



Home Affairs Committee

Oral evidence: [Migration and asylum](#), HC 197

Wednesday 6 July 2022

Ordered by the House of Commons to be published on 6 July 2022.

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Members present: Dame Diana Johnson (Chair); James Daly; Carolyn Harris; Tim Loughton; Stuart C McDonald.

Questions 210 - 307

Witnesses

I: Alison Pickup, Director, Asylum Aid; Theresa Schleicher, Casework Manager, Medical Justice; Enver Solomon, Chief Executive, Refugee Council.

II: Tony Smith CBE, former Director-General, UK Border Force; Rhys Clyne, Senior Researcher, Institute for Government; David Wood, former Director-General, Immigration Enforcement.



Examination of witnesses

Witnesses: Alison Pickup, Theresa Schleicher and Enver Solomon.

Q210 **Chair:** Good morning. Welcome to the Home Affairs Committee. We are very pleased to see our witnesses this morning. We are having a session to look at the Government's Rwanda policy. We have already heard some evidence from the Minister in recent weeks, but we are very pleased today to hear from charities and the voluntary sector about their approach to this new policy development. I would like to start by asking our witnesses to introduce themselves.

Enver Solomon: My name is Enver Solomon and I am the chief executive of the Refugee Council. We are the largest single charity working just with people in the refugee protection system, either who are seeking asylum or who have refugee status, across England.

Alison Pickup: Good morning. My name is Alison Pickup and I am the director of Asylum Aid. We are a charity that has been around for over 30 years. We provide specialist legal advice to asylum seekers and others seeking protection in the UK.

Theresa Schleicher: Hello. My name is Theresa Schleicher. I am the casework manager at Medical Justice. We are a charity that works within immigration detention. We provide support and medicolegal assessments for people in immigration detention. We have so far worked with just under 40 people who have received letters of intent for transfer to Rwanda.

Q211 **Chair:** We are going to try to drill down into some of the details around the Rwanda policy. I wanted to start by asking whether each of you could give your initial overview of the policy and the concerns that you have with the policy.

Enver Solomon: I am going to kick off with the words of the former Treasury Minister, Jesse Norman, who said in his letter to the Prime Minister, "The Rwanda policy is ugly, likely to be counterproductive and of doubtful legality". That is entirely correct. It is very interesting that a former Treasury Minister, who is a relatively senior member of the governing party, makes that judgment.

It fails the test in relation to fairness. It fails the test in terms of dealing with the problem that it is seeking to solve, a problem that we are greatly concerned about, which is the people smuggling and people taking very dangerous journeys to get to the UK. It will not act as a deterrence. It will not solve that challenge, which is an understandable challenge that the Home Secretary is very concerned about. It will result, and is already resulting, in significant human suffering.

My final concern, which is a really significant one, is in relation to the Wendy Williams review. That was very clear that there need to be lessons learned and it is imperative that the Home Office always sees the face



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behind the case. The Rwanda scheme creates several new risks by actually exacerbating the long history of the Home Office's—and I quote from the Wendy Williams review—"institutional ignorance and thoughtlessness towards the issue of race", which the review identified as a root cause of the Windrush scandal. This will simply be perpetuated by the Rwanda deal.

Fundamentally, the deal is, in effect, a 21st century UK-Africa trade in people seeking asylum—men, women and children who are very vulnerable and highly traumatised. The foundation of that is cash for deportation and transportation, which pays a large amount of money, millions of pounds, to Rwanda to accept people who are being sent there against their wishes and, critically, without having a fair hearing in the UK. It is reasonable to expect, given what we know from the data, that a significant number of people will be sent to Rwanda who would have a well-founded fear of persecution and would be granted refugee status in the UK.

Alison Pickup: We share many of the concerns that Enver has outlined about the policy in principle. If I can focus on the concerns about the process to which he alluded, the starting point for the way that these cases are being processed at the moment is that individuals who have very recently arrived in the UK are being detained. While detained, isolated, frightened and overwhelmed, they often do not understand what is happening to them when they are told that they may be sent to Rwanda—they have a very short time to respond to that possibility—or that they need to get legal advice.

They then have a seven-day period in which to understand all those things, find out how to get legal advice, get legal advice and respond to the very many complex, novel, legal and factual issues that arise in these cases. We think that that period is simply impossibly short for people to effectively respond.

After that, decisions are served with only five or six working days' notice being given of removal to Rwanda. We think that there is a very real risk that people will be removed who would not be safe in Rwanda, without having the opportunity to access our courts. That goes against basic principles of fairness of which this country is rightly proud.

Chair: We are going to come back to some of those issues about the opportunities to seek legal advice.

Theresa Schleicher: I would very much echo Ms Pickup's comments. The experiences of our clients really echo and illustrate those points. We have the impression, and our clients tell us, that they think they are being very randomly selected and put in detention at a point where they were hoping to reach safety. Often, they have gone through very traumatic experiences before coming here and were sustained by the hope that they would be able to live in a safe place.



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They then find themselves scooped up and locked up in a situation where they have no idea what is going to happen next. They are often disoriented. They are frightened. Many have physical and mental health problems. I can say a bit more about the health conditions we have come across later. They are then being told that they might be removed to a country that they have often never heard of before. They do not know how to go about challenging that or even what the issues might be that they will encounter.

Many fear that it will not be safe for them, either because of things that they have heard about Rwanda, and they just do not know much, or because of specific issues in their cases. We have one client who is still coming to terms with his sexuality and fears that that might not be safe in Rwanda. We have other clients who believe—and I do not know what the basis of it is, whether it is true—that Rwanda has close relationships with their country of origin. They fear that the asylum system will not be sufficiently robust in Rwanda to protect them from potentially being sent back there.

It does not look to me like there is a process capable of identifying all these issues and properly investigating them to make sure that people for whom it is not safe in Rwanda are not sent there. The impact on people is considerable. The mental health of many of our clients has considerably deteriorated. Physical health has deteriorated. A lot of people struggle to eat. Many have expressed suicidal thoughts. There is all that suffering for the sake of a political scheme that, as Mr Solomon said, we do not think will fulfil its purpose.

Q212 Stuart C McDonald: I wanted to try to drill down and understand what exactly happened to those who the Government attempted to remove to Rwanda before that had to be scrapped. People arrive, as I understand it, at Western Jet Foil and then they are taken to Yarl's Wood. Is that correct?

Theresa Schleicher: For most of our clients, that is the route. They arrive at Weston Jet Foil. They are then taken to Yarl's Wood. They are screened there and a few days' later they receive their notice of intent. We have had a small number of clients who have arrived by lorry rather than by small boat and who took other routes arriving at the detention centre in the end, so who may have been taken to Dungavel for screening, or police stations.

Enver Solomon: There is an important point here. How Border Force officials down in the Western Jet Foil are making a judgment and decision about whether someone goes to an immigration removal centre, i.e. is detained, or goes to Manston, which is the large new processing centre, seems to be pretty random. That cannot be right that decisions are random. From what we understand from other organisations and the organisations giving evidence today, there are no clear criteria. We have seen no clear published criteria and there has been a huge increase in the numbers that are being detained and then issued with notices of intent.



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Q213 **Stuart C McDonald:** Roughly speaking, how many do we know have been detained and issued with those notices of intent? Are they just basically sitting there now while this litigation is ongoing?

Theresa Schleicher: That is our impression, that mostly they are just sitting there. I do not know how many were detained. We have worked with just under 40. I have heard from other organisations that they were in touch with just under 100, I think. I do not know how much overlap there is between those individuals.

Our impression is that the Home Office is not releasing the ones who were not removed, who either never received removal directions or had removal directions and those were cancelled, unless they or their solicitors apply for bail to the tribunal. They are just sitting there, waiting.

Alison Pickup: That is our experience as well. People are not being released unless they get bail from the First-tier Tribunal. I have also heard in recent days of new notices of intent being served on people who have been in detention for a number of weeks.

Enver Solomon: It is clear—and the Committee must understand this, because, when people are asking the Home Office, it is not providing this information—that, as of this moment in time, there are dozens of people, probably, in detention, pending removal to Rwanda, having been issued notices of intent. There are others in detention who are likely to get a notice of intent very soon. They are not being released on bail unless there is a separate intervention by a lawyer intent on releasing them.

Q214 **Stuart C McDonald:** On the issue of the criteria, there has been some confusion over this. At various times, Ministers and the Permanent Secretary, when he was before us, seemed to suggest that there was a criteria but they just did not want to explain what it was because of fears that that would then influence how the trafficking gangs behaved. At other times, there seemed to be resistance to the idea that there are any criteria at all.

Separate to that, there are also the criteria that are used to determine who can be detained. Is that what they are referring to, or is this just a mess that we do not really know the answer to, which only the Home Office can resolve?

Theresa Schleicher: It is very unclear. Their detention criteria are known and there is a policy around who can be detained and consideration should be given to vulnerability. Part of the problem is that, when people arrive at Western Jet Foil, there is no screening. There seems to be a very brief lookover by a paramedic, but the Home Office was very clear to us that there is no screening for vulnerabilities.

The Home Office cannot at that point be in a position to decide whether people have vulnerabilities that, according to the policy, should rule them out for detention. They are then put in detention, where, after a few days, they have an asylum screening interview. Again, that is not really a



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very suitable tool for detecting vulnerabilities. For example, there is no question about torture.

There is a waiting list for rule 35 reports, which are the assessments by GPs in the detention centre when it is suspected that someone has a history of torture or a health condition that means they are likely to deteriorate. Detained people at the moment in Heathrow are not even able to access copies of their own healthcare records, because there is such a long waiting list to get those. The systems that there are for applying some vulnerability screening look to me like they cannot be implemented at the moment or are overwhelmed.

Q215 Stuart C McDonald: Is that a different screening process from usual? Is there not normally a question about torture? Are they applying the usual screening process? Is this one bespoke, or is it again not clear?

Alison Pickup: As Ms Schleicher said, there does not need to be any screening prior to detention. The screening interviews that take place usually within one or two days of being detained are the standard proforma screening interviews. There is no change in the questions that are asked or the way that it is done.

Theresa Schleicher: There is a process normally before being detained, which is the detention gatekeeper. That is a safeguard that the Home Office introduced after the Shaw review. One problem with the detention gatekeeper is that they scrutinise the decision to detain on the basis of information that is available on the Home Office file. When the person has just arrived at Western Jet Foil and has not been screened, there is no information that could be scrutinised.

