit, which is that it does not put enough pressure on the Home Office to casework efficiently and quickly. All too often we see cases where a kind of standoff develops, where the Home
Office is really waiting for detainees to give up, whereas what we would rather they were doing was working very efficiently and effectively and quickly to resolve cases.

Q184 **Kirstene Hair:** You think it ensures that they work less efficiently, essentially?

**Hindpal Singh Bhui:** I think it would help them to work more efficiently if they had a deadline.

Q185 **Kirstene Hair:** You mentioned about a time period. Obviously France and Ireland have significantly less, I think 28 and 32 days. You said you did not want to put a time on that, but do you think that we could come down to two months, three months? How far do you think that it could be reined in from what it is at the moment, just from your experiences?

**Peter Clarke:** I have not personally come to a determination as to what an appropriate time limit should be. Perhaps what there needs to be is a stricter interpretation of the current position, which is there has to be a realistic prospect of removal. Perhaps a stricter or more robust approach to that, combined perhaps with an ultimate time limit, would be more helpful. But at the moment, it would appear that what a realistic prospect of removal means seems to be a somewhat unclear and rather opaque concept.

Q186 **Kirstene Hair:** Would you say during that period that the Home Office provides adequate communication and evidence for that continued detention?

**Hindpal Singh Bhui:** I think that varies as well. There are monthly reviews of detention, which are given to detainees. They have improved, I have to say, but they still routinely will repeat similar things from previous reviews. The biggest piece of evidence is what detainees tell us when we go into immigration detention, which is quite often they are not too sure about what is going in their cases, so I think there is a problem in communication with detainees.

There are immigration officers onsite in detention facilities. They tend to be people who are not working the cases. The caseworkers are remote, they are located somewhere else. The people onsite usually do quite a good job of trying to communicate between the caseworkers, who are remote, and the detainees, but at the end of the day, the information flow is affected by the fact that it is not direct and certainly detainees still complain to us quite regularly about the lack of information and communication.

Q187 **Kirstene Hair:** The level of uncertainty around the communication as well as this indefinite detention, do you think these two aspects have a very significant impact on the self-harm and the mental health issues that we see and hear about?
Hindpal Singh Bhui: There was a very extensive review done of mental health in detention for the Shaw review. Stephen Shaw’s evidence suggested that the longer people are in detention, the worse mental health problems become and that there were significant and serious problems with mental health in detention. Whether there is a direct relationship between the length of time in detention and suicidal ideation or self-harm, it is very difficult to say. We have not done a direct piece of research on that, but it absolutely would not surprise me if that were the case.

Q188 Kirstene Hair: In terms of the examples that I cited earlier around France and Ireland, I have not seen specific evidence. I just wondered if you had any around whether they have similar issues with mental health and self-harm, for example, on the basis that those that go in know that they will only be there for an absolute maximum of approximately a month and obviously a lot of the time their cases are processed significantly quicker.

Hindpal Singh Bhui: I have not seen international evidence on that, but given again the evidence that the length of time affects mental health, I would be surprised if the level of mental distress is as high as it is in our system.

Q189 Stuart C. McDonald: Could I ask, do you have a view on whether screening processes to identify vulnerable people are working or otherwise?

Peter Clarke: If I give a fairly simplistic view to it—and Hindpal can no doubt put some more detail around it—the fact that some 50% of people who come into immigration detention are at some point released immediately suggests to me that screening is not as perhaps effective or as thorough as it could be. Otherwise, the very serious decision to put somebody into detention, one would have thought would have led to a lower subsequent release rate than 50%.

Q190 Stuart C. McDonald: But you would not go as far as saying that all the 50% who are released are vulnerable people?

Peter Clarke: I could not possibly say that, but in terms of vulnerability, we certainly have concerns.

Hindpal Singh Bhui: Yes, absolutely. I think there is some evidence there are certainly fewer people going into detention at the moment, which is good, but the number of people who are vulnerable in detention does not appear to have reduced greatly. To give you some examples, when we inspected Harmondsworth last year, about 30% of the population was considered to be at level 2 or above of the Home Office’s at-risk policy, level 2 or above in terms of vulnerability. In Yarl’s Wood, it was about a fifth. There are large numbers of people who the Home Office themselves consider to be vulnerable who are in detention. In some cases, it can be very serious.
Again, looking at Harmondsworth, we did a sample of rule 35 cases and in a sample of 10 cases, nine out of 10 of those cases had evidence of torture and every one of those people had detention maintained, despite the evidence of torture being accepted. There are certainly people who are vulnerable in detention and we have not seen clear evidence of the numbers reducing.

Q191  **Stuart C. McDonald:** I will come back to rule 35 in a moment, but just going back to the issue of screening, what should happen at the outset and why is it not picking them up? Alternatively, there was a little bit of what you said there, that the Home Office knows that some of these people are vulnerable, 30% and 20% in those detention centres that you mentioned. Why are they still being detained, even though the Home Office have identified them as vulnerable?

**Hindpal Singh Bhui:** We do not look at the time before people come into detention, so it is quite difficult for us to comment on how that screening process is working. When they come into detention, however, they should have an initial screening. The Home Office staff should see them, do an induction interview and any relevant information should be passed on to the Home Office. If vulnerability develops in detention, then the rule 35 process could kick in. It is a concern that there are so many vulnerable people there, but I am not absolutely sure about why it is so many are coming in in the first place.

Q192  **Stuart C. McDonald:** I take it from what you have said that you have some problems with how the rule 35 process is working as well. We had some evidence, for example, that there can sometimes be delays between a request for a rule 35 and it actually happening and also issues about the Home Office ignoring or overruling rule 35 requests.

**Hindpal Singh Bhui:** Yes. We have looked quite closely at rule 35, for obvious reasons, over a period of time. I do not think I can recall a single inspection where we have not had a number of cases where we have been concerned about the level of detail, the level of quality of the initial reports. Often we have a concern about the responses coming back. If the initial report is not of good enough quality and does not have enough evidence in it, then it is quite difficult for the Home Office to make a determination on whether or not someone should stay in detention. There are other issues around rule 35. Torture is only one reason why a rule 35 could be considered, but almost all the rule 35 reports we see are about torture.

Just to give you another example, we were in a detention centre recently where there were 60 people who had been considered to be at risk of self-harm over the previous six months and half of them were considered to be at such a high level of risk that they were under constant supervision by the staff, yet there were no rule 35s at all on suicidal ideation, which is another reason why you could have a report put in. It is a concern that the terms of rule 35 are perhaps being interpreted a little too narrowly for our liking.
Q193 **Stuart C. McDonald:** They are only really only engaged when torture is involved?

*Peter Clarke:* Quite.

Q194 **Stuart C. McDonald:** That brings me on to the adults at risk policy. Is that one of the problems here, in that it appears to—if I understand the evidence right—focus very much on victims of torture rather than broader categories of vulnerable people?

*Hindpal Singh Bhui:* Yes, I think that is one of the issues that could be raised with the policy. When we looked back at rule 35 and put it alongside the adults at risk policy to see what is happening, it seems that since the adults at risk policy came in, the number of successful rule 35s has gone down. It is quite hard to understand this trend. I am guessing that it could only be because of something within the policy that mitigates against releases taking place. At one point there were up to 30% releases following rule 35s being submitted. That has gone down to around 10% or 15% now and the reasons for that are not very clear, but you could infer that it has something to do with the at risk policy.

Q195 **Chair:** Sorry, just to clarify that, you could infer what?

*Hindpal Singh Bhui:* Because the number of successful rule 35s has reduced since the adults at risk policy was implemented, it would seem that the two are somehow linked.

Q196 **Stuart C. McDonald:** But you are not clear on what that link is?

*Hindpal Singh Bhui:* I am hesitant to make a clear determination about what is going on there.

Q197 **Stuart C. McDonald:** But if we were to explore it with the Immigration Minister, for example, what sort of lines do you think would be worth exploring?

*Hindpal Singh Bhui:* I think the direct question might be helpful.

Q198 **Stuart C. McDonald:** Sure. Any other comments on the adults at risk policy, whether it is up to the job and other improvements that you would like to see to that particular policy?

*Hindpal Singh Bhui:* I think that was our principal concern.

Q199 **Stuart C. McDonald:** There has obviously been considerable controversy about the definition of torture and I think the Government have now laid their replacement policy before Parliament. Have you any thoughts on that particular—

*Hindpal Singh Bhui:* I think our role will be to examine the impact of that new definition and to see what is happening in detention. I know there is a raging debate about the definition and about the propriety of it. I think our proper role probably is to look at what happens.
Peter Clarke: As so often with these issues, we will look very carefully to see the way in which the new policy is being interpreted and whether we feel that that is appropriate.

Q200 Chair: Can I just clarify, you said 90% of rule 35 cases are staying in detention; you said only 10% lead to release?

Hindpal Singh Bhui: No, sorry. We look at a sample of 10 rule 35 cases in every IRC we go to. I gave an example of one IRC where nine out of 10 of those cases, there was evidence of torture accepted and all of those had detention maintained. It is a more specific point than—

Q201 Chair: They are admittedly small samples. Nevertheless, on your small samples, 90% of those cases, where there is significant evidence of torture, people are still continuing to be detained?

Hindpal Singh Bhui: In that very small sample, yes, but overall 10% to 15% of rule 35 reports at the moment are successful.

Peter Clarke: I think the point about that particular sample was the evidence of torture was accepted by the Home Office. It was not as if it was contested. It was accepted, but nevertheless, detention was maintained.

Q202 Chair: In that 85% more broadly of rule 35 cases that are not successful—and by successful, do you mean lead to a release from detention?

Hindpal Singh Bhui: Yes.

Q203 Chair: In that remaining 85%, do you have a sense of what proportion of those it is accepted that there has been torture that they have then been overruled by other immigration considerations and what proportion are cases where they have concluded that there is no evidence of torture?

Hindpal Singh Bhui: I am afraid we do not have the analysis of all those cases. We only have the evidence from our own sample.

Q204 Chair: But you would expect the Home Office to do a systematic analysis of that?

Hindpal Singh Bhui: I would, yes.

Q205 Stephen Doughty: I want to ask you both about the decision that was snuck out by the Home Office on Friday about Brook House and G4S continuing to operate for another two years. Were you aware of that decision and were you surprised by it?

Peter Clarke: We were not aware of the decision. We have absolutely no part to play at all in the contractual arrangements between the Home Office and service providers such as G4S. I cannot really express surprise or otherwise. I was not aware of what was happening. I have to say, we do not take a view at all on the appropriateness or otherwise of these services being provided by the public or the private sector. It is exactly
the same as in prisons. We look at the treatment and conditions of those who are being held, not at who is doing it and at what cost. We are almost exclusively focused on outputs and outcomes, not inputs.

**Q206 Stephen Doughty:** But given the outcomes we saw, particularly in the BBC “Panorama” investigation into Brook House, and given that there is an ongoing review—the Lampard review—into that, which I understand has not yet reported, what were your thoughts about what you saw at Brook House in that “Panorama” programme and subsequent allegations that have come out, not only just about there, but about other places? Do you feel that those are now being dealt with, listened to, responded to?

**Peter Clarke:** Clearly there are several inquiries going on into what happened at Brook House. My immediate response on seeing that “Panorama” was, I am sure, very similar to everybody else. It was absolute disgust at seeing what would appear to have been ill-treatment of detainees. From an inspectorate point of view, of course our concern was that we had inspected Brook House in November 2016. The abuse that was portrayed on “Panorama” apparently took place at some time after that and it was of great concern to us to understand whether or not our inspection, which is inevitably a snapshot, had missed something wrong in terms of culture or ill-treatment.

The context is that we go in and inspect over the course of a fortnight. What it would appear had happened is that neither the senior management of the centre nor the independent monitoring board, who are there all the time, nor the Home Office monitors, nor the many NGOs who work in the centre, they did not appear to be aware of what was going on either.

**Q207 Stephen Doughty:** Why do you think that was, that they were not aware, given that extensive regime you have just described?

**Peter Clarke:** That I do not know. I could guess, through my previous experience in a different life: when poor culture infects a unit or sub-unit in a large organisation, usually that is due to lack of intrusive and effective first-line or second-line supervision. That is just my own experience in a different organisation. What we saw on “Panorama” was apparently people who were first-line supervisors taking part in what appeared to be poor behaviour.

Our concern as an inspectorate was to establish whether we had missed this, what was going on. What we did subsequently is employ what has been termed and what we have termed an enhanced methodology at subsequent inspections—and Hindpal can explain exactly what that is, because he has used it before at Yarl’s Wood—to try to find this very thing. Are our snapshot inspections missing this sort of thing?

**Hindpal Singh Bhui:** Shall I explain a little bit more about it?

**Stephen Doughty:** Yes, sure.
**Hindpal Singh Bhui:** The methodology we used subsequent at Brook House has involved offering every detainee an interview. We would talk to lots of detainees anyway and we do a survey of detainees, but we decided to offer a physical interview with an interpreter to every single detainee in the centre. The biggest difference, I guess, is that we are now trying to canvass far more intrusively the views of staff. I think what happened in Brook House was that there was maybe a bigger group of staff who knew what was going on, but did not tell anyone. How do you get to that kind of information? Perhaps the only way to do that is to give staff a chance to confidentially tell people like us what is happening so that we can look in a bit more detail. We now do a full staff survey and we also go and interview a number of individual staff from all agencies working in the centre. We also write to the NGOs involved in the centre beforehand and ask for intelligence and we also invite ex-detainees to speak to us as well through those NGOs.

**Q208 Stephen Doughty:** It sounds like that is an idea, because obviously it was a staff whistle-blower who largely came forward with the information. Since the “Panorama” programme, what concerns have you had raised with you about G4S in particular that you have communicated onwards to the Home Office or that you have taken as part of your overall inspections?

**Hindpal Singh Bhui:** About G4S itself, I think it is difficult for me to say, because obviously all the centres are run by different organisations.

**Stephen Doughty:** Yes, but specifically G4S facilities I am asking about.

**Hindpal Singh Bhui:** There are only two, Tinsley House and Brook House. We have not been back to Brook House since the “Panorama” programme.

**Q209 Stephen Doughty:** You have not been back?

**Hindpal Singh Bhui:** We have not been back to Brook House, no.

**Q210 Stephen Doughty:** Have you had contact with any staff or any detainees at Brook House?

**Hindpal Singh Bhui:** We have seen some detainees in other centres who were at Brook House and we have recently inspected Tinsley House; that was only a couple of weeks ago. They share some staff with Brook House.

**Q211 Stephen Doughty:** What did you find there at Tinsley House?

**Hindpal Singh Bhui:** Tinsley House we found to be relatively well-run. We did our intrusive methodology there as well. We spoke to a lot of staff; we spoke to a lot of detainees. The staff at Tinsley House were quite happy working in Tinsley House, but one consistent finding was that they were all quite concerned about working in Brook House.

**Q212 Stephen Doughty:** Why haven’t you been back to Brook House since the
allegations broke?

**Hindpal Singh Bhui:** It has only been about a year and a half or so since we went to Brook House in 2016. Our methodology and our funding allows us to go back to centres roughly every two to three years.

Q213 **Stephen Doughty:** Have you been able to take part in the Lampard review?

**Hindpal Singh Bhui:** We are being consulted, yes, by Kate Lampard.

**Stephen Doughty:** You have been consulted?

**Hindpal Singh Bhui:** We spoke to them extensively.

Q214 **Stephen Doughty:** So essentially the Home Office has made a decision here to extend G4S’s contract at Brook House and Tinsley House without you having gone back to Brook House and while a review is ongoing; that is correct?

**Peter Clarke:** We cannot possibly comment on what has been going through the Home Office’s mind when they are reaching a decision, but we have not been back to do another inspection. We are funded for a certain amount of inspection activity.

Q215 **Stephen Doughty:** That is quite concerning. Just in terms of the specific issue of drugs that was also highlighted in that exposure, across the immigration detention estate I know there have been a lot of concerns raised about use of particularly substances like spice, allegations about staff smuggling it in and dealing to residents of the facilities. What is your assessment of the drug problem at the moment across the immigration detention estate?

**Hindpal Singh Bhui:** It varies between centre and centre. I think in places like Brook House and Harmondsworth and Colnbrook, we tend to have higher proportions of ex-prisoners who may have been slightly more imbued in that culture and there are more drug issues. The level of drug use in IRCs has certainly gone up a lot over the last three to four years.

Q216 **Stephen Doughty:** What do you see as the biggest drivers for that going up?

**Hindpal Singh Bhui:** It is very difficult to say. As I said, partly I think it is because there are people coming from the prison estate, where spice is a big issue as well. It could be the detention, the despair that people talk about in immigration detention quite often; it could be levels of mental health issues; it could be a whole range of factors. I would say though that the level of drug use within immigration detention is not remotely comparable to the level of drug use in the prisons we go to routinely at the moment. It is a rising problem and a developing concern, but it is certainly not out of control at the moment.

**Peter Clarke:** Just to expand a little on the last Brook House inspection, the makeup of the population of detainees had changed dramatically, as
Hindpal mentioned. I think at the previous inspection two years before, about 5% of the detainees had been foreign national offenders. By the time of the 2016 inspection, that had gone up to about 45%. We were told during the inspection that staff believed that this was having an impact on the availability of drugs, but what we did report on after that inspection as well is that there did not appear to be a very coherent supply reduction strategy to keep drugs out. This is something that we see all too often across the prison estate as well, but I just mention it in the context of your questions about drugs, that that is what we found at Brook House in November 2016.

Q217 **Stephen Doughty:** One last specific question. Are you aware of cases of wrongful detention in any of the detention centres you have inspected? Have you become aware of cases of wrongful detention subsequently?

**Hindpal Singh Bhui:** We are aware of a number of cases that concern us, but we do not investigate individual cases over a period of time. I would say that it is quite clear that there are a number of wrongful detentions because of the amount of compensation paid every year for that very reason.

Q218 **Stephen Doughty:** When you have become aware of cases or groups of cases of concern, have you reported those on an ad hoc basis to the Home Office?

**Hindpal Singh Bhui:** We publish them openly.

Q219 **Stephen Doughty:** You publish them openly. But as far as you are concerned, there have been wrongful detentions?

**Peter Clarke:** Yes.

**Hindpal Singh Bhui:** Undoubtedly, yes.

Q220 **Douglas Ross:** Just following on some of those questions, how effective do you think the whistleblowing and complaints procedures are?

**Hindpal Singh Bhui:** We have been asking specific questions about this recently and going into some detail with staff about the—

Q221 **Douglas Ross:** Because you are not satisfied with it at the moment?

