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Witness: Mark Sedwill

Members present

Baroness Prashar (Chairman)
Lord Condon
Lord Faulkner of Worcester
Baroness Janke
Baroness Massey of Darwen
Lord Morris of Handsworth
Lord Soley
Lord Wasserman

Examination of Witness

Mark Sedwill, Permanent Secretary, Home Office

Q1 The Chairman: Thank you very much, Mr Sedwill, for your time this morning. As you know, we want to discuss the scrutiny process and its timeliness with you. We regret that we have to have this meeting, because this is a long-standing issue that we have been trying to resolve for some months and we do not seem to be getting anywhere. So the Committee felt, particularly when we looked at the EM on the EU-Turkey readmission agreement and the time taken on it, that we really ought to have a discussion with you to find out the reasons for that, what steps are being taken and how we can resolve this. As you know, scrutiny is an important part of the work that we do.

It might, therefore, be helpful to the Committee if you could tell us about your job, what you do and what steps you have taken, but before you do that let me explain that this session is in public and is being webcast. You know what the rules of engagement are; you will be sent the transcript, and if you wish to make any corrections to it or to add anything you are welcome to do so. Perhaps you can tell us a bit about your role and how you organise the scrutiny processes within the Home Office.

Mark Sedwill: Thank you, Lord Chairman. While inevitably a session that is prompted by underperformance is never welcome, it is important, as Permanent Secretary to the Home Office, that I am here to explain what we are doing and to be held to account for it.

I am Permanent Secretary to the Home Office. You all know what that job is. I am in my fourth year in the job, which is fundamentally about leading both the Home Office and the wider system for which we are responsible, across borders and immigration, homeland security and public safety, which now incorporates fire as well.

We also have a great deal of EU business, as you know. The justice and home affairs component of the renegotiation was one of the central elements of that. The various opt-ins

and opt-outs that we have make it one of the most complex areas of EU business. Aside from scrutiny, we have been very busy in general terms in the past 18 months or so with the Protocol 36 negotiations, the Prüm opt-in, and then the February agreement and everything running up to that.

Would you like me to move straight on to the scrutiny question, or do you want me to pause?

Q2 The Chairman: I would like to understand the reasons for the Home Office's failure to respond to the correspondence. What are the reasons for it? Perhaps you can talk in general about it before we get into specific questions.

Mark Sedwill: The first thing I should say is that I am not going to make any excuses. Parliamentary scrutiny and parliamentary accountability are important to us. We are one of the busiest departments in some areas of our business, and the busiest department when it comes to parliamentary accountability. We have another Urgent Question that was the subject of a debate in the House of Commons only yesterday evening. That gives you a sense of the rhythm of our business, and parliamentary accountability is part of it. So I am not going to make excuses. Our performance is not where I want it to be, and I can explain the measures that we are taking to bring it up to scratch—on which I hope I can count on the support of the Committee. There are some changes that we do need to make.

You say, Lord Chairman, that the issue is long-standing, but compared to where we were 18 months ago on European scrutiny—there are other areas of our parliamentary performance that were not up to scratch—one always has to be careful with league tables but we were well up the league table of Whitehall departments. I think we were responding to Explanatory Memoranda on time in about 89% of cases, which was ahead of the Whitehall average. It has dropped below that to about 77% in the past year or so, which is below the Whitehall average. Again, I will tell you what I want to do to improve that. Part of the reason for that—again, I am not making excuses—is the surge in business. I think we had 80 documents from the Commission in the first few months of this year. That is almost twice as many as the next department. Combined with the MoJ, we get about 120 of the 500 or so, so it is a very big proportion of the overall number. Most of those come to us. That, compared to DG Trade or some of the others, is twice or three times as many as other areas.

We have, frankly, struggled with the sheer pace of business. We have sought to deploy resources flexibly; I think the Minister talked a bit about that to you when he was here. As you know, some of these areas are extremely technical, so there is a limit to how just adding a few extra people to a team can make a difference, because in very technical matters timeliness is important but accuracy is even more important. In particular on the asylum dossier, the

sheer pressure of business as a whole has made it very difficult for that team to handle all the demands on it. We have given it some extra resources, but, as I say, it takes time for those to have an effect.

The other thing I would say—and this goes to what we want to do about it—is that this is an area of our work where the processes are still not modernised compared, for example, with the work that we have done in other areas of casework, such as correspondence on immigration matters or casework in immigration decisions, where, over the past few years, we have introduced much more streamlined, modern procedures, and we need to do the same with some of our parliamentary work.