Q216 Stuart C McDonald: Finally on the criteria, there was at some point a suggestion that there were a disproportionate number of, I think, Sudanese men. Is that correct?

Theresa Schleicher: We have quite a few Iranians, Iraqis, Sudanese, Eritreans, Egyptians and Vietnamese among our clients.

Q217 Stuart C McDonald: Would that just simply reflect who is arriving at Western Jet Foil, or is there a reason to think that there is something strange about that?

Theresa Schleicher: I do not know, because I do not have visibility of who is arriving at Western Jet Foil. Enver might have more information about that.

Enver Solomon: It is not clear; it is very opaque. One thing that it is very important for the Committee to be clear about is the admissibility guidance, which was updated following the Rwanda deal. It seems to very clearly state and indicate that people should be selected and found to be inadmissible and sent to Rwanda if they cannot be sent back to another third country. It explicitly states that, if a case assessed as suitable for admissibility action appears to stand a greater chance of being promptly



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removed if referred to Rwanda, rather than to the country to which they have a connection, the third country unit—and this is the unit that is making all these decisions—should consider referring the case to Rwanda.

It goes on to say that entry to inadmissibility processes is according to considerations such as operational capacity at a particular time, the strength of the evidence supporting the inadmissibility contention and the realistic prospects of an individual being removed within a reasonable time. That says that there is a very clear push to issue notices of intent to people to send them to Rwanda. The guidance is clearly pointing in that direction and saying that the third country unit should be making those decisions.

Theresa Schleicher: The other point that might have an impact on the countries that are being selected is that another option available to the Home Office is to promptly consider the person's asylum claim. I think that the inadmissibility guidance also refers to doing that through the detained asylum casework for cases of people who might be suitable for that. That would mean that people whose cases are more complex or who are not likely to be easily refusible and removed through DAC might be more likely to get Rwanda notices. That might include people who have histories of traumas, who are from countries where they are likely to be genuine refugees.

Q218 **Stuart C McDonald:** Someone is getting taken to Yarl's Wood in most instances. No notice is served on them at that stage. At what stage do they become aware that this is what the Home Office has in mind for them?

Alison Pickup: It is after the screening interview. From what we have seen certainly in the first cohort of cases, normally just a couple of days after the screening interview they are served with the notice of intent that we have all been referring to. That is a notice that existed in some form prior to this, because it was the notice that was served on people who were being considered for inadmissibility under the previous scheme. It now includes specific reference to the possibility of being removed to Rwanda.

Stuart C McDonald: It mentions Rwanda.

Alison Pickup: They are also provided at that point with an information pack, which is entitled something like, "I am being considered for removal to Rwanda. What does that mean to me?" It is about five pages long and certainly to begin with was in English. Those documents are given to them. At that point, the seven calendar day clock starts ticking for them to make representations in response.

Q219 **Stuart C McDonald:** Has it changed then? Is it now translated into the person's language? How accessible are these? I heard for example, I think from Medical Justice, that some people were blissfully unaware that this was what was intended until you spotted those papers in among



other papers that they were sending through to you.

Alison Pickup: It has been said that there are translations being prepared. I have not seen any of those translations or heard of any clients who have had them. There is sometimes an interpreter present or on the phone when they are served with the notice, but not always. Even when there is an interpreter, the clients we are aware of often do not understand what is being explained to them.

Also, some of them do not really know where Rwanda is or what that might mean for them. As I said, at that point they have only just been detained. They have often been in the country for less than a week, in detention. They are overwhelmed and frightened. Even if they are told explicitly by the interpreter, they cannot absorb that information or understand it.

We have seen a few cases where the message that they took away from what they were told is, "This is not a decision". It says that very clearly on the notice of admissibility: "This is not a decision". They were told, "You will get a decision in seven days' time", which is not quite right. They have seven days to respond, but that is the message they are taking away.

Stuart C McDonald: Wait and see what the decision is.

Alison Pickup: The concern is that they are going to wait and see what the decision is, rather than actively seek advice at that point.

Q220 **Stuart C McDonald:** Are they advised at that stage to seek advice? Does it say that in the document?

Alison Pickup: Not explicitly, although I understand that some of them are advised to seek advice when they are served with the notice, but not always.

Q221 **Stuart C McDonald:** What sort of legal advice is available to people in that situation?

Alison Pickup: The main way that people in detention can access advice is through the detained duty advice scheme. I am sure that Theresa will have things to say about that scheme as well. That is a rota scheme operated by now a large number of firms that have a daily slot where they can see up to 10 individuals. They have a 30-minute slot with each individual. It is often operated remotely at the moment, since Covid.

In that 30-minute slot, as you can imagine, there is not very much you can achieve, especially when speaking through an interpreter. At most really, you are going to find out where the client is from, perhaps some basic details, and assess their eligibility for legal aid. There are long waits, often, to get those slots. We have also seen that many of the clients who have been served with these notices of intent were either not aware of that scheme or had not been able to access advice through it.



Very few of the people that we are aware of at Asylum Aid have accessed advice and representation through the DDA scheme.

Q222 Stuart C McDonald: How do they end up getting in touch with your organisations?

Alison Pickup: I will let Theresa answer for hers. Cases have been referred to us by Medical Justice, Jesuit Refugee Service and other organisations that go into the detention centres to do drop-ins and are in touch with other detainees. There may be other detainees who have been in the detention centre for longer who will help the clients to contact an organisation like JRS, Care4Calais or Medical Justice, which will then try to help them find a legal representative if they do not already have one.

Q223 Stuart C McDonald: From your point of view, Ms Schleicher, basically, lots of people would have very little idea of what was happening to them, very little idea of the right to get legal advice, unless organisations such as yours were going into the detention centres.

Theresa Schleicher: Yes. We have had a few clients who, after being served the notice of intent, were directed to the duty legal advice scheme. They tried to access that but, for instance, put their name down and never received a call, or received a call from someone who said, "Fax your documents somewhere" and then never heard back.

They did not know who they were, did not have contact details and so did not have a named person who had taken on their case. Often, it is then quite difficult to work out what has happened, whether someone has looked at their case or has not. Some people receive poor advice through the DDA scheme. In our experience, it does not work well enough to pick people up and have their cases taken up within the seven days.

The majority of people who come to us are self-referrals. That may be because our number is being handed around by other detained people, or sometimes, if someone has a health issue, they may be given our number by an officer in the detention centre. Then we receive some referrals from other NGOs or from solicitors.

Q224 Tim Loughton: Can I ask some random questions, starting with the word "random"? Most of you used that term—that the scheme appears to be randomly selecting or whatever. Is that not the point of it? Is that not how the Home Secretary actually billed it when she launched it? I think she used the term of it being a lottery, in that, if you turn up in that fashion on those boats at Dover, it would be a lottery as to whether you ended up in a hotel in Kent or potentially on a plane back to Rwanda. Is that not the purpose of it? Is that not the deterrent effect, if indeed there is a deterrent effect?

Enver Solomon: That may be the purpose that the Home Secretary has set out, but, in statements given out by the Home Office and in conversations with officials, it is emphasised that it is not random. They will be screening for vulnerabilities. They will be going through a process



that determines whether Rwanda is a safe third country for the individual. They will not be sending children. They will not be separating families.

There was information that came out when people from the media visited the facilities in Rwanda that they were preparing to receive children. The manager of the accommodation stated that. Also, we have had a number of cases of young people who say they are children, who have not been given an age assessment, who have been issued with a notice of intent. That is of grave concern, not least given that the Immigration Minister said to this Committee that any age disputes "must be concluded, of course, before someone is relocated to Rwanda". Clearly, the intention in delivering this policy is not that it should be random.

Q225 **Tim Loughton:** I will perhaps drill down into the age disputes a bit more. When we were there, I think that we were told that they initially give the benefit of the doubt if they look anything up to 23 or 25, was it? It is not just around 18. Then, if somebody was disputed, they would go on to a further process. You are saying there are instances of people being issued with notices whose age has not been fully verified and are in that 18 to 23 potential bracket.

Enver Solomon: That is correct. What seems to be happening is that there is a very cursory assessment being done by Border Force officials. Based on that cursory assessment, a decision is being taken that people who say that they are children are actually adults. They are then being placed in detention and given a notice of intent.

When the chief inspector of borders and immigration appeared before this Committee, he clearly set out concerns that the process needs to be a careful process and that that is not happening. Going back to his evidence, he said, "At Western Jet Foil, when we have seen age questioning of migrants coming ashore and being asked to point to how old they are on a piece of cardboard with the numbers 1 to 50 on it, we can probably do better than that". It is clear that there is not a robust system of assessment being carried out. The guidance is very clear that that should not be happening.

Q226 **Tim Loughton:** Have you or any of your staff sat in on what you have described as a cursory assessment?

Enver Solomon: We have staff working down in Dover and they have seen cases of individuals where they think that there has not been a robust assessment process.

Q227 **Tim Loughton:** They have not sat in on any of those interviews.

Enver Solomon: No.

Q228 **Tim Loughton:** When we were down in Dover, we met some very experienced Border Force officers whose job is to carry out those interviews with an experienced social worker present as well. It so happened that, when we were there, somebody who had arrived on a



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boat that morning had claimed to be 17. After almost an hour's interview, it had been determined and he had admitted that he was in fact 30. What is your definition of a cursory interview?

Enver Solomon: As we understand it, there has not been a satisfactory assessment made. It is not a one-off assessment. Let us be clear. The process of determining age requires time. It is not an individual act. It is a process and it requires gathering information. An individual child, on the basis of initial assessment, has the right to challenge that and request that a formal, detailed assessment be carried out.

I do not doubt that there are some highly skilled individuals. I do not doubt that, when they make that first assessment, there are some where, following further collection of information, that initial assessment is found to be correct. However, there are many, many others that are not.

Q229 **Tim Loughton:** How many is "many, many"?

Enver Solomon: We have a project that has worked with dozens of individuals who have challenged their age assessment. Of those, when there has been a challenge, so-called appealing that initial decision—in effect it is—94% of those have been found to have been incorrect at initial assessment stage. Also, there was an FOI request done of local authorities. Based on that data, which was looking at hundreds of cases, I think over 400, 75% were found to have been incorrect at initial assessment.

Tim Loughton: That is at the initial stage then.

Enver Solomon: Yes.

