

Home Affairs Committee

Oral evidence: [The work of the Home Secretary](#), HC 434

Wednesday 27 February 2019

Ordered by the House of Commons to be published on 27 February 2019.

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Members present: Yvette Cooper (Chair); Rehman Chishti; Stephen Doughty; Kate Green; Stuart C. McDonald; Alex Norris; Douglas Ross; John Woodcock.

Questions 705–865

Witnesses

Rt Hon Sajid Javid MP, Home Secretary, and Sir Philip Rutnam, Permanent Secretary, Home Office

Examination of witnesses

Rt Hon Sajid Javid MP, Home Secretary, and Sir Philip Rutnam, Permanent Secretary, Home Office

Q705 Chair: I welcome the Home Secretary and the Permanent Secretary to this evidence session of the Home Affairs Select Committee. Home Secretary, you are very welcome. Permanent Secretary, you are very welcome. We want to cover issues around Brexit preparations and Channel crossings, but we would like to start with issues around the case of Shamima Begum.

Sajid Javid: Could I make an opening remark, please? Is that possible?

Q706 Chair: We are very tight for time. What was it on?

Sajid Javid: It was just really to recognise the 20th anniversary of the Macpherson report.

Chair: You can, of course, on that. You are very welcome to.

Sajid Javid: It is just really quick. Thank you, Chair. I do appreciate that. As we know, it is the 20th anniversary of the Macpherson report and it reminds us all of the terrible tragedy of the murder of Stephen Lawrence that we know led, quite rightly, to a series of changes after the investigation and the Macpherson report itself. I welcome the work that your Committee is doing and has done on this, as have other Select Committees.

I want to mark the legacy of that terrible tragedy. It is incredibly important, and I think it remains as important today. It has meant some incredibly important changes in policing. The racial disparity audit shows that we have the most diverse police force ever. That said, I think there is still much more to do. It is something I take very seriously, not just on diversity of policing but also the sense of fairness and making sure our police are seen at all times to have the integrity that they need to have to continue to police by consent. I just wanted to mark that. Thank you very much, Chair.

Chair: Thank you very much and we very much appreciate those words. You will know that Alex Norris and Douglas Ross have spoken in a debate in Parliament on this and also that our inquiry is ongoing. We have been talking to the Policing Minister. It will be very helpful to have the Home Office update on all of the recommendations from the Macpherson report and what the status of all of those is now. We look forward to that. I appreciate those remarks.

Q707 John Woodcock: Home Secretary and Sir Philip, welcome. Home Secretary, why are you seeking to remove citizenship from Shamima Begum?

Sajid Javid: Thank you for the question. First, let me say I will not want to speak about any particular case. It would not be appropriate.



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Q708 John Woodcock: Yes, I realise you only do that when it is convenient to do so such as in an op-ed in *The Times*.

Sajid Javid: Well, if you will allow me, since you have made that accusation, to correct you. I think you are referring to an op-ed in *The Times* where there is a title to the op-ed that mentions the name of the individual. I don't come up with the titles for my op-ed. I don't know if you have ever written an op-ed for a newspaper but sometimes they do come up with titles themselves.

John Woodcock: As a former reporter, I am aware of that excuse, yes.

Sajid Javid: If you read the op-ed, I don't talk about any particular case at all. I never have done, including this particular case, unless it is already in the public eye. For example, legal proceedings might already be complete so there are some historic cases that might do that. If you will forgive me, I won't talk about a particular case.

I very much welcome the question and the scrutiny. If it is helpful to set it out, the power for a Home Secretary to deprive someone of their British citizenship has long existed, for well over 100 years. It was first set up in 1914 in the British Nationality and Status of Aliens Act and then again in 1948 in the British Nationality Act. I think the most relevant to more recent cases is the powers that are set out in the British Nationality Act of 1981 and that remains the power in more recent cases in the last 20 years that Home Secretaries have relied on. That said, there were changes made in 2002, 2004, 2006 and most recently in 2014 when the powers of the Home Secretary were extended. I say that upfront so there is an awareness that some of these powers have long existed. It is not something that I have chosen just to pull out of the air and deploy.

As I have said in the House very recently, this power has been used by successive Home Secretaries and successive Governments of different political persuasions and I think that is important because these decisions are never political in any way. It is all about the job a Home Secretary has to protect the British public. The key requirement in using the power is that it cannot be used if it would leave an individual stateless. We are very clear on that. There is international law that governs that, and we absolutely abide by that.

Q709 John Woodcock: On that particular issue, without talking about the specifics, surely if the individual in question only has citizenship from Britain, whereas he or she may, in other circumstances, be able to apply for citizenship of another state, it is totally unrealistic, is it not, to suggest that that state would welcome that person and give them citizenship once they have been debarred on suspicion of terrorism? That is just not going to happen, is it? We would never do that.

Sajid Javid: Let me answer that question clearly. You said where an individual only has British citizenship. There is one exception potentially to this and I will come back to that in just a moment, if I may. If an individual only has one citizenship, generally the power cannot be used



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because, by definition, if you took away their British citizenship they would be stateless. I certainly have not done that, and I am not aware of any one of my predecessors that has done that in a case where they know an individual has only one citizenship, because that would be breaking international law, as we understand it. As you have described the situation, if they have only one citizenship that would leave them stateless.

Q710 John Woodcock: You have never applied a case where the individual has only one citizenship and you have not taken the idea that he or she could have a second citizenship as entitling you to take away the British citizenship?

Sajid Javid: I have not deployed the power on the basis that someone could have citizenship to a second country. I have always applied it on the strict advice of legal advisers in the Home Office, and more broadly in the Government, that when the power is deployed with respect to that individual they already have more than one citizenship.

Q711 John Woodcock: On this issue, you have never contradicted the advice you have been given by your officials in the Home Office?

Sajid Javid: If you mean by “contradicted”, have I overridden the advice?

John Woodcock: Indeed.

Sajid Javid: On something as important, as exceptional as this, I have not. I did want to say there is potentially a situation where citizenship, according to our domestic law, could be taken away where it is based on eligibility to a second citizenship rather than already having it. I mentioned a moment ago that in 2014 the Immigration Act powers of deprivation were extended and that is specifically to powers that were set out in that Act. I have not used that power and to the best of my knowledge none of my predecessors have used the power that was given in 2014. The power in 2014 more specifically says that, broadly put, if a British individual is a naturalised British citizen, so not British born, so they already had citizenship and they became naturalised and even in a situation where they have subsequently, after becoming naturalised, given up their original citizenship, it is still possible under certain circumstances for the Home Secretary to strip them of their nationality on the basis that they had one before.

Q712 John Woodcock: Understood. Let me briefly read you a theoretical example. In 2015 a British woman travelled to join Daesh. In 2017 the individual flees Daesh-held territory with a new-born baby, and they make their way to Turkey. On arrival in Turkey, the mother and child are detained for entering the country illegally. Following the mother’s detention, the British authorities are notified. DNA testing of the child is conducted to establish her entitlement to a British passport. Given that the mother has lived in Daesh-held territory, the Home Secretary and the judge approved the use of a temporary exclusion order to manage her



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return to the UK. The mother and the child are subsequently deported to the UK from Turkey via the report specified by the TEO. That is the right way, according to the Government, to deal with a situation like that, is it not?

Sajid Javid: That is one way. I think what you have referred to there is the counter-terrorism strategy, the CONTEST strategy that was published last year. What that is recognising is that each case will have to be dealt with literally on a case-by-case basis by the risk presented in that case. That is why the CONTEST strategy goes through potentially different situations. To add a bit more colour to that, over the last few years we estimate that about 900 people—there is no exact number—have left Britain, either British or British connected, to become foreign terrorist fighters, going to Syria and Iraq and in almost all cases to join Daesh but not exclusively. Of those, we estimate about 40% have returned. You have said that could apply to a situation where someone has managed to return one way or another. We estimate about 20% have been killed in a battlefield and about 40% are still probably somewhere in the region. They may be roaming around in the region, still killing and murdering and raping, or they may be in detention, held by other forces.

