

The Rt Hon Keith Vaz MP
Chair, Home Affairs Select Committee
Room 156
7 Millbank
London
SW1P 3JA

Lin Homer
Chief Executive
1st Floor Seacole Building
Room 40
2 Marsham Street
London
SW1P 4DF

Tel +44 020 7035 1678
Fax +44 0870 3369050
Email Lin.homer@homeoffice.gsi.gov.uk
Web www.ukba.homeoffice.gov.uk

23rd July 2008

Dear Mr Vaz

Further to my letter of 17 December 2007, I am writing to provide you with a further update on progress the Agency has made on the deportation of foreign national prisoners and dealing with the cohort of older cases. As with my previous letters, the information provided here is subject to revision for the same reasons I have set out to the Committee before regarding data quality.

FOREIGN NATIONAL PRISONERS

Continued delivery of record numbers of deportations

The UK Border Agency has continued to improve the way that it deals with the deportation of foreign national prisoners. We continue to ensure that, where appropriate, foreign nationals who have committed crimes in the UK are deported or removed and that this takes place at the earliest opportunity.

Having exceeded the Prime Minister's target of 4,000 deportations or removals of foreign prisoners in 2007, the Agency has now been set an even tougher target. As announced in the publication of its business plan this year, the Agency aims to remove or deport more than 5,000 foreign prisoners in 2008.

We are already on the way to achieving this, having deported or removed nearly 2,500 by the end of June this year. This is again a record performance, 22% higher than for the same period in 2007 and nearly 140% higher than in 2006.

Detention of time-served foreign national prisoners

The Home Secretary and her predecessors have made it clear that it is our duty to ensure the safety of the public. As you are aware from previous advice, in order to ensure that such individuals are not released while the deportation process is underway, there has been an increase in the number of foreign nationals being detained for longer periods past completion of their sentence. There are currently around 1,650 time-served foreign criminals detained across the UK Border Agency detention estate and in prisons, at a time when we are removing record numbers of time-served foreign criminals.

This is in part due to our continued close working relationship with colleagues in the Ministry of Justice with whom we have set up a robust mechanism through which we can ensure that those foreign nationals who should be considered for deportation action are referred to the UK Border Agency. As a result we are ensuring that foreign lawbreakers are held to account and, where it is believed appropriate, we ensure that they leave the United Kingdom and prevent them from returning.

There continue to be delays in the deportation process for some cases, as I outlined in my previous letters. These are due to circumstances such as last minute legal barriers, obstacles obtaining travel documents and non-compliance. However, much progress has been made to minimise the impact of those issues.

Consequently we are now removing or deporting around a fifth of all individuals direct from prison an average of 180 days before their release date. For the remaining individuals it is taking the Agency around 130 days, on average, to deport or remove them from the UK.

Ensuring faster, timely and more robust decisions

We are continuing to expand our caseworking capacity in order to build a more resilient organisation, capable of concluding cases earlier and removing cases more quickly. I advised the Committee in my letter of 9 October 2006 of the system of individual case-ownership whereby all deportation cases are managed and tracked by individual case-owners as they pass through the system. This is being further strengthened to build more support around these case-owners, to ensure the robustness of our handling of those subject to deportation action. We are introducing workflow managers into every caseworking team within the Criminal Casework Directorate in order to allow us to monitor and resolve barriers to deportation as they arise.

Measures to increase levels of deportation

I am determined to continue to further build upon the successes that we have made with the deportation or removal of foreign national prisoners. I advised you in my letter of 20 November last year of the package of measures that have been introduced to sustain and develop our capability for returning foreign prisoners:

Introducing the automatic deportation provisions of the UK Borders Act. The commencement order for these provisions was laid on 11th July (relating to condition 1, sentences of at least 12 months). The provisions will enable us to speed up the removals process by ensuring that, unless the foreign criminal has an arguable asylum or human rights claim, they will only have a right of appeal from outside the UK.

Implementation of the Section 72 condition is anticipated to increase the numbers of FNPs that would be eligible for consideration of deportation action. We are continuing to work with colleagues in the Ministry of Justice to accurately model the numbers eligible for automatic deportation after commencement of the Section 72 condition, and the consequent effects this will have on the courts. After implementation, individuals who receive a custodial sentence for a serious crime, regardless of their sentence length, will be subject to the automatic deportation provisions. I hope to be in a position to provide comment on the specific numbers in the near future.

Amendments to the Early Removal Scheme. We want to remove FNPs from the country at the earliest opportunity. With effect from 7 April this year, the Early Removal Scheme was changed. The maximum period of early removal was doubled from 135 days to 270 days, although this varies according to the length of the sentence the individual receives. This means that should they qualify for Early Release they can be removed from the UK and sent home at a much earlier point, thereby decreasing pressures on prisons and the Agency's detention estate by minimising the period an FNP spends in detention.