Q230 **Tim Loughton:** Our understanding is that, as I say, if you are suspected to be over 18 to 23—I cannot remember if it is 23 or 25, but it is roughly that band—you have that initial not cursory interview, but an interview with two experienced officers there, a social worker and an immigration officer. If they are still unsure after that period, you will be given the benefit of the doubt and go on for further assessment. Only if they are sure that they can then say, "No, you are over 18", as was the case that we saw there, would they then be counted as potential random candidates to go to Rwanda. You just said, Enver, that there are dozens. That is dozens over how many years out of how many thousands that have come across in the last few years, on that basis?

Enver Solomon: It is based on data from our projects over a recent 12-month period, where we have worked with up to 150. When that case has been reviewed and challenged, 94% of those have been found to have initially had the wrong assessment.

Q231 **Tim Loughton:** How many?

Enver Solomon: It is 94% of 150.

Q232 **Tim Loughton:** That is 150 out of 100,000, okay.



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Enver Solomon: Yes. As I said previously, an FOI request was done to local authorities on hundreds of cases. I think that Alison can talk more about that. That data shows that in three-quarters the initial assessment was found to be not correct. The Home Office does not publish the data when assessments are challenged and it should be publishing the data.

Q233 **Tim Loughton:** That is something that we would recommend.

Enver Solomon: Absolutely, and I would encourage you to recommend that.

Q234 **Tim Loughton:** As you would expect, I am concerned if children who are genuinely children are being caught out as adults. This Committee needs to scrutinise whether those interview processes—and what we saw looked impressive—are robust enough and are coming up with, in the vast majority of cases, the right result at whatever stage.

Alison Pickup: Asylum Aid also works with age-disputed children and we have a specialist children's solicitor as well. We have not had any age-disputed children going through the Rwanda process as such, but certainly what we are hearing from our partners generally, as to the way that age assessment is carried out, would suggest that often the assessment is much more cursory than what you are describing.

Clients speak of speaking to one officer briefly and then another officer only looking at them and not speaking to them. We are not able to be there during these assessments, so we can only go on what our clients tell us. We also know that, in many cases, when those cases are subsequently looked at by local authorities, the local authorities reach a conclusion that the person is a child, even when the immigration officer has been satisfied that they are above that 23, 24 or 25 age that you mentioned.

The real concern in the context of this policy is that, if people are age-disputed but treated as adults, so treated by the Home Office as being over 25, they could be put through this process and sent to Rwanda within a matter of weeks. As Enver said, the process needs to take time. People need to have access to advice in order to be able to ask for a referral to a local authority if they maintain that the assessment was wrong and to be able to access the courts if necessary.

One point I would make as well is that the notice of intent, the inadmissibility notice and the information pack do not tell you that, if you are in fact a child, you should not be sent to Rwanda, according to the Home Office's policy. People who are served with those notices, and who are in fact children who have wrongly been assessed as adults, will not know that, in fact, if it was accepted that they were a child, they could not be removed. That would be an important thing for them to know in order to seek advice and make representations. There is a real concern that there is a serious risk of children being wrongly assessed as adults.



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Enver referred to the data from 55 local authorities that shows that, in 2021, 450 young people were referred to children's services, having been sent to adult accommodation. Last year, 450 people, having been identified as adults by the Home Office, were then referred to local authorities and three-quarters of those were found to be children. I am reading to you from a briefing by the Refugee and Migrant Children's Consortium, which I do not know if the Committee has, but I am sure could be sent over, if that would be helpful.

Q235 **Tim Loughton:** Thank you. Ms Schleicher, you have mentioned about people coming, looking for a place of safety. What, in your charity's view, is not safe about Rwanda?

Theresa Schleicher: I do not know, but I imagine that it may not be safe for everyone.

Q236 **Tim Loughton:** Is the UK safe for everyone?

Theresa Schleicher: Whether it is safe needs to be looked at individually. These people have come to the UK, so they have chosen to come here. It is not a Government transporting them here. If our Government are deciding to transport people to another country, they need to check whether that country is safe for them.

Q237 **Tim Loughton:** They have, because they would not have signed an agreement if they thought that it was not safe, surely. Why do you think that Rwanda is not a safe alternative to the United Kingdom?

Theresa Schleicher: It may be safe for many people, but there may be other people for whom it is not safe. There is no process.

Q238 **Tim Loughton:** Who are these people?

Theresa Schleicher: For example, one of our clients who is not heterosexual is very fearful of what the consequences for him will be of going to Rwanda.

Q239 **Tim Loughton:** On what basis?

Theresa Schleicher: On the basis that he fears that there is discrimination and potentially persecution for people who are not heterosexual.

Q240 **Tim Loughton:** What is the evidence for that?

Theresa Schleicher: If he had come from another country, claimed asylum and made those statements, if he was Rwandan and had claimed that he was not heterosexual, his case would need to be assessed before he could be sent back to Rwanda. Because he has come from a third country—

Q241 **Tim Loughton:** That is not the question that I am asking. Why specifically is Rwanda not safe, be it for people who are not heterosexual or other people that you suggest it is not safe for? What is the evidence



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and what is not safe in Rwanda?

Theresa Schleicher: I do not know for sure whether it is safe for that person. I am saying that it needs to be assessed. There is evidence that there is discrimination against people who are not heterosexual. Whether or not that would be the case for that person—

Q242 **Tim Loughton:** You have no evidence for that. Why does your organisation think that the Nationality and Borders Bill is racist?

Enver Solomon: Can I just come in please?

Q243 **Tim Loughton:** Let me get an answer to that question first, because I did not get an answer to my first question. Why does your organisation think that the Nationality and Borders Bill is racist?

Theresa Schleicher: I do not think that that is something that I have said in evidence here.

Q244 **Tim Loughton:** Your organisation organised a demonstration and has a large photograph on its website declaring “Nationality and Borders Bill is racist. Kill the Bill”.

Theresa Schleicher: We did not organise a demonstration.

Q245 **Tim Loughton:** If you look at your website, there is a very large photograph of that demonstration.

Theresa Schleicher: I do not think that that is correct.

Q246 **Tim Loughton:** It is one of your organisations and I am pretty sure that it is yours, if you want to check your website.

Theresa Schleicher: I will certainly check that.

Q247 **Tim Loughton:** Do you not think the Nationality and Borders Bill is racist?

Theresa Schleicher: There is a real problem with the Nationality and Borders Bill and some of the provisions in there in terms of how, for example, the Rwanda scheme failed to look at individual cases and how decisions seem to be made without individual consideration.

Q248 **Tim Loughton:** With respect, the Rwanda scheme is not part of the Nationality and Borders Bill. It was not mentioned in it. Why do you think that that Bill is not racist then? Are you saying that it is not racist or are you saying that it is racist? It is a simple question.

Theresa Schleicher: I would really like to look at all the provisions.

Q249 **Tim Loughton:** Surely you have done that. The Bill has gone through Parliament and your organisation, along with the other organisations and many others, made representations to lobby against it. Is it racist or is it not?



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Theresa Schleicher: There are provisions in there that penalise people based on their nationality and race, yes.

Q250 **Tim Loughton:** So you think the Bill is racist.

Theresa Schleicher: There are elements in it that are racist, yes.

Q251 **Tim Loughton:** You do, fine. Thank you. We got to the bottom of it. Ms Pickup, for example, if an Iranian has come across on a dinghy—and they are one of the top 10 nationalities in the past, in many cases people who are economically quite well off as well—and is found not to have a legitimate asylum claim in the UK, what could and should happen to that person?

Alison Pickup: Can I clarify your question? Are you asking about someone who has been admitted to the UK asylum process and whose claim has been rejected after a full consideration of whether they have a well-founded fear of persecution?

Q252 **Tim Loughton:** Yes, so somebody who goes through all the processes. Forget about Rwanda. They go through all the processes pre-Rwanda and are found not to have a claim and various appeals uphold that position by the Government. What could and should happen to that Iranian citizen?

Alison Pickup: If they have had a fair hearing, a fair process, and they have been found not to have a well-founded fear of persecution, the Government could remove them to Iran, or they could certainly try.

Q253 **Tim Loughton:** How?

Alison Pickup: In the way that they remove anybody.

Q254 **Tim Loughton:** You cannot, because the Iranian Government refuse to take back any citizens who are being removed from a third country. They will not let them get off the plane. Do you acknowledge, because we know that it is the case, that, if you are an Iranian who comes to the UK, it is highly unlikely that you can be removed from the UK to Iran, so you are going to be staying here? Is that not the case?

Alison Pickup: Yes.

Q255 **Tim Loughton:** Is that fair to those people who have a legitimate claim that we uphold, where we have somebody who has not, who, simply because they cannot be returned to their home country, stays here anyway? Is that not why a scheme like the Rwanda scheme gives an alternative so that that person would not be able to stay in the UK with no right to stay in the UK other than the fact that we cannot deport them to Iran?

Alison Pickup: I do not accept that it is unfair. It is not any individual asylum seeker's fault that there is no returns agreement with Iran so they cannot be returned to Iran. In terms of whether that is a justification for the Rwanda scheme, with respect, that is not who the Rwanda scheme is designed for.



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Q256 **Tim Loughton:** Why not? It is entirely the person it is designed for, is it not?

Alison Pickup: You were asking me about someone who has been admitted to the United Kingdom asylum process and has had their claim considered in the United Kingdom. The Rwanda scheme is for people who the Home Office decides are not admissible to the United Kingdom and decides to send to Rwanda in order for their asylum claims to be processed there. Many of the concerns about sending people to Rwanda are precisely that they will not have a fair hearing of their asylum claim in Rwanda.

In response to some of the questions you were asking Ms Schleicher, the Home Office's own evidence raises serious concerns about the treatment of LGBTQI+ asylum seekers in Rwanda, as does the United Nations High Commissioner for Refugees. There is evidence for the concerns that she articulated.

Q257 **Tim Loughton:** Can we stick with Iran? This is a really moot point as to why a scheme like the Rwanda scheme, whether you like it or not, and there are faults with it, is the only practical way for somebody for whom it is impossible to return to their home country. Iran is just one example. It is an alternative scheme that means that they are not able to stay in the United Kingdom and instead will have their claim processed in Rwanda.

Alison Pickup: I repeat that that is not what this scheme is targeted at. This scheme is targeted at people who are not admitted to the United Kingdom asylum system. One of the many very real concerns about this scheme is about Iranians who have a well-founded fear of persecution in Iran, which is a significant proportion of those found by the Home Office and the UK courts who come here and claim asylum. A large number of them are found to have a well-founded fear of persecution in that regime.

Q258 **Tim Loughton:** Do we know what percentage for Iranians?

Alison Pickup: I do not know off the top of my head, I am afraid.