**Hindpal Singh Bhui:** We wanted to know whether or not it was good enough. We asked—

Q222 **Douglas Ross:** You are going in with a view that you have to look at this because you believe it was not good enough?

**Hindpal Singh Bhui:** Clearly it was not good enough at Brook House. We knew there was a problem and we wanted to know the extent of that problem, so we have asked staff more routinely about whistleblowing. I would say in the last two to three inspections, staff are more aware of the whistleblowing process than they had been previously, but in each of those inspections, we have been concerned about staff still not having
confidence in the system and the systems not being clear and easy enough to use.

Q223 Douglas Ross: Before I come on to that, where does the lack of awareness come from? I would have thought any staff working in these establishments would be aware if they see something that they are uncomfortable with that they have a measure to take to raise these concerns, but you are saying there is generally—not looking at the process at the moment—an unawareness that they could even raise these concerns?

Hindpal Singh Bhui: I was saying there is some lack of awareness. I think generally staff are aware, but not all staff are using the process. Again, to give you a specific example, in the last IRC we went to, most staff said, “Yes, we know about the process” and then we said, “Have you used it?” “No.” No one had used it. “Would you use it?” Most staff said they would, but there were a small number of staff who said absolutely they would not, which clearly concerned us a lot, so we said, “Why? Why would you not use it?” Some said because it was too complicated and others because they had no confidence that their identity would be kept secret.

Q224 Douglas Ross: What is complicated about the system?

Hindpal Singh Bhui: The last place we went to there was a whistleblowing line, for example. I would expect if there is a whistleblowing line, I would gather my courage, I would want to phone the line, I would want to make a comment and then come off the line quite quickly. This particular line you had to wait for two and a half to three minutes, press various numbers before you get to the right person or the right place to record your comment. One member of staff told me that he had phoned this line and halfway through, to use his words, his bottle had gone and he did not want to stay on the line to make the comment he was going to make. That is what I mean. It needs to be a streamlined, quick, easy process.

Q225 Douglas Ross: Do you think that is going to happen?

Hindpal Singh Bhui: We have been told it is going to happen, so we will investigate, we will look next time we go back and find out if it has been done.

Q226 Douglas Ross: Mr Clarke, you said you were disgusted at the ill-treatment of detainees that was highlighted on the “Panorama” programme. Were you also disgusted that it never came up in your inspections before or are you 100% confident that, in your words, the abuse took place after the inspection?

Peter Clarke: We can never be 100% confident that we have not missed anything, which is why we have taken the steps we have since that “Panorama” programme was broadcast to do everything we can within our power and our remit to make sure that during the course of
inspection, we do not miss anything that could be either covering up or symptomatic of that sort of treatment of detainees.

Q227 **Douglas Ross:** But there was no lingering doubt after the inspections that, “There is maybe something going on here that we are not getting to the root of”? Because it was in 2015 that undercover reporters found the problems at Yarl’s Wood; 2017 it was an undercover reporter that found the problems at Brook House. Why can’t your inspections uncover this?

**Peter Clarke:** That is exactly why we are doing what we are, to try—

Q228 **Douglas Ross:** Yes, sorry, I understand that going forward, why you are trying to solve this, but why was that problem not being highlighted in the first place? If we are to have faith in the inspection regime, why did this behaviour not get highlighted?

**Hindpal Singh Bhui:** The inspection regime is a snapshot. It is two weeks we look in depth at what is going on. There is no doubt that we will miss things. Sometimes what we say to establishments is, “Look, we have gone as far as we can go within two weeks. We are now highlighting to you some systemic issues, some things you need to look into in more depth over time to establish whether or not our hunches, our pieces of evidence, can be verified”. We will say in our reports and in our findings what we can absolutely 100% verify. There are always other issues around the edges that we have not been able to completely verify, but which may turn into a concern.

For example, at Brook House in 2016, there were detainees who said that there had been assaults committed against them. We spoke to a large number of detainees; we spoke to staff; we looked at documentation. We could not verify any kind of systematic culture of abuse and we could not get the evidence for that, but we did leave that evidence with the establishment and say, “You need to carry on looking into this in a bit more detail”.

Q229 **Douglas Ross:** Sorry, how can an undercover reporter 12 months later be able to publicise this? Is there a lack of confidence with you as an inspectorate if you are speaking with detainees, you are aware that there may be some underlying problem with abuse, yet you still cannot find the golden bullet to deal with that, yet less than a year later, it was highlighted publicly in the media?

**Peter Clarke:** The indications are that detainees do have confidence and knowledge of our independence and the response rate we get to surveys is high. When we conduct our survey work, we make sure that we have interpreters and indeed that the documentation pointing out our independence and our establishment is multilingual. We do not have indications that detainees do not have confidence in us, but it is always possible for things not to surface.

Q230 **Douglas Ross:** No, sorry, the evidence we have just received is that it was surfacing, just not to the level where you could write it in black and
white that this is definitely happening. Yet less than a year later, because an undercover reporter went in, it was verified, so there must be something to do with the confidence of speaking to you, either detainees, staff members, that needs to be overcome. I am getting a slight resistance from you, whereas I would have thought you would be accepting that as a failure and having to address that.

Peter Clarke: I have no intention whatsoever of being resistant. That is why we did everything we could afterwards to try to make sure, to establish if we had missed something, how is it that we did not catch it and what can we do to make sure that in the future we would bring such things to the surface? We do not know. That is the simple answer: we do not know definitively if what we saw in the programme was happening at that moment during our week and a half or two weeks in this centre.

Q231 Douglas Ross: But your inspectors at Brook House in 2016 found enough evidence to raise their concerns to leave it with the people who operate Brook House. That means—

Peter Clarke: Yes, as we always do.

Q232 Douglas Ross: Yes, but not enough evidence to say it was definitely happening?

Peter Clarke: Correct.

Q233 Douglas Ross: I just find that worrying, that there is still not the confidence to come to you, as an independent body, an inspectorate who is trying to improve the conditions for detainees and others and staff working in there, that there is an underlying feeling from your inspectors that there is a problem here, yet you could not get onside with detainees or staff members to give you enough information to clarify that in a public document and a report.

Peter Clarke: I think it is important to remember the findings at Brook House were very much in line with findings at other inspections of IRCs. There was nothing particularly out of—

Q234 Douglas Ross: That gives me even less confidence.

Peter Clarke: It possibly should or should not, but there was nothing standing out from that inspection of Brook House that said, “Definitely there is something here, definitely something that we are unhappy about”. If we had been, we perhaps could have taken things further, but we did not have that feeling. The gradings that we awarded at the end of that inspection reflected our honest assessment of what we had seen. I take your point entirely something clearly was not right there. The issue is to work out some way of doing this that can be fool-proof and I doubt there is a way. The point I made earlier I think is relevant, that those people who are there day in, day out, both managing the centre, the independent monitoring board, the NGOs—who are there all the time and who encourage detainees to speak to us—and the Home Office monitors,
none of those people, who are there all the time, picked up what was going on.

Q235 **Sarah Jones:** I wanted to go back to an earlier conversation, when we were talking about no statutory limit on detention and you were saying that perhaps we can be better at defining what a realistic prospect of removal means and sticking to that. I just wanted to get your thoughts on the letter that we saw to the Prime Minister from the Home Secretary that was leaked. The Home Secretary wrote, “I have instructed immigration enforcement to renew its focus on removability in order that beds are not being blocked by illegal migrants that we have no realistic hope of removing from the country. This means that those with no near-term prospect of removal would be released into the community on strict reporting conditions”. Given it is unlawful to be holding people when there is no realistic prospect of removal, what is going on here when the Home Secretary is talking about all the people who are being held with no realistic prospect of removal?

**Peter Clarke:** From my perspective, I saw the letter—the same as I am sure many other people did—the first time when it appeared in the press. I do not want to hedge around this, but I suppose what it did not say was how high those hurdles the Home Secretary envisaged being, but I could not really comment beyond that on what was in the Home Secretary’s mind when she wrote that letter.

Q236 **Sarah Jones:** What is your sense of the numbers that are being held who have no prospect of removal? What sort of scale of a problem is it?

**Hindpal Singh Bhui:** Again, it is very difficult to say outside of our own small samples, but there are people we regularly—in virtually in every report—say should not be held because it is not clear from the casework evidence that they are going to be removed in a reasonable period of time.

Q237 **Sarah Jones:** In terms of the casework, you talked earlier about the delays in people’s cases. What do you think is required in terms of the scale of that issue? Do you have any sense of how many extra people you would need to recruit in order to be dealing with the problem or what needs to be happening in terms of a solution to that issue?

**Peter Clarke:** No, because we do not look at detailed casework and so we could not possibly make an assessment of what would be needed to speed the whole process up in terms of—

Q238 **Sarah Jones:** You just identify it as a problem?

**Peter Clarke:** Yes, absolutely.

Q239 **Sarah Jones:** Can I just ask about your experience looking at immigration detainees compared to other prison estates and whether they are treated differently or not, in your experience?
Peter Clarke: There are some obvious difficulties, that if an immigration detainee is held in prison, they will not be entitled to have access to a mobile phone, for instance. Similarly, there is a question as to whether they are able to gain access to the specialist legal advice that they would receive in the immigration centre. The question is whether that would typically be present in a prison or not. There are some significant differences around treatment according to whether a detainee is in a prison or an immigration removal centre.

Hindpal Singh Bhui: For example, in an immigration removal centre there are weekly legal surgeries. Detainees can get legal advice, if not always representation. In a prison that does not happen. They cannot get internet access in a prison obviously, whereas they can in an immigration centre. There is a whole range of issues that are not as positive if you are held in a prison.

Q240 Tim Loughton: Can I touch on an issue that featured about 18 months ago now in a report, which was the removal of detainees who were then deemed to be suitable for deportation? There was evidence that the contracted company was failing quite badly to provide the service to transport detainees, usually to airports, to the extent that those deportations were cancelled and expensive airline tickets were not used at great cost. Have you covered that in some of your inspections and have you seen any change in the experiences there? That obviously has a great knock-on effect for the length of time that people are kept there and the uncertainty surrounding it as well.

Hindpal Singh Bhui: We are regularly seeing it. I could not give you an overall systematic analysis on how often it is happening or whether it has improved or not. We do regularly hear about the escorts not arriving when they should do and removals being delayed for that reason. There was a case recently where it took three months to book escorts to remove someone from the country who had completed everything and wanted to go. There are some delays, but I could not give you an across the estate analysis.

Q241 Tim Loughton: The excuses given were feasible or not?

Hindpal Singh Bhui: I do not think we had the excuses or the reasons. I assume it was operational problems and a lack of staff availability. That is usually what we have heard.

Q242 Tim Loughton: If you are dealing with potentially violent criminals who have been detained and are then to be deported, it often involves several staff members to accompany that person on the airplane as well.

Hindpal Singh Bhui: Sure.

Tim Loughton: Therefore you are looking at the cancellation of multiple tickets so that is quite a considerable cost.

Hindpal Singh Bhui: It is, yes.
Q243  **Tim Loughton:** There would appear to be few significant penalties against the contractors.

  **Hindpal Singh Bhui:** I do not know about the penalties.

Q244  **Tim Loughton:** Talking about services by contractors, healthcare provision provided by the likes of G4S, Serco, mental health services and so on, have you seen any improvement there? Again, the reports of absence of or delay in training of staff on mental health result in a significant deficiency for those people who are there for any length of time, particularly vulnerable persons.

  **Peter Clarke:** Certainly in broad terms, the healthcare provision in IRCs is reasonable. The big shortfall is in the provision. Given the level of people with mental health issues, there are shortfalls in the provision of mental health services. That is where we see the biggest weakness.

Q245  **Tim Loughton:** What is being done about it?

  **Peter Clarke:** From our perspective, we report on that. We work with the Care Quality Commission. Every one of our inspections has a section dedicated exclusively to healthcare and we make recommendations. The uptake of recommendations is something that is of continuing and continual concern to me.

Q246  **Tim Loughton:** You do not think it is being treated as a priority?

  **Hindpal Singh Bhui:** It depends on the centre as well.

  **Peter Clarke:** It varies from centre to centre, but I would certainly like to see more focus on the issue of mental health.

Q247  **Tim Loughton:** If it differs from centre to centre. Is that because of a different provider or it is potluck as to whether there is decent healthcare services at whichever institution you are looking at?

  **Hindpal Singh Bhui:** I think it depends on whether or not the providers, whoever they may be, are focused enough on the actual needs being presented by detainees. In Yarl’s Wood in 2015 we were concerned about the level of mental health provision for people at a lower level. If there was an acute level need we were satisfied that most times that need would be met, but not at a lower level, which was most of the women there.

In 2017 they had a new service that we thought was rather good. It was a service by Kaleidoscope that was providing a whole range of low-level drop-in type services that were much valued by the women. We found levels of distress had gone down at that time in 2017, which we thought was partly because of the mental health support being provided. We went to Harmondsworth last year and we thought there was a huge level of mental health need there. Services clearly could not cope with that level of need and they were not able to provide what detainees required in
terms of healthcare support. Mental health really is the issue rather than the other areas in health support.

Q248 **Tim Loughton:** There is no evidence that best practice is being followed throughout the estate?

**Hindpal Singh Bhui:** Not systematically throughout the estate, no.

Q249 **Tim Loughton:** You made recommendations, pointing out some good experiences—and you gave one there—and asked why this should not be the norm across the whole of the estate. Again, nothing has happened, as far as you are concerned, to take that up?

**Hindpal Singh Bhui:** Not enough, certainly.

Q250 **Tim Loughton:** On legal representation as well, we heard in private session from some former detainees in various immigration centres about a lack of access to various healthcare services and also to advocacy and legal representation. We then heard from Serco, who was managing that particular institution, which claimed they absolutely have full access to all sorts of independent advocacy and other legal support, solicitors and whatever. Which version would you err to?

**Hindpal Singh Bhui:** We need to make a distinction between legal advice and representation. There is a fairly good level of legal advice. There are surgeries running in IRCs on a weekly basis usually. Detainees can usually get to see someone to obtain some very simple and straightforward advice. That session of seeing a legal adviser could be no more than 15 or 20 minutes. Getting representation beyond that point is much more difficult unless you can pay for it. Detainees who can afford it can get ongoing representation; detainees who cannot will find it far more difficult. There is a genuine problem there. The access to initial advice is not too bad at the moment.

Q251 **Tim Loughton:** I am thinking more of knowledge of what inmates’ rights are and what they should expect. We were told that everyone gets a proper briefing and are told what they can get expect, what access they can have and so on at the beginning. Again, that did not appear to be the experience of the people who have been through the system whom we spoke to. Are you satisfied everybody has ample opportunity to be appraised of their rights and expectations while at these institutions?

**Hindpal Singh Bhui:** There are two ways in which that can happen. One is by being briefed by the Home Office. As soon as a detainee comes in to detention they should have an induction interview. They should be told about various rights and about bail. We do not always find that happens.

There are usually welfare teams in immigration detention centres. In fact, I think they are in all of them now. They should be able to provide ongoing information. They are not qualified to provide legal advice, but we saw some good practice at Tinsley House recently where the welfare team had been accredited by the Office of the Immigration Services
Commissioner to provide very basic advice and information. This made a big difference to detainees who often simply wanted to know, as you say, what their rights might be and what their next steps were. However, as far as I am aware, that is the only place where the welfare staff are properly accredited.

The organisations that used to exist to provide free legal advice and representation have generally collapsed for lack of funding. There are very few organisations out there that can provide free advice to detainees nowadays.

Q252 Tim Loughton: It can happen, it is happening?

Hindpal Singh Bhui: It can happen, but it is very patchy.

Q253 Chair: Thank you very much. Do you have any final issue that you would raise with us, perhaps that we either have not asked you about or that you would want to particularly stress that we should keep in mind in this inquiry?

Peter Clarke: No. If I may say so, the breadth of questions has been what we broadly anticipated as being the subjects that would be on the Committee’s minds. I hope we have been able to provide you with some useful information.

Chair: Thank you very much. We are very grateful for your time.

Examination of witnesses

Witnesses: Rt Hon Caroline Nokes MP, Sir Philip Rutnam and Hugh Ind.

Q254 Chair: Welcome, Immigration Minister, Permanent Secretary and Mr Ind. We are very grateful for your time. We obviously want to cover a whole series of issues around immigration detention. I am sure you would expect us to also want to cover some of the wider issues around Windrush and wider immigration issues first. We are grateful too for the Home Secretary agreeing to come and give us a further update as well, I think next week.

We were told last week there would be an inquiry within the Home Office and a lessons learnt inquiry. Who is going to be leading that?

Caroline Nokes: I am not sure we have finalised the name yet. Sir Philip might correct me on that. It is important to us that we do have a thorough review internally to understand what went wrong and whether the steps that we put in place to put matters right have been effective. Certainly we will be working with this Committee, and I would imagine others, to make sure that is a proper and thorough exercise.

Sir Philip Rutnam: The Minister is correct, the identity of the independent person is still to be confirmed. As the Minister said, we are very clear that this person should provide independent and thorough oversight and assurance of the lessons learnt review.
Chair: We have obviously written to you. I have written to you two different letters, I think, asking a series of detailed questions, including the number of people affected by different issues as part of the Windrush programme. When will we get answers to those 50 questions? My assessment is that we have had answers to about five of them so far.

Caroline Nokes: I think—this is not a criticism and should not be taken as such—the first 10 or so questions were directed at the former Home Secretary, which makes them quite specific. We are working on the answers at present. What I am very conscious of is that we have, using the systems we have, gone back to 2002 to look at those who may have been removed incorrectly. That has thrown up in the region of 8,000 records where a computer trawl is not good enough and is requiring a manual investigation of the paper files in order for us to seek reassurance that correct procedures have been followed and people have not been incorrectly removed. Once that is complete, then we will obviously want to move on to looking at the detention estate and individuals who may have been detained incorrectly.

What is clear to me from both the press coverage and our initial investigations is that we have yet to identify anybody who has been removed incorrectly, but it is very clear that people have been detained.

Chair: You said 8,000 records have been thrown up. Was that by looking at the age and the country to which people had been removed?

Caroline Nokes: That was age and nationality, so anybody over the age of 45, because obviously they are the people who would have been born prior to 1973, and indeed nationality.

Chair: You have potentially 8,000 people in that category who, depending on when they came, may have been wrongfully removed?

Caroline Nokes: It would be very wrong to say 8,000 people may have been wrongfully removed. There have been 8,000 cases of individuals who were of the correct nationality and date of birth for us to wish to look thoroughly to check they have not.

Chair: How long do you assess it is going to take to work through all of those cases?