Q713 **John Woodcock:** I am going to have to round up very quickly. Just briefly, why is the Home Office currently refusing to release the details of those who have been successfully prosecuted? You will give numbers of successful prosecutions for terrorists related with Daesh returnees, but you will not give details. Surely the public has a right and should be able to know about that. Sir Philip, I don't know if you—

Sajid Javid: Maybe Philip wants to come in in a second, but if I may, you just picked up a bit of the CONTEST strategy and used it for illustrative purposes. If we were taking a broader view of that same strategy, it also talks about the power of deprivation. It talks about using immigration powers to keep the country safe and it specifically references deprivation. The CONTEST strategy does talk about lots of powers that can be deployed on a case-by-case basis.

On your final question, there has been about 40 convictions of returning foreign fighters at various levels of sentencing and there has also been use of other orders such as TPIMs, TEOs, exclusion orders. Your question was about why are details not published. When convictions take place, in almost all of those cases the details will be published.

Q714 **John Woodcock:** Could you reflect on that, because there is a number of us who are asking, including members of the press, who have been told that they can't get the details at the moment? If you would reflect on, I would be very grateful and pass it on to the Chair.

Sajid Javid: I will happily do so. Thank you, Mr Woodcock.

Q715 **Kate Green:** This morning I spoke to a deputy head teacher in my constituency, a senior member of our Muslim community, of Asian extract and she was born here. She is bringing up children who were born here.



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She asked me to tell you, Home Secretary, that she, her family and her community are deeply distressed and fearful as a result of your decision in the Shamima Begum case. They feel again that they can't be sure that this country is their home and they have a right to be here. I promised to pass that on to you. She is a very influential figure, I must tell you, in my constituency and in greater Manchester.

You have explained the legal basis by which you might strip somebody of citizenship. Do you think it is morally right to export a problem when a young person has grown up only in this country, been radicalised in this country and gone from this country to become part of a terrorist operation in another country? Don't you think that we have a moral responsibility to take to account for how that young person became radicalised and deal with her in this country?

Sajid Javid: Thank you very much, Ms Green. First of all, you referred to my decision. As I said, I won't talk about a particular case, but we all know which decision you are talking about because unlike similar decisions that have been made, this one, for obvious reasons, is more in the public eye. But it is important on my decision, as I was trying to set out to Mr Woodcock, that this is not some sort of new national security tool that I have just invented or rolled out. As I said, this goes back over 100 years with successive Home Secretaries, possibly even Home Secretaries in Governments that you have supported in the past. While there can't be details on individual cases, there has been quite a high degree of transparency around this.

I have referred to the law that allows deprivation in certain circumstances to take place and I mentioned a moment ago the series of Acts, including more recent Acts such as the 2014 Act that was debated in the House and in the Lords and was not opposed by the then Opposition. That Bill was not opposed, and it was a very clear new power. That is important. I hope that you were able to explain to your constituent that this is not something that the current Home Secretary has just dreamt up. This has been there, debated properly in Parliament and supported by parliamentarians of all political persuasions. I think the reason for that is that when this is properly debated and people look into it, they understand that it might be a blunt tool and it should only absolutely be used in the most exceptional circumstances and cannot be used lightly. When I have had to look at potentially using this power, it is a difficult decision that we—

Q716 **Kate Green:** But is it right to export a problem that was created in this country? Do we not have moral ownership of it?

Sajid Javid: I can understand that argument, but what we have to put alongside that is if the logic of that argument is that in every case you allow a committed terrorist to return to the UK and face our courts—and again I am not talking about a particular case but there are cases where we have known, that we have talked about in the past—there is a low likelihood of getting any meaningful conviction for them on the basis that



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it is a very difficult space that they have been operating in to gather evidence. I think your constituent—

Kate Green: I do understand that.

Sajid Javid: On that basis, the choice that you might be left with is you can either use what powers you have, what tools you have that Parliament has given you to keep the country safe or you could take the argument that you seem to be taking and say, "It doesn't matter. Let them back in the country and if they go on to radicalise others and to carry out a terrorist act themselves and kill innocent people in the UK, then so be it".

Kate Green: Is it right for us to make that another country's problem, a third country's problem?

Q717 **Chair:** Home Secretary, just to interrupt before you answer Kate Green's question, I don't understand why you can't answer her question in regard to this case. There is nothing legally preventing you and there is nothing in the rules of the House preventing you from answering with regard to this individual case.

Sajid Javid: There is. This particular case may become subject to legal proceedings.

Q718 **Chair:** But has it been at this point? Are there any legal proceedings about this case at the moment?

Sajid Javid: I can't answer anything regarding this case because it may or may not become subject to legal proceedings but also—you asked me a question and I would like to answer it—there are related legal proceedings and there is intelligence involved. Just for those two reasons, and I could probably think of more, it would not be appropriate to talk about a particular case or the details of a case.

Q719 **Chair:** This Committee would not ask you ever to release crucial intelligence and we would never do so. However, the Speaker has said there is no legal proceedings underway in this case. Is it your view that you would never answer any questions on any cases because theoretically there might be a possibility of some future legal proceedings? Presumably there is the potential for future legal proceedings in, frankly, any decision that you make. Perhaps the Permanent Secretary can answer that.

Sir Philip Rutnam: It is indeed the Government's position that we should seek to avoid commenting on individual cases. That is the position of the Home Office and it has been the position of the Home Office under successive Administrations that we do not routinely comment on individual cases. There are very good reasons for that; the most obvious is where there are legal proceedings in train.

Q720 **Chair:** But there aren't in this case.



Sir Philip Rutnam: But it is also entirely appropriate and reasonable for Ministers and officials to take into account the fact that legal proceedings may be brought into train and that we should, therefore, respect the fact that anything that we say, any comment on individual cases could be brought to bear in those legal proceedings. It has been the position of successive Administrations that we should avoid commenting on individual cases, particularly where there is the prospect or actuality of legal proceedings or where issues raise potentially sensitive intelligence matters or where there are issues around protection of an individual's privacy and data. Those are reasons that are well founded in parliamentary administration.

Q721 **Chair:** As I said, I don't think the intelligence issues are relevant because we would never expect you to respond on any intelligence issues.

Sajid Javid: May I add to that? You referred to comments made by the Speaker. I have written to the Speaker subsequent to his comments to explain that if this case is brought up again in Parliament, whether it is me answering or the Security Minister or others, we will continue to take the view that we cannot comment on a particular case.

Chair: But you will realise, especially given the way that Kate Green opened her comments here, that there is huge concern. It causes alarm across the country if you are not able to answer some very reasonable questions, that don't necessarily need to go into the detail of somebody's personal circumstances. There are reasonable questions that are raised by this case.

Q722 **Kate Green:** May I ask again: do you think it is morally right and commensurate with being a good international citizen for us to export a problem that was created in this country to a third country that had absolutely nothing to do with it?

Sajid Javid: I take the point that the Chair has just made. Within the constraints of not talking about a particular case, I will answer as much as I can especially generally. As I said, this is not the only such case and it probably won't be the last. Your question, Ms Green, is it morally right, as you put it, to export a problem. I am afraid I don't see it like that. We are not exporting a problem. We don't sit there with an intention, "Let's see if we can export this problem to someone else". First of all, it is worth—

Q723 **Kate Green:** But that is what you have done, isn't it?

Sajid Javid: It is not what we have done. That is certainly not the intention of what we have done. In these types of cases, first of all the individuals themselves have decided to leave the country and join a terrorist organisation and help them to carry out their murder, rape and other disgraceful activities. They have gone to a country where they know in advance of going that there is no British consular presence of any type, no British consular support. As far as the Foreign Office is concerned, there is no good reason, with one or two exceptions—if you



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are an aid worker, for example—to be in that terrorist zone but they have still gone there. When you become aware of an individual, as Home Secretary your primary obligation is the safety of everyone who lives in the United Kingdom. That is your primary purpose, your primary obligation. Day in, day out, that is what I think about first and foremost. As I said, I do wish there were some better tools; I wish there were some different tools. I can only operate with the tools that I have.

