



Secondary Legislation Scrutiny Committee

Corrected oral evidence: Poor quality of Home Office impact information

Tuesday 26 March 2024

4 pm

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Members present: Lord Hunt of Wirral (The Chair); Lord De Mauley; Baroness Harris of Richmond; Baroness Lea of Lymm; Baroness Randerson; Baroness Ritchie of Downpatrick; Lord Rowlands; Lord Russell of Liverpool; Lord Thomas of Cwmgiedd.

Evidence Session No. 1

Heard in Public

Questions 1 - 9

Witnesses

I: Lord Sharpe of Epsom OBE, Parliamentary Under-Secretary of State, Home Office; Dan Hobbs, Director-General, Migration and Borders Group, Home Office; Ruth Hasling, Deputy Director, Parliament, Legislation and External Affairs Unit, Home Office.

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Examination of witnesses

Lord Sharpe of Epsom OBE, Dan Hobbs and Ruth Hasling.

Q1 **The Chair:** Lord Sharpe, this is a formal evidence-taking session that is on the record and is being webcast live. A verbatim note is being taken and it will be put on the public record in printed form and on the parliamentary website. We will send you a copy of the transcript of the session for the amendment of any errors. I have to add that in case of fire there will be a voice-activated alarm. Any bells that sound are Division Bells. Should there be an incident, we will follow the clerk's instructions. I must ask my fellow committee members whether they have any interests they wish to declare. There are none. The session is scheduled to last for about 45 minutes and we may ask you to provide some supplementary information to support your answers.

Welcome, Lord Sharpe of Epsom. We are delighted you have come to us. Less than a year ago, Lord Murray of Blidworth sat in that very chair and told us that the Home Office was going to improve the information it supplies to Parliament with its secondary legislation, particularly in regard to publishing impact information. Yet we appear to be here again with what is a clear-cut failure to publish an impact assessment, including for measures laid more than five weeks ago. In the 2022-23 Session, we drew attention to failings in the Home Office's legislation more often than for any other department. If anything, performance seems to have been even worse in the current session.

The instruments concerned contain important policies, such as changes to the Immigration Rules relating to health and social care areas and visas, the banning of nitrous oxide, and a scheme designed to get zombie-style knives off the street. In all of them, a key element that is missing is the assessment of the cost and practical consequences of the law change proposed.

In many ways, I was very pleased indeed to receive a letter from the Permanent Secretary, Sir Matthew Rycroft, yesterday in which he said that he "fully understands the crucial role of impact assessments in enabling effective policy-making and parliamentary scrutiny". However, from our perspective in this committee, the material that arrives or does not arrive from the Home Office does not seem to justify what the Permanent Secretary is saying. Why is there, do you think, this difference between what the Home Office says and what it actually does, Lord Sharpe?

Lord Sharpe of Epsom: First, thank you very much for the warm welcome. I appreciate that, Lord Hunt.

I would like to start by reassuring both you and the broader committee that the Home Secretary and I are absolutely committed to ensuring that the department's secondary legislation programme is delivered to a very high standard, both in the drafting of the statutory instruments themselves and in the development of robust, accurate and comprehensive explanatory materials. We recognise the important role that impact assessments in particular have, not only in enabling effective

parliamentary scrutiny, of course, but in effective policy-making. If I may, I will come back to that particular question in a second, especially in relation to Sir Matthew's letter to you yesterday.

We have robust internal guidance and processes as regards the development and publication of impact assessments, and they are designed to meet the high standards set across the Government by the Treasury and others, of course. We understand the concerns that have been raised by the committee around the impact assessments not being made available with regard to the statement of changes to the Immigration Rules, which were laid on 19 February and 14 March. Again, if I may, I will come back to those in a second.

I know that you want to go into greater details and I appreciate that Lord Murray, my predecessor in this space, sat in front of you last year, but I want to emphasise my reassurance that my ministerial colleagues and I take our responsibilities very seriously. I think that is reflected in the correspondence that will have been received by my ministerial colleagues over the course of the past couple of months, all emphasising the same point.