Sir Philip Rutnam: The previous Home Secretary covered this matter in her comments to the House. She was very clear she wanted the work to be done very thoroughly, because we cannot afford to have errors in this respect, and also for it to be independently checked and audited. Therefore it will take some small number of weeks, I would expect, before we are in a position to complete that work.

Just to reinforce one point the Minister said, while the cohort of persons who have been removed—defined by age and nationality—is around 8,000, it is absolutely not the case that there are 8,000 instances of
wrongful removal, absolutely not. In fact, so far we have not established any, but we are checking that methodically.

Q259 **Chair:** What are you checking them against? Because obviously you do not have landing cards to check those 8,000 cases against. If the whole point about those cases was that at some point the Home Office had decided there was not the proof on their records, what are you using to determine whether those cases have been wrongfully deported or not?

**Sir Philip Rutnam:** It requires an examination of the individual case file and what the evidence is in that case file around when the individual arrived in the United Kingdom. In many cases there will be evidence of when the individual arrived. For example, if we are able to establish the individual arrived in 1985, then that is not a Windrush generation case. It involves a methodical review of each of those cases to establish whether there is evidence of when individuals arrived and the circumstances in which they were removed.

Q260 **Chair:** I am still unclear. The whole point about the Windrush cases is that a lot of them do not have the proof, so the proof is not going to be on their file about when they arrived. How are you going to be able to assess that somehow people have been legitimately deported rather than wrongfully deported?

**Sir Philip Rutnam:** That may be the case for some of the Windrush generation, but not all. For many others there will be evidence as to when they arrived that will allow one to establish they were not here before 1973.

Q261 **Chair:** Are you going to contact all of those 8,000 people to give them the chance to make representations?

**Sir Philip Rutnam:** This is a detailed internal review of our historic removals, back to 2002, as the Minister has said.

Q262 **Chair:** Do you not think maybe you should be attempting to contact some of them?

**Caroline Nokes:** It is perfectly reasonable that where we can demonstrate somebody has arrived post-1973 or perhaps in cases of serious criminality, we should not be contacting them. If somebody has arrived, for example, as Philip said, in the mid-1980s and has been deported due to criminality they are very quickly excluded from the review. No, I do not think it appropriate that we should be contacting them in those circumstances.

Q263 **Chair:** If you have removed the cases where you have categoric proof of them arriving perhaps in the last few years, you will have a significant number of others where you may not have proof at all of when they arrived. Will you be contacting all of them?

**Sir Philip Rutnam:** This is an internal review. Your questions indicate the complexity of the task, which is one reason why we are going through
it very methodically. We do have evidence in our files of the decisions in relation to those 8,000 individuals and that is what we are going through to check the decisions we have made.

Q264 Chair: Is that internal review part of the independent review or is the independent review something separate?

Sir Philip Rutnam: This is something separate. The review that I think you began your questions about is a lessons learnt review, essentially in relation to the whole Windrush generation episode. I think it needs to go back many years in terms of the way in which policy has developed and decision-making has taken place.

Q265 Chair: Will there be any independent review of the 8,000 cases?

Sir Philip Rutnam: The previous Home Secretary said she wanted that scrutiny of the 8,000 cases to be subject to an independent audit. That will be a separate process from the lessons learnt review.

Q266 Chair: Some of those cases, maybe somebody who arrived in 1983, might be a child of a Windrush case. Will that be looked at as well, because obviously you have said that the taskforce is also including children who have arrived since 1973?

Sir Philip Rutnam: We will obviously need to look at any potential interaction between these.

Q267 Chair: Are you doing so at the moment? I can see you are looking for those cases where you have some evidence of when people arrived, but at the moment are you already looking at whether they have a parent who was part of the Windrush generation?

Sir Philip Rutnam: We will check that. I am afraid I cannot tell you now. I will establish that.

Q268 Chair: That will be very helpful to know. What would also be helpful to know is whether you are specifically looking at those who arrived as children, even if they arrived after 1973, where there may also be wider issues at stake.

Sir Philip Rutnam: Do you mean in relation to the policy on Windrush and the offer the Government have made of citizenship now?

Chair: Looking at potential wrongful deportation cases.

Sir Philip Rutnam: We are looking at the potential. We clearly very much hope there will not be wrongful deportation cases, but we are looking at those 8,000 cases very carefully. I am afraid I cannot answer your question about the potential for some child relationship with a Windrush generation migrant. However, we will ensure that all relevant considerations are taken into account in that review.

Q269 Chair: You have accepted that the Windrush taskforce also needs to cover children of Windrush generation arrivals. My question is are you
therefore looking at whether the potential wrongful deportations might also include the children of the Windrush generation?

**Sir Philip Rutnam:** You make a good point about the potential for a relationship between those two issues. I am afraid I cannot answer that now, but we will look into that.

**Q270 Chair:** That will be helpful. It would be useful to have some factual clarification on the targets issue because there have been different reports. Could you clarify what targets the Department has or has had over the last few years in terms of removals and so on? There has been reference to a 10% figure, there has been reference to individual precise figures of 12,800 and also reference to KPIs. Can you give us some clarity about what targets have been operating?

**Caroline Nokes:** It is important from my perspective to state that there have not been targets since I became the Minister, but I will pass over to Mr Ind, who might want to comment on previous targets the Department has had.

**Hugh Ind:** Chair, as you asked the question for a comprehensive history of what the performance management regime has been over a number of years, we need to set that out clearly on paper. There is not really a clear way of summarising that for you in person over the period you are talking about.

**Q271 Chair:** Given we obviously had a lot of discussion about that last week, I would have expected by this week to have some kind of clarity. A memo has been reported in *The Guardian* that says the Department, “set a target of achieving 12,800 enforced returns in 2017-18”. Is that accurate?

**Hugh Ind:** I interpreted your earlier question as going back over a large number of years and I do beg your pardon. I can certainly tell you more recently.

**Chair:** That will be helpful.

**Hugh Ind:** For the beginning of 2017-18 my senior team did set a target of 12,800 enforced returns. There were no targets for other kinds of returns during 2017-18. Later, during 2017-18, we modified that to an ambition to reach between 230 to 250 enforced returns per week because we had not achieved the success we were counting on in ensuring asylum appeals, in detention particularly, were progressed as swiftly as we hoped. Therefore we had to moderate our ambitions in the second half of 2017-18. For this performance year my senior team took a decision in March of this year not to operate targets for returns.

**Q272 Chair:** Did you have targets for 2016-17?

**Hugh Ind:** Yes.

**Q273 Chair:** For 2015-16?
**Hugh Ind:** Yes, but not for 2014-15.

**Chair:** You accelerated the target to a weekly target. Did you also have local or regional targets as well?

**Hugh Ind:** In order to achieve a return, around about four or five different functions within immigration enforcement need to work together. You have an intelligence team; a casework team dealing with people in the community; an arrest or detention team who can effect an arrest or a detention; another team dealing with the casework once somebody is detained and you have yet another team dealing with the logistics, talking to High Commissions and airlines about procuring a seat for that individual. In order for those targets to be broken down more locally they have to be phrased in a slightly different way.

This has changed over years, as the structure of what was previously the UK Border Agency has changed. Last year, if you were in a non-detained casework team or if you were essentially one of the detention teams, your target would have been expressed in terms of detentions that led to a removal or tasking that led to a removal of your casework. You specifically were disincentivised for tasking or detaining anybody who would then not be removed through other issues that then cropped up.

**Chair:** The focus was around basically people who were easiest to remove, not the cases that might have been a threat in any way or anything like that?

**Hugh Ind:** The focus was on thorough preparation and consideration of first of all the non-detained casework teams to make sure that nobody they passed over was in any doubt that it was the correct action to move them to detention. That focus was redoubled with the team who effected the detention, to check as far as they could and with all the information they had available to them that that was indeed a correct person for detention.

**Chair:** There are checks and balances in the system. You have all of those people being really under pressure, they have to get it up to 230 to 250 per week. What is the check in the system to prevent people wrongly being pushed through the system in order to meet the target?

**Hugh Ind:** There are several. I have to say in terms of my staff they absolutely understand the importance of operating the immigration system with humanity. I promise this Committee my people are extremely motivated by that. They know how serious this role is and they know how important it is to approach it with humanity. That—and themselves being decent professional people—is a very big check on some of the possible incentives you describe.

Secondly, we have, as I think you know, a detention gatekeeper who, even after the checks that have been done in the casework teams and the checks that have been done by the detention teams, must do a further check to make sure that person specifically is an appropriate
person to be detained at that time. The detention gatekeeper is a new innovation from around about 2016 that is still growing and still becoming more effective, which absolutely rejects people from detention. I know when I go around my teams, there is—for want of a better word—some friction between the teams because they know there is a process where they need to persuade the gatekeeper they have done the correct checks.

Q277 **Chair:** What proportion of checks that go to the gatekeeper get turned back?

**Hugh Ind:** I do not know the answer to that off the top of my head, but I will be very happy to share that.

Q278 **Chair:** We will probably have some more questions about the gatekeeping thing.

For the Permanent Secretary, do you have an overall delivery plan or internal strategy in terms of meeting the net migration target?

**Sir Philip Rutnam:** We have a single departmental plan that is the standard mechanism for setting a framework for objectives and performance in a Government Department. The Cabinet Office issues guidance on that. Of course the Government’s net migration target is part of the framework within which we set about taking forward the Department’s operations.

Q279 **Chair:** Do you then have a cascade down in terms of a strategy and plan as to how you will either meet the net migration target or make progress towards it?

**Sir Philip Rutnam:** I would say it is not as simple as that. Plainly the Government’s net migration target is part of the context and framework within which we take forward activities in the Department. However, it does not translate into a whole series of individual actions in the way that you describe. It is rather part of the background and context that then clearly informs decisions being made by officials, but is even more relevant, I would say, for Ministers in terms of the way in which they are thinking about the development of policy.

Q280 **Chair:** Do you have strategy documents then that set out, “In order to make progress on net migration target, here is what we need to do in terms of measures on reducing immigration and here is what we need to do in terms of measures on increasing departures”?

**Sir Philip Rutnam:** Obviously you would not be expecting me to discuss advice to Ministers in a forum like this. The role of officials is to bring forward a set of proposals or plans for allocation of resources in the Department and to provide policy advice to Ministers on ways of delivering on the Government’s agenda. That of course includes the net migration target and a whole range of other objectives.

Q281 **Chair:** Do you therefore have proposals about how to reduce immigration and increase emigration or increase departures as part of making
progress towards the net migration target?

Sir Philip Rutnam: I would say from within the Department it is not as simple as that. The net migration target, the Government commitment, is part of the background and context within which the Department is operating. Clearly a whole series of proposals either are brought forward or can be commissioned by Ministers to address that. It is not the case that starting from the net migration target we then drive all polices or allocation of resources towards the delivery of that.

Q282 Chair: You clearly have an objective to meet the net migration target. Do you then have a process of deciding what your other targets will be, whether they be removals targets and so on, in order to meet the net migration target?

Sir Philip Rutnam: It is not as simple as that. On some aspects of immigration policy, if there is an issue on which we think we need to give Ministers advice or a decision about the allocation of resources, we will put that forward to Ministers and clearly they would want to take account of the Government’s commitments, including the net migration target.

Q283 Chair: With respect, Sir Philip, you are kind of fudging this. I understand everything is complicated within the Home Office, I am sure it really is. I am still trying to work out—effectively it is a yes or no—whether you have strategy documents that say, “This is our objective to meet the net migration target and these are the measures on immigration and on emigration that we need to take in order to make progress towards the target”.

Sir Philip Rutnam: The net migration target is a very important commitment and is an important part of the context within which the Department operates. However, it is not the case that all of our policies and activities nest within some structure driven by the net migration target.

Q284 Chair: I am sure they do not all, but do any of them?

Sir Philip Rutnam: There clearly will be documents within the Department that refer to the net migration target, many such documents. There will be documents that refer to other constraints on resources and other objectives. It is then a matter for Ministers, as you know, to set the priorities of the Department and to decide what policies are taken forward and what policies are not.

Q285 Chair: Minister, in terms of the establishment of targets or not—or objectives or not—do you have objectives within the Department both to reduce immigration and also to increase the number of people leaving?

Caroline Nokes: The net migration is a very obvious one and has been endorsed in three separate general election manifestos. It would be absolutely accurate to say we want to have a suite of measures that tackle illegal immigration. We are familiar with right to work checks, right to rent and the banking measures that were recently implemented. This
is all about direction of travel and making sure we move towards a position where net migration is at sustainable levels.

Q286 Chair: Do you have, or have you had, in your time in the Home Office plans within the Home Office to increase the number of people leaving the country in order to contribute towards the net migration target?

Caroline Nokes: I do not believe I have seen any such plans, no.

Q287 Chair: Part of the reason I ask is that when you were appointed to the post you were asked about the net migration target. You were asked, “Give me one way in which you will be able to make a significant hit to the net migration numbers” and one of the answers you gave was, “We are working hard to make sure we continue with removals”. You gave an answer about removals in the context of the net migration target. What I am trying to establish is whether this approach around removals is being seen in the context of the net migration target, because that was the impression you gave when you were first appointed.

Caroline Nokes: We would always seek to make sure that we were removing people who had no right to be in this country. We have a consistent determination to make sure that people—when they have no right to be here—leave, either on a voluntary basis or through enforced returns.

Q288 Chair: Are you saying then that the Home Office has never tried to increase removals or departures in order to make progress towards the net migration target?

Caroline Nokes: I have not seen a target to increase removals or departures in order to effect that aim. However, I do not think it is unreasonable for any Government to want to make sure that people who are benefiting from services in this country are here legally.

Q289 Stephen Doughty: Minister, in the last six years are you aware of any wrongful cases of deportation or detention by the Home Office going wider than the Windrush scandal?

Caroline Nokes: I would have to check over the last six years. I do not think it is fair to ask me about things that might have occurred before I was a Minister.

Stephen Doughty: You would have been briefed on becoming a Minister. Have there been cases of wrongful deportation or detention in the last six years? It is a very simple question; yes or no?

Caroline Nokes: I am certainly conscious of cases where people have been detained and then released.

Q290 Stephen Doughty: They have been wrongfully detained?

Caroline Nokes: Yes.

Q291 Stephen Doughty: And wrongfully deported?
**Caroline Nokes:** I do not think I have had any cases of wrongful deportation brought to my attention, no.

Q292 **Stephen Doughty:** I asked the new Home Secretary on 30 April—in his first appearance in the Commons—the same question and made clear it was wider than the Windrush scandal. He also said, “I am not currently aware of any cases of wrongful deportation” but he refused to answer my question on wrongful detentions.

We have just been told by Her Majesty’s Inspectorate of Prisons that undoubtedly there have been cases of wrongful detention. I have a letter here from Robert Goodwill, one of your predecessors. It says very clearly to me, about a constituent case, “I can confirm that on the receipt of the certificate together with a copy of Mr A’s expired British passport we have been able to establish Mr A is a British citizen and should not have been removed from the UK”. That is a constituent of mine who was wrongfully deported. It is a very complicated case and involves an individual with mental health concerns and a lot of other issues around it. However, he was wrongfully deported, a British citizen wrongfully deported to Somalia. Do you still stand by the comments you just made? Are you aware of wrongful deportations or detentions?

**Caroline Nokes:** I am now, because you have just drawn one to my attention.

Q293 **Stephen Doughty:** This is a letter from one of your predecessors. Why have you not been briefed on becoming Immigration Minister on the number of wrongful deportations and detentions in your Department?

**Caroline Nokes:** I do not think I can answer that.

Q294 **Stephen Doughty:** Can you explain it, Sir Philip? Can you answer the same question first: have there been wrongful deportations or detentions by your Department in the last six years?

**Sir Philip Rutnam:** I have been in the Department one year. I am not an expert on the immigration system and Mr Ind might therefore want to add to my answer. I would expect there certainly have been cases of wrongful detention. Those do occur. There may also have been occasional cases of wrongful deportation. I am not aware of that case. I am aware of a case where an individual was removed within the last year to Afghanistan and then, by an order of the court, we had to bring the individual back. Whether that counts as a—

Q295 **Stephen Doughty:** That is at least two cases. Why did the Home Secretary answer to me in the Commons Chamber, “I am not aware of any cases of wrongful deportation”? I made it clearer that it was wider than Windrush.

**Sir Philip Rutnam:** I am afraid I am not familiar with the exchange. Without looking at *Hansard* I cannot really comment other than that—

Q296 **Stephen Doughty:** I am quoting verbatim, Sir Philip. Since we cannot
get an answer from you as Permanent Secretary, Mr Ind, can you explain whether there have been wrongful deportations or detentions from your Department in the last six years, yes or no?

*Hugh Ind:* Yes.

**Q297 Stephen Doughty:** There have, on both counts?

*Hugh Ind:* I am aware of the deportation of your constituent. I am aware of how complicated that case is and I am aware that we continue to work with the family.

**Q298 Stephen Doughty:** Have there been other cases?

*Hugh Ind:* I am aware of the case that the Permanent Secretary mentioned. As that is still the subject of legal proceedings, whether or not it was wrongful or not is still open to question.

**Q299 Stephen Doughty:** Have there been more cases than those two?

*Hugh Ind:* In relation to wrongful detention?

*Stephen Doughty:* No, I am asking about deportations first. Have there been more cases of wrongful deportations on top of those two cases?

*Hugh Ind:* There have been times when we have brought individuals back.

**Q300 Stephen Doughty:** How many?

*Hugh Ind:* I am thinking of a handful.

**Q301 Stephen Doughty:** A handful. How do we numerate a “handful”?

*Hugh Ind:* Five, up to five.

**Q302 Stephen Doughty:** Five, 10, 20?

*Hugh Ind:* You are asking me over a period of the last four or five years?

**Q303 Stephen Doughty:** Six years.

*Hugh Ind:* I am saying a handful.

**Q304 Stephen Doughty:** Why does the Minister for Immigration, the Permanent Secretary and the new Home Secretary not know that?

*Hugh Ind:* What I do know is the wrongful detention situation.

**Q305 Stephen Doughty:** I am asking you specifically about wrongful deportation first. Why does the new Home Secretary, the Immigration Minister and your Permanent Secretary not know that there have been wrongful deportations?

*Hugh Ind:* I do not know.

**Q306 Stephen Doughty:** You do not know. On wrongful detentions, and you admit there have been wrongful detentions, how many?
Hugh Ind: I am taking as my yardstick the compensation we have to pay out. After a period of often protracted legal proceedings the courts do ask us to compensate people for detention that was subsequently found to be unlawful. That figure has been around £5 million a year in the past. It was £3.3 million for the last year so it has come down by about 25% in the recent year or two, but it is obviously a deep problem.