Enver Solomon: I think that, on first decision, it is over 70%. I am really pleased that you have raised the issue of returns, because this is a really important matter. The question here is about voluntary returns. If an individual from Iran is not granted protection in the UK, there should be a proper system of working with that individual, via civic society, to advise that individual to look at the option of voluntary return.

Q259 **Tim Loughton:** They will not take them back. You know that.

Enver Solomon: It is voluntary return. That individual chooses to go back. That individual chooses to leave to UK or go to another country where they feel that they will be safe. The concept of voluntary returns is really significant, because, if you look at the data on the number of



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voluntary returns, it has gone completely downwards since there has been a lack of focus by the Home Office on the issue of voluntary returns.

There was a scheme run by Refugee Action a number of years ago that was working very successfully with people from a number of countries that supported them to choose the option of voluntary return on a dignified basis. That could be done with someone who comes from Iran, but the Government are not choosing to focus on returns.

Q260 Tim Loughton: How many Iranians did you successfully voluntarily return and assist to Iran?

Enver Solomon: I do not have the data back from previously when the scheme was operating.

Q261 Tim Loughton: The figure is probably going to be fairly insignificant, if not zero. Can you write to us to tell us how many people from Iran were successfully voluntarily returned to Iran by your organisation on that basis?

Enver Solomon: It was not my organisation. I advise you to ask the Home Office. The Home Office has all this data. It commissioned the voluntary return scheme. It has the data that the number of voluntary returns has gone down.

Q262 Tim Loughton: You have just given it as evidence as to why there is an alternative for a voluntary scheme. Can you please give us the actual data as to how many Iranians specifically have been successfully returned on that basis? It would be helpful to know.

Enver Solomon: I am simply saying that the data is held by the Home Office. I did not run the scheme. The scheme was commissioned by the Home Office. There is data on voluntary returns.

Tim Loughton: You have just prayed it in aid, so let us have the figures from you.

Chair: I am sorry; can I intervene here? We need to get back to the issue of the Rwanda policy. I know that you have opened up the issue about returns, but what we are considering this morning is the Rwanda policy. Perhaps we could get back to how the Rwanda policy and the people who are going to be affected by that are being dealt with. That would be helpful to us all.

Tim Loughton: I have dealt with that, so I am happy to hand on.

Q263 Carolyn Harris: To all of you, do you support the UK having an open borders policy for those seeking asylum?

Enver Solomon: It is absolutely clear that we need to control our borders. There is no question about that, but this is about having an approach that is about control, compassion and competence. This policy will not deliver on any of those things. It will not deliver control, because



it will not actually deter people. People will still take dangerous journeys. It does not address the push factors as to why people take those dangerous journeys. It will not deliver compassion, for all the reasons we have set out.

Actually, I think that it will fail to deliver on the concerns raised, as I said earlier, in Wendy Williams' review around "institutional ignorance and thoughtlessness towards the issue of race". Due to unpublished criteria of who gets sent to Rwanda and who does not, this apparently secret, opaque discretion creates an opportunity for direct and indirect or unwitting discrimination. That is the concern there.

It will not deliver compassion and nor will it deliver competence. Competence is about a system that makes timely, good-quality decisions on whether an individual has a well-founded fear of persecution. At the moment, we have over 100,000 people sitting in the system, awaiting a decision, over 70,000 waiting more than six months, and many thousands waiting over a year. The average time it takes is over a year. There are thousands who have been waiting up to 24 months, 48 months, and even some up to five years. That is not a system that is competent.

As I was trying to explain to Mr Loughton earlier, we also do not have an effective system of voluntary returns because the Government are not focusing on the issue of running a system that is competent, orderly, efficient and effective. The policy does not deliver on control, compassion or competence. Of course, controlling our borders is absolutely important. It is also important that, as one of the founding signatories of the UN Convention on Human Rights, we honour the principles behind that convention. One that is absolutely clear is that people should be granted a fair hearing on UK soil if they choose to seek asylum in the UK.

Q264 **Carolyn Harris:** I am with you on all this, but, as an MP who does casework, I know that there are some cases that are not genuine. Would you accept that the fact that there are a proportion of cases that are presenting for status but are not genuine cases creates a bigger problem for a Government to try to introduce a policy that is going to be suitable for all?

Enver Solomon: It is very clear that the public want a system that they can have confidence in that the Government are delivering. The evidence from polling shows that the public want a system that is orderly—and that involves control—fair and efficient, and makes a good use of taxpayers' money.

That means that, if an individual is found to not have a legitimate, well-founded fear of persecution, there should be a mechanism that facilitates their return. Of course there should be. That is very clear and there are cases where they are not found to have a well-founded fear of persecution. The data shows that, on first decisions at the moment, three-quarters are granted protection in the UK and a quarter are not.



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That is the nature of the system. It has always been the case. Governments have always run the system like that, but it is how you operate the system.

If you overpromise and underdeliver to the public, you will erode public trust. That is what is happening. We had a Home Secretary who said to the public that she will make the route across the channel unviable. It was totally unrealistic. We have had a Home Secretary who has now said that the deal with Rwanda is going to solve the issue of people making dangerous journeys, which is an absolute issue that we are concerned about and we want to end as well, but it will not do that. If you overpromise and underdeliver, you erode public trust in the asylum system. That is not what should be happening.

Q265 **Carolyn Harris:** Alison, do you believe that there should be open borders for everyone seeking asylum?

Alison Pickup: No, I believe that there should be safe and legal routes for people who need to seek asylum. The UK has been a signatory of the refugee convention for over 70 years. The Government often talk of the proud history that we have of protecting refugees in the UK. That is a history that involves respecting people's choice and, as Enver says, allowing people access to a fair and dignified process in the UK, not trying to shift our responsibility on to another country that is many thousands of miles away where there are real concerns about its capacity to process people's cases fairly and properly.

There are no safe and effective legal routes for most people to seek asylum. That is what needs to be addressed. As Enver said, invest money in making the system timely, fair and effective in the UK, rather than in shipping people to Rwanda.

Theresa Schleicher: It is not Medical Justice's position that there should be open borders. We work within the process and prepare medicolegal reports to allow the Home Office and the courts to make better decisions. That is about facilitating the process.

Q266 **Carolyn Harris:** Would you accept that the abuse of the system has created the policies that we are currently experiencing?

Theresa Schleicher: I am sure that abuse of the system exists. I do not know whether that is what led to the policy being developed.

Q267 **Carolyn Harris:** It contributed towards it.

Theresa Schleicher: I am sure that concern about that contributed to this.

Q268 **Carolyn Harris:** The Home Office country policy and information on Rwanda concludes that there are no substantial grounds for believing that individuals relocated to Rwanda will be at risk of torture or inhuman or degrading treatment. Do you agree with that?



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Theresa Schleicher: I do not have information about what exactly happens in Rwanda, but of course there are also country reports on other countries from which asylum seekers come. Even though often those reports show that there are not systemic problems, individual's cases are still individually considered to make sure that, in their case, there is not a risk.

Enver Solomon: I would urge the Committee to seek evidence from the UNHCR on this issue about safety in Rwanda.

Q269 **Chair:** We have. We have had a session with the UNHCR, yes.

Enver Solomon: Good. I would urge the Committee to also look at the State Department's assessments. It is not my job, as an organisation that works in the UK, to make judgments about Rwanda, but there is clearly evidence that contradicts the Government's position on the extent to which Rwanda is a safe country. I would urge the Committee to look at that evidence.

Alison Pickup: I have essentially the same answer. There is evidence that contradicts what the Home Office says. We have a very good system in this country of country guidance cases, where the independent tribunal reviews all the evidence on the safety of a particular country, or indeed the High Court. They often reach conclusions that are different from what the Home Office says in its country policy and information note. Our concern here is that this process is being rushed so much that there is no time for that careful consideration to happen and no opportunity for people to put forward the evidence. Often, expert evidence is needed to rebut what is being said by the Home Office in its assessment.

The other point we would make is that, if you look into the detail of the Home Office's country policy and information reports, rather than simply the conclusions, there is quite a lot of evidence that suggests that there are real issues in the asylum system in Rwanda that could pose a real risk to people's safety.

Q270 **Chair:** I would like to ask a couple of questions arising out of the discussion about the legal advice and the time limits around the seven days. I think that it was Ms Schleicher who said about poor-quality legal advice that was given. Is that a concern? As I understood it, immigration lawyers had to be of a certain level of certification in order to give advice, so I am a bit concerned if you are saying that the people giving advice are giving poor-quality advice.

Theresa Schleicher: That is right that there is an accreditation process. The contract for the legal advice surgery in detention was changed not too long ago and a large number of firms have started providing advice. Many of them do not have a huge amount of experience of working within detention. There are a lot of policies and procedures that are specific to detention that they do not always seem to have detailed working knowledge of. Alison might be able to say more about the advice surgery.



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Alison Pickup: Anybody who is giving advice on an immigration case under a legal aid contract has to be accredited through an exam and they have to renew that accreditation every three years or so. There are also quality controls under the legal aid agencies' contracts, including peer reviews of firms that take place. Those peer reviews lead to firms being categorised between 1 and 5, with 1 being excellent, 3 being acceptable and 4 and 5 being concern. I believe that there is evidence that some firms that are on that rota have been categorised as below competence by the Legal Aid Agency, but there is then a process for there to be a further review of that, before they lose their contract.

There are concerns about the quality of advice and about the experience of the people who are giving it. As Theresa said, until 2018, there were a small number of firms that had those contracts to provide advice on the duty scheme and they developed a specialism in the kinds of cases that come through detention, many of which are complex and urgent.

The contract was then opened up and there are now more than four times as many firms delivering advice, of varying size and experience. That obviously has an impact on their ability to give what is very complex advice urgently.

I talked before about the 30-minute slot that you have as the initial appointment. It is impossible for anyone to give proper advice in that 30-minute slot. All you can do is get basic information and assess eligibility for legal aid. The range of things that then need to be done in the subsequent period are extremely challenging, even for experienced lawyers.

Q271 **Chair:** That is very interesting to hear that and that is of concern. In terms of getting an extension to the seven days that you have when the clock is ticking, how often has that happened? Is that easily done or is it more difficult to get the seven-day extension?

Alison Pickup: Individuals do not appear, for the most part, to be told that an extension is a possibility. As far as we know, it is only where people have been able to access legal advice. Often that happens towards the very end of the seven-day period. Their lawyers are then requesting an extension.