Q724 Kate Green: You do have some other tools, don't you? Why weren't those other tools—

Sajid Javid: All of those other tools are not relevant in every case but even if they could be brought into play, you have to balance out the challenge that is front of you of keeping the country safe and that potentially someone reentering the country—

Q725 Kate Green: You are confident you have made the right balanced decision in every case that has come before you?

Sajid Javid: I am confident about every case that has come before me. I cannot speak for my predecessors and there have been many such cases. In 2017, for example, there were 104 cases and I can tell you that is nothing new because we have had transparency reports in Parliament that have said this. You have talked about your constituent. I do understand. She was a second-generation migrant. I am a second-generation migrant.

Kate Green: She alluded to her heritage as being the same as yours.

Sajid Javid: Not just for that reason, I do understand. What I have also heard since this decision, not through our actions but it has become a public decision, is that it won't surprise you that many people have contacted me or my Ministers and other colleagues and many people of similar heritage to mine have absolutely supported this decision. There is a difference of opinion among communities. I have talked about we think roughly 40% have made it back. Some have been convicted, some have not. Many, sadly, have gone on to continue to radicalise others and encourage them to commit terrorist acts either at home or abroad. That is something that no one wants to see, and I can tell you that no one in the British Muslim community—and I include myself in that—wants to see people taking the name of their great peaceful religion and twisting it for their own wicked means. That is probably what upsets them most.

Q726 Chair: When you take these decisions, do you take into account the interests of a child?

Sajid Javid: Yes.

Q727 Chair: Did you in this case?

Sajid Javid: Yes.

Q728 Chair: As I understand, Shamima Begum's child still has British



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citizenship. Is that correct?

Sajid Javid: As I said, I won't talk about the case, but I can confirm, if it is helpful, that if you are a British-born mother and you have a child anywhere in the world, that child, as long as you are British at the point that that child is born, is British.

Q729 **Chair:** Given that you have confirmed the outcome of the mother's case, it would seem surely obvious that you are able to confirm the outcome of the child's case, that he is British.

Sajid Javid: Based on the facts that I have set out, I think it is self-evident.

Q730 **Chair:** It seem really odd if you can't even confirm the outcome of that case, that that child has citizenship. Is there any plan for that child? Presumably he is in quite a vulnerable situation as a British baby.

Sajid Javid: Sadly, there are probably many hundreds of children that have been born to foreign fighters. As I mentioned, 900 people have gone out. We don't have a clear breakdown between men and women, but a significant proportion have been female foreign fighters. There are various estimates that some of them may have taken children with them and many would have had children out there while they are in northern Syria and working with Daesh.

Q731 **Chair:** But in the circumstances, if a mother were to say that she wanted her child to come back and her child was British, what would your response be?

Sajid Javid: I would say it would be incredibly difficult to help because there is no British consular presence in Syria. There is no British consular presence and there has not been for many years. If it is possible somehow for a British child to be brought to a place where there is a British consular presence, the closest place—it might be Turkey for example—in those circumstances I guess potentially it is possible to arrange for some sort of help with the consent of the parent. Inside Syria, whether in a camp or maybe somewhere else, there is no British consular presence.

Q732 **Rehman Chishti:** What you say about what Daesh stands for and what it has done, this evil, barbaric entity has nothing to do with Islam. My father was an imam, my uncle is an imam. Whether it is my Muslim faith or people from all faiths or no faith, we have all come to the conclusion that what this entity does is nothing to do with the faith. But what Islam does say, and all the other great faiths do say is that people should have justice and there should be fairness. I want to ask you a couple of questions on that and in relation to what our great country stands for in international law. First, you can't comment on this individual case but how did it then come out that the Home Office has stripped this individual of its nationality? There are reports to say this individual has been stripped of its nationality. How has that come out?



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Sajid Javid: First of all, I agree with your remarks about Daesh. I was saying to Ms Green, whether it is Daesh, Al Qaeda or other such terrorist groups, what these people have done and try to continue to do is, for their own wicked means, they have taken a great religion, a peaceful faith, and twisted it for other means. They represent no faith in any way whatsoever. What they represent is terror and violence.

Q733 **Rehman Chishti:** I am on a time limit for eight minutes to ask my questions.

Sajid Javid: As I said, I won't talk about a particular case, but I think you will probably know the answer to how that came out.

Rehman Chishti: I am asking you.

Sajid Javid: I can't talk about a particular case. I will refer to public information only. The individual was interviewed on television. That suggested journalistic access to the individual and to members of the individual's family. It seems to me that the family has published the fact that we had sent them a letter informing them of the decision.

Q734 **Rehman Chishti:** Of the decision to strip the individual of their nationality?

Sajid Javid: Yes.

Q735 **Rehman Chishti:** It has come through the family and not through any confirmation or any statements by the Home Office; is that right?

Sajid Javid: No, it has come through—we sent a letter to the family. If they choose to do something with that letter, that is their choice.

Q736 **Rehman Chishti:** Can I also clarify this? With regard to numbers, roughly 900 have been out there. About 400 have come back and 40 of those have been prosecuted. Out of those 400, just so that people know how rules are applied across the board, have any had their nationality stripped?

Sajid Javid: Of which 400?

Rehman Chishti: The 400 that have come back. Roughly 900 have gone out to Syria and Iraq.

Sajid Javid: If they have come back they would not have had their nationality stripped.

Q737 **Rehman Chishti:** That is the key point, the consistency of how rules applied. Nine hundred go out there; 400 have come back; 40 have been successfully prosecuted. Out of those 400 that have come back and with regard to those 400, have any of those had their nationality stripped, from the information that you have?

Sajid Javid: I want to be clear about what you are saying. Of the roughly 400 that have returned—



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Rehman Chishti: Yes, have come back to the United Kingdom.

Sajid Javid: Your question is have any of the ones that have returned had their nationality stripped. Is that your question?

Rehman Chishti: Yes.

Sajid Javid: That would be difficult. I don't want to say absolutely not because I don't know for sure, but it would be extremely difficult if you have had your British nationality removed, given that the primary purpose of that is to protect the country from that individual, that you would be allowed back in to the country.

Q738 **Rehman Chishti:** If I am not being clear, let me clarify again. The reason I am asking this question is that people want to know the consistency, how you have applied where this individual has apparently had their nationality stripped. One can't confirm or deny it apart from what the family said, because you can't do that. The position on the 400 that have come, you have the figures 40 have been prosecuted—you have given that figure.

Sajid Javid: Yes, around 40.

Q739 **Rehman Chishti:** Last week, if I may put this to you, on 20 February the Member for Isle of Wight, when you made your urgent statement, asked, "Does the Home Secretary agree that the priority is monitoring those 400-plus fighters who are back in the UK?" He asked that question to you specifically. I want to ask you, because this is about fairness, of the 400 that have come back and as the Home Secretary or the Home Office would know, have any of those individuals—when you compare what is happening in this case with those 400, none of those 400 have had their nationality stripped. Is that right?

Sajid Javid: As I say, it would be hard to see how they would have come back if they had.

Q740 **Rehman Chishti:** Correct, and that raises a point for me and for many people out there who are looking at this, that the Home Office may want to, if there is a public outrage, in some cases to then push for having somebody's nationality stripped whereas those 400 have come back and we don't know of the 400 who have come back, whether fighters, whether aiders, whether abettors, their actions in any way—and I will be frank with you, Home Secretary, having watched the video of this individual concerned, her comments are completely unacceptable, horrific. Pragmatically I would say don't let her come back but ethically and respecting the rule of law of this country, you have to apply the law and prosecute effectively. You can't give the answer about those 400 so that people can draw their own interpretation of whether or not you are applying the rules fairly.

Sajid Javid: Can I respond to that?

Rehman Chishti: Of course you can.



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Sajid Javid: First of all, I have given you the answer, which is that if you step back for a moment, in cases where the deprivation power has been applied to foreign fighters, it is on national security grounds. The major implication of that decision would be to try to prevent someone from returning who would be considered a serious risk to the security of the country should they succeed in returning. Your question is if someone has returned, how many have been prevented from returning by deprivation. As I said, if they were deprived of their citizenship, I can't see how they could have returned, so it is unlikely that any of the 400 were deprived. Given that those 400 are over a number of years under successive Home Secretaries, I don't want to say to you absolutely I am 100% sure that none were because it is something that I would have to probably check.