If I may make a couple of introductions, I have Dan Hobbs on my right, who is the director-general for borders and migration policy, and Ruth Hasling, who is the senior responsible officer for SIs in the Home Office. As you may be aware, we also now have the Minister of State for Countering Illegal Migration formally starting in the role of the SI Minister, and I believe that he has arranged a meeting with you—I do not know whether it is with the broader committee—for some time in April.

It ought to be recognised that the department is delivering a large and complex programme and it is regrettable that some instruments have not met the standard that the committee expects. If I go back to those, and in particular the impact assessments and the point that Sir Matthew made, he did not say that decisions are still and none the less informed. For example, as regards the immigration status on 21 December, the Home Office published volume estimates of the package of measures in a publication entitled *Legal Migration Statement 4th December 2023: Estimated Immigration Impacts*. This was published to provide evidence to support the Home Secretary's statement on 4 December that 300,000 people who were previously eligible to come to the UK would now not be. However, it was a backward-looking estimate for the year ending September 2023 for what proportion of new out-of-country applicants who came to the UK would have been ineligible under the updated rules. I can go into more detail on that if you would like.

I can also assure you that we are committed to publishing. There are some outstanding data issues with the impact assessments, particularly relating to the Immigration Rules. We are looking to resolve those as quickly as we can with officials, but we are not totally content with the assumptions that officials have made when using the impact of these changes. We want to ensure that the finally published document is as clear and as accurate as

possible. We will publish those impact assessments as soon as possible. I think that answers most of your initial questions.

The Chair: Can I take one particular example, Lord Sharpe? Our report on zombie knives found that the administrative cost of implementing the compensation scheme was more than 20 times as much as the actual compensation being paid. Against the background of what Sir Matthew said in his letter yesterday, are we to take it that this was taken into account in the policy design? Was the Minister who signed it off aware of those costs?

Lord Sharpe of Epsom: The administrative costs were considered during policy design and the Minister was aware of the proposed costs, yes, when the surrender and compensation was signed off.

Q2 **Baroness Ritchie of Downpatrick:** You are very welcome, Minister and your team. In your first answer, you indicated that there are outstanding data assessments with the impact issues. Yesterday we were told by your Permanent Secretary that you would explain today why we have not yet published the impact assessments in question. To tease out the issue about data assessments, what are those outstanding issues and how long will it take to resolve them? When do we expect to see the impact assessments or assessment?

Lord Sharpe of Epsom: It is not data assessments; it is data assumptions. It is the assumptions that are being used to formulate the underlying conclusions. You will appreciate that a minor and perhaps relatively insignificant fault with some of those assumptions can be amplified by the time you get to a conclusion. I cannot really go into all the details because they are all very much interlocking and obviously that would be to discuss the entire basis on which these documents are drawn up. What I can do is assure you that we are working at pace on this. It is recognised as urgent and we will publish as soon as we are practically able to do so. We are trying to resolve this stuff.

Baroness Ritchie of Downpatrick: When did the issues about the data assumptions arise? Was it recently or was it at a time when you and your officials were formulating the SI?

Lord Sharpe of Epsom: There are two sets of immigration rule changes and the intention was to publish one impact assessment that dealt with both, which makes a considerable amount of sense. It was when we were, if you like, coagulating—that is probably not the right word—or weaving the various assumptions that we had to start looking at how those assumptions were being derived. That is where we are at.

Baroness Ritchie of Downpatrick: When do you expect to complete that process? Can you give us a guesstimate?

Lord Sharpe of Epsom: I cannot guess. I would like to be able to, but it would be foolish.

Lord Thomas of Cwmgiedd: You gave us the figure of 300,000 as being the estimate made in December. Presumably, the work that you are doing

on these assumptions must give you a feel as to whether the 300,000 on which you have relied to make the policy is firm enough or it has changed. You must have now some idea of the effect of these assumptions on the figures on which you have operated.

Lord Sharpe of Epsom: Yes, of course, but again those assumptions can change. That is the point with regards to this.

Lord Thomas of Cwmgiedd: One thing that I personally find very frustrating is that one knows that tiny movements in assumptions—for example, in interest rates over a long period—make a colossal difference. You must have some illustration you can give us. I find it almost impossible to believe that this vast army of officials does not have some detail as to what the problem is and how it affects the 300,000 figure.