Q307 Stephen Doughty: How many individuals does that equate to? There was about £3 million paid in compensation last year and £5 million in previous years.

Hugh Ind: I do not know how many individuals.

Stephen Doughty: You do not know how many?

Hugh Ind: No.

Q308 Stephen Doughty: Why don’t you know how many?

Hugh Ind: Because I do not have that information in front of me.

Q309 Stephen Doughty: Why should we have any confidence that on doing the deep trawl of the Windrush cases, you will be able to find out what has gone on there when you cannot tell us what has been going on with wrongful detentions more widely?

Hugh Ind: We have a specific task in relation to the Windrush cohort, the 8,000 people the Minister and the Permanent Secretary looked to. We have set the parameters. We are going through that work very carefully; it will be independently audited.

Q310 Stephen Doughty: Minister, given what Mr Ind has just said—I appreciate the work on Windrush will be extremely complex and time-consuming—would you commit to extending that to all cases of wrongful detention and what has gone on in the wider immigration system?

Caroline Nokes: It is important to emphasise first—I totally accept that I am just about to narrow your question slightly—we have absolutely undertaken, with regard to the Windrush cohort, to look at the detention estate and what may have happened there. Obviously with 8,000 cases to look at on removals, detention may be significantly larger than that. I am absolutely happy to consider that suggestion. It is really important to me that when it comes to detention, we do our utmost to get it right. Post-2016 there was the introduction of the detention gatekeeper. We continually review the suitability of people who are in detention. You will be conscious that after four months there is the automatic right of immigration bail that will then be reviewed every four months thereafter.

Q311 Stephen Doughty: I am sure we will have some wider questions about immigration detention in due course.

Mr Ind, did you receive a performance-related bonus in any of the last four years?
**Hugh Ind:** Yes.

Q312 **Stephen Doughty:** You did. Which years?

**Hugh Ind:** I remember one in 2016-17.

Q313 **Stephen Doughty:** You received one in 2016-17. Did you receive one in any other year?

**Hugh Ind:** I do not think so.

Q314 **Stephen Doughty:** You do not think so. You just admitted previously there were targets in 2016-17 for removals. Was your performance bonus related in any way to those removals targets and meeting them?

**Hugh Ind:** No.

Q315 **Stephen Doughty:** It was not. Sir Philip, have any other senior directors at the Home Office in the last few years, present or former staff members, also received performance-related bonuses?

**Sir Philip Rutnam:** Yes, some will have done. Under the standard rules for the senior civil service promulgated by the Cabinet Office, up to 25% of members of the SES can receive a performance-related bonus for any financial year.

Q316 **Stephen Doughty:** What are those bonuses related to?

**Sir Philip Rutnam:** They are related to performance, both in terms of the delivery of business goals and delivery of what we are here to do.

Q317 **Stephen Doughty:** Delivery of targets?

**Sir Philip Rutnam:** Not necessarily delivery of targets. We deliver many, many other things besides targets. There is an element of the performance regime that is essentially around what people are expected to do in their job and then there is an element around the how, whether they are showing the sorts of behaviours that we expect of senior civil servants.

Q318 **Stephen Doughty:** Mr Ind did not receive his bonus in relation to net removals targets?

**Sir Philip Rutnam:** Mr Ind has already answered that question. The bonus was for a period before I arrived in the organisation in 2016-17, so I think Mr Ind is best placed to answer that.

Q319 **Stephen Doughty:** He has said no to that.

Can I just ask one last thing in relation to detention? We have just spoken about that, Minister. Why did you sneak out the notice about G4S’s contract extension on Friday, given that the review is ongoing into the allegations made by the “Panorama” programme?

**Caroline Nokes:** We could not release that information during purdah and Friday was the first opportunity at the end of purdah.
Q320 **Stephen Doughty:** Why was it not sent to the press?

**Caroline Nokes:** I was not aware that it had not been sent to the press. I assume that we issued it in the normal way.

Q321 **Stephen Doughty:** No, it was just published on the website. It was not issued by your press office according to the reports I have seen. Why has G4S been given that contract?

**Caroline Nokes:** It is important to look at it in the round of the Stephen Shaw review and the Lampard review. It is a long contract, 10 years. We wanted to have a full re-procurement process so that we could issue the procurement in light of the recommendations of Shaw and Lampard.

Q322 **Stephen Doughty:** Those reviews have not finished.

**Caroline Nokes:** No, they have not finished yet.

Q323 **Stephen Doughty:** So why have you extended the contract?

**Caroline Nokes:** We have to have somebody operating our detention centre at Brook House. G4S is the incumbent in the role. There would be out of necessity a difficult and potentially lengthy transfer were it to be awarded to somebody else. That contract comes to an end I believe on the 8th of this month so it became imperative that we resolve this matter so we could issue a full re-procurement.

**Stephen Doughty:** I am sure we will come back to some other questions on that.

Q324 **Douglas Ross:** We were kindly told we were allowed to raise some other issues since we have you in front of us today. Non-Windrush, but when you appeared before this Committee with the former Home Secretary in March, the Home Secretary, in response to my concerns about tier 2 visas said, "I want to again have a look at it to make sure we accommodate more effectively the people who are now being required by local communities. I recognise the urgency of what has been raised with me and I will take it away". What was done between yourself and the former Home Secretary—and potentially the new Home Secretary—to address the concerns that were raised with this Committee?

**Sir Philip Rutnam:** This is in relation to the question of a cap on shortage occupations?

**Douglas Ross:** Yes.

**Sir Philip Rutnam:** That is clearly a policy issue that is, so far as I know, still under consideration by Ministers.

Q325 **Douglas Ross:** What happened from that March meeting of the Home Affairs Select Committee, where you sat next to the Home Secretary and she said she would look at this as a matter of urgency and that she wanted to make sure the policy more effectively met the requirements of local communities? What did you do after that meeting as Permanent
Secretary to say, “You gave a commitment to the Committee to go and look at this. What are we going to do about it”?

**Sir Philip Rutnam:** Personally my job is to make sure Ministers get the quality of advice they need and also that we, as civil servants, implement the Government’s policy to the very best of our ability. Following that Committee hearing we, as an organisation, will have redoubled or checked to make sure that there was appropriate advice available to Ministers so they can consider what is an important and quite tricky policy issue.

**Q326 Douglas Ross:** You are not aware of any formal decision that has been taken or discussions that are ongoing about this?

**Sir Philip Rutnam:** It is not my job here to discuss advice to Ministers, but you can rest assured that on a question like that—

**Q327 Douglas Ross:** Can you advise me, as a Home Affairs Select Committee member, when I could expect to get information on that? The Home Secretary sat next to you back in March, you were supporting her at that Committee, and made a commitment to look at that as a matter of urgency.

**Sir Philip Rutnam:** It is really a question for Ministers. I do not know whether the Minister wants to add something to that. I am aware of the issue. Rest assured, the Department took note of the very important issue that you raised about the availability of, for example, medical specialists in Scotland. The issue is clearly logged. I am confident we have provided advice. It is an issue for Ministers to consider.

**Q328 Douglas Ross:** You were going to write to me about recommendations to the PAC report on the ESN infrastructure. When might I get a letter on that?

**Sir Philip Rutnam:** I am sorry if that has not happened. I will look into that and write to you as quickly as possible.

**Q329 Douglas Ross:** Can you explain why it would not have happened? All I was asking for was information you had given to the PAC about recommendation 5 that they were looking for, which was information you should have given them last year. You have looked into it, have not given them that information and you assumed I had already been told. I have not. What should be going on if members are being promised information and it is not coming forward?

**Sir Philip Rutnam:** Clearly we have not provided that information to you, so I must apologise for that and we will follow that up as soon as possible after this hearing. My apologies.

**Q330 Douglas Ross:** Do you know about recommendation 5? Did you submit it or not? On the day in March you did not know whether you had submitted it or not. I am assuming now that you think it had been followed up, that you did look into it?
Sir Philip Rutnam: Can you remind me of the substance of recommendation 5?

Douglas Ross: Recommendation 5 was that the Home Office Department, working with Ofcom, should ensure other network operators have sufficient and timely information to enable them to make use of the ESN infrastructure and should report back to the Committee in 2017. My question was, “What was your report back to the Committee?” You said, “I am afraid I would need to write to you specifically on that” and then you went on to something else. I am a wee bit worried that you think I have been contacted and you had followed that up, but you are still not even sure what recommendation 5 was.

Sir Philip Rutnam: I must apologise for not having written to you. I will absolutely undertake to do that as quickly as possible after this hearing with what information I can provide.

Douglas Ross: Thank you.

Q331 John Woodcock: Sir Philip, in giving information to this Committee on wrongful deportations, yourself and Mr Ind exposed a lack of knowledge from your Minister in this key area, which I would imagine is embarrassing for all of you. On 20 April the lead official, Glyn Williams, with the then Home Secretary, took a different approach, didn’t he? He agreed with Amber Rudd in saying that there were no published removals targets and, “there was nothing broken down by region as far as I know”. He must have been lying, mustn’t he?

Sir Philip Rutnam: No, I do not accept that at all.

Q332 John Woodcock: You will accept his answer was wrong?

Sir Philip Rutnam: He said there are no published removals targets. To my knowledge there were no published removal targets. The performance regime that Mr Ind described was not a published regime, it was an internal performance regime.

Q333 John Woodcock: I said earlier on, “I do not think they resist” when Stephen Doughty came back to that. That is demonstrably not true. People can take a view whether it was credible or not that the then Home Secretary did not know. It was not credible that the lead official for that Department did not know.

Sir Philip Rutnam: What Mr Williams said was that there are no published removals targets, which is correct.

Q334 John Woodcock: My colleague, Stephen Doughty, is very helpfully providing me with the evidence because he pressed him a number of times on this. When Stephen asked, “Was that above or below a target?” Mr Williams replied, “There is not a target”. Do you accept that information was not true?

Sir Philip Rutnam: Clearly the discussion of targets at that Committee hearing was regrettably confused.
Q335  **John Woodcock:** You could say that is “Sir Humphrey-tastic” as an explanation of the lead official in that area providing information that was demonstrably inaccurate.

**Sir Philip Rutnam:** I think that is unfair and incorrect.

Q336  **John Woodcock:** You think that information was accurate?

**Sir Philip Rutnam:** I think your characterisation of what Mr Williams said at that hearing is unfair and incorrect.

Q337  **John Woodcock:** He said, “There is not a target”. Is that in any way ambiguous?

**Sir Philip Rutnam:** Quite a lot, in fact, turns on the semantics of what “target” means.

Q338  **John Woodcock:** It does if this is the kind of regime in which you choose to operate and the kind of information that you choose to give to this House.

**Sir Philip Rutnam:** We need to perhaps take it step by step. The regime that is in place now has been in place since the start of 2018-19 and does not have a target in it. There is no use, as I understand it, within immigration enforcement—certainly not at national level—of the word “target”. Instead the word that is used, I understand from Mr Ind, is “expectation”. I think Mr Ind referred to an ambition or aim.

Q339  **John Woodcock:** You understand how absurd this sounds to normal people listening to this or in fact even to most of the MPs around this?

**Sir Philip Rutnam:** I understand that and I have a lot of sympathy with that. Nonetheless you make a very serious accusation—

**John Woodcock:** Yes, I do.

**Sir Philip Rutnam:** —of dishonesty that I do not accept. I would accept that there was a lot of confusion.

Q340  **John Woodcock:** Do you accept he deliberately obfuscated?

**Sir Philip Rutnam:** I would not accept that. I would accept that there was a lot of confusion and that, with hindsight, if perhaps we had a little bit of prior notice of the questions, that might have helped.

Q341  **John Woodcock:** He was the lead official responsible for that area. My final question on this section was going to be whether you have sought any kind of disciplinary action and whether you feel he is fit for that post. However, I am guessing the answers to those questions are no, no disciplinary action, and yes, you believe he is completely fit and up to the job.

**Sir Philip Rutnam:** That is not the answer I am going to give either. Let me take a step back. Clearly there is a lot of concern about the
preparation for the Home Affairs Select Committee hearing last week or the week before.

**John Woodcock:** A couple of weeks ago now.

**Sir Philip Rutnam:** The week before, sorry. How time flies. A lot of concern about the preparation for it, concern about events during the hearing and after the hearing. My concern, as I have mentioned a number of times already, as the Permanent Secretary is to make sure that the quality of the advice and support we are giving to our Ministers—and specifically in that context to the previous Home Secretary—is as good as it possibly can be.

Q342 **John Woodcock:** Quality includes accuracy.

**Sir Philip Rutnam:** Quality certainly includes accuracy. Quality includes the ability to dispel confusion and quality includes the ability to bring clarity where there is a lack of clarity, all of those things. There is a lot of concern about that and I take those concerns very seriously.

With the agreement of the Cabinet Secretary, I have asked Sir Alex Allan—a former Permanent Secretary, who was Permanent Secretary of the Lord Chancellor’s Department, the Ministry of Justice, in the last decade, who was then chairman of the Joint Intelligence Committee and is currently the Prime Minister’s adviser on Ministers’ interests—an eminent and very experienced civil servant of the highest standing, on my behalf to do an urgent review into the facts so far as the support provided by the civil service to the Home Secretary before, during and after that hearing is concerned. That is a piece of work that is being started today and that I hope will be concluded quickly. Of course, I am very happy to commit to report to this Select Committee once that work is completed. I hope that provides you with some reassurance that I take these matters very seriously, as Permanent Secretary.

Q343 **Chair:** I am not sure it does. You referred to confusion. I now feel more confused on the basis of the evidence you have given to us today. We began this evidence session with me asking some clarifying questions about what the targets were. I read out what it said in The Guardian about whether there was a target of achieving 12,800 enforced returns in 2017-18 and Mr Ind said yes. We had a discussion about the targets. I asked was there a target the previous year and the year before that. We had a discussion about targets. The evidence, Philip, you have just given in defending Mr Williams from a couple of weeks ago seems to now be saying, “Yes, but they are not really targets and that was just an expectation”. I am now confused. Are we talking about targets or are we talking about an expectation?

**Sir Philip Rutnam:** I was picking up specifically on the word “target” and explaining that in this financial year there is not a target in place in immigration enforcement, but there were in previous financial years. I accept that is, in many ways, a semantic point. I am not personally very
interested in semantics, I am interested in substance. I hope that does something to reduce the confusion, Chair, you are clearly feeling.

Chair: Not hugely.

Q344 Tim Loughton: I speak as one of those who was regrettably confused previously and now regrettably even more confused. You talk of semantics. Can Mr Ind make it clear? Did you at any time since the Windrush issue blew up advise Ministers and other senior colleagues that there were no targets in operation as such?

Hugh Ind: I think what you are asking me to do is to talk about advice I have offered to Ministers. The guidance for officials appearing before Select Committees is not to get drawn into that. Further, the piece of work that Sir Philip just outlined will look into precisely the question you are asking.

Q345 Tim Loughton: You are not going to answer whether you gave advice—the Permanent Secretary has said that is a key role, providing quality advice from officials to Ministers—and made it clear to Ministers and other officials that in fact, in your quality advice, there was no regime of targets, be they published, unpublished or any other sort of targets, in operation and that might therefore have given rise to the collective regrettable confusion operating within the Home Office as well as on this Committee?

Hugh Ind: I think the—

Tim Loughton: It is a yes or no really, isn’t it?

Hugh Ind: But I think what you are outlining is a situation that now can only be resolved by—

Sir Philip Rutnam: May I comment?

Q346 Tim Loughton: No, before you do, Sir Philip, this can be resolved very clearly by Mr Ind saying whether he was the source of advice that appears to have led to confusion, not least on behalf of Ministers and other officials in the Department and this Committee. It has been suggested that there were memos from you, as the head of the Department responsible, which gave a completely different impression of what sort of target regime may or may not have been operating.

Hugh Ind: I absolutely do not think I am the source of confusion, but I do believe that is something that should be independently arbitrated.

Sir Philip Rutnam: Under successive Governments it has been a clear convention that civil servants, in coming before Select Committees, do not discuss the advice they give to Ministers. I accept that there is a lot of concern here, and I think in other quarters in the House, about the clarity or otherwise of the support given to the Home Secretary in that hearing. I accept that. The right response to that is, to my mind, a thorough, factual and independent review done quickly, which provides
me—as the senior official responsible for the conduct of officials in my Department, and indeed the Cabinet Secretary, as the head of the civil service—with an authoritative advice on what happened and also, as necessary, recommendations for what further action should be taken.

Q347 **Tim Loughton**: Perhaps we should talk theoretically then, Sir Philip. What reasons could there be for a Home Secretary to advise this Committee that there were no targets in operation when it later turns out that there were?

**Sir Philip Rutnam**: I do not want to be drawn into the course—

**Tim Loughton**: Hypothetically.

**Sir Philip Rutnam**: —of discussing hypotheticals because clearly there is already quite a lot of confusion about the actuals. I would like to put the energy and focus into sorting out and providing a definitive account that essentially will allow me to establish the quality of the support provided to the Home Secretary before, during and after that hearing. That is only part, but a critical part, in a sequence of events that ultimately led to her resignation.

Q348 **Chair**: It would be very helpful for us to have some clarity on that. However, we still need some clarity about what you are telling the Committee now. Is it correct that you are saying now, as Permanent Secretary, there were removals targets in place until March and now there are not?

**Sir Philip Rutnam**: Mr Ind gave you a good account of the position in relation to performance goals over the last several years.

Q349 **Chair**: Is performance goal different to a target?

**Sir Philip Rutnam**: In practice, the question is what goals are set for the relevant operational teams to get on and deliver by way of removals. There were goals that were described as targets in the previous two financial years, set not by Ministers, but by the immigration senior officials in immigration enforcement. In the last several months of 2017-18 the word “target” was not being used; instead they discussed an ambition or aspiration and that is the case in 2018-19. I am going to look to Mr Ind to see if that is a correct account of the position.

**Hugh Ind**: It is a correct account of the position. Some of my teams retain the ability to set themselves a local target. We had a discussion with the criminal and financial investigation teams. They would like to set themselves a target for the number of organised crime groups they disrupt. In a discussion with my senior team we said, “You can do that if it helps to motivate and manage your teams”. The criminal casework director also said they would like to consider doing that in relation to the removal of foreign national offenders. They are a team that has more control over the entire process than some of the other teams.

Q350 **Chair**: The problem with all of this is that this is basically like you are
playing games with us. It is like if we do not use the right word in the question it is okay for you not to give us proper information. If we say “target” but now you call it an “ambition”, it is okay for you to basically say, “We do not have to give you that information”. That is the problem. It all feels really slippery. It goes back to my questions to you earlier, Sir Philip, when I was trying to understand what was going on with the delivery plans around the net migration target. Because of the way you are responding to our questions and because of the way you keep sliding between “targets”, “performance goals”, “That one is not a target, that one is” it makes it very hard for us to have confidence in any of the information you are giving us and not to just think you might be hiding something because we did not frame the question in the right way.