If you are suggesting somehow this is some kind of arbitrary power that is applied in some circumstances and not in others, as I said earlier it is on a case-by-case basis, based on the merits of each case and trying to assess the risk of each case and what tools you have. That is the way it should be. There will be individuals who perhaps you would have looked to deprive but maybe they have already returned, and you only discovered after their return.

Q741 **Rehman Chishti:** I didn't use the word "arbitrary". What I was referring to, and you know this point very well, is on 20 February somebody who you described as having served his country with great distinction as Home Secretary, the Father of the House, the former Home Secretary, raised the point and he said the way the powers are being used with ever increasing frequency raises real concern. That is somebody as a former Home Secretary of great distinction, according to your words. He goes on to say that in his time he never stripped anyone and never used these powers. Of course you have these powers to use, Parliament has given them to you and how you use them is down to you, but he is saying with ever increasing frequency. Does that not raise concerns with you if distinguished people like that are raising these concerns?

Sajid Javid: I think when the Rt Hon Member for Rushcliffe speaks it is important that everyone listens because I do think he is a distinguished individual with great experience, but that doesn't mean to say he is right every time he speaks or at least it needs to be put in context.

Q742 **Rehman Chishti:** I disagree with him on Brexit, completely wrong on that, but I agree with him on this.

Sajid Javid: Well, there you go. You have proved my point. If I recall correctly, he was referring to his time as Home Secretary, so it is relevant to bring that up, and I think that was in the mid-1980s. I don't remember the exact years. After 9/11, when it came to terrorist threat, especially foreign terrorist threat, the world changed and you know that, Mr Chishti. The world changed. 9/11 made a huge difference to the scale, perception, type of threat and the assessment that we had, our Five Eyes allies and many other allies had. Since then the number of people leaving



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Britain, America, France and going as foreign fighters has increased and I would suggest that the use of this power is directly linked to that.

Q743 Rehman Chishti: But when he was Home Secretary in 1989 you had the incident in Afghanistan when you had people from all over the world fighting against the so-called Mujahideens that were there and they were flying out to different parts of the world. When he was Home Secretary there were concerns about terrorists flying in and out from different parts of the world. Abu Hamza who we got to the United States, rightly, was fighting up there as well. This Home Secretary who made his point to say that this is being used with ever increasing frequency had to deal with those concerns. I think we have cleared that.

Out of the 400 who have returned, are you able to clarify how many of those were actual fighters or how many were not actual fighters?

Sajid Javid: Not right now and it is not always possible because, as I say, we don't know exactly what someone has been up to there. The evidence would be limited. In some cases we may or may not know because it is based on secret intelligence and it may not be appropriate to share that. You mentioned Abu Hamza. Just so you know, the then Government tried to deprive him. It wasn't this Government. It was a Labour Government.

Q744 Chair: Home Secretary, we want to move on to Brexit-related issues in a moment, but just before we do, we took evidence yesterday on the incidents in the Channel and the clandestine arrivals. I will get some factual information from you. They told us yesterday that there have been 87 incidents or 87 boats since 20 October, that that included some boats that had not been stopped from leaving but also boats that had been intercepted along the way. Can you confirm the figure of 87 boats or 87 incidents?

Sajid Javid: The numbers I have—I hope it helps with this—are presented slightly differently as the number of arrivals, individuals rather than the boats.

Q745 Chair: It is the boats we are particularly keen on. That is the specific question we asked about yesterday.

Sajid Javid: Okay. I don't have the actual number of boats.

Q746 Chair: I am slightly surprised about this. We had the NCA, the Maritime Coastguard Agency, and the Chief Constable. Given that this was one of the issues that we were going to be asking about today, I assumed that there was a Home Office official attending or watching that session.

Sir Philip Rutnam: We did have prior notice that you would be asking us for additional information following the session with the NCA, but I am afraid what I understood was it was not specifically about numbers of arrivals of boats. It was numbers of arrivals of individuals.

Q747 Chair: We were very clear, and we asked repeatedly at the end that we



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wanted the number of boats or the number of incidents.

Sajid Javid: I am sorry we don't have that, but we will try to get that for you.

Q748 **Chair:** What I was interested to ask about—and again I asked this very clearly so I would be extremely surprised if your Home Office officials who were attending or watching this had understood—was the number of incidents that had been intercepted by the French authorities and the number that had been intercepted by the British authorities.

Sajid Javid: I can give you some indication of that. For all of 2018 there were 560 people that attempted—again, sorry I don't have it in numbers of boats—and approximately 40% of the 560 were intercepted by the French. That includes almost all of those, with one or two exceptions, as interceptions on their coastline or just away from their coastline as someone is setting off. There have been interceptions further from France. I am aware of an incident, I think it was on 27 December last year, where a boat was intercepted three nautical miles off the coast of Dover by the French when we had, as I understand it, given them permission to enter British waters as part of our co-operation and partnership and that was returned back to France in that case. It was approximately 40% last year. I don't have the number for so far this year.

On arrivals this year, there has been a fall in overall arrivals from a peak in December 2018 of 138 actual people who succeeded in arrival. There was a fall in January 2019 to 47 but an increase so far in February to 79 arrivals.

Q749 **Chair:** Do you have any figures on the number of boats that have been identified or have been stopped or have arrived? I don't really mind over the time period. It could be in the last month, the last six months, the last 12 months. I want to get a sense of the scale of the number of boats that we are talking about.

Sajid Javid: I don't know in terms of boats, I am afraid.

Q750 **Chair:** I am really struggling with this because I asked this question yesterday and they could tell us. They could tell us that there were 87 boats, so they did have a figure and I am astonished that you don't when we had specifically said that this would be one of the topics for discussion today. We also asked for the breakdown: of that 87, how many of them were the French authorities, how many were the British authorities and we also asked for the breakdown of who had intercepted them, whether that was the Maritime Coastguard Agency, the Border Force, the naval vessel. I am just baffled that nobody seems to have these figures.

Sajid Javid: I have the figures but only in terms of people and arrivals and not boats. I do have a breakdown month by month of total attempts in terms of people and then the actual ones that failed and succeeded. I have that. I can share that with you.



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Q751 **Chair:** I don't want that number. I am trying to get a sense of the number of boats and incidents. Permanent Secretary?

Sir Philip Rutnam: I have found some information. I am afraid the message about your interests in boats as opposed to numbers of persons did not get through. Apologies for that. It is clearly a source of frustration. However, I do have some information here.

Q752 **Chair:** Okay. Tell me the information that you have.

Sir Philip Rutnam: Let me see if that is helpful. This information is that the NCA was aware since 20 October of at least 85 incidents. I am assuming here that incidents is the same as boats.

Chair: That is the discussion we had yesterday, that incidents was broadly the same as boats although it might be boats that never set off because it included incidents on the French coast.

Sir Philip Rutnam: Since 14 February, six detected incidents. That is some information. I am afraid that is plainly not complete, and we will seek to remedy the gap.

Q753 **Chair:** The reason that this is frustrating is because I don't believe that you did not have detailed monitoring of our evidence session yesterday when the parliamentary unit within the Home Office knew that it was a precursor to today's evidence session. It was the failure to monitor a previous session that led to the resignation of the previous Home Secretary because she didn't have information from a previous session. We specifically said. In fact, I asked the three organisations to provide us with that information yesterday afternoon so we would have it in time for this evidence session. I also specifically asked for the number that had been intercepted by the Maritime Coastguard Agency, the number that had been intercepted by the Border Force and the number that had been intercepted by the naval vessel.

The reason for asking this, and I would have thought you should know, is if you put a whole load of resources into the Channel we want to know what resources are being used, whether they are being used. The Maritime Coastguard Agency said they had quite sufficient resources for every single case they had been tasked for. Okay, that is good to know but we want to know how often the Border Force is being used and how often the cutters that you are putting into the Channel are being used. This is something that you described as a major incident a couple of months ago, so I don't understand why you don't have this kind of information.

