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FILE TITLE:	SERIES
IMMIGRATION	HOME AFFAIRS
	PART 3
PART BEGINS: 2 FEBRUARY 1998	PART ENDS: 26 JUNE 1998
	CAB ONE

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Labour Administration

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PART

CLOSED

Series : **HOME AFFAIRS**

File Title : **Immigration**

Part : **3**

Date	From	To	Subject	Class	Secret
10/06/98	MS/DETR	DPM	Asylum and Immigration	R	0
10/06/98	SS/SO	DPM	Asylum and Immigration	R	0
10/06/98	CDL	DPM	Asylum and Immigration	U	0
11/06/98	SS/DoH	HS	Review of immigration appeals	C	0
16/06/98	SS/DSS	DPM	Immigration Appeals - Consultation Paper	U	0
18/06/98	FCS	HS	Review of the Asylum System	U	0
18/06/98	CST	HS	Asylum and Immigration	C	0
22/06/98	FCS	HS	Immigration Appeals - Consultation papers	U	0
23/06/98	LC	DPM	Asylum and immigration	C	0
24/06/98	HO	HA/PS	Brief - meeting with the Home Secretary	C	0
24/06/98	PU	PM	Brief - Home Secretary	C	0
25/06/98	DPM	HS	DATV's China	C	0
25/06/98	HA/PS	HO	(M) - Home Secretary, asylum	C	0
25/06/98	HS	DPM	White paper on asylum and immigration	C	0
25/06/98	HS	FST	Asylum : Slovakia	C	0
26/06/98	DPM	HS	Immigration appeals-consultation paper	C	0

Series : **HOME AFFAIRS**

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02/02/98	DETR	DoH	Adult asylum seekers: contingency planning	C	0
03/02/98	MS/DETR	DPM	Asylum Seekers Appeal	U	0
03/02/98	SS/DSS	DPM	Ayslum Seekers Appeal	R	0
03/02/98	HO	DPM	Asylum Seekers Appeal	U	0
03/02/98	DfEE	DoH	Asylum	U	0
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09/02/98	CST	HS	Embarkation checks conducted by the immigration service	U	0
24/02/98	LC	HS	Embarkation Control	C	0
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10/03/98	HS	DPM	Embarkation controls	C	0
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27/03/98	HS	DPM	Eurostar: Inadequately documented arrivals at Waterloo	U	0
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01/04/98	HS	PM	Potential immigration problems	U	0
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03/04/98	DPM	HS	Inadequately documented arrivals travelling on Eurostar from Brussel	U	0
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04/06/98	HS	DPM	Direct Airside Transit Visas	R	0
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10/06/98	SS/DfEE	HS	New asylum and immigration strategy	R	0

FROM THE DEPUTY PRIME MINISTER

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
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TEL: 0171 890 3011
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26 JUN 1998

The Rt Hon Jack Straw MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON SW1

(P)

AL
C: PU
Press
SCU

IMMIGRATION APPEALS-CONSULTATION PAPER

Thank you for your letter of 1 June seeking colleagues agreement to the publication of a consultation paper on the review of immigration appeals.

You explained that the review of asylum and immigration appeals was announced on 18 December 1996. Since then an interdepartmental group of officials had been reviewing the appeal system. Two main themes had emerged. First the present multiplicity of appeal rights should be replaced by a single right of appeal. Second, the Immigration Appeal Tribunal should be radically restructured so as to provide adequate guidance and supervision of the work of the lower tier and to command greater confidence in the higher courts. The reforms should make the appeals process, fairer, faster and firmer. However, to be fully effective, the reforms would need to be combined with other initiatives to do with the speed of decision taking on appeals, the funding of advice and assistance, particularly legal aid, the speed of Tribunal decisions and performance on removals. These would be covered in a White Paper.

Robin Cook, Derry Irvine, David Blunkett, Harriet Harman, Frank Dobson and Alistair Darling commented and were content. Robin noted that the focus of the paper was on the operation of the appeals system in the UK and did not impact directly on visa operations overseas. However, the abolition of the former visit visa appeal right was mentioned, and he asked that an acknowledgement of our manifesto commitment to reintroduce some form of appeal in that category be included, and if possible a comment on timing. In addition, he noted that under the proposals those removed as a result of the consolidated system would be entitled to apply for visas at one of our Posts overseas. It would be important to avoid a situation where either no-one removed could subsequently get a visit visa or we faced large numbers of applications which were impossible to process reliably and efficiently. He suggested a slight change to the text and asked that officials consider the issue in more detail as the consultation process developed.

Derry welcomed your proposals and asked that the consultation paper be issued as a joint LCD/Home Office document and that his officials be closely involved in its completion. Following the consultation, his Department should assume responsibility for finalising policy on the Immigration Appellate Authorities. Plans for a High Court Judge to head the Immigration Appeal Tribunal would have an impact on High Court resources, and the judges would expect to be consulted before the consultation paper was published. He would consult them on 1 July, on the assumption that the paper would not be published before then.

Alistair noted that it was essential to get the appeals part of the system right. He asked that you and Derry set out the various options for reducing the proportion of cases going to judicial review and the waiting times to the level assumed in the costing model. He assumed that changes, other than those raised in the consultation paper would be needed. He asked that his officials be shown an implementation and evaluation plan for appeals as soon as possible.

Harriet and Frank also welcomed your proposals. Harriet said that her officials would be happy to work with yours on ways of improving efficiency and management. Frank noted that the initiative should remove some of the burden currently faced by social services departments in providing accommodation for asylum seekers. He pointed out that the latest costs in the paper referred to 1996/97 but since then they had risen: his Department paid special grants to Local Authorities in 1997/98 amounting to £70.1m.

David emphasised that it was important to avoid criticism that actions in one part of Government undermine work elsewhere on integration and social inclusion.

No other colleague commented, and you may take it that you have agreement to proceed as you proposed, subject to the points made by colleagues.

I am copying this letter to the Prime Minister, members of HS, Robin Cook, Hilary Armstrong and to Sir Richard Wilson.

JOHN PRESCOTT

HOME SECRETARY

AL
C: JEH
PB
PJ

Foreign Secretary

(P)

ASYLUM: SLOVAKIA

Thank you for your minute of 5 June (FCS/98/083). I am very grateful for the work your officials have put into this difficult question. It might be helpful if I separate the elements of the problem as they affect the following:

the asylum determination process;

the potential influence on the movement of peoples;

possible greater linkage to the accession of Slovakia to the EU

and

the risks involved.

The first and most urgent need is for the maximum information to be made available on the actual situation in Slovakia, and to a lesser extent in the Czech Republic, in so far as Roma citizens of the two countries have the protection of the authorities against discrimination and random violence. Further appeals against decisions to reject applications are to be heard shortly.

In order to have an impact on the consideration by the Immigration Appellate Authority any mission to Slovakia would need to be made up of officials and representatives of, for example, the United Kingdom Refugee Council and UNHCR to demonstrate the impartiality of those preparing the report. This would involve dialogue with those bodies to agree the terms of reference for the visit, and an agreed programme to provide a comprehensive view of the situation on the ground. In addition some time would be needed to finalise a report of the mission. This would be most unlikely to be possible in the timescale to meet the needs of the next appeal hearings in less than one month.

Our analysis of the situation in both the Czech and Slovak republics is that only very exceptionally are individuals likely to demonstrate such severe discrimination, exposure to violence and evidence of a lack of protection from the local authority such as to merit the term persecution.

Recent gathering and collation of information by our officials have identified useful evidence of progress in both States but in Slovakia in particular the issues of discrimination remain and the public evidence of effective protection is less than clear cut. There are clear risks that such a mission would underwrite UNHCR's

present assessment of the situation rather than giving due attention to the real progress being made. This begs the inevitable conclusion of an additional pull factor of persons coming to the United Kingdom with an expectation of asylum for all when international protection is likely to be merited only very exceptionally.

The key issue both in the promotion of human rights and to inhibit unwarranted movement of peoples is to ensure that the Slovak authorities pay more attention to these core issues, as I mentioned previously, in clear and visible terms; that is to address further the discrimination against minorities, demonstrate that protection is offered by the police from violence and that offenders are prosecuted through the courts in an appropriate way.

As you mentioned, unless Slovakia is able to demonstrate that in this respect the EU acquis is being met there can be no question of accession to the EU. I think this raises the question as to how much linkage the UK expresses on this point to ensure that Slovakia takes further action on these issues. In these circumstances the expert inspections under the accession process may need to focus on the progress already achieved and what is still to be addressed. A purely fact finding visit by the UK at this point would be risky, as I have indicated.

I can see that we need to encourage Slovakia to continue to work on the core issues and my officials would be prepared to participate in a visit but with a narrower focus than has been suggested to discuss the issues in detail with Slovakian colleagues and to consider what advice and support the UK might offer Slovakia and/or the Czech Republic. Officials will now set arrangements in hand. Meanwhile I would be grateful for your further consideration of how best to take this forward in a way which responds to the immediate needs of the asylum determination process whilst minimising the risks outlined above.

I am copying this to the Prime Minister, the Deputy Prime Minister, Members of HS and Sir Richard Wilson.

Jack Straw

25th June 1998

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

25 JUN 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor
Eland House
Bressenden Place
LONDON SW1E 5DU

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(P)

Dear John,

WHITE PAPER ON IMMIGRATION AND ASYLUM

I am grateful to colleagues for their helpful comments on my letter of 27 May setting out a comprehensive strategy on immigration and asylum. I thought that it might be helpful if, before you responded, I were to deal with the points raised. I hope that in the light of this further letter colleagues will be able to agree the policy proposals reflected in the strategy and that we should proceed with publication of the attached White Paper.

I am very grateful for colleagues' support for the main principles of the strategy. It is clear that the main issue is how best to provide support for destitute asylum seekers. A number of colleagues have expressed concern about the merits and viability of a two-tier system of support. The issues here are complex and I have been giving further thought to the arrangements in the light of colleagues' comments and of further detailed work by officials.

In the light of that further work, I have concluded that providing cash payments for documented passengers up to a negative Home Office decision would not provide a sufficient incentive to retain documents and would be too complex to operate. Increasing the speed with which asylum decisions are taken is a fundamental element of the strategy. Achieving that objective depends on the provision of additional resources and, given current backlogs, will take some time to deliver. But assuming we are successful, decisions will be taken much more quickly and so the majority of documented applicants whose claims were refused but who appealed would receive support if necessary from the safety net rather than cash payments. That is unlikely to provide much of an incentive

to retain documents and the safety net would quickly apply to the vast majority of applicants.

The choice appears, therefore, to lie between extending the use of cash payments or extending the safety net to cover all applicants. I am convinced that the availability of cash payments provides a major attraction for economic migrants to come to the United Kingdom and claim asylum. Extending cash payments through to appeal, even if only for those who produced valid documents, would appear more generous than the current position and provide a strong pull-factor. In addition, there would still be the practical and presentational difficulties of distinguishing between applicants on the basis of whether or not they were documented. This could itself lead to legal challenges. We would also have to set up a safety net for other applicants. There would be a very serious risk of substantially increasing the number of asylum seekers, and costs, if we were to go even further and cash payments were available to <u>all</u> applicants through to appeal as the CSR review proposed. For these reasons, I do not favour the option of making greater use of cash payments.

I believe that the best way forward is to provide a single tier of support on the lines of the safety-net originally proposed with a new national body to co-ordinate provision across the country and allocate applicants to places. We would in this way be able to fulfil our commitment that no genuine asylum seeker would be left destitute. But support would be provided outside the normal benefit system, with no choice about the location of the accommodation provided. On past evidence, this will provide a strong incentive for applicants to rely on their own resources unless genuinely in need. It would overcome the complexities of a two-tier system about which Harriet Harman and Frank Dobson expressed concern.

It would enable a partnership approach to be developed with local authorities and others on the lines Hilary Armstrong suggests. I would expect local authorities to participate on a contractual basis in the provision of accommodation, but I believe that they should be under a general duty to co-operate with the national body by providing information and other assistance to identify and secure accommodation as necessary. I also believe that there should be a reserve power for the Secretary of State, in the last resort, to direct an authority to provide accommodation although I entirely accept Hilary's view that great care would be needed in the exercise of any such power. The national body would also operate throughout the UK to which Donald Dewar rightly attaches importance. There might need to be some small cash payment for limited purposes, but otherwise my aim is to minimise the use of cash. One option which I intend to explore is the possibility of using vouchers for all food and other costs. We will clearly need to undertake further detailed work on the feasibility of a voucher scheme before deciding how best to proceed but, if it can be achieved, it would send a strong message abroad that cash payments were not available and help to deter economic migrants from coming here in the first place.

Although we would aim to provide destitute asylum seekers with accommodation and other support in kind, we need to retain some flexibility to make cash payments if no suitable accommodation is available. This may be necessary in the early days of the new arrangements, or in response to a sudden increase in the number of asylum claims received. The legislation will, therefore, need to provide such flexibility although the intention would be only to make cash payments when accommodation was not readily available and for as short a period as possible.

This approach is now reflected in the attached draft of the White Paper. It is difficult to compare the costs of the different options for support. The unit cost of cash is less than the unit cost of support in kind; but a single tier safety net system would cost less overall than other arrangements if it kept applications at a lower rate and the take up rate remained low. Officials are urgently modelling the sensitivity of total costs to a range of assumptions, including pull factor and take up rates, and the results of this will be circulated at official level as soon as possible.

David Clark raised two further points. I agree that we need to increase the number of removals. I indicated in my letter of 27 May that additional investment of £40 million annually might in time deliver an additional 6,000 removals. About half of this investment would be for extra detention space which is critical to increasing removals. Further expenditure on detention would enable that figure to be increased. But we should also be able to secure additional removals by the other measures planned to improve inter-agency co-operation and reducing barriers to removal. If our support arrangements were able to reduce the number of asylum applications, we might be able to achieve a better balance between refusals and removals. There is no doubt that this will be difficult, but we shall continue to work on improving the system.

David also asked about our Manifesto commitment for a new right of appeal against refusal of a visit visa. I recognise the practical difficulties to which the Joint Study on Entry Clearance referred, although I do not believe they are insurmountable. I do not think that we can resile from this commitment and I propose that it be included in the White Paper without setting out the details at this stage.

The whole strategy depends on diverting resources to the handling of asylum claims in order to reduce total expenditure on asylum seekers. It would not be right to establish a single budget whereby the Home Office took responsibility for support costs unless I also had the flexibility to manage the funds sensibly and this did not threaten existing Home Office programmes. The management of such a budget will involve significant difficulties and risks which I am sure colleagues recognise. I could not take on that task without also being given sufficient freedom to manage the budget flexibly in order to minimise the potential problems. My initial reaction to the budget management ideas in Alistair Darling's letter of 18 June is frankly that this does not offer a satisfactory basis for transfer of asylum support responsibility to the

Home Office. The whole concept of a single budget which combines support and process expenditure does not fit comfortably into either the current or the new public expenditure regime framework. I am, however, sure it should be possible to develop some new arrangements by which the budget could be managed in a way which delivered our overriding objectives. I will pursue this in more detail with Alistair.

I am grateful to colleagues for their support for an early White Paper and legislation. I believe it is essential that the White Paper should be published before the Summer Recess. The attached draft reflects the strategy outlined in my previous letter and which colleagues have generally welcomed in this context or which is the subject of separate correspondence. I should, therefore, be grateful if colleagues could let me know by Wednesday, 8 July whether they are content with the broad terms of the attached draft. There are clearly some points which will need to be finalised nearer the publication date and on which our officials will need to liaise.

I shall in any event want to give further thought to the overall presentation in the weeks leading up to publication. I propose to make an oral statement on the day of publication. I will also consider writing to all Members of Parliament to draw attention to the themes of the White Paper and invite their co-operation in minimising delay in patently unfounded asylum claims. It will be important that our presentation highlights the measures being taken immediately to strengthen the control and so discourage attempts to pre-empt the new arrangements.

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and to Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

DRAFT WHITE PAPER - VERSION 5

[WORKING TITLE: FAIRER, FASTER AND FIRMER - MODERNISING OUR IMMIGRATION CONTROL]

Contents

SUMMARY OF PROPOSALS

1. This White Paper sets out the Government's comprehensive strategy for modernising the immigration control. The aim of the strategy is to improve the quality of service to UK citizens and those who qualify to enter or remain, as well as strengthen the necessary controls on those who do not. The key features of the strategy are that the future operation of the immigration control will be :

- integrated in order to maximise efficiency and minimise the scope for abuse.
- informed and more open.
- fairer, faster and firmer.

2. An informed approach to immigration control must be based on a clear understanding of current immigration trends. Chapter 1 summarises those trends, while the Government's broad policy objectives, including retention of frontier controls and commitment to promoting good race and community relations, are set out in Chapter 2. The Government is also determined that the new strategy should remedy the failings (Chapter 3) of the current system, in particular :

- delays and backlogs which increase costs and undermine the integrity of the control;
- outdated and complex procedures which hinder genuine travellers and are vulnerable to abuse;
- piecemeal approach which has failed to tackle the underlying problems.

3. The Government believes that an integrated approach to modernisation and streamlining of the control provides the way ahead (Chapter 4). The subsequent chapters of the White Paper examine the constituent parts of the control from pre-entry through to settlement and citizenship or, on the other hand, removal of those with no right to be here.

An integrated approach

4. The key to modernising and streamlining the control is to see the system as a whole. In that way, the control can be operated more effectively to speed the passage of genuine travellers and to target resources on those seeking to evade the control. The Government will :

- establish a single unit in the UK to integrate the management of the entry clearance operation overseas with the on-entry and after-entry controls (paragraph);

- maximise the use of modern technology to integrate the pre-entry, on-entry and after-entry systems to help speed passenger clearance and target evasion of the control (paragraph);

- modernise the immigration, asylum and nationality casework processes by introducing a new computerised integrated casework system (paragraph);

- integrate the use of intelligence throughout the system in order to target resources more effectively and improve multi-agency co-operation to tackle abuse and racketeering (paragraph);

[- create a new interdepartmental planning and monitoring process to enable resources to be used more effectively, particularly by bringing most funding for support of asylum seekers into a single budget managed by the Home Office (paragraph).]

An informed and more open approach

5. The Government is committed to greater openness in relation to immigration control as in other areas of public life. Greater openness helps to ensure that decisions about changes to the control are better informed and sustains public confidence in the integrity of the control. The Government has already taken steps to :

- ensure that reasons for refusal of British citizenship are always given (paragraph);
- promote greater dialogue with those to whom the controls apply and representative interest groups by the development of user panels (paragraph);
- publish Immigration Directorates' Instructions so that users know the basis on which decisions which affect them will be made (paragraph).

Fairer, Faster and Firmer

6. The fundamental objective of the Government's strategy is to deliver a modern control which is fairer, faster and firmer. Many of the measures described in this White Paper satisfy at least two of those requirements; some satisfy all three. The Government intends to introduce the following integrated package of measures to reform all stages of the control:

Pre, on and after-entry controls

- introduce a streamlined right of appeal for those refused a visa to visit a family member (paragraph);
- examine the feasibility of introducing a financial bond scheme for visitors to the UK (paragraph);

- consider measures to ensure compliance with the Immigration (Carriers' Liability) Act 1987 (paragraph).

- immediate investment to increase the number of Airline Liaison Officers to help reduce the number of inadequately documented passengers coming to this country (paragraph);

- improve control facilities in partnership with port authorities, with options for further improvements in the operation of the control by recovering a greater proportion of costs from [users] (paragraph);

- modernise the framework of immigration law to enable the controls to be exercised more flexibly to speed the passage of genuine travellers and target resources on potential abuse (paragraph);

- introduce a statutory code of practice governing checks by employers to prevent illegal working (paragraph);

- consider new criteria to enable an integrated approach for consideration of compassionate circumstances at all stages of the control (paragraph);

Appeals

- radical overhaul of the system of immigration and asylum appeals, reducing the number of avenues of appeal and reforming the structure of the appellate authority (paragraph);

- statutory control of unscrupulous immigration advisers who exploit individuals and undermine the control (paragraph);

[- action to bring the use of legal aid under tighter control (paragraph);]

Asylum

- faster decisions on asylum applications, including additional resources to tackle the backlogs inherited from the previous Government (paragraph);

- strengthen existing criminal offences and procedures to enable more effective prosecution of applications involving blatant deceit (paragraph);

- creation of new support arrangements for destitute asylum seekers which minimise the incentive to economic migration, remove access to the main benefit system and minimise cash payments (paragraphs);

- abolish or reduce the qualifying period for grant of settlement to those given refugee status or exceptional leave to remain (paragraph);

- prepare new guidelines to help ensure that genuine refugee claims are identified quickly (paragraph);

- abolish the separate accelerated appeal procedure for certain listed countries (the "White List") and replace it by published country assessments (paragraph);

Enforcement

- international co-operation to establish a computerised central database of fingerprints of asylum seekers and other illegal immigrants across the European Union and to increase the number of removals under the Dublin Convention (paragraph);

- consider the options for increased use of fingerprinting, the arrangements for securing documentation and the merits of readmission agreements to strengthen the enforcement effort (paragraph);

- extend the powers of immigration officers to enable more enforcement operations to be conducted without having to rely on a police presence (paragraph);

- consider with the Crown Prosecution Service how the prosecution process for immigration offences can be made more effective (paragraph);

- consider the potential for increasing the number of passengers returned by use of readmission agreements and voluntary return programmes (paragraph);

- introduce a judicial element into the decision to detain in immigration cases (paragraph);

[- additional resources to increase detention space in order to support an increased number of removals (paragraph);]

- establish statutory rules covering all aspects of the management and administration of detention centres (paragraph).

Citizenship

- action to reduce waiting times for dealing with applications for British citizenship (paragraph);

- consider the introduction of a civic ceremony for the award of British citizenship (paragraph);

- consider amending the residence requirements in the British Nationality Act 1981 (paragraph).

Implementation

7. [Implementation of the strategy will require a major programme of work. Chapter 13 summarises those elements of the strategy which require legislation and identifies the immediate measures being taken to strengthen the control. - insert details]

CHAPTER 1 : INTRODUCTION AND CURRENT IMMIGRATION TRENDS

1.1 The fair and efficient control of immigration is one of the most important tasks for any Government. In one way or another, the operation of the immigration control affects every citizen of this country. While the main purpose of immigration control is to prevent people entering or remaining in the country if they have no right to do so, in the modern world it must also facilitate international travel by UK citizens and the vast majority of legitimate travellers who wish to visit this country. Such travel is of enormous economic and social benefit to this country.

1.2 In the light of the Comprehensive Spending Review process, the Government intends to modernise the whole approach to immigration in order to improve the quality of service to UK citizens and those who qualify to enter or remain, as well as to strengthen the necessary controls on those who do not. This White Paper sets out the overall approach which the Government proposes to adopt, based on being more open as well as fairer, faster and firmer.

Resources

1.3 A key aim of modernisation is to help staff to operate the controls more effectively and to secure better value for money. The most important asset of any organisation is its people. This is particularly true of the Immigration and Nationality Directorate (IND) where the service provided and the decisions taken so directly affect the lives of individuals and families. The staff of IND have consistently achieved impressive results despite the many pressures which they have faced. Modernisation will help to relieve those pressures and provide the framework within which the quality of service provided can be improved still further. - **[This material might instead feature in the Home Secretary's preface]**.

Recent immigration trends

1.4 The days of mass immigration to this country by those with a right to settle here are long gone. The underlying trend of settlement by spouses and dependants coming to form or join families already here, or for employment purposes, has stabilised. In 1997, there were 43,000 acceptances for settlement in these categories compared with total acceptances of 59,000. There will be a rise in the number of spouses accepted for settlement in 1998 as a result of the abolition of the primary purpose rule, but otherwise the long-term trend is unlikely to rise significantly, apart from settlement related to asylum.

1.5 The contributions made by those who immigrated to Britain and their descendants are incredibly diverse. This year sees the 50th anniversary of the arrival of the SS Windrush at Tilbury Docks on 22 June 1948. The 492 passengers and all those who followed them have made an enormous contribution to today's British society. Every area of British life has been enriched by their presence. In politics and public life; the economy and public service; medicine, law, and teaching; and the cultural and sporting elements of our national life, individuals and communities have made a positive impact, helping Britain to develop. Part of that development is in our national identity, which now reflects our multi-cultural and multi-racial society.

Economic Migration

1.6 The real pressures on the immigration control now come from rather different sources. The UK, along with the rest of Western Europe, the USA, Canada and Australia has seen a substantial increase in the number of economic migrants seeking a better life for themselves and their families. There is, of course, nothing new about individuals travelling within and across international borders to improve their economic circumstances. This has been a permanent feature of human history. But modern communications and modern travel have been significant factors in changing the nature and extent of economic migration.

1.7 The availability of rapid, mass communication means much better access to information about the opportunities and economic circumstances in other parts of the world. People living in countries with weaker economies receive daily images of the potential economic and other social benefits available in richer countries across the globe. The knowledge of such opportunities, as it has always done, provides an incentive to economic migration, but it is now available to a much larger population. And that population is better informed about the comparative benefits of different countries, whether it be in relation to the nature of job opportunities, or other factors such as distance, ease of entry, welfare facilities, family ties, chances of being removed and language and cultural or historical links. The desire to move is obviously strengthened where relative poverty is combined with political instability.

Increase in travel

1.8 In recent years, the number of passengers travelling to the United Kingdom, including British citizens returning, has increased by an average of nearly 8% each year. Over the past 5 years, arrivals rose from 55 million in 1992/93 to 80 million in 1997/98. **[insert graph to show rise in travel over last 10 years and projected rise for future years (c.f. para 1.21)].**

1.9 Most of this increase in travel stems from more people going abroad for legitimate purposes including business, study and holidays. As such, the growth in the number of passengers travelling to the United Kingdom is something which the Government welcomes and wishes to encourage. But access to cheap international travel has also provided a practical means by which economic migrants can seek to realise their desire for a better life. Rather than being confined to neighbouring countries within reach by more traditional forms of travel, economic migrants have a much wider range of choice about their country of destination.

1.10 The pressure to migrate results in individuals and groups seeking to enter the UK and other countries by whatever means they can. They cannot normally satisfy the requirements of the immigration rules. They may seek to gain entry illegally or by claiming a status under the immigration rules to which they are not entitled. For this reason, it is necessary to view the immigration system as a whole, recognising that economic migrants will exploit whatever route

offers the best chance of entering or remaining within the UK. That might mean use of fraudulent documentation, entering into a sham marriage or, particularly in recent years, abuse of the asylum process.

Growth in asylum claims

1.11 The United Kingdom is a signatory to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. These require us to offer refuge to a person who :

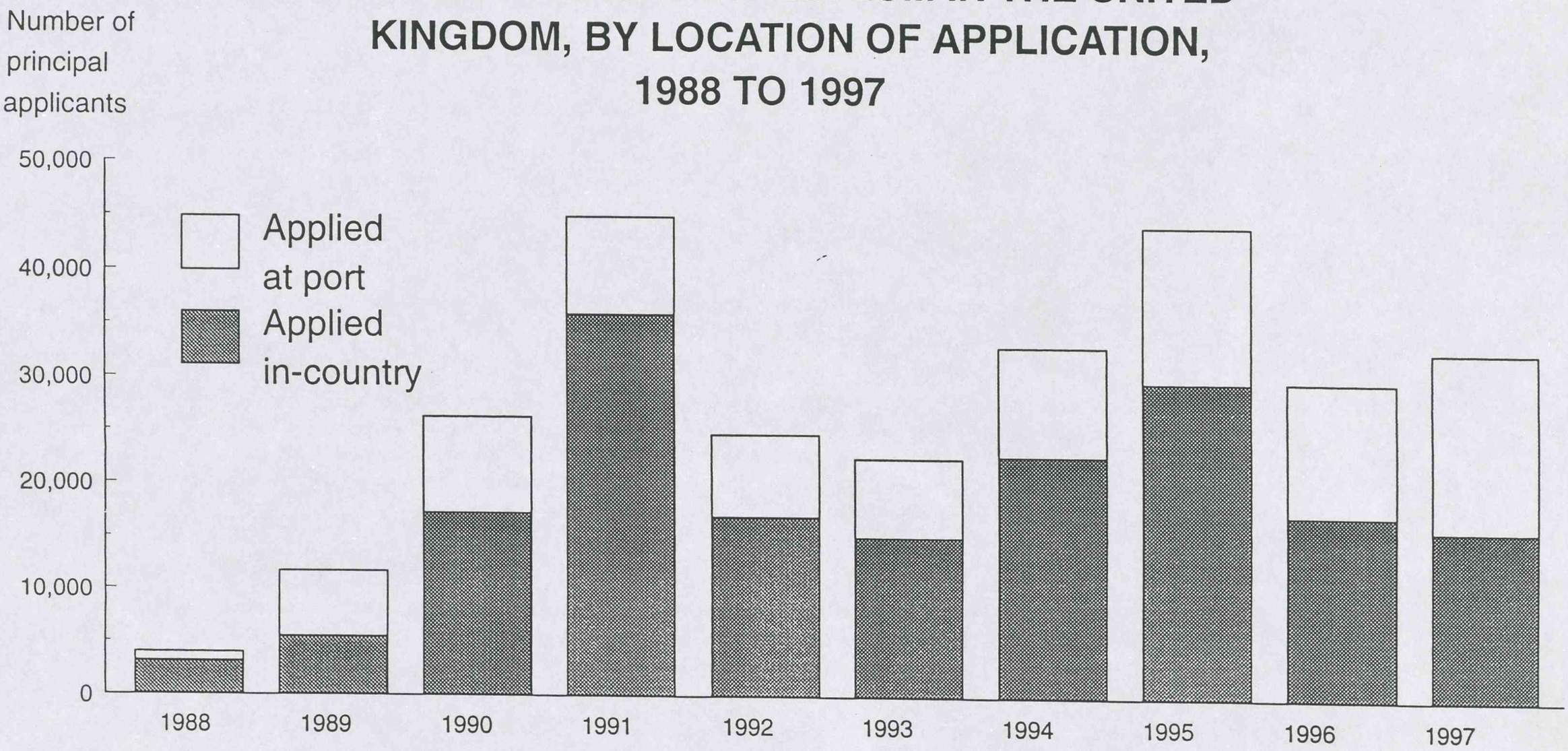
> "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

The Convention also requires signatories to make social welfare available to those recognised as refugees on the same basis as to its own citizens.

1.12 For almost 40 years only small numbers of people, predominantly Eastern Europeans, applied for asylum in the United Kingdom. Then, in the late eighties the total started to rise dramatically from around 4,000 a year during 1985-1988 to 44,800 in 1991. Following the introduction of measures in November 1991 to deter multiple and other fraudulent application numbers fell back in 1992 and 1993. However, applications increased substantially in 1994 and again in 1995 (to 44,000), but after falling back in 1996 (following the reduction in benefit entitlement for asylum seekers) continued rising in 1997 and early 1998 - see table A

TABLE A

APPLICATIONS[1] FOR ASYLUM IN THE UNITED KINGDOM, BY LOCATION OF APPLICATION, 1988 TO 1997



	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Applied at Port	860	6,200	9,005	9,030	7,675	7,320	10,230	14,410	12,440	16,590
Applied In-country	3,140	5,440	17,200	35,815	16,930	15,050	22,600	29,555	17,205	15,915
Total	**4,000**	**11,640**	**26,205**	**44,840**	**24,605**	**22,370**	**32,830**	**43,965**	**29,640**	**32,500**

(1) Excluding dependants.

TABLE B

2. Applications received for asylum

Table 2.5 Applications received for asylum in selected countries, including dependants, by year of application, 1984 to 1997

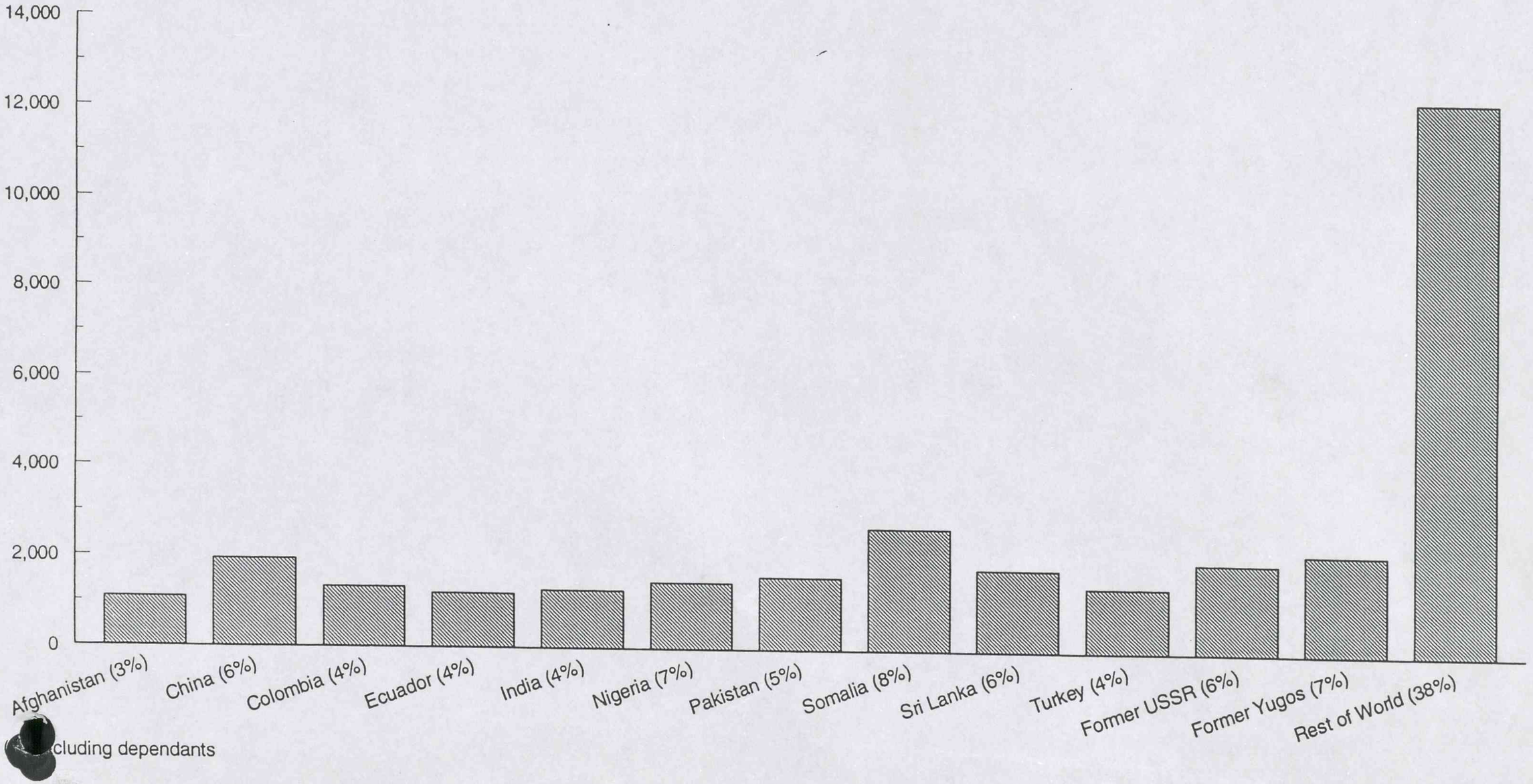
	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Europe														
Austria	7,200	6,700	8,700	11,400	15,800	21,900	22,800	27,300	16,200	4,400	N/A	N/A	N/A	N/A
Belgium	3,700	5,300	7,700	6,000	5,100	8,100	13,000	15,200	17,800	26,900	14,300	11,400	12,200	11,600
Denmark	4,300	8,700	9,300	2,800	4,700	4,600	5,300	4,600	13,900	14,400	6,700	5,100	5,900	5,100
Finland	–	–	–	50	50	200	2,500	2,100	3,600	2,000	800	900	700	1,000
France(1)	17,500	28,400	25,700	27,300	34,800	66,000	61,600	51,200	31,800	29,300	28,600	24,200	20,600	24,000
Germany(1)	45,900	96,100	129,600	74,600	134,000	157,300	250,900	332,800	569,600	419,400	165,400	166,300	151,300	135,700
Italy	4,500	5,400	6,500	11,000	1,300	2,200	4,700	31,700	2,600	1,600	1,800	1,800	600	1,700
Netherlands	2,600	5,700	5,900	13,500	7,500	14,000	21,200	21,600	20,300	35,400	52,600	29,300	22,900	34,400
Norway	300	900	2,700	8,600	6,600	4,400	4,000	4,600	5,200	12,900	3,400	1,500	1,800	2,300
Spain(1)	1,400	3,000	3,000	3,300	4,300	5,200	11,200	10,500	15,200	16,400	13,300	7,400	6,100	6,400 (2)
Sweden	12,000	14,500	14,600	18,100	19,600	32,000	29,000	27,300	84,000	37,600	18,600	9,000	5,800	9,600
Switzerland	7,500	9,700	8,600	10,900	16,700	24,500	36,000	41,600	18,000	24,700	16,100	17,000	18,100	23,900
United Kingdom	4,200	6,200	5,700	5,900	5,700	16,800	38,200	73,400	32,300	28,000	42,200	55,000	37,000	41,500
Total Europe	111,100	190,500	228,000	193,400	256,100	357,200	500,400	643,900	830,500	652,900	363,900	328,800	283,000	297,200
Non-Europe														
Australia (1)(3)	N/A	N/A	N/A	N/A	N/A	700	4,900	22,100	4,100	5,900	5,300	9,800	12,000	12,600
Canada	7,100	8,400	23,000	35,000	45,000	19,900	36,700	32,300	37,700	21,100	21,700	25,800	25,600	24,300
USA(1)	31,600	21,600	24,600	33,900	79,000	132,200	95,700	73,200	132,000	197,300	185,300	192,200	159,300	103,700
Total non-Europe	38,700	30,000	47,600	68,900	124,000	152,800	137,400	127,700	173,900	224,300	212,300	227,800	196,900	140,600
Grand Total	149,800	220,500	275,600	262,300	380,100	510,000	637,800	771,500	1,004,400	877,200	576,200	556,700	479,900	437,800

(1) Figures based on IGC data but adjusted to include an estimated number of dependants.
(2) Includes estimated figures for October to December 1997.
(3) Figures for 1992 onwards refer to January to December whereas figures for 1989 to 1991 refer to the fiscal year which runs from July to June.

TABLE A

TOP TWELVE NATIONALITIES[(1)] CLAIMING ASYLUM IN THE UNITED KINGDOM 1997

Total number of applications - 32,500



(1) cluding dependants

International comparisons

1.13 Many other Western countries have also seen increases in the number of asylum seekers. Germany receives by far the most (136,000 in 1997 including dependants), followed by the UK (41,500), Netherlands (34,000), Switzerland (24,000) and France (24,000). The number applying to most European countries seems to be rising, except in Germany where there have been large reductions reflecting changes in Eastern Europe and in Germany's immigration control. The distribution of asylum seekers between countries does vary in response to a wide range of factors in both source and destination countries. In previous years other countries have received much larger numbers than the UK - see table B.

Who applies for asylum ?

1.14 The majority of principal applicants are relatively young : approximately two thirds are between 21 and 34 years old, with fewer than 5% aged 50 or older. In 1997, 87% of asylum applicants had no dependants at the time of application and about 75% of principal applicants were male. It is also significant that asylum seekers in the UK come from a wide spread of source countries. See table C.

1.15 This spread changes year by year in response to economic and political changes in countries across the world, although Somalia, Sri Lanka and Turkey have featured regularly over the last 10 years. The make up of asylum applications has changed. Ten years ago applications were concentrated in a relatively small number of nationalities. There were either a lot of applications from a nationality or very few. Now there is a much more even spread of nationalities.

Who is granted asylum ?

1.16 36,000 initial decisions were made on asylum applications in 1997. Of those, 4,000 (10%) were to recognise the applicant as a refugee and grant asylum. Nearly half of those cases were nationals of the former Yugoslavia (mostly Bosnians) and 25% were Somalis. In addition, 3,100 (9%) of total initial decisions were not to recognise as a refugee, but to grant exceptional

leave to remain because of genuine humanitarian factors. Somalis accounted for over 30% of that category, Afghans nearly 20% and former Yugoslavs over 10%.

Abuse of the asylum system

1.17 There is no doubt that the asylum system is being abused by those seeking to migrate for purely economic reasons. Many claims are simply a tissue of lies. Some of these are made on advice from unscrupulous "advisers" simply as a means of evading control or prolonging a stay in the UK without good reasons. Over 80% of asylum applications are refused because they do not satisfy the requirements for refugee status. The vast majority of such failed applicants appeal, but only 6% of decisions are overturned on appeal. The abuse of the system demonstrated by these figures is also illustrated in the following examples :

- Case A : The applicant arrived at Heathrow on 17 April 1997 and claimed asylum. His application was refused on 7 May 1997. He made a series of further representations, including taking legal proceedings to obtain payment of income support. In those proceedings, he conceded that the account which he gave when seeking asylum was a series of lies. The proceedings for payment of income support also failed.

- Case B : The applicant sought entry for 3 weeks to visit her brother. Following refusal, representations were received seeking a visit for 6 months for the same purpose. When that application was also refused, an asylum claim was lodged by legal representatives who said the applicant had a well founded fear of persecution if returned to Malawi. That application was refused and the passenger detained. Upon detention, the asylum claim was formally withdrawn and the applicant asked to return home as soon as possible. Within twenty four hours, and while the return was being arranged, a renewed asylum claim was made.

Growth in immigration racketeering

1.18 The exact numbers of people entering the United Kingdom illegally each year is not known but over 20,000 were detected last year. The growing ease of international travel and the widening gap in prosperity between the UK and some third world countries makes an increase in these numbers almost inevitable. Human trafficking is on the increase. Illegal immigration is increasingly facilitated by organised criminals who use the same support structures and routes as drug traffickers. The International Organisation for Migration estimated in 1996 that human trafficking was worth US$7 billion globally. It has also been estimated that at any one time about one million people are in the process of moving to western countries as part of organised trafficking. The causes of human trafficking - economic deprivation, over-population and social and political instability - are unlikely to be resolved in the short term.

Clandestine entry

1.19 Racketeering takes many forms; clandestine entry, false documents, marriage abuse, fraudulent asylum claims. The introduction of carriers' liability legislation and greater vigilance by airline staff at ports of embarkation has seen a resurgence in clandestine traffic, largely moribund throughout the 1980s. Immigrants are often obliged to work for their facilitators after entry in order to pay off their journey costs, in employment where pay and conditions are very poor and where their reluctance to complain is ruthlessly exploited. Others with no legitimate sources of income resort to crime to survive. It is difficult to estimate the true scale of the problem, but in 1997 there were over 4,000 known incidents of clandestine entry compared to under 500 in 1992. This method of evading the immigration control is continuing to increase with over 2,000 known cases in the first four months of 1998.

Forged documentation

1.20 Other forms of racketeering are also on the increase. Unscrupulous legal representatives provide legal services and coaching for fraudulent asylum claims, "fixers" arrange marriages of convenience, some immigration advisers use fraud and deception to obtain legal residence for

their clients. Criminal groups are realising that illegal entrants with no recourse to the authorities are fair game for exploitation in other ways, such as prostitution. Entry is often facilitated by means of fraudulently obtained documents or increasingly sophisticated forgeries. In 1997, around 4,500 suspect travel documents were
detected, over 70% of which were European Economic Area documents. This represents a 26% increase on 1996 figures, with current figures suggesting a further rise to in excess of 6,000.

Expected future trends

1.21 The pressures on our immigration control are likely to continue to increase. The growth in passenger arrivals over the next few years is projected to average about 5% a year, increasing the number of arrivals to about 97 million by 2001\02. As at present, the vast majority of these passengers will be legitimate travellers. It will be vital to our business and other interests that they should be admitted quickly. But, unless action is taken, that growth in traffic will also bring a substantial increase in the number of inadequately documented or otherwise inadmissible passengers with whom our immigration control must also be able to deal quickly and firmly.

1.22 The trend in asylum applications (excluding dependants) in the UK on current form is for further increases to nearly 38,000 in 1998\99 and to 44,000 in 1999\00. At that rate, there would be about 50,000 applications in 2000\1. It is asylum applications which will have the greatest impact on the settlement figures in the coming years. Most of the projected increase in the settlement figures from under 60,000 in 1997 to just over 80,000 in 1999\00 is related to asylum, although family formation and reunion will remain the largest category.

CHAPTER 2 : POLICY PRINCIPLES

2.1 Any strategy for immigration control must, as well as reflecting operational requirements, satisfy fundamental policy principles.

Fair, fast, firm - and open

2.2 Every country must have firm control over immigration and Britain is no exception. This Government will not allow our controls to be abused with impunity and will ensure that the controls are modernised and staff equipped to carry out their tasks effectively. But we shall also ensure that controls are operated speedily and fairly. The vast majority of passengers arriving at our ports or applying to remain here have legitimate reasons for doing so. The control must operate in a way which provides them with a fast and efficient service and so help to promote travel and business which contribute substantially to our economy. All staff applying the Government's immigration and nationality policy will observe these central principles of being fair, fast and firm; and will carry out their duties without regard to the race, colour or religion of any person seeking to enter or remain in the United Kingdom, or applying for citizenship. The Government believes that greater openness is essential in a fair, fast and firm immigration control.

Key objectives

2.3 In furtherance of these broad statements of policy, the key objectives of the Government's policy on immigration and nationality are to :

- welcome genuine visitors and students who wish to come to the United Kingdom;

- support family life by admitting the spouses and minor dependent children of those already settled in the United Kingdom;

- ensure that asylum decisions are both swift and fair and fully meet the United Kingdom's obligations towards refugees under international law;

- grant entry to those who qualify for periods of work in the United Kingdom;

- maintain a fair and effective entry clearance operation at United Kingdom posts overseas;

- give effect to the "free movement" provisions of European Community law while retaining controls at frontiers, operated by a civilian Immigration Service;

- detect and remove those entering or remaining in the United Kingdom without authority and take firm action against those profiting from abuse of the immigration laws, including effective preventative measures; and to

- grant applications for citizenship to those meeting the specified criteria.

European and International Context

2.4 By its very nature, immigration control has to function in an international context. We subscribe to various sets of international rules which govern our actions and also benefit from international co-operation - in sharing intelligence, in mounting joint operations and in developing joint policies - which is essential if we are to tackle trafficking which is itself organised on an international scale.

International obligations

2.5 Two of the principal international conventions of relevance in this field are the 1951 UN Convention on Refugees, and the 1950 European Convention on Human Rights (ECHR). Both conventions were signed with all party support and the UK's obligations arising under them

have been scrupulously observed by successive governments. The Government works closely with UN officials in seeking to make the Convention on Refugees work in a fair and sensible way. Legislation is currently before Parliament to allow people access to their rights under the ECHR in our domestic courts. The Human Rights Bill currently before Parliament makes it unlawful for public authorities to act in a way which is incompatible with the Convention rights. This will apply, for example, to decisions of immigration officers, special adjudicators, and the Secretary of State. The Government is also committed to implement European Community provisions on free movement for EC nationals and their dependants. At the same time the Government will continue to ensure that those rights, particularly as they concern third country national family members, are not abused. [The Government is therefore determined to ensure that marriages of convenience with an EC nationals - that is, marriages which are totally bogus - are not used as a means of obtaining residence in the United Kingdom.]

International co-operation

2.6 Traffickers operate across all continents. No prosperous western country is immune from being targeted. Complex routes involving a mix of countries can be followed to evade controls. Profits and payments are likewise distributed on an international scale. It is essential if law enforcement agencies are to control this that they too must work internationally and the Government is strongly committed to developing such co-operation. We were the first country to ratify the Europol convention. We have played an active part in work to develop the "Eurodac Convention" to create a computerised central database of fingerprints of asylum seekers across the European Union and have supported its extension to all illegal migrants. We shall continue to strengthen co-operation of this kind.

Retaining frontier controls

2.7 The United Kingdom has traditionally had the main focus of its immigration control at the point of entry. For the United Kingdom, frontier controls are an effective means of controlling immigration, and of combatting terrorism and other crime. These controls match both the geography and traditions of the country and have ensured a high degree of personal freedom within the United Kingdom. This approach is different to the practice in mainland Europe where, because of the difficulty of policing long land frontiers, there is much greater

dependence on internal controls such as identity checks. We need to recognise these differences.

2.8 The Government has already made clear its commitment to maintaining the United Kingdom system of frontier controls and we have translated that commitment into practice. In the negotiations last year in the Inter-Governmental Conference which culminated in the Treaty of Amsterdam, the Government sought and obtained legally binding confirmation that the United Kingdom could continue to maintain its internal frontier controls at the frontier with other Member States of the European Union.

2.9 The Amsterdam Treaty also provides for new arrangements, including the incorporation of the Schengen provisions, for co-operation in immigration, asylum, police and customs matters. The UK obtained various rights to opt into such co-operation in a flexible way so as to enable us to preserve our particular approach where necessary while also participating in those areas of co-operation which we judge important.

2.10 The Government will give careful consideration to the future exercise of these rights. In doing so we will take full account of three factors : the need to ensure effective co-operation within Europe in tackling organised crime (in which the United Kingdom has always played an active role); the need to preserve the United Kingdom system of frontier controls (as part of the Common Travel Area operated jointly with the Republic of Ireland, the Isle of Man and the Channel Islands); and the maintenance of United Kingdom control of policy on immigration and asylum.

<u>Promoting good race relations</u>

2.11 The Government believes that a policy of fair, fast and firm immigration control will help to promote good race and community relations. One of this Government's central themes is tackling the problems of racism and creating a society in which all our citizens, regardless of background or colour, enjoy equal rights, responsibilities and opportunities. Race and community relations have, therefore, been high on the Government's agenda since it came to power.

2.12 This is being taken forward in a number of ways already, which will develop and grow throughout this Parliament. In the Home Office this includes:

- consideration of specific amendments to the Race Relations Act 1976 **[Note: May be able to say more in final version].**

- the introduction of specific offences of racially aggravated violence and harassment in the Crime and Disorder Bill.

- establishing the inquiry into the murder of Stephen Lawrence and the lessons which can be learnt.

- participating in a new Council of Europe group examining ways in which democratic states can best respond to the threat to human rights from racist and other movements.

2.13 The Government is keen to encourage debate both with and amongst ethnic minorities. The Home Secretary has therefore set up a Race Relations Forum to give ethnic minorities a voice at the very heart of Government. The first meeting of this was on 23 June.

<u>Encouraging citizenship</u>

2.14 One measure of the integration of immigrants into British society is the ease with which they can acquire citizenship. Acquiring a new citizenship is an important event. For both the individual and the nation, it brings new rights, new responsibilities and new opportunities. The Government believes that encouraging citizenship will help to strengthen good race and community relations. Applications for citizenship should be dealt with more quickly and new ways should be found to signify the importance of acquiring British citizenship. **[add in paragraph on citizenship ceremonies]**

CHAPTER 3 : FAILINGS OF THE CURRENT SYSTEM

3.1 Our current system of immigration control is too complex. In recent decades it has failed to keep pace with outside developments. Past attempts at change have been piecemeal. Typically solutions to a problem in one area have often created another elsewhere. Despite the professionalism and dedication of staff at all levels, the complexity of some rules, too many out-dated procedures and chronic under-investment make it increasingly difficult for the system to deal quickly with those entitled to enter or remain and to deal firmly with those who are not. The Government does not underestimate the challenge which a complete overhaul of the immigration and asylum system presents. The issues are complex and, because of their impact on the lives of individual people and their families, extremely sensitive. Nevertheless, the Government is determined to undertake a comprehensive modernisation of our controls in order to deliver the fairer, faster and firmer policy to which this Government is committed.

Delays and backlogs

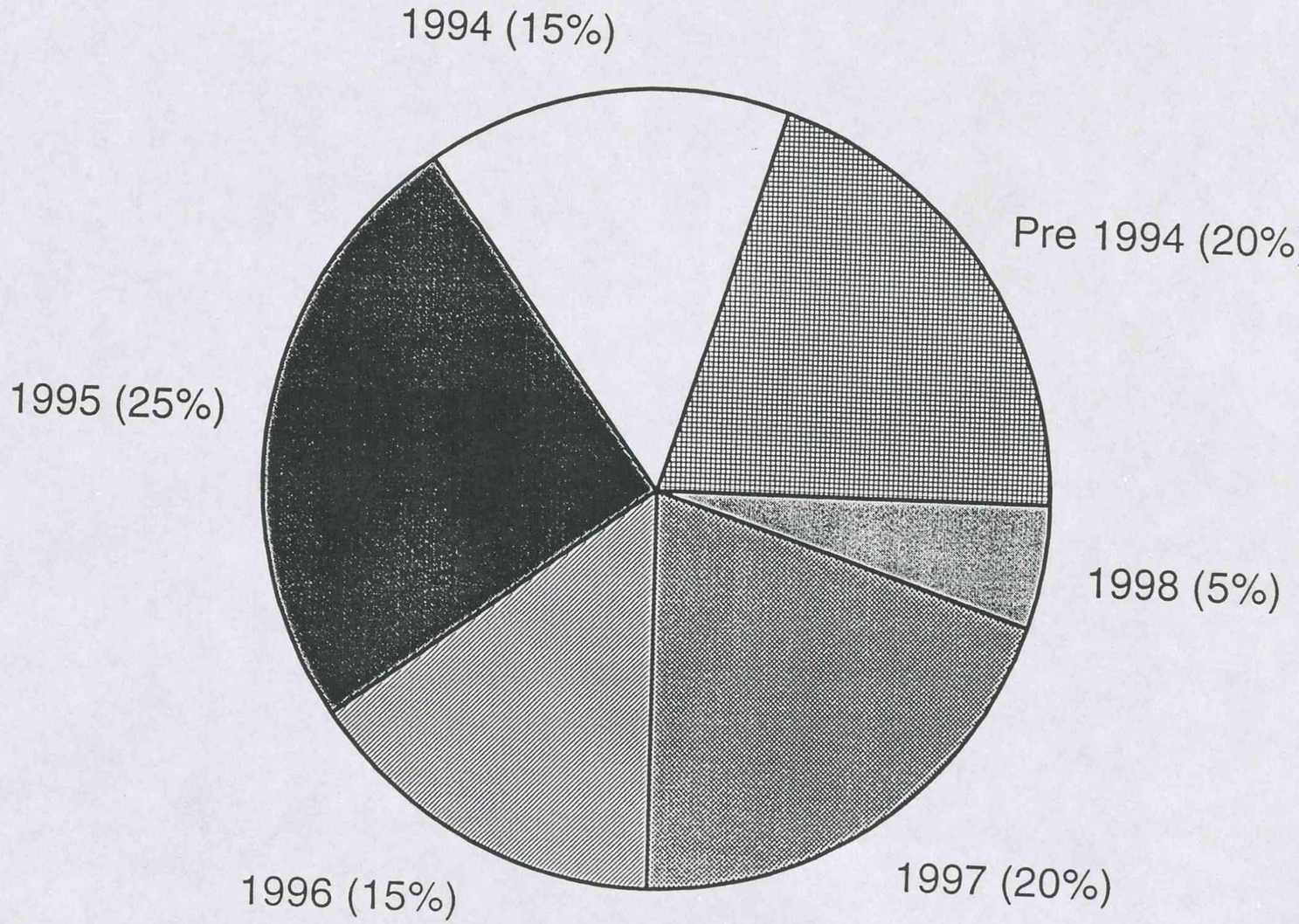
3.2 Large and persistent backlogs have been allowed to develop throughout the system.

- Asylum applications : On [31 January 1998], there was a backlog of 51,500 asylum applications on which not even an initial decision had been taken. 10,000 of these applications were over 5 years old - see attached pie chart.

- Appeals : [On the same date] there was a backlog of 33,480 immigration appeals waiting to be heard. Of these, over 70% were asylum cases. In London, appeals can wait for up to 60 weeks for a hearing. Once heard, there can be a delay of up to 3 months for the adjudicator's decision to be communicated. More applicants in the UK awaiting an asylum appeal have a vested interest in these delays.

ASYLUM APPLICATIONS[(1)] AWAITING AN INITIAL DECISION AS AT 31 JANUARY 1998 BY YEAR OF APPLICATION

Total number outstanding - 51,445



(1) Estimates rounded to the nearest 5 per cent..
Data previously supplied in response to a Parliamentary Question.

- Citizenship applications : On 31 March 1998, there were about [90,000] incomplete citizenship applications. Waiting times were about 18 months on average.

3.3 Delays and backlogs on this scale lie at the heart of the problem. They put unnecessary pressure on the staff who have to operate the system. They are not fair to genuine applicants who face long periods of uncertainty about the outcome of their application. They make it extremely difficult to deal firmly with those who have no right to be here. Tackling these delays and backlogs requires fundamental change to the system of control.

Costs

3.4 The costs of the present system are substantial and, unless something is done, guaranteed to grow quickly. The current cost of the control at ports of entry is about £120 million a year, but the estimated growth in passenger traffic suggests a potential funding requirement of around £150 million by 2001/2 unless a dramatic improvement in the operation of the control can be secured. In addition to volume growth, the nature of the challenge to the immigration control is also changing. The substantial profits generated from organised trafficking in people enables criminal gangs to develop ever more sophisticated means of evading controls. If we are to respond to that challenge, we must be prepared to invest in more sophisticated methods of control.

3.5 But it is again the asylum system where the costs are greatest. It is estimated that the current asylum system costs more than £500 million a year. About £100 million is spent on processing individual applications. This includes the initial decision on the application, dealing with any appeal and the costs of enforced removals. But the bulk of the estimated costs, about £400 million, is spent on supporting asylum seekers, including direct support and other costs such as health and education. The current support arrangements are complex and expensive. Unless action is taken to rationalise those arrangements and deal with asylum applications more

quickly, the costs of the asylum system are expected to almost double to £900 million within five years.

Inadequate control resources

3.6 Although some additional resources have been provided in recent years, they have not been sufficient to cope with the additional pressures on the control. The result has been the delays and backlogs already described. In relation to asylum, those backlogs have substantially increased the cost of the support arrangements for asylum seekers. Better resource planning and allocation to provide adequate resources for asylum casework would have saved much greater sums on support costs. We have to invest in order to improve the system, but the system itself must be made more efficient. A modernised and flexible control is needed to make the best use of available resources.

Outdated procedures

3.7 The previous administration failed to modernise and adapt immigration and asylum procedures in the face of changing demands:

- the legislative framework has not been adapted to enable the controls to be operated efficiently in the interests of the vast majority of legitimate visitors and to enable attention to focus on those who have no right to enter or remain;

- there are too many avenues of appeal which delay genuine cases and which are easily manipulated by those not entitled to remain here;

- there has been a lack of investment in technology which has prevented the development of new procedures at our ports of entry to cope with the increasing volume of passenger traffic and increasingly organised and sophisticated attempts to evade the control;

- throughout the system, there has been a failure to establish coherent arrangements for the use of intelligence to enable resources to be targeted more effectively.

Complex procedures

3.8 The more complex a system of immigration control, the greater the risk of unfairness. Complexity encourages delay which can disadvantage the genuine applicant and be exploited by those wishing to abuse the system. And the more complex the procedures, even though they are applied fairly, the greater the risk that particular categories of applicant could be disadvantaged. The primary purpose rule was a good example. Immigration staff and the appellate authorities were required to make difficult judgements about the primary purpose of a marriage. It simply clogged up the system, diverted staff from more effective work and disadvantaged British citizens as compared with other EU nationals to whom the rule did not apply for marriage and settlement in the UK to a non-EEA national.

3.9 The Government has already abolished the primary purpose rule. But we are determined to simplify procedures where possible and consider additional safeguards in some areas. Such changes will make the system more efficient and make it fairer. For example:

- the current "White List" procedure for accelerated appeals is an inefficient way of dealing with unfounded asylum applications. It needs to be reformed as part of a comprehensive overhaul of the asylum and appeals process;

- rather than tackle the complexities of the current system of immigration appeals, the previous Government decided to deny any right of appeal to visitors refused a visa. We believe that was wrong. A streamlined right of appeal would be fairer and would enable many citizens of this country to challenge decisions which prevent their relatives and friends visiting them for important family and other occasions.

Piecemeal approach

3.10 The individual failings in the current system have been compounded by a failure to examine immigration control as a whole and its impact on other areas of public spending. Changes have been made in one part of the control without addressing the implications for the system as a whole. As a result, the changes have not worked because it has been too easy to exploit weaknesses elsewhere in the system, or they have simply shifted the problem from one area to another.

3.11 Previous attempts to restrict or remove benefits for asylum seekers produced an unexpected and unwelcome new burden on local authorities and local taxpayers. Because the previous Government did not seek a comprehensive and coherent solution to the provision of support for asylum seekers, local authorities had to pick up a substantial and growing bill for supporting those who were destitute. As well as being unintended, the burden has fallen disproportionately on those local authorities, particularly in London [and Dover], whose areas tend to attract a larger number of asylum seekers.

3.13 The piecemeal approach has produced a system of control which is unnecessarily complex. Delays in operating the system, and the numerous avenues of appeal once decisions have been made, mean that it is vulnerable to abuse. The following case summary illustrates the problems. Without comprehensive change, there is a very real risk that the system will be unable to cope with future pressures.

Case summary

June 1985	:	Admitted for two months, subsequently extended to December 1985 to remain as a student.
December 1985	:	Application to remain longer as a student. Refused June 1986.
January 1987	:	Appeal against refusal dismissed. Further application to remain as student refused March 1987.
March 1987	:	Application for leave to appeal to the Tribunal. Refused.
July 1987	:	Asylum claim lodged.
October 1989	:	Asylum claim refused. Refusal papers undelivered as applicant had moved.
January 1991	:	Applicant traced and told to leave the country. Further application made to remain on basis of marriage.
May 1991	:	Application refused.
March 1993	:	Deportation notice served. Applicant appeals, renewing asylum claim.
September 1994	:	Asylum claim refused. Fresh deportation notice served. Applicant appeals.
August 1996	:	Appeal dismissed.
January 1998	:	Deportation order signed.
February 1998	:	Applicant detained and deported.

CHAPTER 4: THE WAY AHEAD - AN INTEGRATED APPROACH

4.1 The failings of our current system of control demand that we adopt a new approach. We cannot continue to tackle each problem in isolation. This just shifts problems from one area to another, often increasing the overall cost to the public purse, without tackling the underlying causes of those problems. This would perpetuate the inefficiencies which, despite the dedication and hard work of immigration staff, have produced the delays and backlogs already described. And this would play into the hands of the racketeers and organised criminals who seek to exploit any weakness in our immigration controls for their own profit.

4.2 The only way of addressing the problems which this Government inherited was to undertake a fundamental review of the whole system of immigration controls from start to finish, from initial applications overseas through to permanent settlement, citizenship or removal abroad. That is what we have done. Although that process has inevitably taken some time, it has confirmed the need for an integrated approach to maximise the efficiency of the system as a whole.

Review Process

4.3 As part of the Comprehensive Spending Review process, there have been cross-departmental studies of the entry clearance operation; the system of control at ports of entry; and the asylum process, including the arrangements for supporting asylum seekers. In addition, although not formally part of that process, consultation documents have been issued following reviews of the asylum and immigration appeals system and the options for controlling unscrupulous immigration advisers. There have also been a number of other Home Office reviews, including one on all aspects of detention policy.

Main Themes

4.4 Each of these studies has identified strong links between different parts of immigration control and of the importance of examining the system as a whole. For example:

- Pre-entry controls have a key role to play in reducing pressures on the port control and the asylum system;

- Measures to deal with problems in a single area, such as asylum, are almost bound to fail. Those migrating for economic reasons simply try to exploit any other weakness in the system;

- There is a need for closer co-ordination within Government to establish and deliver objectives for the system as a whole;

- Greater flexibility to target resources at key points would help to minimise costs for the system as a whole rather than simply shift the problem from one area to another;

- Some problems, such as those caused by inadequately documented passengers, arise in different parts of the system. Devising separate solutions at each stage is wasteful and ineffective;

- Making better use of IT would improve information flows throughout the system and provide new opportunities to integrate different parts of the control. The result would be a more efficient system for the genuine traveller and one less vulnerable to abuse;

- More and better use of intelligence, including closer co-operation between the various agencies, would help to target resources more effectively at all stages of the control.

The Way Ahead

4.5 The Government is convinced that an integrated approach provides the way ahead. It will enable the development of a more coherent, more flexible, more streamlined and more efficient control which is capable of meeting the challenges of the modern world. The following chapters set out the Government's plans to put in place an integrated and modernised immigration control.

CHAPTER 5 : PRE-ENTRY CONTROLS

5.1 Over recent years the contribution of the pre-entry element of our immigration control has become ever more important. It now plays a critical role in delivering the Government's overall immigration policy objectives. As the desire to come to the UK for economic betterment has increased, attempts to circumvent our control, both by individuals and by criminal organisations, have grown correspondingly. The large numbers of fraudulent claims and the use of forged and stolen documents are the visible evidence of an increasing awareness of how any loophole or potential loophole in the immigration control may be exploited. These developments threaten to undermine the effectiveness of our immigration control as well as causing misery and hardship through the exploitation of vulnerable people.

5.2 It is therefore vital that we ensure that those passengers who have no claim to come to the UK are prevented from doing so. We rely heavily on an effective pre-entry control, with the use of visa and transit visa requirements, together with clear explanations of our policies in countries overseas. The entry clearance arrangements must also reflect the wider interests of the United Kingdom. We need to ensure that visitors, businessmen, students and others whose activities benefit the UK feel encouraged to come here. The Government is committed to ensuring that all those who have a genuine reason to come to the UK are allowed to do so with as little inconvenience as possible. Our commitment to maintain a fair, fast and effective entry clearance operation at posts overseas is based on that. We also recognise that many applicants have relatives who are settled here and have a right under the Immigration Rules to join them. The Government intends to maintain high standards of service and ensure that procedures are fair.

5.3 For the United Kingdom, as for most other countries, visa regimes have become an essential part of immigration controls, in preventing the entry of inadmissible or undocumented passengers. At the same time, well managed visa operations can play an important part in facilitating the entry of the individual passenger. Obtaining a visa in advance can provide a basic assurance that the traveller is likely to be admitted to the United Kingdom, speeding up entry at the port, to the benefit both of the individual and of other passengers. The Government

believes that there is scope for developing this process even further, so that the issue of the visa would be combined with the grant of leave to enter, subject only to an overriding power, for use only in clearly defined circumstances, to refuse entry to someone with a valid visa.