Continued cross-Government work to improve documentation from key foreign criminal source countries. As the Committee is aware, the process through which we obtain documents from other countries can be both challenging and lengthy. In continued close collaboration with colleagues in other Government departments, in particular the Foreign and Commonwealth Office, we have been able to make great improvements to the speed at which certain countries have been issuing documents. For example, we now have an increased level of collaboration with countries such as China and Vietnam, and we are deporting more offenders and illegal entrants to those countries than ever before.

The Facilitated Returns Scheme. This scheme, which was introduced in October 2006, is an extension of the existing voluntary return scheme for individuals with no right to remain in the United Kingdom, but adapted to apply to foreign prisoners. The scheme offers a package, administered through the International Organization for Migration (IOM), to incentivise foreign prisoners to return home voluntarily where that offers better value for money for the taxpayer than enforced return- through assistance on return to their home country. This is funded by us up to a limited amount, although no cash is given to the foreign prisoner except for the standard £46 discharge grant given to all prisoners. It is given on the proviso that the applicant is complying with the deportation process, thereby leading to their

removal taking place considerably more quickly, saving taxpayer money as well as reducing pressures on the prison and UK Border Agency detention estates.

The scheme has generated significant savings and accounted for around 25% of all foreign prisoner removals in 2007 – roughly half of the overall increase on the previous year. We have removed nearly 1,800 foreign prisoners from the UK through the scheme since it started. For the first year of the scheme (October 2006 to October 2007) we only spent around £350,000, inclusive of administrative costs. For that period we achieved 880 removals of foreign prisoners meaning that the scheme generated considerable savings in detention costs alone. Based on the scheme's success and value for money we have increased the amount of assistance we are prepared to offer on return, and this has led to an increased rate of foreign criminal removals of an average of around 155 per month since then. We are continuing to build upon this through increasing levels of awareness of the scheme, targeting those nationalities where removal can be difficult, in order to fully maximise the benefits of the scheme.

Foreign national prisoners released without consideration for deportation

I recently provided you with an update on the 1,013 foreign prisoners who were released without consideration for deportation. The table given below provides a further update on how many cases have now been concluded.

No. of cases concluded Of whom x have been deported or removed	Cases still going through the deportation process	Number of individuals serving a custodial sentences	Not located	Total
697 308 of these have been deported or removed	177	34	105	1013

(Of those cases that have been concluded but have not resulted in deportation or removal action a decision has been made to not pursue deportation action, either because they did not meet the relevant criteria or the courts overturned a decision to pursue deportation).

As I have explained to the Committee, progress with this cohort of cases has been affected for reasons beyond the UK Border Agency's control. The age and complexity of these cases has lengthened both the legal and travel documentation processes beyond what we would normally expect. I should emphasise that these are not indicative of typical progress with other cases that we continue to deal with on a day to day basis. The Agency has a dedicated specialist team responsible for dealing with the remainder of these 1,013 individuals, in order to bring our consideration and continued action of their cases to as swift a conclusion as possible.

We continue to work closely with the police and other agencies in order to track down those that have not yet been located, and we have put in place stringent control measures at our borders in order to identify and prevent re-entry to the UK of any of those that have left. If any of these individuals re-enter the criminal justice system they will also face immediate deportation action.

Next steps

As you can see we are continuing to set ourselves challenging targets, and have introduced a number of measures through which we can ensure that we continue to enhance the safety of the public by deporting ever increasing numbers of foreign prisoners throughout this year.

RESOLUTION OF OLDER CASES

I promised to provide you with an update on our progress in clearing the backlog of older cases every six months. I am pleased to say that we continue to make good progress with more than 90,000 cases concluded to the end of May 2008.¹

We expect that during the summer recess we will pass the 100,000 mark in terms of cases concluded. I would have liked to update you with that information this time around, but of course I need to be absolutely sure that the figures are robust.

As in December, we continue to conclude a mix of different case types - cases where there is an entitlement to stay, removals and others. In this period one of our key priorities was to conclude a group of supported families' cases. Of the 90,000 conclusions, nearly 60% were either removals or 'other' conclusions such as erroneous / duplicate records. Because we look at each case on its individual merits, and because at different times during the course of the work to clear the older cases, we will be concluding different types of cases, these proportions should not be seen as a reflection of the likely totals for the whole caseload.

Information is provided at annex A to give you a more detailed breakdown of the types of cases we are concluding.

In 2006, the then Home Secretary, Dr Reid, set out the priorities under which we are working. The priorities are cases where the individuals involved: may pose a risk to the public; can be more easily removed; are receiving support; are likely that a decision will be made to allow an individual to remain in the UK.