Sir Philip Rutnam: Of course, Chair, we were monitoring the session and we are liaising closely with the NCA. I do not know why the message that the denominator you wished to use was incidents or boats did not get through to me. The message that I did receive was that you were interested in information around arrivals, which we took to be persons. Obviously there has been a misunderstanding, for which I can only



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apologise, and we will follow this up as quickly as possible following the session.

Sajid Javid: Of course we will have that information. I am sorry we don't have it now. As the Permanent Secretary has said, I was told that you wanted information on actual arrivals not the boats and the incidents, so I am afraid we don't have it right now.

Q754 **Chair:** Let us be really clear, I would like the number of boats and who they have been intercepted by: is it the French authorities; is it the Border Force; is it the Marine Coastguard Agency; is it the naval vessel? I accept that there will be some incidents where all or many or several might have been involved but we want that really clear breakdown. Given that I am hoping that you have it easily to hand, to have it very swiftly would be extremely helpful.

Sajid Javid: We will send that to the Committee.

Chair: We are now going to Brexit issues.

Q755 **Stuart C. McDonald:** Home Secretary, last week on the Immigration Bill Committee we heard evidence from both the 3 million and the British in Europe about how best MPs could reassure them of their status and more than reassure, actually put them into practice real safeguards and rights. They suggested a couple of things, the first of which was a ring-fenced agreement. This afternoon one of the amendments that is being tabled is Alberto Costa's amendment that simply asks the Government to make a perfectly reasonable and simple request of the EU. The EU may respond positively or not but what is the problem with simply asking that question? What is there to lose?

Sajid Javid: It is very important, as you said yourself, that we provide all the reassurance and confidence for all the EU citizens that are here in the UK that we not only want them to stay, we want to make it as easy as possible, we want to protect their rights. We will do all we can to do that and communicate that as much as we can. There is much more communication to be done. You asked me specifically about an amendment that is being tabled by Mr Costa today. Did you ask me what is wrong with that amendment?

Stuart C. McDonald: Yes.

Sajid Javid: Nothing.

Q756 **Stuart C. McDonald:** Are the Government supporting it now?

Sajid Javid: Yes.

Q757 **Stuart C. McDonald:** Good. I am delighted to hear that.

Sajid Javid: What do you mean "now"? When were the Government not supporting it? When did you hear that?

Stuart C. McDonald: Yesterday.



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Sajid Javid: From who?

Stuart C. McDonald: From the Prime Minister.

Sajid Javid: Did you? Right, okay. Well, I am perfectly happy with that amendment. What Mr Costa is doing with this amendment, which I think is perfectly correct, is trying to find more ways for Parliament to try to give that reassurance that we both agree is very important. It is worth controlling expectations as a result of that amendment and that is that it calls on the UK Government to ask the EU to do something, which I think is not necessarily easy for the EU to deliver. It is outside of our control, clearly, what the EU does.

Q758 **Stuart C. McDonald:** Yes. I understand that totally. I am just very happy that the Government are asking that question.

Sajid Javid: I think it is a reasonable question to ask. I will just control expectations that it is asked to the EU when at this point the only thing the EU is focused on, understandably, is the current deal. This would be outside the deal because I think it envisages if it is a no-deal scenario can the EU do this.

Q759 **Stuart C. McDonald:** Okay, that is grand. The second thing on the list of things they would like to see done is rather than leave their rights to an application process, a settled status scheme, they want to see their rights enshrined in the Immigration Bill so that they are declared there and that resolves this issue that we all know is just around the corner of tens, possibly hundreds of thousands of people missing that deadline and being left without any rights in this country. Why not do that? Why not put it in the Bill?

Sajid Javid: In a word, Windrush.

Q760 **Stuart C. McDonald:** You said this for the first time on Monday and the Immigration Minister said that yesterday as well. You are rewriting history, Home Secretary, to say that the problem with Windrush was that it was a declaratory system. That is not anything that the NAO said in its report. It is not anything this Committee has said or the Joint Committee on Human Rights. You said this for the first time on Monday. Why are you now saying that the problem about Windrush was it was a declaratory system? The problem was with the documentation that was provided to prove rights not the fact it was a declaratory system.

Sajid Javid: If I may, you have just proven the point. With Windrush and arrivals from Commonwealth countries, when the law was changed in the 1971 Immigration Act, which came into effect on 1 January 1973, it was, as you say, a declaratory system so that means by definition there was no documentation.

Q761 **Stuart C. McDonald:** Yes, and there were no problems for 40 years. There was documentation and there were no problems for 40 years. The problems arose in the last decade when successive Governments



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implemented the hostile now compliant environment. There were checks all over the place and people had 40 year-old documentation that sometimes they had lost, sometimes people did not understand what it meant. The problem was not that the rights were declared in an Act in 1970. The problem was with the documentation and all these new checks that were introduced over the last 10 years. Why have you suddenly changed your mind on what the problem with Windrush was?

Sajid Javid: With respect, I don't think your analysis is accurate. You said first of all the problems were not in the first 40 years. The historic review, which we have discussed in the Committee before and we have published information on it, has shown that the problems go back many years, much further than the last 10 years. They certainly started many years after the 1971 Act came into effect, but as successive Governments have put in controls, starting in the late 1990s and the 2000s and continuing into 2010 and beyond, to control illegal migration—

Stuart C. McDonald: How would it have helped anyone—

Sajid Javid: This is important. It is really important this is understood. Successive Governments introduced more controls around illegal migration but what that meant is a lack of documentation became an increasingly important issue.

Q762 **Stuart C. McDonald:** So the answer was to provide them with documentation.

Sajid Javid: When someone from that generation was not documented right at the beginning in the early 1970s it became increasingly harder for them to prove their residency and so forth.

Q763 **Stuart C. McDonald:** Yes. The answer was to provide them with documentation. If I am a member of the Windrush generation and I go along and I lose my job and I don't get a new house because of a lack of documentation, how on earth would it have helped my situation if I didn't have any rights at all? Similarly with the 3 million, you are saying that—

Sajid Javid: I don't follow that. You are wrong there because the point was the Windrush generation have always, quite correctly, had their rights. The problem was by doing it only through a declaratory system it meant that there was no documentation to prove that, which many years later became a problem.

Q764 **Stuart C. McDonald:** A declaratory system can have documentation. British nationality is a declaratory system. I don't have any problem with a declaratory system for British nationality. I have my rights as a British citizen through a declaratory system. It is in an Act of Parliament. Are you saying that that is a problematic system as well?

Sajid Javid: No, the difference is, whether it is you or me, as a British citizen of course you have many rights but in terms of the documentation around British citizenship it is known when someone is born and registered in the UK through a birth certificate, then possibly through a



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passport application and other ways. The challenge here is this and it is worth acknowledging—

Q765 **Stuart C. McDonald:** It is exactly the same.

Sajid Javid: No, it is not.

Q766 **Stuart C. McDonald:** My rights are declared in an Act of Parliament, then through a passport. I don't have any problems. The problem with the Windrush generation is their rights were declared in an Act of Parliament, but the documentation was rubbish. It will be the same with the 3 million. You are saying to me that after the deadline when we have, say, 100,000, 300,000 people who all have missed that deadline, it is somehow going to be better that they don't have any rights at all because it was not a declaratory system.

Sajid Javid: No, I am not saying that at all. That is something you are saying.

Q767 **Stuart C. McDonald:** A declaratory system would mean they all had rights to be in the country.

Sajid Javid: Let's just step back a bit. We estimate—and that is a really important word "estimate"—there is about 3.5 million, possibly more, EU citizens in the UK. We want them all to stay. We don't know who they are. There is no way we could know who they are because of freedom of movement. As they rightly exercise their rights, come to the UK to work, let's say, or to study—please let me finish. You keep asking questions and you are not taking the answers so please let me finish. It is really important to understand this. I think there is a really important piece of information you are missing. We don't know who these people are.