5.4 In recent years, many countries, including the United Kingdom, have found that transit visa requirements have become increasingly necessary to close off loopholes in immigration control. The facility of allowing passengers to travel without a visa if they are in transit by air to a third country is open to abuse both by individuals and, more significantly, by racketeers and facilitators. In respect of the countries whose nationals feature most significantly in this abuse, transit visa requirements have unfortunately become necessary. The Government recognises the effect that these requirements can have on the commercial activities of airports, airlines and individual businesses. These concerns weigh heavily, and in relation to individual countries the Government will set them alongside the costs of allowing unauthorised people to come here with the intention either of making an unfounded asylum claim, gaining access to social security funds, or of working illegally. The Government will maintain the requirement for transit visas where on balance these are justified and extend them where the risk of immigration abuse is significant.

Overhaul of entry clearance procedures

5.5 If someone is inadmissible to the United Kingdom it is in everyone's interests to decide this before they set out. Although the administrative costs of handling applications overseas are quite high (because it is expensive to post staff abroad), these costs are covered by visa and entry clearance fees. Moreover, preventing inadmissible passengers from coming here avoids the costs of dealing with a refusal case in the UK. These can include detention costs (in a small percentage of cases), removal costs, and the costs, which can be substantial, of financial support, health and education while the individual is actually in the UK. A balance has to be struck so that groups of passengers who are likely to be admissible to the UK are dealt with on arrival, but groups or categories which include a significant proportion whose cases are complex or who are inadmissible are pre-cleared through visa and entry clearance requirements.

5.6 Generally the entry clearance operation at UK posts overseas is effective, fair and efficient. But it must be responsive to changing needs. We have therefore reviewed the management of the entry clearance operations overseas to ensure much greater integration with other elements of the immigration control. A core element of the new approach will be a single unit in the UK to manage the overseas operation, drawn from Foreign & Commonwealth and Home Office staff. We intend to exploit the opportunities of up-to-date information technology so that the processing of entry clearance applications and their subsequent reception at the ports and after entry can be done as swiftly as possible and to reduce the possibilities of frustrating the control by destroying documents or using forgeries.

A streamlined right of appeal for visitors refused a visa

5.7 The Government's manifesto commits it to introduce a streamlined right of appeal for visitors denied a visa. The Government proposes that this right of appeal should be restricted to those who wish to come to the United Kingdom to visit a family member but who are refused a visa to do so. Primary legislation will be required to provide this statutory right of appeal.

5.8 Any appeal against a refusal to grant entry clearance as a visitor will, if it is to serve any useful purpose, have to be heard quickly and a determination issued at the conclusion of the hearing.

5.9 There is no new money to fund appeal rights for visitors. The Government therefore proposes that those who wish to appeal against a refusal to grant entry clearance as a visitor should pay for the costs of their appeals. [Applicants will, of course, continue to have the right to put in a new application.] The Government envisages that it will be possible for appellants to have an appeal which will be decided by the Immigration Appellate Authority on the basis of the available papers. Alternatively, appellants will be able to have a full appeal involving witnesses. [The charges for either form of appeal will be based on recovering the full cost of providing the service. **- Final text depends on outcome of current negotiations on resources**]

Bond scheme for visitors

5.10 The great majority of those who apply for visas to visit the UK do so successfully. However, we are aware of concerns expressed about some refusal decisions which focus on whether a visitor is genuine and intends to leave the UK at the end of their stay. Visa officers face difficult decisions in this area which inevitably involve a degree of subjective assessment.

5.11 We have therefore decided to examine the feasibility of introducing a financial bond scheme for visitors to the UK. This would enable visa officers who have doubts about a visitor's intentions to require their sponsor to deposit a financial security, which would be forfeited if the applicant did not leave the UK at the end of their visit. Such a scheme could provide a quick and simple route to a decision in cases of doubt, and a very effective sanction against abuse of the visitor rules. [resource issues ?]

Strengthening the Immigration (Carriers' Liability) Act 1987

5.12 Immigration control has been under considerable pressure over the last 10 years from an increasing number of inadequately documented passengers arriving in the UK. The Immigration (Carriers' Liability) Act 1987 was introduced to stem the flow of inadequately documented arrivals. Many carriers are now subject to large numbers of charges (currently £2,000 for each inadequately documented passenger) and the majority are therefore prepared to work closely with the Immigration Service with the objective of reducing the number. Among the steps they take are investment in training of their staff and the denial of boarding to passengers whose travel documents are not in order. Since the Act was introduced the Immigration Service have conducted over 450 training visits for around 150 carriers in over 90 different countries. Evaluation suggests an average reduction of at least 30% in the number of inadequately documented passengers they bring to the UK. The Government intends to develop this partnership with carriers to help them with their responsibilities under this Act.

5.13 The Government will ensure that the Immigration (Carriers' Liability) Act 1987 remains a central element of immigration policy and that it is used effectively. We extended its provisions in April to passenger train services from Belgium using the Channel Tunnel to reduce the large numbers of inadequately documented passengers arriving by that route. This worked very effectively and the numbers have now substantially reduced. We will not hesitate to take similar action elsewhere if necessary. We still face difficulties with passengers arriving from Paris on Eurostar services where legal difficulties in France have prevented us from extending the provisions of the Act. [Position after Meeting at the end of June]. The Immigration (Carriers' Liability) Act 1987 is an important and effective deterrent, although there have been some practical difficulties in its operation in particular late or non-payment of debt by a few airlines. The Government is looking at ways of ensuring fuller carriers' compliance. This may entail reinforcement of the current legislation.

Other measures

5.14 Entry clearance and the Immigration (Carriers' Liability) Act 1987 are important to our immigration control. But their effectiveness has been undermined in recent years by racketeers and organised crime exploiting and facilitating economic migration by people who are not entitled to enter the UK. Better forgeries, an increasing trend for people to impersonate others, and increasing numbers of passengers destroying their documents just before their arrival in the UK, are all combining to counter the responsible attitude and diligent efforts by most carriers to prevent the carriage of inadequately documented passengers.

5.15 The Government intends to take a tougher approach to deterring and preventing the arrival of inadmissible passengers. It is easier and more cost effective to deal at source with abuse of our immigration laws and stem migratory pressures. Where problems arise suddenly in relation to particular destinations or nationalities, the Government will put in place pragmatic and speedy responses. These will include responding to potential immigration pressures by engaging Ministerial counterparts in the countries concerned; using radio and television networks abroad to correct any miscinceptions that the UK is a "soft touch"; and regular and ongoing action at diplomatic level to ensure that other countries are fully aware of our

determination to tackle abuse of our control. At the same time, the Government will draw to the attention of other Governments any issues which may be giving rise to immigration pressures or concerns, for example on the part of minority groups.

5.16 Immigration officials are often sent to other countries to liaise with carriers to stem the flow of inadequately documented passengers coming to the UK. Developing our intelligence system, and strengthening operational co-operation with other countries, will be important in helping us to identify trends and tackle trafficking. We intend to continue to develop this approach to surveillance to facilitate the identification of inadequately documented passengers on arrival and to identify the inward carrier. This has already been successfully trialled at Heathrow. Similarly, in collaboration with business partners, extended use of CCTV has also been successfully trialled, and will be further developed where it is likely to prove effective.

ALOs

5.17 One of the most effective preventative measures undertaken recently by the Immigration Service has been the placement of five Airline Liaison Officers (ALOs) overseas, working with authorities, carriers and the Immigration Services of other countries to provide advice and training to airlines, and to combat document and other frauds. International co-operation, in which ALOs have played a major part, has stopped several large groups of inadequately documented passengers from reaching western Europe and north America : 120 were returned to their point of departure by the Cambodian authorities, 50 by the authorities in Lesotho. ALOs were also involved in preventing the attempted movement by sea from Africa of approximately 200 inadequately documented passengers. This group was eventually repatriated under the auspices of the International Organisation for Migration.

5.18 Despite these successes there were over 13,000 inadequately documented arrivals last year, an increase of 17% on the previous year. This trend continues upwards except in locations served by ALOs where the flow has been reduced. The existing network costs around £600,000 a year, but as a result of their work around 1,800 inadequately documented

passengers will have been denied boarding to the UK over the past year. It is estimated that this will have saved the welfare systems here in excess of £14 million.

5.19 The Government has, therefore, decided to expand this network. It is expected that an overall investment of £3 million will further reduce the number of inadequately documented passengers arriving in the UK and could save the Exchequer up to £40 million by avoiding the costs of processing and supporting those people here. During the current financial year we plan to increase the network in six locations, selected on the basis of the number of inadequately documented passengers originating from or passing through them. We are currently discussing this with the relevant host Governments and airlines. In the longer term, probably by the end of 1999, we will wish to increase the network to around 20 ALOs, which will mean 15 additional posts in all.

CHAPTER 6 : ON-ENTRY CONTROLS

6.1 The United Kingdom has always been a major centre of international trade and travel. That role has brought us many social, political as well as important economic benefits. It is essential that the controls at our ports of entry, which are fundamental to our whole system of control, should be fast, efficient and effective. We must be able to deal quickly with those who have a right to be here and genuine visitors, whether for business, study or pleasure, but be able to identify and deal firmly with those who seek to circumvent the control.

6.2 Over the past five years, the number of passengers arriving in the United Kingdom has increased by nearly 50%. Staffing levels at our ports of entry have risen by less than 10% over the same period and so processing that increase in the number of passengers represents a considerable achievement. The imposition of additional visa requirements has certainly helped to relieve some of the pressure. In addition, there has been substantial investment to set up a computerised Suspect Index. It has helped to speed up the process of passenger clearance while strengthening checks for inadmissible passengers. But the Immigration Service has also introduced a range of efficiency measures in order to expedite the clearance of genuine passengers and make procedures as efficient and effective as possible.

<u>Making better use of resources</u>

6.3 There have been a number of initiatives to make better use of existing resources at ports of entry. They include :

- the introduction of new shift patterns to maximise staffing levels at peak periods;
- working in close partnership with carriers and port operators to improve the procedures for dealing with passengers;
- improvements in queue management;

- the introduction of Assistant Immigration Officers both to ensure that routine work is carried out at the appropriate level to release more Immigration Officers for frontline duties.

- performance standards for passenger queuing times, published in national and local operating plans. The Directorate has also developed mechanisms to monitor workload and quality of performance against its objectives, to help it focus on priorities.

- a system to investigate complaints, overseen by an independent Complaints Audit Committee, has helped identify and address procedural problems.

Better targeting of resources

6.4 As well as making the best possible use of existing resources, it is also essential that the maximum use is made of intelligence to target resources where they will be most effective. Initiatives of this kind which have already been implemented include :

- in April the Government reconfigured embarkation controls along the lines of an intelligence and target-led operation involving a partnership between enforcement agencies, carriers and port authorities.

- And at Dover East a streamlined control is in operation to handle large volumes of European Union nationals who arrive by car and on board coaches. Drivers of freight vehicles who are not subject to control are not systematically examined. Resources are instead focused on intelligence-led targeting of suspect vehicles to detect clandestine entrants.

6.5 These measures have helped the staff at our ports of entry to deal with more passengers and to increase control operations. As a result, it has been possible to meet most of the recently

published service standards. But the volume of passenger traffic, and the demands from new airports and new terminals at existing airports, will continue to grow. Without modernisation and greater operational flexibility, so that resources are targeted more effectively on tackling abuse and clandestine entry rather than routine work, it will become increasingly difficult to maintain effective frontier controls, cope with passenger growth,

deliver the kind of service standards that facilitate trade, tourism and education, and maintain the United Kingdom's position as an international hub.

Improving control facilities

[6.6 Insert passage about need to improve control facilities. Develop on a partnership basis with port authorities, but also intend to extend\clarify reserve powers to direct port authorities to provide accommodation and facilities for the control. Mention that in due course the Government will be looking in more detail at the options for recovering a greater proportion of costs of immigration control from [users\commercial organisations] rather than from the taxpayer generally.]

Greater operational flexibility

6.7 The Government believes that greater operational flexibility is essential in a modern immigration control. Resources must be able to be deployed rapidly to areas of greater risk. Our current controls are based on the grant of written leave to enter or remain. The Government intends to retain the fundamental concept of leave and thus ensure all arriving passengers should continue to be seen by immigration staff. But there is scope to adapt the form and manner in which the control is carried out to improve its effectiveness. For example, there is no reason in principle, subject to safeguards (including data protection requirements) and availability of the appropriate technology, why there should not be an electronic record of leave to enter or remain rather than persist in every case with a system of stamps in passports which was designed for another age. Quite apart from new technology, there are also opportunities to operate the controls more effectively by integrating the procedures so that the issue of a visa or entry clearance may also be treated as leave to enter, or by allowing multiple visits within the validity

of a visa or for the period of extant leave previously granted. This will enable staff to be deployed from more routine tasks into areas of highest risk.

6.8 Our current legislation places too many constraints on the way in which we carry out our controls by specifying in too great a detail how those controls are carried out. It does not meet existing needs and will become much more inefficient as technology develops further. Our objective is to modernise the control by creating maximum flexibility. In the Government's view that is best done by retaining the requirement to obtain leave but removing the requirement that it must always be given in writing. There will need to be a new power enabling Ministers to specify in secondary legislation the form and manner in which leave is to be given. Primary legislation will be needed for these changes.

6.9 Initially, we will use this power to enable us to allow leave to be given by Entry Clearance Officers; to allow leave to be used more than once (in the case of returning residents); and to operate tour group and small ports schemes. In addition the power would enable us to extend flexibility (by secondary legislation) to make further changes in future - for example to enable us to exploit new technology.

6.10 We also intend to take powers to require all carriers to advise the Immigration Service when they are carrying a third country national on a journey which ends in a small port in the UK (ie principally charter flights which are predominantly occupied by British citizens.) We shall make sure that primary legislation gives sufficient scope to ensure that immigration controls can be modernised in the light of developments, whether technological or otherwise, consistent with ensuring that a firm control is maintained and that the essential requirements of fairness continue to be met.

Making better use of IT

6.11 A modern and integrated immigration control must make the maximum use of information technology (IT). Information and intelligence gathered at one stage of the process

must be available elsewhere in the system. Not only will this help to provide a better service by speeding the passage of those entitled to enter, but effective use of IT will enable better targeting of individuals and organised criminal groups who seek to abuse the system.

6.12 The Immigration Service has computerised some administrative processes, including checks against the Suspect Index. The computerisation of immigration, asylum and nationality casework, coupled with changes in working practices, represents a major enhancement and modernisation of administrative and casework systems. The Government believes that recent and future technological advances open the possibility of using IT to support the integration of pre-entry, on-entry and enforcement activity and to help modernise the labour intensive process of passenger clearance. One element of such an approach might be the use of automated pre-clearance systems. Accordingly, the Government intends to undertake a study of the available options. As part of that study, we will explore the potential for a private\public partnership for new capital investment.

An intelligence -led approach

6.13 Fundamental to the changes proposed in this chapter is the efficient use of intelligence to target resources. The current arrangements are too fragmented. The increased involvement of organised crime in immigration abuse requires a more sophisticated use of intelligence at all stages of the process. The Government will develop an integrated intelligence network that links and supports the pre, on and after entry control.

6.14 There are now many links between immigration abuse and other forms of crime, in particular drug trafficking. It is important that intelligence is co-ordinated between agencies and that experience is shared to make best use of resources. Accordingly, the Government will develop co-operation and closer working between border agencies, with exchanges of staff in intelligence and operational areas and the sharing of facilities. [insert reference to NCIS\Europol]

CHAPTER 7 : AFTER-ENTRY PROCEDURES AND APPEALS

7.1 An integrated approach to immigration control requires that we modernise the after-entry controls and procedures in parallel with changes elsewhere in the system. Just as at ports of entry, the after-entry procedures must provide a quality service to those entitled to remain and be able quickly to identify and remove those with no right to be here. This means:

- efficient and modern procedures for dealing with applications quickly;
- open and fair policies which sustain public confidence in the effectiveness of the control;
- an appeals system which provides a fair opportunity to review decisions, but does so quickly and minimises the scope for abuse.

Modernisation

7.2 The Casework Programme is an IT-led business change initiative whose aim is to modernise the way in which the Immigration and Nationality Directorate (IND) deals with immigration, asylum and nationality casework. Under a PFI contract which was awarded in April 1996, IND is working with a private sector partner, Siemens Business Services, to introduce fundamental changes in how work is done. The organisational changes include a new "Integrated Casework Directorate" which will handle the casework currently dealt with in five separate IND Directorates; a new Case Management Unit structure in which each unit will deal with a case from start to finish rather than continue the present narrow specialist approach; and a move away from the present hierarchical system of decision-making towards a more devolved structure.

7.3 At the same time we are introducing a new computerised integrated caseworking system which will replace the paper-based methods on which IND has relied until now. This will provide a single database of applicants' details and will mean that telephone enquiries can be

resolved without first having to obtain a paper file. Similarly, when action on a case passes from one part of the organisation to another it will no longer be necessary to transfer a paper file. This will offer substantial advantages in speed and security.

7.4 A "fast track" system will enable straightforward immigration cases to be dealt with immediately: the majority of these will be completed on the date of receipt. The new computer system will support caseworkers by providing on-line access to relevant legislation, instructions and guidance and will allow improvements in the quality control of the decision making process.

7.5 Like almost any large new IT system the rollout of this important programme has been delayed somewhat because the detail of the caseworking requirements and the associated business process changes have introduced more technical complexity into the solution than was originally planned for. Despite this, development of the computer system development of the computer system and the other new arrangements is well advanced and staff are now going through a variety of training programmes to prepare them for these changes. Together, the new ways of working and the introduction of computers will improve considerably the efficiency of IND's casework operations and the standard of service which the Directorate provides. The team-based working methods and the computerisation of immigration records will provide a basis for improvements in identifying fraud and abuse of the immigration and nationality processes. In this way the Casework Programme will help to deliver the policy objectives of "fairer, faster, firmer" control.

7.6 The Government is also modernising other aspects of the after-entry procedures in order to focus resources more effectively. The requirement for foreign nationals to register with the police was originally introduced during the First World War as a wartime measure. It has been reviewed on a number of occasions since then. Following the most recent review, during which a range of interested parties were consulted, significant changes have been made to the scope of the scheme to reflect current requirements. These changes were implemented in May 1998. The changes focus the scheme more closely on those cases where experience shows that registration may perform a useful function.

7.7 Charging - insert passage about possibility of securing further improvement in the quality of service by greater use of fees. There is already a power to charge for settlement applications. As part of modernising the control, the Government intends to amend that power to provide a more flexible framework to include wider use of charges for applications (and appeals ?) should that prove on further examination to be desirable.

Greater Openness

7.8 The Government's recent White Paper on Freedom of Information underlined our commitment to greater openness. Individuals should as far as possible be given the reasons for decisions which affect them. The Government has already applied that approach to applications for British citizenship. Whereas reasons for refusal of British citizenship used not to be given, applicants will now always be told why their application was rejected. In addition, one consequence of the computerisation of immigration and nationality casework is that applicants will have rights under data protection legislation.

User panels

7.9 IND has made significant progress in developing a more open relationship with those who use its services, and in listening to their views. One recent initiative has been the establishment of the after-entry casework and nationality issues user panels, which have been in operation since October 1997. Sixteen user groups who have an interest in the service delivery aspects of IND's business and who have a national focus, are represented on the two panels, which meet quarterly.

7.10 The purpose of the panels is to consider the practicalities of what IND does, how it does it and whether the after-entry and nationality service provided is satisfactory. Recent issues discussed by the panels have included liaison between the Home Office and the Benefits Agency, handling of student applications and the implications of lifting embarkation controls.

Publication of instructions

7.11 We have made available to Parliament copies of the Immigration Directorates' Instructions, covering general immigration casework. We are currently consulting on other suitable ways of making this information accessible to users [including making it available on the Internet\It is now available on the Internet.] Other instructions on particular areas of the control will be made available shortly.

Fairer procedures

7.12 The Government is committed to a fairer immigration control. We have already abolished the primary purpose rule. The further changes which we have made, or which we intend to make, are as follows :

(i) Overseas domestic workers

For too long there have been reports of overseas domestic workers being abused and exploited by the employers whom they have been allowed to accompany here. The Government was determined to give these vulnerable people much greater protection and a status in their own right under the Immigration Rules. We worked closely with organisations which have campaigned for many years on behalf of these workers to devise new arrangements which would meet these objectives without, at the same time, opening up loopholes in the immigration control. Under the new system, announced on [ ], the number of domestic workers allowed to come here with their employers will be significantly reduced, but those who do come will no longer have to stay with their original employer if they are mistreated.

(ii) Domestic violence

The Government has been concerned about the situation of those who, having been granted twelve months' leave to enter or remain on the basis of their marriage to a person settled here, become the victims of domestic violence during that period. If they leave the matrimonial home they become liable to deportation and therefore feel themselves trapped in a violent relationship. We believe that the probationary year must be retained as an important safeguard against abuse of the immigration control. But in recognition of the dilemma in which such victims find themselves we announced on [ ] a concession under which those who are able to produce evidence of a relevant court order, conviction or police caution showing that they had been the victims of domestic violence during the probationary year will be granted indefinite leave to remain outside the Immigration Rules. This will also be extended to those in a similar situation who have been given leave to enter or remain for twelve months under the concession for unmarried partners and to those whose spouse or partner dies during the initial twelve month period.

(iii) Unmarried partners

Under the Immigration Rules, a person who is already settled in the United Kingdom may bring his or her spouse here to join them, subject to their ability to meet clear tests as to the genuineness of the marriage and the financial capacity of the couple. Without in any way diminishing the special position of marriage, the Government considered it unfair that unmarried partners in long-standing common law or same sex relationships should be completely prevented from being together. We therefore introduced a concession in October 1997 under which people in committed relationships akin to marriage may enter or remain here on this basis alone, provided they meet certain clearly established criteria.

(iv) Prevention of illegal working

Under the present law, it is a criminal offence for an employer to employ a person who has entered or remains in the UK contrary to the Immigration Acts; or whose permission to enter or be here is subject to a condition prohibiting the employment. Experience has shown that, while this can be a useful tool, if targeted against unscrupulous and exploitative employers, there are some who are making more checks on potential employees than the legislation requires them to do in order to secure the statutory defence. This can lead to discriminatory recruitment practices which are unlawful under the race relations legislation. The Government will take steps to re-emphasise to employers their duty under the present law to avoid racial discrimination in their recruitment practices when seeking to secure the defence. [possible reference to making the Code of Practice statutory] At the same time, the Government will strongly encourage the referral of cases to the prosecuting authorities involving organised racketeering and the exploitation of vulnerable groups of overseas workers for consideration of prosecution under existing offences.

(v) Compassionate factors

In many instances the compassionate factors in a case, particularly those concerning children, only come to the fore at the deportation stage. The Government believes there is scope for giving such factors a higher profile at an earlier stage in the caseworking process. We therefore intend to develop criteria which would allow due weight to be given to any such factors in cases where refusal of leave to remain would otherwise be the appropriate course.

Overhaul the system of appeals

7.13 The previous Government announced a review of asylum and immigration appeals in December 1996. The review is now complete and the Government published a consultation document about this on [.....].

7.14 The Government's view is that there continues to be a need for an independent review of significant immigration decisions. The present system does not serve either the interests of appellants or of faster, firmer and fairer immigration control. The Government therefore proposes that:

- the present multiplicity of appeal rights should be reduced and;
- the structure of the appellate authority should be radically reformed.

Both these proposals would require primary legislation.

7.15 The aim is to provide a single right of appeal to those who were lawfully present in the United Kingdom at the time of their application to remain in the United Kingdom. The appeal would be held quickly after the initial decision had been made [and there would be no separate appeal against removal. There will be a rebuttable presumption against any further appeal on an asylum issue. For example, if entry was initially obtained as a visitor or student, it would not normally be possible for the person concerned later to make an application for asylum without very good evidence enabling them to overcome the presumption (such as evidence of subsequent and serious political instability which gave rise to a convention threat to the passenger). In addition, cautions - written warnings - would be administered to all applicants that their initial statements (and any subsequent statements) had to be full, complete and true. There will also be a presumption of detention pending removal following dismissal of an appeal. **- subject to further consideration. ? Rebuttable presumption/resource implications of 'cautions'/needs to be consistent with Chapter 12/ ECHR issues - Article 5(1) (f)**]. Those

who remain here unlawfully and who are removed administratively rather than deported would not face the same barriers to readmission.

7.16 The Government's view is that the present two tier appellate system is not working well. The main reasons are:

- differently constituted Tribunals have produced determinations which are inconsistent and contradictory

- the Tribunal has often remitted cases to adjudicators which it ought to have decided itself. Rather than bringing finality to the process it prolongs it.

7.17 There are two options:

- to restructure the Tribunal by changing its status and powers, or;

- to consolidate the current two tier system into a single tier.

The Government's view is that the role of the Tribunal should be enhanced by changing its status and powers so that it produces an effective lead to the lower tier.

[7.18 Quite apart from consolidating rights of appeal and enhancing the role of the Tribunal work will continue on a number of issues, for example, the timeliness and length of adjudicators' determinations, with a view to making the best available use of all resources and reducing delay. **- Resource implications and future performance (increase in hearing rooms, adjudicators, etc) will depend on the resources allocated to this work when the spending plans are settled]**

Control of unscrupulous immigration advisers

7.19 The Government is committed to controlling unscrupulous immigration advisers. These advisers exploit vulnerable people with promises they are often unable to deliver. The price their clients pay is poor advice or overcharging or both.

7.20 On 22 January the Home Office and the Lord Chancellor's Department issued a joint consultation document which sought comments on the kinds of behaviour to be controlled and the options for achieving it. Over 300 copies of the document were distributed to individuals and organisations. Of these 53 commented on the document. A substantial majority agreed that the activities described in the consultation document were those which needed to be controlled. Equally, a substantial majority thought that a statutory regulatory scheme was the only way in which effective control of unscrupulous behaviour could be achieved.

[7.21 The Government intends to enact legislation which will require immigration advisers, legally qualified or not, to register with a regulatory body. It is envisaged that the regulatory scheme will be self-financing with costs being met from registration fee income. **- Resource implications subject to further negotiation**]

Legal Aid

7.22 At present, asylum and immigration applicants can obtain legal aid in two ways:

- Green form legal aid. This is intended to cover the costs of providing advice and assistance to applicants. Green form legal aid does not cover the costs of representation.

- Legal aid in connection with an application to seek leave to move for judicial review. Such applications may include an adverse decision made by the Immigration and Nationality Directorate of the Home Office, a determination of

the Immigration Appellate Authority against which there is no right of appeal or a refusal by the Immigration Appellate Authority to grant leave to appeal.

There is no legal aid for representation at appeals before an adjudicator or the Immigration Appeal Tribunal. However, the Government provides funding of £5.9 million a year to the Refugee Legal Centre (RLC) and the Immigration Advisory Service (IAS) to provide free representation at these appeals.

7.23 The extent to which publicly funded advice and assistance is available in other EU countries varies, as does the form which such provision takes. In France, such support is available only to those who are lawfully resident, or in some cases to people claiming asylum.

7.24 For many years after the 1951 Convention came into force no legal aid was available to asylum seekers or more generally to people subject to immigration control. Since the introduction of widely available legal aid there has been a very large growth in its use in the immigration field, with expenditure on Green Form legal aid amounting to some [£26 million] in [1996/97]. There were also 1,925 applications for judicial review in 1997, the vast majority legally aided, yet in a substantial proportion of the cases leave to move was refused.

7.25 The Government is determined to bring this use of legal aid under tighter control. It cannot be right that legal aid is so freely available at the taxpayers' expense to those whose claim to remain in the United Kingdom is tenuous and frequently wholly abusive. The Government is currently considering proposals by the Legal Aid Board to replace the Green Form scheme for civil legal aid with a system of exclusive contracts, that is franchises let to individuals or organisations to undertake work at a fixed price. By this means considerably greater control would be exercised on the selection of cases for advice and assistance and the quality and appropriateness of work undertaken. In examining these proposals the Government intends to look very carefully at their application to the immigration field, and will consider whether there are other measures which should be taken to ensure that public funds are not misused in support of deliberate abuse of asylum procedures and immigration controls.

Section 23 Funding

7.26 Under Section 23 of the Immigration Act 1971 the Home Secretary may make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under Part II of the Act. The Home Secretary makes such grants to the following voluntary organisations:

- The Immigration Advisory Service
- The Refugee Legal Centre

For 1998/99 the grant to the Immigration Advisory Service is £2.7m and to the Refugee Legal Centre £3.2m.

7.27 In addition to providing advice and assistance both organisations provide free representation at appeal hearings.

7.28 Under the terms of the Legal Aid Board's proposals for exclusive contracting it is open to the Immigration Advisory Service and the Refugee Legal Centre to apply for franchises to provide advice and assistance to asylum and immigration applicants. The Legal Aid Board's franchising proposals do not at present extend to representation. It will, therefore, be necessary to retain Section 23 funding so as to enable voluntary organisations to provide free representation.

CHAPTER 8 : ASYLUM PROCEDURES

8.1 The United Kingdom has a long-standing tradition of giving shelter to those fleeing persecution in other parts of the world, and refugees in turn have contributed much to our society and culture. The Government is determined to uphold that tradition. We will continue to observe with meticulous fairness our obligations under the 1951 Convention on the Status of Refugees and other instruments of international law protecting human rights to which we are a party. Primarily, these are the 1966 International Covenant on Civil and Political Rights, the 1984 UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the ECHR. We supported a recent Council of Europe recommendation encouraging Member States to provide effective national remedies before returning a failed asylum seeker.

8.2 The Government at present provides approximately £3 million a year to voluntary organisations to assist asylum seekers on arrival and to help those who are granted refugee status. Unaccompanied refugee children are also given special assistance by a Panel of Advisers, wholly funded by the Home Office. The Government believes that the voluntary sector has an important role to play in helping asylum seekers. **[Insert possible link to new support arrangements]** The Government will continue to provide funds to national and regional voluntary organisations to assist in the settlement of refugees so that those given leave to remain may be empowered to lead useful, fulfilling lives and make valuable contributions to the cultural and economic life of the country.

8.3 [As soon as a refugee has permission to work legally in the UK they can choose to claim the Jobseeker's Allowance. Young people are eligible to join the New Deal for 18-24 year olds once they have claimed JSA for six months without success in finding work. People aged 25 and over who have claimed JSA continuously for two years or more will be eligible for the New Deal for people aged 25 plus. In both cases, discretion may be exercised to allow earlier access in some circumstances. Both of these New Deals will offer individually focused guidance to help genuine refugees find work or help them increase their employability.]

8.4 The fundamental flaw in previous attempts to deal with the substantial increase in asylum claims is that they have addressed the problems in isolation from the rest of the system. For the reasons explained earlier in this White Paper, the Government believes that it is essential that the procedures for dealing with asylum applications should be seen within the framework of an integrated immigration control. Potential abuse and exploitation of the institution of asylum harms the genuine refugee as much as it threatens to undermine proper controls on immigration. It is in the best interest of genuine refugees that there should be firm action to improve current procedures, including measures to deter or prevent from travelling those who do not meet the criteria for entry to the United Kingdom.

Faster Decisions **[Future performance will depend on the resources allocated to this work when the spending plans are settled].**

8.5 The key to restoring effectiveness to our asylum system and to tackling abuse is swifter determination of applications and appeals. The Government inherited backlogs of over 50,000 cases awaiting decision and over 20,000 queuing for an appeal hearing. Some undecided cases date back to 1990 and appeals can take 15 months to list in London. Delays of this order send a clear message to abusive applicants that the system cannot cope and is ripe for exploitation; while those in genuine need of protection are condemned to a cruel limbo of worry and uncertainty over their future.

8.6 The Government will take strong and swift action to transform the asylum process:

- through implementing an ambitious reorganisation and computerisation of immigration and nationality processes as a whole, in the shape of the IND Casework Programme;

- by investing more in the determination of cases: an extra [£ million] annually to reduce the decision backlog to frictional levels by 2001;

- by streamlining the asylum and immigration appeals processes, consolidating multiple appeal rights into a single appeal right exercised [early in the process], and strengthening the role of the Immigration Appeal Tribunal;

- by creating a wholly new and much more flexible interdepartmental planning and monitoring process, doing away with the barriers and rigid procedures that along with under-investment have allowed backlogs to accumulate and chronic delays to proliferate throughout the process, at enormous cost to the taxpayer.

Preventing Abuse

8.7 The Government is also determined to stamp out the blatant and often cynical abuse that clogs up the system with hopeless cases and unnecessary appeals:

- the previous chapter sets out the Government's intention to introduce new legislation which will provide for the first time a system of compulsory regulation for all those who offer advice or representation in immigration and asylum matters for financial gain. The Government is committed to ending the shameful exploitation carried on by unscrupulous advisers practising incompetently or fraudulently;

- a fresh offensive against the racketeers who prey on vulnerable people and pose a menace to immigration control. There is increasing evidence of links to other organised crime. New intelligence co-ordination arrangements, strengthened co-operation with European partners and the vital role played by Airline Liaison Officers whose numbers are to be expanded from 5 to 20;

- the existing criminal offences directed at those who seek or obtain leave to enter or remain by deception will be extended and strengthened. Failed asylum seekers whose claims have involved blatant deceit will be liable to prosecution in appropriate cases.

Support arrangements for asylum seekers

8.8 The present support arrangements for asylum seekers have evolved through the intervention of the courts following the changes to asylum seekers' entitlement to welfare benefits introduced in 1996. Under these changes, only those asylum seekers who apply for asylum on arrival at a UK port are entitled to welfare benefits and only then until their asylum claim has been decided.

8.9 Others who claim asylum after arriving in the UK, and those who are appealing to the Immigration Appellate Authorities against the refusal of asylum, are not entitled to welfare benefits. Such asylum seekers were effectively put at risk of destitution until in October 1996 the High Court ruled that local authorities had a duty under Section 21 of the National Assistance Act 1948 to provide care and accommodation to asylum seekers and appellants who were without any other means of support and who could, therefore, be considered to be a category at risk for the purposes of the 1948 Act. This was upheld by the Court of Appeal in February 1997.

8.10 The shortcomings of the policy on welfare provision for asylum seekers have resulted in support arrangements which are messy, confusing and expensive, currently costing about £400m a year. The Court of Appeal judgment relating to the 1948 Act meant that, without warning or preparation, local authority social services departments were presented with a burden which is quite inappropriate to their role and which has become increasingly intolerable.

Arrangements in other countries

8.11 The arrangements made in other EU countries vary widely, reflecting national differences in welfare provision generally and the number of asylum seekers in each country. It is, therefore, difficult to draw specific conclusions, although some general points emerge:

- a significant number of EU countries provide accommodation and other support in kind rather than by payment of cash allowances. In Germany, all benefits are

paid in kind with a small cash payment for everyday needs. The Netherlands, Belgium and Denmark provide reception centre or similar communal accommodation for most or all asylum seekers. In Belgium, asylum seekers receive no support if they choose not to live in one of the centres;

- in countries where a cash payment is made, such as France and Italy, the period of payment is strictly limited;

- in almost all countries, the provision for asylum seekers is separate from the standard welfare and other support for residents of that country.

Policy objectives

8.12 In considering what form support arrangements for asylum seekers should take, the Government believes that they should satisfy the following objectives:

- to minimise the incentive to economic migration, particularly by minimising cash payments to asylum seekers;

- to ensure that genuine asylum seekers cannot be left destitute while containing costs through incentives to asylum seekers to look first to their own means or those of their communities for support;

- to provide for asylum seekers separately from the main benefits system.

Access to social security benefits

8.13 To deliver these objectives the Government believes that it must start from the position that people who have not established their right to be in the United Kingdom should not have access to welfare provision on the same basis as those whose citizenship or status here gives them an entitlement to benefits when in need. Any support for asylum seekers should operate

on a separate basis, with a strict test of destitution before any provision can be offered. The corollary of this is that asylum applications must be resolved much more quickly than at present, so that those who can establish an entitlement to remain in the United Kingdom are quickly distinguished from those who cannot.

Basis of a scheme to prevent destitution

8.14 Asylum seekers are temporary residents here and with few exceptions have no established residence status. Many should be able to support themselves, with help if necessary from relatives, friends and community groups, during the period when their application is being considered. Some, however, would be in genuine hardship and at risk of destitution if there were no publicly provided safety net. The Government is committed to providing such a safety net, but is determined to do so in a way which minimises the incentive for abuse by those who do not really need the support or who would make an unfounded asylum application in order to obtain the provision.

8.15 The Government has considered carefully the evidence, including that from other countries described in paragraph 8.11, about the best means of provision and in particular the relative advantages and disadvantages of cash-based support and provision in kind. Cash based support is administratively convenient, and usually though not inevitably less expensive in terms of unit cost. Provision in kind is more cumbersome to administer, but its relative lack of attractiveness to opportunistic and abusive claimants is clearly reflected in the reduced number of asylum applications and lower level of take-up that experience shows follows from a switch away from cash benefits. The number of asylum applications fell by 30 per cent following the withdrawal of some social security benefits in 1996, and despite a long-term underlying upward trend and the intervention of the courts in the 1948 Act case remains at a lower level than in the year before the changes. Take-up of provision in kind offered under the National Assistance Act 1948 is estimated at 22 per cent for single adult asylum seekers compared to an estimated 85 per cent take-up of cash benefits by those eligible for them. Overall, because of these factors, a system based substantially on a safety net of provision in kind is likely to be

considerably more economical than one offering ready access to cash benefits, despite its higher unit costs.

8.16 The Government has therefore concluded that support for asylum seekers should no longer generally be founded on cash payments. Support will therefore be provided separately from the existing statutory benefits arrangements, and will be available only where it is clearly necessary to prevent destitution while an application is awaiting decision or appeal. Accommodation, where necessary, will be provided on a no choice basis, with no cash payment for this purpose being made to the asylum seeker. In appropriate cases, the accommodation offered could be well outside the main cities, so attractive for abusive asylum claimants. Provision for other living essentials such as food will also be determined on a strict test of need, and the Government proposes to investigate the feasibility of such provision being made in the form of vouchers, further to reduce the incentive to abuse of the system.

How a safety net scheme will operate

8.17 The administration of a new support scheme for asylum seekers, entirely separate from standard benefits, will require new national machinery to co-ordinate provision, purchasing places either directly or by contracting with local agencies and seeking the best value accommodation. Asylum seekers who sought accommodation would be subject to a detailed means enquiry and if found to be in need would be expected to take whatever was available across the country. This nationwide approach will help to relieve the burden on provision in London where the majority of asylum seekers are currently concentrated. The budget and the machinery for administering it will be operated by the Home Office, contracting with other agencies as appropriate.

8.18 Social services departments will no longer be expected to devote energy and resources to an entirely inappropriate role of looking after healthy and able-bodied adult asylum seekers. The Government envisages, however, that local authorities in a wider capacity will need to play a role in helping to operate the system, given their major expertise and access in the field of housing. Local authorities will be given responsibility in legislation for co-operating in the

arrangements, for example by providing information. The national body will contract with a range of providers including local authorities and others such as housing associations to make accommodation available or to undertake functions such as the inspection of premises. The Government will particularly explore how the energy and expertise of voluntary and independent sector bodies working in the refugee and asylum field may be harnessed in providing the safety net. As a last resort, the Secretary of State will be empowered to direct a local authority to provide accommodation.

8.19 There will be flexibility in the system to deal with temporary blockages in the availability of accommodation, for example because of a sudden influx of asylum seekers. In that case it might be necessary temporarily to ask some asylum applicants to arrange their own accommodation, with rent and other payments being paid by the purchasing body direct to the housing provider.

Families and unaccompanied children

8.20 The Government will ensure that in providing a safety net for asylum seekers the needs of children are fully respected and their welfare and rights safeguarded. Provision will continue to be made under the Children's Act 1989 for unaccompanied children claiming asylum, but social services departments will no longer be expected to provide for asylum seeking families in the absence of special needs requiring a social services response. Families will be provided with safety net support in the same way as single adults if the need can be demonstrated. Appropriate access to education will continue to be afforded to the children of asylum seekers, and special care will be taken to ensure that provision for food and other living essentials is sufficient and flexible enough to support the children's well-being during the period when their asylum application is under consideration.

8.21 The Government accepts that some form of support should be available to an asylum seeker in need to the point where he or she has exhausted all appeal rights. But to continue support thereafter whilst the failed asylum seeker remained in the United Kingdom unlawfully would not be justified. As a general principle the safety net will not extend to such people,

although as at present there will be measures to safeguard the welfare of children and other vulnerable persons.

[Dealing with the asylum decision backlog - **text subject to further work on detail**

8.22 We cannot establish the new faster asylum process to which this Government is committed (see paragraphs 8.5 and 8.6) without first tackling the backlogs inherited from the previous administration. While large backlogs remain, abusive applicants will continue to believe that they can exploit the system. Backlogs and delays create additional inefficiencies in processing, and do nothing to foster the morale of conscientious caseworking staff.

8.23 In dealing with the backlog of cases it has inherited, the Government will adopt measures which are both *firm* and *fair* as well as promoting a *faster* process. There can be no question of a blanket amnesty for those in the backlog. This would be unfair and would be seen as a reward for those who would abuse the system. Equally it would be unfair to ignore the consequences of very long delays, which are no fault of the applicant, in terms of the applicant's ties in this country or elsewhere. The Government will therefore adopt an approach in which the effects of long delays in reaching a decision will be taken into account and weighed with other considerations, but only in due proportion and in appropriate cases. Such delay will not normally be a factor at all in the consideration of applications in the backlog dating from after 1995. Applications from before that date will be considered broadly in two groups. In certain of the very oldest cases, where an asylum application was made before the coming into force on [ ] July 1993 of the Asylum and Immigration (Appeals) Act 1993, delay in itself will normally be considered so serious as to justify, as a matter of fairness, the grant of leave to remain. This will not apply, however, to applicants whose presence here might not be conducive to the public good on the basis of their conviction for a serious criminal offence, nor to any application for asylum made after the commencement of enforcement proceedings against someone as an illegal entrant or as a person here in breach of the Immigration Rules. Such cases will be considered on their merits without any presumptive weight being given to the delay in reaching

a decision. Altogether in the pre-1993 Act group there are estimated to be around 10,000 cases still outstanding.

8.24 For applications made between this date and 31 December 1995, estimated at about 20,000 cases, delay will not normally of itself justify the grant of leave to remain but in individual cases will be weighed up with other considerations and, if there are specific compassionate or other exceptional factors present which are linked to the delay or which compound its effects on the applicant's situation, a decision to grant leave to remain may then be justified. The sort of factors, which might be relevant here, not otherwise by themselves sufficient to justify leave to remain, could include such things as the presence of children attending school or a continuing record of voluntary work by the applicant in the local community.

8.25 These measures will apply specifically and solely to cases awaiting an initial decision, and specifically and solely to applications made during the periods indicated. Where a refusal decision has already been taken, action on the case will proceed in the normal way, subject to the outcome of any appeal and subject to any exceptional or compassionate circumstances. New and recent cases will continue to be dealt with on the same basis as before, and with enhanced vigour and speed in the case of those without merit or claiming on a purely opportunistic basis.

8.26 Under the previous administration mountainous backlogs of asylum decisions were created and many old cases simply left to fester. This Government is determined to get to grips with the problem, and to tackle it in a way which is fair to those who have suffered the worst delays yet firm with the most blatant abusers of the system. Above all the approach will look to the future, enabling resources to be kept focused on those cases where a refusal stands the best chance of resulting in swift and successful enforcement action.]

[8.27 Resources : pending further work.]

CHAPTER 9 : IDENTIFYING GENUINE REFUGEES

9.1 The system needs to do more to serve the very people for whom it exists: those fleeing persecution, torture and degrading treatment. Genuine refugees who arrive carrying a burden of fear and distress find their anguish compounded by the uncertainty of waiting in lengthy queues for a decision on their future. The measures which the Government will introduce to speed up the processing of all claims will benefit genuine refugees, and wherever possible these cases will be identified early and given additional priority.

Qualifying for settlement

9.2 Those granted refugee status or exceptional leave to remain, and who it is expected will stay permanently in the United Kingdom, will have to qualify for settlement. The current four years qualifying period for refugees will be abolished, and those granted ELR other than on a temporary basis will have to wait only four years instead of seven. These measures will help refugees and others granted leave to remain to integrate more easily and quickly into society, to the benefit of the whole community into which they have been accepted. The new rules will apply to those granted refugee status or ELR on a non-temporary basis from [.....], while transitional arrangements for those already part way through the existing qualifying periods will ensure that no-one is worse off for having been granted a particular status sooner than others.

Well informed decisions

9.3 The Government is also concerned to ensure that decision taking in asylum cases continues to be of a high quality, based on sound, comprehensive information, clear guidance and well-focused training and quality review. Consistent with that objective, the following changes have been introduced:

- High quality information about countries of origin is vital to sound decision taking. The Government has developed arrangements for this which are more systematic and more transparent.

- The Country Information and Policy Unit in IND has now published country assessments on the top 35 asylum producing countries in the United Kingdom. Copies have been placed in the House Library and have been placed on the Internet.

- The assessments will be revised and updated at approximately 6-monthly intervals.

- Each country assessment contains a bibliography of source material. The vast majority of the sources used are in the public domain and easily obtainable. They have been prepared to inform caseworkers taking decisions on asylum applications.

- As part of the process of opening up the collection of country information used in assessing asylum claims, the Home Secretary has asked a group of practitioners, interest groups and officials (the Consultative Group) to consider, amongst other matters, the principles of country assessment and to seek to achieve agreement about core reference material, bibliographies and chronologies of events.

- The Consultative Group first met on 3 March and will report to Ministers in the summer. The Group are also looking closely at the model of the Canadian Immigration and Refugee Board documentation centre.

- The Group have been given copies of the country assessments as part of their remit to consider the format and collection of country information, and have offered initial comments on some of them. The comments centre on the content, balance and focus of the assessments and these will be taken into account in later versions.

- Further systematic exchange of information between the Country Information and Policy Unit, other governments, government departments, international and non-governmental organisations will be developed consistently to inform the asylum determination process.

Improving quality standards

9.4 As well as high quality, up-to-date and accessible country information, decision takers need clear guidance on the application to cases of the 1951 Convention and other criteria, in an organisational structure and culture that promotes personal responsibility, clear standards of performance and a commitment to quality decision taking. Much of this is already in place and the Government intends to build on the high quality and commitment already achieved. The IND Casework Programme aims to give decision takers greater personal responsibility, in addition to providing them with a wider context and range of work in which to approach asylum cases and a rigorous approach to quality review. Training and development opportunities will continue to benefit from the contributions of refugee groups and advocates. Fresh guidance is being prepared for caseworkers on deciding asylum applications, focusing on human rights issues and encouraging a methodical approach so that genuine cases whose strengths are less obvious on the surface are not overlooked. This guidance will be made public.

Fairer procedures

9.5 In reviewing asylum law and procedures, the Government is committed to ensuring that the necessary application of firm measures does not lead to, or rely on, actual or perceived unfairness. The Government considers that the so-called 'White List' procedure, whereby most applications from certain listed countries are put into an accelerated appeal process on the basis of a country-wide assessment rather than the circumstances of the individual case, is an unsatisfactory feature of the present system and should be abolished as part of the wider overhaul of appeals in asylum cases. Other aspects of the accelerated appeals procedures will continue. Pending legislation the 'White List' will continue to operate.

CHAPTER 10 : ENCOURAGING CITIZENSHIP

10.1 In the United Kingdom "citizenship" normally means more than just the nationality of our inhabitants. It also encompasses elements of involvement and participation, and sharing of rights and responsibilities. Not all rights are dependent upon a person acquiring British nationality. Civil rights belong to all inhabitants, whilst political rights are enjoyed equally by British and Commonwealth citizens and, in some instances, citizens of the European Union. However, the acquisition of the nationality of the country in which immigrants are living is a mark of their integration into British society. Our nationality legislation seeks to ease immigrants into acquiring citizenship by not placing unnecessary obstacles in their way. Applicants are not required to renounce the citizenship which they already hold in order to become British. Nor are British citizens required to give up their British nationality when acquiring the nationality of another State. By accepting the concept of dual citizenship, which we have done since 1948, we recognise that in the modern world as well as owing an allegiance to the country in which they live, people also retain an affinity to the country of their roots. It is therefore possible to be a citizen of two countries and a good citizen of both.

10.2 Although we avoid placing unnecessary obstacles in the way of permanent residents who wish to acquire British citizenship, we do little positive to encourage such people to become British. The Government believes that more should be done to promote citizenship positively amongst the immigrant population, reflecting the multi-cultural and multi-racial society which we have become. However, people applying for citizenship currently have to wait too long for a decision. Quicker processing of applications would give a more welcoming signal to prospective citizens.

10.3 In 1987, when the transitional provisions of the British Nationality Act 1981 came to an end, the Home Office received nearly 300,000 applications for British citizenship and average waiting times for processing these applications rose to a height of 36 months in March and April 1992. Waiting times then started to reduce, reaching 13 months in March 1995. However, since then they have started to rise gradually so that they are on average around 18 months at the present time. As mentioned in Chapter 7, nationality casework is included in the IND Casework

Programme and will form part of the Integrated Casework Directorate. The efficiency improvements this will introduce will help to reduce again the processing times for applications, but a more fundamental difficulty in processing applications more quickly is the inability to react speedily to a rise in the number of applications received, part of which is due to the way in which fee receipts are treated.

10.4 Applicants for British citizenship by naturalisation or registration pay a fee on application which ranges from £120 to £150. In past years, the numbers of applications received have outstripped the Immigration and Nationality Directorate's capacity to deal with them and there is a large backlog - currently 87,000 cases are uncompleted. Intake is forecast to continue rising (from 59,600 in 1996/97 to 65,000 in 1997/98 and 70,000 in 1998/99). Waiting times will thus increase further despite process changes designed to reduce them. In view of the fee levels paid, this is impossible to defend. It is also inconsistent with our commitment to faster decisions.

[10.5 Waiting times could only be reduced by applying more resources to nationality work. Insert passage on resources (? including conclusions reached on nationality-related charging/funding issues) and future performance in light of resources allocated to this work when the spending plans are settled.]

10.6 On 22 December 1997 the Home Secretary announced that, notwithstanding section 44(2) of the British Nationality Act 1981, in future reasons would be given for refusing applications for British citizenship. Rather than operate a discretionary system in which some unsuccessful applicants were unaware why their applications had been refused or what they needed to do to make a successful application, there is now a more objective system wherein executive decisions have to be justified. That is a positive move. The Government has also set up a User Panel with representatives of applicants for citizenship in order to improve the quality of service which we offer applicants by listening to the concerns of their representatives and discussing our procedures with them.

10.7 Another positive step would be to attach more importance to the process in which successful candidates receive news of the approval of their application. When British citizenship is granted, a certificate of naturalisation or registration is sent to the successful applicant by post. This is hardly an auspicious way to mark what should be a significant change in an immigrant's relationship with this country. In some countries, such as Australia and the United States, where citizenship is used as a positive tool to help integrate immigrants into their new country, civic ceremonies are held to mark the award of Australian or American citizenship. The Government is considering whether, for those immigrants who would like one, there should be civic ceremonies for our new citizens to enhance the award of citizenship, reinforce the rights and responsibilities of being a British citizen, and lay greater emphasis on us being a multi-cultural society.

10.8 Changes in the operation of the immigration control, in particular to introduce greater flexibility in the form and manner in which leave to enter is granted, may require changes in current residence requirements for citizenship under the British Nationality Act 1981. In addition, many of those who at present cannot satisfy the requirements are those who travel abroad on behalf of firms in this country to drum up business, and thereby contribute to the economic well-being of the country and help create jobs. The Government will consider the scope for a more flexible approach to the residence requirements based upon whether an individual was ordinarily resident in the United Kingdom and paying his or her taxes here, the overall length of their residence and connections with this country, and the reasons for their absences.

CHAPTER 11 : ENFORCEMENT AND REMOVALS

11.1 Enforcement of the Immigration Rules is a key part of a fair and firm system. In fairness to those who have followed the rules and to deter others who might consider abusing the system, we must be able to identify and deal appropriately with those in the United Kingdom without authority. There will always be some people who, despite having exhausted the appeals machinery, still refuse to leave voluntarily.

11.2 The growth in immigration racketeering also requires a new approach to enforcement. We must be able to identify and disrupt the organisers who make huge profits from exploiting economic migrants. Tackling racketeering requires a co-ordinated multi-agency approach with a structure to enable intelligence to be properly developed. Historically, the Immigration Service has not needed to develop such a structure, and its enforcement policy has concentrated on the illegal entrants rather than the racketeers. Such an approach is no longer adequate to stem the tide. Criminal groups see illegal immigration as an easy source of income. International cooperation between the police and immigration authorities will be increasingly important if racketeers are to be disrupted. Against this background, the Government intends to take a number of steps to strengthen the enforcement effort as part of the integrated approach to immigration control.

<u>The scale of the problem</u>

11.3 The very nature of illegal immigration makes it difficult accurately to assess the total number of people in the country without authority and so liable to removal. Excluding those with unresolved asylum claims or outstanding appeals, the Immigration Service is at present dealing with a total of about [x] enforcement cases of people liable for removal. This number is likely to grow as greater efficiency elsewhere in the system means that the number of enforcement cases continues to exceed our present ability to effect removals.

11.4 During 1997 some 6,500 persons were removed or departed voluntarily from the United Kingdom following enforcement action, of which around 3,000 were failed asylum seekers.

Removals and voluntary departures of failed asylum seekers, under port or enforcement procedures, have increased steadily over recent years, from 1,800 in 1993 to 7,000 in 1997. The Government intends to pursue a range of measures to increase that number still further.

The Dublin Convention

11.5 In some cases it is appropriate for an asylum seeker to be returned to a safe third country without their claim for asylum being examined here. Last year over 1,000 asylum seekers were returned to safe third countries; the great majority to EU Member States.

11.6 The Dublin Convention was signed by the then UK Government in 1990. The Convention came into force on 1 September 1997, since when it has governed arrangements for safe third country cases in the EU. The basic principle underlying the Convention is that the Member State responsible for the presence of an asylum seeker in the EU should be responsible for examining the asylum claim wherever it is made. It also aims to prevent asylum seekers being passed between several Member States without any taking responsibility for examining the claim, and to deal with the problem of asylum seekers claiming asylum in a number of Member States.

11.7 It is necessary in individual cases to establish sufficient evidence to satisfy a Member State that it is responsible according to the Convention criteria (for instance the point at which they entered the EU or the place they first claimed asylum). Asylum applicants cannot be transferred to another Member State until the State in question has accepted responsibility.

11.8 There is a common appreciation among most EU Member States that the Convention is not working as it should. Far too few asylum cases in the EU are coming within the scope of the Convention. The Convention is particularly difficult to apply in circumstances where the asylum seeker is undocumented and is unable or unwilling to provide information which would help establish that another Member State is responsible.

11.9 The Government made the operation of the Convention a key priority for the United Kingdom's Presidency of the EU which ended in June 1998. The Government secured agreement to a comprehensive programme of action designed to improve the operation of the Convention and is committed to continue work with our European partners in that task.

Co-operation on fingerprinting

11.10 Another of the main priorities of our Presidency was to take forward work on developing a legal framework for a central database of fingerprints to support the operation of the Dublin Convention. The "Eurodac Convention", when signed and ratified, will create a computerised central database which will allow the comparison of the fingerprints of asylum seekers across the European Union. If a fingerprint match is found as a result of a comparison in the central Eurodac database the Member States concerned will then enter into bilateral discussions under the terms of the Dublin Convention.

11.11 Although final agreement to the draft Eurodac Convention was not achieved at the Justice and Home Affairs Council in May European Union Ministers did agree that a protocol to the draft Convention should be developed to extend the scope of the fingerprinting requirement to include certain categories of illegal immigrants where to do so would be relevant in supporting the operation of the provisions of Dublin. Ministers agreed that the protocol should be ready for signature by the end of the year. Those whose fingerprints would be included in the central database as a result of such a protocol would be those who are identified as having illegally crossed the external borders of the European Union. There would only be a requirement to take fingerprints if the person was identified as an illegal entrant in the Member State via which he or she had entered the European Union. The Government accepts that such an extension of the scope of the Eurodac Convention should further enhance the operation of the Dublin provisions.

Multi-Agency Co-operation

11.12 Immigration-related crime crosses many barriers - benefit and housing fraud, unlawful employment, illegal activities linked to prostitution, rackets involving asylum claims and marriages, student loan fraud, passport and document abuse. Immigration crime generates huge sums for criminal organisations and it facilitates other criminal activities, such as drug trafficking and money laundering. It exploits the vulnerable - those who enter clandestinely are unable to defend themselves against further exploitation; many become victims of extortion. To combat this crime more effectively, the Government is developing a more proactive approach to intelligence and inter-agency co-operation.

11.13 In November 1997, the National Criminal Intelligence Service established an organised Immigration Crime Section. It works alongside other specialist units with officers from the Benefits Agency, Customs and the Security Services and is engaged on a number of projects targeting racketeers both here and overseas. A multi-agency approach is vital. Closer cooperation maximises the benefits, using each other's knowledge and skills. More joint actions with other agencies targeting benefit and housing fraud by illegal entrants and unscrupulous employers are essential. The recent multi-departmental working party, led by the Ministry of Agriculture, Fisheries and Food, targeting gangmasters who provide illegal labour to the farming industry, is a good example of Departments working together towards a common goal.

Additional powers for immigration officers

11.14 Full commitment to multi-agency cooperation does not exclude independent operational efficiency. At present immigration officers must rely upon the police to carry out a number of tasks during the process of immigration law enforcement. The police involvement stems largely from the fact that certain powers are vested in the police and not in immigration officers. Enforcement operations can therefore sometimes become unwieldy and inefficient in terms of resource deployment. Supporting the Immigration Service in its operation to arrest and detain those who have deliberately absconded in order to avoid removal represents a substantial burden on police time. The enforcement effort would be strengthened if immigration officers had

greater powers to conduct operations against immigration offenders in consultation with the police but without their direct involvement in every case. Dispensing with the services of the police where they have traditionally been employed is by no means unprecedented. Other agencies, such as Customs and Excise, the Benefits Agency and the Post Office have, for some time now, been exercising powers of their own independently and are good examples of how traditional police work can be taken on sensitively. Training commensurate with the needs would, of course, need to be provided. It is not the intention that the Immigration Service becomes an independent "immigration police" force. The measures outlined below do not go beyond the response to a perceived need. Rather, they are a carefully targeted approach to the more effective use of resources in a way which will provide the tools immigration officers need to enforce the law.

11.15 The immigration officer's powers of arrest derive from the Immigration Act 1971 and the Asylum and Immigration Act 1996. They allow immigration officers to effect arrests, without warrants, for specific immigration offences and to effect detention under the 1971 Act. They have not been used routinely as attendant powers of search and entry, comparable to those held by the police and Customs, are not held by immigration officers. An immigration officer can arrest a suspected offender but has limited ability to search the person and the premises where the arrest took place without the person's permission. Arresting without appropriate powers of search raises important safety concerns and evidence relating to the subject's status and identity may go unfound. At present, the police are asked to effect the arrest and conduct a search, using their powers under Section 32 of the Police and Criminal Evidence Act 1984 (PACE).

11.16 Further difficulties arise when a suspected immigration offender is identified but refuses access. A police officer can enter the premises and conduct a search without a warrant if the offence is an "arrestable offence" under the provisions of PACE. "Facilitation" is the only such immigration-related 'arrestable offence'. For any other immigration offence a warrant is required if entry is denied. Warrants can be obtained by immigration officers, but not in all circumstances, and even when obtained must be executed by police officers.

11.17 The Government proposes, therefore, to extend the immigration officer's existing powers of arrest and provide powers in the area of search, entry and seizure. We will be considering the scope for the execution of warrants by immigration officers without a police presence. In addition, we shall consider whether we can bring about improvements in the prosecutorial process for immigration offences.

Better use of resources

11.18 Over 80% of failed asylum seekers live in the Metropolitan area of London. Enforcement resources are therefore concentrated in the South East. But if the asylum support arrangements proposed earlier in this White Paper achieve a wider geographical distribution and if more absconders seek work elsewhere, the need for a greater and more visible presence in the provinces will increase. The spread of resources around the country was the subject of a wide-ranging review in 1997 which has led to the redeployment of a number of posts to other major metropolitan areas in Manchester, Glasgow, Leeds and Bristol.

Fingerprinting

11.19 An effective identification system is an essential element of an effective removals strategy. The current system is aimed at deterring multiple asylum applications and, hence, widespread benefit fraud. However, the current systems were set up in haste and are limited in their effectiveness. The technology in use is outdated and difficult to sustain. It barely copes with present demands and is inadequate to meet any additional requirements. Under present legislation, immigration officers are empowered to take fingerprints of all those who are detained while liable to examination or removal, in order to establish their identity. Under the Asylum and Immigration Appeals Act 1993, all asylum applicants can be fingerprinted.

11.20 The system is outdated and requires investment before it can add significantly to the removals effort. We will be considering the extent to which the use of targeted fingerprinting with commensurate technical support would substantially strengthen the enforcement effort. The protocol to the Eurodac Convention referred to earlier in this chapter will, in any event,

require a change to our existing legislation to provide for the routine fingerprinting of some illegal entrants.

Documentation

11.21 The documenting of people we seek to remove who have destroyed all earlier documents presents a significant barrier in the removals process. In the majority of cases the Immigration Service can remove persons using a standard format EU travel letter. However, some countries only permit the use of their national documents: this leads to delays which can run to six months or more. It is often the case that those nationalities that produce the greatest pressure on our immigration controls are often those for whom such national documents must be obtained.

11.22 Where an approach has to be made to a high commission or embassy it is necessary to support the application with proof of the person's identity. This can be difficult to obtain without the cooperation of the individual concerned. Where nationality is disputed or supporting documentation cannot be obtained it can prove impossible to elicit a document.

11.23 The Immigration Service has instituted a number of initiatives to help overcome these problems. These include a scheme to apply for documents earlier in the consideration process and direct contacts with representatives of the countries with whom difficulties about documentation have arisen. We are also in the process of establishing a dedicated unit tasked with obtaining documents for the Immigration Service as a whole.

Readmission Agreements

11.24 The United Kingdom has not in the past negotiated any readmission agreements with third countries. Historically, we have not seen formal readmission agreements as an aid to returning failed asylum seekers or illegal immigrants because they can introduce an extra level of bureaucracy and the time taken to negotiate readmission agreements can be considerable.

Instead, we have preferred to effect removals through bilateral contacts and in line with established international practice.

11.25 However, internationally there is a rapidly increasing use of readmission agreements. Experience of other countries has been that a mixture of compulsory and voluntary returns through negotiated agreements has worked well. We are examining whether we should actively be seeking such agreement with a range of third countries.

11.26 Readmission agreements will also act to facilitate the provision of documents to people who have no documentation and where it has proved time consuming and costly to establish their identity and nationality.

Voluntary returns

11.27 As in the case with readmission agreements, the United Kingdom has not previously seen voluntary return agreements as an integral part of its immigration policy. The experience of other countries has been that a mixture of compulsory and voluntary returns through negotiated agreements, often working through NGOs, has worked well. Voluntary return programmes are designed to effect the voluntary and orderly return of refugees and asylum seekers who have decided that they wish to return to their countries of origin but who are either lacking accurate information about the situation in their home countries or the means to give effect to their wishes.

11.28 We are examining the issues involved in voluntary return programmes and will, in particular, consider whether running a pilot study would help assess the benefits of such programmes.

CHAPTER 12 : DETENTION

12.1 Effective enforcement of immigration control requires some immigration offenders to be detained. Only about 1.5% of those liable to detention are actually detained. The statutory provisions for immigration detention are found in the Immigration Act 1971 and the Immigration (Places of Detention) Direction 1996. A person may principally be detained in the following circumstances under immigration law :

a) as a passenger who is required to submit to further examination, pending a decision to give or refuse leave to enter; or

b) as a person who has been refused leave to enter or who is an illegal entrant, pending the setting of removal directions and removal; or

c) if he has been recommended for deportation by a court and is detained pending the making of a deportation order in pursuit of the court recommendation; or

d) if he has been given notice of the intention to deport him, pending the making of a deportation order; or

e) if he is the subject of a deportation order pending his removal or departure from the United Kingdom.

Under the Immigration (Places of Detention) Direction 1996 persons may be detained inter alia in:

- Secondary Examination Areas at Ports
- Prison Service Establishments

- Immigration Service Detention Centres

- Police Cells.

Additionally, a person is in lawful custody when he is being escorted inter alia to or from a place of detention.

12.2 A comprehensive review of detention was commissioned by the Government in August 1997. This review was conducted internally within the Home Office, but views were taken from all the main interest groups, and account was taken of the recommendations from Sir David Ramsbotham's reports on Tinsley House and Campsfield House detention centres.

Detention criteria

12.3 It is regrettable that detention is necessary to ensure the integrity of the immigration control. The Government has decided that, whilst there is a presumption in favour of temporary admission or release, detention is justified in the following circumstances:

- where there is a reasonable belief that the individual will fail to keep the terms of temporary admission or temporary release;

- initially, to ratify and clarify a person's case/claim;

- where removal is imminent;

- [where there is a systematic attack on the immigration control.]

12.4 The Government also recognises the need to exercise particular care in the consideration of physical and mental health when deciding to detain. Evidence of a history of torture should weigh strongly in favour of temporary admission or temporary release.
[might add reference to provision for care]

12.5 The detention of families and children is particularly regrettable, but is also sometimes necessary to effect the removal of those who have no authority to remain in the UK, and who refuse to leave voluntarily. Such detention should be planned to be effected as close to removal as possible so as to ensure that families are not normally detained for more than a few days.