Sir Philip Rutnam: That is absolutely not my goal. The idea of appearing slippery in front of Select Committee is absolutely not the way in which I either want to approach my job or I want the Home Office to be approaching its job, absolutely not. I understand the frustration, in particular around the word “target” and when is a target not a target. I understand that. I am sure there is quite a lot of reflection to be done in the Home Office about that hearing two weeks ago. I completely understand that.

Let’s not get drawn in again into the net migration target, which is perhaps a rather more—

Q351 Stephen Doughty: With respect, Sir Philip, this is carrying on. I have asked the Immigration Minister today, as I have asked the new Home Secretary, that specific question about wrongful deportations and detentions. Yet the Minister does not know, the new Home Secretary does not know and Mr Ind does not appear to know the actual figures or be willing to share them with us. What on earth is going on in your Department if we cannot get answers to the most basic questions that have been repeatedly raised with you?

Sir Philip Rutnam: Again, I have to say I think that is a bit unfair. I understand the frustration, but it is a bit unfair. You simultaneously expect us to give you authoritative and accurate answers to questions that are asked, which is an expectation that I completely understand, and at the same time to be able—in this very large, very complex and quite contentious system—to zoom down from the 50,000 foot level to 20 feet.

Q352 Stephen Doughty: We do, Sir Philip. The issue is that I have not caught you on the hop today asking you that question and nor have other people. These are issues that have been repeatedly raised with your Department through PQs, in the Chamber, in sessions of this Committee and you still cannot provide us with the answer. The officials in your Department do not even appear to know. How should we have any confidence going forward you are going to be able to explain what has happened with the Windrush scandal?
Sir Philip Rutnam: I also think that is unfair. If I and my colleagues had known you were going to ask that specific question before this hearing—

Q353 Stephen Doughty: I tabled a parliamentary question on this, Sir Philip, just a few days ago. It is a named day question to your Department. I worked in a Government Department, I know how the parliamentary question systems work. You should be able to answer these very basic questions, otherwise—as the Chair rightly says—this is slippery tactics, all the time trying to avoid answering very substantial and important matters.

Sir Philip Rutnam: Again—you probably will not accept it—I think that is unfair. The concern that will be in our minds is being able to give an accurate answer. If we give an inaccurate answer, first, that would be deeply unhelpful, and secondly, it damages the relationship. Our concern is about accuracy.

Q354 Chair: May we just ask the Immigration Minister if you want to comment on any of this? Obviously in the end our job as the Committee is to hold Ministers to account for the Department they are responsible for. You can hear the very considerable concern we have about not having accurate factual information.

Caroline Nokes: Can I kick off by apologising to the Committee? I may have given you some inaccurate information a few moments ago, probably longer than a few moments. The G4S contract expires on 21 May and not the 8th, I apologise. That was me seeking to give clarity and unfortunately getting the wrong date.

It is really important that we—as the former Home Secretary said—change the culture in the Home Office. I am very conscious that this is a large Department that is affecting people’s lives every single day. Therefore it is, to me, crucially important that we work extremely hard to be able to give good decisions in a timely fashion. It is important to me—while I entirely take on the chin Mr Doughty’s comments about me not knowing the numbers of wrongful deportations prior to me coming into office—that from this point going forward we will have to do better to make sure we do not make those mistakes, we do not wrongly remove and do not wrongly detain. That is sometimes incredibly difficult to do, particularly when information is not always forthcoming from individuals in the system.

Q355 Chair: The other concern was all the officials are simply trying to meet Ministers’ policies and to operate in a delivery framework that Ministers set up and Ministers take responsibility for. In the end, if we have this much confusion at an official level, we also need to know what Ministers are going to do about it and how this could have arisen in the first place.

Caroline Nokes: It is fair to comment that this is a Department that seeks to make important decisions in a reasonable timescale. I am very conscious that I am under pressure from parliamentary colleagues every single day—I really am not trying to be flippant here—responding to PQs,
responding to correspondence and working through the backlog there undoubtedly is, and I acknowledge, of outstanding asylum cases. I pick that as one example. It is a Department—and specifically the Borders and Immigration Citizenship Service—that is seeking to deliver every single day.

I believe I said it in the Chamber last week, it is a Department that needs more resources. It needs more people. It needs more experienced caseworkers who are in a position to be able to process claims accurately and effectively. We have done some significant work. I highlight in particular the centre in Bootle where we are seeking to work through the asylum case backlog by placing more experienced caseworkers alongside presenting officers, who might seek to take those matters to court, to make sure we have a more robust system.

Q356 **Chair:** What reduction have you had in resources over the last few years?

**Caroline Nokes:** I cannot answer that question. That would be one that officials would have to respond to.

Q357 **Stuart C. McDonald:** Minister, you echoed the former Home Secretary’s comments about the need for a change of culture in the Home Office. Yet this afternoon already you have stuck your neck out in support of the net migration target, which she seemed to be quietly moving away from, and in defence of the hostile environment. How can there be any change of culture when these two pivotal policies remain in place and at the centre of immigration policy?

**Caroline Nokes:** I take you back to the comment that moving to a sustainable migration level has been in three separate general election manifestos, and also there are some important policies around the compliant environment that makes sure that people who are not in this country legally cannot access the benefits and systems that people who are here legally do.

Q358 **Stuart C. McDonald:** Are you sticking your neck out in support of the tens of thousands target that the Home Secretary barely ever seemed to mention? That, to my mind, has not credibly been shown to in any way relate to sustainability. Are you talking about a target of sustainability alone or are you defining sustainability as a tens of thousands?

**Caroline Nokes:** The direction of travel currently is downwards. It is important, and endorsed by the electorate, we have a more sustainable target. The Prime Minister has been very clear that she regards that as being in the tens of thousands.

Q359 **Stuart C. McDonald:** It makes no sense. For example, next year there could be 50 million people who emigrate from the United Kingdom and there could be 50 million plus one who come into the United Kingdom. You have met the tens of thousands target, but nobody in their right mind could regard that as sustainable. Alternatively, you could have the
entire population of Wales emigrate and the population of Wales plus one emigrating to Scotland, which would not be sustainable either. The two things are completely different. It is a number plucked out of thin air.

**Caroline Nokes:** It is a number that has been endorsed by the electorate in three separate general elections.

**Q360 Stuart C. McDonald:** The hostile environment: does nothing that has happened with Windrush set alarm bells ringing that this could happen again? There is this idea that it is very easy to distinguish between people who are here legally and people who are here illegally and it is a piece of cake. Certainly sometimes there are people here undocumented who do not deserve hostility, but perhaps a little bit of support, engagement and case management as opposed to getting locked up and then removed. You are not engaged in a call and a broader debate about the hostile environment, which is what I detect from the recent debates on it. It was all very much, “Here is how we fix Windrush” but nothing more about the broader hostile environment policies.

**Caroline Nokes:** The lessons learnt I hope will also include the wider picture of how there have been some unintended consequences. There is an enormous piece of work to do going forward. You raised the issue of undocumented people. I am sure all of us are aware from our own constituency casework that there are people perfectly legally living in this country who may not have any documentation whatsoever. If we can learn a positive thing from something that should never have occurred, something for which I am personally very sorry, it should be that we have to make sure we have checks and balances in place to make sure that our measures do not catch people out who have every right to be here and every right to access services.

**Q361 Stuart C. McDonald:** Can I raise one particular group that was mentioned in both of those debates, which I do not think you managed to address in your response? A few years back there was an estimate of around 120,000—the group has probably grown by now—undocumented children in this country. Tens of thousands of them are estimated to be entitled to British citizenship, but they will not have any document and in fact will not have citizenship unless they register that. That costs £1,000 or more. These children will probably find themselves in exactly the same situation as the Windrush generation. Most of them are probably blissfully unaware they are undocumented, they do not have any sort of status here at all, until they end up bouncing into the health service or an education provider, for example. Lots and lots of them are not going to be able to pay £1,000. It is quite right to waive any sort of fees people in the Windrush scandal might otherwise have had to pay, but is it not definitely worth looking again, at trying to avoid the same thing happening to these children?

**Caroline Nokes:** Apologies if I lapse into the anecdotal here, but you have reminded me of a case in my own constituency where there were two children who could not get passports because their mother was
completely undocumented. Although their father was a British citizen, their mother was from a Traveller community who was living in the UK and had been for all of her life, but without a birth certificate. You and I might find that incredible, but demonstrated to me that it is perfectly possible. I have raised with officials a number of different groups about whom I have concerns because these are people that we need to make sure have documentation.

One aspect of the whole problem with the Windrush generation, which people have asked me repeatedly in the Chamber, is when will we put some legislation in place that demonstrates our commitment to making sure we resolve these issues. We will have to put in a fee waiver for the Windrush generation in order to make sure they can get their citizenship documentation sorted at no fee. You have raised an interesting issue that certainly will require more conversation between me and the new Home Secretary.

**Stuart C. McDonald:** It would be useful if you could have that conversation, thank you. Turning to the issue of immigration detention—

**Chair:** We have a final question before we get on to detention. I am grateful for your time and appreciate it. We have had a lot of your time already before we move on to detention.

**Q362 Naz Shah:** While you have not been able to talk about how many people you have wrongfully deported, do any of you know how many appeals we have had from abroad for deportation?

**Hugh Ind:** I do not know how many have happened in practice.

**Naz Shah:** Could you provide us with that information as well?

**Caroline Nokes:** Yes, certainly.

**Naz Shah:** That would be helpful.

**Q363 Stuart C. McDonald:** I think it is fair to say that the overwhelming evidence that we have received in our inquiry so far is there is a shameful number of vulnerable people in immigration detention in this country. What was most alarming about the evidence session we have just had is that the adults at risk policy that was introduced by the Government has not improved that. In fact, the evidence was that the number of rule 35 notices that are refused has increased. How has that happened? Why is it that, having introduced this policy about adults at risk, the number of rule 35 requests being made and ignored by detention facilities has gone up again?

**Caroline Nokes:** I think it is very unfair to say it has been ignored. Every time a medical practitioner provides a rule 35 report, the detention rules and the guidance set out that a response must be provided within 48 hours. Because a rule 35 report has been made, it does not necessarily result in a release from detention. You can see that from the figures that we provided in written evidence. The Home Office has to
consider all of the facts and the immigration history and the likelihood of detention resulting in a removal should that be the appropriate course of action.

Q364 **Stuart C. McDonald:** Are you not concerned at all that since that policy was introduced—not ignored—that the number of rule 35 notices that have been refused and have not resulted in release has increased? Are you not concerned that there is a link there and the complaints that have been made by some organisations that the adults at risk policy gives the Home Office more scope to refuse than previous policies is a fair criticism?

**Caroline Nokes:** I believe that every individual case should be looked at on its own merits in light of the medical information and the immigration history.

Q365 **Stuart C. McDonald:** Do you accept there is a correlation between the introduction of that policy and the significant increase there has been, from something like 10% or 15% up to 30% to 35%, in the number of—the other way around. Previously about 35% of rule 35 notices ended in release, but since your policy has been introduced it is down to 15%. Is there a correlation there?

**Caroline Nokes:** I think as part of the review of detention centre rules that is occurring this year, we have to look at all of the rules in the round, but I stand by it being important that when a report is made we consider it promptly and thoroughly and each individual case is looked at on its own merits.

Q366 **Stuart C. McDonald:** I accept all that, but surely there must be some concern. Statistically it is significant and it cannot be ignored that prior to the introduction of that policy there was a steady or increasing number of rule 35 reports that led to release. Then suddenly this policy is introduced in quarter 3 of 2016 and it plummets rapidly from over 30% to 15%. At least that merits some sort of review, does it not?

**Caroline Nokes:** That is what we are doing with the detention centre rules review later in the year.

Q367 **Stuart C. McDonald:** We have also heard evidence that sometimes even after a rule 35 review is requested, it can take up to four weeks for these to be completed. That is not satisfactory.

**Caroline Nokes:** The average time for a rule 35 report being raised by a medical practitioner and subsequent reply in average was 2.7 days, with the longest wait 27 days. I am inclined to agree with you that 27 days is far too long, but the average is 2.7.

Q368 **Stuart C. McDonald:** Are there particular institutions where there are problems that you have identified?

**Caroline Nokes:** I am not aware of specific institutions where there is a problem.
Stuart C. McDonald: We have also had evidence that victims of rape and gender-based violence are being routinely detained and often for significant periods. How can you see that as an appropriate method of enforcing immigration rules?

Caroline Nokes: When we receive a rule 35 report we have to consider it in a timely manner, but we also have to consider it in light of the immigration history and the likelihood of securing a removal of that individual. We can only detain people where there is a reasonable possibility of removal within a reasonable timescale.

Stuart C. McDonald: We will come back to that point shortly. Mr Ind, you referred to gatekeeping, but all the evidence appears to suggest that it is not working at all. As the inspector pointed out in the previous evidence session, the very fact that 50% of these individuals—about 70% at Yarl’s Wood—go back into the community suggests that something is going wrong in the gatekeeping process in the first place.

Hugh Ind: There is an important bit of context, which is in the published data it shows a 15% reduction in immigration detainees across the board over the last two years. That is an important bit of context for the whole consideration or response to Stephen Shaw.

The second point is the data from Yarl’s Wood is skewed by the existence of something called a lorry-drops process. As well as the women in Yarl’s Wood, there is a section whereby people who are found by the police who appear to have come in in a lorry around that area are taken to Yarl’s Wood. These are men and the express purpose of that detention is to ensure we can identify them, ensure that we lock down their identity in a particular way before releasing them. The whole purpose of that detention is to lock down identity and release. When you look at the figures from Yarl’s Wood, that is why they look like a greater proportion are released.

Stuart C. McDonald: 50% across the whole estate is—

Hugh Ind: However, the adults at risk policy as a whole I think is not perfect. We are definitely looking forward to Stephen Shaw’s considered view on how it has worked across the piece, but it has undoubtedly raised the awareness of vulnerability across all players in the immigration detention system. I think some of the phenomena you are identifying will be as a result of increased awareness and increased conversation. These things were not reported, these things were not discussed and the adults at risk policy brings that to the fore.

I do not think rule 35 works perfectly to everybody’s satisfaction on any side and I think the adults at risk policy will be something that the Minister wants to look at in the light of the Shaw review, but it is certainly an improvement on what went on before the adults at risk policy.

Stuart C. McDonald: I agree absolutely that the Minister should look at the adults at risk policy in light of the Shaw review, but in the meantime
the Government have pushed ahead with introducing a new definition of torture. Why not wait for Stephen Shaw’s review? Was Stephen Shaw consulted on the new definition as appeared in the policy?

**Caroline Nokes:** The new definition was in response to a High Court judgment back in October. I was very conscious that some six months on there had not yet been a response from Stephen Shaw. That has now arrived and we will be reviewing the comments that he has made and no doubt implementing his recommendations in due course. We have to respond to his report and hope to do so as soon as possible.

**Q372 Stuart C. McDonald:** Organisations like Medical Justice and Freedom from Torture have expressed considerable concerns about the definition that has now been included in the policy. Will you look at it again in light of what they have said and in light of what Stephen Shaw says in his review?

**Caroline Nokes:** As I said, it was some months on from the High Court judgment and I was very conscious that that was an outstanding matter that we had to resolve. I laid the SI and that comes into force in July, but I am absolutely open to looking at that again.

**Q373 Stuart C. McDonald:** That is very welcome, because it was not as if there was not a policy in place. What the High Court did was ask the Home Office to simply put in place the previous policy while that was looked at, so there is no reason for this new definition to come into force until we look in the round at Stephen Shaw’s review, surely.

**Caroline Nokes:** At the time that I did that, we had not yet received Shaw’s re-review and that was of concern to me. That has now arrived.

**Q374 Stuart C. McDonald:** When will we get to see Stephen Shaw’s review?

**Caroline Nokes:** It has only been with us for I think fewer than two weeks. The Government will be publishing it and responding to it in due course.

**Q375 Stuart C. McDonald:** Is it not worth removing that proposed definition from the table until we look at Stephen Shaw’s recommendations and consider the adults at risk policy in the round?

**Caroline Nokes:** I am going to look at his recommendations first.

**Q376 Chair:** The trouble is there are so many cases that we have heard where there has been clear evidence that people are victims of torture, that they are extremely vulnerable and they still ended up being detained for months at a time. You have seen some of those cases, you have seen some of the cases that we forwarded to you and you have also had cases that MPs have raised with you. Are you not deeply troubled? Are you not deeply sickened to the stomach about some of these cases being locked up by the British state when they have obviously been tortured and are hugely vulnerable?
Caroline Nokes: People are only detained when there is a realistic chance of removal in a reasonable timescale. I think we can do better. I absolutely think that we have to look at people as individuals and the review of the detention centre rules that is coming later this year will help. Of course I am deeply troubled by some of the cases I have seen, but I am always deeply troubled by any victim of torture, any woman who is vulnerable—any man who is vulnerable, for that matter—but I do think it is important that we reflect that at any one time only 5% of individuals subject to our immigration rules are in detention centres and that is a number that is going down.

Q377 Chair: That is still a lot of people. You have 10,000 people who were detained for more than 28 days last year. There are a lot of people being detained and it is clear that a lot of them are not about to be imminently deported. If we go through some of the cases that we have been given, you have a case of somebody who attempted suicide, obviously highly vulnerable, a rule 35 report carried out. He is under constant watch at Morton Hall because of the considerable concern about his mental health, and the Home Office response to the report was to maintain his detention and to respond, as the report says, “You are the origin of this decline, and the increased isolation that you feel is an unintended consequence of your current behaviour”. The Home Office removal team were blaming the detainee for his mental state because it was his fault that he was still detained, presumably, rather than agreeing to be deported. He was held for 11 months, so clearly he was not about to be imminently deported.

Caroline Nokes: We always seek to remove people in a reasonable timescale. That is an important consideration, but it is not always easy. There are occasions when it is difficult to get documentation for an individual; there are very often late appeals.

Q378 Chair: Why are you still holding these people while you are trying to get the documentation?

Caroline Nokes: They can only be held on detention when their vulnerability has been assessed in light of the chances of removal.