Lord Sharpe of Epsom: I take your point. Perhaps we could use the social care example to try to illustrate the point. You will know that some figures were being discussed around the numbers of people who might come, but some changes were also made before the new statements were laid. One of them was UKVI—visas and information, I think it stands for.

Dan Hobbs: Immigration.

Lord Sharpe of Epsom: Visas and Immigration. From October of last year, so October 2023, it has beefed up the certification process for social care home providers to ensure that these are credible jobs, that there is a business case for them, and so on. We are working on it. We do not yet necessarily have precise details as to how well that is working, for example. That is one of those assumptions that I am trying to explain that is perhaps subject to some change.

Lord Thomas of Cwmgiedd: Surely you must have some idea whether you are talking about a miniscule, irrelevant percentage or whether this has some material effect on the figure of 300,000 you have taken.

Lord Sharpe of Epsom: That is why we are going through this with a fine-toothed comb. As you say, minor differences can make a massive difference in the conclusion.

Lord Thomas of Cwmgiedd: You cannot even say, “On what we have done so far, we are worried” or, “There’s nothing to worry about”?

Dan Hobbs: The estimated impact set out how that 300,000 would break down. Obviously, we have only very recently implemented those changes and we have the quarterly migration statistics that will come out, which will demonstrate the data to some of those points.

To the point of your question, how the 300,000 breaks down is in the estimated impacts that we published in December. Those break down across the various elements of the net migration package that was announced in December. We have to wait until the quarterly migration stats to see that play through to see the full impact, but the impact assessment does more than just understanding the numbers. It is the full

economic impact of the changes and some of the assumptions that Lord Sharpe was talking about as to how that plays out into the wider system. It is not just about whether the numbers are slightly up or down.

Lord Sharpe of Epsom: Of course, there are third and fourth order assumptions that come into play there as well.

Lord Thomas of Cwmgiedd: I may have misunderstood. I thought that you were saying that the 300,000 figure was the figure that you had used to justify the policy changes. Therefore, one would have assumed that as you got into the greater detail of the impact assessment you would have known whether that figure was right or you are confident about it or you are worried about it. That is all I wanted to know, but you cannot give any indication.

Dan Hobbs: The analysis that we gave to Ministers at the time of the decision broke down as per the estimated impacts. How that actually plays through will play out in the immigration statistics, which we will see at the quarterly release.

Lord Thomas of Cwmgiedd: How does it play out in the impact assessments? Does it confirm your impact assessment or does it cause doubt about it?

Dan Hobbs: That is the finalisation work that we are going through now ahead of publishing—

Lord Thomas of Cwmgiedd: You have no feel about it?

Lord Sharpe of Epsom: That is only one of a number of factors and, as I say, there are some other moving parts.

Lord Thomas of Cwmgiedd: I do find it very surprising. When you do this analysis, at the start you normally know whether, "Okay, there is maybe a little bit that we should not worry about" or, "Oh dear". However, you have not even reached that stage yet.

Dan Hobbs: We know with certainty how many dependants came on the social care visa, so closing that route, you can play forward how many dependants. Therefore, that is one of the largest segments. We knew that again on student dependants. There will be bits, but as the Minister said, it is then the assumptions about the wider impacts and the smaller numbers and segments, of which there is a volatility that is based on human behaviour, global economics and a whole range of things, and how that then plays into the economic benefits.

The Chair: Thank you, Mr Hobbs. Returning to the care sector, Baroness Lea of Lymm has a question.

Q3 **Baroness Lea of Lymm:** Welcome, Minister. Mine is a very short question. Sticking with the changes to the visa regime, in the absence of impact assessments of evidence of possible implications of those changes, how do you feel that Parliament can adequately or satisfactorily scrutinise these

changes? The Permanent Secretary, Sir Matthew, talks about how important the scrutiny of Parliament is, but how do you feel the scrutiny of Parliament is going to be when we do not have an impact assessment?

Lord Sharpe of Epsom: It is a good question. As I say, on 21 December we did publish the initial estimated immigration impact statement. We feel there is sufficient data there to establish the premise of the policy. Obviously, the detail that we have just been discussing is more complicated. I accept that it is very unfortunate, but the data assumptions are crucial to getting this right. Therefore, we have to be rigorous about it. It would be worse, I think, to provide an unclear and inaccurate statement rather than taking a little bit longer, which is regrettable and I accept that.