12.6 Unaccompanied minors should not be detained in normal circumstances. Where they cannot be cared for by responsible family or friends in the community, they should be placed in the care of the local authority whilst the circumstances of their case are determined. But the age of a person is not easily determined in every case. This is especially so where individuals enter the country with documents which suggest that they are an adult and later claim to be a minor. In all cases, people who claim to be under the age of 18 are referred to the Refugee Council Children's Panel. Where medical evidence indicates that a person is under 18 years of age they will be treated as minors and will therefore not normally be detained.

Reasons for detention

12.7 The Government is satisfied that the decision to detain should remain one for the Immigration Service, against the above criteria. Written reasons for detention should be given in all cases. Taking into account that most people who are detained are held for just a few hours or days, initial reasons will be given by way of a check list similar to that used for bail in a magistrates court. For those continuing in detention, more detailed explanations for detention will be given in writing at approximately monthly intervals.

Judicial element in the detention process

12.8 Many more people fit the criteria for detention than are currently held. There is no reason to believe that the administrative process has led to people being improperly detained. Nonetheless, the Government believes that there is a case for there to be a more extensive judicial element in the decision to detain. It is proposed that the judicial element should be by way of bail hearings shortly after initial detention, followed by a further hearing for those not

granted bail on the first occasion. The detail of this proposal is still being worked out. It is not straightforward and will have considerable implications as, on present volume, about 200 bail hearings a week would need to be managed.

12.9 It is envisaged that the existing facility for chief immigration officers to grant bail would be retained. The present right to apply for bail to an Immigration Appeals Adjudicator (used on average about 120 times a month) would need to be modified or subsumed into any new system.

12.10 In addition to any consideration of bail through the judicial process, the Immigration Service will continue its periodic administrative review of detention in each case. Individuals should only be detained where necessary.

Length of detention

12.11 Detention should always be for the shortest possible time, but the Government is satisfied that there should be no legal maximum period of detention. Timing of detention to facilitate removals of those unwilling to depart voluntarily is not easy, because of last minute delays caused by further representations. Often detainees are held for longer periods only because they decide to use every conceivable avenue of multiple appeals to resist refusal or removal. A balance has to be struck in those circumstances between immediately releasing the person and running the risk of encouraging abusive claims and manipulation. The measures proposed earlier in this White Paper, to reduce process delays, should reduce the incidence of this sort of circumvention of the control.

Places of detention

12.12 The Government has welcomed the views of Her Majesty's Chief Inspector of Prisons and others and, in so far as resources allow, is committed to pursuing a strategy of detaining in dedicated detention and holding centres, not prisons. About half of those currently detained are

held in Prison Service establishments. Most of these (350) are in the specially dedicated immigration units at Haslar and Rochester.

12.13 It is likely that even in the long term, for reasons of geography, security and control, a number of detainees will need to be held in prisons. However, use of detention centres is preferable to prisons in the vast majority of cases and, in principle, we prefer to use detention centres. Where prison establishments hold significant numbers of immigration detainees in specialist units, we try to ensure that facilities mirror those in detention centres. This includes culture - and gender - appropriate facilities, as well as time out of cells.

12.14 Consideration of the provision for immigration detention centres will take account of the need to use prison less, to provide for men, women and discrete family units and, in all cases, to ensure effective health, safety and control. [Whilst recognising the need to ensure the current number of places are efficiently used, the Government is considering the need for an increase in the detention estate to facilitate an effective immigration control and the removal of those with no authority to remain in the United Kingdom - **resource implications subject to further negotiation**].

Statutory rules

12.15 Immigration detention centres have evolved over a number of years. They are managed under contract. The contract documents set out the requirements and performance standards. These have been refined and, over time, have established a greater degree of continuity of approach.

12.16 The Government accepts that detention centres must be put on a better footing and within a statutory framework. We note particularly Sir David Ramsbotham's view that the safety of centres requires there to be a system of rules and sanctions which are clearly understood and, preferably, set out in a compact.

12.17 It is, therefore, proposed to seek powers for statutory rules covering all aspects of the management and administration of detention centres. These will regulate the rights and privileges of detainees and the responsibilities and authority of those managing detention centres.

Powers of detention

12.18 At present contractors' staff derive their authority from the Immigration Acts, Criminal Law Act 1967 and Public Order Act 1986. Whilst these statutes are sufficient for lawful execution of their duties, it would be helpful for the powers of detention custody officers to be set out on the face of a single statute. The Government therefore proposes to seek specific powers for Detention Custody Officers similar to those provided for Prisoner Custody Officers, who work in the private managed prisons. Such powers would cover the use of force and search powers.

12.19 In pursing these improvements to the use and management of detention, the Government is mindful that the deprivation of liberty is a grave step which must only be used with great care and when no alternative ways of ensuring compliance are likely to be effective.

12.20 The Government is therefore committed to the faster processing of claims, dealing with the current impediments which restrict removal of those without authority to remain in the UK, and pursuing such alternatives to detention which enable the whereabouts of immigration offenders and failed asylum seekers to be known and removals to be effected.

CHAPTER 13 : IMPLEMENTATION

13.1 This White Paper has set out a comprehensive and long-term strategy for modernising our immigration control. Implementing that strategy will involve a major programme of work, including :

- legislation
- additional resources
- immediate measures to strengthen the control

Legislation

13.2 The following elements of the strategy can only be achieved with primary legislation:

CHAPTER 5

- Right of appeal for visitors refused a visa
- Bond scheme for visitors

CHAPTER 6

- Introduce greater operational flexibility
- Extend reserve powers to require control facilities to be provided at ports

CHAPTER 7

- Statutory code of practice on checks to prevent illegal working
- Streamline the system of asylum and immigration appeals
- Regulate unscrupulous immigration advisers
- Extend powers to charge for services

CHAPTER 8

- Strengthen existing criminal offences for obtaining leave to enter or remain by deception
- Rationalise the support arrangements for destitute asylum seekers

CHAPTER 9

- Abolish the "White List"

CHAPTER 11

- Additional powers for immigration officers
- Extend the use of fingerprinting

- Introduce judicial element to detention decisions
- Statutory rules on management and administration of detention centres
- Additional powers for detention custody officers.

13.3 The Government will introduce legislation as soon as possible to implement these elements of the strategy.

Additional resources

13.4 The outcome of the Comprehensive Spending Review has demonstrated that additional investment at key points in the system can reduce costs overall. Each of the chapters has indicated where the Government intends to provide additional resources. **[Refer to plans for integrated planning process\single budget. Refer to resource Annex setting out immigration\asylum spending plans.]**

13.5 Delivering the new strategy will present new challenges and opportunities for all immigration staff. The additional resources being provided at key points in the system will help to relieve the pressures which would otherwise have been bound to increase. New streamlined and flexible procedures should enable future pressures to be better managed. Modernisation will help to provide the tools necessary to strengthen the control and improve the quality of service to the public. Consistent with those objectives, the Immigration and Nationality Directorate is committed to achieving Investor in People status by the year 2000.

Immediate measures to strengthen the control

[13.6 Set out the measures which the Government intends to take immediately in order to strengthen the control. Could include immediate increase in ALO's, increased international co-operation, plans to increase removals, strengthening intelligence and operational co-operation, measures to discourage Parliamentary\legal aid for abusive claims, additional resources to deal with all new asylum claims quickly.]

file a QL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

25 June 1998

Dear Isobel,

ASYLUM

The Prime Minister and the Home Secretary met this afternoon to discuss reform of the asylum system. The Minister without Portfolio, David Miliband, Liz Lloyd, John Elvidge (Cabinet Office) and I were also present.

The Home Secretary gave an outline of his main proposals for the asylum system. The Home Office would take over responsibility for both processing asylum claim and support for claimants (currently funded through the DSS, DH and DETR budgets). Under the proposals, the total cost of the system could be reduced from around £580m at the moment, to £180m by year three of the CSR. This would be achieved through:

- a package of measures to deter unjustified asylum claims, such as airline liaison officers and, where appropriate, tougher restrictions on entry into the UK for some countries;

- cutting the time it takes to process claims by investing in the immigration service and reforming the appeals system so that applicants had just a single appeal. The aim would be to cut the total time spent processing a claim to six months (2 months initial application, 4 months for appeal). A further element of this reform would need to be restricting access to legal aid for such cases. It was worrying that some £26m was now being spent on legal aid for asylum cases, often through unscrupulous lawyers, who even went as far as setting up asylum applications in order to generate legal aid business. The Lord Chancellor proposed to franchise legal aid for such cases, but this did not look to be a sufficient response to the problem;

- writing off part of the backlog of 50,000 cases still undealt with in the system. 10,000 of these dated back to before the 1993 Asylum legislation

and so had a legitimate claim to be simply waiting for the system to deal with them. A further 10,000 from the period 1993/4 would also be considered. Both groups would be subject to certain criteria to be eligible for the write off. For example that an individual had committed no crime during their residence in the UK. The remaining 30,000 represented an enforcement backlog and there could no concessions to them without undermining the credibility of the system as a whole. There were precedents for the action proposed, but it would be controversial and would not prevent the need for tough enforcement of individual cases;

- restructuring support so that instead of drawing benefits and claiming support in kind from local authorities, applicants would be directed to a central (Home Office run) agency. This would provide them with hostel accommodation and some limited cash support. Applicants would not be given a choice of hostel and they would be deliberately channelled away from areas such as West London, which currently attracted large concentrations of asylum seekers, with consequent effects on council tax levels. This option represented the best balance between cost-effectiveness, manageability and reducing the attractiveness of the UK to bogus asylum seekers. The option of expanding provision of detention centre places had been looked at, but was not a priority for the CSR. Detention centres were expensive and had the potential to become a focal point for local discontent;

This strategy was contingent on both the resources being made available to speed up the processing of applications (£60m) and a Bill in the next session to effect the changes to the support and appeals regimes. If results were to be delivered by the year 2000, early action was needed.

The Prime Minister broadly welcomed the proposals. He was clear that the asylum system was open to far too much abuse and was in need of radical reform. The key to reducing costs seemed to him to be to drastically cut down the length of time spent on processing claims. Was six months a sufficiently demanding target? Why not one or two months?

The Home Secretary said that it might be possible to achieve more than this with additional resources, but there were real problems. The whole reform was being undertaken against the backdrop of persistent increases in the number of applicants. This was partly to do with ever increasing ease of travel around and partly because as a multi-cultural, prosperous and tolerant country, with

strong links to many parts of the world, and at the centre of international travel networks, the UK was an attractive magnet for would be economic migrants. He was also concerned about the ability of the immigration service to cope with such a large increase in throughput. The service had been dealing with a difficult transition between IT systems and morale was not high. Finally, there was still a difficult task ahead in reforming the appeals system. UK judges and courts were robust in their defence of applicants' rights. Changes to the system had to be protected from the threat of continued judicial review.

The Home Secretary continued that he wanted to circulate to colleagues a draft White Paper on the reforms later this week. His aim was to launch it a week or so after the announcement of the outcome of the CSR. He would also continue to work on a number of issues with other countries, notably the question of whether Eurostar should be subject to Carriers Liability and how to work better with the Chinese. Some of these issues forced difficult choices between the needs of the asylum system and wider diplomatic or commercial interests.

The Prime Minister said that he was content for the Home Secretary to circulate the draft White Paper. He was sympathetic to the case for a legislative slot, although this would have to be considered alongside other priorities. Similarly, he could give no commitments about the CSR outcome at this stage.

I am copying this letter to those present and to Jan Polley (Cabinet Office).

ANGUS LAPSLEY

Ms Isobel Hopton,
The Home Office

FROM THE DEPUTY PRIME MINISTER

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
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OUR REF: PT/PSO/11637/98

The Rt Hon Jack Straw MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON SW1

25 JUN 1998

Top AL

CC JEH
PB

DATV's CHINA

Thank you for your letter of 12 June.

I am grateful for the action that has been taken by your officials, assisted by Foreign Office officials, on the two major irritants - Carriers Liability Act debts and Direct Airside Transit Visas - that caused the Chinese to draw back in January from concluding new air services arrangements that would have provided access to Shanghai for UK airlines.

Recent discussions between the Peking Embassy and the Chinese Government suggest that we may now have done enough on these "irritants" to enable new air services arrangements to be concluded around the time of my visit to China at the beginning of July. I hope very much, therefore, that we will soon be able to clinch a deal that will benefit UK airlines and passengers as well as help develop improved trade relations with China.

I am copying this letter to the Prime Minister, the Foreign Secretary, Members of HS Committee and Sir Richard Wilson.

JOHN PRESCOTT

UK Presidency of the European Union

10 DOWNING STREET

PM.

F

DS will also want to touch on fox hunting. See letter at flag on reactions to the local referenda idea

Ahgs.

cc; Peter M
Richard W } both of whom are attending.

From: Liz Lloyd
Date: 24 June 1998

Prime Minister

cc: David Miliband
Angus Lapsley
Jeremy Heywood

Asylum Meeting

1) **Are you prepared to accept Jack's support proposals rather than detention centres?**

2) **Should we support the Asylum Bill this session?**

3) **Is the CSR settlement reasonable?**

1. Support Proposals

You have indicated that you would prefer detention/reception centres for asylum seekers. The benefits of reception centres are control and possibly a deterrent effect (see Appendix). But there are two drawbacks

1) cost
2) danger of unrest

Cost

The cost is obviously dependent on the numbers of incoming asylum seekers and the length of stay. However, even under Jack's proposals, (which include writing off much of the backlog), the decision making process including appeals will be a minimum of 6 months.

Total cost = unit cost x take-up. The unit cost of accommodating asylum seekers rises from relatively modest if we use the benefits system, to medium

with hostels to detention centres with very high unit costs. Detention centres would mean 100% take-up, hence housing all applicants in reception centres for this amount of time would cost £600 billion in 2002/3, £400 million more than the amount the Treasury has budgeted for in the CSR settlement. The take up rate for benefits is 85%-100%, whereas take-up for hostel places is only 15-20%, making it overall the most cost-effective option.

Danger of Unrest

Despite the fact that the UK as a relatively high number of asylum seekers, there is very little trouble in general, unlike Germany. Asylum seekers are generally assimilated into the community.

Reception Centres would undoubtedly become a focus for unpleasant ultra-nationalists and xenophobes - in Dover last year there was a National Front march when a few hundred Romanian gypsies arrived.

The experience of managing the existing detention centre, Campsfield, similarly shows how difficult this route would be. The UK has a very active voluntary and humanitarian community who would focus on these camps.

Jack Straw's Support Proposals

Jack has revised his proposals to suggest one type of dispersed hostel based support system administered centrally but using local authorities and the voluntary sector. If applicants could not find their own accommodation through family or community contacts they would be housed in hostels and given a small cash payment or vouchers to cover basic expenses. If the appeal failed the applicant would go straight to a detention centre to await deportation. I think this is much more sensible that his original two-tier proposals.

2. Do we need to legislate now?

Benefits:

- we would only be able to control the rise if we streamline the decision-making process now and put in place other support systems.
- Politics: Jack Straw and Ann Taylor think that the PLP will accept legislation better this year. Jack especially thinks that we can only credibly blame the last government for another few months. In a year it will be our fault. Nick Brown disagrees and favours legislation next year.

Disadvantages:

- although many proposals have been worked on for many months the support proposals are new. Are we sure they have been properly thought through?

I think that we will need to legislate – otherwise the costs will go through the roof.

3. CSR Settlement

Extra bids and HMT response:

	HO	HMT
Asylum Decisions	10-13	11
Appeals	3-4	3
Removals and Detention	11-39	7-25
ALO	2	1
Other	20-30	5

Jack will get most of his core processing bid. The big question is whether he will accept managing the support costs too. He is now indicating he is not prepared to do this. HMT will push very hard.

I accept the logic of a single budget, but the HMT settlement is a tough one, and they should share the risk.

Appendix:

What do other countries do?

Germany: Compulsory reception centre for 3 months plus monthly allowance of $52 per person. About 50% of seekers are allowed to stay under some guise.

Netherlands: Compulsory reception and residence centres for first 6 months plus payment of about $50 per month. The decision-making process is also very slow. 6 months for an initial decision and 12 months for a review. Applicants get free legal assistance. About 40% of all applicants get some leave to remain. The new government is currently reviewing the system and are thinking of moving away from reception centres. They say that the reception centres have had no effect on the number of applicants – and in fact the numbers are still rising.

France: accommodation in centres is available for about 3,0000 plus about $50 a month. Others get $247 a month but only for a year. There is no free legal assistance for the initial decision.

From: THE PRIVATE SECRETARY

Hop AL
✓ PU
Press
Bup.

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

24 JUN 1998

Angus Lapsley Esq
No 10 Downing Street
London SW1

Dear Angus

As agreed, I attach briefing for the Prime Minister ahead of tomorrow's meeting with the Home Secretary on asylum and immigration. This covers detention; how we compare with other EU countries and asylum decision times (which Liz Lloyd indicated you were interested in); the asylum backlog and IND's resource requirement, issues which the Home Secretary would like to raise with the Prime Minister. The detention briefing provides general background and also addresses the specific points you mentioned.

I also enclose the latest draft of the White Paper on Immigration and Asylum, which we are about to send out to HS colleagues, and a copy of the Home Secretary's covering letter, which summarises our latest thinking on the new support arrangements for asylum seekers.

Please let me know if there is anything else you would find helpful.

Yours

Isobel

ISOBEL HOPTON

HOW WE COMPARE IN SYSTEMS AND PERFORMANCE WITH OTHER EU COUNTRIES

Introduction

Since the upsurge in asylum applications reached crisis point in many Western countries in 1992, many states have introduced legislative and procedural changes to their asylum processes. A consequence has also been an increased exchange of information and ideas on asylum at the international level.

Sources of information

2. One of the most useful fora for exchange of information on asylum issues has the been the Inter-governmental Consultations Group (IGC) of 15 States which includes the major EU players, Australia, Canada and the USA. There are also working groups within the EU for exchanges of operational information and for broader policy discussions and information exchanges also take place within the Council of Europe and under the auspices of UNHCR. The most useful source document is the 'Report on Asylum Procedures' produced and updated by the IGC.

Comparison with other EU countries

3. There has been some commonality of approach towards responding to pressure on asylum procedures both within the EU and the wider IGC countries. These cover solutions targeted at:

1. pre-entry measures
2. procedural approach

3. restriction of freedom of movement
4. benefits approach
5. organisational approach
6. technical aspects approach
7. information campaigns

4. On pre-entry measures which include visa requirements, carrier sanctions and airline liaison officers, the UK compares well on pro-activity with its EU counterparts. The duration of the procedural approach in each State continues to vary from State to State. In general processing times have been considerably reduced in order to filter out manifestly unfounded cases as early as possible and to reduce existing backlogs. But it is true to say that the UK's processes are lengthier than most EU States, in particular the major asylum receiving countries of France, Germany and the Netherlands.

5. Restrictions on the freedom of movement of asylum seekers range widely; from reporting obligations, restriction of movement to specific areas or reception centres to detention. Similarly the approach to benefits has recognised its importance as a pull factor for unjustified claims. Once again the approach varies from State to State.

6. One reaction to asylum pressures has been a tendency in some EU States towards a different organisation approach through centralisation of the asylum system either through a specialised agency on asylum matters or a refinement of responsibilities between various Ministries. The outcome of the UK asylum study points to a similar need for reorganisation within the UK.

7. Some EU Member States have introduced technical innovations such as computerised fingerprint systems and speedier data exchange between Ministries.

The Eurodac Convention when agreed and implemented will realise the former for the UK.

8. On information campaigns some States have conducted these in countries of origin to deter would-be abusive asylum claimants. The UK has done so in respect of the Czech and Slovak republics and is looking at the possibilities for campaigns elsewhere.

Conclusion

9. The reaction of other EU countries to increasing pressures on their asylum systems has, like the UK, been geared to each country's particular infrastructure. Of the major asylum receiving countries, France (17,000 applicants in 1996) takes up to eight months to resolve an asylum case including any appeal and 3 months for manifestly unfounded claims. Germany (116,000 applicants in 1996) has speeded up its initial decision making process to within 1 month (shorter for unfounded cases) but its administrative courts take 10 months or more to determine appeals. The Netherlands (23,000 applicants in 1996) try to resolve manifestly unfounded cases within two months but other cases can take up to 7 months to determine finally. Even so, the UK compares unfavourably with determination times (including appeals) running into several months for manifestly unfounded cases and well over a year for other refused claims, primarily as a result of processing existing backlogs.

ASYLUM DECISION TIMES

There were 33856 asylum applications in 1997/98 and numbers are projected to rise to 38074 and 43810 over the next two years. There is currently a backlog of just over 52,000 cases awaiting decision.

2. In order to decide an asylum application, the following procedures are necessary:

- with rare exceptions, an interview with the applicant as soon as possible after he has applied : if the application is made on arrival the interview will normally take place immediately at the port; in-country applicants will be interviewed at the Immigration and Nationality Directorate (IND) in Croydon;

- a period during which the applicant has the chance to submit any additional documents etc - at present there are various periods, depending on the circumstances, ranging between 5 and 28 days but we intend to bring the maximum period down to no more than 10 days;

- a period for considering the case and taking the decision - in a minority of cases, further enquiries may be needed before this can be done and in a more substantial proportion documents may have to be translated;

- notification of the decision to the applicant and to any agency providing welfare support if the effect of the decision is to cut off entitlement to support.

3. It is possible to take decisions in the more routine cases in a matter of two or three weeks : of applications made in 1997 8% were decided within one month and 27% within 3 months. The introduction of IT support for caseworking in IND and an integrated approach to immigration and asylum casework will cut out some of the communications delays in the process, and elimination of the backlog would increase the proportion of cases which would be decided very promptly.

4. The assumption of a decision within two months for the great majority of asylum cases is cautious. The volatility of application rates from one month to the next means that if resources are not to be under-used when intake is low, decision times will lengthen periodically when intake is high.

5. It may well be possible, once we have experience of operating a system free from the burden of a backlog and can see more clearly which cases can in principle be done most quickly, to set a lower target than two months for initial decisions in asylum cases. It would not be possible to eliminate the period for awaiting further material from the applicant, or for setting up an interview - though the latter can often be done almost straightaway - since we would lack the means to be sure of taking a fair decision and in a refused case the applicant's lack of opportunity to justify the claim would weigh against us at appeal.

ASYLUM BACKLOGS

We have inherited backlogs of 51,000 asylum cases awaiting an initial decision, and some 23,000 awaiting an appeal hearing. There are also an estimated 19,500 asylum cases in which enforcement action is pending following a refusal although there is an overlap between these cases and the decision and appeal groups.

2. These backlogs sap the energy and efficiency of the system; act as a magnet for abusive applicants; and cost millions of pounds in welfare support (all pre-February 1996 cases awaiting initial decision retain an entitlement to DSS benefits).

3. The previous administration made no serious attempt to tackle the backlog problem. In the early 1990s they effectively wrote off a large number of cases by relaxing the criteria for leave to remain. When this failed to stem the tide they resorted to tough rhetoric disguising a lack of action together with an undisclosed policy of writing off cases which had waited seven years without a decision (we have since disclosed the staff instructions on this to Parliament under open government principles).

4. Politically, dealing with the backlog is one of the most sensitive issues we face on immigration and asylum. Our response will be seen by the media as an index of the firmness of our policy. There has been for some months a campaign in the papers based on speculation that we are to grant an "amnesty" to asylum seekers and illegal immigrants.

5. I have made clear that there will be no blanket amnesty. I am also clear, however, that we cannot simply treat all the backlog cases as if they had applied

for asylum yesterday. Some account will have to be taken, in some of the older cases, of the failure over a long period to reach a decision.

6. The main reason for this is one of system management. In the very oldest cases the people concerned will have had time to put down roots in the community. Such cases are notoriously difficult to remove in the face of representations from MPs and others and judicial reviews. It is unlikely that we would in practice end up removing more than a handful of those refused. If we tried to process every one of these cases in the normal way we would have to devote the majority of our resources for processing decisions and appeals to cases which we knew from the start would not be removeable. The risk of the system jamming up, with new cases delayed along with the old,would then be very high. The objective of a faster process would then elude our grasp.

7. The answer to this is not a general amnesty, but an approach in which the effects of long delays in reaching a decision are taken into account and weighed with other considerations. There is a fairness point here.

8. Such delay would not normally be a factor in deciding cases dating from after the end of 1995. Applications before that date would be dealt with broadly in two groups. Those from before the commencement of the Asylum and Immigration Appeals Act 1993 - around 10,000 cases - would normally be granted indefinite leave to remain, but this would not extend to those convicted of a serious criminal offence or who claimed asylum only when they were about to be removed. Those cases would be considered on their merits without any presumptive weight being given to delay.

9. For applications made between July 1993 and the end of 1995, the delay in decision would be given weight where it was linked to something about the

applicant's circumstances that could make removal unfair or inappropriate such as the presence of children of school age. In these cases exceptional leave to remain would be granted. Altogether there are estimated to be about 20,000 cases in this category of which up to a half might qualify for the grant of status.

10. All the cases which would benefit from this concession are those where a decision on the application is still outstanding. I do not propose to adopt any special approach to cases which have already been refused and are awaiting appeal or enforcement action. Some of these would qualify under existing compassionate criteria; but for the rest, my view is that the balance of interest once a case has been refused lies in sustaining the refusal. The appeals backlog is less intractable than the decision backlog and is already diminishing : a balanced approach to the decision backlog will avoid undermining that trend.

11. The package which I am preparing will contain a range of measures to toughen up the system including action to increase the number of removals. This will be important in providing the context for the approach to the backlog. We may have to face wholly inaccurate suggestions that we are operating an amnesty. But the approach is necessary if we are to secure a workable system for the future; it is well balanced and I am confident we can present it as meeting our criteria of fairer, firmer and faster.

IMMIGRATION AND NATIONALITY RESOURCE REQUIREMENT

Baseline Provision	about £220m annually	
<u>Bids for Extra Resources</u>		
Asylum decisions	£10-13m annually	To keep pace with asylum claims, clear backlog and reduce decision time below 6-8 weeks by April 2001.
Asylum appeals	£3-4m annually	Support LCD's expansion of asylum appeals which aims to clear appeals backlog and reduce appeal time to 4 months by April 2001.
Removals and Detention	£11m in 99/00 increasing to £39m in 01/02	Provide up to 600 extra detention place and increase asylum removals from 6,000 now to 12,000 by 2001/02.
Airline Liaison Officers	£1.5m-£2.5m annually	Expand from 5 to 20 ALOs to prevent and deter inadequately documented passengers from travelling to UK and save support costs.
Other (includes ports, after entry and nationality casework)	£20m-£30m annually	Maintain immigration control (including other elements of asylum work); increase nationality output to match intake, clear backlogs and reduce waiting times.
The total IND bid of £57/61/63m also includes funds to continue major works on IND's HQ building		

DETENTION OF ASYLUM SEEKERS

1. Every country must have firm control over immigration and the United Kingdom is no exception. It is regrettable that detention is necessary to ensure the integrity of the immigration control. Only about 1.5% of those liable to detention are actually detained, and the use of detention in this limited number of cases is necessary to effect the removal of those who do not qualify to remain in this country. The statutory provisions for immigration detention are found in the Immigration Act 1991 and the Immigration [Places of Detention] Direction 1996.

2. Whilst there is a presumption in favour of temporary admission or release, detention is justified in the following circumstances.

- where there is a reasonable belief that the individual will fail to keep the terms of temporary admission or temporary release;

- initially, to ratify and clarify a person's case/claim;

- where removal is imminent;

- where there is a systematic attack on the immigration control.

3. Considerable pressure has been exerted by interest groups to move detention away from the front end of the process and to apply it only when removal is imminent or at the end of the appeal. Whilst this is accepted in principle, the authority to detain early in the process should remain.

4. Many more people fit the criteria for detention than are currently held. There is no reason to believe that the administrative process has led to people being improperly detained. Nonetheless, we believe that there are civil rights reasons for there to be a more extensive judicial element in the decision to detain. It is proposed that the judicial element should be by way of bail hearings shortly

after initial detention, followed by a further hearing for those not granted bail on the first occasion. The detail of this proposal is still being worked out.

RESTRICTIONS ON GREATER USE OF DETENTION

5. Wholesale detention of asylum seekers would overcome some of the problems of current asylum arrangements. It would substantially improve the prospects of removal and make the UK a much less attractive destination for economic migrants. It might be particularly effective in deterring asylum claims from people already in the UK. Such an approach is, however, beset by a range of practical, financial, political and legal difficulties,

- 20,000 plus detention places would be need to detain current numbers of asylum seekers (plus dependants) for an average of 6 months until the decision had been taken, the appeal completed and removal arrangements made. This would require a network of detention centres more than three times the size of the Scottish prison system (or a third of the English prison systems).

- A detention estate this size would cost over £600m annually (using the costs for DCMF prisons). Even if 100 sites (for centres with 200 beds) could be found and planning permission obtained (which recent experience with new prisons and probation hostels suggest would be very difficult) it could take years to deliver such a building programme.

- The money would have to be invested and the estate built up to this level before asylum seekers could be routinely detained. But if detention then deterred claims the facilities would stand empty.

- It would be highly sensitive to detain administratively large numbers of people (including families and children) who have not committed a criminal offence, some of whom are genuine refugees. Hunger strikes and other

manifestations of discontent among detainees could make such a system unmanageable. The centres would be focuses both for protest about asylum policies and for racial agitation (this is our experience with the detention facility at Campsfield House).

- Article 5(1)(f) of the ECHR permits the detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation; and any such detention must be proportionate. We take the view that our current detention policy complies, though the issue is controversial and we expect a challenge sooner rather than later. Any extension of our policy would need to be carefully considered against the requirements of the Convention. However, routine administrative detention for reasons of deterrence of others would clearly be contrary to article 5. Moreover article 31(2) of the 1951 Refugee Convention prevents detention of certain categories of refugee; and the UK was party to an UNCHR Executive Committee Conclusion on detention of asylum seekers which expresses an opinion against routine detention.

- Detention would not overcome some obstacles to removal, such as inability to obtain travel documents and prolonged court action. The deterrent impact of wholesale detention would be much reduced if substantial numbers of asylum seekers eventually had to be allowed to stay despite the merits of their case.

- If provision for bail is retained, it is likely that the Courts would release those who would not abscond and who would comply with any conditions imposed on them (and we are presently proposing enhanced judicial supervision of detention.

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor
Eland House
Bressenden Place
LONDON SW1E 5DU

Dear John,

WHITE PAPER ON IMMIGRATION AND ASYLUM

I am grateful to colleagues for their helpful comments on my letter of 27 May setting out a comprehensive strategy on immigration and asylum. I thought that it might be helpful if, before you responded, I were to deal with the points raised. I hope that in the light of this further letter colleagues will be able to agree the policy proposals reflected in the strategy and that we should proceed with publication of the attached White Paper.

I am very grateful for colleagues' support for the main principles of the strategy. It is clear that the main issue is how best to provide support for destitute asylum seekers. A number of colleagues have expressed concern about the merits and viability of a two-tier system of support. The issues here are complex and I have been giving further thought to the arrangements in the light of colleagues' comments and of further detailed work by officials.

In the light of that further work, I have concluded that providing cash payments for documented passengers up to a negative Home Office decision would not provide a sufficient incentive to retain documents and would be too complex to operate. Increasing the speed with which asylum decisions are taken is a fundamental element of the strategy. Achieving that objective depends on the provision of additional resources and, given current backlogs, will take some time to deliver. But assuming we are successful, decisions will be taken much more quickly and so the majority of documented applicants whose claims were refused but who appealed would receive support if necessary from the safety net rather than cash payments. That is unlikely to provide much of an incentive

to retain documents and the safety net would quickly apply to the vast majority of applicants.

The choice appears, therefore, to lie between extending the use of cash payments or extending the safety net to cover all applicants. I am convinced that the availability of cash payments provides a major attraction for economic migrants to come to the United Kingdom and claim asylum. Extending cash payments through to appeal, even if only for those who produced valid documents, would appear more generous than the current position and provide a strong pull-factor. In addition, there would still be the practical and presentational difficulties of distinguishing between applicants on the basis of whether or not they were documented. This could itself lead to legal challenges. We would also have to set up a safety net for other applicants. There would be a very serious risk of substantially increasing the number of asylum seekers, and costs, if we were to go even further and cash payments were available to <u>all</u> applicants through to appeal as the CSR review proposed. For these reasons, I do not favour the option of making greater use of cash payments.

I believe that the best way forward is to provide a single tier of support on the lines of the safety-net originally proposed with a new national body to co-ordinate provision across the country and allocate applicants to places. We would in this way be able to fulfil our commitment that no genuine asylum seeker would be left destitute. But support would be provided outside the normal benefit system, with no choice about the location of the accommodation provided. On past evidence, this will provide a strong incentive for applicants to rely on their own resources unless genuinely in need. It would overcome the complexities of a two-tier system about which Harriet Harman and Frank Dobson expressed concern.

It would enable a partnership approach to be developed with local authorities and others on the lines Hilary Armstrong suggests. I would expect local authorities to participate on a contractual basis in the provision of accommodation, but I believe that they should be under a general duty to co-operate with the national body by providing information and other assistance to identify and secure accommodation as necessary. I also believe that there should be a reserve power for the Secretary of State, in the last resort, to direct an authority to provide accommodation although I entirely accept Hilary's view that great care would be needed in the exercise of any such power. The national body would also operate throughout the UK to which Donald Dewar rightly attaches importance. There might need to be some small cash payment for limited purposes, but otherwise my aim is to minimise the use of cash. One option which I intend to explore is the possibility of using vouchers for all food and other costs. We will clearly need to undertake further detailed work on the feasibility of a voucher scheme before deciding how best to proceed but, if it can be achieved, it would send a strong message abroad that cash payments were not available and help to deter economic migrants from coming here in the first place.

Although we would aim to provide destitute asylum seekers with accommodation and other support in kind, we need to retain some flexibility to make cash payments if no suitable accommodation is available. This may be necessary in the early days of the new arrangements, or in response to a sudden increase in the number of asylum claims received. The legislation will, therefore, need to provide such flexibility although the intention would be only to make cash payments when accommodation was not readily available and for as short a period as possible.

This approach is now reflected in the attached draft of the White Paper. It is difficult to compare the costs of the different options for support. The unit cost of cash is less than the unit cost of support in kind; but a single tier safety net system would cost less overall than other arrangements if it kept applications at a lower rate and the take up rate remained low. Officials are urgently modelling the sensitivity of total costs to a range of assumptions, including pull factor and take up rates, and the results of this will be circulated at official level as soon as possible.

David Clark raised two further points. I agree that we need to increase the number of removals. I indicated in my letter of 27 May that additional investment of £40 million annually might in time deliver an additional 6,000 removals. About half of this investment would be for extra detention space which is critical to increasing removals. Further expenditure on detention would enable that figure to be increased. But we should also be able to secure additional removals by the other measures planned to improve inter-agency co-operation and reducing barriers to removal. If our support arrangements were able to reduce the number of asylum applications, we might be able to achieve a better balance between refusals and removals. There is no doubt that this will be difficult, but we shall continue to work on improving the system.

David also asked about our Manifesto commitment for a new right of appeal against refusal of a visit visa. I recognise the practical difficulties to which the Joint Study on Entry Clearance referred, although I do not believe they are insurmountable. I do not think that we can resile from this commitment and I propose that it be included in the White Paper without setting out the details at this stage.

The whole strategy depends on diverting resources to the handling of asylum claims in order to reduce total expenditure on asylum seekers. It would not be right to establish a single budget whereby the Home Office took responsibility for support costs unless I also had the flexibility to manage the funds sensibly and this did not threaten existing Home Office programmes. The management of such a budget will involve significant difficulties and risks which I am sure colleagues recognise. I could not take on that task without also being given sufficient freedom to manage the budget flexibly in order to minimise the potential problems. My initial reaction to the budget management ideas in Alistair Darling's letter of 18 June is frankly that this does not offer a satisfactory basis for transfer of asylum support responsibility to the

Home Office. The whole concept of a single budget which combines support and process expenditure does not fit comfortably into either the current or the new public expenditure regime framework. I am, however, sure it should be possible to develop some new arrangements by which the budget could be managed in a way which delivered our overriding objectives. I will pursue this in more detail with Alistair.

I am grateful to colleagues for their support for an early White Paper and legislation. I believe it is essential that the White Paper should be published before the Summer Recess. The attached draft reflects the strategy outlined in my previous letter and which colleagues have generally welcomed in this context or which is the subject of separate correspondence. I should, therefore, be grateful if colleagues could let me know by Wednesday, 8 July whether they are content with the broad terms of the attached draft. There are clearly some points which will need to be finalised nearer the publication date and on which our officials will need to liaise.

I shall in any event want to give further thought to the overall presentation in the weeks leading up to publication. I propose to make an oral statement on the day of publication. I will also consider writing to all Members of Parliament to draw attention to the themes of the White Paper and invite their co-operation in minimising delay in patently unfounded asylum claims. It will be important that our presentation highlights the measures being taken immediately to strengthen the control and so discourage attempts to pre-empt the new arrangements.

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and to Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

DRAFT WHITE PAPER - VERSION 5

[WORKING TITLE: FAIRER, FASTER AND FIRMER - MODERNISING OUR IMMIGRATION CONTROL]

Contents

SUMMARY OF PROPOSALS

1. This White Paper sets out the Government's comprehensive strategy for modernising the immigration control. The aim of the strategy is to improve the quality of service to UK citizens and those who qualify to enter or remain, as well as strengthen the necessary controls on those who do not. The key features of the strategy are that the future operation of the immigration control will be :

- integrated in order to maximise efficiency and minimise the scope for abuse.

- informed and more open.

- fairer, faster and firmer.

2. An informed approach to immigration control must be based on a clear understanding of current immigration trends. Chapter 1 summarises those trends, while the Government's broad policy objectives, including retention of frontier controls and commitment to promoting good race and community relations, are set out in Chapter 2. The Government is also determined that the new strategy should remedy the failings (Chapter 3) of the current system, in particular :

- delays and backlogs which increase costs and undermine the integrity of the control;

- outdated and complex procedures which hinder genuine travellers and are vulnerable to abuse;

- piecemeal approach which has failed to tackle the underlying problems.

3. The Government believes that an integrated approach to modernisation and streamlining of the control provides the way ahead (Chapter 4). The subsequent chapters of the White Paper examine the constituent parts of the control from pre-entry through to settlement and citizenship or, on the other hand, removal of those with no right to be here.

An integrated approach

4. The key to modernising and streamlining the control is to see the system as a whole. In that way, the control can be operated more effectively to speed the passage of genuine travellers and to target resources on those seeking to evade the control. The Government will :

- establish a single unit in the UK to integrate the management of the entry clearance operation overseas with the on-entry and after-entry controls (paragraph);

- maximise the use of modern technology to integrate the pre-entry, on-entry and after-entry systems to help speed passenger clearance and target evasion of the control (paragraph);

- modernise the immigration, asylum and nationality casework processes by introducing a new computerised integrated casework system (paragraph);

- integrate the use of intelligence throughout the system in order to target resources more effectively and improve multi-agency co-operation to tackle abuse and racketeering (paragraph);

[- create a new interdepartmental planning and monitoring process to enable resources to be used more effectively, particularly by bringing most funding for support of asylum seekers into a single budget managed by the Home Office (paragraph).]

An informed and more open approach

5. The Government is committed to greater openness in relation to immigration control as in other areas of public life. Greater openness helps to ensure that decisions about changes to the control are better informed and sustains public confidence in the integrity of the control. The Government has already taken steps to :

- ensure that reasons for refusal of British citizenship are always given (paragraph);
- promote greater dialogue with those to whom the controls apply and representative interest groups by the development of user panels (paragraph);
- publish Immigration Directorates' Instructions so that users know the basis on which decisions which affect them will be made (paragraph).

Fairer, Faster and Firmer

6. The fundamental objective of the Government's strategy is to deliver a modern control which is fairer, faster and firmer. Many of the measures described in this White Paper satisfy at least two of those requirements; some satisfy all three. The Government intends to introduce the following integrated package of measures to reform all stages of the control:

Pre, on and after-entry controls

- introduce a streamlined right of appeal for those refused a visa to visit a family member (paragraph);
- examine the feasibility of introducing a financial bond scheme for visitors to the UK (paragraph);

- consider measures to ensure compliance with the Immigration (Carriers' Liability) Act 1987 (paragraph).

- immediate investment to increase the number of Airline Liaison Officers to help reduce the number of inadequately documented passengers coming to this country (paragraph);

- improve control facilities in partnership with port authorities, with options for further improvements in the operation of the control by recovering a greater proportion of costs from [users] (paragraph);

- modernise the framework of immigration law to enable the controls to be exercised more flexibly to speed the passage of genuine travellers and target resources on potential abuse (paragraph);

- introduce a statutory code of practice governing checks by employers to prevent illegal working (paragraph);

- consider new criteria to enable an integrated approach for consideration of compassionate circumstances at all stages of the control (paragraph);

Appeals

- radical overhaul of the system of immigration and asylum appeals, reducing the number of avenues of appeal and reforming the structure of the appellate authority (paragraph);

- statutory control of unscrupulous immigration advisers who exploit individuals and undermine the control (paragraph);

[- action to bring the use of legal aid under tighter control (paragraph);]

Asylum

- faster decisions on asylum applications, including additional resources to tackle the backlogs inherited from the previous Government (paragraph);

- strengthen existing criminal offences and procedures to enable more effective prosecution of applications involving blatant deceit (paragraph);

- creation of new support arrangements for destitute asylum seekers which minimise the incentive to economic migration, remove access to the main benefit system and minimise cash payments (paragraphs);

- abolish or reduce the qualifying period for grant of settlement to those given refugee status or exceptional leave to remain (paragraph);

- prepare new guidelines to help ensure that genuine refugee claims are identified quickly (paragraph);

- abolish the separate accelerated appeal procedure for certain listed countries (the "White List") and replace it by published country assessments (paragraph);

Enforcement

- international co-operation to establish a computerised central database of fingerprints of asylum seekers and other illegal immigrants across the European Union and to increase the number of removals under the Dublin Convention (paragraph);

- consider the options for increased use of fingerprinting, the arrangements for securing documentation and the merits of readmission agreements to strengthen the enforcement effort (paragraph);

- extend the powers of immigration officers to enable more enforcement operations to be conducted without having to rely on a police presence (paragraph);

- consider with the Crown Prosecution Service how the prosecution process for immigration offences can be made more effective (paragraph);

- consider the potential for increasing the number of passengers returned by use of readmission agreements and voluntary return programmes (paragraph);

- introduce a judicial element into the decision to detain in immigration cases (paragraph);

[- additional resources to increase detention space in order to support an increased number of removals (paragraph);]

- establish statutory rules covering all aspects of the management and administration of detention centres (paragraph).

Citizenship

- action to reduce waiting times for dealing with applications for British citizenship (paragraph);

- consider the introduction of a civic ceremony for the award of British citizenship (paragraph);

- consider amending the residence requirements in the British Nationality Act 1981 (paragraph).

Implementation

7. [Implementation of the strategy will require a major programme of work. Chapter 13 summarises those elements of the strategy which require legislation and identifies the immediate measures being taken to strengthen the control. - insert details]

CHAPTER 1 : INTRODUCTION AND CURRENT IMMIGRATION TRENDS

1.1 The fair and efficient control of immigration is one of the most important tasks for any Government. In one way or another, the operation of the immigration control affects every citizen of this country. While the main purpose of immigration control is to prevent people entering or remaining in the country if they have no right to do so, in the modern world it must also facilitate international travel by UK citizens and the vast majority of legitimate travellers who wish to visit this country. Such travel is of enormous economic and social benefit to this country.

1.2 In the light of the Comprehensive Spending Review process, the Government intends to modernise the whole approach to immigration in order to improve the quality of service to UK citizens and those who qualify to enter or remain, as well as to strengthen the necessary controls on those who do not. This White Paper sets out the overall approach which the Government proposes to adopt, based on being more open as well as fairer, faster and firmer.

Resources

1.3 A key aim of modernisation is to help staff to operate the controls more effectively and to secure better value for money. The most important asset of any organisation is its people. This is particularly true of the Immigration and Nationality Directorate (IND) where the service provided and the decisions taken so directly affect the lives of individuals and families. The staff of IND have consistently achieved impressive results despite the many pressures which they have faced. Modernisation will help to relieve those pressures and provide the framework within which the quality of service provided can be improved still further. - **[This material might instead feature in the Home Secretary's preface]**.

Recent immigration trends

1.4 The days of mass immigration to this country by those with a right to settle here are long gone. The underlying trend of settlement by spouses and dependants coming to form or join families already here, or for employment purposes, has stabilised. In 1997, there were 43,000 acceptances for settlement in these categories compared with total acceptances of 59,000. There will be a rise in the number of spouses accepted for settlement in 1998 as a result of the abolition of the primary purpose rule, but otherwise the long-term trend is unlikely to rise significantly, apart from settlement related to asylum.

1.5 The contributions made by those who immigrated to Britain and their descendants are incredibly diverse. This year sees the 50th anniversary of the arrival of the SS Windrush at Tilbury Docks on 22 June 1948. The 492 passengers and all those who followed them have made an enormous contribution to today's British society. Every area of British life has been enriched by their presence. In politics and public life; the economy and public service; medicine, law, and teaching; and the cultural and sporting elements of our national life, individuals and communities have made a positive impact, helping Britain to develop. Part of that development is in our national identity, which now reflects our multi-cultural and multi-racial society.

Economic Migration

1.6 The real pressures on the immigration control now come from rather different sources. The UK, along with the rest of Western Europe, the USA, Canada and Australia has seen a substantial increase in the number of economic migrants seeking a better life for themselves and their families. There is, of course, nothing new about individuals travelling within and across international borders to improve their economic circumstances. This has been a permanent feature of human history. But modern communications and modern travel have been significant factors in changing the nature and extent of economic migration.

1.7 The availability of rapid, mass communication means much better access to information about the opportunities and economic circumstances in other parts of the world. People living in countries with weaker economies receive daily images of the potential economic and other social benefits available in richer countries across the globe. The knowledge of such opportunities, as it has always done, provides an incentive to economic migration, but it is now available to a much larger population. And that population is better informed about the comparative benefits of different countries, whether it be in relation to the nature of job opportunities, or other factors such as distance, ease of entry, welfare facilities, family ties, chances of being removed and language and cultural or historical links. The desire to move is obviously strengthened where relative poverty is combined with political instability.

Increase in travel

1.8 In recent years, the number of passengers travelling to the United Kingdom, including British citizens returning, has increased by an average of nearly 8% each year. Over the past 5 years, arrivals rose from 55 million in 1992/93 to 80 million in 1997/98. **[insert graph to show rise in travel over last 10 years and projected rise for future years (c.f. para 1.21)].**

1.9 Most of this increase in travel stems from more people going abroad for legitimate purposes including business, study and holidays. As such, the growth in the number of passengers travelling to the United Kingdom is something which the Government welcomes and wishes to encourage. But access to cheap international travel has also provided a practical means by which economic migrants can seek to realise their desire for a better life. Rather than being confined to neighbouring countries within reach by more traditional forms of travel, economic migrants have a much wider range of choice about their country of destination.

1.10 The pressure to migrate results in individuals and groups seeking to enter the UK and other countries by whatever means they can. They cannot normally satisfy the requirements of the immigration rules. They may seek to gain entry illegally or by claiming a status under the immigration rules to which they are not entitled. For this reason, it is necessary to view the immigration system as a whole, recognising that economic migrants will exploit whatever route

offers the best chance of entering or remaining within the UK. That might mean use of fraudulent documentation, entering into a sham marriage or, particularly in recent years, abuse of the asylum process.

Growth in asylum claims

1.11 The United Kingdom is a signatory to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. These require us to offer refuge to a person who :

> "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

The Convention also requires signatories to make social welfare available to those recognised as refugees on the same basis as to its own citizens.

1.12 For almost 40 years only small numbers of people, predominantly Eastern Europeans, applied for asylum in the United Kingdom. Then, in the late eighties the total started to rise dramatically from around 4,000 a year during 1985-1988 to 44,800 in 1991. Following the introduction of measures in November 1991 to deter multiple and other fraudulent application numbers fell back in 1992 and 1993. However, applications increased substantially in 1994 and again in 1995 (to 44,000), but after falling back in 1996 (following the reduction in benefit entitlement for asylum seekers) continued rising in 1997 and early 1998. **[Insert table A attached]**.

International comparisons

1.13 Many other Western countries have also seen increases in the number of asylum seekers. Germany receives by far the most (136,000 in 1997 including dependants), followed by the UK (41,500), Netherlands (34,000), Switzerland (24,000) and France (24,000). The number applying to most European countries seems to be rising, except in Germany where there have been large reductions reflecting changes in Eastern Europe and in Germany's immigration control. The distribution of asylum seekers between countries does vary in response to a wide range of factors in both source and destination countries. In previous years other countries have received much larger numbers than the UK. **[insert table B attached]**.

Who applies for asylum ?

1.14 The majority of principal applicants are relatively young : approximately two thirds are between 21 and 34 years old, with fewer than 5% aged 50 or older. In 1997, 87% of asylum applicants had no dependants at the time of application and about 75% of principal applicants were male. It is also significant that asylum seekers in the UK come from a wide spread of source countries. **[Insert table C attached]**.

1.15 This spread changes year by year in response to economic and political changes in countries across the world, although Somalia, Sri Lanka and Turkey have featured regularly over the last 10 years. The make up of asylum applications has changed. Ten years ago applications were concentrated in a relatively small number of nationalities. There were either a lot of applications from a nationality or very few. Now there is a much more even spread of nationalities.

Who is granted asylum ?

1.16 36,000 initial decisions were made on asylum applications in 1997. Of those, 4,000 (10%) were to recognise the applicant as a refugee and grant asylum. Nearly half of those cases were nationals of the former Yugoslavia (mostly Bosnians) and 25% were Somalis. In addition, 3,100 (9%) of total initial decisions were not to recognise as a refugee, but to grant exceptional

leave to remain because of genuine humanitarian factors. Somalis accounted for over 30% of that category, Afghans nearly 20% and former Yugoslavs over 10%.

Abuse of the asylum system

1.17 There is no doubt that the asylum system is being abused by those seeking to migrate for purely economic reasons. Many claims are simply a tissue of lies. Some of these are made on advice from unscrupulous "advisers" simply as a means of evading control or prolonging a stay in the UK without good reasons. Over 80% of asylum applications are refused because they do not satisfy the requirements for refugee status. The vast majority of such failed applicants appeal, but only 6% of decisions are overturned on appeal. The abuse of the system demonstrated by these figures is also illustrated in the following examples :

- Case A : The applicant arrived at Heathrow on 17 April 1997 and claimed asylum. His application was refused on 7 May 1997. He made a series of further representations, including taking legal proceedings to obtain payment of income support. In those proceedings, he conceded that the account which he gave when seeking asylum was a series of lies. The proceedings for payment of income support also failed.

- Case B : The applicant sought entry for 3 weeks to visit her brother. Following refusal, representations were received seeking a visit for 6 months for the same purpose. When that application was also refused, an asylum claim was lodged by legal representatives who said the applicant had a well founded fear of persecution if returned to Malawi. That application was refused and the passenger detained. Upon detention, the asylum claim was formally withdrawn and the applicant asked to return home as soon as possible. Within twenty four hours, and while the return was being arranged, a renewed asylum claim was made.

Growth in immigration racketeering

1.18 The exact numbers of people entering the United Kingdom illegally each year is not known but over 20,000 were detected last year. The growing ease of international travel and the widening gap in prosperity between the UK and some third world countries makes an increase in these numbers almost inevitable. Human trafficking is on the increase. Illegal immigration is increasingly facilitated by organised criminals who use the same support structures and routes as drug traffickers. The International Organisation for Migration estimated in 1996 that human trafficking was worth US$7 billion globally. It has also been estimated that at any one time about one million people are in the process of moving to western countries as part of organised trafficking. The causes of human trafficking - economic deprivation, over-population and social and political instability - are unlikely to be resolved in the short term.

Clandestine entry

1.19 Racketeering takes many forms; clandestine entry, false documents, marriage abuse, fraudulent asylum claims. The introduction of carriers' liability legislation and greater vigilance by airline staff at ports of embarkation has seen a resurgence in clandestine traffic, largely moribund throughout the 1980s. Immigrants are often obliged to work for their facilitators after entry in order to pay off their journey costs, in employment where pay and conditions are very poor and where their reluctance to complain is ruthlessly exploited. Others with no legitimate sources of income resort to crime to survive. It is difficult to estimate the true scale of the problem, but in 1997 there were over 4,000 known incidents of clandestine entry compared to under 500 in 1992. This method of evading the immigration control is continuing to increase with over 2,000 known cases in the first four months of 1998.

Forged documentation

1.20 Other forms of racketeering are also on the increase. Unscrupulous legal representatives provide legal services and coaching for fraudulent asylum claims, "fixers" arrange marriages of convenience, some immigration advisers use fraud and deception to obtain legal residence for

their clients. Criminal groups are realising that illegal entrants with no recourse to the authorities are fair game for exploitation in other ways, such as prostitution. Entry is often facilitated by means of fraudulently obtained documents or increasingly sophisticated forgeries. In 1997, around 4,500 suspect travel documents were
detected, over 70% of which were European Economic Area documents. This represents a 26% increase on 1996 figures, with current figures suggesting a further rise to in excess of 6,000.

Expected future trends

1.21 The pressures on our immigration control are likely to continue to increase. The growth in passenger arrivals over the next few years is projected to average about 5% a year, increasing the number of arrivals to about 97 million by 2001\02. As at present, the vast majority of these passengers will be legitimate travellers. It will be vital to our business and other interests that they should be admitted quickly. But, unless action is taken, that growth in traffic will also bring a substantial increase in the number of inadequately documented or otherwise inadmissible passengers with whom our immigration control must also be able to deal quickly and firmly.

1.22 The trend in asylum applications (excluding dependants) in the UK on current form is for further increases to nearly 38,000 in 1998\99 and to 44,000 in 1999\00. At that rate, there would be about 50,000 applications in 2000\1. It is asylum applications which will have the greatest impact on the settlement figures in the coming years. Most of the projected increase in the settlement figures from under 60,000 in 1997 to just over 80,000 in 1999\00 is related to asylum, although family formation and reunion will remain the largest category.

CHAPTER 2 : POLICY PRINCIPLES

2.1 Any strategy for immigration control must, as well as reflecting operational requirements, satisfy fundamental policy principles.

Fair, fast, firm - and open

2.2 Every country must have firm control over immigration and Britain is no exception. This Government will not allow our controls to be abused with impunity and will ensure that the controls are modernised and staff equipped to carry out their tasks effectively. But we shall also ensure that controls are operated speedily and fairly. The vast majority of passengers arriving at our ports or applying to remain here have legitimate reasons for doing so. The control must operate in a way which provides them with a fast and efficient service and so help to promote travel and business which contribute substantially to our economy. All staff applying the Government's immigration and nationality policy will observe these central principles of being fair, fast and firm; and will carry out their duties without regard to the race, colour or religion of any person seeking to enter or remain in the United Kingdom, or applying for citizenship. The Government believes that greater openness is essential in a fair, fast and firm immigration control.

Key objectives

2.3 In furtherance of these broad statements of policy, the key objectives of the Government's policy on immigration and nationality are to :

- welcome genuine visitors and students who wish to come to the United Kingdom;

- support family life by admitting the spouses and minor dependent children of those already settled in the United Kingdom;

- ensure that asylum decisions are both swift and fair and fully meet the United Kingdom's obligations towards refugees under international law;

- grant entry to those who qualify for periods of work in the United Kingdom;

- maintain a fair and effective entry clearance operation at United Kingdom posts overseas;

- give effect to the "free movement" provisions of European Community law while retaining controls at frontiers, operated by a civilian Immigration Service;

- detect and remove those entering or remaining in the United Kingdom without authority and take firm action against those profiting from abuse of the immigration laws, including effective preventative measures; and to

- grant applications for citizenship to those meeting the specified criteria.

European and International Context

2.4 By its very nature, immigration control has to function in an international context. We subscribe to various sets of international rules which govern our actions and also benefit from international co-operation - in sharing intelligence, in mounting joint operations and in developing joint policies - which is essential if we are to tackle trafficking which is itself organised on an international scale.

International obligations

2.5 Two of the principal international conventions of relevance in this field are the 1951 UN Convention on Refugees, and the 1950 European Convention on Human Rights (ECHR). Both conventions were signed with all party support and the UK's obligations arising under them

have been scrupulously observed by successive governments. The Government works closely with UN officials in seeking to make the Convention on Refugees work in a fair and sensible way. Legislation is currently before Parliament to allow people access to their rights under the ECHR in our domestic courts. The Human Rights Bill currently before Parliament makes it unlawful for public authorities to act in a way which is incompatible with the Convention rights. This will apply, for example, to decisions of immigration officers, special adjudicators, and the Secretary of State. The Government is also committed to implement European Community provisions on free movement for EC nationals and their dependants. At the same time the Government will continue to ensure that those rights, particularly as they concern third country national family members, are not abused. [The Government is therefore determined to ensure that marriages of convenience with an EC nationals - that is, marriages which are totally bogus - are not used as a means of obtaining residence in the United Kingdom.]

International co-operation

2.6 Traffickers operate across all continents. No prosperous western country is immune from being targeted. Complex routes involving a mix of countries can be followed to evade controls. Profits and payments are likewise distributed on an international scale. It is essential if law enforcement agencies are to control this that they too must work internationally and the Government is strongly committed to developing such co-operation. We were the first country to ratify the Europol convention. We have played an active part in work to develop the "Eurodac Convention" to create a computerised central database of fingerprints of asylum seekers across the European Union and have supported its extension to all illegal migrants. We shall continue to strengthen co-operation of this kind.

Retaining frontier controls

2.7 The United Kingdom has traditionally had the main focus of its immigration control at the point of entry. For the United Kingdom, frontier controls are an effective means of controlling immigration, and of combatting terrorism and other crime. These controls match both the geography and traditions of the country and have ensured a high degree of personal freedom within the United Kingdom. This approach is different to the practice in mainland Europe where, because of the difficulty of policing long land frontiers, there is much greater

dependence on internal controls such as identity checks. We need to recognise these differences.

2.8 The Government has already made clear its commitment to maintaining the United Kingdom system of frontier controls and we have translated that commitment into practice. In the negotiations last year in the Inter-Governmental Conference which culminated in the Treaty of Amsterdam, the Government sought and obtained legally binding confirmation that the United Kingdom could continue to maintain its internal frontier controls at the frontier with other Member States of the European Union.

2.9 The Amsterdam Treaty also provides for new arrangements, including the incorporation of the Schengen provisions, for co-operation in immigration, asylum, police and customs matters. The UK obtained various rights to opt into such co-operation in a flexible way so as to enable us to preserve our particular approach where necessary while also participating in those areas of co-operation which we judge important.

2.10 The Government will give careful consideration to the future exercise of these rights. In doing so we will take full account of three factors : the need to ensure effective co-operation within Europe in tackling organised crime (in which the United Kingdom has always played an active role); the need to preserve the United Kingdom system of frontier controls (as part of the Common Travel Area operated jointly with the Republic of Ireland, the Isle of Man and the Channel Islands); and the maintenance of United Kingdom control of policy on immigration and asylum.

Promoting good race relations

2.11 The Government believes that a policy of fair, fast and firm immigration control will help to promote good race and community relations. One of this Government's central themes is tackling the problems of racism and creating a society in which all our citizens, regardless of background or colour, enjoy equal rights, responsibilities and opportunities. Race and community relations have, therefore, been high on the Government's agenda since it came to power.

2.12 This is being taken forward in a number of ways already, which will develop and grow throughout this Parliament. In the Home Office this includes:

- consideration of specific amendments to the Race Relations Act 1976 **[Note: May be able to say more in final version].**

- the introduction of specific offences of racially aggravated violence and harassment in the Crime and Disorder Bill.

- establishing the inquiry into the murder of Stephen Lawrence and the lessons which can be learnt.

- participating in a new Council of Europe group examining ways in which democratic states can best respond to the threat to human rights from racist and other movements.

2.13 The Government is keen to encourage debate both with and amongst ethnic minorities. The Home Secretary has therefore set up a Race Relations Forum to give ethnic minorities a voice at the very heart of Government. The first meeting of this was on 23 June.

<u>Encouraging citizenship</u>

2.14 One measure of the integration of immigrants into British society is the ease with which they can acquire citizenship. Acquiring a new citizenship is an important event. For both the individual and the nation, it brings new rights, new responsibilities and new opportunities. The Government believes that encouraging citizenship will help to strengthen good race and community relations. Applications for citizenship should be dealt with more quickly and new ways should be found to signify the importance of acquiring British citizenship. **[add in paragraph on citizenship ceremonies]**

CHAPTER 3 : FAILINGS OF THE CURRENT SYSTEM

3.1 Our current system of immigration control is too complex. In recent decades it has failed to keep pace with outside developments. Past attempts at change have been piecemeal. Typically solutions to a problem in one area have often created another elsewhere. Despite the professionalism and dedication of staff at all levels, the complexity of some rules, too many out-dated procedures and chronic under-investment make it increasingly difficult for the system to deal quickly with those entitled to enter or remain and to deal firmly with those who are not. The Government does not underestimate the challenge which a complete overhaul of the immigration and asylum system presents. The issues are complex and, because of their impact on the lives of individual people and their families, extremely sensitive. Nevertheless, the Government is determined to undertake a comprehensive modernisation of our controls in order to deliver the fairer, faster and firmer policy to which this Government is committed.

Delays and backlogs

3.2 Large and persistent backlogs have been allowed to develop throughout the system.

- Asylum applications : On [31 January 1998], there was a backlog of 51,500 asylum applications on which not even an initial decision had been taken. 10,000 of these applications were over 5 years old. [insert attached pie chart]

- Appeals : [On the same date] there was a backlog of 33,480 immigration appeals waiting to be heard. Of these, over 70% were asylum cases. In London, appeals can wait for up to 60 weeks for a hearing. Once heard, there can be a delay of up to 3 months for the adjudicator's decision to be communicated. More applicants in the UK awaiting an asylum appeal have a vested interest in these delays.

- Citizenship applications : On 31 March 1998, there were about [90,000] incomplete citizenship applications. Waiting times were about 18 months on average.

3.3 Delays and backlogs on this scale lie at the heart of the problem. They put unnecessary pressure on the staff who have to operate the system. They are not fair to genuine applicants who face long periods of uncertainty about the outcome of their application. They make it extremely difficult to deal firmly with those who have no right to be here. Tackling these delays and backlogs requires fundamental change to the system of control.

Costs

3.4 The costs of the present system are substantial and, unless something is done, guaranteed to grow quickly. The current cost of the control at ports of entry is about £120 million a year, but the estimated growth in passenger traffic suggests a potential funding requirement of around £150 million by 2001/2 unless a dramatic improvement in the operation of the control can be secured. In addition to volume growth, the nature of the challenge to the immigration control is also changing. The substantial profits generated from organised trafficking in people enables criminal gangs to develop ever more sophisticated means of evading controls. If we are to respond to that challenge, we must be prepared to invest in more sophisticated methods of control.

3.5 But it is again the asylum system where the costs are greatest. It is estimated that the current asylum system costs more than £500 million a year. About £100 million is spent on processing individual applications. This includes the initial decision on the application, dealing with any appeal and the costs of enforced removals. But the bulk of the estimated costs, about £400 million, is spent on supporting asylum seekers, including direct support and other costs such as health and education. The current support arrangements are complex and expensive. Unless action is taken to rationalise those arrangements and deal with asylum applications more

quickly, the costs of the asylum system are expected to almost double to £900 million within five years.

Inadequate control resources

3.6 Although some additional resources have been provided in recent years, they have not been sufficient to cope with the additional pressures on the control. The result has been the delays and backlogs already described. In relation to asylum, those backlogs have substantially increased the cost of the support arrangements for asylum seekers. Better resource planning and allocation to provide adequate resources for asylum casework would have saved much greater sums on support costs. We have to invest in order to improve the system, but the system itself must be made more efficient. A modernised and flexible control is needed to make the best use of available resources.

Outdated procedures

3.7 The previous administration failed to modernise and adapt immigration and asylum procedures in the face of changing demands:

- the legislative framework has not been adapted to enable the controls to be operated efficiently in the interests of the vast majority of legitimate visitors and to enable attention to focus on those who have no right to enter or remain;

- there are too many avenues of appeal which delay genuine cases and which are easily manipulated by those not entitled to remain here;

- there has been a lack of investment in technology which has prevented the development of new procedures at our ports of entry to cope with the increasing volume of passenger traffic and increasingly organised and sophisticated attempts to evade the control;

- throughout the system, there has been a failure to establish coherent arrangements for the use of intelligence to enable resources to be targeted more effectively.

Complex procedures

3.8 The more complex a system of immigration control, the greater the risk of unfairness. Complexity encourages delay which can disadvantage the genuine applicant and be exploited by those wishing to abuse the system. And the more complex the procedures, even though they are applied fairly, the greater the risk that particular categories of applicant could be disadvantaged. The primary purpose rule was a good example. Immigration staff and the appellate authorities were required to make difficult judgements about the primary purpose of a marriage. It simply clogged up the system, diverted staff from more effective work and disadvantaged British citizens as compared with other EU nationals to whom the rule did not apply for marriage and settlement in the UK to a non-EEA national.

3.9 The Government has already abolished the primary purpose rule. But we are determined to simplify procedures where possible and consider additional safeguards in some areas. Such changes will make the system more efficient and make it fairer. For example:

- the current "White List" procedure for accelerated appeals is an inefficient way of dealing with unfounded asylum applications. It needs to be reformed as part of a comprehensive overhaul of the asylum and appeals process;

- rather than tackle the complexities of the current system of immigration appeals, the previous Government decided to deny any right of appeal to visitors refused a visa. We believe that was wrong. A streamlined right of appeal would be fairer and would enable many citizens of this country to challenge decisions which prevent their relatives and friends visiting them for important family and other occasions.

Piecemeal approach

3.10 The individual failings in the current system have been compounded by a failure to examine immigration control as a whole and its impact on other areas of public spending. Changes have been made in one part of the control without addressing the implications for the system as a whole. As a result, the changes have not worked because it has been too easy to exploit weaknesses elsewhere in the system, or they have simply shifted the problem from one area to another.