Q379 Chair: But very often you have the assessment of vulnerability. We have another case, a Vietnamese national, a victim of trafficking, who is again highly vulnerable, charged with cannabis production and sentenced to imprisonment. There is a complex issue here about what is going on with the trafficking and why somebody was charged. Again repeated assessments by psychologists about the overall psychiatric state and huge vulnerability and again not being released. At one point the Home Office says, “Although it is accepted that you are an adult at risk, we are still going to continue with the detention”. They say, “We are going to hold him in detention because his removal could take place within 14 weeks of his interview with the Vietnamese authorities”. For somebody who is clearly hugely vulnerable as a result of being potentially linked to trafficking, how can 14 weeks be imminent removal?
Caroline Nokes: It would be considered alongside any risk of them absconding, any previous immigration history and it is important that we use our systems to get the balance right.

Chair: Yvonne Smith, in her 60s, daughter of the Windrush generation, has been caring for her father who came over as part of the Windrush generation, who is in his 90s. It is reported that she has been detained in Yarl’s Wood for nine months. Was there evidence that she was at risk of absconding? How could she be detained for nine months? She is a woman in her 60s.

Caroline Nokes: Any cases involving the Windrush generation and their children are obviously hugely regrettable and the Home Office is very sorry for them and sorry that we have kept people on detention when clearly in cases like Mrs Smith we should not have done.

Chair: Even if she was not a Windrush case, this is a woman in her 60s who is caring for her father in his 90s and she has been detained in Yarl’s Wood for nine months. I do not understand how that can happen. There is no report of her being convicted of any crime. She has been held for nine months.

Caroline Nokes: I can only apologise for that again.

Chair: As I understand it, she has only been released pending removal, so she has not even been released and her case sorted, she has been released pending removal. Presumably she could have been released pending removal eight and a half months ago.

Caroline Nokes: Presumably there was evidence at the time that was considered that she was not complying with any immigration restrictions that were placed upon her.

Chair: What does that mean? If somebody misses one report or something like that, we think, “We will lock them up for nine months instead”?

Caroline Nokes: No, and that is why we introduced the detention gatekeeper so that cases should be considered thoroughly in light of all the evidence.

Chair: Do these gatekeepers turn down any cases at all? It is baffling as to how this woman could end up being detained in the first place.

Caroline Nokes: Yes, of course they do. I am sure Mr Ind can provide some statistics on that if you would like.

Hugh Ind: I can. The cases you have outlined are not easy for any of us to listen to. I think we all have the same reaction as you. They are not in cases necessarily the whole picture that is available to my teams. As you know, you referred to some of them at least as having a criminal past. It does illustrate the difficult job that my teams have to do, the difficult decisions they have to make on a daily basis. The formulation that the
Minister outlines is a reasonable prospect of removal in a realistic timescale. The word “imminent” does not feature in any of that. It is a realistic prospect of removal within a reasonable timescale.

Case law has shown that in determining what is a reasonable timescale, you can take into account the public harm that may occur if an individual with a criminal past is released, as well as their previous history of absconding. It is very much case-specific and they are very difficult judgments, but as you present them and as they are presented to you, they are very difficult reading, for sure.

**Chair:** We have loads of them. That is the problem. We have loads and loads and loads.

**Hugh Ind:** I know, I know.

**Chair:** Paulette Wilson, in her 60s. Why was she being detained? Jess Philips, constituent, who rang the police because of a threat from a violent ex and she was taken to Yarl’s Wood instead. We have twins from Lithuania who had been trafficked. Everybody knows and agrees they had been trafficked because they gave evidence against their traffickers in court and that was what led to the first cases of the stronger modern slavery powers being used and their traffickers being deported. They get a conditional discharge due to allegations of theft from a library and then they are given a removal note and threatened with being locked up. It is only when they come up with a legal challenge that then the case is sorted out.

We have a blind detainee at risk of self-harm detained for over a year, a wheelchair user who tried to set himself on fire, held for 15 months, month after month after month. That is what is so shocking about these cases. There are so many of them.

**Hugh Ind:** Some of them have a very significant back story that is available to us that is hard to share, which means that our caseworkers are making a very difficult decision in relation to those cases. Not all of them, but some of them have a very serious criminal past that you and would not be able to reconcile with the stories that we are told from the other side, but that has to be reconciled by my caseworkers. Sometimes they get it wrong and we have to have several safeguards in place to get it right.

I do not like listening to those stories from anywhere, including from this Committee. It redoubles our determination to get it right, but these are hard, hard judgments. We have to rule out those cases where we could not have supported a decision of a caseworker at all and then support them in what are some very tough judgments in relation to the people who have, for whatever reason, committed serious harm in our community in the past.

**Chair:** You still have about half the cases are asylum seeking rather than foreign national criminals?
**Hugh Ind:** No, a smaller proportion are asylum seekers now and the only asylum seekers held in detention will be those who have claimed asylum after they were detained for removal for another reason or they represent a public protection issue. That is a change in the last year or two.

**Chair:** There are no asylum seekers being held in detention at the moment, other than those who have some other criminal—

**Hugh Ind:** No.

**Chair:** Sorry, can you clarify what you just said?

**Hugh Ind:** I am saying somebody who may be detained in the normal course of events for having been in the United Kingdom for a period of time, whether referred to us by the police or found illegally working who then claimed asylum after they were detained. Those are the cases that would normally—some of those cases would stay in detention to have their asylum claim determined. Most of those would be released. You would not find somebody who appeared spontaneously—to use the United Nations expression—claiming asylum, having that asylum claim processed and in detention now unless there was a public protection reason alongside it.

**Stephen Doughty:** What I find particularly baffling is that clearly there are people here who are being locked up who should not be, yet I have a constituent who was supposed to be deported and wants to be deported back to Cyprus, was supposed to be removed by October 2014, but because UKVI failed to remove them in the given timeframe, the Cypriot authorities where he was supposed to be going would not receive him. He is now living destitute in my constituency. He actively wants to leave and has not been able to because the Home Office messed it up. Other vulnerable people in the community who have been granted leave to remain do not get their biometric residence permits issued on time and are left unable to access jobs, services, healthcare, whatever it might be. Somebody else who has been given indefinite leave to remain and applying for citizenship, who has been refused it on the basis of a non-existent conviction, which has subsequently been shown to be false.

It seems to me we are locking up the wrong people, we are not deporting people who want to be deported, we are not supporting people here who do have the right to be here and we are wrongfully denying citizenship to people who should be granted citizenship. It seems to be completely at cross-purposes. Do you understand why there are so many members of Parliament across the House coming to you with these cases showing that there are some pretty systematic issues here?

**Caroline Nokes:** I do not want to get into semantics, but I am about to on the use of the word “deportation”, because that is what happens to foreign national offenders.

**Stephen Doughty:** Removal.
Caroline Nokes: Precisely. He would not have ever been, unless he was a criminal.

Stephen Doughty: No, he wanted to be removed.

Caroline Nokes: He wanted to be removed. We do have systems in place that will help people with voluntary returns. It is unclear to me and I will struggle to comment on a case in 2014 as to why that assistance went wrong.

Stephen Doughty: He is still here four years later.

Caroline Nokes: I am sure, having heard that today, if he would like to re-raise that case with me we can do our utmost to help that individual return to Cyprus.

What is apparent to me is that there are challenges, particularly around documentation, with returning some individuals to their country of origin. There are also, to my mind, unacceptable delays in the process and sometimes that comes down to availability of flights and escorts for those who we are forcibly returning to their country of origin.

I do not think it would be in any way accurate or truthful of me to say that I am 100% happy with the way the system works. Of course I am not. That is why the former Home Secretary talked about a cultural change. It is why I have said this afternoon that I think we need to do better. We need to do better on all sorts of—I hesitate to use the word—targets, around responding to concerns of individual MPs, around responding to parliamentary questions, around making sure that we get our processes right.

Q389 Naz Shah: Not the net migration target, but the targets that the Home Secretary inadvertently misled us on that led to the resignation, can you tell me whether voluntary returns were included in those targets?

Hugh Ind: I can tell you that they were not in 2017-18, but they were in previous years.

Q390 Naz Shah: They were in previous years. Out of the 8,000 that we have referred to who have been removed, how many of them were voluntary returns?

Hugh Ind: It is an important clarification to talk about the 8,000 exercise in relation to Windrush, looking back over people since 2002 who have been removed from the countries in question. That does include voluntary returns as well as deportations and removals, to use the Minister’s distinction. Voluntary returns are certainly included in that 8,000. I cannot tell you precisely how many of the 8,000 are voluntary.

Q391 Naz Shah: Could you please let us have that information?

While we are talking about these targets, I feel I need to say this, not necessarily because I expect a response. Sir Philip in particular, the semantics that you referred to earlier, I struggle with that. The reason I
struggle with it is because we had a resignation of a Home Secretary after appearing before this Committee because of what you have referred to as semantics and you do not want to give the detail. I struggle with the evidence you have given us today simply because it is pretty shambolic that you do not have the answers, given that you are appearing before the Select Committee and all of you knew. When did you know you were appearing before us? How many days have you known?

_Sir Philip Rutnam:_ This hearing today?

_Naz Shah:_ Yes.

_Sir Philip Rutnam:_ Me personally, yesterday.

_Naz Shah:_ Yesterday?

_Sir Philip Rutnam:_ It might have been Sunday evening.

Q392  _Naz Shah:_ We did not ask you, you wanted to come. We were very happy to have you.

_Sir Philip Rutnam:_ Indeed. That is some context, yes.

Q393  _Naz Shah:_ Minister, how long did you know? How long did you have?

_Caroline Nokes:_ Two or three weeks. I cannot remember, apologies. The Chair is nodding as if to say three weeks might be accurate.

_Naz Shah:_ You had a while to appear before us. I feel it is an insult to this Committee for you to appear before us, given the amount of scandal, given we have had a resignation of a Home Secretary, to be before us not having some of the most basic details to hand for some of the questions that we have asked.

Q394  _Douglas Ross:_ I am going to follow on Stuart McDonald’s points. Can I ask all of the panel, did you watch the previous evidence session?

_Caroline Nokes:_ No.

_Sir Philip Rutnam:_ The one here with the Home Secretary?

_Douglas Ross:_ No, the previous session to you coming in.

_Sir Philip Rutnam:_ No, I did not.

Hugh Ind: With Peter Clarke?

_Douglas Ross:_ Yes.

Hugh Ind: No.

_Douglas Ross:_ I hope that may be something you look at because I genuinely believe that if you are coming before a Select Committee to discuss evidence we are getting, probably the most likely questions are going to come from the previous evidence session. Sir Philip, you have
complained a couple of times about the questions you were getting and the questions the previous Home Secretary had got because you did not have prior notice of them, but you would get prior notice if you watched the evidence we get one hour before you come in here.

My question was going to be what you made of the evidence we received. I will have to tell you the evidence is that not a single inspection took place where there was not a concern with the quality of the initial reports going to the Home Office on the rule 35 reports. How do you react to that? I am not looking at the decision by the Home Office, I am looking at the evidence we have received that when the inspectorates go in and take a sample of rule 35 reports, they say in not a single case did they not raise concerns about the quality of the initial report that goes into the Home Office that you are then basing your decision on.

**Caroline Nokes:** The initial reports?

**Douglas Ross:** Yes.

**Caroline Nokes:** Obviously it is hard to comment on evidence that I have not seen.

**Douglas Ross:** I believe that the former Home Secretary would have been well served if she had listened to the evidence provided one hour prior to her coming in here, where the targets were mentioned, the targets were questioned, the targets were scrutinised with those witnesses. The previous Home Secretary then came in and said she was unaware of targets that had been mentioned one hour earlier. I am now asking about specific evidence that was given an hour before you came in here. Sixty minutes of evidence, that is all it was. I think we would be better served as a Committee and Parliament if you had listened to that evidence to be able to react to this. I think it is quite worrying that there was not a single case, when they do a search of rule 35 submissions to the Home Office, where they could not find failings in the initial report.

**Caroline Nokes:** I would ask—obviously I did not listen to it so I cannot know the answer—what size that sample was.

**Douglas Ross:** Ten.

**Caroline Nokes:** A very small sample.

**Douglas Ross:** This was on every inspection. Every time they go in to do an inspection, they take a sample of 10 and they said not a single inspection takes place where there was not a concern with the quality of the initial reports going to the Home Office.

**Caroline Nokes:** It is something that we will all go away and look at, but I take Ms Shah’s criticism on the chin, and yours as well. However, it will come as no surprise that preparing for any Select Committee appearance is both lengthy and as thorough as you can possibly make it. Let me assure you I was busy preparing for this Committee. Perhaps I should have been watching it on the monitor or sitting in the back.
Q397  **Douglas Ross:** I hope, given that we are both in the same party, it is not seen as a criticism but as a constructive comment going forward. I would like to know Mr Ind’s view on the fact that all of the inspections found concerns with the reports that then go to the Home Office for the Home Office to determine.

**Hugh Ind:** There are a number of issues with the rule 35 process.

**Douglas Ross:** I will come on to that in a moment.

**Hugh Ind:** It has been with us since 2001, so there have been a number of attempts to get it straight. One of the issues—one of the issues—is the quality of the report produced by the medical staff in the first place. That is something that, in revamping the systems in 2016, there was more training for the medical staff writing them. We have to evaluate the extent to which that has worked, what the medical staff themselves are feeling is deficient in the training or what Peter Clarke is finding is deficient in their reports. It is an ongoing process. I know that the quality of the reports in the first place is a vital part of the system and that we have introduced training in the relatively recent past to try to fix it. When there is evidence that it is not working, we have to go back to the drawing board and think again.

Q398  **Douglas Ross:** The Minister was suggesting, perfectly legitimately, that 10 was a small sample size. Do you accept that the reports that the Home Office gets for rule 35, the information submitted from the medical practitioners in many cases—the inspectorate are saying in 100% of the cases they look at—is insufficient for you to make a suitable determination?

**Hugh Ind:** I do not want to generalise to that extent. I do know that the quality of the reports in the first place and the understanding of the medical staff as to what uses these reports are going to be put to is a vital part of the process. It is disappointing if in that sample that Peter Clarke has been doing the proportion he has found is so unsatisfactory, but we have to get into the substance of what it was about those reports that were deficient and whether that is something relatively easily fixed.

Q399  **Douglas Ross:** Mr Ind, you said you do not think rule 35s work perfectly. What is the single biggest problem with rule 35s?

**Hugh Ind:** I think there is not a shared expectation of what it is for. From the point of view of the Home Office, it is about having a dispassionate, simple assessment, depending on which subset of rule 35—(1), (2) or (3)—you are talking about, from the medical staff.

Q400  **Douglas Ross:** I am asking what you were talking about.

**Hugh Ind:** I am talking about all of them, but a dispassionate assessment from the medical practitioner of factors that they consider to be relevant to the ongoing detention. That is what I think the process is for. I am paraphrasing, but that is what I think it is for. There are significant numbers of people who think that this is about reasons to
release somebody. It may be, but that is not the primary purpose of the rule.

Q401 Douglas Ross: How do you think the rule 35s and the effectiveness of them can be improved?

Hugh Ind: I would be surprised if it is not a key element of what Stephen Shaw finds.

Q402 Douglas Ross: It will be, but the Home Office said in its evidence that we received as Committee members this morning at point 11, “The Home Office accepts the need to review the effectiveness of the rule 35 process and will do so later this year”. How are you planning to do that? You are accepting there is a problem and you want to improve the effectiveness. I will come on to why it is going to be later on in the year, but how do you do that?

Hugh Ind: By reading fully the findings of Stephen Shaw and by going back out to the communities engaged, being the medical practitioners—

Q403 Douglas Ross: However, you did say in your answer that this has been ongoing since 2001. There were some improvements in 2016. Surely you are not waiting for the report you have had for a couple of weeks. You must have ideas at the moment of what is wrong with the rule 35s that can improve the effectiveness of them without waiting for this report. I understand the report will add to your proposals, but at the moment you say it does not work perfectly. The evidence we got this morning says the effectiveness has to improve. How will that happen?

Hugh Ind: I think the evidence of dissatisfaction from a number of quarters is building and is such as to make us want to review the rule later this year. As to what the solution is, that is a lot harder and we have not reached a view on that. We will need to consult all of the parties who have views on it before reaching a solution.

Q404 Douglas Ross: My final question is in evidence the Home Office submitted it says that, “Rule 35 is a valuable tool for providing information”. A valuable tool. If it is such a valuable tool, but you have said it does not work perfectly, there have been concerns raised by the inspectorate, why do you have to wait for the Shaw report to come out? Why do we have to wait until later on this year when a fundamental part of this whole process that you are all accepting is not working? Why the delay? Why not sort out this valuable tool, as you put it, immediately?

Hugh Ind: Very significant steps were put in place in September 2016 aligning the rule 35 system with the new adults at risk policy to make very significant improvements.

Q405 Douglas Ross: You were saying a few minutes ago that it does not work perfectly, so whatever happened in 2016 still is not improving the situation for you to come to this Home Affairs Select Committee and say it is working fine. You said you do not think rule 35 works perfectly. I am
concerned that something that the Home Office deems to be a valuable tool has to wait for months, until later in the year, to be improved, when you accept yourself—and I assume Ministers and others accept—that it does not work perfectly. Why do we have to wait longer to sort out this valuable tool?

Hugh Ind: I would like to think we will reach solutions quicker, but I cannot be sure, given the history. I know the effort that has been put in in the past to make that system work better. If we can find solutions quicker we will and I am sure the Minister will press us to do so. It is a very complex area, one that has not been fixed enough by the September 2016 changes and so I cannot promise you a quicker fix than the one I am suggesting.

Q406 Kirstene Hair: From the previous evidence sessions and indeed other research, having a time limit on detention, as per every other country in Europe, was quite clearly identified as a positive move. In 2015, as you will be well aware, a cross-party group of MPs submitted a report to Government that showed the damage that indefinite detention was having. They called specifically for a limit of 28 days. Why was that not actioned?

Caroline Nokes: We take the view that the vast majority of people are detained for short periods, but there is a level of concern that were we to have a time limit, wherever it was set, those in detention might seek to frustrate the removal process up to the point that they were released. I am very conscious, having come in as Minister, that very late on in the process we will receive additional representations, claims for asylum and a 28-day limit strikes me as being somewhat arbitrary.

Q407 Kirstene Hair: France deports substantially more people than Britain, yet has a limit of 32 days. Why do you think that is? Why is it that other countries are able to process in that time? Is it because our system is not efficient enough or are there other factors that feed into the fact that our detainees take a lot longer to review?

Caroline Nokes: I think the judicial oversight of our processes can sometimes lead to a protracted process. I am very conscious—and there is no reason why it should or should not pass—that the French Government is considering increasing the length of time that they may detain people for. The reality is that we only have 5% of people subject to immigration rules in detention at any one time, that 92% of them will have left detention within four months and 63% will have left within the 28 days that you have identified.