When you are born in the UK we know who you are because you have a birth certificate, so your rights are secured but there is documentation very early on. With EU citizens there was no need for documentation under freedom of movement and therefore we don't know. If someone moved from Scotland to England 10 years ago we wouldn't know who they are. How would we possibly know that? That is the same as if someone is moving from Italy to England 10 years ago. We don't know who they are and because we don't know who they are, it is really important that they in effect have to self-identify because we don't know who they are. I wish we did. When they self-identify, effectively through the EU settlement scheme, they will be able to receive a digital document or documentation that will guarantee their rights.

The challenge is this: you could push me, the Government today could take the easy route out, which sounds good, which is change the law and say, "We declare that you have all got your rights". I guarantee to you if that happened 10 years from now there would be a Select Committee sitting there with a Home Secretary here and it would be Windrush all over again. We have to learn the lessons of Windrush and there is no



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point in parliamentarians saying, "Let's learn the lessons of Windrush" and not doing anything about it.

Q768 Stuart C. McDonald: You are not learning the lessons of Windrush. You are repeating the problems of Windrush. Even if you declare the rights in this Immigration Bill, the 3 million will still have every incentive to apply by the deadline because if they don't they will not have the documentary evidence that you have spoken about, which means they will not be able to rent, they will not be able to get jobs, they won't be able to do A, B or C. They will still have an incentive to apply for the status. The only difference between our approaches is that the day after the deadline you are ruling 300,000 of them illegal; I am not. I am giving them another opportunity to apply. Why are you comfortable that in three or four years' time we will be having another session here and you will be singularly responsible for 300,000 people overnight suddenly not having any status?

Sajid Javid: We have been very clear. First of all, in the scheme there will be a deadline. It has to be a deadline that fits in with the change to our immigration system when freedom of movement will totally end. We need to make sure that we have a system also in place that if someone has missed that deadline for good reasons that we have a common sense, proportionate, sensible approach. No one is interested in anyone losing their rights.

The answer to your question as to why the declaratory approach that was taken with the Windrush generation is not being taken now is because of the lessons of Windrush. It is easy to say what you are saying, and it is easy to demand that. The reality of it is that you will not be the one that is on the line maybe 10, 15 years—well, you might be, you might be Home Secretary by then, but you will be regretting what you have said just now because it would lead to terrible problems. No one wants what has happened to the Windrush generation to happen to anyone else. That is the reason why you have to have a system that eventually leads to some sensible way of documenting to be able to protect their rights not to take them away.

Q769 Chair: What would their rights be? We all agree there will be some people who for whatever reason do not complete the scheme. In five years' time what will the rights be of someone who has not completed the settled status scheme but may have lived here for 20 years?

Sajid Javid: Just to make sure I have got your example right.

Chair: They did not fill in the scheme. They did not apply for the scheme. They did not get settled status. Maybe they are a child and they did not, and the parents did not fill in the form, whatever, but they are now a 20 year-old and discover that they do not have settled status. What would their rights be?

Sajid Javid: It comes back to my point. We understand why you need to have a deadline, but you also need to have a process in place past the



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deadline where you are able to deal with exactly the kind of cases that you have said. For example, let's say it is a child and their parents did not register them—and I can't see why. If the parents registered themselves, it is quite strange they did not register the child.

Chair: No, they didn't. We all accept there are going to be circumstances.

Sajid Javid: Absolutely. When you have such a large number of 3 million-plus it is quite possible that what you have just said could happen in certain circumstances. I think they would be exceptional, but it could happen. You would just take a common sense, proportionate approach. You would have a system in place. Right here and now we want everyone to use the scheme, but we do need to think about what you have said.

Q770 **Chair:** Sure, but my question is under the current law, under the current system that you have in place, what will their rights be?

Sajid Javid: We have not developed what would exactly happen beyond the deadline, but we have said—

Q771 **Chair:** You are talking about process. I am talking about their rights. What would their entitlements be? Under the current system as I understand it they would be unlawfully resident here. Is that correct?

Sajid Javid: At that point in time if they have not used the scheme then they would, therefore, not have registered and protected their rights. But that said, I think that what we would want to have in place by then for these exceptional cases is a way for them to prove that they were in exactly the situation that you said and allow them to secure their rights at that point in time.

Q772 **Chair:** Okay, but that is a process and that is all dependent on some Home Office processes and so on. I am just interested in their legal rights, what their legal status will be. At that point they have not filled in the forms, they do not have settled status. Legally, will they be here unlawfully, yes or no?

Sajid Javid: If they haven't registered in the scheme prior to the deadline it would be against the immigration rules but, as I said, you would have a—

Q773 **Chair:** So they would be unlawfully resident?

Sajid Javid: It would be not consistent with the immigration rules. You are pushing me to use the word "unlawful". The reason I hesitate to use that is because, as I say, you would want to put a process in place that if someone has missed the deadline for good reason they are still able, post the deadline, to register and secure their rights.

Q774 **Chair:** But you are still talking about a bureaucratic process. In the current existing framework that you have laid before us, that you have talked about and so on, where are their rights located?



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Sajid Javid: You call it a process, but we could have been having this conversation in the late 1960s when the law was changed in the 1971 Act. If the conversation had all been about let's just declare it in law and that is the end of it, that would not have worked. What we needed back then was a process. It was the absence of a process that has led to the Windrush problem. If your suggestion is that the process is completely unimportant, of course it is not. The process is as important as the rights.

Q775 **Chair:** At the moment we can't see a process and the question will be what are their legal rights in that process? Somebody will then be applying to a process and the question is: what are the legal rights of that individual? It seems to me that you are saying they will be here unlawfully but subject to some future process as undefined, perhaps set up by you, perhaps set up by some future Home Secretary. Is that correct?

Sajid Javid: No, I am not saying that they will be here unlawfully. I think that you would have to have set out by then a process by which they could continue to secure their rights. For example, the reason I don't use the word "unlawful" is because their status will clearly be very different to someone who has illegally entered the country without any kind of leave. They are here perfectly lawfully. If they have missed the deadline we would need to have a process, a mechanism, in place for them to, in effect, late register for those types of reasons and to secure their rights that way.

Q776 **Chair:** I think we all agree it would be unreasonable to suddenly say they have to leave. I am still not clear what their rights are, what their legal status would be, because it seems to me they would have no legal status.

Sajid Javid: Although they would have missed the deadline, you would want to have a system in place where they would still have the right to register under the EU settlement scheme. They would still have the right to register under that scheme. Although the scheme would have generally closed at the end of the deadline, aspects of the scheme or a version of it would have to be kept open for those kinds of situations so that they can still register. I don't think in any way they should be considered unlawful. These are people who for whatever reason—and they may have a very good reason—have missed the deadline and we have to be very respectful of that and have a common-sense system in place that allows them to still register and secure their rights.

Q777 **Douglas Ross:** Good morning, Home Secretary. I want to continue the questions about the scheme. Can I ask you for your knowledge of the scheme because you are intrinsically involved? Does the scheme ask applicants to state how long they have lived in this country?

Sajid Javid: Yes.

Q778 **Douglas Ross:** No, it doesn't. Does the scheme ask when a person arrived in this country or when continuous residence commenced?



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Sajid Javid: The scheme asks—they have to prove their identity, that they have lived in the country and that they have no criminal convictions.

Q779 **Douglas Ross:** In response to both of my questions, it does not ask specifically for the date they arrived in this country, when the person arrived or when continuous residence commenced. It does not ask for those details. Therefore, how can you, as Home Secretary, the Department and the Government be satisfied when people have to prove if they can't have the documentation of five years' continuous residence that that proof is available if they don't have to state a start date from when they came into the country.

Sajid Javid: I think they do ask some of that information.

Sir Philip Rutnam: I don't think they have to provide the start date, Mr Ross, because it is not necessary. In order to get settled status, what you need to show is that you have been resident in the United Kingdom for at least six months in each of five consecutive years or there are some exceptions, for example periods of military service are excluded from that. It is a test essentially of a certain period of minimum residence in each of a certain number of consecutive years and that can be done, and in fact has been done very successfully. Something like 80% of the applicants thus far have been able to pass that test without requiring any documentation from the individual because we have been able to use the automated look-up with DWP and HMRC records using national insurance numbers.