3.11 Previous attempts to restrict or remove benefits for asylum seekers produced an unexpected and unwelcome new burden on local authorities and local taxpayers. Because the previous Government did not seek a comprehensive and coherent solution to the provision of support for asylum seekers, local authorities had to pick up a substantial and growing bill for supporting those who were destitute. As well as being unintended, the burden has fallen disproportionately on those local authorities, particularly in London [and Dover], whose areas tend to attract a larger number of asylum seekers.

3.13 The piecemeal approach has produced a system of control which is unnecessarily complex. Delays in operating the system, and the numerous avenues of appeal once decisions have been made, mean that it is vulnerable to abuse. The following case summary illustrates the problems. Without comprehensive change, there is a very real risk that the system will be unable to cope with future pressures.

Case summary

June 1985	:	Admitted for two months, subsequently extended to December 1985 to remain as a student.
December 1985	:	Application to remain longer as a student. Refused June 1986.
January 1987	:	Appeal against refusal dismissed. Further application to remain as student refused March 1987.
March 1987	:	Application for leave to appeal to the Tribunal. Refused.
July 1987	:	Asylum claim lodged.
October 1989	:	Asylum claim refused. Refusal papers undelivered as applicant had moved.
January 1991	:	Applicant traced and told to leave the country. Further application made to remain on basis of marriage.
May 1991	:	Application refused.
March 1993	:	Deportation notice served. Applicant appeals, renewing asylum claim.
September 1994	:	Asylum claim refused. Fresh deportation notice served. Applicant appeals.
August 1996	:	Appeal dismissed.
January 1998	:	Deportation order signed.
February 1998	:	Applicant detained and deported.

CHAPTER 4: THE WAY AHEAD - AN INTEGRATED APPROACH

4.1 The failings of our current system of control demand that we adopt a new approach. We cannot continue to tackle each problem in isolation. This just shifts problems from one area to another, often increasing the overall cost to the public purse, without tackling the underlying causes of those problems. This would perpetuate the inefficiencies which, despite the dedication and hard work of immigration staff, have produced the delays and backlogs already described. And this would play into the hands of the racketeers and organised criminals who seek to exploit any weakness in our immigration controls for their own profit.

4.2 The only way of addressing the problems which this Government inherited was to undertake a fundamental review of the whole system of immigration controls from start to finish, from initial applications overseas through to permanent settlement, citizenship or removal abroad. That is what we have done. Although that process has inevitably taken some time, it has confirmed the need for an integrated approach to maximise the efficiency of the system as a whole.

Review Process

4.3 As part of the Comprehensive Spending Review process, there have been cross-departmental studies of the entry clearance operation; the system of control at ports of entry; and the asylum process, including the arrangements for supporting asylum seekers. In addition, although not formally part of that process, consultation documents have been issued following reviews of the asylum and immigration appeals system and the options for controlling unscrupulous immigration advisers. There have also been a number of other Home Office reviews, including one on all aspects of detention policy.

Main Themes

4.4 Each of these studies has identified strong links between different parts of immigration control and of the importance of examining the system as a whole. For example:

- Pre-entry controls have a key role to play in reducing pressures on the port control and the asylum system;

- Measures to deal with problems in a single area, such as asylum, are almost bound to fail. Those migrating for economic reasons simply try to exploit any other weakness in the system;

- There is a need for closer co-ordination within Government to establish and deliver objectives for the system as a whole;

- Greater flexibility to target resources at key points would help to minimise costs for the system as a whole rather than simply shift the problem from one area to another;

- Some problems, such as those caused by inadequately documented passengers, arise in different parts of the system. Devising separate solutions at each stage is wasteful and ineffective;

- Making better use of IT would improve information flows throughout the system and provide new opportunities to integrate different parts of the control. The result would be a more efficient system for the genuine traveller and one less vulnerable to abuse;

- More and better use of intelligence, including closer co-operation between the various agencies, would help to target resources more effectively at all stages of the control.

The Way Ahead

4.5 The Government is convinced that an integrated approach provides the way ahead. It will enable the development of a more coherent, more flexible, more streamlined and more efficient control which is capable of meeting the challenges of the modern world. The following chapters set out the Government's plans to put in place an integrated and modernised immigration control.

CHAPTER 5 : PRE-ENTRY CONTROLS

5.1 Over recent years the contribution of the pre-entry element of our immigration control has become ever more important. It now plays a critical role in delivering the Government's overall immigration policy objectives. As the desire to come to the UK for economic betterment has increased, attempts to circumvent our control, both by individuals and by criminal organisations, have grown correspondingly. The large numbers of fraudulent claims and the use of forged and stolen documents are the visible evidence of an increasing awareness of how any loophole or potential loophole in the immigration control may be exploited. These developments threaten to undermine the effectiveness of our immigration control as well as causing misery and hardship through the exploitation of vulnerable people.

5.2 It is therefore vital that we ensure that those passengers who have no claim to come to the UK are prevented from doing so. We rely heavily on an effective pre-entry control, with the use of visa and transit visa requirements, together with clear explanations of our policies in countries overseas. The entry clearance arrangements must also reflect the wider interests of the United Kingdom. We need to ensure that visitors, businessmen, students and others whose activities benefit the UK feel encouraged to come here. The Government is committed to ensuring that all those who have a genuine reason to come to the UK are allowed to do so with as little inconvenience as possible. Our commitment to maintain a fair, fast and effective entry clearance operation at posts overseas is based on that. We also recognise that many applicants have relatives who are settled here and have a right under the Immigration Rules to join them. The Government intends to maintain high standards of service and ensure that procedures are fair.

5.3 For the United Kingdom, as for most other countries, visa regimes have become an essential part of immigration controls, in preventing the entry of inadmissible or undocumented passengers. At the same time, well managed visa operations can play an important part in facilitating the entry of the individual passenger. Obtaining a visa in advance can provide a basic assurance that the traveller is likely to be admitted to the United Kingdom, speeding up entry at the port, to the benefit both of the individual and of other passengers. The Government

believes that there is scope for developing this process even further, so that the issue of the visa would be combined with the grant of leave to enter, subject only to an overriding power, for use only in clearly defined circumstances, to refuse entry to someone with a valid visa.

5.4 In recent years, many countries, including the United Kingdom, have found that transit visa requirements have become increasingly necessary to close off loopholes in immigration control. The facility of allowing passengers to travel without a visa if they are in transit by air to a third country is open to abuse both by individuals and, more significantly, by racketeers and facilitators. In respect of the countries whose nationals feature most significantly in this abuse, transit visa requirements have unfortunately become necessary. The Government recognises the effect that these requirements can have on the commercial activities of airports, airlines and individual businesses. These concerns weigh heavily, and in relation to individual countries the Government will set them alongside the costs of allowing unauthorised people to come here with the intention either of making an unfounded asylum claim, gaining access to social security funds, or of working illegally. The Government will maintain the requirement for transit visas where on balance these are justified and extend them where the risk of immigration abuse is significant.

Overhaul of entry clearance procedures

5.5 If someone is inadmissible to the United Kingdom it is in everyone's interests to decide this before they set out. Although the administrative costs of handling applications overseas are quite high (because it is expensive to post staff abroad), these costs are covered by visa and entry clearance fees. Moreover, preventing inadmissible passengers from coming here avoids the costs of dealing with a refusal case in the UK. These can include detention costs (in a small percentage of cases), removal costs, and the costs, which can be substantial, of financial support, health and education while the individual is actually in the UK. A balance has to be struck so that groups of passengers who are likely to be admissible to the UK are dealt with on arrival, but groups or categories which include a significant proportion whose cases are complex or who are inadmissible are pre-cleared through visa and entry clearance requirements.

5.6 Generally the entry clearance operation at UK posts overseas is effective, fair and efficient. But it must be responsive to changing needs. We have therefore reviewed the management of the entry clearance operations overseas to ensure much greater integration with other elements of the immigration control. A core element of the new approach will be a single unit in the UK to manage the overseas operation, drawn from Foreign & Commonwealth and Home Office staff. We intend to exploit the opportunities of up-to-date information technology so that the processing of entry clearance applications and their subsequent reception at the ports and after entry can be done as swiftly as possible and to reduce the possibilities of frustrating the control by destroying documents or using forgeries.

A streamlined right of appeal for visitors refused a visa

5.7 The Government's manifesto commits it to introduce a streamlined right of appeal for visitors denied a visa. The Government proposes that this right of appeal should be restricted to those who wish to come to the United Kingdom to visit a family member but who are refused a visa to do so. Primary legislation will be required to provide this statutory right of appeal.

5.8 Any appeal against a refusal to grant entry clearance as a visitor will, if it is to serve any useful purpose, have to be heard quickly and a determination issued at the conclusion of the hearing.

5.9 There is no new money to fund appeal rights for visitors. The Government therefore proposes that those who wish to appeal against a refusal to grant entry clearance as a visitor should pay for the costs of their appeals. [Applicants will, of course, continue to have the right to put in a new application.] The Government envisages that it will be possible for appellants to have an appeal which will be decided by the Immigration Appellate Authority on the basis of the available papers. Alternatively, appellants will be able to have a full appeal involving witnesses. [The charges for either form of appeal will be based on recovering the full cost of providing the service. **- Final text depends on outcome of current negotiations on resources**]

Bond scheme for visitors

5.10 The great majority of those who apply for visas to visit the UK do so successfully. However, we are aware of concerns expressed about some refusal decisions which focus on whether a visitor is genuine and intends to leave the UK at the end of their stay. Visa officers face difficult decisions in this area which inevitably involve a degree of subjective assessment.

5.11 We have therefore decided to examine the feasibility of introducing a financial bond scheme for visitors to the UK. This would enable visa officers who have doubts about a visitor's intentions to require their sponsor to deposit a financial security, which would be forfeited if the applicant did not leave the UK at the end of their visit. Such a scheme could provide a quick and simple route to a decision in cases of doubt, and a very effective sanction against abuse of the visitor rules. [resource issues ?]

Strengthening the Immigration (Carriers' Liability) Act 1987

5.12 Immigration control has been under considerable pressure over the last 10 years from an increasing number of inadequately documented passengers arriving in the UK. The Immigration (Carriers' Liability) Act 1987 was introduced to stem the flow of inadequately documented arrivals. Many carriers are now subject to large numbers of charges (currently £2,000 for each inadequately documented passenger) and the majority are therefore prepared to work closely with the Immigration Service with the objective of reducing the number. Among the steps they take are investment in training of their staff and the denial of boarding to passengers whose travel documents are not in order. Since the Act was introduced the Immigration Service have conducted over 450 training visits for around 150 carriers in over 90 different countries. Evaluation suggests an average reduction of at least 30% in the number of inadequately documented passengers they bring to the UK. The Government intends to develop this partnership with carriers to help them with their responsibilities under this Act.

5.13 The Government will ensure that the Immigration (Carriers' Liability) Act 1987 remains a central element of immigration policy and that it is used effectively. We extended its provisions in April to passenger train services from Belgium using the Channel Tunnel to reduce the large numbers of inadequately documented passengers arriving by that route. This worked very effectively and the numbers have now substantially reduced. We will not hesitate to take similar action elsewhere if necessary. We still face difficulties with passengers arriving from Paris on Eurostar services where legal difficulties in France have prevented us from extending the provisions of the Act. [Position after Meeting at the end of June]. The Immigration (Carriers' Liability) Act 1987 is an important and effective deterrent, although there have been some practical difficulties in its operation in particular late or non-payment of debt by a few airlines. The Government is looking at ways of ensuring fuller carriers' compliance. This may entail reinforcement of the current legislation.

Other measures

5.14 Entry clearance and the Immigration (Carriers' Liability) Act 1987 are important to our immigration control. But their effectiveness has been undermined in recent years by racketeers and organised crime exploiting and facilitating economic migration by people who are not entitled to enter the UK. Better forgeries, an increasing trend for people to impersonate others, and increasing numbers of passengers destroying their documents just before their arrival in the UK, are all combining to counter the responsible attitude and diligent efforts by most carriers to prevent the carriage of inadequately documented passengers.

5.15 The Government intends to take a tougher approach to deterring and preventing the arrival of inadmissible passengers. It is easier and more cost effective to deal at source with abuse of our immigration laws and stem migratory pressures. Where problems arise suddenly in relation to particular destinations or nationalities, the Government will put in place pragmatic and speedy responses. These will include responding to potential immigration pressures by engaging Ministerial counterparts in the countries concerned; using radio and television networks abroad to correct any miscinceptions that the UK is a "soft touch"; and regular and ongoing action at diplomatic level to ensure that other countries are fully aware of our

determination to tackle abuse of our control. At the same time, the Government will draw to the attention of other Governments any issues which may be giving rise to immigration pressures or concerns, for example on the part of minority groups.

5.16 Immigration officials are often sent to other countries to liaise with carriers to stem the flow of inadequately documented passengers coming to the UK. Developing our intelligence system, and strengthening operational co-operation with other countries, will be important in helping us to identify trends and tackle trafficking. We intend to continue to develop this approach to surveillance to facilitate the identification of inadequately documented passengers on arrival and to identify the inward carrier. This has already been successfully trialled at Heathrow. Similarly, in collaboration with business partners, extended use of CCTV has also been successfully trialled, and will be further developed where it is likely to prove effective.

ALOs

5.17 One of the most effective preventative measures undertaken recently by the Immigration Service has been the placement of five Airline Liaison Officers (ALOs) overseas, working with authorities, carriers and the Immigration Services of other countries to provide advice and training to airlines, and to combat document and other frauds. International co-operation, in which ALOs have played a major part, has stopped several large groups of inadequately documented passengers from reaching western Europe and north America : 120 were returned to their point of departure by the Cambodian authorities, 50 by the authorities in Lesotho. ALOs were also involved in preventing the attempted movement by sea from Africa of approximately 200 inadequately documented passengers. This group was eventually repatriated under the auspices of the International Organisation for Migration.

5.18 Despite these successes there were over 13,000 inadequately documented arrivals last year, an increase of 17% on the previous year. This trend continues upwards except in locations served by ALOs where the flow has been reduced. The existing network costs around £600,000 a year, but as a result of their work around 1,800 inadequately documented

passengers will have been denied boarding to the UK over the past year. It is estimated that this will have saved the welfare systems here in excess of £14 million.

5.19 The Government has, therefore, decided to expand this network. It is expected that an overall investment of £3 million will further reduce the number of inadequately documented passengers arriving in the UK and could save the Exchequer up to £40 million by avoiding the costs of processing and supporting those people here. During the current financial year we plan to increase the network in six locations, selected on the basis of the number of inadequately documented passengers originating from or passing through them. We are currently discussing this with the relevant host Governments and airlines. In the longer term, probably by the end of 1999, we will wish to increase the network to around 20 ALOs, which will mean 15 additional posts in all.

CHAPTER 6 : ON-ENTRY CONTROLS

6.1 The United Kingdom has always been a major centre of international trade and travel. That role has brought us many social, political as well as important economic benefits. It is essential that the controls at our ports of entry, which are fundamental to our whole system of control, should be fast, efficient and effective. We must be able to deal quickly with those who have a right to be here and genuine visitors, whether for business, study or pleasure, but be able to identify and deal firmly with those who seek to circumvent the control.

6.2 Over the past five years, the number of passengers arriving in the United Kingdom has increased by nearly 50%. Staffing levels at our ports of entry have risen by less than 10% over the same period and so processing that increase in the number of passengers represents a considerable achievement. The imposition of additional visa requirements has certainly helped to relieve some of the pressure. In addition, there has been substantial investment to set up a computerised Suspect Index. It has helped to speed up the process of passenger clearance while strengthening checks for inadmissible passengers. But the Immigration Service has also introduced a range of efficiency measures in order to expedite the clearance of genuine passengers and make procedures as efficient and effective as possible.

<u>Making better use of resources</u>

6.3 There have been a number of initiatives to make better use of existing resources at ports of entry. They include :

- the introduction of new shift patterns to maximise staffing levels at peak periods;

- working in close partnership with carriers and port operators to improve the procedures for dealing with passengers;

- improvements in queue management;

- the introduction of Assistant Immigration Officers both to ensure that routine work is carried out at the appropriate level to release more Immigration Officers for frontline duties.

- performance standards for passenger queuing times, published in national and local operating plans. The Directorate has also developed mechanisms to monitor workload and quality of performance against its objectives, to help it focus on priorities.

- a system to investigate complaints, overseen by an independent Complaints Audit Committee, has helped identify and address procedural problems.

Better targeting of resources

6.4 As well as making the best possible use of existing resources, it is also essential that the maximum use is made of intelligence to target resources where they will be most effective. Initiatives of this kind which have already been implemented include :

- in April the Government reconfigured embarkation controls along the lines of an intelligence and target-led operation involving a partnership between enforcement agencies, carriers and port authorities.

- And at Dover East a streamlined control is in operation to handle large volumes of European Union nationals who arrive by car and on board coaches. Drivers of freight vehicles who are not subject to control are not systematically examined. Resources are instead focused on intelligence-led targeting of suspect vehicles to detect clandestine entrants.

6.5 These measures have helped the staff at our ports of entry to deal with more passengers and to increase control operations. As a result, it has been possible to meet most of the recently

published service standards. But the volume of passenger traffic, and the demands from new airports and new terminals at existing airports, will continue to grow. Without modernisation and greater operational flexibility, so that resources are targeted more effectively on tackling abuse and clandestine entry rather than routine work, it will become increasingly difficult to maintain effective frontier controls, cope with passenger growth,

deliver the kind of service standards that facilitate trade, tourism and education, and maintain the United Kingdom's position as an international hub.

Improving control facilities

[6.6 Insert passage about need to improve control facilities. Develop on a partnership basis with port authorities, but also intend to extend\clarify reserve powers to direct port authorities to provide accommodation and facilities for the control. Mention that in due course the Government will be looking in more detail at the options for recovering a greater proportion of costs of immigration control from [users\commercial organisations] rather than from the taxpayer generally.]

Greater operational flexibility

6.7 The Government believes that greater operational flexibility is essential in a modern immigration control. Resources must be able to be deployed rapidly to areas of greater risk. Our current controls are based on the grant of written leave to enter or remain. The Government intends to retain the fundamental concept of leave and thus ensure all arriving passengers should continue to be seen by immigration staff. But there is scope to adapt the form and manner in which the control is carried out to improve its effectiveness. For example, there is no reason in principle, subject to safeguards (including data protection requirements) and availability of the appropriate technology, why there should not be an electronic record of leave to enter or remain rather than persist in every case with a system of stamps in passports which was designed for another age. Quite apart from new technology, there are also opportunities to operate the controls more effectively by integrating the procedures so that the issue of a visa or entry clearance may also be treated as leave to enter, or by allowing multiple visits within the validity

of a visa or for the period of extant leave previously granted. This will enable staff to be deployed from more routine tasks into areas of highest risk.

6.8 Our current legislation places too many constraints on the way in which we carry out our controls by specifying in too great a detail how those controls are carried out. It does not meet existing needs and will become much more inefficient as technology develops further. Our objective is to modernise the control by creating maximum flexibility. In the Government's view that is best done by retaining the requirement to obtain leave but removing the requirement that it must always be given in writing. There will need to be a new power enabling Ministers to specify in secondary legislation the form and manner in which leave is to be given. Primary legislation will be needed for these changes.

6.9 Initially, we will use this power to enable us to allow leave to be given by Entry Clearance Officers; to allow leave to be used more than once (in the case of returning residents); and to operate tour group and small ports schemes. In addition the power would enable us to extend flexibility (by secondary legislation) to make further changes in future - for example to enable us to exploit new technology.

6.10 We also intend to take powers to require all carriers to advise the Immigration Service when they are carrying a third country national on a journey which ends in a small port in the UK (ie principally charter flights which are predominantly occupied by British citizens.) We shall make sure that primary legislation gives sufficient scope to ensure that immigration controls can be modernised in the light of developments, whether technological or otherwise, consistent with ensuring that a firm control is maintained and that the essential requirements of fairness continue to be met.

Making better use of IT

6.11 A modern and integrated immigration control must make the maximum use of information technology (IT). Information and intelligence gathered at one stage of the process

must be available elsewhere in the system. Not only will this help to provide a better service by speeding the passage of those entitled to enter, but effective use of IT will
enable better targeting of individuals and organised criminal groups who seek to abuse the system.

6.12 The Immigration Service has computerised some administrative processes, including checks against the Suspect Index. The computerisation of immigration, asylum and nationality casework, coupled with changes in working practices, represents a major enhancement and modernisation of administrative and casework systems. The Government believes that recent and future technological advances open the possibility of using IT to support the integration of pre-entry, on-entry and enforcement activity and to help modernise the labour intensive process of passenger clearance. One element of such an approach might be the use of automated pre-clearance systems. Accordingly, the Government intends to undertake a study of the available options. As part of that study, we will explore the potential for a private\public partnership for new capital investment.

<u>An intelligence -led approach</u>

6.13 Fundamental to the changes proposed in this chapter is the efficient use of intelligence to target resources. The current arrangements are too fragmented. The increased involvement of organised crime in immigration abuse requires a more sophisticated use of intelligence at all stages of the process. The Government will develop an integrated intelligence network that links and supports the pre, on and after entry control.

6.14 There are now many links between immigration abuse and other forms of crime, in particular drug trafficking. It is important that intelligence is co-ordinated between agencies and that experience is shared to make best use of resources. Accordingly, the Government will develop co-operation and closer working between border agencies, with exchanges of staff in intelligence and operational areas and the sharing of facilities. [insert reference to NCIS\Europol]

CHAPTER 7 : AFTER-ENTRY PROCEDURES AND APPEALS

7.1 An integrated approach to immigration control requires that we modernise the after-entry controls and procedures in parallel with changes elsewhere in the system. Just as at ports of entry, the after-entry procedures must provide a quality service to those entitled to remain and be able quickly to identify and remove those with no right to be here. This means:

- efficient and modern procedures for dealing with applications quickly;
- open and fair policies which sustain public confidence in the effectiveness of the control;
- an appeals system which provides a fair opportunity to review decisions, but does so quickly and minimises the scope for abuse.

Modernisation

7.2 The Casework Programme is an IT-led business change initiative whose aim is to modernise the way in which the Immigration and Nationality Directorate (IND) deals with immigration, asylum and nationality casework. Under a PFI contract which was awarded in April 1996, IND is working with a private sector partner, Siemens Business Services, to introduce fundamental changes in how work is done. The organisational changes include a new "Integrated Casework Directorate" which will handle the casework currently dealt with in five separate IND Directorates; a new Case Management Unit structure in which each unit will deal with a case from start to finish rather than continue the present narrow specialist approach; and a move away from the present hierarchical system of decision-making towards a more devolved structure.

7.3 At the same time we are introducing a new computerised integrated caseworking system which will replace the paper-based methods on which IND has relied until now. This will provide a single database of applicants' details and will mean that telephone enquiries can be

resolved without first having to obtain a paper file. Similarly, when action on a case passes from one part of the organisation to another it will no longer be necessary to transfer a paper file. This will offer substantial advantages in speed and security.

7.4 A "fast track" system will enable straightforward immigration cases to be dealt with immediately: the majority of these will be completed on the date of receipt. The new computer system will support caseworkers by providing on-line access to relevant legislation, instructions and guidance and will allow improvements in the quality control of the decision making process.

7.5 Like almost any large new IT system the rollout of this important programme has been delayed somewhat because the detail of the caseworking requirements and the associated business process changes have introduced more technical complexity into the solution than was originally planned for. Despite this, development of the computer system development of the computer system and the other new arrangements is well advanced and staff are now going through a variety of training programmes to prepare them for these changes. Together, the new ways of working and the introduction of computers will improve considerably the efficiency of IND's casework operations and the standard of service which the Directorate provides. The team-based working methods and the computerisation of immigration records will provide a basis for improvements in identifying fraud and abuse of the immigration and nationality processes. In this way the Casework Programme will help to deliver the policy objectives of "fairer, faster, firmer" control.

7.6 The Government is also modernising other aspects of the after-entry procedures in order to focus resources more effectively. The requirement for foreign nationals to register with the police was originally introduced during the First World War as a wartime measure. It has been reviewed on a number of occasions since then. Following the most recent review, during which a range of interested parties were consulted, significant changes have been made to the scope of the scheme to reflect current requirements. These changes were implemented in May 1998. The changes focus the scheme more closely on those cases where experience shows that registration may perform a useful function.

7.7 Charging - insert passage about possibility of securing further improvement in the quality of service by greater use of fees. There is already a power to charge for settlement applications. As part of modernising the control, the Government intends to amend that power to provide a more flexible framework to include wider use of charges for applications (and appeals ?) should that prove on further examination to be desirable.

Greater Openness

7.8 The Government's recent White Paper on Freedom of Information underlined our commitment to greater openness. Individuals should as far as possible be given the reasons for decisions which affect them. The Government has already applied that approach to applications for British citizenship. Whereas reasons for refusal of British citizenship used not to be given, applicants will now always be told why their application was rejected. In addition, one consequence of the computerisation of immigration and nationality casework is that applicants will have rights under data protection legislation.

User panels

7.9 IND has made significant progress in developing a more open relationship with those who use its services, and in listening to their views. One recent initiative has been the establishment of the after-entry casework and nationality issues user panels, which have been in operation since October 1997. Sixteen user groups who have an interest in the service delivery aspects of IND's business and who have a national focus, are represented on the two panels, which meet quarterly.

7.10 The purpose of the panels is to consider the practicalities of what IND does, how it does it and whether the after-entry and nationality service provided is satisfactory. Recent issues discussed by the panels have included liaison between the Home Office and the Benefits Agency, handling of student applications and the implications of lifting embarkation controls.

Publication of instructions

7.11 We have made available to Parliament copies of the Immigration Directorates' Instructions, covering general immigration casework. We are currently consulting on other suitable ways of making this information accessible to users [including making it available on the Internet\It is now available on the Internet.] Other instructions on particular areas of the control will be made available shortly.

Fairer procedures

7.12 The Government is committed to a fairer immigration control. We have already abolished the primary purpose rule. The further changes which we have made, or which we intend to make, are as follows :

(i) Overseas domestic workers

For too long there have been reports of overseas domestic workers being abused and exploited by the employers whom they have been allowed to accompany here. The Government was determined to give these vulnerable people much greater protection and a status in their own right under the Immigration Rules. We worked closely with organisations which have campaigned for many years on behalf of these workers to devise new arrangements which would meet these objectives without, at the same time, opening up loopholes in the immigration control. Under the new system, announced on [ ], the number of domestic workers allowed to come here with their employers will be significantly reduced, but those who do come will no longer have to stay with their original employer if they are mistreated.

(ii) Domestic violence

The Government has been concerned about the situation of those who, having been granted twelve months' leave to enter or remain on the basis of their marriage to a person settled here, become the victims of domestic violence during that period. If they leave the matrimonial home they become liable to deportation and therefore feel themselves trapped in a violent relationship. We believe that the probationary year must be retained as an important safeguard against abuse of the immigration control. But in recognition of the dilemma in which such victims find themselves we announced on [ ] a concession under which those who are able to produce evidence of a relevant court order, conviction or police caution showing that they had been the victims of domestic violence during the probationary year will be granted indefinite leave to remain outside the Immigration Rules. This will also be extended to those in a similar situation who have been given leave to enter or remain for twelve months under the concession for unmarried partners and to those whose spouse or partner dies during the initial twelve month period.

(iii) Unmarried partners

Under the Immigration Rules, a person who is already settled in the United Kingdom may bring his or her spouse here to join them, subject to their ability to meet clear tests as to the genuineness of the marriage and the financial capacity of the couple. Without in any way diminishing the special position of marriage, the Government considered it unfair that unmarried partners in long-standing common law or same sex relationships should be completely prevented from being together. We therefore introduced a concession in October 1997 under which people in committed relationships akin to marriage may enter or remain here on this basis alone, provided they meet certain clearly established criteria.

(iv) Prevention of illegal working

Under the present law, it is a criminal offence for an employer to employ a person who has entered or remains in the UK contrary to the Immigration Acts; or whose permission to enter or be here is subject to a condition prohibiting the employment. Experience has shown that, while this can be a useful tool, if targeted against unscrupulous and exploitative employers, there are some who are making more checks on potential employees than the legislation requires them to do in order to secure the statutory defence. This can lead to discriminatory recruitment practices which are unlawful under the race relations legislation. The Government will take steps to re-emphasise to employers their duty under the present law to avoid racial discrimination in their recruitment practices when seeking to secure the defence. [possible reference to making the Code of Practice statutory] At the same time, the Government will strongly encourage the referral of cases to the prosecuting authorities involving organised racketeering and the exploitation of vulnerable groups of overseas workers for consideration of prosecution under existing offences.

(v) Compassionate factors

In many instances the compassionate factors in a case, particularly those concerning children, only come to the fore at the deportation stage. The Government believes there is scope for giving such factors a higher profile at an earlier stage in the caseworking process. We therefore intend to develop criteria which would allow due weight to be given to any such factors in cases where refusal of leave to remain would otherwise be the appropriate course.

Overhaul the system of appeals

7.13 The previous Government announced a review of asylum and immigration appeals in December 1996. The review is now complete and the Government published a consultation document about this on [.....].

7.14 The Government's view is that there continues to be a need for an independent review of significant immigration decisions. The present system does not serve either the interests of appellants or of faster, firmer and fairer immigration control. The Government therefore proposes that:

- the present multiplicity of appeal rights should be reduced and;
- the structure of the appellate authority should be radically reformed.

Both these proposals would require primary legislation.

7.15 The aim is to provide a single right of appeal to those who were lawfully present in the United Kingdom at the time of their application to remain in the United Kingdom. The appeal would be held quickly after the initial decision had been made [and there would be no separate appeal against removal. There will be a rebuttable presumption against any further appeal on an asylum issue. For example, if entry was initially obtained as a visitor or student, it would not normally be possible for the person concerned later to make an application for asylum without very good evidence enabling them to overcome the presumption (such as evidence of subsequent and serious political instability which gave rise to a convention threat to the passenger). In addition, cautions - written warnings - would be administered to all applicants that their initial statements (and any subsequent statements) had to be full, complete and true. There will also be a presumption of detention pending removal following dismissal of an appeal. **- subject to further consideration. ? Rebuttable presumption/resource implications of 'cautions'/needs to be consistent with Chapter 12/ ECHR issues - Article 5(1) (f)**]. Those

who remain here unlawfully and who are removed administratively rather than deported would not face the same barriers to readmission.

7.16 The Government's view is that the present two tier appellate system is not working well. The main reasons are:

- differently constituted Tribunals have produced determinations which are inconsistent and contradictory

- the Tribunal has often remitted cases to adjudicators which it ought to have decided itself. Rather than bringing finality to the process it prolongs it.

7.17 There are two options:

- to restructure the Tribunal by changing its status and powers, or;

- to consolidate the current two tier system into a single tier.

The Government's view is that the role of the Tribunal should be enhanced by changing its status and powers so that it produces an effective lead to the lower tier.

[7.18 Quite apart from consolidating rights of appeal and enhancing the role of the Tribunal work will continue on a number of issues, for example, the timeliness and length of adjudicators' determinations, with a view to making the best available use of all resources and reducing delay. **- Resource implications and future performance (increase in hearing rooms, adjudicators, etc) will depend on the resources allocated to this work when the spending plans are settled]**

Control of unscrupulous immigration advisers

7.19 The Government is committed to controlling unscrupulous immigration advisers. These advisers exploit vulnerable people with promises they are often unable to deliver. The price their clients pay is poor advice or overcharging or both.

7.20 On 22 January the Home Office and the Lord Chancellor's Department issued a joint consultation document which sought comments on the kinds of behaviour to be controlled and the options for achieving it. Over 300 copies of the document were distributed to individuals and organisations. Of these 53 commented on the document. A substantial majority agreed that the activities described in the consultation document were those which needed to be controlled. Equally, a substantial majority thought that a statutory regulatory scheme was the only way in which effective control of unscrupulous behaviour could be achieved.

[7.21 The Government intends to enact legislation which will require immigration advisers, legally qualified or not, to register with a regulatory body. It is envisaged that the regulatory scheme will be self-financing with costs being met from registration fee income. **- Resource implications subject to further negotiation**]

Legal Aid

7.22 At present, asylum and immigration applicants can obtain legal aid in two ways:

- Green form legal aid. This is intended to cover the costs of providing advice and assistance to applicants. Green form legal aid does not cover the costs of representation.

- Legal aid in connection with an application to seek leave to move for judicial review. Such applications may include an adverse decision made by the Immigration and Nationality Directorate of the Home Office, a determination of

the Immigration Appellate Authority against which there is no right of appeal or a refusal by the Immigration Appellate Authority to grant leave to appeal.

There is no legal aid for representation at appeals before an adjudicator or the Immigration Appeal Tribunal. However, the Government provides funding of £5.9 million a year to the Refugee Legal Centre (RLC) and the Immigration Advisory Service (IAS) to provide free representation at these appeals.

7.23 The extent to which publicly funded advice and assistance is available in other EU countries varies, as does the form which such provision takes. In France, such support is available only to those who are lawfully resident, or in some cases to people claiming asylum.

7.24 For many years after the 1951 Convention came into force no legal aid was available to asylum seekers or more generally to people subject to immigration control. Since the introduction of widely available legal aid there has been a very large growth in its use in the immigration field, with expenditure on Green Form legal aid amounting to some [£26 million] in [1996/97]. There were also 1,925 applications for judicial review in 1997, the vast majority legally aided, yet in a substantial proportion of the cases leave to move was refused.

7.25 The Government is determined to bring this use of legal aid under tighter control. It cannot be right that legal aid is so freely available at the taxpayers' expense to those whose claim to remain in the United Kingdom is tenuous and frequently wholly abusive. The Government is currently considering proposals by the Legal Aid Board to replace the Green Form scheme for civil legal aid with a system of exclusive contracts, that is franchises let to individuals or organisations to undertake work at a fixed price. By this means considerably greater control would be exercised on the selection of cases for advice and assistance and the quality and appropriateness of work undertaken. In examining these proposals the Government intends to look very carefully at their application to the immigration field, and will consider whether there are other measures which should be taken to ensure that public funds are not misused in support of deliberate abuse of asylum procedures and immigration controls.

Section 23 Funding

7.26 Under Section 23 of the Immigration Act 1971 the Home Secretary may make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under Part II of the Act. The Home Secretary makes such grants to the following voluntary organisations:

- The Immigration Advisory Service
- The Refugee Legal Centre

For 1998/99 the grant to the Immigration Advisory Service is £2.7m and to the Refugee Legal Centre £3.2m.

7.27 In addition to providing advice and assistance both organisations provide free representation at appeal hearings.

7.28 Under the terms of the Legal Aid Board's proposals for exclusive contracting it is open to the Immigration Advisory Service and the Refugee Legal Centre to apply for franchises to provide advice and assistance to asylum and immigration applicants. The Legal Aid Board's franchising proposals do not at present extend to representation. It will, therefore, be necessary to retain Section 23 funding so as to enable voluntary organisations to provide free representation.

CHAPTER 8 : ASYLUM PROCEDURES

8.1 The United Kingdom has a long-standing tradition of giving shelter to those fleeing persecution in other parts of the world, and refugees in turn have contributed much to our society and culture. The Government is determined to uphold that tradition. We will continue to observe with meticulous fairness our obligations under the 1951 Convention on the Status of Refugees and other instruments of international law protecting human rights to which we are a party. Primarily, these are the 1966 International Covenant on Civil and Political Rights, the 1984 UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the ECHR. We supported a recent Council of Europe recommendation encouraging Member States to provide effective national remedies before returning a failed asylum seeker.

8.2 The Government at present provides approximately £3 million a year to voluntary organisations to assist asylum seekers on arrival and to help those who are granted refugee status. Unaccompanied refugee children are also given special assistance by a Panel of Advisers, wholly funded by the Home Office. The Government believes that the voluntary sector has an important role to play in helping asylum seekers. **[Insert possible link to new support arrangements]** The Government will continue to provide funds to national and regional voluntary organisations to assist in the settlement of refugees so that those given leave to remain may be empowered to lead useful, fulfilling lives and make valuable contributions to the cultural and economic life of the country.

8.3 [As soon as a refugee has permission to work legally in the UK they can choose to claim the Jobseeker's Allowance. Young people are eligible to join the New Deal for 18-24 year olds once they have claimed JSA for six months without success in finding work. People aged 25 and over who have claimed JSA continuously for two years or more will be eligible for the New Deal for people aged 25 plus. In both cases, discretion may be exercised to allow earlier access in some circumstances. Both of these New Deals will offer individually focused guidance to help genuine refugees find work or help them increase their employability.]

8.4 The fundamental flaw in previous attempts to deal with the substantial increase in asylum claims is that they have addressed the problems in isolation from the rest of the system. For the reasons explained earlier in this White Paper, the Government believes that it is essential that the procedures for dealing with asylum applications should be seen within the framework of an integrated immigration control. Potential abuse and exploitation of the institution of asylum harms the genuine refugee as much as it threatens to undermine proper controls on immigration. It is in the best interest of genuine refugees that there should be firm action to improve current procedures, including measures to deter or prevent from travelling those who do not meet the criteria for entry to the United Kingdom.

Faster Decisions **[Future performance will depend on the resources allocated to this work when the spending plans are settled].**

8.5 The key to restoring effectiveness to our asylum system and to tackling abuse is swifter determination of applications and appeals. The Government inherited backlogs of over 50,000 cases awaiting decision and over 20,000 queuing for an appeal hearing. Some undecided cases date back to 1990 and appeals can take 15 months to list in London. Delays of this order send a clear message to abusive applicants that the system cannot cope and is ripe for exploitation; while those in genuine need of protection are condemned to a cruel limbo of worry and uncertainty over their future.

8.6 The Government will take strong and swift action to transform the asylum process:

- through implementing an ambitious reorganisation and computerisation of immigration and nationality processes as a whole, in the shape of the IND Casework Programme;

- by investing more in the determination of cases: an extra [£ million] annually to reduce the decision backlog to frictional levels by 2001;

- by streamlining the asylum and immigration appeals processes, consolidating multiple appeal rights into a single appeal right exercised [early in the process], and strengthening the role of the Immigration Appeal Tribunal;

- by creating a wholly new and much more flexible interdepartmental planning and monitoring process, doing away with the barriers and rigid procedures that along with under-investment have allowed backlogs to accumulate and chronic delays to proliferate throughout the process, at enormous cost to the taxpayer.

Preventing Abuse

8.7 The Government is also determined to stamp out the blatant and often cynical abuse that clogs up the system with hopeless cases and unnecessary appeals:

- the previous chapter sets out the Government's intention to introduce new legislation which will provide for the first time a system of compulsory regulation for all those who offer advice or representation in immigration and asylum matters for financial gain. The Government is committed to ending the shameful exploitation carried on by unscrupulous advisers practising incompetently or fraudulently;

- a fresh offensive against the racketeers who prey on vulnerable people and pose a menace to immigration control. There is increasing evidence of links to other organised crime. New intelligence co-ordination arrangements, strengthened co-operation with European partners and the vital role played by Airline Liaison Officers whose numbers are to be expanded from 5 to 20;

- the existing criminal offences directed at those who seek or obtain leave to enter or remain by deception will be extended and strengthened. Failed asylum seekers whose claims have involved blatant deceit will be liable to prosecution in appropriate cases.

Support arrangements for asylum seekers

8.8 The present support arrangements for asylum seekers have evolved through the intervention of the courts following the changes to asylum seekers' entitlement to welfare benefits introduced in 1996. Under these changes, only those asylum seekers who apply for asylum on arrival at a UK port are entitled to welfare benefits and only then until their asylum claim has been decided.

8.9 Others who claim asylum after arriving in the UK, and those who are appealing to the Immigration Appellate Authorities against the refusal of asylum, are not entitled to welfare benefits. Such asylum seekers were effectively put at risk of destitution until in October 1996 the High Court ruled that local authorities had a duty under Section 21 of the National Assistance Act 1948 to provide care and accommodation to asylum seekers and appellants who were without any other means of support and who could, therefore, be considered to be a category at risk for the purposes of the 1948 Act. This was upheld by the Court of Appeal in February 1997.

8.10 The shortcomings of the policy on welfare provision for asylum seekers have resulted in support arrangements which are messy, confusing and expensive, currently costing about £400m a year. The Court of Appeal judgment relating to the 1948 Act meant that, without warning or preparation, local authority social services departments were presented with a burden which is quite inappropriate to their role and which has become increasingly intolerable.

Arrangements in other countries

8.11 The arrangements made in other EU countries vary widely, reflecting national differences in welfare provision generally and the number of asylum seekers in each country. It is, therefore, difficult to draw specific conclusions, although some general points emerge:

- a significant number of EU countries provide accommodation and other support in kind rather than by payment of cash allowances. In Germany, all benefits are

paid in kind with a small cash payment for everyday needs. The Netherlands, Belgium and Denmark provide reception centre or similar communal accommodation for most or all asylum seekers. In Belgium, asylum seekers receive no support if they choose not to live in one of the centres;

- in countries where a cash payment is made, such as France and Italy, the period of payment is strictly limited;

- in almost all countries, the provision for asylum seekers is separate from the standard welfare and other support for residents of that country.

Policy objectives

8.12 In considering what form support arrangements for asylum seekers should take, the Government believes that they should satisfy the following objectives:

- to minimise the incentive to economic migration, particularly by minimising cash payments to asylum seekers;

- to ensure that genuine asylum seekers cannot be left destitute while containing costs through incentives to asylum seekers to look first to their own means or those of their communities for support;

- to provide for asylum seekers separately from the main benefits system.

Access to social security benefits

8.13 To deliver these objectives the Government believes that it must start from the position that people who have not established their right to be in the United Kingdom should not have access to welfare provision on the same basis as those whose citizenship or status here gives them an entitlement to benefits when in need. Any support for asylum seekers should operate

on a separate basis, with a strict test of destitution before any provision can be offered. The corollary of this is that asylum applications must be resolved much more quickly than at present, so that those who can establish an entitlement to remain in the United Kingdom are quickly distinguished from those who cannot.

Basis of a scheme to prevent destitution

8.14 Asylum seekers are temporary residents here and with few exceptions have no established residence status. Many should be able to support themselves, with help if necessary from relatives, friends and community groups, during the period when their application is being considered. Some, however, would be in genuine hardship and at risk of destitution if there were no publicly provided safety net. The Government is committed to providing such a safety net, but is determined to do so in a way which minimises the incentive for abuse by those who do not really need the support or who would make an unfounded asylum application in order to obtain the provision.

8.15 The Government has considered carefully the evidence, including that from other countries described in paragraph 8.11, about the best means of provision and in particular the relative advantages and disadvantages of cash-based support and provision in kind. Cash based support is administratively convenient, and usually though not inevitably less expensive in terms of unit cost. Provision in kind is more cumbersome to administer, but its relative lack of attractiveness to opportunistic and abusive claimants is clearly reflected in the reduced number of asylum applications and lower level of take-up that experience shows follows from a switch away from cash benefits. The number of asylum applications fell by 30 per cent following the withdrawal of some social security benefits in 1996, and despite a long-term underlying upward trend and the intervention of the courts in the 1948 Act case remains at a lower level than in the year before the changes. Take-up of provision in kind offered under the National Assistance Act 1948 is estimated at 22 per cent for single adult asylum seekers compared to an estimated 85 per cent take-up of cash benefits by those eligible for them. Overall, because of these factors, a system based substantially on a safety net of provision in kind is likely to be

considerably more economical than one offering ready access to cash benefits, despite its higher unit costs.

8.16 The Government has therefore concluded that support for asylum seekers should no longer generally be founded on cash payments. Support will therefore be provided separately from the existing statutory benefits arrangements, and will be available only where it is clearly necessary to prevent destitution while an application is awaiting decision or appeal. Accommodation, where necessary, will be provided on a no choice basis, with no cash payment for this purpose being made to the asylum seeker. In appropriate cases, the accommodation offered could be well outside the main cities, so attractive for abusive asylum claimants. Provision for other living essentials such as food will also be determined on a strict test of need, and the Government proposes to investigate the feasibility of such provision being made in the form of vouchers, further to reduce the incentive to abuse of the system.

How a safety net scheme will operate

8.17 The administration of a new support scheme for asylum seekers, entirely separate from standard benefits, will require new national machinery to co-ordinate provision, purchasing places either directly or by contracting with local agencies and seeking the best value accommodation. Asylum seekers who sought accommodation would be subject to a detailed means enquiry and if found to be in need would be expected to take whatever was available across the country. This nationwide approach will help to relieve the burden on provision in London where the majority of asylum seekers are currently concentrated. The budget and the machinery for administering it will be operated by the Home Office, contracting with other agencies as appropriate.

8.18 Social services departments will no longer be expected to devote energy and resources to an entirely inappropriate role of looking after healthy and able-bodied adult asylum seekers. The Government envisages, however, that local authorities in a wider capacity will need to play a role in helping to operate the system, given their major expertise and access in the field of housing. Local authorities will be given responsibility in legislation for co-operating in the

arrangements, for example by providing information. The national body will contract with a range of providers including local authorities and others such as housing associations to make accommodation available or to undertake functions such as the inspection of premises. The Government will particularly explore how the energy and expertise of voluntary and independent sector bodies working in the refugee and asylum field may be harnessed in providing the safety net. As a last resort, the Secretary of State will be empowered to direct a local authority to provide accommodation.

8.19 There will be flexibility in the system to deal with temporary blockages in the availability of accommodation, for example because of a sudden influx of asylum seekers. In that case it might be necessary temporarily to ask some asylum applicants to arrange their own accommodation, with rent and other payments being paid by the purchasing body direct to the housing provider.

Families and unaccompanied children

8.20 The Government will ensure that in providing a safety net for asylum seekers the needs of children are fully respected and their welfare and rights safeguarded. Provision will continue to be made under the Children's Act 1989 for unaccompanied children claiming asylum, but social services departments will no longer be expected to provide for asylum seeking families in the absence of special needs requiring a social services response. Families will be provided with safety net support in the same way as single adults if the need can be demonstrated. Appropriate access to education will continue to be afforded to the children of asylum seekers, and special care will be taken to ensure that provision for food and other living essentials is sufficient and flexible enough to support the children's well-being during the period when their asylum application is under consideration.

8.21 The Government accepts that some form of support should be available to an asylum seeker in need to the point where he or she has exhausted all appeal rights. But to continue support thereafter whilst the failed asylum seeker remained in the United Kingdom unlawfully would not be justified. As a general principle the safety net will not extend to such people,

although as at present there will be measures to safeguard the welfare of children and other vulnerable persons.

[Dealing with the asylum decision backlog - **text subject to further work on detail**

8.22 We cannot establish the new faster asylum process to which this Government is committed (see paragraphs 8.5 and 8.6) without first tackling the backlogs inherited from the previous administration. While large backlogs remain, abusive applicants will continue to believe that they can exploit the system. Backlogs and delays create additional inefficiencies in processing, and do nothing to foster the morale of conscientious caseworking staff.

8.23 In dealing with the backlog of cases it has inherited, the Government will adopt measures which are both *firm* and *fair* as well as promoting a *faster* process. There can be no question of a blanket amnesty for those in the backlog. This would be unfair and would be seen as a reward for those who would abuse the system. Equally it would be unfair to ignore the consequences of very long delays, which are no fault of the applicant, in terms of the applicant's ties in this country or elsewhere. The Government will therefore adopt an approach in which the effects of long delays in reaching a decision will be taken into account and weighed with other considerations, but only in due proportion and in appropriate cases. Such delay will not normally be a factor at all in the consideration of applications in the backlog dating from after 1995. Applications from before that date will be considered broadly in two groups. In certain of the very oldest cases, where an asylum application was made before the coming into force on [ ] July 1993 of the Asylum and Immigration (Appeals) Act 1993, delay in itself will normally be considered so serious as to justify, as a matter of fairness, the grant of leave to remain. This will not apply, however, to applicants whose presence here might not be conducive to the public good on the basis of their conviction for a serious criminal offence, nor to any application for asylum made after the commencement of enforcement proceedings against someone as an illegal entrant or as a person here in breach of the Immigration Rules. Such cases will be considered on their merits without any presumptive weight being given to the delay in reaching

a decision. Altogether in the pre-1993 Act group there are estimated to be around 10,000 cases still outstanding.

8.24 For applications made between this date and 31 December 1995, estimated at about 20,000 cases, delay will not normally of itself justify the grant of leave to remain but in individual cases will be weighed up with other considerations and, if there are specific compassionate or other exceptional factors present which are linked to the delay or which compound its effects on the applicant's situation, a decision to grant leave to remain may then be justified. The sort of factors, which might be relevant here, not otherwise by themselves sufficient to justify leave to remain, could include such things as the presence of children attending school or a continuing record of voluntary work by the applicant in the local community.

8.25 These measures will apply specifically and solely to cases awaiting an initial decision, and specifically and solely to applications made during the periods indicated. Where a refusal decision has already been taken, action on the case will proceed in the normal way, subject to the outcome of any appeal and subject to any exceptional or compassionate circumstances. New and recent cases will continue to be dealt with on the same basis as before, and with enhanced vigour and speed in the case of those without merit or claiming on a purely opportunistic basis.

8.26 Under the previous administration mountainous backlogs of asylum decisions were created and many old cases simply left to fester. This Government is determined to get to grips with the problem, and to tackle it in a way which is fair to those who have suffered the worst delays yet firm with the most blatant abusers of the system. Above all the approach will look to the future, enabling resources to be kept focused on those cases where a refusal stands the best chance of resulting in swift and successful enforcement action.]

[8.27 Resources : pending further work.]

CHAPTER 9 : IDENTIFYING GENUINE REFUGEES

9.1 The system needs to do more to serve the very people for whom it exists: those fleeing persecution, torture and degrading treatment. Genuine refugees who arrive carrying a burden of fear and distress find their anguish compounded by the uncertainty of waiting in lengthy queues for a decision on their future. The measures which the Government will introduce to speed up the processing of all claims will benefit genuine refugees, and wherever possible these cases will be identified early and given additional priority.

Qualifying for settlement

9.2 Those granted refugee status or exceptional leave to remain, and who it is expected will stay permanently in the United Kingdom, will have to qualify for settlement. The current four years qualifying period for refugees will be abolished, and those granted ELR other than on a temporary basis will have to wait only four years instead of seven. These measures will help refugees and others granted leave to remain to integrate more easily and quickly into society, to the benefit of the whole community into which they have been accepted. The new rules will apply to those granted refugee status or ELR on a non-temporary basis from [.....], while transitional arrangements for those already part way through the existing qualifying periods will ensure that no-one is worse off for having been granted a particular status sooner than others.

Well informed decisions

9.3 The Government is also concerned to ensure that decision taking in asylum cases continues to be of a high quality, based on sound, comprehensive information, clear guidance and well-focused training and quality review. Consistent with that objective, the following changes have been introduced:

- High quality information about countries of origin is vital to sound decision taking. The Government has developed arrangements for this which are more systematic and more transparent.

- The Country Information and Policy Unit in IND has now published country assessments on the top 35 asylum producing countries in the United Kingdom. Copies have been placed in the House Library and have been placed on the Internet.

- The assessments will be revised and updated at approximately 6-monthly intervals.

- Each country assessment contains a bibliography of source material. The vast majority of the sources used are in the public domain and easily obtainable. They have been prepared to inform caseworkers taking decisions on asylum applications.

- As part of the process of opening up the collection of country information used in assessing asylum claims, the Home Secretary has asked a group of practitioners, interest groups and officials (the Consultative Group) to consider, amongst other matters, the principles of country assessment and to seek to achieve agreement about core reference material, bibliographies and chronologies of events.

- The Consultative Group first met on 3 March and will report to Ministers in the summer. The Group are also looking closely at the model of the Canadian Immigration and Refugee Board documentation centre.

- The Group have been given copies of the country assessments as part of their remit to consider the format and collection of country information, and have offered initial comments on some of them. The comments centre on the content, balance and focus of the assessments and these will be taken into account in later versions.

- Further systematic exchange of information between the Country Information and Policy Unit, other governments, government departments, international and non-governmental organisations will be developed consistently to inform the asylum determination process.

Improving quality standards

9.4 As well as high quality, up-to-date and accessible country information, decision takers need clear guidance on the application to cases of the 1951 Convention and other criteria, in an organisational structure and culture that promotes personal responsibility, clear standards of performance and a commitment to quality decision taking. Much of this is already in place and the Government intends to build on the high quality and commitment already achieved. The IND Casework Programme aims to give decision takers greater personal responsibility, in addition to providing them with a wider context and range of work in which to approach asylum cases and a rigorous approach to quality review. Training and development opportunities will continue to benefit from the contributions of refugee groups and advocates. Fresh guidance is being prepared for caseworkers on deciding asylum applications, focusing on human rights issues and encouraging a methodical approach so that genuine cases whose strengths are less obvious on the surface are not overlooked. This guidance will be made public.

Fairer procedures

9.5 In reviewing asylum law and procedures, the Government is committed to ensuring that the necessary application of firm measures does not lead to, or rely on, actual or perceived unfairness. The Government considers that the so-called 'White List' procedure, whereby most applications from certain listed countries are put into an accelerated appeal process on the basis of a country-wide assessment rather than the circumstances of the individual case, is an unsatisfactory feature of the present system and should be abolished as part of the wider overhaul of appeals in asylum cases. Other aspects of the accelerated appeals procedures will continue. Pending legislation the 'White List' will continue to operate.

CHAPTER 10 : ENCOURAGING CITIZENSHIP

10.1 In the United Kingdom "citizenship" normally means more than just the nationality of our inhabitants. It also encompasses elements of involvement and participation, and sharing of rights and responsibilities. Not all rights are dependent upon a person acquiring British nationality. Civil rights belong to all inhabitants, whilst political rights are enjoyed equally by British and Commonwealth citizens and, in some instances, citizens of the European Union. However, the acquisition of the nationality of the country in which immigrants are living is a mark of their integration into British society. Our nationality legislation seeks to ease immigrants into acquiring citizenship by not placing unnecessary obstacles in their way. Applicants are not required to renounce the citizenship which they already hold in order to become British. Nor are British citizens required to give up their British nationality when acquiring the nationality of another State. By accepting the concept of dual citizenship, which we have done since 1948, we recognise that in the modern world as well as owing an allegiance to the country in which they live, people also retain an affinity to the country of their roots. It is therefore possible to be a citizen of two countries and a good citizen of both.

10.2 Although we avoid placing unnecessary obstacles in the way of permanent residents who wish to acquire British citizenship, we do little positive to encourage such people to become British. The Government believes that more should be done to promote citizenship positively amongst the immigrant population, reflecting the multi-cultural and multi-racial society which we have become. However, people applying for citizenship currently have to wait too long for a decision. Quicker processing of applications would give a more welcoming signal to prospective citizens.

10.3 In 1987, when the transitional provisions of the British Nationality Act 1981 came to an end, the Home Office received nearly 300,000 applications for British citizenship and average waiting times for processing these applications rose to a height of 36 months in March and April 1992. Waiting times then started to reduce, reaching 13 months in March 1995. However, since then they have started to rise gradually so that they are on average around 18 months at the present time. As mentioned in Chapter 7, nationality casework is included in the IND Casework

Programme and will form part of the Integrated Casework Directorate. The efficiency improvements this will introduce will help to reduce again the processing times for applications, but a more fundamental difficulty in processing applications more quickly is the inability to react speedily to a rise in the number of applications received, part of which is due to the way in which fee receipts are treated.

10.4 Applicants for British citizenship by naturalisation or registration pay a fee on application which ranges from £120 to £150. In past years, the numbers of applications received have outstripped the Immigration and Nationality Directorate's capacity to deal with them and there is a large backlog - currently 87,000 cases are uncompleted. Intake is forecast to continue rising (from 59,600 in 1996/97 to 65,000 in 1997/98 and 70,000 in 1998/99). Waiting times will thus increase further despite process changes designed to reduce them. In view of the fee levels paid, this is impossible to defend. It is also inconsistent with our commitment to faster decisions.

[10.5 Waiting times could only be reduced by applying more resources to nationality work. Insert passage on resources (? including conclusions reached on nationality-related charging/funding issues) and future performance in light of resources allocated to this work when the spending plans are settled.]

10.6 On 22 December 1997 the Home Secretary announced that, notwithstanding section 44(2) of the British Nationality Act 1981, in future reasons would be given for refusing applications for British citizenship. Rather than operate a discretionary system in which some unsuccessful applicants were unaware why their applications had been refused or what they needed to do to make a successful application, there is now a more objective system wherein executive decisions have to be justified. That is a positive move. The Government has also set up a User Panel with representatives of applicants for citizenship in order to improve the quality of service which we offer applicants by listening to the concerns of their representatives and discussing our procedures with them.

10.7 Another positive step would be to attach more importance to the process in which successful candidates receive news of the approval of their application. When British citizenship is granted, a certificate of naturalisation or registration is sent to the successful applicant by post. This is hardly an auspicious way to mark what should be a significant change in an immigrant's relationship with this country. In some countries, such as Australia and the United States, where citizenship is used as a positive tool to help integrate immigrants into their new country, civic ceremonies are held to mark the award of Australian or American citizenship. The Government is considering whether, for those immigrants who would like one, there should be civic ceremonies for our new citizens to enhance the award of citizenship, reinforce the rights and responsibilities of being a British citizen, and lay greater emphasis on us being a multi-cultural society.

10.8 Changes in the operation of the immigration control, in particular to introduce greater flexibility in the form and manner in which leave to enter is granted, may require changes in current residence requirements for citizenship under the British Nationality Act 1981. In addition, many of those who at present cannot satisfy the requirements are those who travel abroad on behalf of firms in this country to drum up business, and thereby contribute to the economic well-being of the country and help create jobs. The Government will consider the scope for a more flexible approach to the residence requirements based upon whether an individual was ordinarily resident in the United Kingdom and paying his or her taxes here, the overall length of their residence and connections with this country, and the reasons for their absences.

CHAPTER 11 : ENFORCEMENT AND REMOVALS

11.1 Enforcement of the Immigration Rules is a key part of a fair and firm system. In fairness to those who have followed the rules and to deter others who might consider abusing the system, we must be able to identify and deal appropriately with those in the United Kingdom without authority. There will always be some people who, despite having exhausted the appeals machinery, still refuse to leave voluntarily.

11.2 The growth in immigration racketeering also requires a new approach to enforcement. We must be able to identify and disrupt the organisers who make huge profits from exploiting economic migrants. Tackling racketeering requires a co-ordinated multi-agency approach with a structure to enable intelligence to be properly developed. Historically, the Immigration Service has not needed to develop such a structure, and its enforcement policy has concentrated on the illegal entrants rather than the racketeers. Such an approach is no longer adequate to stem the tide. Criminal groups see illegal immigration as an easy source of income. International cooperation between the police and immigration authorities will be increasingly important if racketeers are to be disrupted. Against this background, the Government intends to take a number of steps to strengthen the enforcement effort as part of the integrated approach to immigration control.

<u>The scale of the problem</u>

11.3 The very nature of illegal immigration makes it difficult accurately to assess the total number of people in the country without authority and so liable to removal. Excluding those with unresolved asylum claims or outstanding appeals, the Immigration Service is at present dealing with a total of about [x] enforcement cases of people liable for removal. This number is likely to grow as greater efficiency elsewhere in the system means that the number of enforcement cases continues to exceed our present ability to effect removals.

11.4 During 1997 some 6,500 persons were removed or departed voluntarily from the United Kingdom following enforcement action, of which around 3,000 were failed asylum seekers.

Removals and voluntary departures of failed asylum seekers, under port or enforcement procedures, have increased steadily over recent years, from 1,800 in 1993 to 7,000 in 1997. The Government intends to pursue a range of measures to increase that number still further.

The Dublin Convention

11.5 In some cases it is appropriate for an asylum seeker to be returned to a safe third country without their claim for asylum being examined here. Last year over 1,000 asylum seekers were returned to safe third countries; the great majority to EU Member States.

11.6 The Dublin Convention was signed by the then UK Government in 1990. The Convention came into force on 1 September 1997, since when it has governed arrangements for safe third country cases in the EU. The basic principle underlying the Convention is that the Member State responsible for the presence of an asylum seeker in the EU should be responsible for examining the asylum claim wherever it is made. It also aims to prevent asylum seekers being passed between several Member States without any taking responsibility for examining the claim, and to deal with the problem of asylum seekers claiming asylum in a number of Member States.

11.7 It is necessary in individual cases to establish sufficient evidence to satisfy a Member State that it is responsible according to the Convention criteria (for instance the point at which they entered the EU or the place they first claimed asylum). Asylum applicants cannot be transferred to another Member State until the State in question has accepted responsibility.

11.8 There is a common appreciation among most EU Member States that the Convention is not working as it should. Far too few asylum cases in the EU are coming within the scope of the Convention. The Convention is particularly difficult to apply in circumstances where the asylum seeker is undocumented and is unable or unwilling to provide information which would help establish that another Member State is responsible.

11.9 The Government made the operation of the Convention a key priority for the United Kingdom's Presidency of the EU which ended in June 1998. The Government secured agreement to a comprehensive programme of action designed to improve the operation of the Convention and is committed to continue work with our European partners in that task.

Co-operation on fingerprinting

11.10 Another of the main priorities of our Presidency was to take forward work on developing a legal framework for a central database of fingerprints to support the operation of the Dublin Convention. The "Eurodac Convention", when signed and ratified, will create a computerised central database which will allow the comparison of the fingerprints of asylum seekers across the European Union. If a fingerprint match is found as a result of a comparison in the central Eurodac database the Member States concerned will then enter into bilateral discussions under the terms of the Dublin Convention.

11.11 Although final agreement to the draft Eurodac Convention was not achieved at the Justice and Home Affairs Council in May European Union Ministers did agree that a protocol to the draft Convention should be developed to extend the scope of the fingerprinting requirement to include certain categories of illegal immigrants where to do so would be relevant in supporting the operation of the provisions of Dublin. Ministers agreed that the protocol should be ready for signature by the end of the year. Those whose fingerprints would be included in the central database as a result of such a protocol would be those who are identified as having illegally crossed the external borders of the European Union. There would only be a requirement to take fingerprints if the person was identified as an illegal entrant in the Member State via which he or she had entered the European Union. The Government accepts that such an extension of the scope of the Eurodac Convention should further enhance the operation of the Dublin provisions.

Multi-Agency Co-operation

11.12 Immigration-related crime crosses many barriers - benefit and housing fraud, unlawful employment, illegal activities linked to prostitution, rackets involving asylum claims and marriages, student loan fraud, passport and document abuse. Immigration crime generates huge sums for criminal organisations and it facilitates other criminal activities, such as drug trafficking and money laundering. It exploits the vulnerable - those who enter clandestinely are unable to defend themselves against further exploitation; many become victims of extortion. To combat this crime more effectively, the Government is developing a more proactive approach to intelligence and inter-agency co-operation.

11.13 In November 1997, the National Criminal Intelligence Service established an organised Immigration Crime Section. It works alongside other specialist units with officers from the Benefits Agency, Customs and the Security Services and is engaged on a number of projects targeting racketeers both here and overseas. A multi-agency approach is vital. Closer cooperation maximises the benefits, using each other's knowledge and skills. More joint actions with other agencies targeting benefit and housing fraud by illegal entrants and unscrupulous employers are essential. The recent multi-departmental working party, led by the Ministry of Agriculture, Fisheries and Food, targeting gangmasters who provide illegal labour to the farming industry, is a good example of Departments working together towards a common goal.

Additional powers for immigration officers

11.14 Full commitment to multi-agency cooperation does not exclude independent operational efficiency. At present immigration officers must rely upon the police to carry out a number of tasks during the process of immigration law enforcement. The police involvement stems largely from the fact that certain powers are vested in the police and not in immigration officers. Enforcement operations can therefore sometimes become unwieldy and inefficient in terms of resource deployment. Supporting the Immigration Service in its operation to arrest and detain those who have deliberately absconded in order to avoid removal represents a substantial burden on police time. The enforcement effort would be strengthened if immigration officers had

greater powers to conduct operations against immigration offenders in consultation with the police but without their direct involvement in every case. Dispensing with the services of the police where they have traditionally been employed is by no means unprecedented. Other agencies, such as Customs and Excise, the Benefits Agency and the Post Office have, for some time now, been exercising powers of their own independently and are good examples of how traditional police work can be taken on sensitively. Training commensurate with the needs would, of course, need to be provided. It is not the intention that the Immigration Service becomes an independent "immigration police" force. The measures outlined below do not go beyond the response to a perceived need. Rather, they are a carefully targeted approach to the more effective use of resources in a way which will provide the tools immigration officers need to enforce the law.

11.15 The immigration officer's powers of arrest derive from the Immigration Act 1971 and the Asylum and Immigration Act 1996. They allow immigration officers to effect arrests, without warrants, for specific immigration offences and to effect detention under the 1971 Act. They have not been used routinely as attendant powers of search and entry, comparable to those held by the police and Customs, are not held by immigration officers. An immigration officer can arrest a suspected offender but has limited ability to search the person and the premises where the arrest took place without the person's permission. Arresting without appropriate powers of search raises important safety concerns and evidence relating to the subject's status and identity may go unfound. At present, the police are asked to effect the arrest and conduct a search, using their powers under Section 32 of the Police and Criminal Evidence Act 1984 (PACE).

11.16 Further difficulties arise when a suspected immigration offender is identified but refuses access. A police officer can enter the premises and conduct a search without a warrant if the offence is an "arrestable offence" under the provisions of PACE. "Facilitation" is the only such immigration-related 'arrestable offence'. For any other immigration offence a warrant is required if entry is denied. Warrants can be obtained by immigration officers, but not in all circumstances, and even when obtained must be executed by police officers.

11.17 The Government proposes, therefore, to extend the immigration officer's existing powers of arrest and provide powers in the area of search, entry and seizure. We will be considering the scope for the execution of warrants by immigration officers without a police presence. In addition, we shall consider whether we can bring about improvements in the prosecutorial process for immigration offences.

Better use of resources

11.18 Over 80% of failed asylum seekers live in the Metropolitan area of London. Enforcement resources are therefore concentrated in the South East. But if the asylum support arrangements proposed earlier in this White Paper achieve a wider geographical distribution and if more absconders seek work elsewhere, the need for a greater and more visible presence in the provinces will increase. The spread of resources around the country was the subject of a wide-ranging review in 1997 which has led to the redeployment of a number of posts to other major metropolitan areas in Manchester, Glasgow, Leeds and Bristol.