Baroness Lea of Lymm: It is very difficult for Parliament to decide how the care sector would be affected by these visa changes without a little more detail. We hope for better things in the future.

Lord Sharpe of Epsom: I understand. Again, I would also say this. Some of the changes may affect the sector in other ways. For example, we do not necessarily know how many people might be motivated to register for regulated status, which will give them different rights. Those are some of the factors and some of the assumptions that we are talking about that are subject to some change. However, I accept this is regrettable.

Baroness Lea of Lymm: To the future.

Lord Sharpe of Epsom: Yes.

The Chair: We will go online to Baroness Harris of Richmond, still on the care sector.

Q4 **Baroness Harris of Richmond:** Good afternoon, Lord Sharpe. Thank you for coming to our meeting. Thank you also for your personal reassurances on the seriousness with which you take the impact assessment. I am sure we are all very pleased to hear that.

In the absence of the impact assessment for the recent statements of changes, we would like to ask two specific questions to fill in some of the gaps. First, one of the measures states that only organisations registered with the Care Quality Commission can sponsor workers in the care sector. When it announced this policy, the Home Office said that it would reduce the number of foreign workers by 20,000. What impact do you think this will have on the care sector? I will ask that first and then I will come back to my second question.

Lord Sharpe of Epsom: The requirements for organisations to be CQC registered in England are designed to address the high levels of non-compliance, exploitation and, frankly, abuse of the system in the adult social care sector that we have seen, but also allowing genuine care providers to still access the overseas recruitment that they need. I will also point out that it was a Migration Advisory Committee suggestion that we incorporate this particular provision.

These changes will impact only new inflows into the sector and not those already working in care, and migration is only one source of potential labour. They were developed in consultation over a long period with the Department of Health and Social Care, which has agreed these numbers. As I have just alluded to, there are a couple of other changes that are also highly likely to have an impact on this, one of which is to do with the UKVI certification. Now UKVI has to consider issues including whether any application for a certificate to sponsor is a genuine vacancy and whether a person being offered the job will have guaranteed hours. These have been receiving additional scrutiny since October 2023. I appreciate that that is not directly related to the CQC question, but it will obviously have an impact on that, in particular as to whether businesses see the need to apply for that level of regulation.

Baroness Harris of Richmond: How big do you think this problem is with foreign workers?

Lord Sharpe of Epsom: Sorry, which problem? The exploitation problem?

Baroness Harris of Richmond: Yes, the exploitation.

Lord Sharpe of Epsom: I do not have a number for that. Do you have a number, Dan?

Dan Hobbs: No, but the estimate was based on, when we looked at our system, the number of visa applicants who were linked to organisations that were not CQC registered. The estimate derives from our own information about matching. As the Minister said, as well as bringing down net migration, it was to avoid abuse of the system and to ensure that there was high-quality care in the adult sector and that, therefore, the people who we were bringing in were suitably registered with companies who were providing that service and meeting the genuine vacancy test, which is a requirement of the route.

Baroness Harris of Richmond: Presumably, they were concerned about that, so there must have been some evidence about numbers.

Dan Hobbs: As the Minister said, we worked with the Department of Health and Social Care in the development of these proposals. The Migration Advisory Committee had raised it as a policy option that should be looked at for regulation in this route. Therefore, as part of the decision-making, Ministers took the decision to require CQC registration as part of that. The impact number is derived from our information about applicants and their sponsors being CQC registered or not.

Q5 **Baroness Harris of Richmond:** My second question is related to that in a way. Another measure removes the ability for migrant workers to bring dependants. We have heard arguments that this could have a significant effect on the care sector, about which we have already spoken, which already suffers from high turnover and a large number of vacancies. What evidence, if any, do you have for the Home Office's view that this will have no effect on the staffing of care homes?

Lord Sharpe of Epsom: The high level of applications to work as a care worker since being added to the shortage occupation list in February 2022 suggests that there is a high level of global labour supply. That could mean that volumes will remain resilient even if some potential main applicants were discouraged. Some potential applicants may adapt behaviour and come to the UK without dependants, certainly at least while on that visa route. Some adults who would otherwise have come to the UK as dependants may apply as main applicants. Restrictions on the employer sponsoring visas for care workers and senior care workers are expected to reduce the demand for international workers and this, in effect, would help to counterbalance any potential fall in the labour supply. I reassure the committee again that this assessment was very much developed in conjunction with the Department of Health and Social Care.