The Chairman: We know that 18 months ago you were up in the Whitehall league tables, but that is a sign that there was not so much pressure. Since you have had the pressure, it just seems to me that there is the issue of anticipation and how you are organising to respond to that. Anyway, we will move on.

Q3 Lord Soley: You have acknowledged the importance of Parliament's role in scrutiny and holding the Government to account. You have told us that this is a difficult area, and it is; we all accept that the migration issue in particular is a crisis. All of us in this room also know that the Home Office is a very difficult and demanding department in terms of the pressure on it. Nevertheless, the history of this is bad; there is no other way of describing it.

The Committee wrote to the Government about the European agenda on migration—Paper 8961/15, which I have drawn to your attention—on 15 July. A response was due by 29 July, but we did not get it until 15 September. Can you explain that? When Mr Brokenshire, the Minister, was asked about this, he explained that there were “communication problems”. What were the problems with that one?

Mark Sedwill: I do not have all the details on exactly what happened during that period. You will recall that during last summer we were dealing with an unprecedented set of issues and government was wrestling with both the policy and operational implications of the migration crisis that affected Europe as a whole last summer. To be frank, most of our attention was devoted to dealing with the substantive issues and making sure that our own procedures were in place. We were dealing, as you recall, with the pressures in Kent on the migration systems and on the border itself, with what was happening in Kent, and indeed with the impact of the strikes in northern Europe on policing in Kent. There were definitely some internal co-ordination issues, which I have not completely got to the bottom of, between Ministers' offices and officials. Quite clearly, this dropped below the radar and should not have done. Again, I will not make excuses. That should not have happened, but I do not think there was a

specific, conscious process failure; I think it was simply the pressure of events and this not being properly monitored and escalated, either to my office or to Ministers, in order to ensure that it was dealt with on time.

Lord Soley: So the communication problems that Mr Brokenshire referred to were within your department, not other departments, and between sections of your department. Is that right?

Mark Sedwill: I certainly would not want to shift the responsibility for this outside the department. In complex areas such as this, of course there are government clearance processes and so on; it is a complex matter. But if we are the lead department, it is our job to make those work and to be ahead of an issue, so that if we know that something is complex and that it will take more time to get cross-government clearance, we are in touch with the clerks and warning you that it will not be possible to meet an initial deadline because the dossier is on a particularly complex matter. If I look across the range of dossiers that have been of concern to the Committee, they are the ones that are not straightforward and I think we have been remiss in not getting in touch with the Committee clerks early enough and saying, “This is really complex. We’re going to struggle to meet the deadline here. We can give you a holding reply. Please agree some more time with us”. This is probably one of the prime examples of that kind of process failure on our part.

Lord Soley: Your job is to manage and to make sure that we do not have problems like this. That is what you are there for. You said a few moments ago, “The process hasn’t been modernised yet”. What will that modernisation process be, and how will that prevent something from happening that happened with the European migration paper?

Mark Sedwill: I am happy to answer that. I absolutely accept that it is my job to try to make sure that the Home Office meets all our obligations, of course to Parliament but more generally, and that all our casework, all our immigration work, all the work that we do, financial and otherwise, is up to scratch. I have had a programme since I arrived in this job that I nickname “Consistent competence”, because I felt that it was an overall strategy that the entire organisation needed to get behind. These things, as those of you who have run big institutions will know, take time to improve.

In terms of parliamentary accountability, again, to be candid, this was not on my radar screen, partly because there were other areas of our parliamentary accountability that were significantly below par. We were well down the league table on the timeliness and quality of some of our responses to PQs, to named-day questions and so on, so we focused our efforts on improving those. That was where the gaps were greatest. As I said, at that time our

performance in this area although not perfect was pretty good compared to most other departments, particularly those dealing with big and complex dossiers like ours. It now has my attention, and has had since it became clear that we dropped off the pace on this as well. I can come on to say what we are going to do, but that is the background.