Fingerprinting

11.19 An effective identification system is an essential element of an effective removals strategy. The current system is aimed at deterring multiple asylum applications and, hence, widespread benefit fraud. However, the current systems were set up in haste and are limited in their effectiveness. The technology in use is outdated and difficult to sustain. It barely copes with present demands and is inadequate to meet any additional requirements. Under present legislation, immigration officers are empowered to take fingerprints of all those who are detained while liable to examination or removal, in order to establish their identity. Under the Asylum and Immigration Appeals Act 1993, all asylum applicants can be fingerprinted.

11.20 The system is outdated and requires investment before it can add significantly to the removals effort. We will be considering the extent to which the use of targeted fingerprinting with commensurate technical support would substantially strengthen the enforcement effort. The protocol to the Eurodac Convention referred to earlier in this chapter will, in any event,

require a change to our existing legislation to provide for the routine fingerprinting of some illegal entrants.

Documentation

11.21 The documenting of people we seek to remove who have destroyed all earlier documents presents a significant barrier in the removals process. In the majority of cases the Immigration Service can remove persons using a standard format EU travel letter. However, some countries only permit the use of their national documents: this leads to delays which can run to six months or more. It is often the case that those nationalities that produce the greatest pressure on our immigration controls are often those for whom such national documents must be obtained.

11.22 Where an approach has to be made to a high commission or embassy it is necessary to support the application with proof of the person's identity. This can be difficult to obtain without the cooperation of the individual concerned. Where nationality is disputed or supporting documentation cannot be obtained it can prove impossible to elicit a document.

11.23 The Immigration Service has instituted a number of initiatives to help overcome these problems. These include a scheme to apply for documents earlier in the consideration process and direct contacts with representatives of the countries with whom difficulties about documentation have arisen. We are also in the process of establishing a dedicated unit tasked with obtaining documents for the Immigration Service as a whole.

Readmission Agreements

11.24 The United Kingdom has not in the past negotiated any readmission agreements with third countries. Historically, we have not seen formal readmission agreements as an aid to returning failed asylum seekers or illegal immigrants because they can introduce an extra level of bureaucracy and the time taken to negotiate readmission agreements can be considerable.

Instead, we have preferred to effect removals through bilateral contacts and in line with established international practice.

11.25 However, internationally there is a rapidly increasing use of readmission agreements. Experience of other countries has been that a mixture of compulsory and voluntary returns through negotiated agreements has worked well. We are examining whether we should actively be seeking such agreement with a range of third countries.

11.26 Readmission agreements will also act to facilitate the provision of documents to people who have no documentation and where it has proved time consuming and costly to establish their identity and nationality.

Voluntary returns

11.27 As in the case with readmission agreements, the United Kingdom has not previously seen voluntary return agreements as an integral part of its immigration policy. The experience of other countries has been that a mixture of compulsory and voluntary returns through negotiated agreements, often working through NGOs, has worked well. Voluntary return programmes are designed to effect the voluntary and orderly return of refugees and asylum seekers who have decided that they wish to return to their countries of origin but who are either lacking accurate information about the situation in their home countries or the means to give effect to their wishes.

11.28 We are examining the issues involved in voluntary return programmes and will, in particular, consider whether running a pilot study would help assess the benefits of such programmes.

CHAPTER 12 : DETENTION

12.1 Effective enforcement of immigration control requires some immigration offenders to be detained. Only about 1.5% of those liable to detention are actually detained. The statutory provisions for immigration detention are found in the Immigration Act 1971 and the Immigration (Places of Detention) Direction 1996. A person may principally be detained in the following circumstances under immigration law :

a) as a passenger who is required to submit to further examination, pending a decision to give or refuse leave to enter; or

b) as a person who has been refused leave to enter or who is an illegal entrant, pending the setting of removal directions and removal; or

c) if he has been recommended for deportation by a court and is detained pending the making of a deportation order in pursuit of the court recommendation; or

d) if he has been given notice of the intention to deport him, pending the making of a deportation order; or

e) if he is the subject of a deportation order pending his removal or departure from the United Kingdom.

Under the Immigration (Places of Detention) Direction 1996 persons may be detained inter alia in:

- Secondary Examination Areas at Ports

- Prison Service Establishments

- Immigration Service Detention Centres

- Police Cells.

Additionally, a person is in lawful custody when he is being escorted inter alia to or from a place of detention.

12.2 A comprehensive review of detention was commissioned by the Government in August 1997. This review was conducted internally within the Home Office, but views were taken from all the main interest groups, and account was taken of the recommendations from Sir David Ramsbotham's reports on Tinsley House and Campsfield House detention centres.

Detention criteria

12.3 It is regrettable that detention is necessary to ensure the integrity of the immigration control. The Government has decided that, whilst there is a presumption in favour of temporary admission or release, detention is justified in the following circumstances:

- where there is a reasonable belief that the individual will fail to keep the terms of temporary admission or temporary release;

- initially, to ratify and clarify a person's case/claim;

- where removal is imminent;

- [where there is a systematic attack on the immigration control.]

12.4 The Government also recognises the need to exercise particular care in the consideration of physical and mental health when deciding to detain. Evidence of a history of torture should weigh strongly in favour of temporary admission or temporary release.
[might add reference to provision for care]

12.5 The detention of families and children is particularly regrettable, but is also sometimes necessary to effect the removal of those who have no authority to remain in the UK, and who refuse to leave voluntarily. Such detention should be planned to be effected as close to removal as possible so as to ensure that families are not normally detained for more than a few days.

12.6 Unaccompanied minors should not be detained in normal circumstances. Where they cannot be cared for by responsible family or friends in the community, they should be placed in the care of the local authority whilst the circumstances of their case are determined. But the age of a person is not easily determined in every case. This is especially so where individuals enter the country with documents which suggest that they are an adult and later claim to be a minor. In all cases, people who claim to be under the age of 18 are referred to the Refugee Council Children's Panel. Where medical evidence indicates that a person is under 18 years of age they will be treated as minors and will therefore not normally be detained.

Reasons for detention

12.7 The Government is satisfied that the decision to detain should remain one for the Immigration Service, against the above criteria. Written reasons for detention should be given in all cases. Taking into account that most people who are detained are held for just a few hours or days, initial reasons will be given by way of a check list similar to that used for bail in a magistrates court. For those continuing in detention, more detailed explanations for detention will be given in writing at approximately monthly intervals.

Judicial element in the detention process

12.8 Many more people fit the criteria for detention than are currently held. There is no reason to believe that the administrative process has led to people being improperly detained. Nonetheless, the Government believes that there is a case for there to be a more extensive judicial element in the decision to detain. It is proposed that the judicial element should be by way of bail hearings shortly after initial detention, followed by a further hearing for those not

granted bail on the first occasion. The detail of this proposal is still being worked out. It is not straightforward and will have considerable implications as, on present volume, about 200 bail hearings a week would need to be managed.

12.9 It is envisaged that the existing facility for chief immigration officers to grant bail would be retained. The present right to apply for bail to an Immigration Appeals Adjudicator (used on average about 120 times a month) would need to be modified or subsumed into any new system.

12.10 In addition to any consideration of bail through the judicial process, the Immigration Service will continue its periodic administrative review of detention in each case. Individuals should only be detained where necessary.

Length of detention

12.11 Detention should always be for the shortest possible time, but the Government is satisfied that there should be no legal maximum period of detention. Timing of detention to facilitate removals of those unwilling to depart voluntarily is not easy, because of last minute delays caused by further representations. Often detainees are held for longer periods only because they decide to use every conceivable avenue of multiple appeals to resist refusal or removal. A balance has to be struck in those circumstances between immediately releasing the person and running the risk of encouraging abusive claims and manipulation. The measures proposed earlier in this White Paper, to reduce process delays, should reduce the incidence of this sort of circumvention of the control.

Places of detention

12.12 The Government has welcomed the views of Her Majesty's Chief Inspector of Prisons and others and, in so far as resources allow, is committed to pursuing a strategy of detaining in dedicated detention and holding centres, not prisons. About half of those currently detained are

held in Prison Service establishments. Most of these (350) are in the specially dedicated immigration units at Haslar and Rochester.

12.13 It is likely that even in the long term, for reasons of geography, security and control, a number of detainees will need to be held in prisons. However, use of detention centres is preferable to prisons in the vast majority of cases and, in principle, we prefer to use detention centres. Where prison establishments hold significant numbers of immigration detainees in specialist units, we try to ensure that facilities mirror those in detention centres. This includes culture - and gender - appropriate facilities, as well as time out of cells.

12.14 Consideration of the provision for immigration detention centres will take account of the need to use prison less, to provide for men, women and discrete family units and, in all cases, to ensure effective health, safety and control. [Whilst recognising the need to ensure the current number of places are efficiently used, the Government is considering the need for an increase in the detention estate to facilitate an effective immigration control and the removal of those with no authority to remain in the United Kingdom - **resource implications subject to further negotiation**].

Statutory rules

12.15 Immigration detention centres have evolved over a number of years. They are managed under contract. The contract documents set out the requirements and performance standards. These have been refined and, over time, have established a greater degree of continuity of approach.

12.16 The Government accepts that detention centres must be put on a better footing and within a statutory framework. We note particularly Sir David Ramsbotham's view that the safety of centres requires there to be a system of rules and sanctions which are clearly understood and, preferably, set out in a compact.

12.17 It is, therefore, proposed to seek powers for statutory rules covering all aspects of the management and administration of detention centres. These will regulate the rights and privileges of detainees and the responsibilities and authority of those managing detention centres.

Powers of detention

12.18 At present contractors' staff derive their authority from the Immigration Acts, Criminal Law Act 1967 and Public Order Act 1986. Whilst these statutes are sufficient for lawful execution of their duties, it would be helpful for the powers of detention custody officers to be set out on the face of a single statute. The Government therefore proposes to seek specific powers for Detention Custody Officers similar to those provided for Prisoner Custody Officers, who work in the private managed prisons. Such powers would cover the use of force and search powers.

12.19 In pursing these improvements to the use and management of detention, the Government is mindful that the deprivation of liberty is a grave step which must only be used with great care and when no alternative ways of ensuring compliance are likely to be effective.

12.20 The Government is therefore committed to the faster processing of claims, dealing with the current impediments which restrict removal of those without authority to remain in the UK, and pursuing such alternatives to detention which enable the whereabouts of immigration offenders and failed asylum seekers to be known and removals to be effected.

CHAPTER 13 : IMPLEMENTATION

13.1 This White Paper has set out a comprehensive and long-term strategy for modernising our immigration control. Implementing that strategy will involve a major programme of work, including :

- legislation
- additional resources
- immediate measures to strengthen the control

Legislation

13.2 The following elements of the strategy can only be achieved with primary legislation:

CHAPTER 5

- Right of appeal for visitors refused a visa
- Bond scheme for visitors

CHAPTER 6

- Introduce greater operational flexibility
- Extend reserve powers to require control facilities to be provided at ports

CHAPTER 7

- Statutory code of practice on checks to prevent illegal working
- Streamline the system of asylum and immigration appeals
- Regulate unscrupulous immigration advisers
- Extend powers to charge for services

CHAPTER 8

- Strengthen existing criminal offences for obtaining leave to enter or remain by deception
- Rationalise the support arrangements for destitute asylum seekers

CHAPTER 9

- Abolish the "White List"

CHAPTER 11

- Additional powers for immigration officers
- Extend the use of fingerprinting

CHAPTER 12

- Introduce judicial element to detention decisions
- Statutory rules on management and administration of detention centres
- Additional powers for detention custody officers.

13.3 The Government will introduce legislation as soon as possible to implement these elements of the strategy.

Additional resources

13.4 The outcome of the Comprehensive Spending Review has demonstrated that additional investment at key points in the system can reduce costs overall. Each of the chapters has indicated where the Government intends to provide additional resources. **[Refer to plans for integrated planning process\single budget. Refer to resource Annex setting out immigration\asylum spending plans.]**

13.5 Delivering the new strategy will present new challenges and opportunities for all immigration staff. The additional resources being provided at key points in the system will help to relieve the pressures which would otherwise have been bound to increase. New streamlined and flexible procedures should enable future pressures to be better managed. Modernisation will help to provide the tools necessary to strengthen the control and improve the quality of service to the public. Consistent with those objectives, the Immigration and Nationality Directorate is committed to achieving Investor in People status by the year 2000.

Immediate measures to strengthen the control

[13.6 Set out the measures which the Government intends to take immediately in order to strengthen the control. Could include immediate increase in ALO's, increased international co-operation, plans to increase removals, strengthening intelligence and operational co-operation, measures to discourage Parliamentary\legal aid for abusive claims, additional resources to deal with all new asylum claims quickly.]

FROM THE RIGHT HONOURABLE THE L

LORD CHANCELLOR

23 June 1998

RESTRICTED - POLICY AND CSR

The Right Honourable John Prescott MP
Deputy Prime Minister and Secretary of
State for the Environment, Transport
and the Regions
6th Floor, Eland House
Bressenden Place
London
SW1E 5DU

Dear John,

ASYLUM AND IMMIGRATION

Jack Straw copied to me his letter of 1 June, proposing the issue of a consultation paper on this.

I warmly support Jack's proposal. My officials have worked closely together with Jack's on this review, and I am convinced that the combination of a single right of appeal and a strengthened and streamlined appeal tribunal system is an important part of our overall strategy for asylum and immigration.

I am anxious that my Department should play a full part in supporting this initiative: you will appreciate that the appeal system, as distinct from, appeal rights, forms part of my area of Ministerial responsibility. To this end, I should like my officials to be closely associated with completing the consultation paper, which I believe should be issued as a joint LCD/Home Office document. Once the responses are in, I propose that my Department should assume responsibility for finalising policy on the Immigration Appellate Authorities, developing any necessary draft legislation and rules, and supporting those parts of the legislation in Parliament at the appropriate time.

The specific proposal that the Immigration Appeal Tribunal should be headed by a High Court Judge ~~to the judicial Heads of Division~~ has my support but there will be an impact on High Court resource issues, and the judges would expect to be consulted before the consultation paper is

published. As it happens, I am seeing them on a range of issues on 1 July so, on the assumption that the consultation paper will not be issued before then, I will raise this issue with them at that meeting and would expect to gain their support.

I am copying this letter to the Prime Minister, HS Committee, Robin Cook, Hilary Armstrong and Sir Richard Wilson.

Yours ever,

Denny

FCS/98/091

HOME SECRETARY

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Immigration Appeals - Consultation Paper

1. Thank you for copying me your letter of 1 June to John Prescott seeking agreement for publication of a consultation paper on the review of immigration-related appeals.

2. I am content for the paper to be published, but hope that we can address two points: the first in the paper itself, the second in slower time as the initiative develops.

3. Naturally, we fully support your aim of streamlining the asylum system by reducing the number of appeal layers, and by restructuring the Appeal Tribunal. Although the focus of the paper is very much on the operation of the appeals system in the UK, and as such does not impact directly on our visa operations overseas, there is a reference in the paper to the abolition of the former visit visa appeal right (paragraph 2.5). For this reason, and for the sake of completeness, I would see advantage in adding an acknowledgment of the manifesto commitment to reintroduce some form of appeal in this category, and if possible a comment on timing.

4. Your proposal notes that those removed as a result of a consolidated system would be entitled to apply for visas, immediately if they wish, at one of our Posts overseas. I recognise that this could be a positive feature of the package for those who might otherwise be minded to oppose your proposals. However, applications from such individuals would appear likely to be refused in view of their recent removal from the UK. We would need to be confident that entry clearance officers could deal with

such applications quickly, and that decisions to refuse would be upheld. We do not want to erect a Catch-22, whereby no-one removed could subsequently hope for a visit visa. But we do need to ensure that we do not face numbers of applications which are impossible to process reliably and risk clogging up the system. Officials might have to consider this in more detail as the consultation process develops. Meantime, it might be prudent to delete in Section 4.4 the word "immediately", so as not to encourage those removed from the UK to think that a fresh application for entry clearance would necessarily be dealt with quickly.

5. I am copying this to the Prime Minister, the Chairman and members of HS, Hilary Armstrong and Sir Richard Wilson.

Andrew Patrick

pp for ROBIN COOK
(Approved by the Foreign Secretary and signed by Private Secretary in his absence overseas)

Foreign and Commonwealth Office
22 June 1998

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Q: PU
JJH
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Prem x2
SCU.

RESTRICTED - POLICY

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

18 June 1998

Dear Jack

ASYLUM AND IMMIGRATION

I refer to your letters of 27 May and 1 June asking for agreement to announce a new strategy for asylum by means of a White Paper in July and to issue a consultation paper on the review of asylum and immigration appeals in advance of the White Paper.

2. We have discussed previously your plans for asylum and I confirm that I agree with the broad thrust of your strategy. Our officials have been working together on the statistical model and you attached the early results. It is clear that action needs to be taken as we will, otherwise, be faced with costs rising from around £400 million to over £600 million in 2001-02.

3. I would like to reinforce some of the points made by colleagues. The support

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arrangements are probably the most difficult to get right. I agree with Harriet that setting the cash support at a level which will provide sufficient incentive for asylum seekers to retain their documents while not providing an incentive to economic migrants will be a difficult task. However, it ought to be possible to find a level within the 60-80% of Income Support band you identify. Much will also depend on what the safety net alternative looks like. Your officials will need to work closely with Harriet's on this question.

4. I also share Harriet's view that there needs to be a proper cost benefit analysis of the various options for administering the cash benefit and whether the benefits of requiring the claimant to report at regular intervals outweigh the costs of setting up a network of reporting centres.

5. As you suggest, I think it is likely that there will need to be some central machinery to operate the safety net provision. I would be grateful if our officials could continue to work together to examine how this might work. It may be that the central agency will have to take on greater responsibilities than initially envisaged if we are to secure the support of local authorities. I am attracted to the scheme outlined by Hilary. This would mean developing a partnership approach involving central government, local authorities and the voluntary sector. One option is for the providers, which will be local authorities in the main, to contract with the central authority to provide accommodation to asylum seekers. They could be obliged to provide information on available accommodation and, as Hilary suggests, a power could be taken to direct authorities to provide accommodation where they were proving unwilling to help. The arrangements for the central authority would be similar in some ways to the function it is proposed that the Youth Justice Board should have, in effect, to act as purchaser of secure unit places. I agree that we should accept, in principle, to reimburse properly the providers of accommodation where the costs are justified and as long as incentives are in place to ensure that

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costs are brought down as far as possible.

6. You have made it clear that there will be a tough policy not to provide assistance to anyone who has exhausted the asylum appeals process. There is a clear problem in that the system is not in equilibrium as you expect to receive three times more new applications than are expected to leave. There are obviously risks to your proposed policy on removals. It will be difficult to frame new legislation that removes the statutory requirement for local authorities to provide assistance for some groups and I would be grateful if you could clear your legal advice on this with other departments before proceeding.

7. It is essential that we get the appeals part of the system right. As you note, the cost of providing support doubles up to £160 million annually if the waiting time for a decision increases from three to six months. I am content for you to publish the consultation paper which sets out the two main changes to the appeals system both of which require legislation. I would be grateful if you and Derry could set out the various options in your proposed White Paper for reducing the waiting times to the level assumed in the costings model (4 months from current levels of over 12 months) and to reduce the proportion of cases going to judicial review. I assume that changes, other than those raised in the consultation paper, will be needed, for example, to increase sitting hours and to reduce the time taken to communicate the decision of the authority of the court to the appellant. I would be grateful if my officials could see an implementation and evaluation plan as soon as practicable for appeals. It will, of course, be necessary to have similar plans for the rest of the reform package.

8. I support your proposal to legislate in 1998-99 as I recognise that the full range of measures can only be delivered through legislation. Also, as David says, the time between publication of your White Paper and introduction of the new tough

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regime should be minimised to limit the growth in the number of asylum seekers looking to claim under the current system.

9. As you know I fully support the case for creating a single budget covering most of the costs to your department of considering asylum seekers cases and the cost of supporting them while their cases are being considered. You suggested a number of potential flexibilities in the operation of a single budget. I agree that we need to provide sufficient flexibility to manage the system effectively, but we also need agreed targets to improve the efficiency of the various processes within the system.

10. I accept that we need to provide some scope for a trade-off between the cost of processing cases and asylum support costs where there are clear net exchequer benefits of doing so. But I do not believe this is an argument for reclassifying all the expenditure of your immigration and nationality department as non-running costs. For example a comprehensive deal on running cost would provide the opportunity to front-load running costs expenditure if there were a strategic planning case for doing so and demonstrable longer term benefits.

11. Full end year flexibility will be allowed for all cash limited provision within departments expenditure limits, so it will be worth considering carefully to what extent it would be sensible to bring asylum support costs within your cash limit in order to give you greater flexibility.

12. I set out in my letter of 9 April to John Prescott the criteria which would need to be met to justify the relaxation of existing rules on the treatment of current receipts. I would be happy to consider a case made against those criteria for the more flexible use of receipts in this area.

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13. I have set out already the provision for review if inflation varies substantially from the CSR projections. I also accept that there might be exceptional circumstances which significantly affect the volume of asylum seekers which would justify a review of provision. In other circumstances, for example if there was an increase in the numbers of asylum seekers claiming support as a result of agreed targets for initial decisions not being met, such an adjustment to provision would not be justified.

14. I hope this initial response to the points you raise on flexibility is helpful, but I suggest our officials work up the details including key output and performance indicators and targets.

15. I agree we should implement the new asylum arrangements as soon as possible, not least because of the risk of a surge in asylum applications once the details of the proposed new arrangements become widely known. The timing for enactment of the necessary legislation is unclear, and it is therefore difficult to split provision sensibly within departments' three year settlements between the existing support arrangements and the new support arrangements you propose. I intend therefore to make full provision for asylum support costs within Home Office baselines for 1999-2000 and later years, apart from that for unaccompanied children supported under the Children's Act. I will do so on the basis of the detailed cost modelling work that your department has undertaken. You will need then to make appropriate PES transfers to the Departments of Health and Social Security to fund the full costs of existing arrangements in 1999-2000 and later years until the new arrangements come fully into operation.

RESTRICTED - POLICY

16. I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and Sir Richard Wilson.

Yours

ALISTAIR DARLING

Top - AL
cc JEN
JPS
PB
PJ

FCS/98/089

HOME SECRETARY

(P)

Review of the Asylum System

1. Thank you for your letter of 27 May seeking agreement in principle to announce by means of a White Paper, a new strategy for asylum and immigration (devoted to improvements in the way in which asylum claims are handled).

2. I am content for you to proceed in the way you outline. I imagine that officials from a number of Departments will be consulted as part of the process of drawing up the White Paper. We look forward to commenting on a draft in due course.

3. I am copying this to the Prime Minister, the Chairman and members of HS, Hilary Armstrong and Sir Richard Wilson.

Robin Cook

ROBIN COOK

Foreign and Commonwealth Office
18 June 1998

TOP: AL
cc: JSH
PJ
PLESS
SCU
CH

DEPARTMENT OF SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 0171 - 238 0800

From the Secretary of State for Social Security

The Rt Hon John Prescott MP
Deputy Prime Minister
Environment, Transport and the Regions
6th Floor
Eland House
Bressenden Place
London SW1E 5DU

16 June 1998

Dear John,

IMMIGRATION APPEALS - CONSULTATION PAPER

I have seen Jack Straw's letter to you of 1 June seeking agreement to the publication of a consultation paper on the review of immigration appeals.

I agree with Jack that reform of the asylum and immigration appeals system to reduce the delays is crucial to the reform of the asylum process. The proposed measures to simplify the system and enhance its standing seem very sensible and should help make it possible to reduce delays significantly. It will also be important to look at ways of improving efficiency and management and I am glad that further work is under way on this. My officials working on the reform of the Social Security system would be happy to offer any help they can in this process.

I am happy to agree the proposals for issuing a consultation document in the near future.

I am copying this to the Prime Minister, Jack Straw, members of HS Committee, Robin Cook, Hilary Armstrong and Sir Richard Wilson.

Yours

Harriet

HARRIET HARMAN

CELEBRATING THE PAST
LOOKING TO THE FUTURE

Recycled Paper

DEPARTMENT OF HEALTH

Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000

From the Secretary of State for Health

AL

C.P.U

The Rt Hon Jack Straw MP
Secretary of State
Home Office
Queen Anne's Gate
London
SW1H 9AT

11 June 1998

P

Thank you for copying to me your letter of 1 June to John Prescott about the publication of a consultation paper on the review of immigration appeals.

I fully support the publication of the consultation papers. I welcome any initiative that will speed up the appeal process and also reduce the large backlog of outstanding appeal cases and thus remove some of the burden currently faced by social services departments in providing accommodation for asylum seekers.

I appreciate that the latest costings used in the paper only refer to 1996/97 which is the first year that Social Services Departments were given responsibility in this area. However, since then the costs have risen immensely, with my Department paying special grants to LAs in 1997/98 amounting to £70.1m.

I am copying this letter to members of HS Committee, Robin Cook, Hilary Armstrong and Sir Richard Wilson.

FRANK DOBSON

NR9JUNE.03

THE SCOTTISH OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU

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The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor, Eland House
Bressenden Place
LONDON
SW1E 5DU

10 June 1998

(P)

Dear John,

ASYLUM AND IMMIGRATION

Jack Straw wrote to you on 27 May and 1 June about asylum and immigration.

I welcome the broad strategy and am content with the skeleton consultation paper. The new proposals go a long way to meeting the concerns which I have with the present system. I must however flag up the Scottish interest in all this.

We have comparatively few asylum seekers here, but the complications of operating a separate support system in Scotland have convinced me that the solution to this problem must be UK based. Under Scottish legislation, we were able to introduce a system of cash payments for asylum seekers in the last financial year. This was very much welcomed by Scottish local authorities. Conversely, the legislation here has made it more difficult to deal with the accommodation needs of asylum seekers. This has brought home to me the problems we face in ensuring consistency in the arrangements for supporting applicants when we have different legislative powers available to us and when an asylum application may be taken in any jurisdiction of the UK. Any inconsistency in our treatment of individual asylum seekers may run the risk of attracting many more. I therefore look forward to a return to one system across the whole of the UK.

A case in point is the legal aid dimension. It is clearly important and our legal aid system will be devolved under the Scotland Bill, although asylum and immigration are reserved matters. We may have to consider amendments - perhaps in the Scottish Parliament - to our legal aid system to match your proposed changes. Similarly, separate amendments may be needed to Scottish social work and housing legislation. I would therefore ask that my Department should be involved in the further work on the strategy.

The final version of the consultation paper will need to take the Scottish dimension into account: for example, the figures on legal aid (paragraph 11) do not cover Scotland and other paragraphs of the consultation paper will also need to be adjusted to cover Scottish aspects. Our respective officials can liaise on these matters.

I am copying this letter to the Prime Minister, Robin Cook, members of HS, Hilary Armstrong and Sir Richard Wilson.

Yours sincerely,

Donald.

DONALD DEWAR

HSB01009.068G

Chancellor of the Duchy of Lancaster
Cabinet Minister for Public Service

CABINET OFFICE
70 Whitehall, London SW1A 2AS
***Telephone:* 0171-270 0400**

KbO 11669

The Rt Hon John Prescott MP
Deputy Prime Minister & Secretary of State
for the Environment Transport and the Regions
6th Floor
Eland House
Bressenden Place
London SW1E 5DU

10 June 1998

Dear John,

ASYLUM AND IMMIGRATION

I have seen Jack Straw's letter to you of 27 May, copied to HS colleagues, outlining his plans for a White Paper on his strategy for asylum and immigration followed as soon as possible by legislation.

Officials here worked closely on the cross cutting CSR Review of asylum. Many aspects of Jack's proposals echo the recommendations and findings made in that Report. In particular I welcome the proposed extension of the Airline Liaison Officer network, and the measures to speed up initial asylum claims and the appeals process. There are, however, a few points of substance which I believe need further discussion.

On the question of welfare support arrangements for asylum seekers, I think we need to understand more fully the implications of Jack's proposals. A key feature of the CSR Review was that payment of cash benefits throughout the appeal stage could be a means of enforcing reporting measures to avoid failed applicants absconding. Jack proposes to remove cash benefits from the point at which the first negative decision is made. This would certainly lessen the pressure on direct asylum benefit costs, compared with the CSR Review proposals, but would give no incentive to failed asylum seekers to do anything other than abscond, with unknowable additional costs to the public purse. I understand that part of the reasoning for reducing benefit at

first negative decision is to lessen the incentive for applicants to draw out the process through appeal, but I wonder whether this could not be more effectively achieved through Derry's proposals to limit legal aid.

Another feature of Jack's proposal is the creation of a two-tier system of welfare (cash support for those with documents, and for those without, a safety net), on the basis that this would help to minimise identity fraud and the destruction of documents. This appears complex and potentially difficult to administer. For the incentive effect to work, the difference between the two forms of support will have to be sufficiently tangible to encourage asylum seekers to present valid documents; I wonder whether this is actually possible to achieve, given the low level of cash benefit proposed. An alternative means of validating identity would be through use of biometric data through extending the IT links between posts and the UK, as suggested in the Joint Study on Entry Clearance. If this were a viable option, it might be possible to look again at a single form of welfare support.

I have some additional concerns about measures which distinguish between different categories of applicant and which would prevent welfare support for repeat asylum applicants; applicants who had been in the UK for longer than seven days and applicants who arrive without any documentation, as section 11 of Jack's paper appears to suggest. Whilst this may provide less of an incentive for economic migrants to claim asylum or for repeated abuse of the system, it is likely to have a negative impact on the genuine applicant. This is a point the lobby groups are sure to pursue. As part of the preparation for the White Paper, perhaps Jack could circulate information showing how many successful applicants over the past five years applied without documentation, had been resident in the UK for longer than seven days or had made repeat applications.

My second point on the substance of the new proposals concerns the removal of failed applicants. The integrity of the whole asylum system is jeopardised if failed applicants are not removed. The paper proposes an increase in removals at best, to 12,000 per year. This means that the removals backlog will continue to grow at an alarming rate, with no means of reducing it. There is considerable further work needed, I believe, to ensure that we have in place the most effective means of removing failed applicants. There is little point in having a faster application process, a tougher approach to failed applicants and an apparently better controlled budget, if we fall down by failing to make sufficient removals to make the system credible.

In section 8 of the paper, a proposal is made to legislate for the Manifesto commitment to a new right of appeal against the refusal of a visit visa. The Joint Study on Entry Clearance offered some observations on this commitment (para 10.19), notably that an appeal system would be very expensive resulting in a high fee to applicants; that there would be resource

implications overseas; that current IT systems are insufficient to introduce an effective new system and; that the current system for reviewing refusals of visit visas, although criticised, seems fair when compared with procedures used by our analogues. It would be interesting to know to what extent these observations are reflected in Jack's current thinking.

Sections 15 and 16 of Jack's paper consider structural changes to the Whitehall ownership of the asylum system. When these proposals are clearer, they may need to be considered for machinery of government implications.

Finally, we need to be aware of the risk of creating a "pull" factor for asylum applicants between the publication of the White Paper and introduction of the envisaged tougher regime. Whatever timing we eventually agree, there will need to be swift progress from White Paper to legislation.

I am copying this letter to the Prime Minister, Robin Cook, Jack Straw, HS colleagues, Hilary Armstrong and Sir Richard Wilson.

DAVID CLARK

FROM HILARY ARMSTRONG MP
MINISTER FOR LOCAL GOVERNMENT AND HOUSING

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL 0171 890 3000
FAX 0171 890 4489

TOP - AL
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The Rt Hon John Prescott MP
Deputy Prime Minister & Secretary of State
for the Environment, Transport and the Regions
Eland House
Bressenden Place
London
SW1E 5DU

10 JUN 1998

Dear John

ASYLUM AND IMMIGRATION

I have studied the proposals in Jack Straw's letter to you of 27 May with interest. I fully agree that there is an unquestionable need to review the whole policy on the admission and handling of asylum seekers. The present arrangements, and in particular the delays and costs to which they give rise, are in no one's interest.

Broadly, I am content with Jack's proposals. Speedier processing and more effective deterrence are essential components of an effective strategy, and I welcome the initiatives proposed. On the transport side of this Department, we are concerned to ensure that deterring inadmissible passengers does not also deter legitimate travellers, and we therefore welcome the proposals to expand and develop the airline liaison officer network, and to modernise port control.

I agree that we need to rethink the system of support for asylum seekers while they are pursuing their claims; we need to strike the right balance between ensuring proper support for those in real need, and avoiding offering a perverse incentive that encourages unfounded claims. The present arrangements whereby local authorities are required to shoulder most of the burden under social services legislation are wholly inappropriate, not least because the great majority of asylum seekers look to just a few authorities in the London area for assistance. The burden on them is unsustainable, and is threatening their ability to discharge their duties to local people under the homelessness legislation. We need a new system, created for the specific purpose of supporting asylum seekers, and integrated into the overall arrangements for handling them. I assume that, as part of that process, Frank Dobson will be removing the current duties owed to asylum seekers under the social services legislation. Similarly, I would expect to remove the limited duties that exist towards them under the homelessness legislation.

Jack proposes a two tier system of support, with cash as the main form of support in most cases initially, backed up by a limited safety net of accommodation and support in kind, for those who would otherwise be destitute. While I can see the logic of this in principle, I think we have to recognise that in practice the unit cost of providing board and lodging as a safety net will inevitably be considerably more than that of providing cash assistance. We will therefore need to be clear that the deterrent effect of the board and lodging approach outweighs the additional cost per case, relative to a single tier system with a cash allowance paid to everyone. The proposal for a unified budget under Home Office management, which I endorse, will help Jack form a balanced view of where the advantage rests.

As Jack recognises, there are a variety of bodies that could provide the necessary accommodation and services for the second tier safety net. I would favour a partnership approach in which the voluntary sector, housing associations and local authorities can all be involved where appropriate. As he suggests, there would need to be a central body to co-ordinate and fund local activity, and ensure that asylum seekers were distributed around the country wherever there is suitable accommodation. I think we should leave it to individual local authorities to decide how far to participate, on a contractual basis, according to whether or not they have suitable spare stock available. I see no need for authorities to be given a residual duty to accommodate - it would undermine the main arrangements that are proposed. I would be prepared to consider our taking a power to direct recalcitrant authorities, either individually or en masse, to assist in the provision of accommodation, where there was no obvious impediment to their doing so, although we must recognise that this would be unpopular, and that we might have difficulty in justifying the criteria used to single out authorities.

I am not clear what other roles Jack envisages for local authorities; but you will appreciate that if there were any new burden placed upon them, I would insist that the cost of this be fully covered, either by a specific grant paid by the Home Office, or by the transfer of the full resources needed into the local government finance settlement.

I am copying this letter to members of HS, and to Sir Richard Wilson.

Yours

Hilary

HILARY ARMSTRONG

Top: HAPS
cc EAPS
PO
Press
SCU

SECRETARY OF STATE FOR EDUCATION AND EMPLOYMENT

SANCTUARY BUILDINGS GREAT SMITH STREET
WESTMINSTER LONDON SW1P 3BT
TELEPHONE 0870 0012 345
E-mail dfee.ministers@dfee.gov.uk

RESTRICTED - POLICY

The Rt Hon DAVID BLUNKETT MP

Rt Hon Jack Straw MP
Home Secretary
Queen Anne's Gate
London
SW1H 9AT

10 June 1998

(P)

Dear Jack

Thank you for your letters of 27 May and 1 June to John Prescott about a new asylum and immigration strategy and the publication of a consultation paper on immigration appeals, respectively.

I would support the general approach of the new asylum strategy. In particular I agree with your view on reception centres. We have concerns about how a system of such centres would affect the education of the children of asylum seekers. There is a risk that the children could be 'ghettoised' , which runs counter to our policy of integration. There could also be implications for local school recources as well as possible adverse reaction from the local population.

Paragraph 19 of the strategy paper refers to the point that some asylum seeker support costs could not be separated from wider provision and this is certainly the case with education. A transfer of education costs into a composite Home Office asylum budget would be neither practical nor desirable.

On a general point, I wonder if it would help to appreciate the issues and proposals of the strategy, if some illustrative examples were included to show how a genuine asylum seeker and a bogus one would be treated, (a) under the present system and (b) under the proposed system. It could make clearer the stages, controls, timing, costs and experience of applicants.

Turning to the consultation paper on the review of immigration appeals, I am content for its publication. I would, however, like to stress that education should continue to be one aspect that is foremost in our minds when taking forward action either on the overall strategy or on specific issues such as immigration appeals. We need to avoid criticism that actions in one part of Government undermine work elsewhere on integration and social inclusion.

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and Sir Richard Wilson.
Best Wishes

David Blunkett

DAVID BLUNKETT

D/EE

DEPARTMENT OF HEALTH

Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000

From the Secretary of State for Health

RESTRICTED - CSR

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

AL
C: PJ

8 June 1998

1. ~~DJH~~
To nick - Some points to pick up in the meeting.
2. JH.
AL.

Thank you for copying to me your letter of 27 May to John Prescott in which you set out proposals for a new and comprehensive strategy for asylum.

I welcome your recognition of the intolerable position which local authority social services departments are in and the assertion in your paper that the provisions of the National Assistance Act 1948 must not be retained for the purposes of welfare support to asylum seekers.

I therefore strongly support your proposal for a White Paper in July setting out the strategy and for early legislation. I do, however, have some concerns about some of the welfare support proposals which I have detailed in the attached annex. I must stress the need for my officials to be involved in the further discussions necessary to finalise those proposals.

You mention in your letter the need for early legislation to achieve the welfare support arrangements. I support you in this and would stress the need to consider very early legislation - perhaps to give local government (but preferably not social services departments) a blanket power to arrange support for asylum seekers - for the transitional period. Westminster City Council are pressing for a hearing of the House of Lords appeal before the end of this year. The problems the Government will face in the event of a ruling in our favour have been well rehearsed. It is unlikely to be sufficient to think in terms of propping up or adapting the present arrangements until alternative satisfactory support structures are in place.

It seems to me that there is still much work to do on the administration and budget position for the whole asylum process. What is important is that, if local authorities are to be given any new responsibilities or asked to continue with their current responsibilities for any length of time, they must be fully reimbursed.

DEPARTMENT OF HEALTH

RESTRICTED - CSR

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and Sir Richard Wilson

FRANK DOBSON

RESTRICTED - CSR

Concerns about the Welfare Support Arrangements

a. One of the objectives of the support arrangements is to encourage asylum seekers to co-operate with the asylum process and to encourage them to retain their papers. The proposal is to remove cash payments after first decision. If the appeals process remains slow this objective is not likely to be met as retaining papers will be of no benefit to the asylum seeker while waiting for an appeal hearing.

b. It seems that the proposal is to remove entitlement to social security benefits from ALL asylum seekers whether they make their asylum application at port of entry or in country. This means removal of entitlement to benefits for port of entry asylum applicants who are currently entitled to those benefits until a first decision on their application is made. This would require legislation which would be difficult to handle especially in the light of this Government's opposition to the previous Government's removal of benefits from in-country asylum applicants.

c. The proposal is to make cash payments to asylum seekers with the correct documentation, but on a discretionary basis. There is no indication at whose discretion this would be, or what the asylum seeker who is refused support could do. There is also some concern that restricting first line support to those asylum seekers with the correct travel documentation will penalise the genuine asylum seeker (will someone who is genuinely fleeing oppression, and in fear of their life, really approach the very authorities they are fleeing in order to obtain travel documents?) while supporting the economic migrant who had time to plan their departure and to obtain the necessary documents.

d. For asylum seekers who receive a negative decision on their application (and maybe for those refused support as in c. above - but this is not mentioned in the paper) there will be a safety net provision with, probably, no choice of accommodation and other support in kind rather than cash. While we welcome the acknowledgement that LASSDs should not be involved, and that the NA Act 1948 would not be the legislation used, there are concerns that this approach will be troublesome and may lead to the same legal challenges which LASSDs have faced over the last three years.

e. It is worrying that there is little detail on what is envisaged for families with children. While we have not denied that un-accompanied children should remain the responsibility of LASSDs, we would expect that families with children would fall under similar support arrangements as un-accompanied adults. We would expect to be heavily involved in any considerations of arrangements for this group.

f. The proposal is that any asylum seeker who has exhausted the appeals process but remains here unlawfully should have no access to any support - including the safety net support. The paper is not optimistic about there being an improvement in numbers and speed of removals, and so this group of people could increase in numbers. In order to ensure that such people do not end up being supported by LASSDs (the Brent judicial review involving a Brazilian overstayer with Aids suggests that the courts are open to the idea that such people are the responsibility of LAs under the NA Act 1948) we may need to consider amending the 1948 Act to ensure that it does not remain the safety net for an increasing number of illegal overstayers.

Angus

10 DOWNING STREET

cc. Godric | Bell | MJ
John Holroyd

MB. F

What do you think? Not exactly core message stuff and potential for endless editorialising, but potentially not a bad idea. How would you stop it being either jingoistic or PC?

Angus. 9/6

Somewhat unnecessary, unbecoming & ridiculous & bizarre to write Lords Lieutenants!

Ed

As you know, I believe that L-Ls need to be consulted; but I do not see their involvement as necessarily "insane." They are, after all, HMQ's reps in their counties.

John H 17/6

AL
C: PU

Prime Minister

A POSITIVE APPROACH TO CITIZENSHIP

Summary

I have been considering how we could encourage a more positive approach to British citizenship. The current delays in granting citizenship are two years, and this is unacceptable. We have taken some steps, and will take more, to speed up the process. But we also need to enhance the role which the award of citizenship can play in our one-nation policy. This minute seeks your agreement to establishing awards ceremonies. If you and the Palace agree the idea, I shall include it in the White Paper on Immigration and Asylum that I intend to publish before the Summer Recess.

Consideration

2 Citizenship is a very inclusive idea, shared across income groups, ethnicity, and across generations. At present however, there has not only been little education for citizenship, but no information from Government as children become adults and attain free citizenship as to what citizenship means.

3 David Blunkett is now addressing the issue of citizenship education. In addition, I have put in hand work on a short statement on the rights and responsibilities of citizenship, and an examination of whether it would be feasible (and if so, at what cost) to send out such a statement to young people as they attain 18. I will let you have further details in due course, but such a statement might include a short message from The Queen, and a text approved by the leaders of the main political parties.

4 At present, successful applicants receive their certificates of naturalisation or registration through the post. One way of enhancing the status of citizenship would be to attach more significance to the issue of certificates, by holding a public award ceremony. This already happens in some other countries, such as Australia and the US. The ceremony could include a presentation on Britain as a multi-cultural society, and the rights and responsibilities of citizens.

5 We have still to resolve the issue of costs. But, should we move to introduce these ceremonies, then I think the Lords Lieutenant might be best placed to officiate at these ceremonies. I should welcome your agreement to approaching Buckingham Palace about involving them before taking the matter further.

5th June 1998

1. cc
LIZ
2. back

10 DOWNING STREET

AL.

PM.

P

This is worth looking at in the depth LIZ offers - there are no easy choices, but a real opportunity to change the system dramatically.

My question all along has been whether we could get away with making the system faster, tougher and fairer without changing benefit entitlements, given how tricky this could be. LIZ however argues persuasively that this would not work.

Do you want an internal meeting with Liz and Peter to talk through? Yes
(I thought this format worked well on broadcasting).

Thanks

5/6

Prime Minister

From: Liz Lloyd
Date: 5 June 1998

cc: MwP
Angus Lapsley
Robert Hill
David Miliband
Sharon White
Jeremy Heywood
John Elvidge

ASYLUM

This note sets out why we are coming back to this now, what Jack Straw is proposing and points out some gaps in these proposals and suggests that we might take another look at how we present and sell our proposals.

1. THE NEED FOR CHANGE

There are good political and policy reasons to act now. Without intervention the costs of the asylum system will rise to £800 million a year in 2001/02 and the number of people who have been refused some type of leave to stay will be over 100,000 in 2002.

If we act soon we will be able to wipe some of the slate clean - i.e. blame the Tories for the inherited mess and start over again.

The attached note by Jack Straw sets out clearly where he is.

2. ELEMENTS AGREED SO FAR

Jack Straw has set out reforms to the whole process from prevention to removals. Previous reorganisations have tended to deal with only one element - appeal, support etc – which has often led to unforeseen pressures building up in other

parts of the system. It is by no means perfect, but the broad thrust of the package looks sensible.

Greater Prevention

Principally by increasing the number of airline liaison officers and imposing direct air transit visas where appropriate. There are some difficult balances to be struck here - weighing the diplomatic consequences of imposing a visa requirement on an EU applicant country with the number of asylum seekers this would discourage. It will be important for each decision about imposition of a visa regime to be taken weighing up the costs and benefits.

Increasing Removals

To be achieved through increased training and provision of immigration officers, but also by keeping in contact with people during the process and increasing the availability of detention places to prevent people absconding after all appeals have failed. This will be tough, but acceptable to lobby groups if the system is quick. What they really object to is families putting down roots and then being removed. However, even under these proposals the number of removals will not keep pace with the number of refusals and a new backlog of those to be removed will grow up. I think we should be concerned about this too.

Speeding up the decision-making system process especially appeals

The paper states that the target for an initial decision is 3 months target. Privately some officials think it could be 6-8 weeks if all goes well. [At the moment 25% of new cases are dealt with in 2 months and 75% within 12 months.] This target still seems far too long, but officials are convinced that we do not have the ability to speed it up further for a mixture of resource and legal

reasons. There is already a high incidence of judicial review on asylum cases, and any extreme tightening of the system would lead to more judicial review and more delays.

Appeals

60% of applicants appeal under the current system. Even with the proposed one tier appeal system IND estimate that the process will still take about 4 months.

Home Office to be responsible for managing the system

Jack is willing to take responsibility for the management of the whole of the system including welfare support.

Dealing with the Backlog

You have indicated that you could live with, in effect, writing off some of the large backlog if the whole package looks right. Jack's proposals would mean a large number of cases, maybe 22,000, would be given a positive outcome in the next 2 years, and it is a difficult decision.

But, Jack is convinced that it will not be possible to improve the system unless we get rid of the backlog. This would be done in two ways:

- Virtually all the 10,000 cases from pre-1993 would be given a positive outcome. Only criminals and clearly abusive applicants would be refused.
- Fast track decision-making for the 20,000 cases from 1993-1995 or 96. Maybe 60% (rather than the usual 25/30%) of the people in this category might be given a positive outcome. Each case would be considered individually but using additional criteria such as how long the case has been

delayed, what sort of roots they have put down, whether they have children at local schools and so on.

I think some kind of fast-tracking is necessary for two reasons.

a) There is a limit to what the system can deal with whilst there is enormous pressure from new cases.
b) It is much harder to remove families who have been here for 5 years and who are fully integrated into the community.

But we need better details from Jack of the sort of criteria that the 1993-95 cases will be decided under and how many cases they envisage will get a positive outcome. **Do you agree?**

3. OUTSTANDING ISSUE: TYPE OF SUPPORT

The big remaining question to be resolved is how to support people going through the process. Just doing preventative measures should reduce the overall bill to between £326 and £420 million. But the government was only able to persuade Westminster Council to drop their legal challenge to the current system on the understanding that we would revisit it. If we continue with the current system they would take this up again and we could well end up with a very (expensive and) undesirable outcome.

Options

We can choose from any combination of: -

- Cash Benefits - including housing benefit
- Benefits in Kind - e.g. food vouchers
- Hostel or reception centre accommodation

The CSR team favoured a reception centre/benefits system. Applicants would go to a reception centre for the first month and then receive about 80% state benefits for the rest of the process. They argued that this would give a greater control over applicants and that detention centres would deter applications. Jack has rejected reception centres because he thinks it would be hard to find sufficient suitable buildings/locations and they would be impossible to manage. He also thought that a short stay in a detention centre would not be a sufficient deterrent to compensate for the attraction of benefits.

Jack has also pointed out that the CSR team's model would not save significant amounts of money. On current trends the total asylum bill would rise to £700-800 million, which is also the total bill predicted using the CSR support model.

I think this is right - we would need 20-40 large reception centres which would house mainly young men, but some families from very diverse ethnic backgrounds. They could well become the focus of xenophobic attention, as in Germany.

Instead Jack favours a two-tier system (for those awaiting initial decision)

- Cash benefits (probably including housing benefit) at 60-80% of income support levels for asylum seekers **who have valid travel documents**
- A safety net of benefits in kind plus access to some hostel provision (in any part of the country) for those **who do not have proper documents**

This would provide an incentive for applicants to retain their documents. He estimates this will cost between £242-£420m (i.e. save £350 -£180 million over projections) depending on whether the improved decision-making system is effective in discouraging applications.

There are a number of reasons for questioning this approach:

- there is no rationale for this in terms of the merit of the application; it is merely an administrative convenience; IND people say documented arrivals are easier to deal with, can be removed more easily and others cannot reuse the documents. However, there is no known correlation between those with proper documents and the likelihood that they will get a positive outcome.

- Complexity: Jack is suggesting that the benefits should be set up on a different statutory basis from the normal benefits system, However, only 25-50% of asylum seekers have proper documents so we would be setting up benefit system for only about 7,000-14,000 people for a period of about 2-3 months each. 80% of applicants who are refused at initial decision then go on to appeal. The appeal process will take about 4 months. These people would then be able to take-up the safety net option. This means that the majority of applicants in the system at any one time would be eligible for the safety net option.

- Pull Factor. Cash benefits of 60% of income support levels look very tough to us, but may not to those from other countries. We have firm evidence that cutting eligibility to cash benefits acts as a disincentive to new applications.

There is a 100% take-up of cash benefits, whereas only a 15-30% take up of hostel accommodation so even though the unit cost of cash benefits is lower than that of a local authority based hostel the overall cost will be lower.

The difficulty with a hostel based system is providing a sufficient incentive for local authorities to co-operate. Most regard asylum as a national problem, and are therefore reluctant to bear the cost and political hassle of providing for asylum seekers. Part of this could be remedied with a proper funding mechanism in place. However this brings its own problems if asylum seekers are provided for more quickly that those on long homelessness registers waiting for council accommodation.

Before agreeing to Jack's proposed system I think we should ask him to explain why a simple one track safety net system is not better.

Do you agree?

4. Selling the proposals

Jack is clearly aware of the difficult balance to be struck between the churches/lobby groups/PLP and tabloids/ordinary people.

He has started to float some of the ideas with lobby groups and the PLP - no-one has raised severe objections so far. It will be very important to sell this as a whole package. Refugee groups like the speeded up decision-making and think that a fairer system will be more generous (it probably will) and others will like the firm line on removals. He is also devising a press strategy for abroad - so they know we are getting serious too.

In the medium term there is a strong case for trying to change the rhetoric on this issue. Even if most people are economic migrants of some kind they are a small part of the inter-migration between here and the rest of the EU of half a million over the last 4 years. After enlargement, there may well be many more people coming from Eastern Europe to live and work in the UK. If we want to avoid the sort of tension that might create, we should try to get away from the language of "bogus" asylum seekers and demonising economic migrants.

In addition, Amsterdam opened the way for greater integration on asylum policy at EU level. The approach in Jack's paper is a unilateral one and the support system envisaged is linked very closely with the UK decision-making process. Although we are still 2-3 years away from proposals for common procedures, we will have to decide whether to opt in or out of an EU system. If, for wider reasons, you wanted us to be early "ins", we might have to change our procedures all over again. In the meantime, we are likely to face pressure for greater burden sharing with Germany.

5. TIMING

Jack Straw is proposing to publish a White Paper in July on the whole asylum process. He is making a firm bid for a legislative slot this year. If we are to capitalise on the inheritance point and stop the costs rising we will need legislation next session subject to agreeing the outstanding points.

Top - AL
cc JJH
RR
PJ

QUEEN ANNE'S GATE LONDON SW1H 9AT

27 MAY 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor, Eland House
Bressenden Place
London
SW1E 5DU

Dear John,

ASYLUM AND IMMIGRATION

I am writing to seek the agreement of HS colleagues to the early announcement, by means of a White Paper, of a new and comprehensive strategy for asylum and immigration, to be followed as soon as possible by legislation. I am also seeking broad agreement to the main planks of this strategy.

The United Kingdom attracts economic migrants who manipulate our cumbersome processes to stay here for prolonged periods. Our arrangements for handling these cases have been overwhelmed. There are large backlogs of cases at many points in the process. The support arrangements are a mess and the burden on local authorities is becoming unsustainable. The total cost is now estimated at £500m annually, projected to rise to £800m if no action is taken.

When we came into government we set up a series of wide-ranging reviews to tackle the expensive set of problems which we had inherited. The two Home Office CSR studies on asylum and on port controls, the reviews of detention and appeals, and the CSR study led by the Efficiency Unit of the entry clearance operation overseas are all now complete. We are in a position to get ahead with a comprehensive strategy on asylum and immigration putting into practice our statement of policy and the central principle of fairer, faster and firmer procedures.

This is an area in which the problems will never be completely solved. There are strong forces outside our control driving economic migration. It should however be possible to manage matters better; to reduce very substantially the cost to the United Kingdom; to transform the perceptions of unfairness which accompany delays, backlogs and the legacy of half-baked initiatives; and to clamp down more effectively on widespread exploitation and abuse. The key

elements of the strategy I am proposing are set out in the attached paper. There is more work to be done on several of the main issues including the sensitive subjects of backlogs, support arrangements for asylum seekers, and detention, each of which will need very careful public handling, and on these and other issues I shall of course be consulting colleagues further in more detail. At this stage, my concern is to secure approval for the thrust of the strategy and the main elements of each of the principal proposals.

The paper also includes a comparison of the likely costs of different approaches to the problem. Obviously the figures are subject to developments on the detail. But they have been calculated from a statistical modelling exercise conducted by officials here and in the Treasury.

Having reached this stage I am anxious to work up an early comprehensive announcement showing the fruit of the various reviews, and I consider a White Paper to be the most appropriate vehicle. There is now considerable pressure on us to announce a way forward, and I do not believe we could credibly delay this beyond the Summer Recess. I therefore propose to aim for publication of a White Paper in July. This makes for a tight timetable for taking forward some of the further work, but we cannot afford to do otherwise.

I have also become increasingly convinced of the importance of early legislation. It was noteworthy that at the PLP meeting on Wednesday 13 May there were strong calls for legislation in this area next session.

While some significant benefits can be obtained without legislation, for example through clearing the backlog of asylum decisions and more investment in preventive work, other key features of the strategy including the arrangements for welfare support, can only be achieved by changing the law. Unless we can introduce this quickly, the problem and associated costs will continue to grow, the present system may be overwhelmed still further and we shall not be in a position to show progress until well into the millennium.

In particular, the position of the local authorities will become intolerable with consequent damage to central and local government relations. It is very possible that without early legislative action by us Westminster Council will revive their appeal to the House of Lords on the 1948 Act with the risk that the scheme is declared unlawful. We would then have to legislate in an emergency to prevent many thousands of asylum seekers being thrown onto the streets.

I understand that QFL is to return to the subject of legislation in the next Session and that there are opportunities still open for CSR-related measures. My present judgment is that there would be great advantage in using one of these opportunities for legislation on asylum and immigration, it is my current intention to make a strong proposal for consideration by QFL at the appropriate time.

In handling the further work on all this I am conscious that we shall need to keep good control over the linkages between the various reviews and their follow-up programmes. Where there is detailed work to be done, we will proceed with it urgently in full consultation with interested Departments. If colleagues can agree the overall plan, my next step will be to complete work on the relevant policy issues and to prepare a first draft of the White Paper.

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and Sir Richard Wilson.

Yours ever,

JACK STRAW

AN ASYLUM AND IMMIGRATION STRATEGY

Summary

1. This paper outlines a new approach to immigration control aimed at reducing the burden on the UK created by asylum seekers, many of whom are using asylum for economic migration to the UK..

2. An obligation towards asylum seekers is contained in the 1951 UN Convention on refugees. Numbers of asylum seekers were broadly stable at around 4000 a year in the period up to 1988. Since then they have risen to a peak of 44,000 in 1995 falling back to around 30,000 currently but now once more on a rising trend. Some of this increase has been due to greater instability in some countries, but this is only a small part of the explanation. Asylum claims have now become a routine method of evading immigration control. PLP colleagues with large immigration caseloads have all witnessed a large increase in unfounded asylum claims. Colleagues are very impatient about this evasion, the involvement of unscrupulous immigration advisers and legally aided lawyers who unjustifiably milk the system, and about the way in which these abusive claims discriminate against families who observe the Rules. There is alsp now increasing evidence that organised criminals are heavily involved in trafficking in asylum seekers.

The present asylum system costs about £500m now, £400m of which is for support, projected to rise to £800m in 2002/3.

3. The main elements in the proposed new strategy to tackle this problem are:

– investment to speed the processing of asylum claims and to clear the backlog of old cases. Spending an extra £10-£15m in each of the next two years could with a flexible approach practically eliminate the backlog in 2001 - reducing the cost of support (on current arrangements) by more than £40m in the first year alone;

– investment to prevent and deter arrivals of inadmissible passengers. An extended network of airline liaison officers would cost £3m and save up to £40m (on current arrangements);

– action to streamline the appeals process;

– action to reduce barriers to removal, which if successful could substantially increase the numbers of asylum seekers removed. Investment in the removals process could also increase removals; £40m extra might lead to an additional 6000 removals annually although this would require a substantial expansion of detention space which is difficult and could not be delivered quickly;

- an entirely new welfare system for asylum seekers which pays a cash allowance only to those who claim asylum on or shortly after arrival and who have valid travel documents. There would be a safety net for others. If the decision time had been reduced it is possible that the cost of supporting new asylum seekers up to the first decision could be reduced to £60-£80m annually - although a continuation of the backlog of cases being supported under present arrangements would cost much more.

4. Delivering this strategy will require primary legislation. Unless this is introduced quickly the problem will continue to grow, the present system may be overwhelmed and transition will be more difficult and expensive.

Background

5. The interdepartmental CSR study concluded that the asylum system inherited from the previous Administration is a mess

- It is very expensive. The total cost of processing and welfare is estimated at £500m now, projected to rise to £800m in 2002/3 if no action is taken.

- Most of the spending - some 80% - goes on supporting asylum seekers. The way in which the previous government sought, in the main unsuccessfully, to restrain this spending has put enormous pressure on local authorities - especially in London.

- The processing of asylum claims is under-resourced and cannot cope with fluctuations in demand. The Home Office has a backlog of over 50,000 undecided asylum applications, some over 8 years old. The LCD appellate system has a backlog of 23,000 appeals with routine new cases being listed for hearing in 15 months time. Delays in processing play a large part in the difficulties over removal.

- Although removals have increased substantially in recent years we remove only about 600 failed asylum seekers each month - compared with 3,000 asylum applications made, 75% of which are likely to be refused permission to stay.

- If nothing is done, the backlog of decisions would double by 2002 and there would be some 115,000 failed asylum seekers not yet removed from the country. The support element of the total costs would increase to £700m from £400m now.

- The system is unfair to genuine asylum applicants, while not sufficiently deterring economic migrants. The social security system treats abusive claimants better than, for example, returning UK residents who fail to meet the "habitual residence" test.

6. All prosperous countries face the problem of economic migration. International travel is becoming cheaper and easier, there is a widening gap between standards of living here and in less developed countries. Racketeers and organised crime exploit this to an ever increasing extent and seek opportunities to get people here. Whatever we do the applicants and their advisers will adjust their behaviour to try to defeat our controls. But there are also genuine asylum seekers fleeing from real persecution. We are committed to a strong and positive policy on human rights, including honouring our obligations under the 1951 Geneva Convention on refugees; and we are also bound by other international commitments and legal obligations.

7. The volume of applications is bound to increase so a realistic aim can only be to reduce costs to a manageable level. But we have to spend now to curb expenditure growth. If we do not act to process more applications more quickly we will put intolerable pressure on resources for supporting asylum seekers which we are trying to constrain. Speed is also essential to the chances of effective removal action, and the more unremoved cases there are the greater the risk of damage to community relations and the accelerated growth of a new underclass of illegal residents which would undermine our policies on social integration and racial harmony.

<u>The processes for handling asylum claims</u>

8. We need a balanced package which reflects our 'firmer, faster, fairer' framework for immigration policy. We need to improve and speed up the way we deal with asylum cases. This will require major procedural changes <u>to the appeals system</u>, which can only be delivered with primary legislation. It will also require some additional investment, although the costs are small compared with the likely reduction in the growth of expenditure on support. The main elements of this part of the package are

- <u>A tougher approach to preventing and deterring the arrival of inadmissible passengers</u>. We need to invest in developing intelligence, tackling trafficking and developing the network of airline liaison officers (ALOs) overseas to stop inadmissible passengers boarding. For an annual spend of under £3m we could save up to £40m, by avoiding the support and removal costs of those passengers likely to be denied boarding - the actual savings would probably be higher as other economic migrants would be deterred by such measures.

- A modernised port control with better IT support using the latest technology to create a system integrated with the entry clearance operation. We would need to invest up to £5m to initiate this. We would aim for a PPP deal where the Private Sector provided the main investment. We also need to operate the port control more flexibly so that fewer resources are engaged on routine work and we focus more effort on potentially inadmissible passengers. This requires legislation and might be controversial but is necessary if we are to cope with increasing flows of legitimate travellers as well as economic migrants without increasing the resources we put into this (which otherwise would need to rise 5% in real terms annually - from the present level of £125m). I have already made one change in this direction - with the ending of routine embarkation control), releasing £3m for other better enforcement.

- Much greater speed in dealing with asylum claims. Improved efficiency and procedures mean that most new cases can in principle now be decided within a few weeks of the application being received. The Caseworking Programme will modernise the Immigration and Nationality Directorate's systems and deliver further improvements. But the backlog needs to be tackled. Not only does the backlog soak up huge support costs, including the bulk of the remaining expenditure on cash benefits, it also acts as a beacon to new asylum seekers who see the potential for exploiting long delays. I have publicly ruled out a blanket amnesty for backlog cases, which would be indefensible and act as a magnet to others. But I am in no doubt that it would be equally unwise simply to try to apply current criteria to the older cases as if the delays had never occurred. That would merely clog up the appeals system with many thousands of cases which were in practice unlikely to be removable, slowing down the whole process and blighting the progress of newer cases where opportunities for successful enforcement are greatest.

  The solution must be to apply a flexible approach to the older backlog, with a presumption of stay for most of the very oldest cases dating from 1993 and earlier, and a more pragmatic approach to granting leave to remain, based on clear and defensible criteria, in some of the more recent backlog cases. We would need to present this approach very carefully, making clear the pay-off in terms of a strong push on enforcement in new cases as the system was freed-up to deal more effectively with these.

- Spend more on processing asylum claims, to keep up with intake and tackle that part of the backlog which it would not be right to write off via bulk decisions. On forecast intake levels we would need to spend

an additional £10m - £15m annually to reduce the backlog to frictional levels (at which most outstanding cases are in action) by 2001 so that we are then dealing with all new asylum claims in three months or less. This would reduce expenditure by £40m in the first full year, rising thereafter (on the basis of current support arrangements). Quicker processing not only directly reduces support costs but is likely to be a key factor in reducing the incentives to economic migrants to come here. A fall in intake would of course produce further savings.

- Speed up the appeals process. There are three aspects to this:

- fundamental reform of the structure and process of appeals, requiring urgent legislation

- reducing and eliminating the current backlog of hearings

- tighter management of the system by the appellate authorities.

On the legislative front, the main proposals are:

a) to combine the present system of multiple appeals at the first tier into a single appeal right exercisable at an early stage of the process; this single appeal would consider all aspects of the case including removal directions. There would be a rebuttable presumption against any later asylum applications.

b) reform of the two tier system with a strengthening of the role of the Immigration Appeal Tribunal and strict criteria for appeals going to it.

On the management side, we need to give strong support to the initiatives being taken by the Chief Adjudicator to speed up and streamline the handling of cases, cutting down on over-complicated and delayed determinations.

Until these changes are made we need to increase the capacity of the appeals system to keep pace with increased output of decisions. The cost would fall mainly to LCD but the Home Office would require about £3m to support this increase.

- Stricter tests for legal aid, in line with what the Lord Chancellor is proposing more generally, would help speed the process, deliver small savings on legal aid spending, as well as much larger savings on support. Without better controls on legal aid there will be continuing incentives to contest undeserving cases and prolong the processes for determining cases and securing removals.

- We need also to act swiftly to give effect to two important manifesto commitments : a new right of appeals against refusal of a visit visa; and a system for controlling the real menace of unscrupulous advisers, on which the consultation document we issued in January has produced an encouraging response. Both these initiatives command strong support among constituency MPs. Both schemes will need to be designed to be self-financing. Visitor appeals requires legislation although we are examining whether something might be done on a temporary non-statutory basis. The regulation of advisers also requires legislation if, as I am inclined to recommend, we go for a statutory scheme of regulation.

- Increase removals of failed asylum seekers. It is not sufficient simply to resource removals better. We need to reduce the procedural barriers which unsuccessful applicants and their representatives use to fend off removal. That means:

  - ♦ reducing their current open-ended access to the courts, largely funded by legal aid;

  - ♦ reducing the scope for continuing re-applications by family members;

  - ♦ new approaches to the enormous problem of persuading source countries to receive back their nationals who destroy their documents to frustrate the asylum process;

  - ♦ persuading Parliamentary colleagues and lobby groups to accept the outcome of a fairer and faster appeal system.

We will also need to find new approaches to the problem of absconding: at present at least half of failed applicants simply disappear. This will require much closer co-operation between the police and the Immigration Service and other agencies and a greater use of IT eg through fingerprinting. Such measures could very substantially increase the number of asylum removals from their present level of 6,000 annually although the exact impact is difficult to predict. Further increases would require more resources. Expenditure of about £40m annually might in time deliver 6,000 more removals. About half of this investment would be for extra detention space which is critical to increasing removals. This could not be delivered immediately and difficulties with planning consent etc could make a programme on this scale uncertain. Extra removals should produce savings in support costs but these are long rather than the short term. More realistically the numbers of unremoved failed asylum seekers will continue to grow, unless the other measures in the package succeed in containing applications to 25-30,000 a year. That is possible but the situation is fraught with uncertainty.