Q6 Lord Russell of Liverpool: Minister, this is a question about the consultations and their interaction with the formulation of policy. We have seen many examples where consultations improve a department's understanding of the impact of policies but also where the lack of a consultation has potentially hampered the policy-making process. We recall a particular instance involving the Home Office when there was legislation to license a chemical that had to be revoked when an industry body pointed out to the Home Office that the chemical was used by more than 100 times the number of firms the Home Office had led us to believe. Shall we say there was a degree of difference there? The question is: how can the Home Office fully understand the effects of its policies if it does not effectively consult those whom it is impacting?

If I could move on to talk particularly about health and social care visa restrictions, when we asked why there had been no consultation we were told by your officials that it was because this would have alerted people to the changes and led to "a closing down sale" of visas. However, I gently point out that four months earlier it had been preannounced by one of your colleagues in Parliament that this would come into force. How do you square that?

Lord Sharpe of Epsom: First, on the subject of effective consultations that are proportionate to the impact of the proposed policy change, we are committed to those. They need to be effective, obviously, and we would agree that increasing the level of transparency and, indeed, engagement with interested parties is fundamentally necessary. There is no dispute about that. We run our consultations in line with the Cabinet Office guidance, which is published on GOV.UK, I believe. Where it is relevant to a specific secondary legislation, we will summarise that in an Explanatory Memorandum.

As regards the particular case you have just raised about "closing down sales", that does happen in practice. There is precedent to show that these things do. For example, in 2014 when it was announced that tier 1 investor visas would see the level of investment required increased and the type of investment restricted, applications in the fourth quarter of 2014, before the changes came into force, nearly doubled what was seen in the previous quarter.

In terms of the timing, I appreciate that there was a four-month issue in the announcement of the policy before it was enacted, but we would say that there is a balance to be struck between facilitating the “closing down sale” argument and allowing employers a reasonable time to adjust. The fact is that if we had done a consultation on this, the timeframe would have been extended—by how much I cannot possibly say, although the worst-case estimates that I heard were up to about nine months. We were trying to strike the right balance. I appreciate the four-month point and I would guarantee that we understand the necessity of doing the appropriate consultations.

Again, I take your point about the previous legislation that was reversed owing to another organisation that, shall we say, appeared after the fact and made its feelings very clear. However, we should also get some credit for the fact that it was speedily reversed. It was not allowed to just continue to fester.

Lord Russell of Liverpool: Indeed, and I am sure the consultation was done in line with Cabinet Office policy guidelines and unfortunately, if it was followed, that should not have happened. Could I follow up on the “closing down sales”? Have you looked at the evidence of what has happened in the last four months to see whether your fears and predictions of a “closing down sale” have happened?

Lord Sharpe of Epsom: Again, I cannot answer that at the moment, because the next set of immigration figures will be published in May. I do not have them to hand at this point.

Lord Russell of Liverpool: To which I suppose one might ask the question: if you are trying to make immigration policy slightly on the hoof, as it is, would it not be helpful to have slightly more up-to-date or, dare I say it, even nearly real-time statistics to hand rather than always looking in the rearview mirror?

Lord Sharpe of Epsom: It would, of course, be helpful, but unfortunately I do not have them, so I cannot be helpful.

The Chair: We will return to Lord Thomas and his questions on how we together can improve the Home Office’s performance.

Q7 **Lord Thomas of Cwmgiedd:** Minister, the question I want to ask you is this. We have come across a number of situations where you as the Minister or other Ministers have had to sign off SIs without the required information. How has that come about?

Lord Sharpe of Epsom: When you say required information, can you be more specific?

Lord Thomas of Cwmgiedd: Without impact assessments, for example, but there are other instances. How does this come about that you are put in that position?

Lord Sharpe of Epsom: I am not sure I can answer that. I have never signed one.