If that is not sufficient we do ask for documentation. There is a very wide of potential documentation that could be provided but it is not necessary for us to know when the individual arrived in the United Kingdom provided they can show, if it is a matter of settled status, that they have at least six months of residence in five consecutive years. If they can't show that, they can still apply for pre-settled status, as you probably know.

Q780 **Douglas Ross:** Yes, I will come on to that. In the letter you sent to the Committee this morning, Home Secretary, we asked of the 8,106 cases recorded where pre-settled status was offered, we asked how many of these cases was the status offered on the basis that the individual did not have five years' continuous residence in the UK, and you say, "Excluding the 11 administrative errors where there was a review, all cases granted pre-settled status were on the basis that they did not have five years' continuous residence in the UK". Are you 100% satisfied with that statement?

Sajid Javid: You will have to point me to the statement again. Which one is that?

Douglas Ross: Page 2 of your letter. You are saying of the 8,106 cases minus 11 where there was an administrative review, not a single one of those people has been in the country more than five years but unable to



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prove it.

Sajid Javid: I think I would have to read this more carefully again but what I can tell you is that it would not be in the letter unless the officials were satisfied that it is correct. Obviously I don't go checking cases myself, so I rely on the advice that I get from officials.

Q781 **Douglas Ross:** Do you think it is even possible that 100%, barring 11 administrative errors, not a single one of these people has more than five years residency in the UK but is unable to prove it? You don't ask for the date they come into this country. You don't ask when the applicant started living here. I would be amazed that within that 8,106 figure there is not one or two or 20 or 50 that potentially have lived here for five years but have not been able to have the documentation to prove. Yet, Home Secretary, this morning you signed a letter to that effect, and you are confident with that.

Sajid Javid: This is what has come from my officials who are running the scheme, the people who run the scheme. I have absolute confidence in them and if this is what they are reporting as the results of the testing of the scheme. This is still a testing phase of the scheme. It has not been formally rolled out yet. That will not be done until the end of March. This is information that they have put together for us to share with the Committee on that basis.

Q782 **Douglas Ross:** Do you not think it would be slightly strange that despite 11 administrative errors, which have been reviewed, everyone else who applied were not unable to prove that they had not lived here for more than five years, it is just that they had not lived here for more than five years?

Sajid Javid: I rely on the information I have been given from my officials.

Q783 **Douglas Ross:** You are confident?

Sajid Javid: I have confidence in my officials, yes.

Q784 **Douglas Ross:** And the Permanent Secretary is confident?

Sir Philip Rutnam: Mr Ross, I am still struggling slightly to understand your question. You are implying that of those 8,000 cases, a significant proportion may have in fact been resident continuously for five years but unable to prove it.

Q785 **Douglas Ross:** Yes, and you are saying no, not at all.

Sir Philip Rutnam: Why might they have been unable to prove it given the range of documentation? Remember it is five consecutive years and at least six months in each year.

Q786 **Douglas Ross:** Examples we have received as a Committee is a woman in an abusive or controlling relationship who is not able to get documentation, people who have been unemployed or not working and



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don't have a consistent documentary record, people encountering technical difficulties. I know you increased the size of the upload but there have still been technical difficulties, but according to this letter signed by the Home Secretary this morning and given to this Committee, none of that has occurred. That has never happened.

Sir Philip Rutnam: There will be cases exactly as you say where people are unable to get documentation, including we are particularly concerned about domestic abuse situations for example, and additional help is available.

Q787 **Douglas Ross:** But not according to your letter because that is not in here. You are saying, "All cases granted pre-settled status were on the basis they did not have five years' continuous residence in the UK" not that they need further help.

Sir Philip Rutnam: What is not included in the letter is information about the further help we have provided in order to help people establish either their pre-settled status or their settled status. If your concern is about are we dealing with cases like that appropriately—

Q788 **Douglas Ross:** My concern is that of 8,106 cases that you have said pre-settled status was offered, not a single one of them, in your opinion, in your records, in your investigation as a Department to give the Home Secretary confidence to sign a letter to this Committee, could possibly prove that they have actually lived in this country for more than five years but are unable to do so at the time of application.

Sir Philip Rutnam: I don't think the letter covers that point. I don't think the letter identifies how many people who applied for settled status initially—

Q789 **Douglas Ross:** Sorry, Sir Philip, I don't have long. Our question was of the 8,106 cases, how many cases was this pre-settled status offered on the basis that the individual did not have—not that they could not prove—five years' continuous residence in the UK.

Sir Philip Rutnam: That is the test for pre-settled status.

Q790 **Douglas Ross:** That they don't have it?

Sir Philip Rutnam: Yes.

Q791 **Douglas Ross:** But they may have it but have not been able to prove it.

Sir Philip Rutnam: If the concern is that they may have it but have not proved it, what we need to show to you is that the effort and the results of that effort that we have gone to try to—

Q792 **Douglas Ross:** Sorry, Sir Philip, you are telling us that you don't need to prove that because it has not happened.

Sir Philip Rutnam: No, I am not.

Q793 **Douglas Ross:** You are because you said all cases granted pre-settled



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status were on the basis they did not have—not that they could not prove—five years' continuous residence in the UK.

Sir Philip Rutnam: The test that we apply is whether or not people have continuous residence and we apply a balance of probabilities test to the evidence presented.

Q794 **Douglas Ross:** Okay, I don't have long. I would really want to come back to that. Home Secretary, when are people who have paid the £65 fee going to get that money back?

Sajid Javid: We are working on exactly how to do that at the moment. It is not that straightforward in every case. We want to make it as easy as possible for them. What we are trying to do in most cases is do it without them having to give us any further documentation, so we just return it automatically. We hope to be able to say more about that in the coming days.

Q795 **Douglas Ross:** Coming days?

Sajid Javid: Say more about it. I don't say the refund in the coming days but be able to say more about exactly how it might work in the coming days.

Q796 **Douglas Ross:** I have a constituency case that has some of the issues that I have already raised about proving their history in the country. With your permission, Home Secretary, could I pass it to your office to have a look at some of the general issues that they have raised, because I would like your response to that?

Finally, Sir Philip, you apologised to the Chair earlier because of failing to provide information that we had been asking for yesterday. In your time as Permanent Secretary at the Home Office, have you ever appeared before this Home Affairs Select Committee and not had to apologise for your inadequacies preparing for it?

Sir Philip Rutnam: Yes, I have, Mr Ross.

Q797 **Douglas Ross:** When was that?

Sir Philip Rutnam: I think from recollection I have appeared before this Select Committee five times.

Q798 **Douglas Ross:** And how many times have you apologised?

Sir Philip Rutnam: I have apologised today because I did not get a message that the information you were asking for was in terms of incidents and I have apologised for the incident in relation to the previous Home Secretary.

Q799 **Douglas Ross:** You also apologised for blaming this Committee for leaking a report. You apologised unequivocally. You also had to apologise when you provided this Committee, or your Department provided this Committee with information that you should not have and then asked this



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Committee not to publish it. Of five appearances, that has racked up about four or five apologies. Do you think that is acceptable for a Permanent Secretary?

Sir Philip Rutnam: Mr Ross, I withdrew any inference in relation to the Committee having leaked the report.

Q800 **Douglas Ross:** And you apologised. Do you think it is acceptable for a Permanent Secretary to continually have to come before the Select Committee of his Department and apologise, yes or no? Sorry, yes or no? I don't have long.

Sir Philip Rutnam: Mr Ross, my effort as Permanent Secretary is to do my very best for both the Department and the Department's service to this Committee and Parliament as a whole. I have no doubt whatever about my efforts to discharge that role. I have, in truth, complete confidence in not just my integrity but the effort that I and my staff put in to discharging our duties to Ministers and the Parliament. Is there scope for improvement? As we have discussed before, there is always scope for improvement. That is my answer to you.

Sajid Javid: First of all, can I say I have absolute full confidence in the Permanent Secretary and his team.