More rational support system

9. It is clear that the present support arrangements are irrational, confused, unfair and expensive. A completely new approach is required. The Asylum CSR recommended a package based on an initial stay in reception centres and cash payments thereafter for all applicants, linked to reporting. We assess that this would be likely to increase support costs without any certainty that it would reduce the incentive to come here or strengthen the prospects of removing those refused. There are also considerable risks in relying on a large national network of high capacity reception centres. A significantly different approach is needed.

The objectives of the support arrangements should be

- To provide so that no genuine asylum seeker need be left destitute, while containing costs through incentives to asylum seekers to look first to their own means or those of their communities for support.

- To minimise the incentive to economic migration and opportunistic use of the asylum process, particularly by keeping cash payments at the lowest possible level and reducing individual asylum seekers' choice when providing support for them.

- To encourage asylum seekers to co-operate with the asylum process. I particularly want a system which encourages asylum seekers to retain their documents as this considerably increases the prospects of removal, and means that the documents are not available for others trying to come here.

- To provide for asylum seekers separately from the main benefit system.

- To ensure that although decisions on individual cases are rules based and securely rooted in primary legislation to guard against upsets in the courts, there is also adequate discretion to change the arrangements without the need for further primary legislation.

10. To deliver these objectives we should start from the position that people who have not established their right to be here should not have access to support on the same basis as those whose legitimate residence here gives them an entitlement to benefits when in need. This would mean that while asylum applications were being determined there would be no entitlement in law to claim social security benefits. In providing support in cash or kind we would operate on a new legal basis and could not be accused of restoring rights to benefits.

11. Considerable further work, involving benefits and housing experts, will be required to develop the solution, but the key elements of the scheme I have in mind would be

- Cash support for daily living in the form of a hardship or destitution allowance. I think that applying means testing would be an added disincentive. The allowance might be set at 60-80% of income support levels given that the payment would be short term only. Further work needs to be undertaken on whether a separate rent allowance or access to housing benefit would be better. There might also be discretion to provide housing in kind, including possibly through hostels or reception centres as proposed in the CSR. I am however sceptical about our capacity to establish and operate such centres on the scale needed and I am concerned about the risk of community conflict which a network of large centres could produce.

This form of discretionary support would only be available to:

(a) Those who applied for asylum at the port of arrival and who had a valid travel document, or

(b) who applied for asylum within seven days of arrival in the United Kingdom and who had a valid travel document which enabled them to prove their date of arrival here

in both cases providing that the applicant had not previously made an asylum claim in the United Kingdom.

I believe that we should look very seriously at the costs and benefits of a system which linked the making of the hardship payment to a requirement on the recipient to report in person at frequent regular intervals in order to revalidate their claim.

All support would stop as soon as the Home Office had made a negative decision on the asylum claim.

- Safety net provision for those asylum seekers who could demonstrate that they had no other means of support. The asylum seeker would have no choice about the accommodation provided, and would probably receive other support in kind rather than in cash although recent court judgments suggest we would need to ensure that an appellant was not hindered by lack of resources from instructing his representatives and otherwise pursuing his case. There would be no question of retaining the current burden on local authority social services departments under the National Assistance Act 1948 which may need to be amended to make sure of this. We do envisage that local authorities would need to

continue to play a significant part in identifying and possibly arranging accommodation, but there would need to be some central machinery to plan for need and act as a clearing house. There could well be an important role for the voluntary sector in this. Given the scale and sensitivity of this sort of arrangement and the volatility of intake, I consider there would need to be at least a residual duty on local authorities to provide accommodation. The arrangements for families with children will need special and careful consideration.

We envisage a tough policy on those who have exhausted the appeals process yet persist in remaining here unlawfully: for them, the principle should be no entitlement to safety net or other support.

12. The costs of these support arrangements would depend on the level at which the cash payments were set and how quickly we could process cases. But it is possible that the costs of supporting future asylum seekers for three months before an initial decision would be £60-£80m annually. A six month decision period would double this. Any continuing backlog of cases supported under present arrangements would be an additional, possibly substantial cost. There would be other costs, including those arising from any problems getting asylum seekers out of the support systems after a negative decision. But I am confident that such a system would in the end cost less than the current arrangements. It would be unlikely to be very attractive to asylum seekers and should both exert less of a pull factor and have a low overall take up. For the same reasons it could be very controversial with the interest groups.

Transitional Arrangements

13. When colleagues have agreed on the support arrangements for future asylum seekers we will need to develop proposals for the transitional period. I doubt, however, that we can make much progress with this until the way ahead is clearer. Any new arrangements will need legislation. If we have to delay until the 1999/2000 session for this transition will be much more difficult and we will need to consider how to prop up or adapt the present arrangements to get us through a long interim period.

Administration and Budgets

14. The delivery of support to individual asylum seekers will need to use the existing infrastructure as it would be disproportionately expensive to establish new administrative arrangements for a population which is small compared with benefit claimants generally. This will mean looking probably to the Benefits Agency for means testing and cash payments and to local providers such as local authorities, housing associations and the voluntary sector for accommodation and provision in kind. It would, however, be possible to contract for the provision of a means testing

and cash payment service and for the provision of accommodation and support in kind. This opens up the possibility of changing responsibilities without initiating new activities within Government Departments.

15. The Asylum CSR considered the possibility of a co-ordinated interdepartmental planning and resource allocation system for asylum seekers (as envisaged for the Criminal Justice System) but recommended that the Home Office should instead take responsibility for all aspects of the arrangements. Budgets merely support operations. We should not try to settle any new budget responsibilities until we have agreed the new arrangements for asylum seekers. But in principle, and on certain conditions, I think it would be right for the Home Office to be responsible for more of the system, although there are elements which I doubt could come within a single budget.

16. If we were establishing new systems from scratch we might want the responsibility for all aspects of immigration control and appeals in one department, rather than shared between Home Office, FCO and LCD. But there are strong arguments for not trying to disentangle the present responsibilities. Immigration and asylum processing are entwined (asylum seeking is only one route tried by economic migrants). The entry clearance system is part of the work of FCO missions abroad. It would be very difficult to manage from a Home Department as a separate operation, although joint management with the FCO is an option analysed in the recent CSR joint study report. Transferring appeals work to the Home Office might perversely make management of the appeals system more difficult as the appellate authorities became more jealous of their independence.

17. We need administrative arrangements whereby

- The overall Government objectives for the handling of asylum seekers are agreed collectively.

- A strategy is set and resources allocated to reflect that strategy, accepting that to a large extent this work is demand-led by external forces of population migration.

- Progress in achieving those objectives is monitored.

18. The type of arrangement we are developing for the CJS would deliver this. It would provide a framework for allocating resources between the Home Office, FCO and LCD parts of the operation in order to maximise effectiveness and for monitoring what each department delivered. It would fit the CSR study of the entry clearance operation.

19. Responsibility for asylum seeker support raises different issues. The present system clearly creates some nonsenses and perverse incentives - mainly because it is difficult to move funds between welfare support and processing in order to reduce total expenditure. Some welfare costs (eg education, healthcare and Children Act) could not be disentangled from wider provision. But there is a case for the Home Office holding the budgets for separate welfare provision for asylum seekers. This might raise accountability difficulties and would only be worthwhile if such a change improved our ability to manage the system effectively and to respond to changing pressures. To achieve this we would need

- To be able to move funds freely between immigration work and asylum seekers support, and as part of this we would have to be able to use receipts to help provide services. This points to immigration costs being reclassified as programme expenditure. Immigration control is an operational activity and does not in any event fit the commonly understood definition of running costs.

- To be able to move funds between years so that there can be up front investment in prevention, deterrence and processing, in order to reduce later expenditure.

- To agree arrangements for measuring and meeting changes in demand from asylum seekers, either in volume or in cash inflation. The courts would certainly intervene to ensure we met our obligations to support individual asylum seekers whether or not we had sufficient funds. If these budgets were not adjusted for demand surges and protected from inflation and ringfenced from the rest of Home Office spending, there could be a serious impact on our ability to deliver other priority Home Office programmes.

20. We need to process applications for British citizenship much more quickly. There is a backlog of about 90,000 incomplete applications and current waiting times are about 18 months. Applicants pay a fee in advance and the way forward is probably through changes in the treatment of receipts which would enable us to use the fees to provide a better service for applicants. (I am pursuing this separately with the Chief Secretary).

Costings

21. The attached table gives some estimates of asylum costs under different scenarios. The figures are based on modelling undertaken by Home Office and Treasury statisticians. They may be helpful in comparing the likely implications of different options which should be treated with some caution. The model does not include all elements of the asylum system and this does not give absolute costings.

The modelling depends on a range of assumptions, and some (such as numbers of applications and take-up rates) are difficult to forecast with any certainty. The model also does not cover transitional arrangements.

ESTIMATES OF ASYLUM COSTS (£m)

			1999/00	00/01	01/02	
A	Current System intake forecast (43,800/49,600/55,300)	Support	341	434	554	
		Process	52	57	60	
			393	491	614	
NB	*The model does not include the support costs relating to the appeals and removals backlog - the modelling for the CSR showed that if these were included the costs became*					
			490	565	665	Rising to 850 in 02/03
B	Current System invest in asylum decisions. Current intake forecast (43,800/49,600/55,300)	Support	303	307	344	
		Process	68	76	76	
			371	383	420	
C	Current System invest in asylum decisions lower intake (34,600/37,000/39,500)	Support	261	242	261	
		Process	64	69	65	
			325	311	326	
D	New benefit arrangements; forecast intake (37,200/41,400/45,800) removals increase to 12,000 annually	Support	270	235	200	
		Process	82	115	121	
			352	350	321	
E	New benefit arrangements; lower intake (32,300/34,600/36,900) removals increase to 12,000 annually	Support	247	185	134	
		Process	84	113	108	
			331	298	242	

Models of options D & E assume the new arrangements will apply to all applications except any outstanding from before 1998/99. In practice the transition is likely to come later.

QUEEN ANNE'S GATE LONDON SW1H 9AT

04 JUN 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
Eland House
Bressenden Place
London SW1

1. JEM/JAO to wch AL
Rumbles on, but at least with DETR + CPU
HO talking to each other.

Dear John,

2. jth. AL. 9/6.

DIRECT AIRSIDE TRANSIT VISAS

At our discussion in HS Committee on 28 May, it was agreed that I should produce statistics showing the short and longer term impact of DATVs, once introduced, upon asylum claims and the scale of the problem in the further six countries which I had identified. My officials have now done this, and sent a comprehensive set of these statistics and the associated analysis to your officials, copied to other colleagues.

We agreed to do this so that we could better judge the balance between the needs of immigration control on the one hand, and the effect on British trade, airlines and wider diplomatic activity on the other. I hope it will be possible for your officials, and Robin Cook's, to circulate a corresponding statistical analysis of the impact on airline passenger traffic to enable the resumed HS discussion to have the full picture available. My Immigration Service officials have available a certain amount of information from their discussion with the airlines and I can make that available if you and colleagues would find that helpful. On the other hand, you and Gavin Strang may prefer to provide your own analysis first.

There is one other point on which I should report now. We noted at our discussion that officials would be discussing a package of measures with their counterparts in China, and that, if agreement could be reached, one option was a relaxation of the DATV requirement for holders of some types of Chinese passports. The consular discussions on this point will resume in Beijing on 10 June. I am encouraged that the Chinese have accepted back seven of those for whom we had specifically requested travel documents. This is a small start on the backlog of 350 cases lodged with them, but my officials will seek to press the Chinese further next week on setting up better procedures to enable this to be done more routinely. If we are able to make progress, the case for relaxation of the DATV requirement for some categories of Chinese passports would be much stronger. That, in turn, might unblock one of the "irritants" which the Chinese have given as the reason for delay on the air services talks. My officials are at present in Beijing discussing the carriers' liability debts of Air China, which I judge to be of equal importance to the Chinese at the

present. While I cannot anticipate how the talks will progress next week, I am pleased that a possible way forward has been identified which would meet one of your main objectives in this area. I hope that Margaret Beckett will also be able to note this progress, in the light of the representations she has had from the British Chamber of Commerce in China, about which she wrote to me on 30 April.

I suggest that our officials remain in close touch with a view to our resuming the HS discussion as soon as all the information which has been commissioned is available.

I am copying this letter to the Prime Minister, the Foreign Secretary, members of HS Committee and to Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

DETR
ENVIRONMENT
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DEPARTMENT OF THE ENVIRONMENT
TRANSPORT AND THE REGIONS
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BRESSENDEN PLACE
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OUR REF: IDC/113

02 JUNE 1998

AL

E-PU

Ken Sutton Esq
Private Secretary to the Home Secretary
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

Dear Ken

IMMIGRATION APPEALS - CONSULTATION PAPER

The Home Secretary wrote to the Deputy Prime Minister on 1 June seeking agreement to publish a consultation paper on review of immigration appeals. The letter was copied to members of HS Committee.

The letter should have also been copied to the Prime Minister. I should be grateful if you would arrange for this to be done, and if other recipients of this letter would note the need to add the Prime Minister to the copy list of any letters on this subject .

I should be grateful if you would ensure that replies, or nil returns, are received from all the members of the Committees. Recipients of this letter should note that, if their Ministers wish to respond, they should do so by 15 June.

Once all comments or nil returns have been received, you should inform the secretariat (on 270 0242 or 0135), which will then prepare the reply from the Deputy Prime Minister, as Chairman of HS Committee. The aim is to issue a letter summing up the correspondence by the following working day. A decision should not, however, be assumed until the Deputy Prime Minister has replied.

I am sending a copy of this letter to the Private Secretaries of the Prime Minister, members of HS Committee, Robin Cook, Hilary Armstrong and Sir Richard Wilson.

Yours sincerely

GARY CHISHOLM
Ministerial Support Unit

Top - AL
cc JJH
PJ

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

01 JUN 1998

cc. JEH
Giles Portman, CO
DM

The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor,
Eland House
Bressenden Place
LONDON SW1E 5DU

This looks welcome, subject to 2 concerns:

- how do you stop a single tier system becoming more prone to judicial review, given that it inevitably involves less of an opportunity for individuals to argue their case?

- how does this relate to possible models for an EU system of asylum procedures? Even if we are a long way off wanting to join such a system, it is nonetheless worth thinking about whether any new system here would be compatible if we did want to join at a future date.

you persuade judges it is fairer to let more people in?

Dear John,

I am writing to seek the agreement of colleagues to the publication of a consultation papers on the review of immigration appeals. This is, of course, linked to the Comprehensive Spending Review on the asylum process and an overall strategy for immigration and asylum, on which I am writing separately, but is only a part of it.

The review of asylum and immigration appeals was announced on 18 December 1996 by the then Home Secretary. Since then an interdepartmental group of officials have been reviewing the appeal system, which has been in force for almost 30 years. There are two main themes which have emerged from the group's work. First, the present multiplicity of appeal rights should be replaced by a single right of appeal. Second, the Immigration Appeal Tribunal should be radically restructured so as to provide adequate guidance and supervision of the work of the lower tier and to command greater confidence from the higher courts. This should, in particular, help to stem the leakage to judicial review which is all too readily exploited by abusive applicants looking for ways of spinning out the process and frustrating their return.

Agree.
2/6.

I believe that reforms of the appeal process should make a substantial contribution to our aim of fairer, faster, and firmer procedures. The present multiplicity of appeal rights contributes substantially to delays. In order to be fully effective, our reforms will need to be combined with other initiatives to do with speed of decision taking on appeals and the funding of advice and assistance, particularly legal aid. I am discussing these issues with Derry Irvine. At the same time, of course, the speed with which Tribunal decisions are taken and performance on removals will also be critical. These elements will be covered in the comprehensive White Paper I am proposing.

The costs, both direct and indirection, of the appeals system are substantial, £31m in direct costs and full costs across departments in the region of £129m. My aim in proposing reform of the appeal system is to provide an effective independent review for appellants while at the same time reducing the scope for abuse of the system by those seeking to delay or avoid departure from the United Kingdom.

... I attach a skeleton consultation paper on which I would welcome comments. The full version is being worked up and I suggest this be finalised at official level. I should like to publish the consultation document as soon as possible after Whitsun. It will be an early signal of our continued resolve to action in this field; it also allows good time for gathering views and comments from practitioners and experts on what is a complex and technical area of law and procedure.

I am copying this letter to members of HS Committee, Robin Cook, Hilary Armstrong and Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

REVIEW OF APPEALS CONSULTATION PAPER

6530js

1 INTRODUCTION

1.1 The Government's Manifesto makes clear our commitment to a firmer, faster and fairer system for dealing with asylum and immigration cases. We have already begun to deliver on that commitment by abolishing the primary purpose rule, and by consulting on how to control unscrupulous immigration advisers. We are now turning our attention to the main systems for deciding asylum and immigration applications. A key element of those systems is how we deal with appeals against decisions reached by the Immigration and Nationality Directorate. This consultation paper sets out our analysis of the current arrangements, and offers proposals for improvement.

1.2 An effective appeal system needs to be independent of the decision-making department. It should provide prompt, fair and complete resolution of the issues raised in the appeal. Since the appeal determines the balance of rights and responsibilities as between the applicant and the State, it should be judicial not administrative in character: that is to say, the appeal should be determined by judicial officers, who have full judicial independence in reaching their determination of individual cases.

1.3 Under current arrangements, asylum and immigration appeals are determined by a two-tier system, of Adjudication and appeal Tribunal - the Immigration Appellate Authorities (IAA). The IAA is a judicial body and, by giving close attention to the cases brought before it, it ensures that each determination is scrupulously fair. But the appeal system suffers from chronic delays. These delays arise from a variety of sources - from backlogs (which, though substantial, are reducing and on current trends will be eliminated in two years), from complexities in the rights of appeal available to applicants, and from the tendency for cases to spiral out of the IAA into judicial review proceedings, the overwhelming majority of which are unsuccessful.

1.4 These delays have very serious consequences. They lead to increased costs, both legal and administrative costs, and the costs of welfare support for applicants awaiting the determination of their appeal. Delays mean that there is an extended period of anxiety and uncertainty for appellants with genuine cases. And the potential for delay means that appellants with hopeless cases can nevertheless achieve their objective not by winning their appeal, but by spinning out the process for so long that it may become impractical to contemplate removing them from the UK.

1.5 This consultation paper offers proposals to streamline both rights of appeal and the way appeals are handled. We would welcome comments and suggestions on the way forward from all with an interest in this important area of the justice system.

2 BACKGROUND

2.1 The appeals system exists in order that administrative decisions made by the Home Office, the immigration service and British posts abroad can be reviewed by an independent body. Originally virtually all decisions carried a right of appeal but legislative changes have limited these rights of appeal.

2.2 In reaching decisions on leave to enter, leave to remain or asylum applications, the Home Office is required to take into account a range of international instruments to which the United Kingdom is a signatory. These include the 1951 UN Convention and 1967 Protocol relating to the Status of Refugees, the European Convention on Human Rights, the UN Convention on the Rights of the Child and the International Convention on Civil and Political Rights.

2.3 The domestic legislation which is applicable in immigration decisions includes: Immigration Act 1971, Immigration Act 1988, Asylum and Immigration Appeals Act 1993, and the Asylum and Immigration Act 1996.

2.4 The majority of applicants who make an application while they still have valid leave (ie current and valid permission to be in the UK) have a right of appeal against a refusal of their application. In addition, in the event that they are subject to deportation action, they are afforded a further right of appeal against the deportation decision (and separately against the destination specified).

2.5 The Asylum and Immigration Appeals Act 1993 provided an in country right of appeal for asylum seekers and abolished appeal rights for visitors and short term students. It also introduced a statutory independent monitor to review refusals to issue visa to visitors or short term students. In addition, an undertaking was given that entry clearance refusals which no longer enjoyed an appeal right would be reviewed administratively.

2.6 For some categories of cases the abolition of an appeal right would be contrary to our international obligations, especially the requirements of the European Convention on Human Rights.

3 CURRENT APPEAL SYSTEM

CURRENT POSITION

3.1 There are two tiers of appeal - generally, first to an adjudicator or a special adjudicator (who is qualified to adjudicate on asylum appeals) and after this to a further three person Tribunal, for which leave is normally required.

3.2 All judicial members of the IAA - that is the President, Vice-President and legal and lay members, the Immigration Appeal Tribunal (IAT), and the Immigration Adjudicators, are appointed by the Lord Chancellor. By statute, all legal members of the IAT must hold professional qualifications as barristers or solicitors of 7 years' standing, in common with other professional judicial appointments at this level of the judiciary. There are no statutory qualifications for lay members of the IAT, nor for Immigration Adjudicators. However, as a matter of policy, since 1986 the 7 year professional qualification applying to legal members of the IAT has also been applied to appointments of Immigration Adjudicators. The IAT must comprise at least one legally-qualified member when it sits, though legal members sit alone when deciding applications for leave to appeal to the Tribunal.

3.3 Where there has been a substantive determination of the appeal by the Tribunal there is a right of appeal to the Court of Appeal or Court of Session on a point of law if leave is granted. The Secretary of State also has the discretion to refer cases back to the adjudicator or Tribunal where a first appeal has been dismissed.

PROBLEMS WITH THE CURRENT SITUATION

3.4 Delay is the overriding problem with the present system. Delay in turn generates extra and unnecessary cost. Delay is caused by two factors:-

- The substantial and rapid increase in the number of asylum appeals in recent years, which overwhelmed the appeal system;
- The multi-stage nature of the process, which defers a final resolution of cases.

3.5 Appeals received rose from 25,536 in 1993 to 37,146 in 1996/97. The removal of rights of appeal from certain categories has been more than offset by an increase in the number of asylum appeals, which are in themselves generally more complex.

3.6 Significant delays are confined to the South East of England. Waiting times in asylum appeals are in excess of a year at the IAA's London centres but are as little as five weeks in Glasgow. But it is difficult to move cases away from London to use the IAA's capacity elsewhere because asylum seekers in general lack the means to pay travel costs. The output of the IAA could, however, be increased by some 8% or so, and thus delays reduced, if the excess capacity could be filled.

3.7 **Views are invited as to how the IAA's capacity outside London could be better used in asylum cases.**

3.8 At present 28% of appeals listed for an oral hearing are eventually dealt with on the papers. This not only wastes judicial time but creates unnecessary delay, in that paper cases can normally be dealt with much more quickly than cases requiring an oral hearing. There are proposals in section 5 as to how this problem might be tackled.

Three features of the present system add unnecessary stages to cases:

- multiple rights of appeal. Even though most appeals are ultimately dismissed, those who wish to prolong their stay in the United Kingdom and frustrate their removal can exploit this aspect of the system and compel reconsideration of their circumstances;

- the practice of the Tribunal of remitting a substantial proportion of cases to be heard de novo by an adjudicator (53% in 1996/97) can generate significant delays in individual cases;

- the Tribunal has also not produced a consistent and authoritative jurisprudence in immigration and asylum cases and this in turn causes legal issues to remain unresolved at both adjudicator and Tribunal level, causing delay and uncertainty. Section 5 contains proposals to tackle this weakness.

PROPOSAL FOR CHANGE

3.9 The Government considers that there are two measures necessary to make the system more effective:

- replacing the current successive rights of appeal with a single right of appeal; and

- restructuring the appellate authority.

4 PROPOSAL FOR A SINGLE RIGHT OF APPEAL

4.1 We propose to replace the existing structure of successive rights of appeal with a single in-country right of appeal for those appellants who have valid leave at the time they apply for a variation of their leave and whose application is refused.

4.2 The decision to refuse to vary leave would carry the presumption that the applicant had no other grounds to remain in the United Kingdom and the subsequent appeal would be combined with the appeal against removal. The same presumption would be made where a decision was taken to curtail a person's leave.

4.3 Applicants without limited leave would not be entitled to an in-country right of appeal. This would mean that the current right of appeal against deportation in the case of an overstayer would no longer be available. In effect, this would mean a decrease each year of up to 4,600 deportation appeals. This would present savings to the appeal system plus an increase in the speed of the process which would contribute to the reduction of social benefit costs.

4.4 It would streamline the system, offering a right of appeal to those who are here legally and acting as a deterrent to those who wish to exploit the immigration system. Removal would not carry the same bar on re-entry or stigma as deportation. It would be open to those removed to apply for entry clearance immediately, via British posts overseas.

4.5 The Government considers that the in-country right of appeal should continue for all asylum cases (except third country cases). Given the nature of the asylum claim a right of appeal after removal is not an effective remedy. A proposal to return a person to a country in which he claimed to have a well-founded fear of persecution without a right of appeal would be unlikely to survive judicial review by the courts and would almost certainly be inconsistent with our international obligations.

4.6 It would be necessary to introduce primary legislation to create a single consolidated right of appeal.

4.7 The Government considers that consolidating rights of appeal in this way would be a significant improvement on the current system. Views are sought on the proposals for a consolidated system.

5 PROPOSALS FOR A REVISED APPELLATE AUTHORITY STRUCTURE

5.1 The Government are anxious to accelerate the whole of the appeals process and to make the best use of all possible resources to achieve this.

5.2 The Government have considered two options for rearranging the appellate authority: either to restructure the Tribunal by changing its status and powers or to consolidate the current two tier system into a single tier. The Government's provisional view is that the Tribunal should be restructured in order to make the appeals mechanism more effective.

Restructuring of the Tribunal

5.3 There are three main problems with the current appeals mechanism:

- inconsistent decisions;
- decisions too frequently overturned by the Courts above; and
- too many remittals from Tribunal back to Adjudication.

5.4 In order to enhance the Tribunal's authority and credibility in the eyes of the higher judiciary, and so reduce the incidence of judicial review, the Tribunal could be made a court of record with a High Court Judge as President.

5.5 In this way the IAT would follow the successful model established by the Employment Appeal Tribunal. Restructured in this way, the Tribunal's decisions would normally be binding on adjudicators and on future Tribunals. Consistency could further be enhanced by the development of research capability, improved arrangements for distributing Tribunal decisions both to the Tribunal and to adjudicators and users, and by the more extensive use of Tribunals consisting entirely of the lawyer members. This would in turn lead to a more effective and consistent policy on remittals.

5.6 A Tribunal restructured in this way would exist strictly to deal with questions of law in both immigration and asylum appeals, and so the rights of appeal to the Tribunal would be restricted to points of law.

Single Tier System

5.7 A single tier system would be significantly simpler than the present two tiers. That in turn should mean fewer delays. The risk with a single tier system is that there is greater scope for inconsistent decisions and poor reasoning on the part of adjudicators.

5.8 Two possible ways of reducing this risk might be:

(i) the Chief Adjudicator, who already produces guidance notes which are circulated to all adjudicators, could be given enhanced powers;

(ii) the Chief Adjudicator could be given powers to direct whether cases should be heard by one member or a panel, the decisions of panels having greater weight than those of individual members.

5.9 Views are sought on the alternative proposals of restructuring (and enhancing) the Tribunal or consolidating the present structure into a single tier system. Views are also sought as to how the restructuring of the Tribunal might best be achieved.

Streamlining Appeals

5.10 There may be further scope for greater streamlining of appeals hearings. One way, subject to the United Kingdom's international obligations, would be to create a presumption that appeal hearings would be heard on paper unless otherwise directed. It would be necessary to sift the incoming cases to determine whether a hearing should be afforded.

5.11 At present an appellant (even if he is abroad) has a right to an oral hearing of his appeal. The appellant is normally represented by an immigration welfare organisation or by a legally qualified person. The Home Secretary is represented by a presenting officer usually of Higher or Senior Executive Officer level. Witnesses may be called and examined in chief and cross-examined. These procedures are time-consuming and expensive.

5.12 An oral appeal hearing gives the adjudicator the opportunity to question the appellant directly and to gain a direct impression of the appellant's credibility. Oral appeals enable a focused discussion of the issues between the parties' representatives. Oral argument can in appropriate cases be substantially more efficient than paper-based determinations. Judges of the Divisional Court, considering Judicial Review applications, are currently influenced by the fact that adjudicators have seen and heard witnesses. (An adverse finding on credibility in these circumstances is usually fatal to a Judicial Review Application.) It also gives the appellant the advantage to put his case directly, especially in cases where there may be language difficulties or the appellant is not literate or is unrepresented. However, the Government believes that substantially greater numbers of appeals could be determined by means of written procedure without injustice to the appellant.

5.13 Arrangements should not be over-prescriptive. Adjudicators would need some flexibility in whether or not to hold a full hearing or to request an appearance to enable a matter to be clarified before an appeal was determined on the papers. This would avoid difficulty in appeals where the appellant was unable to express himself adequately in English or where clarification of what appeared a straightforward point was required. The basis for this would be the discretion allowed to the Chief Adjudicator. At the very least it would be necessary to allow sufficient ventilation of the case to reduce the likelihood that leave to move for judicial review would be granted.

5.14 Views are sought on whether the automatic right of an appellant to an oral hearing should be removed.

6 JUDICIAL REVIEW

6.1 Judicial review is an important mechanism for maintaining the rule of law and subjecting executive decisions to proper scrutiny. The need for such a review should, however, be rare and limited to resolving jurisdictional questions. In order to ensure this, an effective appeals system needs to carry the confidence of the appellants themselves, the public and the Courts. It should also remain independent. It would be wrong to have to revert to a purely administrative review of in-country cases which in any case would not meet the normal tests of an "effective domestic remedy" in ECHR terms.

6.2 It is right that a remedy in judicial review should remain available in the immigration and asylum field, but it cannot be right that appellants should resort to it to the extent they do at present. [1748 cases in 1996/97] It is open to a person to apply for judicial review at any stage of the process, although leave to move is generally not granted whilst there is an outstanding avenue of statutory appeal. However, the availability of a statutory appeals process does not discourage applicants thereafter from applying for leave to move for judicial review, often simply as a means of delaying matters.

6.3 The Government considers that one objective of a reformed appeal system, and in particular an enhanced Tribunal, should be to reduce the need to seek the grant of leave to move for judicial review.

6.4 Views are sought on the role that judicial review should play in the system if immigration and asylum decisions are subject to a reformed appeal system of the kind suggested.

7 RIGHTS OF APPEAL - EEA NATIONALS AND THEIR FAMILY MEMBERS

7.1 EC Law regulates the admission and stay of EEA nationals and their family members and in certain circumstances requires an appeal right for EEA nationals and family members against decisions to refuse them a residence permit or document, to withdraw the same, or to refuse admission. This would also include spouse applications where the marriage is deemed to be one of convenience.

7.2 Anyone unable to provide proof of their status would have to meet the requirements of the Immigration Rules and would be subject to the proposed single all-embracing appeal.

8 COMPARABLE SYSTEMS

8.1 We have received information on comparable systems from various countries. A summary of the points noted about each appeal system will be attached.

9 RESOURCE IMPLICATIONS

Cost of Current System

9.1 We have provided an estimate of the cost of the appeals system for the past three years. (Annex A). This includes the cost of operating the system, including the cost of processing appeals, hearing appeals and funding advice, assistance and representation at judicial review hearings, and the cost of welfare support to applicants in the United Kingdom.

9.2 It is envisaged that a revised appeal system would not require additional financial resources to support and maintain it but would in effect realise an overall saving.

Social Benefit Cost

9.3 The social benefit costs for the last three years are shown on page_.

9.4 These are based on the cost to the United Kingdom of those persons awaiting appeal and include costs associated with the award of social security benefit, education and health. They also include costs awarded as a result of the National Assistance Act and the Children Act (in 1996/97).

Potential Cost of Proposed Revised Systems

9.5 Costed models of the revised appeal system are attached at Annex_. These include options for a single or two tier appeal system and a single consolidated right of appeal. In view of the assumptions that have been made, these figures should be treated with caution.

ANNEX A

REVIEW OF APPEALS: COSTS

This paper reflects the current best estimates of direct and indirect costs of the appeals system. The social benefit costs must be treated with caution, not least because they are based on assumptions and provisional statistical data. For the purposes of this Annex, direct costs includes staffing and administration costs. Indirect costs includes accommodation and capital works costs.

Section 23 grants

2. Section 23 of the Immigration Act 1971 makes provision for funding grants to voluntary organisations which provide advice, assistance and representation to persons with a right of appeal. These grants are currently made to two organisations, namely the Immigration Advisory Service and the Refugee Legal Centre. The combined costs for grants for the IAS and RLC are as follows:

1994/95	1995/96	1996/97
£5,462,000	£5,674,000	£6,174,000

3. The IAS and RLC also receive funds from the Legal Aid Board. The RLC received grants from the UNHCR and the Legal Aid Board of approximately £250,000 from each this current year.

Presenting Officer Costs

4. The figures provided below represent the total cost of the Presenting Officers Unit, including direct and indirect costs, but excluding capital works. There was a significant jump between the 1995/96 figure and that for 1996/97 because the full impact of the 1995 "Spend to Save" recruitment campaign did not occur until the spring of 1996 and also reflects the equipping of two additional Presenting Officer Unit (POUs) at Wood Green and Lincoln House.

1994/95	£2,479,185
1995/96	£2,940,700
1996/97	£4,525,000

Appeals Registry Costs

5. Finance and Services Directorate (FSD) of the Immigration & Nationality Directorate have responsibility for overseeing the registry which provides files and links correspondence to the caseworking group dealing with appeals. FSD do not keep separate costings for individual registries, however the following figures are based on the staffing numbers for Appeals Registry.

1994/95*	£300,921	20 staff
1995/96**	£493,468	15.5 staff
1996/97	£438,157	11.3 staff

* Indirect costs not available.
**Indirect costs assumed to be the same as 1996/97 (cost per square metre of accommodation space was the same in 1995/96 and 1996/97.

Appeals Statement Writing Unit

6. Appeals Statement Writing Unit are responsible for examining non-asylum appeal cases and producing explanatory statements for the appeal hearing. They have produced the following information on costs which include direct and indirect costs.

1994/95	£1,107,529
1995/96	£1,000,082
1996/97	£947,000

The figures for 1994/95 and 1995/96 may be inaccurate since they are based on information obtained by the authors of a review of the Statement Writing Unit.

Asylum Directorate - Appeals Support Section

7. Appeals Support Section process asylum appeals papers. Asylum Directorate's Management and Planning Unit have supplied the following costs, which include direct and indirect costs (costs for 1994/95 are not available):

	Output	Unit Cost Per Appeal Processed	Total Cost
1995/96	21,028	£33.74	£709,479
1996/97	23,280	£27.11	£631,130

Independent Appellate Authority

8. Lord Chancellor's Department have supplied the total costs for the Independent Appellate Authority. These include direct and indirect costs:

1994/95	£6,965,344
1995/96	£7,767,608
1996/97	£11,388,311

Lord Chancellor's Department

9. The Lord Chancellor's Department have provided the following cost for supporting the Independent Appellate Authority, namely £8,404,699 for 1996/97.

Migration and Visa Department

10. Migration and Visa Department have provided the following information based on staff costs for the preparation of appeals (including salaries, accommodation and an approximate allowance for clerical support costs):

	Cost	ECO time (expressed as number of staff required per year)
1994	£364,000	5.2
1995	£470,000	6.7
1996	£590,000	8.2

Legal Aid Costs

11. An appellant is able to obtain "green form" legal aid for advice on the preparation of their case for appeal before an adjudicator or tribunal. The Legal Aid Board have provided the following information on the total amount of "green form" legal aid paid in immigration cases (including applications and appeal preparation):

	No. of bills	Average cost	Total cost
1994/95	51,828	£281.16	£14,572,000
1995/96	66,113	£361.94	£23,929,000
1996/97	67,175	£389.23	£26,146,000

Legal aid is also available for judicial review. The Legal Aid Board record this information collectively and, as a result, separate details of the amount of legal aid awarded for judicial review of immigration decisions is not available.

However, Legal Aid Board have provided the following details on the bills paid in respect of all judicial review cases (excluding matrimonial cases):

High Court Judicial Review Cases - Non Matrimonial Cases

	1994/95	1995/96	1996/97
Number of Cases	18,828	18,560	16,152
Total Bills Paid	£104,367,983	£102,859,802	£108,559,136
Average Cost	£5543	£5542	£6721
Solicitors Costs*	£3518	£3439	£3955
Disbursement*	£716	£748	£973
Counsel Costs*	£1256	£1228	£1,570

* Average

If we assume that 90% of all immigration judicial review cases are legal aided and if we multiply the legal aid bill per judicial review by 90% of immigration judicial review cases we obtain the following on legal aid awarded to immigration judicial review cases:

	Number of Cases	90% of Cases	Average Cost	Total
1994/95	994	895	£5543	£4,960,985
1995/96	1237	1113	£5542	£6,168,246
1996/97	1748	1573	£6721	£10,572,133

Detention Costs

12. A snapshot has shown that over 80% of detainees had an appeal or an application pending Judicial Review.

13. The following table shows the number of bed-nights' accommodation taken by asylum and non-asylum appellants in each year. The average bed-night rate has actually reduced from a peak of £113 per night in 1995/6 to £98 in 1996/97. These figures include detention in police cells, which is considerably more expensive than IS accommodation.

Detention Costs

	1994/95	1995/96	1996/97
	Totals	Totals	Total
Detention	£10,977,948	£12,731,682	£15,484,480
Bed Nights	101,119	112,650	156,448

Cost of Judicial Review to the Immigration and Nationality Directorate

14. Treasury Solicitors have provided the following information on their charges to IND for immigration judicial review cases:

1994/95	£1,593,935
1995/96	£2,181,339
1996/97	£2,283,862

Social Benefit Costs

15. The "social benefit" costs to the United Kingdom for those awaiting immigration appeals are associated with three Government Departments - the Department of Health, the Department for Education and Employment and the Department of Social Security. We have calculated the following costs relating to social benefits based on information supplied by those Departments:

Asylum Appeals

	DoH	DfEE	DSS	Total
1994/95	£2,940,970	£2,606,431	£22,780,116	£28,327,518
1995/96	£5,327,216	£4,667,985	£41,287,740	£51,282,941
1996/97	£25,392,315*	£7,615,989	£28,797,878	£61,806,182

*includes Children Act and National Assistance Act costs.

Non-Asylum Appeals

	DoH	DfEE	DSS	Total
1994/95	£4,641,295	£4,111,952	N/K	£8,753,246
1995/96	£4,945,172	£4,331,382	N/K	£9,276,554
1996/97	£5,494,810	£4,611,801	N/K	£10,106,611

These figures must be treated with some caution. The assumptions made in calculating them are attached in Appendix B.

16. What these figures demonstrate is that the direct and indirect costs of the appeals system, even on the basis of the assumptions made, are substantial. There is no information available on the benefits costs of those who have non asylum appeals outstanding and the assumption of 2 dependents in non asylum appeals may be too high. It is likely that the full costs are actually higher than presented in this paper.

Total Costs

	sec 23 grants	POU costs*	Appeals Registry	Appeals Statements	Appeals Support Section	MVD*	Social (Asylum)	Benefits (Non-Asylum)
1994/95	5,462,000	2,479,185	300,921	1,107,529	-	364,000	28,327,518	8,753,246
1995/96	5,674,000	2,940,700	493,468	1,000,082	709,479	470,000	51,282,941	9,276,554
1996/97	6,174,000	4,525,800	438,157	947,000	631,130	590,000*	61,806,182	10,106,611

	Detention	Judicial Review (TSols)	Legal Aid "Green Form"	Legal Aid (Judicial Review)	Independent Appellate Authority	Total (Known cost)
1994/95	10,977,948	1,593,935	14,572,000	4,960,985	6,965,344	85,864,611
1995/96	12,731,682	2,181,339	23,929,000	6,168,246	7,767,608	124,625,099
1996/97	15,484,480	2,283,862	26,146,000	10,572,133	11,388,311	151,093,666

* Costs are not available for 1994/95, 1995/96

** Costs are per calender year (not financial year)

REVIEW OF APPEALS : SOCIAL BENEFIT COSTS, CALCULATIONS

We were requested to calculate these costs using the average number of appeals outstanding per year.

Average number of appeals outstanding per year

Information about outstanding asylum appeals is provided by IAA, ASS and AEAD appeals statement writing unit on a monthly basis.

Average number of asylum appeals outstanding per year

	Outstanding in ASS	Outstanding in IAA**	Total
1994/95*	4,024	2,900	6,924
1995/96	2,629	9,425	12,244
1996/97	1,340	20,460	20,453

*figures for January 1995 alone
** provided by IAA

Average number of non-asylum appeals outstanding per year

	Outstanding in Appeals Section	Outstanding in IAA		Total
		Adjudicator	Tribunal	
1994/95	622	10,306	n/k	10,928
1995/96	1,143	9,613	612	11,368
1996/97	1,069	10,354	959	12,382

Dependents

It has been assumed that applicants with dependents have on average 2 dependents, this comprises of 1.5 children and .5 spouse or other dependent relative.

It has been assumed that there is a ratio of 12:88 of those with:without dependents.

SOCIAL BENEFIT COSTS

These have been calculated by multiplying the average number of appeals outstanding per year by unit social benefit costs per year.

DOH Unit Costs

Health care costs are applicable to asylum and immigration appellants. They are split into Hospital and Community Health costs and Family Health costs. The unit costs per month for each component are set out below, the costs for 1995/96 and 1995/94 have been estimated by reducing the 1996/97 figure by inflation (-2% and -2.42% respectively).

	Hospital and Community (£)		Family Health (£)	
Cost per	Family	Single	Family	Single
1994/95	717.46	239.15	310.14	103.38
1995/96	734.82	244.94	317.65	105.88
1996/97	749.88	249.84	324	108

Asylum appellants who do not qualify for DSS benefits but require support may qualify for assistance under the Children Act. In these cases Local Authorities social services are obliged to provide basic essentials. The take up rates have been estimated from the actual number of people being supported by social services in June 1997 (5,400 singles and 3,100 families). It June 1997 the take up rates were 37% for families and 15% for singles.

It has been estimated that each family group costs the local authorities about £200 a week, of this the Department of Health provide £150. This implies that the DoH unit cost per month per family receiving assistance is £650.

National Assistance Act

Single asylum applicants who do not qualify for DSS benefits but who require support may also qualify for support from local social services, under the National Assistance Act 1948. This is estimated to cost approximately £607 a month. The take up rate has been assumed to be 15% in June 1997.

Examining the backlog of appeals in 1996/97 shows that on average through out the year approximately 39% of those persons with outstanding asylum appeals were eligible for DSS benefit.

DSS Unit Costs

Asylum cases

These have been supplied by the DSS as follows:

Calculation of monthly unit costs for asylum appellants

	1994	1995	1996
For those with dependents			
Monthly cost per appellant	£708	£706	£761
For those without dependents			
Monthly cost per appellant	£215	£223	£238

These costs assume a take-up rate of 95% for those with dependents and 56% for those without dependents. In the asylum costs model it has now been assumed that these take-up rates have increased to 100% and 85% respectively from 1997/98.

Non-asylum cases

DSS are unable to provide any figures for non asylum appellants. While it is possible that a few may have been eligible for non contributory benefits before the 1996 changes they have no reliable data. However, in future these costs should be negligible.

DfEE Unit Costs

The costs burden on the DfEE are assumed to be that of educating the children of appellants. The DfEE provided an average cost per year of educating a child based on a weighted average of the costs of a primary aged child, a secondary school aged child and a 16-19 year old.

The weightings are based on the make up of the school population. The table gives the weighting used, and the average annual costs.

	Weighting			
	LEA Primary	LEA Secondary	Children 16-19	Total
1994/95	7/14	5/14	2/14	£2091
1995/96				£2117
1996/96				£2069

The education costs do not cover adults and whilst not necessarily eligible there may be adult appellants who are in education and supported by the LEA depending on the routine enquiries made by that LEA.

REVIEW OF APPEALS: SOCIAL BENEFIT COSTS, CALCULATIONS

f. = family s. = single

Non-Asylum Appeals
DSS
Assumed no uptake.
DoH

1994/95	10,928	s.	9617 x (239.15 + 103.38)	=	3,294,111.01
		f.	1311 x (717.46 + 310.14	=	1,347,183.6
			Total	=	4,541,294.61
1995/96	11,368	s.	10004 x (244.94 + 105.88)	=	3,509,603.28
		f.	1364 x (734.82 + 317.65)	=	1,435,569,08
			Total	=	4,945,172.36
1996/97	12,382	s.	10896 x (249.84 + 108)	=	3,899,024.64
		f.	1486 x (749.88 = 324)	=	1,595,785.68
			Total	=	5,494810.32

DfEE

1994/95	f.	1311 x 1.5 x 2091	=	4,111,951.5
1995/96	f.	1364 x 1.5 x 2117	=	4,331,382
1996/97	f.	1486 x 1.5 x 2069	=	4,611,801

Asylum Appeals

DSS

1994/95	6924	s.	6093 x (215 x 12)	=	15,719,940
		f.	831 x (708 x 12)	=	7,060,176
			Total	=	22,780,116
1995/96	12,244	s.	10,775 x (223 x 12)	=	28,833,900
		f.	1470 x (706 x 12)	=	12,453,840
			Total	=	41,287,740
1996/97	20,453	s.	17,999 x 39/100 x (238 x 12)	=	20,048,006.16
		f.	2454 x 39/100 x (761 x 12)	=	8,739,871.92
			Total	=	28,797,88

DoH

1994/95	s.	6093 x (239.15 + 103.38)	=	2,087,035.29
	f.	831 x (717.46 + 310.14)	=	853,935.6
		Total	=	2,940,970.89
1995/96	s.	10,775 x (244.94 + 105.88)	=	3,780,085.5
	f.	1,470 x (734.82 + 317.65)	=	1,547,130.9
		Total	=	5,327,216.4
1996/97	s.	17,999 x (249.84 + 108)	=	6,440,762.16
	f.	2454 x (749.88 + 324)	=	2,635,301.52
	Children Act	2454 x 61/100 x 37/100 x 7,800	=	4,320,169
	National Assistance Act	17,999 x 61/100 x 15/100 x 607 x 12	=	11,996,082
		Total	=	25,392,315

DfEE

1994/95	831 x 1.5 x 2091	=	2,606,431.5
1995/96	1470 x 1.5 x 2117	=	4,667,985
1996/97	2454 x 1.5 x 2069	=	7,615,989

stat 1

TF: perf. targets more stringent → when do they come in

100 days in 1999

Plymouth no wintering Linda Gilroy

not included Devon.

Rill

From: Angus Lapsley
Date: 28 May 1998

Liz Lloyd

cc: Robert Hill
Sharon White

ASYLUM

Thanks for copying me your draft note. I have the advantage of having also seen Jack's letter of 27 May.

In the first section on the measures for prevention and speeding up the process, you might point out the costs and gains of each of these measures. Jack is now talking of a target of 3 months for completing the process for each applicant. I seem to recall that we thought 6 weeks was feasible.

However, it is also worth reminding the Prime Minister that there is a downside: cutting down the appeals process will be portrayed by some as removing rights, creating two tiers of justice etc. Some of the other preventive measures, such as DATVs, will upset other countries and airlines. DTAVs in particular, when looked at closely, do not appear that effective a measure.

The discussion on support is, as you say, the key bit of the paper. I still think that, if the preventive measures bite (i.e. fewer people in the system for less time and no backlog) leaving the support mechanisms unchanged remains an option and the onus ought to be on Jack to prove why this would not work. As it is, he just asserts that pressure will rise inexorably and that cutting benefits will be the key to arresting it (is there any evidence that the last Government's cuts had this effect?). The reason I feel this is that we should not underestimate how politically

difficult it will be further cut back benefits for asylum seekers, even if presented as part of a "fairer and faster" package. Looking at the figures Jack gives, doing nothing gives us a bill of £614m by 2001/2. Just doing the preventative measures gets this down to £326m (optimistic scenario) or £420m (pessimistic scenario). Going further and changing the support structure gives us £242m (optimistic) or £321m (pessimistic). In other words, the potential gain from changing the support is about £100m. Is this worth the political pain?

That said, a few specific points on your section on support:

- I agree that local authorities are not willing participants, but I think I am right in saying that it is only 3 or 4 who are affected. This ought not to be a determining factor;

- you suggest that support would only continue up until the initial determination and not during the appeals process. Para 11of Jack's paper suggests that support would only be withdrawn after the appeals process is exhausted. If the whole process only takes 3 months, I think that this has to be right. Apart from the harshness of the original policy of removing benefits, it fails on its own terms if local authorities have to provide support under the National Assistance Act anyway. Extending support to those on appeal could also be presented as a counter balance to the harshness of cutting benefits for those pre-appea;

- before explaining Jack's new model, it might be worth recapping what the CSR report concluded and why Jack has gone his own way;

- why would the "no cash benefits and just the safety net" option be more expensive?

A few other general points. I agree that this needs further thought before Jack is allowed to go snap. Departments like DSS and DOH should be encouraged to give it the once over and not assume that they have to buy a HO/HMT stitch up.

This begs the question of whether a July White Paper is realistic and, indeed, whether we want to splash on the issue in this way. My inclination would be to get a lot more of the detail of the new system worked out before proclaiming the grand strategy. Would it not be good Party Conference territory?

We need to think hard about whether this is a legislative priority. Probably would be my view, but the wider Jack makes the Bill, the harder it would be. We should establish how much could be done as part of a wider DSS Welfare Reform Bill or through secondary legislation.

Finally, the rhetoric. I found Jack's paper continually veering towards the hysterical. As you say, the sensitivity of these issues will grow as enlargement comes closer. I think our rhetoric should be deliberately measured: we need an asylum system – it is part of any civilised country – but it needs to be fair and well managed – which it has plainly not been in the past. Not – we need to stem the flood of money grabbing foreigners.

Top - AL
cc JJH
RR
PJ

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

27 MAY 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
6th Floor, Eland House
Bressenden Place
London
SW1E 5DU

Fth.

Dear John,

ASYLUM AND IMMIGRATION

I am writing to seek the agreement of HS colleagues to the early announcement, by means of a White Paper, of a new and comprehensive strategy for asylum and immigration, to be followed as soon as possible by legislation. I am also seeking broad agreement to the main planks of this strategy.

The United Kingdom attracts economic migrants who manipulate our cumbersome processes to stay here for prolonged periods. Our arrangements for handling these cases have been overwhelmed. There are large backlogs of cases at many points in the process. The support arrangements are a mess and the burden on local authorities is becoming unsustainable. The total cost is now estimated at £500m annually, projected to rise to £800m if no action is taken.

When we came into government we set up a series of wide-ranging reviews to tackle the expensive set of problems which we had inherited. The two Home Office CSR studies on asylum and on port controls, the reviews of detention and appeals, and the CSR study led by the Efficiency Unit of the entry clearance operation overseas are all now complete. We are in a position to get ahead with a comprehensive strategy on asylum and immigration putting into practice our statement of policy and the central principle of fairer, faster and firmer procedures.

This is an area in which the problems will never be completely solved. There are strong forces outside our control driving economic migration. It should however be possible to manage matters better; to reduce very substantially the cost to the United Kingdom; to transform the perceptions of unfairness which accompany delays, backlogs and the legacy of half-baked initiatives; and to clamp down more effectively on widespread exploitation and abuse. The key

elements of the strategy I am proposing are set out in the attached paper. There is more work to be done on several of the main issues including the sensitive subjects of backlogs, support arrangements for asylum seekers, and detention, each of which will need very careful public handling, and on these and other issues I shall of course be consulting colleagues further in more detail. At this stage, my concern is to secure approval for the thrust of the strategy and the main elements of each of the principal proposals.

The paper also includes a comparison of the likely costs of different approaches to the problem. Obviously the figures are subject to developments on the detail. But they have been calculated from a statistical modelling exercise conducted by officials here and in the Treasury.

Having reached this stage I am anxious to work up an early comprehensive announcement showing the fruit of the various reviews, and I consider a White Paper to be the most appropriate vehicle. There is now considerable pressure on us to announce a way forward, and I do not believe we could credibly delay this beyond the Summer Recess. I therefore propose to aim for publication of a White Paper in July. This makes for a tight timetable for taking forward some of the further work, but we cannot afford to do otherwise.

I have also become increasingly convinced of the importance of early legislation. It was noteworthy that at the PLP meeting on Wednesday 13 May there were strong calls for legislation in this area next session.

While some significant benefits can be obtained without legislation, for example through clearing the backlog of asylum decisions and more investment in preventive work, other key features of the strategy including the arrangements for welfare support, can only be achieved by changing the law. Unless we can introduce this quickly, the problem and associated costs will continue to grow, the present system may be overwhelmed still further and we shall not be in a position to show progress until well into the millennium.

In particular, the position of the local authorities will become intolerable with consequent damage to central and local government relations. It is very possible that without early legislative action by us Westminster Council will revive their appeal to the House of Lords on the 1948 Act with the risk that the scheme is declared unlawful. We would then have to legislate in an emergency to prevent many thousands of asylum seekers being thrown onto the streets.

I understand that QFL is to return to the subject of legislation in the next Session and that there are opportunities still open for CSR-related measures. My present judgment is that there would be great advantage in using one of these opportunities for legislation on asylum and immigration, it is my current intention to make a strong proposal for consideration by QFL at the appropriate time.

In handling the further work on all this I am conscious that we shall need to keep good control over the linkages between the various reviews and their follow-up programmes. Where there is detailed work to be done, we will proceed with it urgently in full consultation with interested Departments. If colleagues can agree the overall plan, my next step will be to complete work on the relevant policy issues and to prepare a first draft of the White Paper.

I am copying this letter to the Prime Minister, Robin Cook, HS colleagues, Hilary Armstrong and Sir Richard Wilson.

Yours ever,

JACK STRAW

AN ASYLUM AND IMMIGRATION STRATEGY

Summary

1. This paper outlines a new approach to immigration control aimed at reducing the burden on the UK created by asylum seekers, many of whom are using asylum for economic migration to the UK.

2. An obligation towards asylum seekers is contained in the 1951 UN Convention on refugees. Numbers of asylum seekers were broadly stable at around 4000 a year in the period up to 1988. Since then they have risen to a peak of 44,000 in 1995 falling back to around 30,000 currently but now once more on a rising trend. Some of this increase has been due to greater instability in some countries, but this is only a small part of the explanation. Asylum claims have now become a routine method of evading immigration control. PLP colleagues with large immigration caseloads have all witnessed a large increase in unfounded asylum claims. Colleagues are very impatient about this evasion, the involvement of unscrupulous immigration advisers and legally aided lawyers who unjustifiably milk the system, and about the way in which these abusive claims discriminate against families who observe the Rules. There is alsp now increasing evidence that organised criminals are heavily involved in trafficking in asylum seekers.

The present asylum system costs about £500m now, £400m of which is for support, projected to rise to £800m in 2002/3.

3. The main elements in the proposed new strategy to tackle this problem are:

– investment to speed the processing of asylum claims and to clear the backlog of old cases. Spending an extra £10-£15m in each of the next two years could with a flexible approach practically eliminate the backlog in 2001 - reducing the cost of support (on current arrangements) by more than £40m in the first year alone;

– investment to prevent and deter arrivals of inadmissible passengers. An extended network of airline liaison officers would cost £3m and save up to £40m (on current arrangements);

– action to streamline the appeals process;

– action to reduce barriers to removal, which if successful could substantially increase the numbers of asylum seekers removed. Investment in the removals process could also increase removals; £40m extra might lead to an additional 6000 removals annually although this would require a substantial expansion of detention space which is difficult and could not be delivered quickly;

- an entirely new welfare system for asylum seekers which pays a cash allowance only to those who claim asylum on or shortly after arrival and who have valid travel documents. There would be a safety net for others. If the decision time had been reduced it is possible that the cost of supporting new asylum seekers up to the first decision could be reduced to £60-£80m annually - although a continuation of the backlog of cases being supported under present arrangements would cost much more.

4. Delivering this strategy will require primary legislation. Unless this is introduced quickly the problem will continue to grow, the present system may be overwhelmed and transition will be more difficult and expensive.

Background

5. The interdepartmental CSR study concluded that the asylum system inherited from the previous Administration is a mess

- It is very expensive. The total cost of processing and welfare is estimated at £500m now, projected to rise to £800m in 2002/3 if no action is taken.

- Most of the spending - some 80% - goes on supporting asylum seekers. The way in which the previous government sought, in the main unsuccessfully, to restrain this spending has put enormous pressure on local authorities - especially in London.

- The processing of asylum claims is under-resourced and cannot cope with fluctuations in demand. The Home Office has a backlog of over 50,000 undecided asylum applications, some over 8 years old. The LCD appellate system has a backlog of 23,000 appeals with routine new cases being listed for hearing in 15 months time. Delays in processing play a large part in the difficulties over removal.

- Although removals have increased substantially in recent years we remove only about 600 failed asylum seekers each month - compared with 3,000 asylum applications made, 75% of which are likely to be refused permission to stay.

- If nothing is done, the backlog of decisions would double by 2002 and there would be some 115,000 failed asylum seekers not yet removed from the country. The support element of the total costs would increase to £700m from £400m now.

- The system is unfair to genuine asylum applicants, while not sufficiently deterring economic migrants. The social security system treats abusive claimants better than, for example, returning UK residents who fail to meet the "habitual residence" test.

6. All prosperous countries face the problem of economic migration. International travel is becoming cheaper and easier, there is a widening gap between standards of living here and in less developed countries. Racketeers and organised crime exploit this to an ever increasing extent and seek opportunities to get people here. Whatever we do the applicants and their advisers will adjust their behaviour to try to defeat our controls. But there are also genuine asylum seekers fleeing from real persecution. We are committed to a strong and positive policy on human rights, including honouring our obligations under the 1951 Geneva Convention on refugees; and we are also bound by other international commitments and legal obligations.

7. The volume of applications is bound to increase so a realistic aim can only be to reduce costs to a manageable level. But we have to spend now to curb expenditure growth. If we do not act to process more applications more quickly we will put intolerable pressure on resources for supporting asylum seekers which we are trying to constrain. Speed is also essential to the chances of effective removal action, and the more unremoved cases there are the greater the risk of damage to community relations and the accelerated growth of a new underclass of illegal residents which would undermine our policies on social integration and racial harmony.

The processes for handling asylum claims

8. We need a balanced package which reflects our 'firmer, faster, fairer' framework for immigration policy. We need to improve and speed up the way we deal with asylum cases. This will require major procedural changes to the appeals system, which can only be delivered with primary legislation. It will also require some additional investment, although the costs are small compared with the likely reduction in the growth of expenditure on support. The main elements of this part of the package are

- A tougher approach to preventing and deterring the arrival of inadmissible passengers. We need to invest in developing intelligence, tackling trafficking and developing the network of airline liaison officers (ALOs) overseas to stop inadmissible passengers boarding. For an annual spend of under £3m we could save up to £40m, by avoiding the support and removal costs of those passengers likely to be denied boarding - the actual savings would probably be higher as other economic migrants would be deterred by such measures.

- A modernised port control with better IT support using the latest technology to create a system integrated with the entry clearance operation. We would need to invest up to £5m to initiate this. We would aim for a PPP deal where the Private Sector provided the main investment. We also need to operate the port control more flexibly so that fewer resources are engaged on routine work and we focus more effort on potentially inadmissible passengers. This requires legislation and might be controversial but is necessary if we are to cope with increasing flows of legitimate travellers as well as economic migrants without increasing the resources we put into this (which otherwise would need to rise 5% in real terms annually - from the present level of £125m). I have already made one change in this direction - with the ending of routine embarkation control), releasing £3m for other better enforcement.

- Much greater speed in dealing with asylum claims. Improved efficiency and procedures mean that most new cases can in principle now be decided within a few weeks of the application being received. The Caseworking Programme will modernise the Immigration and Nationality Directorate's systems and deliver further improvements. But the backlog needs to be tackled. Not only does the backlog soak up huge support costs, including the bulk of the remaining expenditure on cash benefits, it also acts as a beacon to new asylum seekers who see the potential for exploiting long delays. I have publicly ruled out a blanket amnesty for backlog cases, which would be indefensible and act as a magnet to others. But I am in no doubt that it would be equally unwise simply to try to apply current criteria to the older cases as if the delays had never occurred. That would merely clog up the appeals system with many thousands of cases which were in practice unlikely to be removable, slowing down the whole process and blighting the progress of newer cases where opportunities for successful enforcement are greatest.

  The solution must be to apply a flexible approach to the older backlog, with a presumption of stay for most of the very oldest cases dating from 1993 and earlier, and a more pragmatic approach to granting leave to remain, based on clear and defensible criteria, in some of the more recent backlog cases. We would need to present this approach very carefully, making clear the pay-off in terms of a strong push on enforcement in new cases as the system was freed-up to deal more effectively with these.

- Spend more on processing asylum claims, to keep up with intake and tackle that part of the backlog which it would not be right to write off via bulk decisions. On forecast intake levels we would need to spend

an additional £10m - £15m annually to reduce the backlog to frictional levels (at which most outstanding cases are in action) by 2001 so that we are then dealing with all new asylum claims in three months or less. This would reduce expenditure by £40m in the first full year, rising thereafter (on the basis of current support arrangements). Quicker processing not only directly reduces support costs but is likely to be a key factor in reducing the incentives to economic migrants to come here. A fall in intake would of course produce further savings.

- Speed up the appeals process. There are three aspects to this:

- fundamental reform of the structure and process of appeals, requiring urgent legislation

- reducing and eliminating the current backlog of hearings

- tighter management of the system by the appellate authorities.

On the legislative front, the main proposals are:

a) to combine the present system of multiple appeals at the first tier into a single appeal right exercisable at an early stage of the process; this single appeal would consider all aspects of the case including removal directions. There would be a rebuttable presumption against any later asylum applications.

b) reform of the two tier system with a strengthening of the role of the Immigration Appeal Tribunal and strict criteria for appeals going to it.

On the management side, we need to give strong support to the initiatives being taken by the Chief Adjudicator to speed up and streamline the handling of cases, cutting down on over-complicated and delayed determinations.

Until these changes are made we need to increase the capacity of the appeals system to keep pace with increased output of decisions. The cost would fall mainly to LCD but the Home Office would require about £3m to support this increase.

- Stricter tests for legal aid, in line with what the Lord Chancellor is proposing more generally, would help speed the process, deliver small savings on legal aid spending, as well as much larger savings on support. Without better controls on legal aid there will be continuing incentives to contest undeserving cases and prolong the processes for determining cases and securing removals.

- We need also to act swiftly to give effect to two important manifesto commitments : a new right of appeals against refusal of a visit visa; and a system for controlling the real menace of unscrupulous advisers, on which the consultation document we issued in January has produced an encouraging response. Both these initiatives command strong support among constituency MPs. Both schemes will need to be designed to be self-financing. Visitor appeals requires legislation although we are examining whether something might be done on a temporary non-statutory basis. The regulation of advisers also requires legislation if, as I am inclined to recommend, we go for a statutory scheme of regulation.

- Increase removals of failed asylum seekers. It is not sufficient simply to resource removals better. We need to reduce the procedural barriers which unsuccessful applicants and their representatives use to fend off removal. That means:

  - ♦ reducing their current open-ended access to the courts, largely funded by legal aid;

  - ♦ reducing the scope for continuing re-applications by family members;

  - ♦ new approaches to the enormous problem of persuading source countries to receive back their nationals who destroy their documents to frustrate the asylum process;

  - ♦ persuading Parliamentary colleagues and lobby groups to accept the outcome of a fairer and faster appeal system.

We will also need to find new approaches to the problem of absconding: at present at least half of failed applicants simply disappear. This will require much closer co-operation between the police and the Immigration Service and other agencies and a greater use of IT eg through fingerprinting. Such measures could very substantially increase the number of asylum removals from their present level of 6,000 annually although the exact impact is difficult to predict. Further increases would require more resources. Expenditure of about £40m annually might in time deliver 6,000 more removals. About half of this investment would be for extra detention space which is critical to increasing removals. This could not be delivered immediately and difficulties with planning consent etc could make a programme on this scale uncertain. Extra removals should produce savings in support costs but these are long rather than the short term. More realistically the numbers of unremoved failed asylum seekers will continue to grow, unless the other measures in the package succeed in containing applications to 25-30,000 a year. That is possible but the situation is fraught with uncertainty.

More rational support system

9. It is clear that the present support arrangements are irrational, confused, unfair and expensive. A completely new approach is required. The Asylum CSR recommended a package based on an initial stay in reception centres and cash payments thereafter for all applicants, linked to reporting. We assess that this would be likely to increase support costs without any certainty that it would reduce the incentive to come here or strengthen the prospects of removing those refused. There are also considerable risks in relying on a large national network of high capacity reception centres. A significantly different approach is needed.

The objectives of the support arrangements should be

- To provide so that no genuine asylum seeker need be left destitute, while containing costs through incentives to asylum seekers to look first to their own means or those of their communities for support.

- To minimise the incentive to economic migration and opportunistic use of the asylum process, particularly by keeping cash payments at the lowest possible level and reducing individual asylum seekers' choice when providing support for them.

- To encourage asylum seekers to co-operate with the asylum process. I particularly want a system which encourages asylum seekers to retain their documents as this considerably increases the prospects of removal, and means that the documents are not available for others trying to come here.

- To provide for asylum seekers separately from the main benefit system.

- To ensure that although decisions on individual cases are rules based and securely rooted in primary legislation to guard against upsets in the courts, there is also adequate discretion to change the arrangements without the need for further primary legislation.

10. To deliver these objectives we should start from the position that people who have not established their right to be here should not have access to support on the same basis as those whose legitimate residence here gives them an entitlement to benefits when in need. This would mean that while asylum applications were being determined there would be no entitlement in law to claim social security benefits. In providing support in cash or kind we would operate on a new legal basis and could not be accused of restoring rights to benefits.

11. Considerable further work, involving benefits and housing experts, will be required to develop the solution, but the key elements of the scheme I have in mind would be

- Cash support for daily living in the form of a hardship or destitution allowance. I think that applying means testing would be an added disincentive. The allowance might be set at 60-80% of income support levels given that the payment would be short term only. Further work needs to be undertaken on whether a separate rent allowance or access to housing benefit would be better. There might also be discretion to provide housing in kind, including possibly through hostels or reception centres as proposed in the CSR. I am however sceptical about our capacity to establish and operate such centres on the scale needed and I am concerned about the risk of community conflict which a network of large centres could produce.