Lord Thomas of Cwmgiedd: Does the Home Office, when it is planning legislation of this kind, subordinate legislation, have a critical path analysis? For example, you say, "We have to have consultation. We have to have an impact statement. We want to make the announcement. These all have to be in place by a given date". That is the way you build a ship or some complicated plant. I assume that the Civil Service does this, that it runs critical path analyses. Therefore, you can find out what went wrong and why it was not there.

Lord Sharpe of Epsom: At this point, I will hand over to Ruth Hasling, who is the SRO.

Ruth Hasling: We do, indeed. We have quite a long process by which all our SIs are considered. That starts at a triage process roughly three to four months before we would be looking at laying, where we consider the SIs at that point. We do probe on issues such as impact assessments to make sure that they are being progressed where they are relevant. Similarly, where we press on the position with consultation or guidance, that is our first opportunity to flag whether there are concerns. There are occasions where there is an expectation at that point that an impact assessment will be done. The department is progressing that in line with the expected timetable, but unfortunately when we have got closer to the laying date issues have come up, as is the case with the impact assessments for these two Immigration Rules packages and it has not been possible to publish alongside.

In my SRO capacity, I will always advocate for publishing an impact assessment alongside the Explanatory Memorandum. Unfortunately, there are times where, because of the pressing nature of the policy and the importance of moving it forward, it is not possible to publish alongside.

Lord Thomas of Cwmgiedd: How can the pressing nature of the policy ever justify not providing to Parliament the information that Parliament needs, particularly if you have a rigorous planning policy in order to pick up things that were going wrong? That is what I do not understand.

Ruth Hasling: I do not disagree in that they should be published alongside. Unfortunately, sometimes issues arise later on in the process. Sometimes new data becomes available that was not earlier on in the planning process, and it means that we have to change our timings on things like the impact assessments. We will always look at trying to bring those forward as soon as possible if we have missed the opportunity to lay them.

Lord Thomas of Cwmgiedd: I have two last questions. Are you carefully setting about implementing the better regulation framework?

Ruth Hasling: Yes, we are. We are committed to putting that in place. We will be operating on that basis from 8 April. We have been undertaking

comms and training with the department in the last few months to make sure that as a department we are up to speed with what is required. We will use the process between April and September when it comes in formally to make sure we are using it to its full potential.

Lord Thomas of Cwmgiedd: When the Minister is put in the position of signing off something for policy reasons—whether they are justified or not is not really a question for us—do you have an inquest as to why he has been put in this politically exposed position and do you publish those? It would be very helpful to know. You normally learn by your mistakes. Do you investigate?

Ruth Hasling: We do not publish. If we are in that position, we put advice up to the Ministers explaining why we are in that position. We make sure that we always review our processes internally if that happens.

Lord Thomas of Cwmgiedd: Would you be able to let us know what has gone wrong so that we can form a better assessment of what the problem is? Parliament should not be facing this problem. Maybe you can think about that one.

Ruth Hasling: We can look at it and pick up with your clerks as to what more we can do to better explain our position.

Lord Thomas of Cwmgiedd: And why it has gone wrong.

The Chair: Lord Sharpe, perhaps it is an obvious question but when an impact assessment is delayed, why not delay the laying of the statutory instrument?

Lord Sharpe of Epsom: That is a good question, Lord Hunt. I would have to say that there are times, clearly, when the Government have to reserve the right to react to events as well. That may be before the impact assessment is capable, as I say, with regards to various data complications and so on and the enormous range of assumptions that will have to go into something in looking at this.

For example, on the point that Mr Hobbs made earlier, we knew that a lot of dependants were coming in on those visa routes. We knew that that was causing a great strain in the system, and I think that the Government were right to react. They reacted on the basis of the information that was published on 21 December. The impact assessment is now overdue, I accept that, but it will be published as soon as we are able.

The Chair: If we go online for a moment, Lord De Mauley had a further question on this.

Q8 **Lord De Mauley:** Lord Sharpe, following this committee's 2022 report on impact assessments, the Leaders of both Houses gave strong support to improving the quality of explanatory material laid with secondary legislation. As a Minister, what has been your experience of initiatives to promote that?

Lord Sharpe of Epsom: I have to say that I only became a Minister in 2022 so I do not know what it was like before, if I am honest. My experience of it is as it is.