Q408 Kirstene Hair: Do you agree with the previous panel that the indefinite detention system allows inefficiencies in the system, as in people—civil servants or those who are dealing with the cases—have a longer time to deal with them because they have an indefinite detention period, whereas in other countries where they have a much shorter time, they perhaps work more efficiently?
Caroline Nokes: I think there could be construed to be a conflict between a quick decision necessarily being the right decision. I have already said that this is a system that is under pressure. Of course we cannot detain indefinitely. We can only detain people when there is a realistic chance of removal within a reasonable timescale. Certainly it is our objective always to make sure that we process people as efficiently as we possibly can, but it is fair to say that in many instances there will be late appeals, there will be asylum claims some way down the process when there have not previously been asylum claims. I remain of the view that an arbitrary time limit would not help us in our objectives to make sure that people are returned properly and appropriately.

Q409 Kirstene Hair: What would you define as a reasonable time limit?

Caroline Nokes: When you look at the fact that 63% of people come out of detention—and I completely accept that half of them may be returned to the community and half of them will be removed—I think we should always aim to make sure, if people are in detention, that it is as soon as possible that they are removed.

Q410 Kirstene Hair: There are also significant reports that show the correlation between mental health and self-harm and the time period for which they are detained. Do you not think the Home Office needs to react to the fact that other countries can do it a lot more effectively and the impact that is having on detainees as well?

The second point to that, which is slightly on a different line, do you know the average cost to keep an individual in detention? Obviously it depends on the different periods of time, but on average?

Caroline Nokes: The average cost is £85.97 per day. That was a quick answer to the final part of your question. The 2016 Mental Health Action Plan was important and certainly in response to some significant concerns that have been raised about mental health. It is quite right that since I came into this job I have been to a number of our detention centres and spoken to healthcare providers about the issues that there are with mental health. I would particularly flag up Harmondsworth, where the independent inspector’s report identified the level of concern that detainees had about the mental health provision and where a consultant psychiatrist is being appointed to be there on a fulltime basis. It is important that we work as hard as we can to make sure that people’s wellbeing, whether physical or mental health, is given the appropriate amount of attention.

It is difficult for me to have meetings with ambassadors where they come into my office and tell me they are concerned about the mental wellbeing of their nationals in detention, so of course we should want to make sure, through the Mental Health Action Plan that was brought together in consultation with NHS England, that we are doing the best that we can for people who are detained. Of course I accept that detention in itself is
going to impact upon somebody’s mental wellbeing, which is why we encourage those for whom voluntary return is an option to take that.

Q411 Kirstene Hair: Finally, going back to the cost, which you said was £85.97 per day, if detainees were detained for a much shorter period of time—not specifically 28 days, but significantly less than what the current average is—the cost saving there could ensure that there are further caseworkers employed to ensure that cases were dealt with more swiftly. There is an argument that it is costing an extensive amount of money that could be put into other areas to ensure that the cases that are dealt with on a much swifter basis. Do you agree?

Caroline Nokes: Only 5% of those who are liable for immigration enforcement action are in detention at any one time. That is a number that has been going down over the last few years. I am conscious that there are alternatives to detention. Specifically in the case of some foreign national offenders, we use electronic tagging. It is absolutely incumbent upon us to keep an open mind as to what the alternatives to detention are and that some of them may indeed produce a cost saving. I will also reflect on the importance of making sure that high-harm offenders are kept in detention where that is the appropriate solution.

Q412 Chair: What proportion of people in detention are high-harm offenders?

Hugh Ind: About 35% of those in immigration detention are foreign national offenders.

Q413 Chair: 35% of those in immigration detention are foreign national offenders. What proportion of those are high-harm offenders?

Hugh Ind: That depends on your definition of high harm.

Q414 Chair: The Minister used the phrase. What is your definition of high harm and how many of them are there?

Caroline Nokes: I am conscious that in the very small number of cases where we might have an immigration offender in detention for over a year, they are exclusively foreign national offenders with a range of very serious offences, including kidnap, murder and so on. I cannot give a precise number of types of offences and those in detention.

Q415 Chair: I quoted a case earlier of somebody where the allegation was about a theft from a library.

Caroline Nokes: I do not regard that as high harm.

Chair: What would be helpful is for us to have some clarity about this. What is your high-harm threshold? Also, if 35% of those in the immigration estate are foreign national offenders, what is the proportion of those who have been detained for more than 28 days who are foreign national offenders? Of those, what proportion are foreign national offenders with some sort of high-harm threshold and what are effectively suspended sentences or below six-month sentences? Perhaps we should
use a six-month cut-off and a 12-month sentencing cut-off to have a sense of categories as well.

Q416 **Tim Loughton:** I want to ask questions about Brook House, to give you prior notification of my question, Sir Philip. First, can I come back to a couple of points? Right at the beginning, Minister, you said that the priority at the moment with Windrush is looking potentially at those who have been deported wrongly. We have had, as Mr Ind described, a handful of cases of previous wrongful deportation, as far as he knows. Am I right that that is where you say your priority is for what could be a very small number of people as opposed to the obviously much larger number of people who are wrongfully detained and therefore deprived of their liberty at the moment, as well as those who may have problems accessing services or employment? Surely those should be a greater priority than a small number who may have been deported wrongly, who at least have their liberty in a different country?

**Caroline Nokes:** Thank you for giving me the opportunity to clarify this, because I think when it comes to the data trawl the priority is those who may have been wrongly removed as opposed to those who may have been in detention. Our number one priority when it comes to Windrush cases is making sure that people in this country who might be impacted by not having adequate documentation, that we get that right, which is why we have staffed up call centres and are working pretty much around the clock to make sure that we are addressing the needs of people who require documentation to evidence their right to access benefits, housing, employment. You are right to make that distinction.

When it comes to the work that we are doing on those who may have been wrongly removed and moving on to those in detention, who may have been in detention, I would like to reassure the Committee that we have looked very closely at the detention estate and have ascertained, with one exception, that there are no people from the Windrush generation currently in detention. However, there is one exception, who is a foreign national offender with very serious criminality. I cannot say more about the nature of the criminality because I do not wish to in any way identify the individual or those who may have previously fallen victim to his crimes, but we are currently looking very closely at that particular case.

Q417 **Tim Loughton:** Before coming to Brook House, Sir Philip, a general question on your approach to this Committee. In the dim distant past when I was a Minister, appearing in front of a Select Committee was a big thing. There would be a briefing provided to me, there would be briefing meetings with the officials who were relevant to the Department for whatever the questioning of the session was about, as well as with the DG or at least the director responsible for that area. There would be a list of likely questions. We would include what members of the Committee might have raised recently in terms of previous Committee sittings, in terms of individual parliamentary questions or debates in the House and a lot of preparation would go into that.
You have said that you could not be expected to answer many of the questions on a very specific and a very high-profile subject, on which colleagues from your Department have appeared in recent weeks, without prior notice of questions, which is never the way of operating for a Select Committee. There were more than a few clues available in the type of questions that may be asked today. Are you saying that the approach that I enjoyed at the Department for Education—and I am sure the Chair would have done similarly in the Departments in which she was a Minister—does not exist in the Home Office?

Sir Philip Rutnam: I think your description of the approach, Mr Loughton, is a very good description of the approach. What I was picking up on was some disquiet at being unable to answer precisely how many wrongful deportations there had been in the last six years, to give an example. The answer we gave was “a handful”, which was further approximated to five. With something as specific as that, my expectation is—your description of appearing before the Select Committee is absolutely right. It is a big thing. We need to make sure, whether as officials or as Ministers, that we give precisely correct answers.

Q418 Tim Loughton: Let’s be clear. You did not give the answer of five. That was eventually dragged out of Mr Ind. You did not give that information. That information was entirely relevant, highly relevant, to the whole subject of Windrush and what we might be asking today. It is not a surprise question, is it? It is fairly basic.

Sir Philip Rutnam: I will use a phrase that the Minister has already used several times in this hearing, which is that I will take that on the chin. What I did say, which was to the best of my knowledge, was that there had been one deportation during my period as Permanent Secretary, which had required us subsequently to bring the individual back from Afghanistan. Mr Ind added that the legal proceedings in that particular case are still ongoing. Whether that counts as a wrongful deportation or not, I do not know.

Q419 Tim Loughton: Clearly I hope that officials in the Home Office have a lot of chins. In terms of your response to Mr Ross, when I was a Minister, when there were specific areas that came up during questioning where further information was promised because the questions were not able to be answered then, there would be a checklist, a briefing and a follow-up action. Mr Ross has mentioned several cases where you are not aware that they have not been responded to at all. What sort of audit process is there for things that come up in this Committee that assures us that they are being taken seriously?

Sir Philip Rutnam: There is such a checklist after each hearing. The specific case that Mr Ross raised with me was around the emergency services network and a point that he raised in March. I have already apologised for not coming back to him since that hearing.

Q420 Tim Loughton: On Brook House, a very high-profile “Panorama”
documentary last year raised some very worrying issues about the way that people at Brook House were being abused, which has led to various suspensions and maybe further activity from the company responsible there. What steps has the Home Office taken since to ensure itself that that sort of abuse is not happening more widely across the immigration detention estate? Minister, do you want to start?

Caroline Nokes: Certainl. This may not surprise you, but on day one as Immigration Minister I had my officials suggest to me that I might—I use the term loosely—like to watch “Panorama”. I can assure you I did not like watching “Panorama”. The first visit that I did as Immigration Minister was to Brook House and Tinsley House to see for myself the situation and have the opportunity to speak to G4S representatives. I invited them into my office to talk through the issues that I had seen both on “Panorama” and further to my visit to Brook House.

G4S has responded to that “Panorama”. As you said, there were 10 suspensions. I believe six members or staff have been removed. They have improved their staffing levels and enhanced their recruitment and training plans. The introduction of body-worn cameras at Brook House I think has been an important step forward and it pleases me to see that being replicated across other parts of the immigration detention estate. It provides both transparency and assurance. They have refreshed their whistleblowing processes and put in place improved drug strategies and, as I referred to earlier, commissioned the independent review by Kate Lampard.

Q421 Tim Loughton: When is that review going to be completed?

Caroline Nokes: That is going to be reporting this summer.

Q422 Tim Loughton: Will it be published in full as a matter of urgency soon after?

Caroline Nokes: Yes. I would like to comment that on coming into this job, I was very conscious that a number of independent inspectors’ reports had not been published with the timeliness that I would like to see. I made it one of my priorities to make sure that not only were reports published, but to undertake that going forward we would seek to do better.

Q423 Tim Loughton: Have you met Kate Lampard?

Caroline Nokes: No, I have not.

Q424 Tim Loughton: Earlier Peter Clarke gave evidence there had been something like 16 reviews of various problems across the estate awaiting response from the Government, going back as far as 2016. Are you aware of that and what is being done to expedite those responses?

Caroline Nokes: It is not good enough. I certainly have seen a number of independent inspectors’ reports that were waiting for me on my
arrival. We have sought to clear all of those. To me it is important that if reviews are commissioned, they are read and acted upon.

Q425 **Tim Loughton:** There seems to be a culture of something goes wrong, high profile, big headlines, an independent report commissioned or the ongoing inspectors’ review has come up with various things. “We will commission a report on that, look into it, tick the box” and there is very little follow-through. Why should we think that is going to be any different in the future?

**Caroline Nokes:** I hope I can give the Committee confidence that I mean it. I am determined that we learn the lessons. What I saw on that “Panorama” programme was appalling. I think, and I have alluded to it earlier, we need to make sure that in the Home Office we have a culture of change, of improved service to individuals and improved service across the board. It is not easy to come into a very difficult job with a long list of actions that you wish to see implemented and improved upon, but this summer I am looking forward to getting the Lampard review into Brook House. It is important that we make sure that the findings are actioned.

Q426 **Tim Loughton:** One final question. Sir Philip, why do you think there have been so many leaks from the Home Office since you have been Permanent Secretary?

**Sir Philip Rutnam:** There have been a number of leaks, as you know. I do not know that they have all come from the Home Office, but it is certainly possible that some have. I would say that they have been particularly clustered in the last few months. It is something that I take extremely seriously and is completely unacceptable. I can assure the Committee that within the organisation everything that we can reasonably do to address the risk of leaks, to make clear what good patterns of behaviour are in terms of distribution of documents, the importance of protecting the confidentiality, that is a message that is being reiterated time and time again.

Q427 **Tim Loughton:** Any Permanent Secretary could have given that answer. What have you specifically reasonably done to stem those leaks?

**Sir Philip Rutnam:** What have I done? I have sent several messages to all staff in the organisation. I have emphasised this point to all senior staff in the organisation. I had a meeting with all staff at director level and above last week in which we went over again how they can help me in promoting the right environment and culture towards security and protecting confidential information across this large, complex organisation. Those are some examples.

Q428 **Tim Loughton:** Nobody has been apprehended for leaking within the Home Office?

**Sir Philip Rutnam:** There are a number of inquiries underway, as you would expect. If we are successful in identifying somebody who has breached our rules, then of course I would expect action to follow.
Q429  **Tim Loughton:** No one has been suspended?

**Sir Philip Rutnam:** I do not discuss internal staffing matters generally. I can reassure you that this is being pursued with all the vigour that is possible. I am taking it extremely seriously and have been discussing with colleagues in the Cabinet Office and elsewhere how all the best resources available within Government can be brought to bear on this. It is completely unacceptable to have leaks in any organisation and I am extremely unhappy about the number of leaks that have taken place in recent months.

Q430  **Naz Shah:** Staying on the Brook House issue, the Lampard review, am I right in understanding it is going to be published in summer?

**Caroline Nokes:** Yes.

Q431  **Naz Shah:** We have recommissioned G4S, before the Lampard review’s findings, for another 10 years?

**Caroline Nokes:** No, two.

Q432  **Naz Shah:** Two years. Why have we commissioned them for two years without even understanding the review?

**Caroline Nokes:** Because of the previous procurement process, I am expecting the Lampard review to bring forward more suggestions and different priorities. For me it is important that we have a process that gives us the best provider for the job, given that it is going to be a 10-year contract ultimately, that can take into account all of the Lampard and Shaw review findings. The current contract is terminating this month and obviously we have to have an organisation in place that can continue to run the centre. I have asked for a full re-procurement so that we get the best outcome both for our detention estate and for the individual detainees.

Q433  **Naz Shah:** How much is that whole contract worth in its entirety?

**Caroline Nokes:** I am going to have to defer to Mr Ind to get the figure on that.

**Hugh Ind:** There is a degree of commercial confidentiality, but if I said it was in the ballpark of £150 million, I do not think I would be very far off.

Q434  **Chair:** Could I just ask you about these 16 outstanding service improvement plans in response to inspectors’ reports that go back to December 2016? What we heard from the inspectorate just before you came in was that you had written to apologise in February. However, they still have not had any of those 16 outstanding service improvement plans. This is what the Chief Inspector said, and I quote, “If I have this degree of difficulty in getting a response, what must it be like for detainees?” That is pretty damning from the inspectorate.

**Caroline Nokes:** It is not good enough. Sixteen reports is a lot to go through. There was an enormous pile of Chief Inspector’s reports on a
variety of different subjects when I arrived. I have been working through them. I will clarify what—

Q435 Chair: What on earth was your predecessor doing?

Caroline Nokes: It is a Department that has a great deal of work to get through.

Chair: Indeed.

Q436 John Woodcock: Your candour on the poor performance of the Department will have been noted. You must be horrified that people are being detained and facing removal for often minor errors in their tax submissions for which HMRC are not seeking enforcement action.

Caroline Nokes: I cannot comment on any individual cases involving minor errors.

Q437 John Woodcock: No, I am not asking you to. However, you must have seen that there are these cases and you must be concerned about them.

Caroline Nokes: I have seen too many cases. Of course I am concerned that there are too many cases in which errors have been made and I have repeatedly said—

Q438 John Woodcock: I am not going to ask you to comment on a specific case, but the mass of evidence that is in the public domain makes clear that often minor errors from HMRC are being used as a reason under paragraph 322(5) of the Immigration Act to revoke people’s indefinite leave to remain. From the evidence that we see, this is a systemic thing that shows a problem in the way that your officials are using people’s tax submissions. Do you accept that?

Caroline Nokes: As I said, we have to do better in the way we make decisions and in the way we use information.

Q439 John Woodcock: I do not know why you are hanging back from giving a more detailed answer on this. As you will have seen in the press over the last few days, there were hundreds—potentially thousands—of high-skilled migrants who are having their indefinite leave to remain taken away. There are cases of people who can no longer get treatment for free on the NHS because they are being told they are going to be detained and people who are sleeping in their clothes because they fear being taken to a removal centre, specifically because of the way that your Department is treating what are either negligible or minor mistakes in their tax submissions. Are you concerned about that and what are you doing about it?

Caroline Nokes: Of course I am concerned about any case, whether it be tax submissions or other minor issues with—

Q440 John Woodcock: It is surely not difficult to say whether you accept that there is a specific problem with the way your officials have been using tax submissions as grounds to detain and potentially remove people.
Caroline Nokes: I am always concerned, particularly when it is people who have been contributing to this country, whether economically or culturally as part of our communities, when we are not performing to the best of our ability. This goes back to the whole point about culture change. It is not about using rules to have a “computer says no” mentality. We have to move to a position—

Q441 John Woodcock: Have you instructed the Department and your officials to do any particular work on the HMRC issue?

Caroline Nokes: Not as yet, no.

Q442 John Woodcock: Are you minded to do that?

Caroline Nokes: Yes, but I have to accept that this is a Department that has an enormous workload and my number one priority at the moment has been both on Windrush cases, people who are being impacted by that, and also going forward what other cohorts of people might be similarly impacted.

Q443 John Woodcock: Sure. Finally, you talked about the wider cohorts and the culture. This potentially sends a terrible signal, does it not, to highly skilled people of Indian or Pakistani origin who have come over here and have contributed to the country, bringing their skills? They are now facing detention on very minor issues and potentially looking like they are terrorists in the country that they are sought to be removed from, because of the terrorism element of paragraph 322(5).

Caroline Nokes: Of course I do not want this country to look like it is unwelcoming to people with high skills who have contributed a great deal. It is important to us that going forward we make sure we have culture change in the Home Office, particularly that we—as I would always say—empower people working in the Borders and Immigration Directorate to make decisions. When you look at 1,000 pages of immigration rules, you potentially run the risk of people using the rules defensively. We want an immigration system in this country that welcomes the brightest and the best. I do not know if Philip wants to comment.