This form of discretionary support would only be available to:

(a) Those who applied for asylum at the port of arrival and who had a valid travel document, or

(b) who applied for asylum within seven days of arrival in the United Kingdom and who had a valid travel document which enabled them to prove their date of arrival here

in both cases providing that the applicant had not previously made an asylum claim in the United Kingdom.

I believe that we should look very seriously at the costs and benefits of a system which linked the making of the hardship payment to a requirement on the recipient to report in person at frequent regular intervals in order to revalidate their claim.

All support would stop as soon as the Home Office had made a negative decision on the asylum claim.

- Safety net provision for those asylum seekers who could demonstrate that they had no other means of support. The asylum seeker would have no choice about the accommodation provided, and would probably receive other support in kind rather than in cash although recent court judgments suggest we would need to ensure that an appellant was not hindered by lack of resources from instructing his representatives and otherwise pursuing his case. There would be no question of retaining the current burden on local authority social services departments under the National Assistance Act 1948 which may need to be amended to make sure of this. We do envisage that local authorities would need to

continue to play a significant part in identifying and possibly arranging accommodation, but there would need to be some central machinery to plan for need and act as a clearing house. There could well be an important role for the voluntary sector in this. Given the scale and sensitivity of this sort of arrangement and the volatility of intake, I consider there would need to be at least a residual duty on local authorities to provide accommodation. The arrangements for families with children will need special and careful consideration.

We envisage a tough policy on those who have exhausted the appeals process yet persist in remaining here unlawfully: for them, the principle should be no entitlement to safety net or other support.

12. The costs of these support arrangements would depend on the level at which the cash payments were set and how quickly we could process cases. But it is possible that the costs of supporting future asylum seekers for three months before an initial decision would be £60-£80m annually. A six month decision period would double this. Any continuing backlog of cases supported under present arrangements would be an additional, possibly substantial cost. There would be other costs, including those arising from any problems getting asylum seekers out of the support systems after a negative decision. But I am confident that such a system would in the end cost less than the current arrangements. It would be unlikely to be very attractive to asylum seekers and should both exert less of a pull factor and have a low overall take up. For the same reasons it could be very controversial with the interest groups.

Transitional Arrangements

13. When colleagues have agreed on the support arrangements for future asylum seekers we will need to develop proposals for the transitional period. I doubt, however, that we can make much progress with this until the way ahead is clearer. Any new arrangements will need legislation. If we have to delay until the 1999/2000 session for this transition will be much more difficult and we will need to consider how to prop up or adapt the present arrangements to get us through a long interim period.

Administration and Budgets

14. The delivery of support to individual asylum seekers will need to use the existing infrastructure as it would be disproportionately expensive to establish new administrative arrangements for a population which is small compared with benefit claimants generally. This will mean looking probably to the Benefits Agency for means testing and cash payments and to local providers such as local authorities, housing associations and the voluntary sector for accommodation and provision in kind. It would, however, be possible to contract for the provision of a means testing

and cash payment service and for the provision of accommodation and support in kind. This opens up the possibility of changing responsibilities without initiating new activities within Government Departments.

15. The Asylum CSR considered the possibility of a co-ordinated interdepartmental planning and resource allocation system for asylum seekers (as envisaged for the Criminal Justice System) but recommended that the Home Office should instead take responsibility for all aspects of the arrangements. Budgets merely support operations. We should not try to settle any new budget responsibilities until we have agreed the new arrangements for asylum seekers. But in principle, and on certain conditions, I think it would be right for the Home Office to be responsible for more of the system, although there are elements which I doubt could come within a single budget.

16. If we were establishing new systems from scratch we might want the responsibility for all aspects of immigration control and appeals in one department, rather than shared between Home Office, FCO and LCD. But there are strong arguments for not trying to disentangle the present responsibilities. Immigration and asylum processing are entwined (asylum seeking is only one route tried by economic migrants). The entry clearance system is part of the work of FCO missions abroad. It would be very difficult to manage from a Home Department as a separate operation, although joint management with the FCO is an option analysed in the recent CSR joint study report. Transferring appeals work to the Home Office might perversely make management of the appeals system more difficult as the appellate authorities became more jealous of their independence.

17. We need administrative arrangements whereby

- The overall Government objectives for the handling of asylum seekers are agreed collectively.

- A strategy is set and resources allocated to reflect that strategy, accepting that to a large extent this work is demand-led by external forces of population migration.

- Progress in achieving those objectives is monitored.

18. The type of arrangement we are developing for the CJS would deliver this. It would provide a framework for allocating resources between the Home Office, FCO and LCD parts of the operation in order to maximise effectiveness and for monitoring what each department delivered. It would fit the CSR study of the entry clearance operation.

19. Responsibility for asylum seeker support raises different issues. The present system clearly creates some nonsenses and perverse incentives - mainly because it is difficult to move funds between welfare support and processing in order to reduce total expenditure. Some welfare costs (eg education, healthcare and Children Act) could not be disentangled from wider provision. But there is a case for the Home Office holding the budgets for separate welfare provision for asylum seekers. This might raise accountability difficulties and would only be worthwhile if such a change improved our ability to manage the system effectively and to respond to changing pressures. To achieve this we would need

- To be able to move funds freely between immigration work and asylum seekers support, and as part of this we would have to be able to use receipts to help provide services. This points to immigration costs being reclassified as programme expenditure. Immigration control is an operational activity and does not in any event fit the commonly understood definition of running costs.

- To be able to move funds between years so that there can be up front investment in prevention, deterrence and processing, in order to reduce later expenditure.

- To agree arrangements for measuring and meeting changes in demand from asylum seekers, either in volume or in cash inflation. The courts would certainly intervene to ensure we met our obligations to support individual asylum seekers whether or not we had sufficient funds. If these budgets were not adjusted for demand surges and protected from inflation and ringfenced from the rest of Home Office spending, there could be a serious impact on our ability to deliver other priority Home Office programmes.

20. We need to process applications for British citizenship much more quickly. There is a backlog of about 90,000 incomplete applications and current waiting times are about 18 months. Applicants pay a fee in advance and the way forward is probably through changes in the treatment of receipts which would enable us to use the fees to provide a better service for applicants. (I am pursuing this separately with the Chief Secretary).

Costings

21. The attached table gives some estimates of asylum costs under different scenarios. The figures are based on modelling undertaken by Home Office and Treasury statisticians. They may be helpful in comparing the likely implications of different options which should be treated with some caution. The model does not include all elements of the asylum system and this does not give absolute costings.

The modelling depends on a range of assumptions, and some (such as numbers of applications and take-up rates) are difficult to forecast with any certainty. The model also does not cover transitional arrangements.

ESTIMATES OF ASYLUM COSTS (£m)

			1999/00	00/01	01/02	
A	Current System intake forecast (43,800/49,600/55,300)	Support	341	434	554	
		Process	52	57	60	
			393	491	614	
NB	*The model does not include the support costs relating to the appeals and removals backlog - the modelling for the CSR showed that if these were included the costs became*					
			490	565	665	Rising to 850 in 02/03
B	Current System invest in asylum decisions. Current intake forecast (43,800/49,600/55,300)	Support	303	307	344	
		Process	68	76	76	
			371	383	420	
C	Current System invest in asylum decisions lower intake (34,600/37,000/39,500)	Support	261	242	261	
		Process	64	69	65	
			325	311	326	
D	New benefit arrangements; forecast intake (37,200/41,400/45,800) removals increase to 12,000 annually	Support	270	235	200	
		Process	82	115	121	
			352	350	321	
E	New benefit arrangements; lower intake (32,300/34,600/36,900) removals increase to 12,000 annually	Support	247	185	134	
		Process	84	113	108	
			331	298	242	
[redacted] options D & E assume the new arrangements will apply to all applications except any outstanding from before 1998/99. In practice the transition is likely to come later.						

Top [redacted] AL
cc. RR
PU

The Rt Hon Ann Taylor MP

PRIVY COUNCIL OFFICE
68 WHITEHALL LONDON SW1A 2AT

21 MAY 1998

Dear Nick,

PRIVATE MEMBER'S BILL: PORTS OF ENTRY (SPECIAL STATUS)

Thank you for your letter of 11 May about the handling of Gwyn Prosser's Private Member's Bill.

You noted that Mike O'Brien's letter of 22 April recommended that Gwyn Prosser's Ports of Entry (Special Status) Bill, introduced on 5 March, should be blocked. Gwyn withdrew that Bill and proposed to introduce another - on the same subject- on 20 May. You explained that his concerns about the effects of recent influxes of asylum seekers on services in his constituency were well known, and the purpose of his Bill was to secure additional funding for local authorities in port areas to cover the costs of dealing with, for example, asylum seekers, demonstrations and blockades. You pointed out that additional funding is already available to local authorities through the Standard Spending Assessments and that the Home Office was content with the current funding mechanisms dealing with the additional costs relating to policing. Therefore, you recommended that the Bill should be blocked at Second Reading.

No colleague commented, and this letter therefore records agreement to proceed as you propose.

I am copying this letter to the Prime Minister, members of LEG Committee, and to Sir Richard Wilson and First Parliamentary Counsel.

Yours,

ANN TAYLOR

Nick Raynsford Esq MP
Parliamentary Under-Secretary of State
DETR

[redacted]gus Lapsley

From: Liz Lloyd
Sent: 20 May 1998 18:06
To: Angus Lapsley
Cc: Jeremy Heywood
Subject: RE: AYSLUM SEEKERS

No you are right to identify it as a policy and political issue.

But on policy, I don't think it will work out as smoothly as we might wish
a) you are right to say that the shorter people are here the smaller the support bill - hence the imperative of speedign the system
b) previosuly administrations have tried to speed up the system without tighteing the support system, and vice versa, and neither has worked. A whole system approach may seem belt and braces in the abstract, but people respond to economic incentives, even if HO did not spell out this time.
c) the HO model is 6 weeks - however, that is the goal, there is no sign that this will be up and runnning immedialty, ie the process will still be long for proporiton of applicants and the supprot costs too.

On politics: I think they do want to be tough on support, the tender bit is letting more poeple in, not providing support while the applications go through

However, I don't think the two-tier support model JS proposes is quite right.

-----Original Message-----
From: Angus Lapsley
Sent: Wednesday, May 20, 1998 5:53 PM
To: Liz Lloyd
Cc: Jeremy Heywood
Subject: AYSLUM SEEKERS

Thinking more about our meeting yesterday.

Support costs are by far the biggest element of the bill (£400 of the £500m).

HO claim that the proposed measures to deter entry and additional spend on processesing cases would cut the backlog to zero by 2001.

If, through this, you had a six week turnaround for everyone and did nothng else, the pull factor would at least be no worse than now (indeed a quick turnaround would deter bogus claimants from bothering).

What would the support costs then be? It seems fair to assume that the bulk of the benefits now go to people sitting around for years in the 30,000 backlog. If you only have 10,000 or so, here for just six weeks each (so not all at once), the support costs would be dramatically cut by 2001. They say this will save £50m in year 1999.

If we accept therefore that by 2001, the £400m could cut by, say, half, through these measures, is it really such a financial or political imperative to play around with the benefits system to make it cheaper or less of a pull?. The smaller the group, the less the savings of benefits changes will be anyway.

I wonder thererore if the *politcal cost* of trying to force through the benefits changes (or reception centres) is worth it.

The weakness would be if the success of cutting the backlog were dependent on reducing pull by cutting benefits. But HO do not actually argue this is in their latest paper.

It also depends on our political objective. If it is to be seen to be tough on benefits for asylum seekers, what Jack proposes makes sense. On the other hand, we could avoid that whole debate and cut the bill by half at the same time as making the system fairer and quicker.

Am I missing something?

Angus

From: THE PRIVATE SECRETARY

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

15 MAY 1998

RESTRICTED - POLICY

Andrew Patrick Esq
Private Secretary
Foreign and Commonwealth Office
Whitehall
London SW1

TOP - JEH
C. PB
AL
PU.

Dear Andrew

DIRECT AIRSIDE TRANSIT VISAS (DATVs) BULGARIA, FRY AND OTHERS

Thank you for your letter of 28 April setting out the action which has been taken at posts to deter potential asylum seekers from coming to the UK.

Your letter was written in the context of Direct Airside Transit Visas (DATVs).

The Home Secretary is very grateful to the Foreign Secretary for arranging for our Ambassadors/High Commissioners in the six countries under discussion to make representations, and arrange publicity campaigns, in the way outlined. As you know, the Bulgarian Deputy Minister is coming to see Mr O'Brien on 18 May.

The HS discussion itself has now been arranged for 18 May. The Home Secretary is very grateful to the Foreign Secretary for providing this detailed briefing in the context of that discussion.

I am copying this letter to the recipients of yours.

Yours sincerely

Isobel Hopton

pp K D SUTTON

From: Angus Lapels
Date: 14 May 1998

Liz Lloyd/John Elvidge

cc: John Holmes
Rob Read

DATVS

I had a look through the Home Office paper on DATVs (HS (98)1). The Prime Minister of course is pulled both ways on this issue. He is very conscious of the impact of imposing visa regimes or transit visa regimes on our relations with the countries concerned. However, he is also anxious to reduce the pressure on the asylum system.

What really struck me about the paper was the lack of quantitative evidence provided by the Home Office. Despite claiming throughout the paper that the effect of abuse of the system was "severe" and that imposing DATVs would have a "dramatic" effect, nowhere does the paper spell out quantitatively what this means. A few, presumably selective, examples are given, but nothing about how important this is against the overall context of the asylum system, or how effective DATV is comparison with other measures.

Given that the Prime Minister may well be called on to rule on this issue, both in terms of the principles and individual cases, it seems to me that HO should come up with much fuller supporting evidence. If they cannot, the Prime Minister does not have much of case to employ with either the Deputy Prime Minister or people like Bob Ayling.

Angus.

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

13 MAY 1998

File

~~JJH~~

C. AL

PU

The Rt Hon Alistair Darling MP
Chief Secretary, Treasury
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

Dear Alistair,

CONTROL TOTAL - TREATMENT OF CURRENT RECEIPTS

Thank you for sending me a copy of your letter of 9 April to John Prescott. I have also seen Derry Irvine's letter to you of 23 April.

I assume that your letter to John is a response to my letter to you of 16 February headed "Flexibility in the use of income in the Home Office", and the paper which accompanied it. As such, I welcome the broad thrust of your proposals but they need to be tested against the specific requirements set out in my paper. Therefore my response to the invitation in paragraph 14 of your letter is that it looks as though my proposals would fit the criteria but our people need to get together to go through this case by case. I will ask my officials to contact yours to take this forward.

It might be helpful, as a backdrop for those discussions, if I commented briefly on the requirements in my earlier paper.

I would like to include citizenship fees in the new arrangements. My letter of 16 February set out the background and the current difficulties. Since I wrote, the number of uncompleted cases has increased to 90,000. These receipts have just been reclassified as appropriations in aid and I am satisfied that the regime will fully satisfy the relevant criteria.

The Nationality Directorate is also responsible for certificates of entitlement to the right of abode. This generates relatively small receipts (anticipated at £700k this year), but is closely linked to citizenship and it would make sense to include this service with citizenship fees.

I would also propose to include travel documents fees within the new arrangements, **provided** that suitable account can be taken of the fact that this is a subsidised service. The Asylum Directorate issues travel documents for refugees and stateless persons, but we are precluded by international convention

from charging more than the fee for a national passport. We charge full cost for other certificates of identity. Our officials might discuss whether this is an option.

I understand that netting off enforcement costs in respect of confiscation orders would be treated in the same way as fines and penalties and be subject to the criteria. I am sure that this would make a useful enhancement to the domestic confiscation scheme and ultimately lead to increased revenue. However, I am also keen to increase further international co-operation in this important area, particularly by such incentives as the sharing of criminal proceeds with other countries. It is not absolutely clear, however, that such arrangements come within the ambit of the criteria and I suggest that our officials discuss this further.

Linked to this is support for victims of crime and traffic enforcement where I have already made the point that there is considerable potential for improving the efficiency of the criminal justice system through, for example, encouraging the use of fines as alternatives to other disposals. As Derry Irvine has noted, we need to guard against skewing priorities. I strongly support his suggestion that officials across the criminal justice departments discuss the potential for different treatment with Treasury officials.

In respect of licences and levies, I feel that the first criterion needs slight adjustment for clarity: ie that the service delivered should be closely linked to the "payers" rather than "payer". If additional operators enter a regulated industry - through spontaneous changes in general economic activity or following removal of some restraints in line with our policies on better regulation - they will collectively cause increased public sector regulatory and enforcement costs. The precise level of enforcement/education/guidance will vary with the characteristics and behaviour of the individual regulated company, whereas for reasons of equity and efficient administration the charges for registration, notification or licences would need to be averaged between them. I should be grateful for confirmation that this criterion does not imply individually-calculated charges - which would itself be inefficient where significant numbers of organisations are concerned.

The second and fourth criteria (respectively, 'the economically most advantageous way in the circumstances' and the furtherance of 'our economic goals') are very elastic phrases which need to be clarified when officials look at specific cases.

With regard to the third criterion, I assume you mean that the Exchequer should not lose significantly, either in the long run or at the transition. In principle I would support this, though Departments must remain free to argue individual cases on merits.

Finally, your letter deals very fully with the treatment of income from fines, penalties, levies and licences. These are not the only kinds of charges made by

Departments for services. Perhaps our officials could discuss if there is any prospect of greater flexibility to offset extra receipts against extra expenditure where both arise solely from unexpected increases in demand for a service.

A copy of this letter goes to the Prime Minister, Ministers in charge of Departments, and to Sir Richard Wilson.

Yours ever,

JACK STRAW

Foreign &
Commonwealth
Office

London SW1A 2AH

From the Parliamentary Under Secretary of State

5 May 1998

All Members of Parliament
House of Commons
London
SW1A OAA

HA|PS
C: Press
PO

1. PR
2. JH.
AZ

Dear Colleague,

I thought the start of the busy summer season at entry clearance posts worldwide would be a good moment to write again about entry clearance work.

Many entry clearance sections have to handle double or even triple the usual volume of visa applications between May and the end of August. This increase is a worldwide phenomenon, affecting Posts as varied as New Delhi, Moscow, Islamabad, Peking, Lagos, and Bogota. To help Posts cope we provide extra entry clearance officers for the busiest Posts, drawing from staff in the Diplomatic and Immigration Services.

In many cases, these staff have already arrived at Posts. However, wider staff shortages in the FCO have affected the programme. We are working urgently to fill the gaps. We expect most Posts to continue processing straightforward applications within 24 hours. However, it is possible that some Posts may not always be able to offer interviews to applicants with more complicated cases within the maximum ten working days that we set as a customer service standard.

I do not want to increase any potential problem by causing unnecessary alarm. But you may want to advise constituents to encourage overseas friends and relatives to apply in good time if they plan to visit the UK this summer. Applicants can help themselves and our Posts by allowing a little more time for their applications to be handled.

Many Posts receive supporting letters or faxes directly from sponsors, before applicants apply. This is entirely understandable, but such documents do not always arrive in time for applicants interviews and difficulties arise in matching sponsors' or MPs' letters with applications. May I therefore ask you to encourage sponsors to send supporting

letters or documents direct to the applicant instead? The applicant can then of course produce these when lodging their application. We think this will obviate some of the difficulties experienced.

I am arranging translations of this letter into Urdu, Hindi, Bengali, Punjabi, Gujarati, Sinhalese and Tamil in case you would find this helpful. These will be sent to you, as soon as the translation work has been completed.

Yours sincerely,

Elizabeth Symons

BARONESS SYMONS

TOP: JJH
cc: AZ
PU
PRESS

From: Andrew Campbell
Secretariat
270 0242
Date: 01 May 1998

JOHN ELVIDGE

cc Jeremy Heywood
David Miliband
Liz Lloyd

Could we discuss when you get back. Might need to cover in a note to TB followed by steer to JS?

ASYLUM

1. I attach a note setting out the main similarities and differences between the proposals set out by the inter-departmental review and the latest thinking from the Home Office.

2. The two main differences are:

- on policy, the Home Office is pouring cold water over the review's idea that asylum seekers would need to stay for an initial period, in reception centres;
- on administration, the Home Office is not particularly keen to take responsibility for the whole asylum process.

3. While I am not sure how other departments will react to the new proposals, DSS will probably want some reassurance that they will not increase the attraction of the UK for economic migrants, rather than genuine asylum seekers, and I would expect DH to be concerned about the possibility (left open in para 10 of the HO paper) of local authority social services departments continuing to pick up cases of hardship under the National Assistance Act 1948.

4. If you, or copy recipients, find any of what follows unclear, please let me know.

ANDREW CAMPBELL

From: Andrew Campbell
Secretariat
270 0242
Date: 01 May 1998

JEREMY HEYWOOD

cc David Miliband
Liz Lloyd
John Elvidge

ASYLUM

1. Officials in the Home Office have indicated that Jack Straw might want to take a different line on asylum than that proposed by an inter-departmental group which has been looking at this issue as part of the Spending Review.

Similarities

2. The Review and the latest Home Office thinking agree the need for:

- a tougher approach to preventing and deterring the arrival of inadmissible passengers (Jack Straw places emphasis on developing intelligence overseas and tackling trafficking, including the expansion of a network of Airline Liaison Officers);
- speeding up the processing of asylum claims;
- streamlining the appeals process so that there is a single comprehensive right of appeal and strengthening the role of the Immigration Appeal Tribunal;
- closing legal loopholes which allow an applicant's stay to be prolonged;
- stricter tests for legal aid, in line with Derry Irvine's more general proposals;
- clearing the backlog of old cases (while a blanket amnesty for backlog cases is ruled out, many people who have been here for more than 5 years are likely to be unremovable in practice);
- a higher proportion of failed asylum seekers to be removed including greater co-operation between the police and the Immigration Service. Each month 1,500 asylum applications are refused but only 600 are removed.

3. Both the Review's and Jack Straw's proposals would require primary legislation. Both would cause handling difficulties in Parliament.

Differences

4. There are some differences of emphasis between the Review and the latest Home Office thinking. But the **main substantive difference** concerns support for asylum seekers while their claims are being considered.

5. The core of the Review's recommendations was that:

⇒ asylum seekers should be required to spend one month at an asylum centre immediately after applying for asylum;
⇒ after this time they would, in most case, be free to leave and receive a Basic Asylum Support Grant. Although the Review remained neutral as to the level of such a Grant, it noted DSS advice that anything less than 80% of Income Support could be open to legal challenge;
⇒ once the process of claiming asylum had ended, all support from the State would cease.

6. One of the reasons for the recommendation on asylum centres was to minimise the 'pull factor' that Asylum Support Grant might generate.

7. However, Jack Straw is sceptical about the proposal for asylum centres on the grounds of practicability and their potential for adverse race relations. Instead he has proposed a system of:

- cash support in the form of a discretionary hardship or destitution allowance based on a means test. The allowance might be set at 60 - 80% of Income Support;
- possibly, a separate discretionary payment to cover rent;
- a safety net (as yet undefined) for those who did not qualify for the main cash support scheme but who could demonstrate that they had no other means of support.

8. A lower level of Income Support could be expected to minimise any 'pull factor.' It is unclear, however, whether the safety net and discretionary housing payment would act to increase it.

9. On administration, the Review proposed that the Home Office should assume responsibility for the whole of the asylum system. The latest thinking in the Home Office is to reject the Review's offer. Instead, it is envisaged that there should be joint ownership, bolstered by a cross-departmental committee. Although not explicit, I envisage that Home Office Ministers would expect to chair a committee which would consider, among other things, resource allocation between the FCO, LCD and the Home Office for the different parts of the asylum process. It is not clear how, if at all, such a committee would report to main committees, such as HS or PX.

10. On finance, the model sketched out by the Home Office appears to imply more up-front expenditure than the Review's recommendations. It is unclear whether it would generate more substantial savings in the medium to long term.

ANDREW CAMPBELL

RESTRICTED - POLICY

Foreign &
Commonwealth
Office

London SW1A 2AH

Top - JEM
cc JPo
PB
ALdr
JJM

File
29/4.

28 April 1998

Dear Ken

Direct Airside Transit Visas (DATVs) Bulgaria, FRY and Others

I thought it would be useful to write to bring you up to date on the latest developments on the question of Direct Airside Transit Visas (DATVs) for the nationals of the countries mentioned in your minute to me of 1 April.

As you know we introduced the DATV requirement on the FRY on 10 April subject to the Deputy Prime Minister's interim agreement, and on the understanding that we would keep this requirement under review including discussion at HS. British Airways have made firm representations over DATVs for FRY nationals or Bulgarians. And Bob Ayling (in his letter of 30 March to Jonathan Powell) has also put forward some ideas for ameliorating the situation in the context of DATVs for China, which are applicable more widely. We have sympathy with the reservations expressed in these letters about the use of DATVs generally. Our firm view is that DATV regimes carry disbenefits and should therefore be seen as a weapon of last resort. We hope we can look more closely at all these points.

Against this background we are keen, in the case of Bulgaria and the others mentioned in your minute, to explore all possible options before moving to the imposition of DATV regimes. As regards Bulgaria, our Ambassador in Sofia has been in close touch with the Bulgarian authorities and has agreed with them an action plan aimed at deterring Bulgarian nationals from travelling to the UK to seek asylum. Part of this plan has already been implemented, and we are now looking to arrange a visit to the UK by the Bulgarian Deputy Minister of the Interior. Officials here will stay in close touch with those in the Home Office in order to monitor the effectiveness of these efforts. In that context it would be helpful to have the most recent statistics on asylum claims

Ken Sutton Esq
Home Office

RESTRICTED - POLICY

from Bulgarian nationals. Ideally these should include details of the profile of asylum seekers, their favoured routes to the UK etc. We would see no advantage in imposing a DATV regime, which we would like to avoid if at all possible, if it failed in practice to tackle the means used by Bulgarian nationals to abuse immigration control. In the meantime we are sending an official to Sofia and Bucharest to examine, on a contingency basis, the likely impact on the Visa Sections' staffing and other arrangements of the imposition of a DATV requirement.

We have asked Ambassadors in Colombia, Ecuador, Kenya, Algeria and Romania, to undertake a publicity campaign aimed at deterring unfounded asylum seekers. The Home Secretary's firm statement of 9 April was very helpful in this context. We have also asked them for their assessments of the resource and other operational implications of introducing DATV regimes, and will report their conclusions at the next meeting of the Senior Liaison Group on 5 May. Here again I hope that we will be able to see up to date figures on asylum seekers from these countries, in order to establish whether DATV regimes are the right weapon to use. Resource questions (both financing and staffing of any new requirements) will also be an important factor in considering how to proceed. Our Ambassadors in Prague and Bratislava also ran publicity drives shortly before the Easter break, following indications that large numbers of Czech and Slovak Roma might be on the move towards the UK over the Easter week-end. And we have been in touch with their Embassies here, we understand that in the event there were no particular problems with Czech and Slovak asylum seekers over the Easter week-end.

We look forward to the planned discussion soon in HS about DATV policy.

I am copying this letter to the Private Secretaries to the Prime Minister, the Deputy Prime Minister, the Lord Chancellor, the Leader of the House, the Secretary of State for Social Security, the Minister for Transport, the Chief Secretary, the Attorney-General, the Minister without Portfolio, the Solicitor-General for Scotland and Sir Richard Wilson.

Yours ever

Andrew Patrick

(Andrew Patrick)
Private Secretary

1/4 cash benefit

→ 1/4 part applicants

→ non-part applicants

CC AR

FACSIMILE COVER SHEET

To: LB Lloyd

From: Timothy Walker
Home Office
Room 706
50 Queen Anne's Gate
LONDON SW1H 9AT

Tel :
Fax :

Tel : 0171 273 2516
Fax : 0171 273 3420
Sec : 0171 273 2148

Date: 30/4/98

Number of pages to follow: 14

MESSAGE:

We spoke. Please find attached letter to Maria Mcdonald.

Juliet welsh.

cc. Sharon Stile
Robert Hill

This is Jack Straw's proposal (Jeremy has asked C.O to compose & content w CSR proposal). It still needs a lot of work.

LB

HOME OFFICE

50 Queen Anne's Gate, London SW1H 9AT
Tel: +44 (0)171 273 2516 Fax: +44 (0)171 273 3420

Timothy Walker
Director General
Immigration and Nationality Directorate

24 April 1998

Mrs Mavis McDonald
DETR
Eland House
Bressenden Place
LONDON SW1E 5DU

Dear Mavis

ASYLUM AND IMMIGRATION

At our last meeting, I promised to let you have more formally details of what the Home Secretary was likely to propose as a result of the CSR process. I am now able to do so.

I attach a copy of a paper which sets out his overall approach in broad terms. You will see it proposes a much tougher regime than the CSR. It requires more work, both on the figures and on the detail of the proposed support scheme and the role of local authorities, but represents the results of a lot of discussion here. Equally we recognise that we are not expert in many of the subject areas and it would be helpful to have contributions and comments from other departments.

I believe that much of the thrust of it will be acceptable to you and others, although I do not assume this and there will be points that we have missed. The Home Secretary would prefer to write to HS colleagues with proposals that take account, as far as he can, of the views of other departments and I therefore invite comments. It would be helpful to have these by 6 May, but I would be pleased to have a meeting if colleagues thought that useful or to talk about any of the issues bilaterally.

I am copying this to Ian Burns (LCD), Robin Young (CO), Gill Noble (Tsy), Tom Luce (DH), Don Brereton (DSS), Una O'Brien (CO) and Mike Eland here.

Yours Sincerely
Timothy Walker

TIMOTHY WALKER

UK Presidency of the European Union

AN ASYLUM AND IMMIGRATION STRATEGY

Summary

1. This paper outlines a possible new approach to immigration control aimed at reducing the burden on the UK created by asylum seekers, many of whom are using asylum for economic migration to the UK.

2. The present asylum system costs about £500m now, £400m of which is for support, projected to rise to £850m in 2002/3.

3. The main elements in a strategy to tackle this problem are:

- investment to speed the processing of asylum claims and to clear the backlog of old cases. Spending an extra £10-£15m in each of the next two years could, with some limited write off practically eliminate the backlog in 2001 - reducing the cost of support (on current arrangements) by about £50m in the first year alone;

how much? assume?

- investment to prevent and deter arrivals of inadmissible passengers. An extended network of airline liaison officers would cost £3m and save up to £40m (on current arrangements);

- action to streamline the appeals process;

- action to reduce barriers to removal, which if successful could substantially increase the numbers of asylum seekers removed. Investment in the removals process could also increase removals; £40m extra might lead to an additional 6000 removals annually although this would require a substantial expansion of detention space which is difficult and could not be delivered quickly;

- an entirely new welfare system for asylum seekers which pays a cash allowance only to those who claim asylum on or shortly after arrival and who have valid travel documents. There would be a safety net for others. If the decision time were to be reduced it is possible that the cost of supporting new asylum seekers up to the first decision could be reduced to £40-£80m annually - although a continuing backlog of cases being supported under present arrangements would cost much more.

Or unnecessary cruelty?

4. Delivering this strategy will require primary legislation. Unless this is introduced quickly the problem will continue to grow, the present system may be overwhelmed and transition will be more difficult and expensive.

<u>Background</u>

5. The interdepartmental CSR study concluded that the asylum system inherited from the previous Administration is a mess

- It is very expensive. The total cost of processing and welfare is estimated at £500m now, projected to rise to £850m in 2002/3 if no action is taken.

- Most of the spending - some 80% - goes on supporting asylum seekers. The way in which the previous government sought, in the main unsuccessfully, to restrain this spending has put enormous pressure on local authorities - especially in London.

- The processing of asylum claims is under-resourced and cannot cope with fluctuations in demand. The Home Office has a backlog of over 50,000 undecided asylum applications, some over 8 years old. The LCD appellate system has a backlog of 23,000 appeals with routine new cases being listed for hearing in 15 months time. Delays in processing play a large part in the difficulties over removal.

- Although removals have increased substantially in recent years we remove only about 600 failed asylum seekers each month - compared with 3,000 asylum applications made, 75% of which are likely to be refused permission to stay.

- If nothing is done the backlog of decisions would double by 2002 and there would be some 115,000 failed asylum seekers not yet removed from the country. The support element of the total costs would increase to £700m from £400m now.

- The system is unfair to genuine asylum applicants, while not sufficiently deterring economic migrants and treating abusive claimants better than, for example, returning UK residents.

6. All prosperous countries face the problem of economic migration. International travel is becoming cheaper and easier, there is a widening gap between standards of living here and in less developed countries. Racketeers and organised crime exploit this to an ever increasing extent and seek opportunities to get people here. Whatever we do the applicants and their advisers will adjust their behaviour to try to defeat our controls. But there are also genuine asylum seekers fleeing from real persecution. We are constrained by legal obligations, international commitments and we must respect the rule of law and human rights.

7. The volume of applications is bound to increase so a realistic aim can only be to reduce costs to a manageable level. But we have to spend now to curb expenditure growth. If we do not act to process more applications more quickly we will put intolerable pressure on resources for supporting asylum seekers which we are trying to constrain. This will seriously damage community relations and accelerate the growth of a new underclass of illegal residents which would undermine our policies on social integration and racial harmony.

The processes for handling asylum claims

8. We need a balanced package which reflects our 'firmer, faster, fairer' framework for immigration policy. We need to improve and speed up the way we deal with asylum cases. This will require procedural changes, which can only be delivered with primary legislation. It will also require some additional investment, although the costs are small compared with the likely reduction in the growth of expenditure on support. The main elements of this part of the package are

- A tougher approach to preventing and deterring the arrival of inadmissible passengers. We need to invest in developing intelligence, tackling trafficking and expanding the network of airline liaison officers (ALOs) overseas to stop inadmissible passengers boarding. For an annual spend of under £3m we could save up to £40m, by avoiding the support and removal costs of those passengers likely to be denied boarding - the actual savings would probably be higher as other economic migrants would be deterred by such measures. I have recently written to you about the rapidly growing pressures on the control and the need to start extending the ALO network now.

- A modernised port control with better IT support using the latest technology to create a system integrated with the entry clearance operation. We would need to invest up to £5m to initiate this. We would aim for a PPP deal where the Private Sector provided the main investment. We also need to operate the port control more flexibly so that fewer resources are engaged on routine work and we focus more effort on potentially inadmissible passengers. This requires legislation and might be controversial but is necessary if we are to cope with increasing flows of legitimate travellers as well as economic migrants without increasing the resources we put into this (which otherwise would need to rise 5% in real terms annually - from the present level of £125m).

- Much greater speed in dealing with asylum claims. Improved efficiency and procedures mean that most new cases can in principle now be decided within a few weeks of the application being received. The Caseworking Programme will modernise IND's systems and deliver further improvements. But the backlog needs to be tackled. This will involve some bulk decisions for very old cases which in practice relate to people who are not removable (possibly those over five years old, or possibly some other limit and subject to clear conditions to ensure that this is not perceived as an amnesty) and a more pragmatic approach to granting leave to remain, based on clear and defensible criteria, for more recent cases in the backlog. The key aim here is to avoid clogging up further the appeal system with cases that are highly unlikely to be removable at the end of the process. I have ruled out a blanket amnesty for backlog cases. This would be indefensible.

- Spend more on processing asylum claims, to keep up with intake and tackle that part of the backlog which it would not be right to write off via bulk decisions. On forecast intake levels we would need to spend an additional £10m - £15m annually to reduce the backlog to frictional levels (at which most outstanding cases are in action) by 2001 so that we are then dealing with all new asylum claims in three months or less. This would reduce expenditure by £50m in the first full year, rising thereafter (on the basis of current support arrangements). Quicker processing not only directly reduces support costs but is likely to be a key factor in reducing the incentives to economic migrants to come here. A fall in intake would of course produce further savings.

- Speed up the appeals process. This requires tighter management of the appellate authorities. There is an urgent need for legislation to improve the appeals process. The main proposals are:

a) the present system of multiple appeals should be combined into a single right of appeal exercisable at an early stage of the decision process;

b) the current two tier system of the appellate authorities is not working well and the role of the Immigration Appeal Tribunal should be strengthened.

In addition, to enable any new system to function more effectively than the present one, it will be necessary to shorten and in most cases eliminate the gap between the adjudicator hearing the appeal and issuing the determination. It is also proposed that appeals to the Tribunal in both asylum and immigration should be restricted to a point of law.

Until these changes are made we need to spend £5-10m extra annually if the appeals system is to keep pace with increased output of decisions.

- Stricter tests for legal aid, in line with what the Lord Chancellor is proposing more generally, would help speed the process, deliver small savings on legal aid spending, as well as much larger savings on support. Without curbs on legal aid there will be continuing incentives to contest undeserving cases and prolong the processes for determining cases and securing removals.

- Increase removals of failed asylum seekers. It is not sufficient simply to resource removals better. We need to reduce the procedural barriers which unsuccessful applicants and their representatives use to fend off removal. That means:

  - reducing their current open-ended access to the courts, largely funded by legal aid;

- reducing the scope for continuing re-applications by family members;

- new approaches to the enormous problem of persuading source countries to receive back their nationals who destroy their documents to frustrate the asylum process;

- persuading Parliamentary colleagues and lobby groups to accept the outcome of a fairer and faster appeal system.

We will also need to find new approaches to the problem of absconding: at present at least half of failed applicants simply disappear. This will require much closer co-operation between the police and the Immigration Service and other agencies and a greater use of IT e.g. through fingerprinting. There is potential for such measures to increase the number of asylum removals from their present level of 6,000 annually although the exact impact is difficult to predict. Further increases would require more resources: expenditure of about £40m annually might in time deliver 6,000 more removals a year. But about half of this investment would be for extra detention space which could not be delivered immediately and would involve difficulties over planning consent. Extra removals would produce savings in support costs but these would be in the long term rather than the short term. More realistically the numbers of unremoved failed asylum seekers will continue to grow, unless the other measures in the package succeed in containing applications to 25-30,000 a year. That is possible but the situation is fraught with uncertainty.

evidence

<u>More rational support system</u>

9. It is clear that the present support arrangements are irrational, confused, unfair and expensive. A completely new approach is required. The Asylum CSR proposed a package but this seems likely to increase support costs without much evidence that it would reduce the incentive to come here, or make it easier to deal

with asylum seekers and remove those who were refused. I think it should be possible to devise better arrangements than this.

The objectives of the support arrangements should be

- To provide so that no genuine asylum seeker need be left destitute, while containing costs through incentives to asylum seekers to look first to their own means or those of their communities for support.

- To minimise the incentive to economic migration, particularly by keeping cash payments at the lowest possible level and reducing individual asylum seekers' choice when providing support for them.

- To encourage asylum seekers to co-operate with the asylum process. I particularly want a system which encourages asylum seekers to retain their documents as this considerably increases the prospects of removal, and means that the documents are not available for others trying to come here.

- To provide for asylum seekers separately from the main benefit system.

- To ensure that although decisions on individual cases are rules based there is discretion to change the arrangements without the need for further primary legislation.

10. To deliver these objectives we should start from the position that people who have not established their right to be here should not have access to support on the same basis as those whose legitimate residence here gives them an entitlement to benefits when in need. This would mean that while asylum applications were being determined there would be no entitlement in law to claim social security benefits. In providing support in cash or kind we would operate on a new legal basis of discretionary provision and could not be accused of restoring rights to benefits. As part of a new legislative approach to providing

support I think we should review also whether asylum-seekers should be regarded as ineligible for support under the National Assistance Act.

11. Further work is needed in developing the detail of a new support system, with more involvement by housing and payment experts. However the type of scheme I have in mind would have the following key elements:

- Cash support for daily living in the form of a discretionary hardship or destitution allowance based on a means test with the latter as an added disincentive. The allowance might be set at 60-80% of income support levels given that the payment would be short term only. Further works need to be undertaken on whether a separate discretionary payment to cover rent should be made. The alternative might well be discretion to provide housing in kind, including through reception centres as proposed in the CSR. I am however sceptical about our capacity to establish and operate such centres on a large scale and I am concerned about the risk of community conflict which a network of large centres could produce.

This form of discretionary support would only be available to :

(a) Those who applied for asylum at the port of arrival and who had a valid travel document, or

(b) Who applied for asylum within seven days of arrival in the United Kingdom and who had a valid travel document which enabled them to prove their date of arrival here.

(c) In both cases providing that the applicant had not previously made an asylum claim in the United Kingdom.

The new hardship or destitution payment would have to be collected or signed for in person weekly from a reporting centre (which might be a nominated Benefits Agency Office). The reporting centre would need robust arrangements to check the identity of the recipients.

All support would stop as soon as the Home Office had made a negative decision on the asylum claim.

- Safety net provision. Underpinning the cash support scheme would be a safety net for those asylum seekers who did not qualify for the main scheme but who could demonstrate that they had no other means of support. The asylum seeker would have no choice, for example about the accommodation provided and would probably receive other support in kind rather than in cash. Officials will need to work up more detailed proposals about how the safety net would be provided, including what role local authorities might play in it without creating excessively burdensome obligations on them.

12. The costs of these support arrangements would depend on the level at which the cash payments were set and how quickly we could process cases. But it is possible that the costs of supporting future asylum seekers for three months before an initial decision would be £40-£80m annually. A six month decision period would double this. Any continuing backlog of cases supported under present arrangements would be an additional, possibly substantial cost. There would be other costs, including those arising from any problems getting asylum seekers out of the support systems after a negative decision. But I am confident that such a system would in the end cost less than the current arrangements. It would be unlikely to be very attractive to asylum seekers and should both exert less of a pull factor and have a low overall take up. For the same reasons it could be very controversial with the interest groups.

Transitional Arrangements

13. When colleagues have agreed on the support arrangements for future asylum seekers we will need to develop proposals for the transitional period. I doubt, however, that we can make much progress with this until the way ahead is clearer. Any new arrangements will need legislation. If we have to delay until the 1999/2000 session for this transition will be much more difficult and we will need to consider how to prop up or adapt the present arrangements to get us through a long interim period.

Administration and Budgets

14. The delivery of support to individual asylum seekers will need to use the existing infrastructure as it would be disproportionately expensive to establish new administrative arrangements for a population which is small compared with benefit claimants generally. This will mean looking probably to the Benefits Agency for means testing and cash payments and to local providers such as local authorities, housing associations and the voluntary sector for accommodation and provision in kind. It would, however, be possible to contract for the provision of a means testing and cash payment service and for the provision of accommodation and support in kind. This opens up the possibility of changing responsibilities without initiating new activities within Government Departments.

15. The Asylum CSR considered the possibility of a co-ordinated interdepartmental planning and resource allocation system for asylum seekers (as envisaged for the Criminal Justice System) but recommended that the Home Office should instead take responsibility for all aspects of the arrangements. Budgets merely support operations. We should not try to settle any new budget responsibilities until we have agreed the new arrangements for asylum seekers. But in principle, and on certain conditions, I think it would be right for the Home Office to be responsible for more of the system, although there are elements which I doubt could come within a single budget.

16. If we were establishing new systems from scratch we might want the responsibility for all aspects of immigration control and appeals in one department, rather than shared between Home Office, FCO and LCD. But there are strong arguments for not trying to disentangle the present responsibilities. Immigration and asylum processing are entwined (asylum seeking is only one route tried by economic migrants). The entry clearance system is part of the work of FCO missions abroad. It would be very difficult to manage from a Home Department as a separate operation, although joint management with the FCO is an option. Transferring appeals work to the Home Office might perversely make management of the appeals system more difficult as the appellate authorities became more jealous of their independence.

17. We need administrative arrangements whereby

- The overall Government objectives for the handling of asylum seekers are agreed collectively.

- A strategy is set and resources allocated to reflect that strategy, accepting that to a large extent this work is demand-led by external forces of population migration.

- Progress in achieving those objectives is monitored.

18. The type of arrangement we are developing for the CJS would deliver this. It would provide a framework for allocating resources between the Home Office, FCO and LCD parts of the operation in order to maximise effectiveness and for monitoring what each department delivered. It would fit the CSR study of the entry clearance operation - being led by the Efficiency Unit - which is considering joint HO/FCO management.

19. Responsibility for asylum seeker support raises different issues. The present system clearly creates some nonsenses and perverse incentives - mainly

because it is difficult to move funds between welfare support and processing in order to reduce total expenditure. Some welfare costs (eg education, healthcare and Children Act) could not be disentangled from wider provision. But there is a case for the Home Office holding the budgets for separate welfare provision for asylum seekers. This might raise accountability difficulties and would only be worthwhile if such a change improved our ability to manage the system effectively and to respond to changing pressures. To achieve this we would need

- To be able to move funds freely between immigration work and asylum seekers support. As part of this we would have to be able to use receipts to help provide services. This points to immigration costs being reclassified as programme expenditure. Immigration control is an operational activity and does not fit the commonly understood definition of running costs.

- To be able to move funds between years so there can be up-front investment in prevention, deterrence and processing, to reduce later expenditure.

To agree arrangements for measuring and meeting changes in demand from asylum seekers, either in volume or in cash inflation. The Courts would certainly intervene to ensure we met our obligations to support individual asylum seekers whether or not we had sufficient funds. If these budgets were not adjusted for demand surges and protected from inflation and ringfenced from the rest of Home Office spending, there could be a serious impact on our ability to deliver other priority Home Office programmes.

Costings

20. The figures earlier in this paper indicate some of the financial implications of the various elements in the strategy. This, however, needs to be analysed as a complete package where each element has an impact on other parts of the arrangements. Our officials are working together to develop a new statistical model for the proposed new approach to asylum seekers. This will take several weeks but I doubt we need wait for this to start discussing the general principles.

Top - Ar
cc JJH
PU

Restricted - Policy

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TŶ GWYDIR
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The Rt Hon Ron Davies MP

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel: 0171-270 3000 (Switchboard)
0171-270 0538 (Direct Line)
Fax: 0171-270 0561
From The Secretary of State for Wales

Our Ref: CT/98-11745

22April 1998

P

Dear Alistair,

I have seen a copy of Donald Dewar's letter to you of 30 March asking you to reconsider your decision to exclude Scotland from making a claim on the Reserve to meet local authority costs of providing for asylum seekers this year.

I fully support Donald's view that Scotland, and Wales, should be granted access to the Reserve, which you have already agreed in relation to local authority support in England. I too was of the understanding that access was given in 1997-98 on the condition that pressures for 1998-99 would be met from within the respective Department's Blocks. This is clearly not the case in respect of England and we must again ask for equal treatment for Welsh and Scottish authorities.

As Donald explains, we are committed to following the Department of Health lead if our local authorities are not to be disadvantaged. This will mean full year costs in Wales could be around £100,000 on the basis of last year's figures and, as in Scotland, there is no provision in the Welsh Block for reimbursing local authorities for these costs.

I would therefore ask that you agree to costs incurred by Welsh local authorities in respect of expenditure on asylum seekers being met from the Reserve in 1998-99.

I am copying this letter to the Prime Minister, the Deputy Prime Minister, HS Committee and the Cabinet Secretary.

Yours ever,

Ron

The Rt Hon Alistair Darling MP
Chief Secretary to the Treasury
Treasury Chambers
Parliament Street
LONDON
SWIP 3AG

Mike O'Brien MP

PARLIAMENTARY UNDER
SECRETARY OF STATE

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

22 April 1998

RR
C: AL
PU

Dear Ann

FILE

PRIVATE MEMBER'S BILL: PORTS OF ENTRY (SPECIAL STATUS)

This Bill, which was introduced by Gwyn Prosser on 5 March, is scheduled to receive its Second Reading on Friday 24 April.

While Gwyn's concerns about the effects of recent influxes of asylum seekers on services in his constituency are well known, the precise aims of his Bill are a good deal less clear, both to officials here and those in DETR, to the extent that we have been unable to establish which Department should be taking the lead in this instance.

Of course the Bill is unlikely to become law but it is appropriate, as we have no real appreciation of the objectives or implications of what is being proposed, that I formally recommend the Bill should be blocked at Second Reading.

I am copying this letter to the Prime Minister, members of LEG Committee, John Prescott, Harriet Harman, Sir Richard Wilson and First Parliamentary Counsel.

Yours

Mike

MIKE O'BRIEN

Ann Taylor MP

Top: FA/PS
cc COS o/R
FA/APS
EA/PS

FROM THE DEPUTY PRIME MINISTER

DETR
ENVIRONMENT
TRANSPORT
REGIONS

John Holmes o/r
cc Phil

We should have chasing this. PM likely to see with Ayling

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3011
FAX: 0171 890 4399
OUR REF: PT/PSO/7096/98

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

15 APR 1998

Angus
Where do we stand?
21/4.

DIRECT AIRSIDE TRANSIT VISAS - CHINA

Thank you for your letter of 2 April in reply to mine of 19 March about Direct Airside Transit Visas (DATVs) and the impact they are having on our commercial relationships with China, particularly their effect on air services.

We have of course since discussed the introduction of DATVs for the Former Republic of Yugoslavia (FRY), and have agreed to discuss the whole policy issue, including China, at HS. I have made clear to you my concerns about the policy. I hope you will be able to consider seriously the constructive suggestions made by Bob Ayling in his letter of 30 March to Jonathan Powell.

I know that the consular talks between officials of China and the UK are scheduled to take place in London this week. I hope that the negotiating line taken by officials will be flexible, and not pre-empt the forthcoming collective discussion.

I am copying this letter to the Prime Minister, the Foreign Secretary, Members of HS, and Sir Richard Wilson.

JOHN PRESCOTT

JEH

cc JPO
Liz
Rob

An HS discussion is to take place mid-late May. I suggest that JPO hold off replying to Ayling until then.
Angus
23/4.

UK Presidency of the European Union

COPY

BRITISH AIRWAYS

JEH
cc: PG
LHC
JJL

30 March 1998

Robert Ayling
Chief Executive

Mr Jonathan Powell
Chief of Staff
Prime Minister's Office
10 Downing Street
London SW1A 2AA

Philip
can you include in Bmly
for China meeting +
give me a call re's
VR
11/4

Dear Jonathan,

UK-CHINA AIR SERVICES

I understand the Chinese Premier, Mr Zhu Rongji, is meeting the Prime Minister this week and that a number of issues relating to UK-China trade are likely to be discussed. Since air services have a significant role to play in the development of this relationship, I thought it might be helpful to drop you a note on our plans to expand the China market and to alert you to the linkage the Chinese have created between Air Service liberalisation and the question of Direct Airside Transit Visas (DATVs).

From this Summer, British Airways will be operating four direct services a week between London and Beijing. Air China also operates four services, two of which go via Hong Kong. Our plans to expand the market now centre on Shanghai. Flights to Shanghai are important for the UK's commercial links with China, since the Chinese government intends it to become the major financial centre in the region.

/2

Waterside (HBB3) PO Box 365 Harmondsworth UB7 0GB Middlesex United Kingdom
Tel 0181 759 5511 Fax 0181 759 9597

The absence of direct air links to London is a severe handicap, particularly when our main competitor, Lufthansa, is already flying there from Frankfurt. But with the improvement in relations since the return of Hong Kong to the PRC, there are signs that we have an excellent chance of amending the Air Service Agreement to include the right to fly to Shanghai. The discussions of 20-21 January with the Chinese aviation authorities were extremely positive. A draft agreement was initialled which would permit an expansion of services to Beijing and the right for two British carriers to serve Shanghai. But the Chinese made it very clear that if we are to be granted these rights, there would have to be a relaxation of the existing DATV arrangements.

Until November 1995 Chinese nationals were free to make "airside" connections (i.e. connections not requiring them to pass through immigration controls) in the UK without first having to obtain a UK transit visa (DATV). But since this requirement for airside transit visas was introduced, Chinese nationals travelling to Europe, or via Europe to other destinations, have been avoiding the UK and flying with other European airlines. We estimate that we have lost £4 million in revenue from China as a result and that we could lose up to £10 million per annum in future years.

Since a large proportion of our business is made up of connecting passengers, the DATV system has prevented us expanding our Beijing services as rapidly as we would like. Although we secured the right to operate four services a week in June 1995, it has taken us until this Summer to generate this level of demand. This is interpreted by the Chinese to mean we are less committed to developing the market than our European competitors and it has made the process of negotiating new routes, such as Shanghai, particularly difficult. Our position is further weakened by the fact that no other EU state finds it necessary to apply DATV restrictions to the Chinese.

For some time we have been urging the Home Office to review the DATV system and, ideally, to abolish it altogether in the case of the Chinese. We are not persuaded it has reduced the number of asylum applications, the majority of which come from those already in the UK rather than those in transit or who have just arrived. Without question, however, the DATV system has damaged the UK's political and business interests.

You will know that discussions are going on within Whitehall with a view to arriving at a position for Consular talks with the Chinese, now scheduled for mid-April. Regrettably, there is little prospect of concluding an Air Services deal unless progress is made during these talks. But if the total abolition of the DATV requirement is impractical at this stage, it should nevertheless be possible to exempt certain categories of Chinese nationals, without risking abuse of the immigration system. These categories include those holding visas for entry into the USA or other EU states and those holding official passports. A gesture of this kind would also encourage the Chinese to co-operate with the return of failed asylum applicants, a major concern of the Home Office.

I very much hope that the visit of the Chinese Premier and the imminence of the Consular talks will give rise to positive developments in this area.

Yours ever,

RJA.

R J Ayling

DEPARTMENT OF HEALTH

Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Secretary of State for Health

AL
C: PU

The Rt Hon Jack Straw MP
Secretary of State
Home Office
Queen Anne's Gate
London SW1H 9AT

8 April 1998

FH

DIRECT AIRSIDE TRANSIT VISAS - CHINA

Thank you for copying to me your letter of 2 April to John Prescott on the Direct Airside Transit Visas and China.

Like you, I am anxious to ensure that we do not do anything which could act to increase abuse of the asylum system within the UK, given the financial burden which the numbers of applicants for asylum currently place on local authority social services departments.

I strongly support your determination not to do anything which puts at risk robust consideration of, and decisions on, benefit for asylum seekers in the light of the asylum comprehensive spending review. I think that early consideration of those proposals is merited.

I am copying this letter to the Prime Minister, Robin Cook, members of HS and to Sir Richard Wilson.

FRANK DOBSON

NR070498.02

TOP: AL
cc: PJ
~~PM/ES~~
~~SOS~~
FA/PS
FA/APS

OFFICE OF THE DEPUTY PRIME MINISTER
FROM THE PRIVATE SECRETARY

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3099
FAX: 0171 890 4399

Ms Isobel Hopton
Private Secretary
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

07 APR 1998

Fdl

Dear Isobel,

INTRODUCING DIRECT AIRSIDE TRANSIT VISAS FOR FRY

The Deputy Prime Minister has seen your letter of this evening.

The Deputy Prime Minister remains extremely concerned that this issue, which has been the subject of discussion between the Home Office and FCO for several months, was not cleared properly with interested Departments through HS committee. He still feels that the case for this policy is not yet made, especially in circumstances where the latest figures for asylum seekers show no increase over 1997, and where no information has been provided about the extent of abuse by FRY nationals in transit.

The Deputy Prime Minister is due to meet the Home Secretary at 9pm. At this stage, despite his concerns, he is minded reluctantly to accept that the Order be laid tomorrow, on the following conditions:

- that this approval should be interim only, and subject to urgent review and discussion at HS. Such discussion should include an explanation as to why clearance for this Order was not undertaken in the appropriate way. The Deputy Prime Minister would also expect to use this opportunity for a full discussion of the whole DATV policy issue;

- that he should have satisfaction that the policy will not affect innocent parties in possession of tickets already purchased. There should be a wide, liberal interpretation of the need for a DATV to be required. This must of course, be conveyed to those at the "sharp end".

- this decision should not be accompanied by any proactive publicity on the part of Government, subject only to needing to respond to the Press in relation to any incidents which gave rise to media attention.

I am copying this letter to the Private Secretaries to HS Committee members, the Foreign Secretary, to Number 10 (Angus Lapsley), and to Sir Richard Wilson.

Yours,

David

DAVID LAMBERTI

P.S. Since writing this, the Deputy Prime Minister has talked to the Home Secretary on the 'phone, and they have agreed to proceed as set out above. We have so informed the Leader of the House's office, and Number 10.

TOP: AL
EC: PJ
PRESS
SCJ

DEPARTMENT OF SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 0171 - 238 0800

From the Secretary of State for Social Security

The Rt Hon Robin Cook MP
Secretary of State for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

7 April 1998

Dear Robin,

TRANSIT WITHOUT VISA CONCESSION- NATIONALS OF BULGARIA AND FRY

I have seen a copy of Jack Straw's minute of 3 April seeking your urgent agreement to the imposition of DATV regime on FRY and possibly Bulgaria before the critical Easter period.

As Jack says, the number of FRY and Bulgarian nationals seeking asylum while supposedly in transit through the UK has been increasing in recent months. The figures are a cause for concern because of the pressure they place on both the benefit system and the asylum application system. We need to be seen to be tackling the asylum issue as a whole and, where abuse has been identified, taking appropriate action to remedy this.

I therefore support Jack's proposal to extend the DATV regime in the way he describes.

I am copying this letter to the Prime Minister, John Prescott, Derry Irvine, Ann Taylor, Frank Dobson, Gavin Strang, Alistair Darling, John Morris, Peter Mandelson, Colin Boyd and to Sir Richard Wilson.

Yours

Harriet

HARRIET HARMAN

AL Top: ~~JSH~~
cc: PM
PRESS

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Jack Straw MP
Home Secretary
50 Queen Anne's Gate
London
SW1H 9AP

7 April 1998

FRU

Dear Jack

TRANSIT WITHOUT VISA CONCESSION NATIONALS OF BULGARIA AND FRY

Thank you for copying me your letter of 1 April to Robin Cook.

2. I fully support your proposal to impose a DATV regime upon FRY, and on Bulgaria if this is needed, and I hope that Robin will be able to agree to the use of these visas. I also have no objections to you establishing a DATV regime on any problem country before it becomes a major issue.

3. As you note, the cost of supporting asylum seekers who apply in transit is a large one. In addition to the estimated benefit costs of £15 million per annum, there are the costs of processing applications, hearing appeals and removals. We cannot afford to allow visa regimes which are not underpinned by a transit visa regime to be exploited and I support your proposal to impose DATV on countries as soon as they are needed in order to avoid potential operational and political difficulties.

4. We also need to establish whether any other action can be taken and I agree that anything which can be done by way of local preventative activity would be helpful. I look forward to your proposals on this.

5. I am copying this letter to the Prime Minister, Robin Cook, John Prescott, Derry Irvine, Ann Taylor, Harriet Harman, Gavin Strang, John Morris, Peter Mandelson, Colin Boyd and to Sir Richard Wilson.

ALISTAIR DARLING

Top AL
cc: RR
PJ

QUEEN ANNE'S GATE LONDON SW1H 9AT

7 APR 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
Eland House
Bressenden Place
London SW1

Dear John,

DATVs : FORMER REPUBLIC OF YUGOSLAVIA

When we spoke this morning I said that I would set out what was involved in the imposition of a direct airside transit visa regime on the former Republic of Yugoslavia (FRY).

Procedure

On the procedure, I would wish to lay tomorrow (Wednesday, 8 April) an Order amending the Schedule to the Immigration (Transit Visa) Order 1996, so as to include nationals of FRY in the list of those countries whose nationals require a DATV to transit the UK. The Order would come into effect at 0001 on Friday 10 April. This gives Robin Cook the extra 24 hours he has asked for to enable all FCO posts to be notified. Any FRY national who was on a direct flight to London which had begun before that time would not need a transit visa. To facilitate genuine passengers or those already travelling, there would be a period of grace for FRY nationals of 14 days provided that they were on a return journey to their point of origin, and had originally passed through the UK in transit (with or without a UK visa) on the outward leg of their journey, and the outward journey started before 2359 hours on Thursday 9 April.

Notification to the airlines

An important aspect of this is notification to the airlines. Assuming that the Order was laid in the course of Wednesday 8 April (while the House is in Session), all the major carriers or their agents at the ports will be alerted by the Immigration Service within an hour or so of the Order being laid. This will be done in the form of a standard letter which is served on all those concerned explaining to them in detail how the DATV regime works and how the concessions on timing set out above would apply. I should stress that this is standard practice and the carriers are well used to notification of this kind. But of course the Immigration Service would stand ready to give any further assistance and major terminals have 24 hours telephone helplines if needed.

Discretion

A more important point is that the Immigration Service would exercise discretion in the early days of the imposition of the Order so as not to be heavy-handed in imposing charges on any case where it might be thought unreasonable to do so. Inevitably there will be some unpopular decisions to deny carriage in the early days, but I will make sure that senior managers are well aware of the need to act with sensible regard to the position of the airlines and individual passengers, while making sure that the abuse is stopped as soon as possible.

Nature of the problem

You were particularly concerned to know about the extent of the abuse by nationals of FRY. Perhaps I should start with a general point. Where a visa regime is not underpinned by a transit visa regime, as I said in my letter of 1 April, there is clear evidence that racketeers exploit this weakness. A certain amount, can, of course be done in co-operation with the carriers at locations abroad, and we are very grateful for assistance. However, we recognise that this can be of only limited impact. Firstly, (for example) British Airways' own legal advice is that they have no powers to deny boarding to passengers who have presented themselves with apparently valid documentation and ticketing through the UK. Furthermore, we cannot expect carriers to act in the function of immigration officers. The Carriers Liability Act can never be fully effective in combating abuse of this kind without the support of a DATV regime.

British Airways

I understand the concern of British Airways, and Robert Ayling in fact wrote to me last Friday. We recognise that the efforts of our Embassy in Belgrade and of British Airways have controlled the problem to some extent. But these efforts will only ever amount to short-term measures, effective only at Belgrade. They will not stop the displacement of the problem to other routes and carriers, as the traffickers become aware of the steps we are taking. I give some recent examples of trafficking below.

Transit abuse

On the extent of abuse by FRY nationals in transit, it is not possible to give a precise breakdown. But the indicative figures are nevertheless helpful. In 1997, 845 FRY nationals (principal asylum applicants not counting dependants) arrived by air and claimed asylum. This is 66% of FRY asylum seekers (the remaining 34% came in at Waterloo International or Dover East). For the first three months of 1998, the figure was 224: continuing therefore at the same rate. Since FRY nationals are subject to a visa requirement, one would have expected the normal scrutiny process at posts abroad to have identified those FRY nationals applying for visit visa whose real intention was to claim asylum or whose intentions were otherwise not genuine. They will therefore have been screened out at an early stage in the process. Figures of this magnitude indicate that, in our judgement, there is significant and co-ordinated abuse of the transit without visa arrangements.

Examples

Two examples may help. The 56 Kosovans who were detained on arrival from Rome on an Al Alitalia flight last week had been set up for a route Amman/Rome/London/Budapest or Belgrade. In other words, a complicated roundabout route had been devised for an otherwise straightforward journey. All claimed asylum on arrival in the United Kingdom. A further group of 13 was intercepted last week on a route Bangkok/ Dhaka/London/Belgrade. Only the efforts of an airline liaison officer in Dhaka, who enquired about this strange ticketing route, enabled the group to come to light, so that the carrier (Bangladesh Biman) could be suitably advised and the passengers denied onward carriage from Dhaka.

Review

One final point. I keep all visa regime, including DATV regimes, under review. As I said in my earlier letter, they can be lifted if they are no longer needed. I shall, of course, be prepared to keep this particular requirement under close review.

I am copying this letter to the Prime Minister and to Robin Cook and to Alistair Darling

Yours ever,

Jack.

JACK STRAW

fol= H/Potential IMF.

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 April 1998

Dear Ken,

POTENTIAL IMMIGRATION PROBLEMS

The Prime Minister was grateful for the Home Secretary's minute of 1 April about upcoming immigration problems. He has also seen the Home Secretary's minute to the Foreign Secretary of the same date.

The Prime Minister agrees with the Home Secretary that it is important to take firm, pro-active action to deal with influxes of asylum seekers. He is therefore broadly content with the action that the Home Secretary proposes to take on transit visas. However, before the Home Secretary proceeds with this move, the Prime Minister would like to be reassured that the consequences for UK airlines and our overall relations with FRY and Bulgaria have been properly thought through. The Home Secretary will no doubt want to take into account the views of the Deputy Prime Minister and the Foreign Secretary. The Prime Minister considers that an important part of the justification for imposing transit visas would be the ability to point to the rising number of asylum seekers from these countries and the impact that imposing transit visa regimes would have.

The Prime Minister also agrees that firm action should be taken to deal with the problems arising from inadequate controls on passengers arriving at Waterloo on Eurostar services. Again, he would like the Home Secretary to work with the Deputy Prime Minister to resolve this issue.

Finally, the Prime Minister assumes from the minute that the Home Secretary intends to announce these measures over the Easter period. Given the media attention that they are bound to attract, he believes that it is important that

you have a carefully worked up media handling strategy that places these measures in the context of the Government's overall approach to asylum. He has asked the Strategic Communications Unit to work with your officials to draw this up.

I am copying this letter to Liz Lloyd (Policy Unit), Phil Bassett (Strategic Communications Unit) and Jan Polley (Cabinet Office).

Yours,

Angus

ANGUS LAPSLEY

Ken Sutton Esq
Home Office

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 April 1998

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The Prime Minister also agrees that firm action should be taken to deal with the problems arising from inadequate controls on passengers arriving at Waterloo on Eurostar services. Again, he would like the Home Secretary to work with the Deputy Prime Minister to resolve this issue as quickly as possible.

Finally, the Prime Minister assumes from the minute that the Home Secretary intends to announce these measures over the Easter period. Given the media attention that they are bound to attract, he believes that it is important that you have carefully worked up media handling strategy that places these measures in the context of the Government's overall approach to asylum. He has asked the

Strategic Communications Unit to work with your officials to draw up ~~such a strategy~~.

I am copying this letter to Liz Lloyd (Policy Unit), ~~Alun Ev~~ans (Strategic Communications Unit) and Jan Polley (Cabinet Office).

ANGUS LAPSLEY

Ken Sutton Esq
Home Office

FROM THE DEPUTY PRIME MINISTER

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

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TOP - AL
C. JEH
PB
RW

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

(P)

- 6 APR 1998

TRANSIT WITHOUT VISA CONCESSION: NATIONALS OF BULGARIA AND FRY

Thank you for copying to me your minute of 1 April to Robin Cook.

I have to say that I am surprised, given my Department's clear interest, and our correspondence over DATV's for China, that we have so far not been involved in either the Ministerial correspondence or the official discussions over this issue.