However, as Ruth was just explaining, the Cabinet Office has revised the Explanatory Memorandum template. I can assure the committee that the Home Office has been fully engaged alongside other departments in that piece of work, which apparently is very substantial—I have not seen it all. We have been encouraged by the support of the Cabinet Office to enhance legislative capability, and that includes some fairly fundamental and basic things such as training, guidance and sharing examples of good EMs. That has been highlighted by the clerks of the committee to the Parliamentary Business and Legislation Committee secretariat. The legislative strategy team is also currently in the process of delivering teach-ins and so on to teams that regularly engage, so a considerable body of work is going on. As Ruth said, we do commit that by 8 April, I think, all the Home Office EMs will use the new templates. A substantial amount of work has been done in response to that report.

I will just say for the record, so you do not have to call me back to answer it, that there are five draft affirmative instruments that use the old template and that are currently awaiting debate in one or both Houses. They will be on the old system still, but anything new that is not currently in train, as it were, will follow the new procedures.

The Chair: From 8 April?

Lord Sharpe of Epsom: From 8 April.

Lord De Mauley: Chair, may I ask a supplementary question?

The Chair: Lord De Mauley, please.

Lord De Mauley: Lord Sharpe, thank you for that. That is encouraging. Last year, Lord Murray discussed his role as the SI Minister in the Home Office. Since then, we understand that the department was without such a Minister for some months. Do you think that might have affected the quality of material presented to the House?

Lord Sharpe of Epsom: I cannot really answer that. The fact is, though, that Minister Tomlinson, who is the Minister of State for Countering Illegal Migration, has assumed the role. I know that he is engaging fully across the board with all the interested parties. I suppose time will tell in relation to answering that question. Ruth, do you have any reflections on that?

Ruth Hasling: My initial view would be that in our department the role that the SI Minister plays enhances and supplements what already goes on. We have a team of Ministers who are very committed to the importance of secondary legislation. They scrutinise all the SIs and Explanatory Memorandums in their relevant policy areas. The SI Minister role sits on top of that and plays a wider part in the longer-term strategic planning, which is an area where we can tolerate an absence in that role for a short period without a huge impact. If we had a team of Ministers where they

were not committed to the SI process and were not as engaged, then we may have found it more of an issue not having an SI Minister in post, but because they engage with them very thoroughly, I do not think we have seen any degradation in quality because of that.

Lord Sharpe of Epsom: Perhaps I may refer back to the letters that have been sent to the committee by Ministers Pursglove and Philp among others. I think that they have all reaffirmed their commitment to ensuring this process is rigidly observed as well.

The Chair: Looking ahead now, against the background of what you have just said, I think Lord Rowlands had a comment.

Lord Rowlands: I have found it very encouraging that the new template will be observed and arranged and fixed in future. Is that a clear understanding and assurance?

Lord Sharpe of Epsom: I am pleased to hear it. Thank you very much, Lord Rowlands.

Q9 **Lord Rowlands:** You have given us the assurance that no further significant measures will be laid without providing proper impact information, unless, of course, there is a genuine emergency. Can you confirm that and assure us?

Lord Sharpe of Epsom: I cannot make that promise absolutely for obvious reasons, but the intention—

Lord Rowlands: What are the obvious reasons?

Lord Sharpe of Epsom: You have just highlighted some of them, with regards to emergencies and so on. The fact is that we have been very clear that it is always the intention to try to publish these things in the right way. We accept that we have not done so on all occasions in the past.

Lord Rowlands: Yes. The simple point, as was already made earlier by the Lord Chairman, is that you should not bring an SI forward unless you have impact information to accompany it.

Lord Sharpe of Epsom: Point noted.

The Chair: From this moment on, the world will be far better organised at the Home Office. Is that right?

Lord Sharpe of Epsom: From this moment on, the world will be a much rosier place, Lord Hunt.

The Chair: Against that background, Lord Russell of Liverpool has a further question.

Lord Russell of Liverpool: Could I come back to some of the issues around the assumptions and trying to get them right? I was just looking back, while we were talking, at a speech that Priti Patel made on 24 May 2021, when she was Home Secretary, about the wonderful new freedoms

that we were enjoying and how we would have this new legal migration system that would be a great improvement. Would it be fair to say that the law of unintended consequences has struck more than once in this area and that the figures for legal migration that have evolved over the last 18 months were not in line with the assumptions that the Home Office used at the time it put those into place and that, therefore, there have been learnings from that that we hope are being applied in creating new, slightly more accurate and robust assumptions? Would that be the case?