Sir Philip Rutnam: Can I perhaps comment on this? I accept there may well be issues about the precise way in which these provisions are being operated, but to be clear, the use of HMRC data is not about excluding people on the grounds of national security. That is a separate matter.

Q444 John Woodcock: It is in the same paragraph though, is it not?

Sir Philip Rutnam: That is not—

Q445 John Woodcock: What you say is important, but it is in the same paragraph and that is important if you are a Pakistani man who is going to be removed back to your country of origin with your visa having been taken away under paragraph 322(5), not making clear whether it is about the HMRC or because you are a suspected terrorist.
**Sir Philip Rutnam:** There may well be an issue for us in making sure that we communicate the concern very clearly, but the concern, as I understand it, arises from us seeking to establish whether or not individuals may have deceived either us as the immigration authority or HMRC. That is why we use HMRC data, to see if there is a discrepancy between the two. In order to get the immigration status generally there can be an incentive to overstate the earnings, whereas with the tax authority there can be an incentive that is quite the opposite. We have cases where people have told us that their earnings were £41,000 a year and told HMRC that their earnings are £22,000 a year.

**Q446 John Woodcock:** You will have seen far more of the detail than we have been able to in the press and with the campaign group. I understand and we all understand that it is a criterion you look at, but you must accept that the balance has been wrong and it must be because of the target culture that you have had that you are getting these cases coming in, these heart-breaking cases.

**Sir Philip Rutnam:** I would want to see the evidence about what has been happening and to see how many cases are clear-cut—such as the one I described, which I think is likely to be pretty clear evidence of deceit—and how many may be of the kind that the Minister was talking about, where perhaps overzealous officials have been erring on the side of doubting people rather than giving them the benefit of the doubt.

**Q447 John Woodcock:** Minister, have you or any of your nearest and dearest ever made an inadvertent error on your tax submissions?

**Caroline Nokes:** Probably.

**Q448 John Woodcock:** Yes, because it happens. Yet these people are being potentially removed, having their right to healthcare taken away from them and their families potentially left ruined because of this. What are you going to do about it?

**Caroline Nokes:** We always give people the opportunity to explain any discrepancies.

**Q449 John Woodcock:** With many of these cases they have explained them at length, sometimes over years, and they are not being accepted. Minister, what are you going to do about this?

**Caroline Nokes:** It is important that we look carefully at the reports. As I said, we welcome people who want to come here, play by the rules and pay their taxes, but it is important that we continue to check data with HMRC and that we make sure that we get this right.

**Q450 Naz Shah:** I am struggling with that, following on from my colleague’s questioning, particularly in relation to tier 2 visas and South Asian migrants. The truth is that it appears to me that no lessons from Windrush have been learnt. We have no idea about what is coming down the track following the Home Secretary’s resignation. Again you are using
the exact same approach you did with Windrush, which is, "These are individual cases". Does the Home Office have any way of identifying patterns when you have more than one case that is similar? You got it wrong on Windrush. How much more do you want to get wrong?

**Caroline Nokes:** You referred to tier 2. These are tier 1 tax refusals. It is important to look at what happened with the 1971 Immigration Act, which gave all those people from the Commonwealth countries who arrived here before 1 January 1973 a "deemed leave" but not paperwork—

**Naz Shah:** I am sorry, Minister. We are talking about tier 2. We are talking about now.

Q451 **Chair:** On the tier 1 group—because otherwise we will get back into the Windrush issues—this group that is being either removed or having their request for leave to remain revoked or not continued under paragraph 322(5) of the Immigration Act, do you accept that is a thing and that there is a problem?

**Caroline Nokes:** Yes.

Q452 **Chair:** You have seen the reports in the newspapers?

**Caroline Nokes:** I have indeed, yes. However, Ms Shah did bring in Windrush and I just wanted to draw the non-parallel. That was a very specific Act of Parliament in 1973 that gave people deemed leave with no paperwork to back it up. You asked what might come over the hill and what steps we had in place to identify patterns of behaviour. I absolutely accept that with Windrush we did not identify the pattern fast enough and addressed it as individuals when we definitely needed to look at it as a group.

Moving on to tier 1 and tax refusals, it is important, as Sir Philip has said, that we verify people’s declared earnings against the amount of tax that they are paying. That is crucially important because, as you had outlined from Sir Philip, there can be incentives to maximise earnings for one purpose and minimise them for another. However, it is important that we look at this carefully, check with HMRC, understand if there is a pattern here what has gone wrong and whether they are minor errors. Mr Woodcock made a perfectly valid point—many people make errors with their tax returns—but it is crucial that we understand the patterns that are happening.

Q453 **Chair:** I am really concerned that there does not seem to be any examination of this problem at the moment. I raised this in the debate last week, last Wednesday in Parliament, and it does not seem to have been looked at since. I asked you specifically. I quoted the case that was referred to in *The Telegraph*, where not only were they referring to a case in this category, the tier 1 highly skilled visa, they also had some quotes from Home Office officials who were apparently asking each other whether or not they could use this discrepancy in one year’s tax to cast
doubt on previous years as well.

The reason this is significant is partly because you could have a whole lot of people we might massively need in our economy, in our public services, suddenly being asked to leave because of minor mistakes in their tax returns, but also because there is a serious question about whether this reflects a culture of disbelief in the Home Office and a pressure within the Home Office simply to get as many people as possible to leave, whether it is to meet a migration target or whether it is to meet some other target, and whether there is so much pressure on your officials to get people to leave the country that you are having a whole series of wrong decisions being made.

**Caroline Nokes:** There is a pressure to get it right. It is not a pressure to get people to leave, but a pressure to make sure, where we have one piece of information on tax returns and a different piece of information on immigration status, that we get it right and clarify.

Q454 **Chair:** Why have you not asked for a review of these HMRC-related tier 1 cases to find out how many of them might be serious fraud cases and how many of them might be trivial mistakes that any one of us could have made?

**Caroline Nokes:** Because it has been two working days since Wednesday.

Q455 **Chair:** Could you do it this evening?

**Caroline Nokes:** I think so.

Q456 **Sarah Jones:** Just to go back to the detention centres, Minister, you said earlier that people are only detained when there is a realistic prospect of removal. Is that true?

**Caroline Nokes:** Yes. That is what the detention gatekeeper is there for.

Q457 **Sarah Jones:** How does that tally with what the former Home Secretary wrote to the Prime Minister in a letter in January, which said, “I have instructed IE to renew its focus on removability in order that beds are not being blocked by illegal migrants that we have no realistic hope of removing from the country”?

**Caroline Nokes:** It is important that we focus on making sure that we are using detention appropriately. I cannot answer for the former Home Secretary, but I am very conscious that the gatekeepers must consider what the likelihood of removal is and how quickly that might happen. As I have said earlier, 63% will have left detention within 28 days.

Q458 **Sarah Jones:** You are satisfied that that letter is inaccurate and that we do not detain people unless there is a realistic prospect of removal?

**Caroline Nokes:** As I said, I am not going to answer for the former Home Secretary, but it is important that—
Q459 **Sarah Jones:** She was saying we should remove people that we are locking up when there is no realistic prospect of removal and you are saying that we do not do that.

**Caroline Nokes:** Of detainees, 92% are out within four months and 62% within 28 days. Those who are detained for a long period of time are foreign national offenders.

Q460 **Sarah Jones:** And 50% are released.

**Caroline Nokes:** In many cases additional information comes forward. Asylum claims may be made. There is now an automatic right to an immigration bail hearing after four months. An individual in detention can ask for immigration bail at any point. That is irrespective of the four months, at which it must be reviewed and indeed re-reviewed.

Q461 **Sarah Jones:** Can I ask the same question to Mr Ind? Are you satisfied that we are not detaining people unless there is a realistic prospect of removal?

**Hugh Ind:** The legal formulation is “a realistic prospect of removal within a reasonable timeframe” and yes, that is the law. Clearly we are always striving to operate within the confines of the law. Sometimes, in retrospect, we are found to have made the wrong judgments. There are some very difficult judgments included in making an assessment of a realistic prospect of removal within a reasonable timeframe. That is the formulation.

Q462 **Sarah Jones:** Sometimes we do detain people when there is no realistic prospect of removal?

**Hugh Ind:** Sometimes what was a reasonable assumption about how long an appeal hearing would take, how easy it would be to resolve or how easy it would be to document them proves subsequently not to have been correct.

Q463 **Sarah Jones:** Given that sometimes we do detain people who do not have a realistic prospect of removal, Minister, what will you do to look at that and to make sure that we are not? In the previous evidence we heard from the Chief Inspector of Prisons, they clearly identified that as a major concern. Perhaps we should be looking properly at the enforcement of the law, which does not appear to be enforced at the moment.

**Caroline Nokes:** I do look very closely at the enforcement of the law. There has been at least one case since I became Minister when I have been extremely uncomfortable with someone remaining in detention and have asked for them to be released. The immigration bail reviews give the individual the opportunity to ask for their case to be considered and that is an important safeguard.

Q464 **Sarah Jones:** You do not think we need to look at that further? There is no action you are looking for?
**Caroline Nokes:** It is important to consider that at every four-month point in the process people will have the opportunity for immigration bail, but also that their individual caseworkers will be very aware of when an individual has been in detention for a significant period of time. We continually review whether they are—

Q465  **Sarah Jones:** The former Home Secretary was very aware that there were and she was trying to get them removed. It just seems odd that there is no plan in place to try to do that or to try to adhere to the law when we are locking people up, which is a very serious thing to be doing to people.

**Caroline Nokes:** It is always our objective to seek to remove people who should not be here. I am very conscious that some will be returned to the community, whether it be through themselves applying for immigration bail or whether it is the Home Office making the decision that they should not be detained any further.

Q466  **Sarah Jones:** Can I ask you about immigration detainees in the prison estate? Why do we have 400 people in prison even though they have served their sentence?

**Caroline Nokes:** The decision will be taken at the end of their sentence that the needs of the wider detention estate—and in many cases their needs—will be best served in prison.

Q467  **Sarah Jones:** Your written evidence to this Committee said that the differences between detention in a prison and in an immigration removal centre do not prevent detainees from pursuing their immigration case. That is not true, is it?

**Caroline Nokes:** In what aspect?

Q468  **Sarah Jones:** In the aspect that they are prevented from pursuing their immigration case. If they are in prison as opposed to in an immigration removal centre they cannot have a mobile phone, they cannot have access to the internet and they cannot have weekly legal advice, as they can in an immigration removal centre. That is just inaccurate, that written evidence.

**Caroline Nokes:** I am sorry, I might have to ask Mr Ind to comment on that.

**Hugh Ind:** I am sure that we think they can pursue their immigration case when they are in prison. It is true that they do not have access to phones—

Q469  **Sarah Jones:** Without phones or legal advice?

**Hugh Ind:** Then more consideration would need to be given. They are definitely people with a criminal past who have known that deportation proceedings are likely for a longer period of time. Generally you are working with a longer period of time. The fact that they do not have a
phone on them 24/7 does not have to get in the way of getting proper legal advice.

Q470 **Sarah Jones:** How do they get legal advice without a phone or legal advice?

**Caroline Nokes:** There are telephones in prison.

Q471 **Sarah Jones:** If they do not have the funds, if they do not have the access—this says, “The differences between detention in a prison or an IRC do not prevent detainees from pursuing their immigration case”. The evidence we have just heard, prior to you coming in, is that they very much do. That is just not true.

**Hugh Ind:** I do not think they prevent somebody in a prison from pursuing their immigration case. It might make it more difficult in some elements, but in the round it does not prevent them from pursuing their case.

Q472 **Sarah Jones:** That is probably semantics. There is quite a big difference between being in an immigration removal centre and in a prison, I would suggest.

Can I just ask about the evidence that some people are not being removed from a detention centre because the Home Office has not found them anywhere to go? There is evidence that the Home Office should be providing section 4 accommodation, is not doing so, and therefore people are being kept in detention through no fault of their own. Is that something that you are aware of, Minister?

**Caroline Nokes:** It is no longer a requirement of immigration bail for us to provide accommodation. That does not necessarily mean that people would not have the ability to find accommodation for themselves.

**Sarah Jones:** Mr Ind, is that how you see it?

**Hugh Ind:** Yes.

Q473 **Chair:** How do they find it?

**Caroline Nokes:** It is perfectly possible that an immigration offender has family in this country or has contacts that they might turn to for accommodation.

Q474 **Chair:** But if they do not? Does that mean they then just stay in detention because they cannot find accommodation?

**Caroline Nokes:** There is always the possibility of a voluntary return to the country of origin.

Q475 **Chair:** I see. You are back to, “Let us just have any incentive to get them to leave the country”.

One of the cases that we have been given is someone who is an asylum seeker and has been in immigration detention for 10 months. They
applied to the first-tier tribunal for bail and bail was granted, but with a residence condition. This individual does not have any residence and does not have any funds. This individual applied then to the Home Office for emergency accommodation because that was the only option available to them and that was denied on the basis that “applicants housed in detention are not destitute”. Another bit of the Home Office concluded this person was not destitute and therefore should have no recourse to emergency accommodation because they are in a removal centre.

You have this vortex. You have someone who is in a detention centre, in an immigration removal centre and has been granted bail subject to having accommodation. However, the other bit of the Home Office will not allow them any emergency accommodation because they are not destitute. It is all right, they are in an immigration removal centre. What is this individual supposed to do? They are then just stuck in the immigration removal centre indefinitely potentially because there is clearly no sign of their case being resolved.

Caroline Nokes: You have described it as a vortex. That is a far from ideal situation. I am assuming that they were somebody who had either initially been refused asylum or had made a claim for asylum once they were in the detention centre and because were they previously destitute they would have been in asylum accommodation.

Q476 Chair: I do not know the history. There may be a complex history. However, they have been granted bail. The first-tier tribunal has accepted that this is a case that should be granted bail, subject to bail accommodation, and the Home Office is refusing them. They have no possible avenue to get this accommodation.

It is this phrase from the Home Office, “Detention is based around shared facilities (bedrooms, shower rooms and dining rooms) which is not dissimilar to emergency accommodation with lack of liberty being the main difference”. Lack of liberty feels like a pretty big difference, but according to the Home Office it is okay. They have some accommodation, it just happens to be without any liberty attached to it. We should send you the details of this case.

Caroline Nokes: Yes, maybe you should.

Q477 Chair: This may be one of the cases that we sent you in advance, though I appreciate that it was anonymised. The concern we have is that this is not an isolated case, that you have a series of cases that are being stuck in the system and stuck in detention because there is no provision for accommodation linked to bail.

Caroline Nokes: That is a concern I would share.

Chair: The final last couple of factual questions. I asked you if you could provide us some information about what proportion of different groups of detainees are foreign national offenders, by both length of detention so far and also by the seriousness of offence. It would also be useful to have clarity in regards to the 85% of rule 35 applications that do not lead to
release, about what proportion of those decisions are being made because there is a conclusion that there is not sufficient evidence of torture or vulnerability, what proportion of conclusions about torture and vulnerability are being overruled by immigration considerations, and if so, what those immigration considerations are, how many of them are about imminent removal and how many are not about imminent removal, but about some other factor.

It would also be useful to have more clarity about this gatekeeping issue. Can you just clarify, the gatekeepers never meet any of these cases?

Hugh Ind: No.

Q478 Chair: When they are deciding whether or not someone is too vulnerable to be detained or deported, they do not meet them?

Hugh Ind: Correct.

Q479 Chair: Is it right that in all of the cases going into detention, nobody has met them to assess their vulnerability beforehand?

Hugh Ind: That is not true. A lot of the information available to the gatekeeper will be from the people who have met them, whether it was the arresting team or whether it was the police officers. They will have information available to them from people who have met them in most cases. The gatekeepers themselves are not—

Q480 Chair: There is no gatekeeping assessment. If you had a case, for example, like the “no time limit” case, the Paulette Wilson case, would anybody have met her anywhere along the way? Did anyone meet Paulette Wilson before she was detained?

Hugh Ind: I do not think we managed to establish contact with her before she was detained.

Q481 Chair: You have people you do not establish contact with? You just detain them?

Hugh Ind: No. The first thing you would do would be to ask them to come and report to your office, one of our reporting centres, where 80,000 people do. She may have reported to us. I need to be clear about that.

Q482 Chair: Especially in some of those Windrush cases—we use those as examples—it would be useful to have some real clarity about whether anybody meets people and about whether any proper assessment is done of vulnerability, of torture and of those issues beforehand, because our understanding is that there is no pre-screening that takes place before people are detained and deported. It would be useful to have clarity about that.

The final question is that we are obviously having issues around the subject access requests for immigration cases being exempted from the GDPR data protection legislation coming next week. Given the number of
cases where it is clear things are going wrong and that you yourself have admitted that cases are going wrong, what possible justification is there for preventing people faced with the immigration system and the Home Office being able to get the basic facts that the Home Office holds on them and is making their decision on?

**Caroline Nokes:** When it comes to GDPR we are looking very closely at this. Of course any individual can check and make sure if information we hold is incorrect that it be amended and corrected, but obviously I would imagine that this is going to be debated at length in the House.

**Chair:** Given the mess that the Home Office is in at the moment and given the considerable scale of errors, it might be a good idea for the Home Office’s Ministers to look at this, review and change the policy before next week, I would suggest.

**Stephen Doughty:** Just to draw it to the Minister’s attention, I am Chair of the All-Party Group on HIV and AIDS. I raised these concerns directly with the Public Health Minister, Mr Brine, the other day. We have specific and serious concerns—we are a cross-party group, both Houses—about the implications of this for individuals with HIV, information being shared from the Department of Health with the Home Office. I concur with what the Chair has said. Will you agree to meet with Mr Brine to look at these matters as regards the Department for Health as well?

**Caroline Nokes:** I would certainly be very happy to talk to Minister Brine.

**Naz Shah:** Final question. Can you also provide us information about how many staff do get bonuses and breakdowns of those bonuses and what they were paid for? That does not have to name staff, so it does not breach any confidentiality issues. We would like to understand how many bonuses were paid that were driven by meeting any targets, ambitions or aims that you have referred to, whatever language it is. I would like a breakdown, please.

**Sir Philip Rutnam:** We will see what information we can provide consistent with our duties of confidentiality.

**Chair:** Thank you. We are very grateful for your time. We appreciate that you have given us a lot of time this afternoon and have had questions on a whole series of different issues, but the reason that we have carried on asking these questions is because it does feel like, frankly, the system is in a real mess. We have not even started asking you about immigration Brexit processes. For it to be in such a mess before we even get to the new programme of work does feel deeply worrying. We all have the longstanding words echoing in our ears about whether or not the Home Office is fit for purpose. Both in terms of officials and Ministers, you have an awful lot of work to do to prove to us that it is. Thank you very much.