There has been a mixed response. Extensions have been granted, sometimes not for as long as the lawyers were asking for. Theresa mentioned earlier the delays in getting medical records, rule 35 reports and medical reports. The extensions we have heard of are generally between seven and 14 days, so not long enough to address those concerns. We have heard of cases where extensions have been refused altogether.

Q272 **Chair:** Can anyone tell the Committee how many individuals have been able to challenge the notice of intent to send them to Rwanda?



Alison Pickup: The notice of intent itself states on its face that it is not a decision. After the notice of intent, the Home Office then needs to make a further series of decisions before people are removed. I cannot give absolute numbers. As I am sure the Committee is aware, there were 47 people who were originally scheduled to be removed on the flight on 14 June.

I wanted to take the opportunity to correct something that Mr Rycroft said to you in his evidence. It is a little ambiguous, but it was in response to some questions from Mr McDonald about the reasons why those 47 people were not ultimately removed and whether it was as a result of court judgments or as a result of the Home Office deciding to reconsider.

There were a few exchanges, you may remember. In the end, he said there was a specific judgment in each case. As far as I know, and I have tried to check this as much as possible and I cannot be categorical, there were only four or five cases in which a domestic court granted an injunction, and there are only three cases that I know of where the European court gave a rule 39 indication. That is a matter of public record.

In eight of the cases that are being considered as part of the Leigh litigation, it is a matter of record from the court that the Home Office withdrew the removal directions before the court considered the application for an injunction. I am also aware of at least two other cases where removal directions had been set but were withdrawn before court proceedings had even been issued.

So there is some ambiguity, as I say, in what Mr Rycroft said, but I just wanted the Committee to be clear that, in the vast majority of cases, it was the Home Office that withdrew the removal directions, either as a result of further evidence, further representations, or in response to court proceedings.

Q273 **Chair:** That is interesting to know, thank you. There is just one final question from me. Yesterday the media were reporting that there was a woman who has been given the notice of intention to remove her to Rwanda. She is potentially a trafficking victim. So far it has just been men who we have heard about being given those notices. Women are now being included, if that report was correct, which fits with what the Committee was told: that there is no bar on women and that families could be removed together; they would not be split up. That is everyone's understanding of this.

Enver Solomon: That is correct, yes.

Q274 **Stuart C McDonald:** I just have a couple of final questions, if I can. We have touched briefly on the nature of the vulnerabilities you have seen in your clients. I wonder if you could set that out in a little more detail. From the numbers, roughly speaking, 75% of these people will be refugees. That is just based on the statistics generally. We have spoken a



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little bit about age. There are no questions asked at screening about torture. Have you found evidence that some people who the Government are attempting to remove had been subjected to torture? What other vulnerabilities have you found?

Theresa Schleicher: Yes, we have come across a large number of people who had histories of torture and a number of people who had histories of sexual violence as part of torture, in childhood or sometimes at the hands of smugglers. We have had a number of people who had been referred to the national referral mechanism and have received reasonable grounds decisions regarding trafficking. We have had a large number of people with mental illness.

We have done 15 medicolegal reports so far and 11 of them have found either post-traumatic stress disorder or complex post-traumatic stress disorder. Some others have had symptoms that were likely trauma-related, but further assessment is needed. One client has been assessed as likely lacking capacity to understand his situation and the notice of intent due to a severe mental illness. We have had a number of people with physical health problems, including a client who has a history of brain cancer requires regular check-ups for that. There is a range of vulnerabilities.

There was a comment earlier that the purpose of the scheme is that it is random. If that is the case, that would lead to people with vulnerabilities being routed into it.

Q275 **Stuart C McDonald:** If it was not for the intervention of NGOs like your own, then, these people would be in Rwanda by now. What sort of impact has this whole process had on them and their vulnerabilities?

Theresa Schleicher: Just to correct that, not all of the clients I was referring to have had removal directions. They have all had notice of intent. Out of the just under 40 people we have worked with who had notice of intent, seven received removal directions for the flight on the 14th. For some of them, the removal directions were quite quickly withdrawn because they had received extensions to the seven-day period and those extensions had not yet expired. For the others, removal directions were subsequently cancelled for other reasons.

Chair: We are going to have to go to the final question.

Q276 **Tim Loughton:** I did not want to ask a question. Given my exchange with Ms Schleicher earlier, I just wanted to put on the record that on the Medical Justice website the first item is the announcement that you will be giving evidence here today and the second item is a photograph saying the Nationality and Borders Bill is racist and giving details of the demonstration by your organisation, organised by other organisations. You might want to look at that. If it is not the view of your organisation that the Bill is racist, you might want to put different things on your website.



Theresa Schleicher: I will look at that straight after this hearing.

Enver Solomon: Very briefly, in response to what Mr McDonald was asking, it is important for the Committee to understand that the wider impact of the Rwanda deal on those people in the asylum system today is hugely significant. We, the Refugee Council and the British Red Cross have come across cases of people going into hiding and going underground. When that happens, there is a real risk they will be preyed upon by people who want to exploit them as a consequence of the fear they are experiencing about being sent to Rwanda.

We run a therapeutic service. We work with children. I am sure Mr Loughton, given his previous role as Children's Minister, will be very interested in this. We have seen children self-harming because they are so worried and anxious about being sent to Rwanda. That cannot be what anyone wants to see as a consequence of this policy. Our grave concern is that, when we raised this with the Home Office, there did not seem to be any serious desire to exercise its duty of care particularly in relation to children, who are experiencing this extreme trauma and extreme level of anxiety.

We simply had a response from an official not on the operations side but on the senior side, the policy side, batting back our concerns about the Home Office failing to exercise its duty of care. I urge the Committee to look into that.

Chair: Thank you very much for raising that. We certainly will look at that. To all three of our witnesses, if you have additional information, statistics or anything you feel you have not been able to say to us today, please feel free to write to the Committee to set those out. We will certainly look at that and we will certainly look at the final point you just raised, Mr Solomon. Can I thank all three of you for the evidence you have given? It has been very helpful for the Committee to hear directly from you.

Examination of witnesses

Witnesses: Tony Smith, Rhys Clyne and David Wood.

Q277 **Chair:** Good morning to our second panel. We also have a member of the second panel who will be joining us at 11.10; that is David Wood. We have two members of the panel in the room. We will start by giving the witnesses a chance to introduce themselves so we are clear who everybody is. Mr Smith, would you like to start off by explaining who you are?

Tony Smith: Good morning. My name is Tony Smith. I am a former director-general of the UK Border Force. I worked in the Home Office between 1972 and 2013. I stayed in the Department the whole time



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apart from a three-year attachment to Canada immigration. I retired in 2013 and am now an international border management consultant and commentator on global borders.

Chair: Thank you. That is very good to know. Mr Clyne, would you like to introduce yourself?

Rhys Clyne: I am Rhys Clyne. I am a senior researcher at the Institute for Government. We are an independent think tank that works on Government effectiveness and policy-making.

Chair: The purpose of this second panel is to look at the policy-making around this new policy in relation to Rwanda and whether it is effective. We are particularly looking to the experience of Mr Smith and Mr Wood, when he joins us, for their thoughts. We are going to start off with some questions from Mr Loughton to Mr Smith.

Q278 **Tim Loughton:** Mr Smith, welcome back to the Committee. Is the Rwanda scheme a consequence of the Government's failure to conclude bilateral agreements with the EU or individual EU countries to return asylum seekers to the safe countries where they embarked on their journeys?

Tony Smith: Yes, absolutely.

Q279 **Tim Loughton:** Take the example—I think you were sitting in on the previous session—about an Iranian who comes across in that form. Many of them have; many of them are described as economic migrants. Many—I do not have exact figures—are found not to have a legitimate claim and go through an appeals process but then are effectively stuck in the UK, because we cannot return them to Iran. Is that not just the sort of migrants coming into the country who the Rwanda policy can address by making sure they are no longer in the UK but are in another country that should be safe?

Tony Smith: Yes. As you said earlier on, the problem with the immigration enforcement controls at the moment is an inability to return people after their claims have been processed and properly considered. One of the reasons for that is that some of these high-intake countries—Iran, Iraq and Eritrea—will not co-operate with the documentation process to return them. Quite often, the migrants themselves will not co-operate with the process in terms of providing the necessary data to get a travel document.

This is really what is fuelling the business model, in my view. People know that if they can get into British territorial waters, regardless of the merits of their asylum application, it is highly unlikely they are ever going to be returned. My preferred option, as I said in answer to your first question, was a safe third-country agreement with France or the EU. Failing that, the Government have to look at alternative places that people can go to, if it wants to have an effective immigration control.



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That is where Rwanda has come up. They have taken a view, rightly or wrongly, that Rwanda is a safe country. They have come up with what I understand is a completely new arrangement—it is not offshoring or outsourcing; it is a new economic partnership with Rwanda—that enables them to say to people who arrive by, as they call them, unsafe or dangerous routes, “You will not be able to access the UK asylum system. We are going to send you to another country where you can access their asylum system, which will not raise any risks under the UN refugee convention”.

I guess that what you are looking into now in some depth is whether that is a justified and safe framework, which I am not really qualified to say. That is the reason behind the policy. It is simply that we have lost the capability, in many cases, to return anybody at the end of the process.

Q280 Tim Loughton: The agreement with France and the not insubstantial amounts of money that we have been giving the French Government to try to police their own border have not resulted in a decline in the numbers coming across. The numbers are getting higher. The various other measures that the Government have taken through legislation appear not to be having a deterrent effect, given that the number coming across has already exceeded last year’s equivalent.

Are there other things that the Government could have done to achieve a practical solution to deter before they came up with the Rwanda policy? Have they taken too big a step at this early stage? Is there something else that could have been done, or is this the only show in town at the moment for coming up with a practical that might work, if it, literally, gets off the ground?

Tony Smith: Were I still in the Home Office, I would be advocating a very significant line of effort across Whitehall—not just in the Home Office, but particularly in the Foreign, Commonwealth and Development Office—on returns agreements, because this is essentially a foreign policy issue. There are a number of complexities about this, which I have been asked about in recent years.

Is it to do with Brexit? We had a safe third country under the Dublin regulation with the EU to stop asylum shopping. I was involved in a lot of those. They were not really that effective, because there was quite a high bar to demonstrate that somebody had claimed asylum and was therefore rightly returnable to a third country. That did not really work that well. I would have liked to have seen a very significant line of effort with the EU on what we are going to do about a joint problem that we have between our country and its territory on human smuggling and trafficking.