In terms of what we have already started to do, I guess there are three things, which I will summarise. First, within the current system, there are some immediate tactical changes that we have already introduced. My office will be getting a weekly report so that we can ensure that we are progress-chasing within the current system in order to understand whether we are hitting deadlines, and whether we have been in touch properly with the Committee. As you know, that galvanises the system in a big institution. It is not a permanent fix, but it ensures that the right focus is on it. The teams who are responsible for this are now keeping a more effective log of exactly who has taken responsibility for responding to a particular dossier. Of course, we have a secretariat that pushes these things out to the expert teams and gets responses from them, and it will ask those teams to let it know quickly whether it will be possible to meet the deadline, whether the response will be correspondence or an EM, or whether something will take more time.

There are some simple tactical changes that we are making immediately, such as management information and logging progress, and more substantial changes as part of the effort to raise our performance on parliamentary accountability generally but at a time when we are of course squeezing resources, particularly in headquarters, because we are under the same austerity pressures as the rest of government.

There are two elements to that. First, I have someone who is a former PPS to one of our senior Ministers of State, and who therefore has an intimate familiarity with ministerial engagement with Parliament, leading a piece of work to look at all our parliamentary accountability processes, because we need to see this as part of the same set of procedures as PQs and other correspondence, such as the response to Urgent Questions—or Private Notice Questions here in the Lords—and to ensure that all that is in better shape.

In terms of the specific kinds of initiatives—and I am happy to write to the Committee once we have worked this out—I have something in mind that is rather similar to what we did when we cracked the backlogs in the Border Agency in the past few years. We had many of the same process issues there that we face in this area. The first was to triage all correspondence, whether that is the requirement for an EM at the start of the process or subsequent correspondence from the Committee—the terms may change as we work our way through this—essentially into whether it is straightforward or not straightforward. If it is

straightforward, the service standard is to hit the eight or 10-day deadline, depending on the nature of it. If it is not straightforward, the service standard is to engage with the clerks within a day or so to say, “This is a more complex area of work. It’s going to take more time”, so that the Committee has certainty about the pace of our response. That is responsive, but that is the kind of change that I would want to see.

There are other things, such as ensuring that we have a named official and that that named official, knowing the pressure of other business that they or their team face, has confirmed positively that they will have the capacity to meet the requirement. That is the kind of change that we have made: triaging and streamlining in that casework.

The second pillar, which is something that we have started to try to do more effectively with Urgent Questions and so on, is to be ahead of the curve. When we know from UKREP or elsewhere, or indeed just from the proceedings of the Committee if we are already in dialogue with you, that something is likely to be a matter of prolonged correspondence or an EM is likely to be issued, we need to get ahead of that and to have essentially a forecast of business and be able to ensure that we are scheduling resources and teams in order to be ready to deal with it. Again, although the volumes are many, many times higher, this is what we do in processing passports, visa applications and so on.

I want to apply some of those lessons. I have been in touch with the director-general who runs our visa and immigration business, UK Visas and Immigration, who will lend us one of her process experts, along with our internal continuous improvement team, to work through how we streamline these processes and ensure that we are taking that kind of approach.

Q4 Lord Soley: Other Members may wish to pick up on one or two of those points, but I will finish with this question, if I may. You said in your earlier statement that this was not just a matter of having more staff, so I take it that you are being very clear that having more staff is not the answer—or are you saying that you need more staff but that it will take time to train them?

Mark Sedwill: It is a bit of both. I do not think that more staff are the answer—at least, I am not going to allocate more staff to a process that I do not believe is yet running as efficiently as it should. As we introduce the kinds of reforms that I have set out—obviously those will take a little while to have an effect; it takes a little while to hit those kinds of service standards, to get the people, to get the machine moving as smoothly as it should—if, despite all those changes and being confident that those changes have been implemented effectively, we find that the sheer pressure of business means that we are still not hitting the service standards, obviously I will have to think about allocating additional resources, perhaps at peak

times of year and so on; noting, however, that in particularly complex areas just deploying people is not really part of the answer.

However, I would want to be sure that the process is effective before I add resources to it. As you all know—you have been involved in big institutions one way or another—if you just apply more resources to an inefficient process, the process just stays inefficient, and often actually becomes less efficient and effective. You have to sort out the process first.

Q5 Lord Faulkner of Worcester: I think, Mr Sedwill, you have answered much of the question I was going to ask you about new systems. I am tempted, though, to ask you why it has taken so long for you to recognise that there has been a problem. We have been getting increasingly frustrated by the lack of response from the Home Office for many, many months now. It is great that you are here today, and perhaps your being here today has helped to expedite the introduction of the new processes, but why has it taken so long?