I thought it would be helpful to update you specifically on each of these areas. I have covered the 'more easily removed' and 'likely a decision will be made to allow an individual to remain' categories in the paragraphs above and in the figures at annex A. Below however I have explained in a little more depth how we are progressing with the other two priorities.

¹ Please note that the figures quoted are not provided under National Statistics protocols and have been derived from local management information. They are therefore provisional and subject to change.

Reducing risks to the public

As I've previously explained, the need to remove the most harmful people as quickly as possible is reflected in our priorities and processes. In working through cases where our records showed that there may be criminality, we have established that in a number of cases either this was not the case, or no further action was required; for example because an individual had already been removed and this had not been recorded correctly. Other cases where action is outstanding are being prioritised.

Priority consideration is given to cases that are identified as posing a risk to the public. Any outstanding applications on the case may be refused and where appropriate removal action will be taken.

To date, of the 90,000 conclusions, around 1,850 cases have been concluded where we initially suspected that the case had an element of criminality, which could range from a motoring offence to something more serious. For less serious misdemeanours such as minor motoring offences or where custodial sentences cumulatively amount to less than 12 months over a five year period, then entitlement to stay may still occur. However, the vast majority of cases identified with an element of criminality have been identified as data errors – often the case has already been concluded but not identified as such on the computer system, or the case did not in fact have any criminality associated with it at all.

Supported cases

Supported cases were identified by the then Home Secretary as a priority because supporting people costs the taxpayer money. It is right that we should prioritise these cases so that the individual concerned either leaves the UK, or – where they have been in the UK for a long time and the courts are unlikely to allow their removal - is given permission to stay in the UK, and allowed to contribute to society, including through work and paying taxes.

Because of this, in the period between last summer and March of this year, the Agency focussed in particular on a group of older supported family cases (just over 6,000 principal applicants), many of whom we believed were likely to be entitled to stay, not least due to the length of time they had spent in the country. Each of these families was considered on an individual basis and they were either identified for removal or their entitlement to stay in the UK was confirmed. Where a family was entitled to stay, the UK Border Agency worked closely with local government to ensure that the impact on both the family and on the wider community was minimised. For example, we made funding available to local authorities for unavoidable, transitional costs that arose as a result of this work. We are currently assessing the bids to the fund from local authorities. Until we have completed this exercise, we cannot provide accurate estimates of the amount that will be paid out, and therefore the savings picture for the Agency. Of the 90,000 conclusions to date, around 23,000 were supported cases.

I hope that the Committee has found this update useful. I will write again to the Committee towards the end of this year with a further update outlining our performance and the extent to which the measures I have outlined above have affected this.

A handwritten signature in black ink, appearing to read "Lin Homer". The signature is written in a cursive, flowing style.

Lin Homer
Chief Executive

Annex A – clearing the backlog of older cases – progress to date

Table 1: conclusions by main applicant and dependants

	<i>Total number concluded</i>	<i>Of which, main applicants</i>	<i>Of which, dependants</i>	<i>Of which, supported</i>	<i>Of which, possible criminality element (2)</i>
Removals	20,000	18,000	2,000	6,500	50
Entitlement to stay confirmed	39,000	21,000	18,000	16,500	50
Closed	32,000	28,000	3,500	NA	1750
Total	90,000	67,000	24,000	23,000	1850

Figures may not sum due to rounding

REMOVALS

Table 2.1 removals, by nationality (top 10 countries)

Top 10 Nationalities	Total
Turkey	2000
Afghanistan	1500
Kosovo	1150
Iraq	1100
Pakistan	1050
Iran (Islamic Republic of)	800
India	750
Sri Lanka	750
Albania	700
Nigeria	600

Rounded to nearest 50

Table 2.2: removals, by age of case

Time To Conclusion	Percentage
Under 3 years	21%
3-7 years	54%
7 years+	25%

CONCLUSIONS FOR ANOTHER REASON

Table 3.1 conclusions for another reason

Type:	Number	Of which, dependants:
Duplicates	2,500	-
Errors	23,500	1,500
EU nationals	5,500	2,500

NB figures rounded to nearest 500. Figures may not sum due to rounding

LEAVE TO REMAIN IN THE UK

Table 4.1: Those whose entitlement to stay was confirmed, by nationality (top 10 countries)

Top 10 Nationalities	Total
Somalia	3200
Pakistan	3150
Iraq	2350
Afghanistan	2300
Congo Democratic Republic	2200
Iran (Islamic Republic of)	2050
Eritrea	1900
Turkey	1800
Zimbabwe	1800
Sri Lanka	1550

Rounded to nearest 50

Table 4.2: Those whose entitlement to stay was confirmed, by age of case

Time to Conclusion	Percentage
Under 3 years	41%
3-7 years	51%
7+ years	8%