These are two safe third countries patrolling a 26-mile waterway, neither of which, it seems to me, poses any risk of human rights violations or asylum violations. To me, that is a foreign policy issue that could be taken up by others outside of the Home Office, not just the Home Office.



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The other point is that I would like to have seen that not just with the EU, but with source and transit countries. As I understand it, the Government are in a process of agreeing new trade agreements with a number of countries. I would have hoped there was something in those negotiations that would include a clause to say, "If somebody does not qualify to stay in our country, you will agree to give them their fundamental right"—it is a fundamental right—"and take them back to the country of which they are a national".

Those are the two areas. I do not know enough about what is going on inside Whitehall to speak with authority, but I certainly would have challenged that.

Q281 **Tim Loughton:** You heard Enver Solomon talk about the voluntary return scheme. That may have been more prevalent in your time at the UK Border Agency, Border Force or whatever it was called in those days. It has changed its name so many times. Was that a thing for Iranians that you know of?

Tony Smith: As far as I know, it still is a thing. I did check on the Government website before I came here, but it does seem to me that you can still apply for voluntary return, if you wish to. It is up to £3,500 that you can acquire. I do happen to know some people who still work in the business, who tell me that people are offered the opportunity to make a voluntary return at the point of reporting.

A very significant proportion of the migrants in the backlog are reporting to the reporting centres. They are always given an opportunity to take advantage of the voluntary return scheme at any stage in the process. They do not tend to avail themselves of it. The primary reason for that comes back to the point, "Why would I? You are not going to be able to return me anyway, are you? I am going to see this process out and eventually you are going to grant me exceptional leave to remain in the UK".

Q282 **Tim Loughton:** Mr Solomon seemed to think that scheme was still up and running. To take the case with Iranians, we know there is a specific problem, because the Iranian Government will not let them physically off the plane and come back. Are you aware that in the past, when that policy has prevailed, a number of Iranians have voluntarily left the country to go back to Iran? Mr Solomon was not able to produce the figures.

Tony Smith: I do not know about Iran in particular, because I do not have that data. I do know that voluntary returns, as an enforcement strategy, is quite high up the agenda. It makes sense all round to try to persuade people to make them. I am afraid I could not help the Committee with data. You would have to go to the Home Office for that.

Q283 **Chair:** Could I ask you about the idea that the Rwanda policy is a deterrent? It has been difficult to find evidence to back that up. This is a



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new policy development. It is untested. What is your take on the idea that this will work as a deterrent?

Tony Smith: I am afraid I do not know whether it will or whether it will not. The jury is still out on that. We can only really monitor the intake figures. The intake figures do not seem to have changed very much since the policy was announced, but then again we have not been able to send anybody to Rwanda yet.

I was over in Calais just before Christmas, in fact round about the time of the tragic drownings, talking to some of the migrants there not about Rwanda but about why it is they would want to come to the UK. For a considerable number of them, the main motivation was that they are not treated very well at all in Calais. There are very significant numbers of police officers there—as Mr Loughton said, we have probably paid for a good deal of those—who are doing no more than patrolling the woods and moving people on. It is a pretty miserable existence for them.

The French Government do not seem to be bringing them into a system or giving them any welfare or support in the same way as you would expect a country like us to do. Quite a few of them have really good reasons, like languages or welfare. That is really why people are doing this, because it is a pretty miserable existence for them in Calais.

The question is, “If you are going to stop the boats, how are you going to stop the boats?” If you cannot persuade the French to behave in a different way, you have to deny them what they are seeking, which is settlement in the UK. If the Rwanda model does start and they do see publicly—the communication is very good; they have mobile phones and they are very much following what is going on here—that there is a possibility or even a likelihood that they may find themselves not getting settlement in the UK but instead find themselves in a third country, they may choose, despite the miserable conditions in Calais, not to come and to pursue their applications to remain in the EU. I am afraid I do not know, because it is too soon to say.

Q284 **Chair:** I just want to welcome David Wood, who has joined us. We are very pleased to see you. Would you just like to introduce yourself? Then you will be part of our second panel formally.

David Wood: My name is David Wood. I am a previous director-general of the Home Office and director of the Home Office in a relevant area to the areas that you are discussing, I suspect.

Chair: Thank you very much. We are very pleased that you have been able to join us.

Q285 **James Daly:** You have sort of answered the question I was going to ask, which was maybe a naïve question. Why is France not a suitable place for a lot of people? Why would people not want to stay in France, rather than taking the risk of coming over on the boats? You have answered that.



I wonder if I could ask you another question. This is getting down to brass tacks for the system. The Rwanda policy is about removals; it is about removing people from here. Could you just tell me what the current process is for removing someone who is a failed asylum seeker in this country? What happens? The decision is delivered. From that point, what happens to remove somebody? In essence, does that process simply not exist, and we shouldn't kid ourselves that it exists?

Tony Smith: There is a process that goes on in asylum casework in the Home Office, which considers the claim, decides whether it should be granted and, if it is refused, monitors that case through what they call barriers to removal. "Is there any barrier to the removal of this person?" That case will continue. Quite often that person will be reporting, weekly or monthly, to an immigration centre while the case works through the system.

It will come to Immigration Enforcement to conduct either a detention or an arrest only once all the barriers have, on the face of it, been removed. Immigration Enforcement will then be invited to go and detain that person at a reporting centre or serve removal directions, depending on the likelihood of flight. What happens then is that that action, the service of a notice of removal or detention, prompts another process. Quite often secondary representations are lodged or a secondary judicial review is lodged. Quite often, people are taken into the removable pool and then released again before the—

Q286 **James Daly:** Can I just interrupt? I am terribly sorry; I do not have much time. The straightforward position is that, if we are debating the merits of a policy as to how you remove people—it is a bit more complicated in the case of Rwanda—what we have at this moment in time is a system that cannot remove failed asylum seekers from this country. It just does not happen.

Tony Smith: It is hard to find the end zone. I have described that to a number of Governments over the years. It always has been. "When is the point at which you are going?" That does not seem to have been reached, because there always seems to be an opportunity to intervene right up to the point of the departure of the aircraft. It is very hard, yes, to remove failed asylum seekers, because of this perpetual ongoing process of further representations and challenges.

Q287 **Chair:** On the figures I have seen, in 2010 we were removing around 10,000 failed asylum seekers. Last year, it was about 800. We were doing something in 2010 that we are not doing in 2021.

Tony Smith: Yes, I was around then. I was in the UK Border Agency. David Wood was there with me then. I was a regional director for London and the south-east, so I had responsibility for removals. We had a third country unit, which worked quite well. A number of those did go to third countries. We had the detained fast track process, which meant that those that were manifestly unfounded would also be removed. We did not



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have the significant problem we have now of not being able to send people back to source and transit countries. It was not so great as it is now.

In the last 10 years, the third country unit has basically disbanded and the detained fast track process has basically been shut down. We are left with a significant number of what we call substantive applications for asylum that never really reach the end of the process. That is the problem.

If you want to reverse engineer that process, you have to get these return agreements in place with third countries and source and transit countries. You have to do what the Government have said they are going to do and streamline this process, to stop these perpetual appeals, secondary systems and so on, in order to get back to where we were then.

Q288 James Daly: My concern in respect of this—we can debate the Rwanda policy, and it is very serious and touches individual lives—is that we do not have a functioning immigration policy, as far as I can see. One of the things that would motivate you to come to this country is that there is no way of removing you. I appreciate what the Chair has just said, but is that not a pull factor? Once you are here, you are not going to leave.

Rhys Clyne: I defer to Mr Smith on the intricacies of the system, but I would echo the point that he began with. That does not change the lack of evidence for a deterrent effect that we see now, because of the untested nature of the policy.

How does that translate into good policy in the Home Office? It increases the importance of a robust evaluation plan being in place now as the policy is implemented. The Permanent Secretary, when he gave evidence to your committee recently, spoke about the thinking they have been doing about assessing value for money through implementation. That becomes even more important, given the uncertainties.

Q289 Stuart C McDonald: I have a question for Mr Smith. The other thing that has changed since 2010 is the exponential amount of time it takes for the Home Office to come to decisions on asylum cases, which is one of the key reasons why you end up with further evidence being provided or why a person's life circumstances have changed and therefore there is a fresh claim. If we get back to making decisions within a reasonable period, surely you can solve some of that problem.

Tony Smith: I do not know what has happened with targets in the Home Office. Since I have retired, I have seen a lot of press about targets. There certainly were targets in my day. There were removals targets. I was expected to remove X number of removable people. I was penalised on my annual report for not removing people to Greece and Italy, but that was because a judge had decreed that those countries were no



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longer safe for removal, because they did not have an effective asylum system.

Similarly, there were throughput targets. We had a case conclusion rate, which Dave will remember was six months. You had to make a first decision in a case in six months. One good way of getting up your case conclusion rate is to grant everything, because it is very quick and very easy to grant cases. It is much harder to refuse them, particularly when they are contentious. That contention runs on sometimes beyond six months and quite often for some time, because of a challenge process. We need to look at the process for a threshold timeframe under which it can reasonably be expected.

Q290 **Stuart C McDonald:** On that point, despite the fact that decisions are taking much, much longer, grant rates are also much, much higher than they were back in 2010.

Can I go to you, Mr Wood? There is this challenge about the evidence base for this policy. It is pretty slim. There was an example of what happened when Israel tried something similar a few years back. What should the Home Office learn from that? Has it learned anything from that?

David Wood: I am sure the Home Office would have looked into previous relationships with Rwanda and previous attempts like this. As to whether lessons have been learned from that, I do not know all the reasons for the change of heart by Israel and why that policy was not followed through or did not succeed.

I would have thought it was reasonable to assume that the Home Office would have taken into consideration, as I say, those previous arrangements. There were two other countries that had a relationship with Rwanda. I guess the lessons to learn are going to be learned in the next year or so. The policy is there now. The legislation has gone through Parliament. They are starting to face the inevitable difficulties of the legal challenges.

Q291 **Stuart C McDonald:** The removals took place on a basis that had nothing to do with the legislation that went through Parliament, but that is another issue.

This is supposed to create deterrence. We have already heard from Tony Smith about some of the reasons why people do want to come here. We were not able to get from the Permanent Secretary any idea of the Home Office's thinking of how many people realistically need to be removed to Rwanda before it becomes a deterrent effect. How do they go about doing that sort of modelling?

David Wood: That is very difficult to model, because I am not sure you have any examples of things in the past that you can look back to in order to give you that sort of baseline.