Mark Sedwill: I do not really have a good answer to that. It should not have done. Despite all the challenges—you know all the jokes about the Home Office, the nature of the business there and the fact that almost everything is crisis management; we are on the front page just about every day for something—

Lord Faulkner of Worcester: I was brought up in a household of a very senior Home Office official, as you may know.

Mark Sedwill: Indeed. Several colleagues around the table have dealt with it as intimately over many, many years, and I am used to seeing them in slightly less inquisitorial circumstances than this.

The simple truth is that it should not require me to be called before a Committee for us to get on top of this kind of thing. Actually it has not; we were getting to grips with it already. But inevitably this focuses my personal attention on something in a way in which, because of the sheer scale and complexity of what we do, it was not focused on it before. As I said, I am not making excuses; we should have been on top of this, we should have identified that we were dropping off the pace and got on top of that earlier. The reason—and it is a reason, not an excuse—was because this was not an area of our parliamentary business that looked as though it was as far off the pace as some of the other areas on which we were focusing. One should not drop back as another improves; that is absolutely the case. But inevitably I was focused on some of those others.

As part of the reforms that we are introducing more generally, my executive board and I get monthly, as part of our overall performance pack, a couple of slides measuring the timeliness and quality of our parliamentary business, including whether Ministers have bounced things

back because they just do not think that the reply is very good, and so on, so that we can identify particular areas such as EU scrutiny. There have been issues with asylum, for obvious reasons, which might well flash red in other areas too just because of the pressure on those teams, and I want to be able to react to that more quickly.

Lord Faulkner of Worcester: You need to spot which ones are more important and need to be prioritised.

Mark Sedwill: Indeed, and that is what we hope to be able to do.

Q6 Baroness Massey of Darwen: Thank you for coming, Mr Sedwill. I want to ask you a follow-up question to Lord Faulkner's questions. You talked earlier about putting in place modern, streamlined procedures and about being ahead of issues, but it sounds to me as though you are sometimes caught out by unpredictable forces, which of course we all are sometimes. How does your executive board try to predict the unpredictable and be ahead of the game, as you clearly want to be?

Mark Sedwill: You are absolutely right. The old political saying, "What's the hardest thing in political life? Events, dear boy, events", is truer of the Home Office than probably of any other area of government. However, one of the things that I have tried to do since I got to the Home Office is wean us off the idea that just because we face unpredictable events, and crises from time to time, that should be the mode of operating across all our business. We therefore need the space in order to be able to respond quickly and to firefight as things break out, but we do that by making sure that we are on top of all the routine business more effectively. This is an example of that, although it is quite a narrow example.

However, while there are certain dossiers, such as the asylum dossier, where events, the pace at which the Commission worked on it and the uncertainty in Europe meant that it was quite unpredictable, and where, if that were a one-off, I could have come here and said, "Look, you've just got to accept the circumstances. It is a very particular case", the truth is that our performance across the board has not been settled or predictable enough in areas where we should be able to manage this as a routine part of business for me to be able to say that with any credibility.

I want us to be in really good shape on all the things that we can predict, so that you are more understanding if something is genuinely unpredictable and we can ensure that we have the space to do so.

On the question of how my board looks ahead to events, I have learned that crystal ball-gazing is a mug's game in government. You have to try to identify the potential consequences, so we do quite a lot of contingency planning for major disruptions, and we

have risk registers that look at the internal department's performance, of which parliamentary accountability is one component. Of course, the Home Office system is designed essentially to mitigate risk, and I guess we spend more of our time looking at the big external risks, such as the concatenation of events whereby organised crime is supplying firearms to terrorist groups that were previously separate but are now coming together. That is something that we have the right kind of policy and operational response to. We try to identify those trends and ensure that we are providing Ministers with the right policy and operational response before they manifest themselves. That is what we spend most of our time focusing on.

Q7 Lord Morris of Handsworth: Your responses have been interesting, and I am sure that my colleagues have been following them step by step. At the end, however, I want to be clear in my mind precisely what the problems are. Is it a people issue, a systems issue, or an overall resources issue? I would say, boldly, that it must be a combination of all three or a single issue. Can you help us on that?

Mark Sedwill: As you know, Lord Morris, it is usually a combination of these things when one is dealing with a big institution and a complex process. To be honest, I do not think it is a people issue. I think that the quality of the people doing this work is high. They are genuine experts. That is partly why it is difficult just to add a few extra people quickly and see an impact, because the issues are highly technical, as you know, both legally and in policy terms. As I said earlier, timeliness is important, but accuracy, particularly when one is dealing with Parliament, is even more important.