You are familiar with my concerns over the commercial impact on UK airlines of DATV requirements. A significant amount of British Airways traffic is routed through London: and it is likely that a substantial amount of this traffic will transit over other European points if such requirements are imposed for particular countries.

I clearly cannot comment on the immediate immigration problems concerning FRY and Bulgaria; nor, for obvious reasons, have my officials consulted British Airways about any financial impact. I know that a substantial amount of BA's traffic on these routes transits over London, and that such transit traffic constitutes the major proportion of the revenue on these routes.

In both cases, I find it difficult to understand the need for such precipitate action. In the case of FRY, scheduled services have recently substantially reduced: because of operational difficulties imposed on BA by the FRY authorities which have limited BA to four services a week, we have imposed a reciprocal limit of services by their airline: an overall reduction from 13 to eight frequencies. There are only 10 services a week to Bulgaria overall. Although there are normally increases in traffic over Easter, much of this is carried on charter operations which do not involve many transiting passengers: and in any event, my officials are unaware of an increase in applications.

I would urge you, therefore, to delay your proposal pending discussion by officials, and an opportunity for comments by airlines - who, of course, have a role to play in curbing illegal immigration.

It follows that I have similar concerns about your further proposals for other countries, especially Colombia, Kenya and Romania; and your observation that there is a general case for additional DATV regimes. The whole issue needs careful discussion and consultation.

I am copying this letter to the Prime Minister, Derry Irvine, Ann Taylor, Harriet Harman, Gavin Strang, Alastair Darling, John Morris, Peter Mandelson, Colin Boyd and to Sir Richard Wilson.

JOHN PRESCOTT

Top: HAPS
CPU

FROM THE DEPUTY PRIME MINISTER

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
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TEL: 0171 890 3011
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OUR REF: PT/PSO/6697/98

The Rt Hon Jack Straw MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

- 3 APR 1998

Dear Jack

P IMMIS.

Thank you for your letter of 27 March about the increasing problem of inadequately documented arrivals travelling on Eurostar from Brussels.

Given the scale of the problem and the fact that there do not appear to be the problems of domestic legislation in Belgium that currently preclude this approach in France, I am prepared to accept that it may be necessary to impose carrier liability legislation on SNCB to resolve this matter. However, I would hope that this is seen as a solution of last resort, to be adopted once approaches based on co-operation have been shown to be inadequate.

I will only be prepared to agree this approach if the Law Officers confirm that an Order can be drafted in such a way as to affect just SNCB, not Eurostar (UK) Ltd or SNCF.

I am copying this letter to the Prime Minister, Robin Cook, Derry Irvine, Ann Taylor, Harriet Harman, Gavin Strang, Alistair Darling, John Morris, Peter Mandelson, Colin Boyd and Sir Richard Wilson.

Yours 4.98

JOHN PRESCOTT

UK Presidency of the European Union

RESTRICTED - POLICY

Foreign &
Commonwealth
Office

London SW1A 2AH

3 April 1998

AL
CJ
PB

Dear Rachel,

Transit without Visa Concession: Nationals of Bulgaria and FRY

I refer to the Home Secretary's minute of 1 April.

On the FRY, the Home Secretary points out that the bulk of the problem appears to be Kosovar Albanians who do indeed have a well-founded fear of persecution at the moment. The UK has been in the lead, in the Contact Group, the EU and the UN, in pressing the Government in Belgrade to cease its repression of this community and to address seriously their rights within the FRY. Although the TWOV certainly does not exist to allow such individuals to claim asylum in the UK, removing that concession may at the present time be seen as at odds with the otherwise supportive stance we have taken. But, for wider immigration policy reasons, it is clearly important not to allow the loophole to remain open. We shall need to make sure our defensive presentational lines are ready when the decision is announced. Naturally, your Press Office will be in the lead; the FCO News Department would welcome the chance to co-ordinate lines in advance.

In the case of Bulgaria the Home Secretary said that he was willing to delay a final decision until our Ambassador in Sofia had had an opportunity to discuss the matter with the Bulgarian authorities. We have instructed our Ambassador to say that we would like to see concrete action before Easter. He will see the Deputy Foreign Minister on 7 April. We hope that if the Bulgarians put to us sensible ideas for dealing with the problem, we will have time to assess these, and discuss them further with the Bulgarians before removing the concession. So we hope that you might agree not to couple the FRY and Bulgaria and to allow FCO and Home Office officials time to consider the position on Bulgaria in the week after Easter before deciding to implement a DATV.

The imposition of these regimes in both countries will cause significant difficulties for us from a resources

point of view. We are looking urgently at the implications for staffing of our posts in Belgrade and Sofia. We will need your assistance in providing additional staff, if necessary on a temporary basis. Even with additional staff we shall have to accept that there will be some deterioration in the visa service at these two posts (and possibly elsewhere) in the short term.

As for the other countries mentioned in the Home Secretary's minute, we are consulting our Posts in the capitals concerned and we will revert as soon as possible. It would be helpful to have figures showing the scale of the problem, and the recent trends in respect of each country. In the case of Algeria one point to bear in mind is that our visa service is provided in Tunis. Before any decision, we would, of course, need to liaise closely on timing, discuss with you how to meet the requirement for additional staffing, and give reasonable notice of our intentions to the governments affected.

We are considering the suggestion that, for future visa regimes, transit visas will be required from the start. We welcome the idea of regular reviews of the operation of visa regimes to see whether a relaxation is justified in any particular case.

I am copying this letter to John Holmes (No 10), Jeff Jacobs (Deputy Prime Minister's Office), Jenny Rowe (Lord Chancellor's Department), Paul Cohen (President of the Council's Office), Stefan Czerniawski (DSS), Scott Ghagan (DoT), Paul Williams (HMT), Stuart Whatton (Attorney General's Office) Rupert Huxter (Minister without Portfolio's Office), Geoff Gibbons (Lord Advocate's Department) and Jan Polley (Cabinet Office).

Yours ever,

John.

(John Grant)
Principal Private Secretary

Ms Isabel Hopton
PS/Home Secretary

Top: HA/PS
PO

Foreign &
Commonwealth
Office

London SW1A 2AH

3 April 1998

Dear Ken,

Eurostar: Inadequately Documented Arrivals at Waterloo

The Home Secretary sent the Foreign Secretary a copy of his letter of 27 March to the Deputy Prime Minister about the problems caused by inadequately documented arrivals (IDAs) travelling on Eurostar from Brussels.

It does appear that applying the carrier liability legislation to SNCB is likely to be the most effective response. We shall need to inform the Belgians formally of our decision and of the date of entry into force of the CLA. The Embassy in Brussels would be happy to take this forward, and generally to act as the channel for communications.

We see the case for applying the carrier liability legislation to SNCF in due course. We note that the Home Secretary will revert if he wishes to propose that course of action. FCO officials stand ready to provide assistance, including with an amendment to the Sangatte Protocol, if that is necessary.

I am copying this letter to John Holmes (No 10), Jeff Jacobs (Deputy Prime Minister's office) Jenny Rowe (Lord Chancellor's office), Paul Cohen (President's office), Stefan Czerniawski (Department of Social Security), Peter Kirk (Minister of State for Transport's office) , Peter Schofield (Chief Secretary's office), Stuart Whatton (Attorney General's office), Rupert Huxter (Minister without Portfolio's office), Jeff Gibbons (Solicitor General for Scotland's office) and Jan Polley (Sir Richard Wilson's office).

Yours ever,
John

(John Grant)
Principal Private Secretary

Ken Sutton Esq
PS/Home Secretary

From: Angus Lapsley
Date: 3 April 1998

Prime Minister

cc: John Holmes
Liz Lloyd
Geoffrey Norris

IMMIGRATION PROBLEMS

The Home Secretary has minuted you (A) setting out what he wants to do on two immigration issues:

1. Closing a loophole in our **visa regime**, whereby people claim asylum at UK airports whilst in transit to other countries. There is evidence that the UK, which is an important transit route, is being targeted by, amongst others, Bulgarians and Yugoslavians, who from the implausibility of their routings, are clearly setting out with the intention of claiming asylum here. If they travelled directly, they would need a visa. Jack therefore wants to impose transit visas on the top seven offending countries - RFY, Bulgaria, Ecuador, Colombia, Kenya, Algeria and Roumania – starting with Bulgaria and FRY before Easter.

The FCO are uneasy, especially for FRY, where the main asylum seekers are Kosovans, and point to the need to handle the public presentation very carefully. They want some more time to try to negotiate a solution with the Bulgarians. JP is also likely to point to the effects on British Airways and others who earn a lot from transit passengers. (There is an ongoing issue about imposing transit visas on China, which is causing BA grief).

From what we have been able to establish, whilst there *is* an ongoing problem, Jack's initiative has much to do with his wish to build on the good publicity he received earlier in the week for preventing the flow of asylum seekers from Italy. He is in Tiggerish mood at the moment.

Our view is that you should send a broadly positive signal on the need to take firm action to stem the flow of ayslum seekers (you will recall from Liz's paper of a few weeks ago that

there is a serious underlying problem). However, before agreeing to the specific measures that Jack proposes, you should ask to see more details about how effective the measures are expected to be, their costs, and their impact on British Airways and others. This should give JP time to marshal his case and if he is satisfied that the measures are reasonable, Jack should then go ahead. Yes but basically positive

2. The second issue is the long running problem of passengers arriving on the **Eurostar** at Waterloo without proper documentation. (See background note from Cabinet Office at B). Neither the French, nor more recently the Belgians, have been operating adequate controls. As a result, illegal immigrants have been arriving in the UK and we have no powers to send them back. Jack has long sought to impose use carriers liability legislation to fine the train operators, but this has not so far happened because of legal obstacles in France. JP also argues that it would be unfair to fine Eurostar or the Tunnel operators when they were powerless to operate the controls needed to prevent passengers travelling. Jack has now got somewhere with the French, who are to operate short term embarkation controls. With the Belgians, he still wants to impose a CLA, but with their co-operation.

There is no need for you to get involved in this issue. Jack is negotiating with JP and wants to wrap it up before Easter (no doubt to link it with the transit visa story). However, you could send a positive signal about his efforts to get this sorted – provided he is sensitive to both the French/Belgians and to JP's concerns about the operators.

On a general point, there is a risk that making too much of individual measures for tackling asylum in this way risks exposing the underlying weakness of our position and the fact that we are also considering some quite drastic measures (such as writing off the backlog of cases). There are also potential downsides in terms of relations with particular countries or ethnic groups.

✓ Before he launches into an Easter blitz, you might therefore ask Jack for an overall **media handling strategy** for getting us from here to the outcome of the asylum review.

Angus

RESTRICTED-POLICY

FROM: JOHN ELVIDGE
DATE: 2 APRIL 1998

ANGUS LAPSLEY

c Andrew Campbell
Giles Dickson
Liz Lloyd

EUROSTAR: INADEQUATELY DOCUMENTED ARRIVALS AT WATERLOO

The attached note by Jenny Ungless sets out the background and current state of play.

2. In summary, Jack Straw has a proposal with which the Belgians and the French both appear willing to co-operate and which we understand John Prescott is willing to accept. It involves the application of carrier's liability in a way which is ostensibly universal but which in fact, would not apply to the French. The French would then pursue longer term solutions, based on their earlier proposal for amendment of the Sangatte Protocol covering the physical arrangements for immigration checks on the Channel Tunnel. In the short term, there are encouraging signs of genuine co-operation from both the Belgians and the French on operational arrangements for police checks in Brussels and an exchange of immigration officers to operate at Gare du Nord in Paris and Waterloo here.

3. I suggest the next steps are to await John Prescott's response to Jack Straw's letter of 27 March to check the terms of his agreement to the proposal; and Law Officers response to the request for advice on whether the formula proposed to meet the need to draft an Order which does not impose an irrational duty on SNCF will hold water. After that, provided Home Office have satisfied themselves that Van der Lanotte is speaking for the Belgian Government as a whole in accepting the introduction of carrier liability, the way should be clear to approve Jack Straw's proposals, which would then be for early action.

JOHN ELVIDGE

From: Jenny Ungless
Secretariat
Room 124, 70W
270 0135

2 April 1998

ANGUS LAPSLEY

cc John Elvidge
Andrew Campbell
Giles Dickson
Liz Lloyd

EUROSTAR: INADEQUATELY DOCUMENTED ARRIVALS AT WATERLOO

The Home Secretary has written again (his letter of 27 March) about the problem of inadequately documented arrivals (IDAs) on Eurostar services. While earlier correspondence was concerned largely with the problem of IDAs from Paris, the immediate focus has shifted to arrivals from Belgium, whose numbers have increased sharply in recent months.

Background

2. Last July the Home Secretary sought agreement, in the light of the increasing numbers of IDAs from Paris at Waterloo, to the extension of carriers' liability legislation to Eurostar, under which it would incur a fine for any IDAs it carried. The main arguments for and against such action are summarised below:

Pros

- extension of carriers' liability legislation would act as the necessary prompt to ensure that action was taken to prevent IDAs boarding Eurostar services;

- the number of IDAs, and consequently the number of bogus asylum seekers, could be substantially reduced by such action, in turn reducing pressures on public expenditure and on the Immigration Service;

- extension of the CLA could help to counter any criticism that the Government was not taking action to prevent open abuse of immigration controls;

Cons

- extension of the Carriers' Liability Act (CLA) to Eurostar would not address the nub of the problem. Imposing a fine on Eurostar for any IDAs would have no

effect on the actions of SNCF, who are responsible for the train leaving Paris and do not carry out adequate pre-boarding document checks;

- extension of CLA to Eurostar could have knock-on effects for London and Continental Railways (LCR) and their contract for the Channel Tunnel Rail Link (CTRL), which includes ownership of Eurostar (UK) Ltd: the terms of the contract require the Government to compensate LCR in the event of any legislative change which impacts adversely on Eurostar's business, and if the Government were to resist such a claim the imposition of fines on Eurostar would worsen LCR's already precarious financial position. In the event of LCR's financial failure, Eurostar (UK) Ltd would revert to the public sector, and the Government itself would have to meet the cost of running Eurostar in the public sector, and would be liable for any fines flowing from extension of the CLA;

- even if CLA could be extended in such a way as to bite on SNCF and not Eurostar, the Law Officers have advised that it would be unsafe to use an Order under the Channel Tunnel Act 1987 to extend carriers' liability to SNCF only, as to prevent claims of irrationality it would need also to be extended to SNCB (the Belgian operators of Eurostar services) and to Eurotunnel as operators of Le Shuttle, but that this would cause handling difficulties, as at that stage IDAs were not a problem with either of these services. The recent increase in the numbers of inadmissible travellers arriving at Waterloo on Eurostar from Belgium weakens this argument;

- current French domestic legislation does not allow SNCF to insist on adequate documentation as a condition of carriage or refuse access to trains by undocumented passengers.

Current position/action

France

3. Negotiations have been continuing with the French in an effort to encourage them to maintain existing random checks by the French Frontier Police (DICCILEC) and urgently to amend their legislation to allow SNCF to introduce document checks. In the short term, an exchange of immigration liaison officers between Waterloo and the Gare du Nord means that the DICCILEC can be advised of inadmissible passengers boarding trains at Paris, with a similar arrangement at Waterloo. The Home Secretary's letter of 16 February suggested two possible solutions for the longer term:

- the Sangatte Protocol (which covers the physical arrangements for immigration checks on the Channel Tunnel) might, as the French themselves have suggested, be amended to require each side to make checks to ensure that IDAs were not carried (although such a solution would hinge on the degree of leverage which the French authorities could exert on SNCF);

- if this proves not to be viable, the Channel Tunnel Act 1987 could be amended by primary legislation, so as to require the French authorities in turn to require SNCF to carry out the necessary checks, with imposition of CLA powers to ensure enforcement. But John Prescott and Doug Henderson have advised in correspondence that they are keen to pursue as far as possible the option floated by the French before considering any other steps.

Belgium

4. So far as Belgium is concerned, the Home Secretary has agreed with his Belgian counterpart, M. Van der Lanotte, that operational liaison at the Gare du Midi in Brussels should be beefed up as a short term measure. In the longer term, his view - which he believes M. Van der Lanotte shares - is that imposition of carriers' liability legislation on SNCB is the only solution. He therefore proposes using an Order under the Channel Tunnel Act 1987 to extend carriers' liability to SNCB (drafted in such a way as to avoid irrational imposition of such a duty on SNCF). The Home Secretary is keen to move urgently on this. We understand that he spoke to the Deputy Prime Minister in the margins of Cabinet this morning, who indicated that he would be prepared to agree to the imposition of CLA on SNCB, so long as it did not bite on the French. We are expecting him to write to the Home Secretary shortly in these terms.

Conclusion

5. Mr Straw is to meet Mr Prescott and Mr Henderson on 22 April to discuss the French aspect of the problem. If (and it is not unlikely) the discussion does not identify a clear way forward, another meeting of HS or an ad hoc group may be the most efficient way of deciding on next steps. Even if it were agreed that there would be merit in primary legislation, the business managers will certainly have views on the feasibility of that, in this session or the next.

Jenny Ungless

JENNY UNGLESS
Economic & Domestic Secretariat

Prime Minister

POTENTIAL IMMIGRATION PROBLEMS

I need to alert you to some serious potential immigration problems which may develop over the Easter weekend and the action I am intending to take to head them off.

2 As you know, we in common with other Western countries suffer from a growing problem of economic migrants seeking to evade our immigration controls by posing as asylum seekers. In the last week we have seen several attempts to exploit two current loopholes in our controls with widespread press coverage of events. Unless I take urgent action to close these loopholes I fear these attempts will multiply and experience teaches us that the Easter weekend, with its heavy holiday air traffic, is a particularly vulnerable period. Although to date press criticism has focused on the actions of foreign governments - mainly Belgium and Italy - that criticism could easily switch to us unless I can demonstrate that we have taken a grip on the problem.

Transit visas

3 The first of these loopholes concerns a weakness in our visa regime whereby a potential immigrant can avoid the need to get a UK visa by routing himself via the UK as a transfer passenger to a destination where no visa is required. He then claims asylum when the plane lands in the UK. This is what lay behind our problem with the Italian flight at the weekend. Fifty-six Kosovans had boarded a flight in Jordan with the implausible routing Rome-London-Budapest. It was clear that their true destination was London. While in that particular case I was able to intervene with Napolitano, the Italian Interior Minister and secure their return there, that is the exception. We are suffering serious problems with a number of countries and it is clear that the traffickers are deliberately exploiting the visa loophole. The logical answer would be to impose a transit visa requirement as part of every visa regime but that may be seen as an over-reaction as visas are an additional chore for the legitimate traveller. I am therefore proposing to Robin Cook that we should agree to impose transit visas on the top seven countries in which this abuse occurs. These are: the former Republic of Yugoslavia, Bulgaria, Ecuador, Colombia, Kenya, Algeria and Romania. I would like to introduce the regime by Order on FRY (and preferably on Bulgaria) before the Easter Recess and to have colleagues' agreement that I can proceed to act without further consultation on the other countries by laying Orders immediately it becomes operationally necessary to do so.

<u>Eurostar</u>

4 The second loophole concerns the Eurostar services into Waterloo. Unlike ferry and air traffic, train traffic is not currently covered by Carriers' Liability legislation under which we raise charges against carriers who bring passengers into the country without the proper documentation - valid passport, visa etc. Traffickers have begun to exploit this state of affairs and we have had influxes from both France and Belgium via this route. There are legal obstacles to imposing carriers' liability legislation in France. But following your intervention with President Chirac last Summer and subsequent contact I have had with Chevenement, the Interior Minister, we have succeeded in agreeing short term agreements whereby the French police operate an embarkation control at the Gare du Nord. We have recently agreed in principle to try to strengthen these in the run to the World Cup by an exchange of liaison officers. Both we and France recognise these are short term measures and we have set up a joint group of officials to consider the possibility of carriers' liability legislation and also parallel controls, like those for the Channel Tunnel shuttle service, whereby we would carry out our frontier control responsibilities in Paris before passengers board the train and the French theirs at Waterloo.

5 As far as Belgium is concerned, following the influx last week, I spoke to van de Lanotte, the Interior Minister. He was apologetic about what had occurred and undertook to do what he could to stop similar occurrences. Despite this assurance, however, which I am sure was genuinely meant, there have been further problems. Since there is not the same legal bar in Belgium to action in the carriers' liability front (and van de Lanotte hinted he would welcome it) I have decided to impose it. I am seeking policy clearance for this course from John Prescott and colleagues and the Law Officers are being consulted on the legal form as the Order will have to bite on Belgian but not French services - at least for the time being. Provided colleagues agree, I will then seek to make the Order and bring it into effect before the Easter Recess.

6 By taking action promptly, I hope we can get back on top of the problem. But it is a serious one and needs some fundamental action as well, involving a radical revision of the welfare support system for asylum seekers and an overhaul of our system for processing asylum claims and hearing appeals. I am pursuing these options in the CSR context.

Jack Straw

<u>1st April 1998</u>

[redacted] ① consequences?
② strategic
③ overall impact & time scale

Top AL
C: JEH
PB.
Press

Foreign Secretary

TRANSIT WITHOUT VISA CONCESSION - NATIONALS OF BULGARIA AND FRY

Liz Symons and Mike O'Brien have been corresponding about the problems caused by Bulgarian and FRY nationals who are seeking to claim asylum here whilst supposedly in transit through the United Kingdom. Our officials discussed the issues earlier this week, as Liz Symons had suggested in her letter of 18 March.

2 We now face serious operational difficulties because of Transit Without Visa abuse, which could become quite critical over the Easter weekend when airports will be at saturation point. This could generate serious political problems also. I sense that the press have now picked up on the seriousness of the underlying issues, and that media interest has taken a step change upwards.

3 In addition, we now face a more general problem. It has become increasingly clear that a visa regime which is not also underpinned by a transit visa regime is liable to exploitation. The circuitous routes taken by organised groups of asylum seekers in recent months show that racketeers and traffickers are now targeting the transit system. We are more vulnerable than our European partners in this respect because of the relative security of our land borders and the huge growth in transit traffic at UK airports. There is now therefore a general case for the additional imposition of a transit visa regime whenever we impose a new visa regime. Nor can we rule out the need for additional transit visa regimes more widely.

4 Within this general issue, the most serious problems I face are from Bulgaria and FRY, Colombia and Ecuador, and Kenya and Algeria. Romania may also become a problem. I therefore want general agreement to impose DATVs on Colombia, Ecuador, Kenya and Algeria as the absolute minimum, and also Romania if necessary. We would impose these the moment we sensed that they were being targeted by the racketeers, the effect of which would be that the nationals in question could become a problem quite literally overnight, with consequent operational and political difficulties. At best, imposition of a DATV regime on those countries could be a temporary measure, to be reviewed if there was no longer a problem. You will recall that the DATV regime on Lebanon was lifted when they ceased to be a problem. The only difficulty, of course, is that exploitation and racketeering has intensified substantially since then. Anything which could be done, by way of local preventative activity at post, with airports or with airlines, to stop racketeering becoming organised would of course be helpful. In this respect I

attach considerable importance to expanding the Airlines Liaison Officer network and will be writing separately to Alistair Darling about that.

5 My top priorities are Bulgaria and FRY. The case for both these nationalities is strong in terms both of numbers and costs in social support. Applications from FRY constitute a very serious problem. Applications at port in 1997 rose by 300% over 1996 (from 360 to 1400). The trend shows no sign of abating with over 580 applying during the first three months of 1998. By comparison the number of Bulgarian asylum seekers is smaller, with 300 during 1997 (representing a rise of 25%). It is important to note that the figures were only kept to this lower level because of effective hard word by the Embassy and British Airways in taking administrative action in Sofia: but such actions are simply not tenable in the long term.

6 These figures translate into major costs for public funds in terms of benefits. As an example, FRY nationals arriving in one month only (based on actual figures for March 1998) will cost in the region of £1.3 million over the next year in social benefits. The trend is clearly upward. If the same number of FRY arrived every month, the pressures on public funds for a calendar year would be in the order of £15 million.

7 Of the two, FRY is the most urgent priority, and I would like to lay before the Easter Recess the Order imposing the DATV on them. Otherwise I fear unmanageable difficulties at the ports over the Easter break. It may be necessary to include Bulgaria in the same Order as FRY in view of the various costs outlined above. Subject to any urgent discussions in Sofia, I should like to be able to do that to.

8 A difficult issue here is clearly that of those "Kosovans" who seek asylum here. Not all asylum seekers from FRY are ethnic Albanians, but the majority are (although we believe some claim such status who are actually Albanians). Of those who claim asylum almost all are granted refugee status. But we are under no obligation to facilitate the arrival of refugee seekers. The transit without Visa Concession does not exist for that purpose, nor will it be the first time visas have been imposed on people whose claim to asylum was genuine. The same was done for Bosnian nationals in November 1992. The proper way to deal with these sensitive regional/ethnic issues is by programmes agreed either internationally or through organisations such as UNHCR.

9 I am also concerned that we must be able to stay ahead of the developing political game. The recent crisis over Kosovans arriving from Italy has directly exposed the weakness due to the absence of a DATV regime. It adds to the problems we are encountering with the attitude of the Belgian and the French authorities, and can easily be developed by the media into a scenario where we have become the dumping ground for Europe's unwanted economic immigrants. This could fuel unpleasant xenophobic tendencies which would be disastrous for our effort to promote better race relations and a balanced view of immigration. It also carries the risk, which I am sure you will recognise, of unfavourable comment upon our attempts to play a more constructive role in Europe, especially at the mid-point in our Presidency. The operational weaknesses can easily be translated into the costs to public funds of supporting an apparently unstoppable flow of asylum seekers: others will be able to make the calculations as easily as we can. I sense that we have reached a critical point in keeping control of this complex agenda. That is

why I think that we need decisive action now to show that we have measures available to deal with problems before a perception gains ground that they have reached unmanageable proportions. We can then follow on with wider measures on asylum following the CSR process.

10 I should therefore be grateful to your agreement that we should proceed forthwith to the imposition of a DATV regime on FRY, and on Bulgaria. As to the latter, I would not activate a decision on DATV until I had received and considered a report from our Ambassador in Sofia about discussions with his Bulgarian interlocutors if that is possible in the timescale, but we shall almost certainly need to act here too before Easter. I also need your acceptance in principle to move without further consultation to establish a DATV regime on any problem country before it becomes a major issue, and in particular on Colombia, Ecuador, Kenya, Algeria and Romania. I would of course liaise closely over timing.

11 I am copying this letter to the Prime Minister, John Prescott, Derry Irvine, Ann Taylor, Harriet Harman, Gavin Strang, Alistair Darling, John Morris, Peter Mandelson, Colin Boyd and to Sir Richard Wilson.

Isobel Hopton

(Approved by the Home Secretary and signed in his absence by the Private Secretary)

1 April 1998

Top JEH CJH PM

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

02 APR 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
and Secretary of State for the Environment,
Transport and the Regions
6th Floor, Eland House
Bressenden Place
LONDON
SW1E 5DU

JEH 6/4.

I will put in one JP responds. TB is sending slightly different signals on this and FRU/Bulgaria - although it may be that there is objectively a case for showing some flexibility for Chinese applicants.

Agree. 6/4. + Jill.

Dear John,

DIRECT AIRSIDE TRANSIT VISAS - CHINA

Thank you for your letter of 19 March about Direct Airside Transit Visas (DATVs) and the impact which they are having on Britain's commercial relationships with China. Robin Cook and Margaret Beckett have also written to me about this, and Robert Ayling and Richard Branson have also written.

The background to this is well known to you. When I wrote to you on 28 July I explained that the immigration reasons which had led to the need for action against the Chinese were strong. The immigration threat posed by the Chinese remains very serious and is worsening. The preventative role that the DATV requirement has played in controlling this is in my view entirely unequivocal. It has stopped those seeking to abuse the Transit Without Visa concession from doing so. I do not share the view of those who claim it has merely displaced asylum applications in-country.

It is, of course, true that the number of asylum applicants who are now claiming in-country has also increased as has the experience of clandestine entrants. But this is an inevitable result of the severe pressures from inadmissible Chinese nationals having to seek different routes into the United Kingdom now that the TWOV loophole has been closed. I cannot accept that the evidence is inconclusive and I should make it quite clear that the removal of the DATV requirement would, in my view, mean an <u>immediate</u> resumption of abuse of this facility because this is the cheapest and easiest method favoured by immigration traffickers. It is also clear to me that the numbers would now significantly increase.

I must put this in a wider context. I am now quite clear that abuse of the Transit Without Visa concession is the most significant threat to our immigration control because it has become an easy target for those involved in the illicit trafficking of humans to make money. To relax any requirement on China at this stage would run the risk of generating a new and powerful pull factor.

That said, as I mentioned in my earlier letter, I am obviously conscious of the wider issues which need to be taken into account, although I have to say the figures remain inconsistent. Robert Ayling has told me that BAs losses have been in the order of £4M since the requirement was imposed with a potential of losing up to £10M per annum in future years. These figures have varied over the years and they have never been substantiated. But I would not want to minimise the commercial effects, or the wider issues such as the implications for air service talks.

I should like to be as helpful as possible, consistent with keeping to our objectives of controlling abuse of the asylum system. Your visit and the Prime Minister's to Beijing, which Robin Cook has mentioned, are very important factors in developing relations with China. I have already agreed, in my earlier letter, that I was prepared to consider relaxation of the DATV requirement for diplomatic and service passport holders if -and only if - I could be satisfied on progress on documenting failed asylum seekers to China. This remains a crucial factor.

The response from the Chinese authorities in London to requests for documentation for failed asylum seekers has been very poor. Some applications have remained outstanding since 1995 and 1996. We have no feedback at all as to the likely timescale or prospect of a document being issued, despite repeated requests. Only applications supported by official documentation are successful and, given that the vast majority of applicants are undocumented, very few documents are actually issued. Over 350 applications are presently lodged and, unless the Chinese performance improves, very few of these will be successful. Only 35 travel documents have been issued in the past 6 months. Given the increasing numbers of asylum applications lodged by Chinese nationals, and the fact that less than 2% are recognised as refugees, there is considerable potential for many thousands to become irremovable simply because of the failure of the Chinese authorities to do anything about them.

This is not only an impediment to my agreeing to relax the DATV requirement. It also acts as a factor which is encouraging Chinese to abuse our immigration control because they are fully aware of the difficulties that we will face in their removal. I am in no doubt that the Chinese fully understand this. These people work illegally and generate remittances which are sent home.

It had been proposed that I agree to relax the DATV requirement on Diplomats in advance of any agreement in an attempt to bring the Chinese to the negotiating table. I was surprised that this was being seriously suggested. On past form the Chinese may well be quite content with pocketing such a relaxation and doing

nothing further. However, my officials will enter the discussions with the Chinese on 16/17 April with a view to making progress if they can. Much will depend on what the Chinese say on documentation, and how much we can accept that any undertakings can be delivered. It may well be that these will be the basis of some kind of protocol. I would want to evaluate the outcome of the meetings myself, before final decisions were made. But I am prepared to agree that discussions should cover the scope for relaxing the requirement for diplomatic passport holders, and reviewing the position on service passport holders after a short period, depending on evidence of improved documentation.

Although we clearly need to weigh the commercial activities set out by Margaret Beckett, we also need to realise the major costs to the United Kingdom of unfounded asylum applicants and detainees. There is a political risk here too. We are about to face some tough decisions on benefit for asylum seekers in the light of the CSR. Presenting that will be infinitely more difficult if we have conceded to the country which is one of the worst offenders in documenting failed asylum seekers. A relaxation of the DATV requirement would need to be made by Order and the exact circumstances named on the face of the Order. In other words I would need to explain to Parliament that at a time when Chinese asylum seekers pose one of the most significant immigration problems which the United Kingdom faces, and we are as a Government trying to limit abuse of the benefits system, I am, nonetheless, providing a concession to a certain class of Chinese nationals. Moreover, it cannot be argued that diplomatic passport holders would not be an immigration threat. A Chinese diplomatic passport will then become something of value to be obtained or manufactured by traffickers. The Immigration Service are seeing cases of this now. If I were to be able to defend the decision in the House I would need the full support of colleagues.

I would be very happy to discuss this further with you and colleagues. I am copying this to the Prime Minister, the Foreign Secretary, Members of HS Committee and Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

RESTRICTED

Foreign &
Commonwealth
Office

•London SW1A 2AH

1 April 1998

Dear Isabel,

Exercising Opt-Ins in the JHA Field

The Foreign Secretary was grateful for the Home Secretary's minute of 14 March and the attached paper. I understand that the Prime Minister is calling a meeting to discuss the issue.

The Foreign Secretary endorses the Home Secretary's view that the UK should be fully engaged in EU cooperation on the fight against crime and drugs and, to the extent practicable, on issues such as asylum and visas. He welcomes the positive approach in the Home Office paper.

In the meantime, a fuller common understanding on two points of importance in this complex subject might simplify the forthcoming discussion:

- The Home Office paper notes that extension of the Common Visa List would carry resource implications for the FCO and a community relations dimension. The Foreign Secretary is also concerned that imposing a visa regime on South Africa would have serious foreign policy costs given that country's increasing influence in Africa. There would also be protests from the Government's domestic constituency if we imposed visa regimes on several other Commonwealth countries including Jamaica. What would be the advantages? Presumably without mutual recognition of visas - which the paper rejects - we could not enjoy the benefits of a single visa-free zone?

- The section of the paper dealing with police and customs cooperation refers to UK participation in the existing Schengen acquis and future cooperation. The Foreign Secretary agrees that we should aim to be in both. Presumably there is no difficulty in participation in future activity in the Third Pillar because as the Home Secretary's minute notes, that is ours by right under the Amsterdam Treaty.

The question therefore is likely to be whether, as the Home Secretary says, the Spanish might try to veto UK participation or seek to impose Gibraltar conditionality. At official level they have told us that Gibraltar would have to be excluded. This would refocus attention on the Amsterdam provision which gives Spain a veto over UK participation in the Schengen acquis.

RESTRICTED

To help us assess the options, it would therefore be useful to have as clear as possible an understanding of the specific benefits of participation in the police and customs element of the Schengen acquis as it now stands. What are the penalties if we remain outside? Our understanding is that the existing Schengen acquis in this area is sparse - except for the Schengen Information System which we agree is potentially very important. And once Schengen is incorporated into the EU Treaties, police cooperation will presumably involve all 15 Member States in the EU institutional structure.

I am copying this letter to the Private Secretaries of the Prime Minister, Chancellor of the Exchequer, the Attorney General and Solicitor General, Sir Richard Wilson and to Sir Stephen Wall.

yours sincerely,

Dominick

(Dominick Chilcott)
Private Secretary

Ms Isabel Hopton
PS/Home Secretary

Top DR
CCPU

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

27 MAR 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
Eland House
Bressenden Place
London SW1

1. JS
2. FILE

John E says that
they are coming back to us shortly
- if not, we may need just to get on
with it ourselves

Dear John, Thanks.

EUROSTAR - INADEQUATELY DOCUMENTED ARRIVALS AT WATERLOO

Thank you for your letter of 27 February. I am grateful for your agreement to meet to discuss this (now arranged for 22 April).

I thought that I should brief you and colleagues on recent developments.

As you will have seen from press reports this week, the immediate focus has shifted to arrivals from Belgium. The numbers of inadmissible passengers arriving on Eurostar trains from Belgium have sharply increased: 202 in January, 303 in February and 507 so far this month. I therefore spoke yesterday to my counterpart in Belgium, M. van de Lanotte. We agreed to strengthen urgent operational liaison at the Gare du Midi in Brussels. But that will provide only a short term solution and it is clear that legal difficulties in Belgium will inhibit its effectiveness. The only sound solution would be the imposition of carriers' liability legislation on SNCB. I raised this with M. Van der Lanotte. I gained the clear impression from the Minister, who, I know well, that he would welcome this.

The problems with passengers arriving from Paris have also continued. I discussed them with my French counterpart, M. Chevenement, last week. I am glad to say that he is now aware of the seriousness of the problems and is stirring up his officials to respond positively. The short-term solution is the exchange of immigration liaison officers at Waterloo and the Gare du Nord in Paris. The benefit to us would be that we could advise the DICCILEC if we believed that inadmissible passengers were getting on the trains at the Gare du Nord. The French see the potential benefits to them during the World Cup from a similar arrangement at Waterloo. But that will only be a short-term concern on their part. I am therefore pleased that Chevenement has instructed his officials to work on longer term solutions based on amendment of the Sangatte Protocol.

That should not, however, preclude imposing the CLA on SNCF also. You point out that SNCF are not currently empowered to carry out document checks. We would need to draft an Order on SNCB which did not amount to irrational imposition of a duty of SNCF. My

legal advisers believe that a formula can be found which meets this point and will be consulting the Law Officers urgently on the issues.

We may well need to lay the Order affecting SNCB quite urgently now. Depending on the longer term solutions which the French themselves propose, the legal advice is still that primary legislation would be needed to impose carriers' liability on SNCF, taking account of the irrationality point.

All these problems continue to have a high media dimension. We can point to the discussions I have had with my Belgian and French counterparts in the past week; the urgent steps being taken to improve operational liaison in the short term, and the plans now being developed with the Belgian and French authorities to find longer term solutions. But we should not downplay the seriousness of the issues. This is a most serious loophole in the system. An unchecked flow of inadmissible passengers will prove costly in terms of social provision. We shall be vulnerable to criticism if this goes on much longer. The carriers' liability legislation was designed to deal with problems such as these and we should not hesitate to use it.

We will need to discuss and agree on next moves on France at our meeting on 22 April. But I am afraid that action on Belgium cannot wait until then. I am firmly of the view that we must act now on the SNCB. I would welcome the chance for a word so that I can explain why I believe the Belgian Government as a whole will now be receptive to this move and to have your concurrence with my approach.

I am copying this letter to the Prime Minister, Robin Cook, Derry Irvine, Ann Taylor, Harriet Harman, Gavin Strang, Alistair Darling, John Morris, Peter Mandelson, Colin Boyd and Sir Richard Wilson.

Yours ever,

Jack

JACK STRAW

TOP - VOLUNTEERS?
CRIMIG file

From: Angus Lapsley
Date: 23 March 1998

John Elvidge, Cabinet Office

cc: David Miliband
Jeremy Heywood
Liz Lloyd
John Holmes
Rob Read
Robin Young
Andrew Campbell

WORK IN HAND

Following our discussion with Liz on Friday, just to confirm that there were two particular subjects on which we agreed that it would be helpful for CO to pull together advice:

- imposition of charges on voluntary bodies for checks under the arrangements for the new Criminal Records Agency;

- imposition of carriers liability provisions on Eurostar to prevent illegal immigration.

I leave it to you to judge the best timing for this advice.

Angus

FROM THE DEPUTY PRIME MINISTER

Baker 45

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3011
FAX: 0171 890 4399

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

cc. PS/DPM
PS/Dr Strang
PS/Ms Jackson
PS/Mr Turnbull
Mr Rowlands
Mr Goldman
Miss Evans
Mr Baker (PDS)
Mr Irvin
Ms Davies

19 MAR 1998

Dear Jack

CHINA: DIRECT AIRSIDE TRANSIT VISAS (DATVs)

I am writing about the working of our policy on DATVs for Chinese citizens in view of its effect on British commercial interests in China. My particular interest is that the Chinese are using DATVs as an excuse for stalling on new air services arrangements which would be beneficial to the UK. I have seen Margaret Beckett's letter to you of 27 February.

At air services negotiations with the Chinese in January, a deal which would have been more than satisfactory to the UK (including increased capacity on the London-Beijing route, and for the first time the opening up of Shanghai, China's financial and commercial centre, to UK carriers) was lost at the last moment because of Chinese concerns over three "irritants", on none of which my officials had any authority to give commitments.

The main "irritant" identified by the Chinese was DATVs. It was made clear to my officials at the air services talks that unless there was some sign of movement on DATVs, perhaps a concession to exempt diplomatic, and possibly service, passport holders, there could be no hope of resurrecting the deal on air services.

I understand that the general view of both the FCO and the DTI is that the DATV policy is proving a serious irritant to continuing good relations with the Chinese. One particularly disconcerting example involved the Chinese Vice-Minister responsible for negotiating China's accession to the WTO being taken off of a re-routed flight which happened to be diverted via London at short notice.

British Airways, the only UK airline currently operating to China, estimate that they have lost around £10 million per annum due to reduced numbers of transit passengers from China and Hong Kong. Virgin Atlantic have reported that they too have lost revenue on their Hong Kong route as a direct consequence of the DATV regime. Chinese nationals are apparently choosing to transit through other European cities where there is not a DATV requirement. Both UK carriers are of the view that even if the Chinese relented in the air services negotiations the continued existence of the DATV requirement, in its current form, would affect their ability to start operations to Shanghai: this would be most disappointing given the huge potential of the Shanghai region for British trade and commerce.

I understand that the evidence to support the need for the DATVs is far from conclusive, with the number of illegal Chinese immigrants/asylum seekers rising markedly despite the introduction of DATVs (there was a 300% increase in "in country" illegal immigrants/asylum seekers in 1997). The real problem appears to be the lack of co-operation from the Chinese in the return of undocumented illegal immigrants. Consular talks have now been arranged for 16/17 April to discuss this, and I understand that your Officials are ready to trade a small concession on DATVs - offering exemptions to Diplomatic and Service passport holders - to gain greater co-operation in the return of illegal Chinese immigrants. I hope that that proves successful. If, however, it is unsuccessful, I hope that you will consider a unilateral concession. That would help our air services and general trade relations with China, and might even help make progress in your own consular talks. I understand that the immigration risk associated with offering exemptions to Diplomatic and Service passport holders (both categories are restricted to senior state officials) would be minimal.

There has been pressure on us to re-examine the DATV regime ever since its introduction. This comes from not only UK commercial interests but also from the Chinese themselves. They will almost certainly raise it with me when I visit China in June.

I am copying this letter to Robin Cook and Margaret Beckett.

JOHN PRESCOTT

Top AL
LC AL
JAH

CROWN OFFICE
25 CHAMBERS STREET
EDINBURGH EH1 1LA

Telephone: 031-226-2626
Fax (GP3): 031-226 6910

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

13 March 1998

Dear Jack.

EMBARKATION CONTROLS

I have seen your letter of 10 March addressed to John Prescott. I have also seen copies of the correspondence between you and Derry Irvine.

I am grateful to you for addressing my concerns on the effect of your changes to embarkation controls on potential abductors. I am re-assured by your explanation of the new procedures though I remain anxious that they will retain a deterrent effect. Any re-assurance that can be given in Mike O' Brien's statement will no doubt be welcomed by those who have an interest in this matter.

Deterrence will be enhanced if the new procedures are seen to work and catch potential child abductions. Subject, of course, to considerations of privacy for those involved, any publicity that can be given to successes may assist. It may be that this could be achieved through the auspices of Reunite, or at least with their co-operation.

I am copying this letter to the Prime Minister, John Prescott, members of HS, the Foreign Secretary and to Sir Richard Wilson.

Yours sincerely.

COLIN D BOYD

see below
to: PU
Press

From: THE PRIVATE SECRETARY

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

12 MAR 1998

Patrick South Esq
Private Secretary to the Lord Chancellor
House of Lords
LONDON
SW1A OPW

1. cc: MB.
2. JH.

Dear Patrick AR.

ANNOUNCEMENT ON EMBARKATION CONTROLS

When the Home Secretary wrote to the Lord Chancellor at the end of January, he promised to provide details of our plans for handling this announcement. To this end, I am sending you the latest draft of our press release, although this may well change before Monday. The main points of our handling plan are as follows.

- A series of "paving" PQs to demonstrate the extremely limited value of the embarkation controls and that there are better options available.

- An embargoed briefing for a BBC TV Home Affairs correspondent, to include pre-filming at an airport.

- The announcement itself will be made by Mr O'Brien, who will issue a press release and offer on-the-record media briefing.

I am copying this to Angus Lapsley at No 10 and Andy Silverman in the Strategic Communications Unit.

Yours,
Isobel

ISOBEL HOPTON

4253ih

Draft News Release

STEPPING UP INTELLIGENCE AT EMBARKATION CONTROLS

Outdated and expensive embarkation controls are to be replaced with a more efficient, multi-agency target-led operation, Immigration Minister Mike O'Brien announced today.

We will develop the partnership between enforcement agencies, carriers and port authorities, which will free immigration officers from routine and unproductive work and allow them to focus on incoming passengers and to tackle the increasing problem of illegal entry.

Mr O'Brien said:

> "It has become increasingly clear that embarkation checks on departing passengers are ineffective. The £3 million they cost can be more effectively targetted in controlling immigration.
>
> "Since 1994 there have been no embarkation controls for people travelling to EU countries and with no checks at ferry ports and small airports, 40% of passengers leaving the UK never see an Immigration Officer. Anyone seeking to evade present controls on leaving the UK would find it very easy. That is why we must better target resources.
>
> "We have therefore decided to replace the residual embarkation controls with an intelligence and target-led operation, involving a partnership between enforcement agencies, carriers and port authorities.
>
> "This will ensure that more effective measures are in place to counter potential security threats and to tackle crimes such as the attempted abduction of a child."

Mr O'Brien said he was pleased that port authorities had agreed - as part of the partnership arrangement - to provide enhanced CCTV facilities at strategic points around embarkation areas.

And he said the Government was currently re-examining the law governing enforcement agencies' ability to access passenger lists.

> "Checks on passengers are - and will continue to be - carried out by carriers who are obliged by law to ensure people have the correct travel documents.

"Carriers take these obligations seriously, and passengers without proper documents are regularly refused permission to board. People with false documents, or who are engaged in other forms of deception, are brought to the notice of the police, and may be charged with posession of a false instrument, or attempting to obtain services by deception. Prosecutions can attract custodial sentences of up to three months.

"It makes sense to build upon these arrangements, which are much more comprehensive and effective than those conducted by the Immigration Service. We aim to cut out duplicated effort, and to develop our abilities to obtain information from passenger lists."

Although routine passport checks of embarking passengers will cease, control facilities will be retained to allow appropriate checks to be mounted where intelligence information suggests they should be.

"The current weak embarkation control has not made any significant contribution to the overall integrity of our immigration control for many years. They have been an expensive fiction. Effective border controls are about better control of who comes into the United Kingdom. That is precisely where we will be redeploying our resources and staff."

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

10 MAR 1998

The Rt Hon John Prescott MP
Deputy Prime Minister
Eland House
Bressenden Place
London SW1

Dear John,

EMBARKATION CONTROLS

You may recall that I wrote to HS colleagues on 13 October, asking for their views on the value of embarkation controls, as we were considering a major reconfiguration. I am most grateful to colleagues for their comments. Derry Irvine had some particular concerns on which we have now reached an agreement.

We now propose to move ahead with the changes, which Mike O'Brien will be announcing by means of a written PQ, next Monday, 16 March. We will also be issuing a press notice.

I am copying this letter to the Prime Minister, members of HS, the Foreign Secretary, the Solicitor General for Scotland and to Sir Richard Wilson.

Yours ever,

Jack.

JACK STRAW

Top AL
✓ cc: JEH
PB
PU

HOME SECRETARY

RESTRICTED - POLICY

P

Foreign Secretary

CZECH AND SLOVAK ROMA (GYPSIES) ASYLUM SEEKERS

I thought it would be helpful for me to write in advance of your meeting with both Czech and Slovak Ministers at the Accession Conference on 12 March.

2 As you are aware, the influx last autumn of a large number of Roma asylum seekers from the Czech and Slovak Republics has caused continuing political and social difficulties. The resolution of these problems has now been complicated by the latest guidelines issued by the United Nations High Commission for Refugees (UNHCR), who have stated that the discrimination on ethnic grounds faced by these Roma may be such that they might well be able to substantiate claims to refugee status under the 1951 Convention.

3 Although, the numbers of Czech and Slovak Roma seeking asylum have now dropped substantially, a large number, in the Dover area, still await the hearing of their appeal against the refusal of asylum. Should UNHCR's guidelines lead to further appeals being allowed (one Czech family and one Slovak have already been allowed) more Roma may be encouraged to seek asylum here.

4 I would be grateful if you could use this opportunity to raise again the problems of Roma in the Czech and Slovak Republics with their respective Ministers and impress, yet further in the strongest possible terms, upon them the need for them to take action to reduce the incidence of discrimination and ensure that the authorities offer effective protection to the community from random violence. This latter point is a key issue to be addressed to meet UNHRC's concerns and for those determining individual applications for asylum under the Convention.

5 I attach the greatest importance to our ensuring that the Czech and Slovak authorities address this problem as soon as possible in order to prevent any further out flows from the countries concerned. A failure to do so would have a very negative impact on the work to reduce the flows of economic migrants to the United Kingdom and reflect unfavourably on the provision of protection to citizens of both countries.

6 I sending a copy of this minute to the Prime Minister, the Deputy Prime Minister, members of HS and to Sir Richard Wilson.

Jack Straw

10th March 1998

RESTRICTED - POLICY

FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG

RESTRICTED - POLICY

HOUSE OF LORDS,
LONDON SW1A 0PW

Top AL
cc PJ

The Right Honourable
Jack Straw MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London SW1H 9AT

24/2/98

P

Dear Jack,

EMBARKATION CONTROL

Thank you for your letter of 26 January 1998. I have also seen the Chief Secretary's letter to you of 9 February.

I recognise and accept the reasons for your proposal to abolish embarkation control. I am grateful for your explanation of the alternative procedures you propose to replace it, within which the All Ports Warning List arrangements will continue.

The existence of embarkation control has provided a visible formal barrier to illegal departures from the UK. Although this is difficult to quantify, I believe that the main value of the control has been its deterrent effect on potential abductors.

While I welcome any resources that can be put into "targeted ad hoc checks", I think we must recognise that once embarkation control has been removed and the visible deterrent no longer exists, any intelligence-based system will not provide the same level of deterrent. The introduction of the system you propose will therefore reduce the Government's ability to prevent the illegal removal of children from the UK.

As a result we must expect that there may be some successful abductions which would not have occurred in the past. We must be prepared for the public reaction to any increase.

In view of this you will no doubt wish to use your media handling plan to do everything possible to bring the new arrangements into the public eye, and to maximise whatever potential they have for deterrence.

I am glad to hear of the suggestion that any new procedures you introduce could be reviewed after six months' operation. I think this will be a helpful way of assessing the impact of the changes you are seeking to introduce.

On this basis I am content to agree the proposals.

Copies of this letter go to the recipients of yours and to the Foreign Secretary and the Solicitor General for Scotland.

Yours ever,

Derry

Tap - ~~AL~~
cc JJM
PJ

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Jack Straw MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London
SW1H 9AT

9 February 1998

Dear Home Secretary

EMBARKATION CHECKS CONDUCTED BY THE IMMIGRATION SERVICE

Thank you for copying to me your letter of 26 January to Derry Irvine.

2. As you say abolition of the embarkation control, which I fully support, should release 8% of Immigration Service resources. The Home Office Comprehensive Spending Review will need to consider the best use of these resources, in line with our zero-based approach. In particular the Review should consider the scope for transferring the resources and make it clear what they will buy if they are retained by the Immigration Service.

3. I am copying this letter to the Prime Minister, Deputy Prime Minister, members of HS and Sir Richard Wilson, together with the additional recipients of yours.

Yours sincerely

Paul Williams

pp **ALASTAIR DARLING**

(Approved by the Chief Secretary and signed in his absence)

AC Top 33M
cc PG
AC for info

FIN

CHIEF SECRETARY TO THE TREASURY

RESTRICTED - POLICY

Treasury Chambers, Parliament Street, SW1P 3AG

Paul Boateng MP
Parliamentary Under Secretary of State
Department of Health
Richmond House
79 Whitehall
London
SW1A 2NS

4 February 1998

Dear Paul,

ASYLUM SEEKERS APPEAL

We spoke yesterday about your letter of 2 February setting out a suggested approach to discussions with Westminster, and raising the funding of the costs of grants to local authorities to support asylum seekers in 1998-99.

2. We agreed that any discussions with Westminster would be confined to the grant to support childless adults, which is the subject of the appeal, and be on the basis of a maximum unit cost of £170 per week. Your officials would, however, seek to reach agreement at a lower figure if at all possible. On this basis, I agreed to providing funding of up to £92.4 million from the Reserve for this grant, based on your forecasts of the likely costs in 1998-99.

RESTRICTED - POLICY

3. We also discussed the grants for families with children, for which the Department of Health has no provision in 1998-99, and unaccompanied children, for which the Department currently has provision of £3 million. We agreed that funding for these grants would have to be considered alongside other Reserve claims which the Department is making, and in the context of the overall budget of the Department of Health.

4. I am copying this to the Prime Minister, the Deputy Prime Minister, those who attended last week's ad hoc meeting, and to Sir Richard Wilson.

ALISTAIR DARLING

Mike O'Brien MP

TOP AL
cc PM
PSR

PARLIAMENTARY UNDER
SECRETARY OF STATE

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

3 February 1998

File

Dear John

I am in receipt of Paul Boateng's letter of 2 February dealing with the House of Lords case on asylum seeker provisions.

In my view the Department of Health should approach Westminster Council as soon as possible with a view to either withdrawing from the case entirely or adjourning it. I know that Paul believes that the Government needs to offer Westminster something in return and this may become necessary, but we do not at this stage know that it is necessary. My meeting with the City of Westminster convinced me that they are aware of the difficult consequences of a House of Lords decision for them and the Government. They may be prepared to adjourn or abandon the case if they can be assured that the Government intends to legislate to remove or modify the National Assistance obligations as part of the outcome of the CSR. If the Department of Health threatens to withdraw from the case then Westminster might have to bring the Government in as a third party and could then become liable for our costs. Given Westminster's recent loss in a court case with the DETR, they may be reluctant to do that. I therefore think we ought to make the approach to Westminster in any event. However, if Westminster do prove intransigent then Alastair may need assistance with some encouragement to them and the logic of Paul's conclusions on this seems to be very sensible.

It is important that we have clear contingency plans in place if Paul is unsuccessful in securing the adjournment or abandonment of the case. It would then be necessary to meet again soon in order to decide what we would tell the House of Lords about what we are going to do if they decided the National Assistance Act 1948 did not apply. Indeed we might be asked that question during the hearing. Whatever we say in court would be public and therefore could have immediate political repercussions. Also, although it is unlikely, it is possible that their Lordships may indicate their decision in broad terms and we would then be caught from early February with asylum seekers who are destitute. We have a clear commitment not to allow asylum seekers to become destitute.

I am copying this letter to the Prime Minister, those who attended the ad hoc meeting and the Cabinet Secretary.

Yours

MIKE O'BRIEN

The Rt Hon John Prescott MP

2479

Top - AL
cc JSH
PJ

DEPARTMENT OF SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 0171 - 238 0800

From the Secretary of State for Social Security

Restricted - Policy

The Rt Hon John Prescott MP
Deputy Prime Minister and Secretary of State
for the Environment, Transport and the Regions
Eland House
Bressenden Place
London SW1E 5DU

3 February 1998

Dear Deputy Prime Minister

Asylum Seekers Appeal

I have seen a copy of Paul Boateng's letter to you of 2 February, which sets out his proposals for taking forward the remit from Thursday's meeting to seek an adjournment to or withdraw from the House of Lords appeal.

The meeting took the view that the options of adjourning the appeal or withdrawing from it would both be preferable to the contingency options outlined in the DH paper. I note that all the options outlined in the annex to Paul's letter are estimated to have costs well under the estimated £260m cost of benefit restoration. Of course he is best placed to assess what sorts of improvements to the grant arrangements will be most acceptable but the option he recommends - restoring the maximum grant to the sort of level provided for 1996/7 - does not seem unreasonable to me.

I agree that it is essential that the funding issue is now resolved as a matter of urgency and that it would seem appropriate that such unplanned expenditure should be funded by the Government as a whole. Like Paul, I would have no scope for meeting the additional costs involved in supporting these asylum seekers from within my programme. While I understand the difficulties, I hope that Alistair will be able to come up with a solution which will enable you to pursue the options favoured by the meeting, as they most effectively balance the need to support asylum seekers with the wider policy issues we were discussing.

I am copying this letter to the Prime Minister, Alistair Darling, Dennis Carter, Mike O'Brien, Kim Howells, Sam Galbraith, Win Griffiths, Paul Boateng and Sir Richard Wilson.

Yours sincerely

HARRIET HARMAN
[approved by the Secretary of State
and signed in her absence]

SOCIAL SECURITY 50 YEARS
CELEBRATING THE PAST
LOOKING TO THE FUTURE

Recycled Paper

FROM HILARY ARMSTRONG MP
MINISTER FOR LOCAL GOVERNMENT AND HOUSING

DETR
ENVIRONMENT
TRANSPORT
REGIONS

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL 0171 890 3000
FAX 0171 890 4489
3 FEBRUARY 1998

Dear John

ASYLUM SEEKERS APPEAL

I have seen Paul Boateng's letter of 2 February to you and colleagues about the forthcoming Asylum Seekers Appeal. This confirmed our agreement of last week that we would seek an adjournment of the appeal, subject to the agreement of Westminster.

This, and the imminent debate of the Local Government Finance Settlement, make it absolutely crucial to work out interim funding arrangements for local authorities looking after asylum seekers. As you know, there is no provision in any Departmental baseline for this expenditure, which Paul Boateng estimates will be around £150million. There is also no provision for this amount within the Local Government Settlement. In the light of this, and the absence of any clear source of offsetting savings, I agree with Paul that these resources must come from the Reserve.

I am copying this letter to the Prime Minister, those who attended last week's ad hoc meeting, and the Cabinet Secretary.

Yours
Hilary

HILARY ARMSTRONG

The Right Honourable John Prescott MP
Deputy Prime Minister

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ToP-JSH

C: AL
PJ.

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3 February 1998

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Dear Paul

ASYLUM SEEKERS APPEAL

Thank you for your letter of 2 February proposing an adjournment of the current appeal case.

We would be content with an adjournment, which would give the time to settle the long term process for the care of asylum seekers.

I am copying this letter to the Prime Minister, John Prescott, Harriet Harman, Alistair Darling, Dennis Carter, Mike O'Brien, Sam Galbraith, Win Griffiths and Sir Richard Wilson.

Yours

Kim

DR KIM HOWELLS

D/EE

FROM THE OFFICE OF THE DEPUTY PRIME MINISTER

Top AL
cc PM
RR

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- 2 FEB 1998

I suppose we should have seen this coming. My fear is that even if we do get the case adjourned, we will not hold this line until the CSR outcome. Secondly, the CSR is not addressing this particular problem. If it does, it will still have to chose one of these options.

Yes Jonathan.

2. file. Thanks.

ADULT ASYLUM SEEKERS: CONTINGENCY PLANNING

Your Minister attended a meeting on 29 January chaired by the Deputy Prime Minister and Secretary of State for the Environment, Transport and the Regions. The Secretary of State for Social Security; the Chief Secretary, Treasury; the Captain of the Gentlemen-at-Arms; the Minister for Local Government and Housing; the Parliamentary Under Secretary of State, Home Office (Mr O'Brien); the Parliamentary Under Secretary of State, Department for Education and Employment (Dr Howells); the Parliamentary Under Secretary of State, Scottish Office (Mr Galbraith); the Parliamentary Under Secretary of State, Welsh Office (Mr Griffiths); and Mr Jeffrey and Mr Campbell from the Cabinet Office were also present. The meeting had before it a letter dated 22 December 1997 from the Secretary of State for Health and letters of 7 January 1998 from the Secretary of State for Scotland; of 9 January from the Lord Chancellor; of 13 January from the Secretary of State for Social Security; of 19 January from the Secretary of State for the Home Department and from the Chief Secretary, Treasury; of 20 January from the Minister for Local Government and Housing; and papers from the Parliamentary Under Secretary of State, Department of Health and the Inter-Departmental Comprehensive Spending Review of Asylum.

Mr Boateng said that the Government was a party to an action brought by Westminster City Council against a decision of the Court of Appeal that local authorities had a duty under the National Assistance Act 1948 to provide support for adult asylum seekers with no other means of support. If it were upheld, the appeal would preserve the integrity of the 1948 Act, which had never been intended to be used to require local authorities to support asylum seekers. There was already evidence of other people from overseas, notably those who HIV and AIDs related illnesses, seeking to take advantage of the Court of Appeal's interpretation of the 1948 Act. Although the action of Westminster City Council had been made initially under the previous administration and supported by it, the view so far taken was that the appeal deserved support. It was in any event bound to be heard if Westminster City Council wished to pursue it.

The following points were made in discussion:

a. if the House of Lords were to uphold the appeal, local authorities would no longer have any powers to support adult asylum seekers. Unless some action was taken by the Government, around 7,000 asylum seekers in London would find themselves destitute within a few days of the judgement. Counsel would undoubtedly be asked during the hearing what the Government would propose to do in the event of the appeal being upheld.

b. All the options identified in the paper attached to the Health Secretary's letter of 22 December were worse than continuing with the current support arrangements under the 1948 Act.

c. Restoring benefits to asylum seekers was one option. It would help regularise practise throughout Great Britain (asylum seekers in Scotland were already eligible for discretionary cash payments under the Social Work (Scotland) Act 1968). But restoring benefits would be likely to attract bogus asylum seekers to the country and to lead to claims from those who were already in the United Kingdom, who were currently supported by their relatives. There might be as many as 30,000 people in this situation. The number of appeals against past decisions, and therefore the backlog of appeals, could also be expected to increase significantly. The cost of restoring benefits could be as high as £200m a year. On the other hand, it would be possible to set benefits at a higher rate for those asylum seekers already in the country but at a lower rate for any new applicants, in order to help reduce any increase in the number of asylum applications.

d. It would also be difficult to restore benefits to asylum seekers at a time when benefits to lone parents were being reduced. Furthermore, if benefits were to be restored ahead of the outcome of the comprehensive spending review, even as an interim solution, such a decision would undoubtedly be seen as indicating (quite possibly wrongly) the eventual outcome of the review.

e. The other option which had attracted some support in correspondence was urgent legislation to give local authorities the powers to support asylum seekers. This would be cheaper than restoring benefits. It would also avoid the difficulty of restoring benefits to one group, while other benefits were being reduced. However, such legislation would be unpopular with local authorities and would be likely to prove to be difficult to handle in Parliament, particularly as it would give rise to questions which the Government would not be able to answer satisfactorily until the Comprehensive Spending Review of Asylum had been completed.

f. The case was due to be heard by the House of Lords in the week beginning 9 February. This was unfortunate, given that the Comprehensive Spending Review of Asylum would not then be complete and considered within Government. If it were possible to seek an adjournment to the case, the Government should do so. There was a possibility that Westminster City Council might be sympathetic to the case for an adjournment. The House of Lords would also need to be satisfied that there were good grounds for adjourning the case.

g. A further option was for the Government to withdraw from the case. If it were to do so, Westminster City Council might then decide not to continue with it. Even if Westminster City Council did continue and won the appeal, the difficulty of the Government restoring by emergency legislation the very position against which it had argued in its appeal would be avoided.

h. On the other hand, it would be desirable to continue the appeal which, if won, would restore the integrity of the 1948 Act. The judgement of the Court of Appeal had meant that social services departments in some authorities had been diverted from their proper tasks. Furthermore, there might be advantage in seeking the adjournment of the case, but remaining a party to it, rather than withdrawing from it completely.

i. The support currently offered by central Government to local authorities per adult asylum seeker was £140 a week. It was clear that some local authorities were under great financial pressure as a result of caring for asylum seekers, and that council tax Bills were, as a result, higher in some areas than they would otherwise have been. The problem was also, in some areas, proving socially divisive . If benefits were not to be restored, there were good grounds for thinking that the level of support offered to local authorities should be increased, perhaps to £168, which had been the rate before the Asylum Act 1996.

j. Whatever course was chosen, resources would need to be found for the support of asylum seekers in the financial year 1998/99. No provision for such support had been made in departmental budgets. On the other hand, the Reserve for 1998/99 was already oversubscribed and departments would, therefore, need to bear a good part of the cost themselves.

k. Before decisions on funding could be taken, officials should be instructed to work up more detailed estimates of the costs of increasing the level of support available to local authorities in respect of adult asylum seekers, which was the issue on which Westminster and other London authorities would be most likely to focus. Such work should be undertaken as a matter of urgency. The Government could be expected to come under early pressure from local authorities to make clear on what basis they would be funded for the support of asylum seekers in 1998/99.

l. The Government's position on resources would also need to be clear before an approach could be made to Westminster City Council about the adjournment or withdrawal of the case. It would need to be clear, however, that any package (including possibly some of the measures sought by the Local Government Association) offered by the Government as a temporary measure pending the outcome of the comprehensive spending review, would be conditional upon the case being adjourned or withdrawn.

The Deputy Prime Minister, summing up the discussion, said that there was agreement that none of the options set out in the paper circulated by the Secretary of State for Health was in itself attractive. Before deciding which was the least unattractive, an attempt should be made to discover whether the case before the Lords could be adjourned or withdrawn. As a first step, Department of Health Ministers should draw up a costed proposal for continuing support for local authorities into 1998/99, for urgent discussion with Treasury Ministers. Depending on what assurances could be given to the authorities on that score, discussions should then take place with Westminster City Council about the handling of the case, including the desirability of seeking an adjournment or of withdrawing from the appeal altogether. The meeting had not been able to agree on which of the options discussed was least unattractive if it did not prove possible to delay the Lords hearing. Depending upon the outcome of the further discussions with Westminster City Council, the Group might need to reconvene during the course of the week beginning 2 February.

I am copying this letter to Angus Lapsley (No 10), Jenny Rowe (Lord Chancellor's Office), Ken Sutton (Home Secretary's Office), Katie Driver (Education and Employment Secretary's Office), Keli Thomson (Scottish Secretary's Office), Chris Kenney (Health Secretary's Office), Paul Cohen (President of the Council's Office), Stefan Czerniawski (Social Security Secretary's Office), June Milligan (Welsh Secretary's Office), Peter Schofield (Chief Secretary's Office), Simon Burton (Chief Whip's Office, Lords), and to Tony Redpath here, and to .Jan Polley and Bill Jeffrey (Cabinet Office) and Liz Lloyd and Sharon White (No 10 Policy Unit)

Yours sincerely

Sean Gillen

for ROBIN MORTIMER
Private Secretary