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As Tony said, the experience of the system is that there is a complete and utter determination for groups of migrants to get to the UK. Some of them are economic migrants and some of them are genuine refugees, if you draw a distinction. That determination will need some deterring to stop them.

For the Rwanda situation to work, it will probably need reasonable numbers being removed. There is no prospect that all migrants will suddenly stop coming across the channel. It could maybe have an impact and reduce the numbers, but they are only likely to reduce if they see there is a real chance or risk of them, when they arrive in the UK, being taken to Rwanda. Until those removals start in numbers, that deterrent is unlikely to have any impact.

Q292 **Stuart C McDonald:** Following on from that, there are questions about capacity in Rwanda to deal with sufficient numbers to create the deterrence, but that is a different issue. You have spoken about the determination to get here. In fairness to Mr Rycroft, when he was here he was alive to this issue as well. There is a danger that this results in people making more dangerous journeys, attempting to land further up the coast so they are not detected, or simply reverting to the back of lorries again.

David Wood: There is that. It will change migrant behaviour, and there is evidence of it already happening. Normally, the migrants who cross the channel would claim asylum. I would say 100% or 99% of them always have done. Once they are encountered this side, whether it be in the backs of lorries or via boats, they will claim asylum. There are now numbers of them who are not claiming asylum when they are intervened.

I was going to use the word "absconding". I am not sure "absconding" is the correct legal term. These people are not in custody or are not on any particular bail, but they are taken to hotels. They are leaving hotels in reasonable numbers. That is probably happening in larger numbers now than it was before. So it will impact on migrant behaviour. If they felt there was a realistic risk of them being taken to Rwanda, there would be more absconding or absenting themselves from the system. There is a limited capacity in the system to detain people in order to remove them to places like Rwanda.

Yes, I do not know whether they will go further up the coast and take greater risks like that. It is quite difficult in the type of vessels they are using. I think the Committee visited Dover recently.

Q293 **Stuart C McDonald:** Yes, there was some evidence of extra fuel being on the boats. It was not known whether that was because of them taking off from further away or whether there was going to be an attempt to travel further. We will come back to that.

As a final question for you, Mr Wood, everyone wants to try to tackle these awful gangs and so on. This problem has been around now for a



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few years, but it seems to have grown exponentially. What has gone wrong with good old-fashioned police and intelligence work, co-operation and working out who these people are? What are the challenges? Why is it that we seem to be not getting it right?

David Wood: There was a good example yesterday where there were five countries involved in an international operation, arresting smugglers in different countries. That is the challenge. It is not within the hands of the National Crime Agency in the UK. They can develop and provide intelligence, but this is operated across lots of different jurisdictions.

While the operation yesterday was concentrated in Europe, this has tentacles much further afield. There are agents in India and other countries who are identifying migrants and taking money off migrants to travel to the UK and Europe illegally. There are individuals in Europe who are facilitating this. It goes across all different law enforcement regions and countries.

That is the challenge. You are right, as you phrased the question, that it requires co-operation and working together. As I say, we saw a good example of that yesterday. It is challenging to develop intelligence. I spent over 30 years in the Metropolitan Police. My role was tackling organised crime at the time, leading teams of detectives. There are ways, but the activity really has to be in France. I am sure there are a lot more proactive methodologies that could be employed in France to make the detection of the organised criminals more successful. I am not saying there is no activity whatsoever now; I am sure there is, but the main seat of the activity needs to be in France, where the boats are leaving. You need to look at where the outboard motors and the boats are sourced from. Look at the precursor evidence of this.

Some of these things are probably being done, in all fairness, but it is that co-operation with different jurisdictions, different countries and different law enforcement agencies that I suspect makes this more complicated.

Q294 **Stuart C McDonald:** I have one more question to Mr Smith. You spoke about Dublin earlier. There are a couple of countries outside the EU that are part of the Dublin rules, as I understand it. Norway is one, for example. Has the Home Office even attempted to negotiate membership of the Dublin convention again?

Tony Smith: I do not know, I am afraid.

Q295 **Chair:** Could I just ask about numbers? Clearly, the Government are very concerned about the number of people who are trying to seek asylum in the UK. If you look at 2002—both of you might have been around then—there was a peak of asylum claims of just over 84,000. That was the highest for many years. It has gone down over the years. We are nowhere near that now. In terms of dealing with that number of asylum claims, could you talk us through what kind of policies were in place at



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that time to try to tackle asylum claims—people coming to this country and claiming asylum?

Tony Smith: I am not sure when Dave joined. I was certainly there in the early 2000s. What was happening at the time was a very significant increase in asylum seekers coming across from France. They were coming on the ferries, because there was no carrier's liability legislation on the ferries. The new Channel Tunnel was facilitating lots and lots of migrants.

In order to get intake down, we were presented by the Blair Government with a challenge called "tipping the balance". We were invited to try to reduce asylum intake and increase the number of removals so we were able to get the balance right. I worked on both sides of that equation.

On the Border Force side—it was then the Immigration Service—at the ports it was about bringing down the numbers of people coming across. We have been quite successful in that, because we managed to conclude the Le Touquet treaty and the Sangatte protocol. We moved Border Force into France; we established a British control zone; we spent quite a lot of time securing the port so it is much harder for migrants to come through the port and get into the country. When you talk about numbers, an acceptable number then was potentially about 25,000 a year from the 85,000. We got it down between 20,000 and 25,000. We never eliminated it completely. That seemed to be generally okay.

In terms of the removals, it was these initiatives about trying to get the detained fast track cases going, getting the third country unit cases going and putting more effort into enforcement teams. Later on, when Dave was there, in the UKBA we created integrated casework and enforcement teams, which worked hand in glove with one another. When casework barriers were raised at the last minute, they were resolved very quickly here so the enforcement process of removal could go ahead. That is how we managed to get the removals going.

We did manage to restore balance for quite a while. From 2005 to 2010, the UKBA went through a lot of challenges. It was not fit for purpose and all kinds of things. While we were doing the asylum challenges, we were not deporting foreign criminals, which we should have been doing as well. There were lots of challenges around that time. We did get it under control with the new asylum model, but since then it has gone backwards again.

Q296 **Chair:** What you have just described is a whole range of approaches to tackling this. Perhaps I could ask Mr Clyne to comment. There is a lot being put on this Rwanda policy: that it is going to deliver big things in terms of the deterrent and reducing the numbers. Could you talk to us about how you would approach that in being able to analyse whether it will deliver everything it is promising?



Rhys Clyne: I should add that the Government are keen also to stress the other aspect of their approach, including the role of the Navy in the channel in complement to this policy. The multifaceted nature of approaching a complex challenge like this makes evaluation more complicated.

That is stressed as being even more important, because of the lack of evidence to attribute likely causal effect to individual components of the policy prior to decision-making, as is inevitable in complex real-world policy-making in a whole range of areas. What that means practically for the Home Office now is that, as the policy is implemented, as flights begin to take place, it needs a robust methodology for attempting to attribute causal effect to both the different components of the policy, so the Rwanda flights, the role of the Navy, the role of negotiations with bilaterals, et cetera, and other external factors like the weather.

The Permanent Secretary spoke about this in the evidence a couple of weeks ago. That is absolutely right. The Home Office is working on that. I would argue that a key component of policy-making and evaluation is transparency. That also featured heavily in the Windrush lessons learned review. I would say that a useful next step for the Home Office, in setting out its thinking on that question, would be to publish its evaluation plan and its model for assessing deterrence so they can be open to outside scrutiny.

Q297 **Chair:** That is helpful. In your experience from the Institute for Government, in terms of developing policy, this policy was announced in April. One of the concerns was the lack of real detail. Then things came out after the announcement. What would your approach be to developing robust policy? What should the Government be doing? What should we as a committee be expecting of the Government when they set out policy?

Rhys Clyne: There are a number of key themes that come out of research from organisations like the Institute for Government but were also shared by the Wendy Williams review and the Home Office's response. That is a useful guiding light for what should make good policy-making in an important test case like the Rwanda policy.

First is the connection between policy-making in the core Department in Whitehall and the front line. This was one of the contributing factors that Wendy Williams drew out in her analysis. We would expect to see front-line services and agencies playing a key role not just in the implementation of the policy but in the design phase. As we say, there has been relatively little information made public about that design phase. We do not know from the outside whether that was the case. It would be a useful question for the Department.

The other related aspect of good policy-making that is extremely important here and again was emphasised in the Williams review as well as being drawn out from IfG research is engagement of outside experts and people with lived experience. The Home Office set out in its



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comprehensive improvement plan various ways in which the Department is trying to improve practices when it comes to outside engagement. I would refer to the community and stakeholder engagement hub or the various policy toolkits it has used since that time.

However, what is important is that this translates into a change in practice of practical policy-making. Again, this is a really useful test case of the Department's approach to better engagement of experts and people with lived experience. Based on the publicly available information, it is not clear that meaningful engagement was factored into the design phase of the policy. Experts such as those we heard from on the first panel you would expect to have a meaningful avenue for contributing to the design of a policy like that. They have said on the public record that they were not meaningfully included in the engagement phase.

Q298 Chair: I just wanted to ask you finally about the ministerial direction that was issued. We have heard that this was very unusual. It was only the second time in 30 years that this had been requested from the Permanent Secretary. Do you have anything to say about that?

Rhys Clyne: Ministerial directions are useful signals of public moving of accountability between the civil service and ministerial decision-making in policy-making. In this case, as we know, the Permanent Secretary requested one on the grounds of an inability to make the case of value for money, because of the lack of evidence for the potential deterrent effect we have been discussing this morning.

What that means is that the onus is at least partially placed on the Home Secretary, in issuing that direction, to make that case as soon as possible, which again comes back to the question of how deterrence will be assessed as the policy is implemented and therefore how that is translated into a judgment on value for money.

One thing I would like to add on that, though, is that they are not in themselves a symptom of policy failure. It is a symptom of the Civil Service's inability to make a case on a particular ground of the policy-making. It raises a question for the next phase of the implementation rather than a judgment in and of itself.

Chair: That is very helpful. Thank you.

Q299 Stuart C McDonald: I just have a couple of quick questions, Mr Clyne. You touched very briefly there on financial transparency. It has been a frustration for this Committee in the past that the Home Office is not always very good at it. Even in terms of the Nationality and Borders Bill, it was promised that we would get the economic impact assessment and we never did. We are told that there is this £100 million-odd figure, but no information was published in relation to the cost per person of these removals. Is there a justification for withholding that information?