The issue is partly to do with resources, some of which is technology, the number of people we have trained and the number of experts we have, but now I have had the chance to look at it I think it is primarily a systems issue. I looked at it and thought, "Essentially, I have seen this before". I have seen it in the big-volume caseworking functions in UK Visas and Immigration in the Passport Office, and it is why I think that at least the first part of the answer is to make sure that we have adopted all the methodology that we adopted there. You will recall that the UK Border Agency was nicknamed the UK Backlogs Agency by a senior parliamentarian, because it was characterised by that. We got on top of that, through the kind of reforms that I am talking about, within 18 months at massive volumes.

Once we have introduced those kinds of reforms to this narrower, more specialised area of process, I will be in a position to judge whether the issue genuinely is resources, which then becomes the pinch point. I suspect that in most of the business it will not be; there may be some areas, particularly migration and asylum, where it seems that we will operate at a higher level of intensity than we have hitherto, when we will have to think about shifting resources

from elsewhere. Of course, in a period of austerity, that is inevitably a zero-sum game, or indeed a negative-sum game.

Q8 Baroness Janke: I have no great expertise with departments of state, but it sometimes seems to me that the process and the substance get a bit too far apart, so that as we have these developments, which are very high-profile and very urgent—the whole migration issue is on the front page, as you say—there is a bit of a feeling that the sorts of developments that we ask to be informed about are seen as not really very important and perhaps somebody will get on with them a bit later when they have a few spare minutes.

Our work here very much brings out the idea that we need to look at them together, and certainly from the evidence that we have taken it sometimes feels as though some of the bureaucracy is not being related to the developments that are occurring very quickly indeed. I therefore wonder whether dealing a bit more integrally with the requirements of the various EMs, and so on, and relating them to the events, might be helpful in moving a bit more quickly on them.

Mark Sedwill: I think you make a very good point. Let me reassure you, by the way, that the Home Secretary takes parliamentary scrutiny extremely seriously, and probably the most difficult conversation I have had with her this year—she might be listening to this, but I suspect she is not—was over a matter of parliamentary scrutiny on which she felt that the department had come close to letting her down. She, and Ministers, are very conscious of their responsibilities to Parliament, not least because the nature of our business means that they find themselves being held personally accountable for the issues of substance on the Floor of both Houses, of course, and in Select Committees. The Home Secretary is before the Home Affairs Select Committee today for one of those regular sessions. So let me assure you that Ministers at least take this very, very seriously as parliamentarians themselves.

On your point about not allowing substance and process to become too far separated, you are absolutely right. That is why, with your agreement, I would like the former PPS who I have put in charge of this to engage with the clerks of this Committee as well as with some of the other stakeholders he will be talking to.

I talked about the parallel with caseworking and said that we could look at it as essentially straightforward or non-straightforward. After a conversation with the clerks, we might well conclude that the organising principle is slightly different and that we want urgent, important, straightforward, non-straightforward et cetera—that we want a slightly different way of looking at it, so that the clerks can say to us, “Look, we know this is not straightforward, but it is really high on the Committee’s agenda. It is a big issue. Can you try to prioritise it over

something else?” That has been done to some extent, but quite organically, and I want to see whether there is a way of making sure that we get the process right so that we really are addressing the issues of substance. It is not in my interest that we end up with a reformed system that still means that we are dealing with all the routine business in a way that you are happy with but are missing the point on the more important issues.

When I set out that kind of methodology for it, I want to test with the clerks of this Committee, other Committees and other stakeholders in Parliament whether those kinds of distinction are the right ones or whether we want a slightly different set of distinctions, and then agree what service standards we expect to achieve to deal with that.

On substance, we will always send you, say, an Explanatory Memorandum, as we have on one or two issues, and the Committee comes back and says, “We don’t really feel that this one quite answers the issues that are on our minds”. Obviously we should always try to be ahead of those issues, but that is just part of a dialectic and a healthy part of the conversation.

Lord Wasserman: This brings back terrible memories, when I was at your end of the room, of a young Labour MP called Clive Soley, who I thought was out to get me, because he kept harassing me year after year with questions about why I was not delivering some policy or other.

Mark Sedwill: I am quite glad that my former boss, Lord Jay, is not in the room today. I was not looking forward to that part of the conversation. He might remind me of one of the appraisals he wrote on me.