Lord Sharpe of Epsom: I think that it is a very hard question to answer definitively. There will be aspects of what you suggest that I am sure are present in the way we have arrived at where we are, but as to whether I can say 100% for sure that that is exactly how the sequence of events unfolded, no, I do not think that would be possible either.

It sounds as if you are inviting me to comment on our freedoms, which I will not do for obvious reasons. I completely understand the point, of course, but the fact is that our knowledge and understanding of how this system works will inevitably evolve over time. We will have to both respond and react to it or embrace it and carry on with it. It depends on how it pans out.

Lord Russell of Liverpool: It is more a matter of detail, rigour and evidence of forethought. How it was possible, working, as you have said, with the Department of Health and Social Care to come up with a scheme to invite people into this country to help with the needs of employment in care homes, to have put that in place without having had a requirement from the very first that only organisations registered with the CQC could be the means for bringing these people in seems to me somewhat of an abdication of duty and due diligence. Would that be fair?

Lord Sharpe of Epsom: I do not think so. I do not think that is entirely fair. The Migration Advisory Committee, as I mentioned earlier, suggested that we incorporate this. As I say, the situation has evolved over time and our understanding of it has improved as a consequence. We are in some ways reacting to the way we now understand what has happened. By definition, in any forecasting there will always be an element of hoping that you are right, and we are trying to make sure that the assumptions that we are using are as rigorously arrived at as possible to ensure as much accuracy as possible in future.

Lord Russell of Liverpool: Perhaps one of the new assumptions would be to assume that what the Migration Advisory Committee advises is not necessarily correct and what you would like to happen.

Lord Sharpe of Epsom: I am sitting in front of a committee so I would say at this precise moment that everything committees say is always correct.

Lord Thomas of Cwmgiedd: I have one factual question. Obviously, statistics, which you relied on for delays, are published when they have been through a rigorous process, but I assume you have real-time figures

weekly or daily of the position.

Dan Hobbs: Yes. We have internal MI on applications grants that we then look at only once the statistics have been informed. Yes, in terms of the teams that run the operation, there are daily MI statistics.

Lord Thomas of Cwmgiedd: Rather than waiting until May to check on things, can you look at these assumptions that you have made in real time?

Dan Hobbs: We can use it for internal management, but for the purposes of impact assessments and assumptions we use the published data, because it goes through a more rigorous process.

Lord Thomas of Cwmgiedd: On knowing whether there is a feel to whether these figures are right, do you actually have the real-time information? That is the point of my question.

Dan Hobbs: Yes, we have internal MI.

Lord Thomas of Cwmgiedd: So on the information that you have, you should be able to give a feel as to whether there is a problem. That is all I was wanting to know.

Dan Hobbs: We have internal MI that is used for day-to-day operations, but to meet the statistical standards and requirements for impact assessments—

Lord Thomas of Cwmgiedd: I entirely understand that point.

Dan Hobbs: —and for disclosure to Parliament, we use published, verified stats so that we do not mislead by incorrectly steering committees when those stats have not been verified.

The Chair: Lord Sharpe, we are very grateful to you, and to Dan Hobbs and Ruth Hasling for coming to give evidence to us today. Can I close by sharing with you the frustration that I and my colleagues feel about the poor explanatory material we have been receiving from the Home Office? We have also noticed that, quite often, our letters to the Home Office requesting further information miss their deadlines. Of course, we are always in the business of comparisons, because we are dealing with the full range of government departments. They do not seem to have the same issues as the Home Office. I wonder whether there is a systemic or cultural issue that is preventing the Home Office getting these things right more often.

Today, you have outlined a number of steps, particularly the deadline of 8 April, which we warmly welcome. Perhaps we might continue to exchange correspondence, and do submit any further evidence that you feel would help us in the right direction. We will be watching very closely, but we hope that all we have discussed today will result in improvement to the matters that have caused us in the past so much concern. Thank you very much indeed for coming.

Lord Sharpe of Epsom: Thank you. Points noted.