Rhys Clyne: Our view is that, wherever possible, transparency improves policy-making. You are right. There have been gaps in the information



that has been made public. Part of that, as the Permanent Secretary explained, is because there are uncertainties around cost. Not all of the aspects of the cost of that policy will be clear until the realities and the difficulties of the policy are made clear in implementation.

However, the Department did commit, in its response to the Williams review and the comprehensive improvement plan, to be as transparent as possible in policy-making. That should follow through to what information it makes public in this case.

Q300 Stuart C McDonald: What is particularly frustrating about the economic impact assessment for the Bill was that we were told it would be published and then suddenly a decision was made not to publish it.

The other thing I wanted to ask you about was the legality of the policy. To put it mildly, there is a lot of controversy about whether this policy is contrary to the Refugee convention and various other international obligations. We do not have a decision and the courts are going to look at that over the summer.

How should the Government go about addressing issues like that? Should they seek external legal advice? Should they wait for the court judgment before pressing ahead? In an area like this, how should they deal with that? Should they bash on and wait for the legal challenges? Is there a particular way they should handle this sort of controversy?

Rhys Clyne: First, it depends on the policy in question and the balance of risk the Department and the Government are willing to take. There are established mechanisms for Government legal advisers and lawyers to contribute to the policy-making process. There are internal mechanisms for shaping the view of the likely legal outcome and the risks that creates. Yes, external scrutiny of experts in civil society and legal experts would help to improve the overall advice that goes into ministerial decision-making.

Q301 Stuart C McDonald: One plane ended up not taking off because of legal challenges. There is a court hearing taking place from 18 July onwards. I think that is the date. Yet it is reported that the Home Office might be attempting to charter another flight in the meantime. Is that sensible?

Rhys Clyne: It is relevant to the considerations of both cost and likely deterrent effect. First, as we know from the public reported figures of how much the first flight might have cost, that is again adding to the cost. Secondly, if the aim is to deter people from crossing the channel, the more you give the impression that you may face legal challenges and be prevented from removing them, the more that case is undermined.

Q302 Tim Loughton: This is particularly to Mr Smith and Mr Wood, as former senior civil servants within the Home Office. Has the immigration department become too big and too unwieldy to be handled by the Home Office? Should it be overhauled, or even removed to its own Department or put elsewhere? Is that part of the problem or not?



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Tony Smith: There has been a loss of corporate memory and of immigration expertise. As I said when I came in, I stayed in this Department for 40 years. I did not get promoted to chief until I had done visa work, borders work and enforcement and after-entry work. That took 10 years.

Nowadays there are very few people like me in there. As we have seen with the Windrush issues and some of the other issues that have cropped up recently, the lack of corporate memory, the lack of expertise and the bringing in of a significant number of people to senior roles within the Department with no real training, knowledge, experience or background in the business have been harmful. It is not unhelpful to have a mix, but it has perhaps gone too far.

As this Committee will know very well, immigration is an extraordinarily complex area of policy. It is hugely complex. I do not see that many pure immigration experts, be it in enforcement or managed migration, which I see in other countries, invested in the heart of the Home Office. There is a real question about how we rebuild an immigration department—I was part of the immigration and nationality directorate for 30 years—to deal with these very significant problems that you are facing regularly in your work.

Q303 **Tim Loughton:** You have great experience. I gather you have written a book about it as well. You cannot just pick that experience off a tree or off the shelf. How on earth do we get the immigration department back on track, if it has been deprioritised and you do not have that degree of experience that sees the Windrushes, the Afghanistans or potentially the channel policy coming down the tracks before they hit?

Tony Smith: We need to redefine what the Border Force's chief officer and inspector roles are. We need to give people a career path that encourages them to stay in the business. There is a good deal of expertise at the very ground level of business. When people are brought in above that, such as senior supervisors from other parts of Whitehall, it is not that they are not very talented people, but there is no real training or background given about all of these things that have cropped up.

I would like to see a reversion to a business that is a bit like the police is structured. You would never find a chief constable who had never been a copper. It is very unusual now for an immigration officer to make it into the senior Civil Service, even though some of them have a great deal of knowledge and experience. Some of them do not feel heard. There is an issue there. It is about a long-term plan. You cannot fix this overnight, but we really need to look at the expertise in all of these areas.

In terms of policy, a lot of the policy stuff needs to be transferred into operational policy. I spend a lot of time working on operations. What do you actually mean by, "We are going to send people to Rwanda"? What do you want our officers to do? Where do they go? Who do they talk to? What for? That sometimes gets lost in translation. That expertise is really



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a key ingredient of getting a system that the public have confidence in. I fear we have lost that a little bit, but I will defer to Dave, because he has had a lot of experience too.

Q304 **Tim Loughton:** Mr Wood, do you demur from that or do you have anything to add?

David Wood: No, there is a loss of experience. If we go back to 2008 to 2012, it was semi-independent of the Home Office. We had the UK Border Agency, with the whole immigration system in it, which in theory was slightly at arm's length from the Home Office. That was never the reality. It was still very close to Ministers. That did not work there. It did not remove it from the Home Office.

Apart from what Tony Smith has said, the other thing is that the whole system has lacked resources. Although there are a lot of staff in the immigration system, there have never been enough staff. The immigration system has been bedevilled through the whole of its history with backlogs in all different areas. That is the case now. Now there is a particular backlog in asylum with the numbers crossing the channel, but that will not be the only backlog in the system. That is not the only backlog in Government at the moment, of course; there are others in other areas of Government.

It is about looking at the structure of it; it is about the leadership; and it is about having the expertise within it. It is not necessarily about whether it sits in the Home Office. That is not the issue. It is about the resources, the expertise and the leadership of it, which has been in the Home Office. Years ago, the Home Office also used to have prisons within it. It lost prisons. It is not the situation in the Home Office. As I say, it is resources, experience and leadership.

Rhys Clyne: I just have one quick point to add to what Mr Smith said. The other angle of the problem on this is that there are incentives for policy-focused civil servants, if they want to get on quickly, to move roles between Departments and very different policy areas very quickly. The Institute for Government has written fairly recently echoing Mr Smith's point that there should be career anchors for policy purists to be able to specialise in particularly complex areas that span Departments, such as immigration, so they are able to stay within that field, progress through seniority and not be incentivised to move to other departments rapidly.

Q305 **Tim Loughton:** I have one final question. It is quite interesting. It has been a long time since I was a Minister, but you tended to have departments within a Department that were perhaps rather neglected, because it did not happen to be a policy priority of that Government or that Minister. All of a sudden it became an issue, but that department had not been particularly well maintained or looked after. All of a sudden they had a problem.

There was a case for having a hit squad of experienced senior civil



servants who, particularly when a new innovation in policy came up, were flexible enough to be all of a sudden parachuted into that Department where there was a big focus or a big initiative going on. Is that better than having lots of experienced people there, who might have experience of having done it the wrong way for 10, 20 or 30 years? Is it complementary to that? Is there a way of melding the two assets?

Rhys Clyne: The line of the Institute for Government on this is that the best practice absolutely seems to be multidisciplinary teams, where they can be used. In that case, it is about ensuring that you are bringing in experts in the policy, as well as those from the front line and legal experts et cetera. However, it is also true that, in order to manage a multidisciplinary team well in a complex area of policy, the convener of that team—the hit squad, as it were, in your analogy—needs to have a robust understanding of the policy.

They may well not have the level of expertise or historical understanding that those who have been working in this policy area for decades may have, but there does need to be a robust level of knowledge there. That is also partly about the institutional memory of Departments. To speak to Mr Smith's point about corporate memory and the findings of the Williams review on that topic, that can contribute to that level of knowledge being passed through policy officials.

Chair: We are very lucky on the Home Affairs Committee to have the corporate memory of Mr Loughton, who has been on the Committee for a very long time.

Q306 **James Daly:** Since becoming an MP, one of the toughest questions for people to answer—this is not aimed at you gentlemen whatsoever—is, “How do we get something to work?” Forget all the peripheries around it. How do we get an asylum system that addresses public concern and the mandate the Government have had? From what I have heard from all of you, there is no straightforward answer to that. Whatever the rights or wrongs of the Rwanda policy, it is attempting to address a problem. As my colleague next to me has said, there may be many issues with that solution, but it is attempting to address a problem.

Otherwise we will have a situation where people can come into this country and the asylum system takes far, far too long to make decisions, and there will be no way whatsoever that those people are going to get removed.

Chair: I note that Mr Wood has to leave very shortly. I do not know if you want to address that to Mr Wood.

James Daly: Help me, Mr Wood. Give me some hope. You are now going to tell us the secret to a good asylum system.

David Wood: There is no secret to it. At the moment the asylum system is overwhelmed by the numbers that have come across the channel and the increase in numbers.



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You are right to some extent. There is little chance of being removed from the UK irrespective of the findings of an asylum claim. That is for lots of reasons, which Tony Smith outlined earlier. Getting the agreements that the Government are seeking to get from countries is important. This has been bedevilled by problems with removing people. You need to document them. They all need a passport or a travel document to go back to the country they came from. You need to identify them properly. There are a whole range of issues. It would just take—

Q307 James Daly: Mr Wood, I am sorry. You are absolutely right. We heard from Mr Smith that even countries like Italy—you mentioned Italy and another European country—are viewed as not having suitable asylum systems. There is this myth that we are going to find countries to have these relationships with. The evidence does not seem to suggest that this is going to work.

David Wood: No. In truth, historically the UK has been a far more effective country at removing people to other countries than European countries have been. At least there have been strong efforts in the past, particularly on foreign national offenders, where there is still a successful removal operation in the UK.

It can work. Removing people from this country is just enormously resource intensive. It is working with the other countries; it is working with their embassies and consulates in the UK. It is getting documents. It is having to detain the people and having the detention space before you can remove them. It is a very resource-intensive operation. In reality, that is why not that many people are being removed when they should be.

Tony Smith: I just have one point to make. We must stop the boats. Whatever else we do, we have to stop the boats. Right across the political spectrum, there is agreement on that. The exam question is, "How do we stop the boats?" I know the Committee has been looking at that, but please do keep asking that question. For my part, there has to be international engagement on that. We have to find a way of opening up conversations with the French. As I said before, when I was running the business I had some very good relationships with the French. We need to overcome the political issues to ensure we can get back round the table with them.

Chair: Could I thank our three witnesses? That has been a very useful discussion this morning. Thank you again for your time. We really very much appreciate it.