Q9 Lord Wasserman: I want to get away from some of this looking back and move towards some information. I have been on this Committee for three years now, and I still do not quite understand how the opt-in, opt-out business works. We talk about it an awful lot, we are at it the whole time, but it is very difficult to understand why a particular decision is taken, the timing, how it works, and the implications. The Home Office, I understand, has a role in advising other government departments on decisions about opt-in and opt-out under the Lisbon treaty. Is that so?

Mark Sedwill: On JHA matters, yes. Nearly all these responsibilities are ours or the MoJ’s. The European Commission’s boundary between what it calls DG Home Affairs and DG Justice is not, of course, how we divide responsibilities between the Home Office and the Ministry of Justice. We are the two key departments on this, but inevitably, particularly when we are dealing with significant policy issues, there is the write-around process through government itself, through the domestic or European affairs committees, and all members of

the Cabinet are entitled to take a view. Obviously we then provide advice on whether it is an opt-in or opt-out matter, on exactly which part of Title V and so on it falls under.

I cannot claim to be an expert on this either, by the way. I spent most of my career well away from the intricacies of EU business in far-flung places where conflicts seem a lot more straightforward than some of this.

Lord Wasserman: But is there an official, interparliamentary committee on this?

Mark Sedwill: There is a ministerial Cabinet sub-committee, the European affairs committee, which is essentially the clearing house at Cabinet level. Then, as you know, Lord Wasserman, there are official committees that sit below it that provide the secretariat and other support to it.

Lord Wasserman: There is sometimes a question of whether the Home Office has got in early enough in the decision. Lots of the papers say, “We haven’t made up our mind about this. We’ll let you know in due course”. It seems to me that it knew that this issue was coming—it is an issue that always arises under these headings. Is there not some way of anticipating this, instead of keeping us in the dark until the end and then saying, “By the way, we forgot to tell you that we’ve opted in”, or mostly opted out?

Mark Sedwill: That clearly should be the case; we should be ahead of the curve and trying to let you know in as timely a fashion as we can manage. There are some issues where the situation is highly fluid, policy is shifting, the European debate is shifting, and inevitably it is harder for us either to be ahead of those or indeed to make public statements about them, because our interaction with this Committee is on the record and in public, and government will still be formulating its position. That will be the case in some areas of work, but, again, that is not the rule; it needs to be the exception.

As I said in response to an earlier question, it would be easier for us to say, either to the clerks or directly to the Committee, “In this particular case, you have to understand that this is an exceptional area of work. The nature of the circumstances means that the normal procedures aren’t really going to work for this one, so please bear with us”, if you were more confident that in all the routine business we were really hitting the mark. I would like to get to being able to have that discussion rather than essentially having to explain why, in areas that are not as controversial or as complex, we are still not meeting your expectations.

Lord Wasserman: I think we would appreciate more explanation of the decision. It strikes me, anyway, that there is an awful lot of cutting and pasting; we are opting out of this one, (b), because of volume, or (c), because of something else. I do not quite understand whether it fits this particular case. We discuss the case for a long time, and in the end, at paragraph 15, it

says, “But we’re opting out”. It is not absolutely clear why, under “Other reasons” for example, you have opted out after you have said how splendid the proposal was.

Mark Sedwill: Let me take that one away. It is a very fair point. I suspect that we are trying to be absolutely clear about the legal basis in the treaties et cetera on which we have made a decision in that paragraph 15, and that can perhaps make us somewhat detached from the policy argumentation that leads up to it. I will take that away and see whether we can ensure that the connection is more explicit.

Q10 Baroness Massey of Darwen: You have talked quite a bit about new processes. Could you tell me how a new process might develop in relation to a particular case study? Again, the case study is to do with opt-in, opt-out procedures and ensuring that we as a Committee have sufficient information in a timely manner in order to be able to do our job. On the issue of the new processes, I would like you to talk me through the laissez-passers travel documents, which you will be familiar with. The Committee wrote to Mr Brokenshire on 24 February 2016 about a proposed regulation for a European travel document for the return of illegally-staying third-country nationals: the laissez-passers issue. We should have had a response by 9 March. We did not receive a response until 11 April. We have told the Home Office that we circulate the documents on the Thursday or Friday before a meeting and that correspondence should come at least a week before that so that we can consider it and write a briefing note. A response within five days is simply not feasible. To compound matters, the letter did not provide sufficient information to be clear on scrutiny. That is just one incident. How would your new processes address issues such as that one incident?

Mark Sedwill: Let me answer briefly on the laissez-passers point. I do not think this is a typical example. As I understand it, we submitted the initial Explanatory Memorandum on time, but the Committee came back and said that you wanted it rewritten because the substance was not right; it did not contain a clear legal base, and you did not feel that the explanation of the Schengen and JHA interface between opt-ins and opt-outs was clear. So it was a matter of substance in the initial memorandum that you came back to us on. It was thereafter, in our response to that, that there was a significant delay. It is perhaps not a typical case in that normally the question is whether we have submitted the document on time as opposed to the Committee feeling that the substance is not right. I think that is correct. Anyway, that is what my briefing on this says.

Because it was clear from your response that you did not feel that the initial EM met your expectations, and recognising that it was going to take us some time to work through it, because it was a complex area right on the boundary that Lord Wasserman has just referred to,

we should have come back to the clerks immediately and said, “Okay, this is going to take longer”, and worked out a process for that. Looking back, even under our current procedures we should have done that, and we did not. That is just a mistake in our existing process.

Of course, I cannot explain in a single case what exactly a reformed process would do until we have developed it. As I said earlier, I hope I will get some insight from the clerks—and I saw from nods that I will—on exactly how we might make that work. The key point is having really clear service standards. Whether we describe things as straightforward or non-straightforward, urgent or whatever, however we organise these things, we should have really clear service standards. If we say that a piece of business is straightforward, the service standards will be eight or 10 days, depending on whether it attracts an opt-in or not, and we will meet that. If it is not straightforward and it will take more time, within a day or two we will have a conversation with the clerks, formally or informally, and register that this is a particularly complex piece of correspondence or dossier and that it will take longer. I want to ensure that we have a satisfactory process so that that works and so that whatever distinction we make—straightforward, non-straightforward, urgent, non-urgent, more important, less important; or more pertinent, to go an earlier question—and however we work that out, the reason for a dossier going down one track rather than another is clear and agreed.

I think that you have to let me develop the new process before I can explain exactly how it will work.

Q11 Lord Condon: You will have sensed the frustration, the disappointment, and the anger at times, of the Committee in its dealings with the Home Office on scrutiny over the last few months. This process today can be cathartic in the sense that you understand more about our frustration, and we understand the challenges that you face. But we want to finish the session feeling reassured that there will be change for the better and that the process changes that you have promised will make a difference, that they will be implemented and that the performance on scrutiny will improve. You said at one stage that there were three important stages, and then I lost the thread as you went into a lot of process detail.

Perhaps you would like to summarise briefly for us the very specific changes that will make things better, and perhaps reinforce that in a letter to the Chairman setting out what the immediate process changes are going to be, so that we feel more comfortable that this is not just plate-spinning today and that things will change as rapidly as we hope. Please give us some more reassurance about specific change and perhaps agree to write to the Chairman with some more specific proposals.

Mark Sedwill: In reverse order, I am happy to write to the Chairman. Perhaps I will do that once we have more detail on the exact changes, because in a sense what I have said in the Committee is all that I can say now. I will try to crystallise that for you in a moment, Lord Condon.

Secondly, just to reassure you, I do not want to find myself back here again in six months' time. To put it at its simplest, my focus in the Home Office is ensuring that the department's performance and reputation are where they should be. It is one of the great departments of state. We talk a lot about that, and this kind of thing lets us down, which is just not in my interests as the head of the department. You have led a very big and complex institution and you know how, even though certain issues may not be the central issue that you face—in your case as the Commissioner and in my case the Permanent Secretary—they affect your personal reputation and the institution's reputation, and you want them sorted. So let me assure you of my personal commitment to making this happen.

We will introduce the kinds of changes that I have set out. If they do not achieve the goal, we will continue to look at the process and make further changes if necessary. As I said, I do not want to find myself back here in a few months, but I will write to the Chairman, as you have suggested.

To summarise quickly, first, we have already made some tactical changes, largely to management information and progress-chasing within the current system. I hope you will see, and perhaps have seen, an uptick in performance just in the last few weeks, although obviously I recognise that you will be sceptical about whether that will be sustained until it is. Secondly, as part of our overall work on improving our accountability to Parliament in the modern era, and finding ways of doing this—Digital by Default; that entire agenda—I have put one of our brightest young officers, a former PPS to a Minister of State, to look at this in the round, so that we are looking not just at individual elements of the process but at accountability to Parliament generally, because the lessons that we are learning here will apply to answering parliamentary questions and other things, too. Therefore, this is clearly as important for the department's propriety and accountability issues as it is for bringing the accounts in on time and not having them qualified by the NAO.

Thirdly, I outlined the kind of changes I expect to see us make. Inevitably, as I have explained, I want to look at those properly. I do not want to say, "It'll be exactly like this", until we have made those changes, but some of the changes that we made in relation to other caseworking functions—there is a close parallel here to caseworking functions—such as streamlining, triaging, having clear service standards, differentiating between the complex and

non-complex, the straightforward and the non-straightforward, et cetera, are how we make improvements.

The fourth part of my trilogy—to misquote *The Hitchhiker's Guide*—is that if those changes do not have the effect that you want, and that I want, and do not meet your expectations, then, to go right back to the first question, that is the moment at which I will have to look at whether I can divert resources from elsewhere to this, recognising of course that that will have consequences elsewhere too. I will then have to make a judgment about risk and return.

Q12 Lord Soley: In the papers that we were looking at, which you have seen, of the items held under scrutiny on which the response has been late—there were eight all together—four were more than a month late and one was about three months late. Were you aware that that was the situation? Following on from Lord Condon's question, if you were not aware, what confidence do you have that you will be aware in future that it is slipping so badly?

Mark Sedwill: I was not routinely aware. Obviously I became aware in advance of this hearing when the correspondence with the Minister highlighted this to us, and then I talked to the Minister about it. One of the points that I made as part of the first pillar that I described to Lord Condon of better management information immediately and progress-chasing is exactly that. We—I and my board—will now know if things are seriously delayed, and, in particular, whether there is a good reason for that delay and whether we have communicated via the clerks with the Committee that, "This particular dossier or this piece of correspondence will take longer, for the following reasons".

That last point is really important; you have all been involved with or have run very big and complex institutions, and you will understand that not everything just runs straight through without touching the sides. My big frustration, if I were sitting where you are sitting, would be feeling that I was in the dark when something was delayed and not really understanding whether there was a good reason for it or not. I am determined to put that right immediately.

Q13 The Chairman: Thank you very much. I am really pleased that this has focused your mind on these issues. There are two points that I want to make. I look forward to receiving the letter from you as and when you ready, but one point I want to highlight is that, while process is extremely important, there are issues to do with the quality of some of the Explanatory Memoranda, which I think was what Lord Wasserman was talking about. The other issue is the technicality of the opt-ins and opt-outs. That may be another area where the clerks and your staff can come together in order to really understand it. In the laissez-passer documentation, there was a real misunderstanding about the opt-in and the override; I will not

go into the technicalities. Process is important, but it is important to understand the technicalities and the substantive issues.

Last summer, there was a training session and the clerks here met your staff. That kind of interaction is quite important, because after Mr Brokenshire appeared before the Committee last time he told me afterwards, “If we can work together on smarter ways of getting this process right, we will be very willing to co-operate with you on that”, and I know that the clerks are very keen. Better dialogue, better communication and highlighting things earlier become very important in that process.

For me, this is about three things: getting the processes right but understanding the technicalities, and the quality of the stuff that we get, which is equally important. I want to thank you, and, as I said, I hope that we do not have to see you in six months’ time.

Mark Sedwill: Thank you, Lord Chairman. Thank you for your closing statement. I agree with your comments. It is, of course, important to get the process right. I think the clerks are doing another masterclass with some of our staff later this month. That is what it says in my briefing, anyway. If you have not yet had the invitation, you will.

The Chairman: I think that is the Commons clerks.

Mark Sedwill: You might be right. Apologies. I am sure that many of the same issues apply. Of course you are right that in the end the substance is more important than the technical detail. As I said earlier, timeliness is important but accuracy is even more important. Some of our dossiers are extremely complex, and legally extremely complex. We have some of the best experts in government on this, but inevitably there will be times when you will take a different view as to exactly what the correct substance is. Let me assure you that the people working on this will not get everything right but that they are genuine experts. That is part of the reason why some of these more complex issues will always take longer. We need to be really clear with you if that is going to be the case.

The Chairman: Thank you very much indeed.

Mark Sedwill: Thank you for your time.