Q801 **Douglas Ross:** You are happy that he keeps coming here apologising for the inadequacies?

Sajid Javid: I think he has answered your questions on that. I want to make sure that we are properly answering your first question, Mr Ross, because the point that you are trying to make is still not clear to me. The pre-settled status is by design for those who have had less than five years' continuous residence.

Q802 **Douglas Ross:** If someone cannot prove it, they are asked to accept pre-settled status. Someone may be entitled to settled status but are asked, at the end of the process, because they have not been able to prove it, to accept pre-settled status.

Sajid Javid: What is your point?

Douglas Ross: That there are people who are entitled to settled status, who are not given it because the system automatically asks them to accept pre-settled status.

Sajid Javid: There may be other issues with the system where people do not quite have the proof or the information that might be required. That is why we set up a process with a task force and phone lines and so on. There will be more of these situations when the process is formally rolled out, because when you are dealing with 3 million people, there will be some difficult issues to deal with; not everyone is going to go as smoothly as you might want. In those situations, we will work with those people. If the question is about whether, after people have gone through that testing, and maybe individual involvement, maybe after they have



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talked to someone to get help with the documentation, if the question is how many of those ultimately who are getting pre-settled status have had fewer than five years' residency, and your question was, "Am I surprised that it is such a high number?" I am not surprised.

Q803 Douglas Ross: My question was—and I think I will write to you to make it very clear—

Sajid Javid: That is what I was going to request, if you can be very specific in your concerns.

Douglas Ross: You have been specific in your letter and I think it would be useful to have that to back it up.

Sajid Javid: Yes, let's do that.

Q804 Chair: This does reflect the evidence that we have had from previous sessions.

Before we leave the settled status scheme, I want to get some clarification on this matter. We were told very clearly by immigration lawyers in a previous evidence session that after the deadline for the settled status scheme, "—you will become unlawfully resident. The way the Act is phrased, it is not clear that it immediately would become a criminal offence, although certainly, if you were to try to leave and you were somehow able to get back in—for example, you visited home and you came back in to the UK—I think that would be an offence." Is that wrong?

Sajid Javid: As I have said earlier, it is my intention, my view, that if someone for good reason—there will be exceptional cases—has missed a deadline, they do not lose their rights. There is a system in place that allows them to continue to protect their rights. That, for me, means keeping the EU Settlement Scheme open for those case in a way that continues to protect their rights. I want to be clear. I do not want to see anyone, who may have some good reason for why they have missed the deadline, feel in any way that they are unwelcome. If that needs to be something that we can make even clearer, I will look to see how we can do that.

Q805 Chair: That is currently a policy intention. It is not a legal fact based on the legal framework you are currently putting forward. Is that correct?

Sajid Javid: I have set out a policy intention and I think we have to make sure, before we open this scheme formally and finalise it, that the intention can be reflected in a way that gives people more confidence. The whole purpose of this is to secure the rights of EU citizens in the UK and nothing else. It is all about securing their rights and giving them confidence. By definition, no country has had to anything like this before, it is a huge and complex endeavour, and the purpose of testing it and having these beta testing phases before we open up the scheme, is to make sure that we are doing everything we can to get it right.



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Q806 Chair: Currently, people do not have confidence and that was the very clear implication that we heard from several evidence sessions. People do not have confidence. People think, at the moment, that when you get to the end of the settled status scheme, you will lose your rights, that there will be huge numbers of people across this country who, for whatever reason, will lose their legal right to be in the UK. As you know, we have been over many problems with the Windrush scheme, but in the end in some of those cases people did still have rights to be here, even if they then had to go through a very difficult and painful process in order to get those rights recognised; they did however have rights. The fear that we all have is there will be cases in future of people who not only will not have the documentation, because they did not go through the scheme for whatever reason, but also will not have any rights to secure their status later on. I would urge you, therefore, to look again as you are looking at all the legal frameworks, to look again at how to make sure that those citizens, who could include huge numbers of kids in this country who may not know at all what their circumstances are, have their rights secured in future and not just be reliant on the good intentions of a Home Secretary or future Home Secretary to be nice to them in future.

Sajid Javid: Thankfully, these are the early days of the scheme and I do think there is time still to learn the lessons of this testing and to improve it. You have made an important point.

Q807 Alex Norris: Home Secretary, you have mentioned a couple of times in some of your earlier answers that you feel you have a very profound responsibility to make sure we are as safe as possible and that is what your focus is on, all day and every day. In anticipation of the event of a no-deal Brexit, HMRC has announced new, transitional, simplified procedures that basically mean that through roll-on roll-off ports, and through the Channel Tunnel, it will be easier to import goods. Will that make us less safe?

Sajid Javid: Will what? Can you be more specific?

Alex Norris: Will these procedures make it easier, basically. In the event of no deal, things are going to become very congested at ports and so on. HMRC say their new procedures will make it easier to import goods into this country. What are the implications of that for our national security?

Sajid Javid: I suppose you are referring specifically to imports from the EU into the UK.

Alex Norris: Yes.

Sajid Javid: It is not clear to me in what sense it will be easier than it is today, while we are still in the EU. Broadly speaking, the approach Government, including HMRC, have taken, is to apply the continuity principle where possible. You are talking about a no-deal situation. In a no-deal situation, which would have many challenges, to try to reduce those challenges as much as we can, broadly put, in the early days, in



the first few months, until such time as we can put a different system in place, imports coming in from the EU—food, manufactured goods or whatever—we would employ the continuity principle and treat those goods in the same way as we would if we were still in the EU.

Sir Philip Rutnam: Mr Norris, are you referring to the decision not to require safety and security declarations for goods imported from the EU, in the event of no deal, for a transitional period?

Alex Norris: I am relying on these “simplified procedures” yes.

Sir Philip Rutnam: That is part of the package that HMRC has announced. We are indeed content that that does not pose any additional risk to us from a security perspective, given the high standard in relation to safety and security for imports from the EU. The other security checks, which already apply at the border for goods, whether from the EU or not, will continue to be applied. All the security standards that normally apply to goods coming from the EU will continue to apply. It is just that in the event of no deal—which obviously we are all trying to avoid—additional administrative measures are not going to be required for a transitional period.

Sajid Javid: If I could add to that, to make it absolutely clear, today if we have imports from outside the EU, we can, where we choose to, and in most cases we do, ask for additional safety and security information from the exporter, or the agent, more accurately, on non-EU imports. That does not apply today within the EU customs union. HMRC has announced that for, a limited period of, if I am correct, six months, up to six months, because we would have left the EU and therefore in a no-deal scenario would no longer be in the customs union and so in theory would have the ability, should we choose to do so, given that the goods would have become third-country imports, to also require the safety and security declarations, HMRC and the Home Office have chosen not to do so. You could argue that requiring safety and security declarations would be an enhancement in security, but I think your question was does the decision leave us with some degradation of security, and the answer is no because we do not currently require them.

Q808 **Alex Norris:** When you engaged with our December report you said that Border Force was recruiting 600 new officers in connection with leaving the EU entirely, not precisely no deal. Will they be ready for no deal if this is not resolved by the end of March?

Sajid Javid: Yes. We do have the latest numbers on where Border Force is at with recruitment and is a generally good story.

Sir Philip Rutnam: Yes, we are on track to have 900 additional Border Force officers in post for the end of March this year, compared with the baseline of March 2018. In the event of no deal, we also have well-developed plans at a very advanced stage for additional resources to be deployed to the borders, in particular from immigration enforcement



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where we have warranted immigration officers with immigration powers who can support Border Force at the borders—something like 300 additional staff. There are significant plans, very well developed both for a deal but also for the contingency of no deal.

Q809 Alex Norris: Will those 900 people be fully operational, and ready to go on that day, working as full members of staff?

Sir Philip Rutnam: The great bulk of them will be, yes. Absolutely all 900 will be trained and ready to go on the first day. I am afraid I cannot say but probably there will be an overhang of some training going on through April. All my questioning and engagement with the senior management of Border Force leaves me confident that we will be able, in relation to the UK border, to manage the consequences, the resourcing consequences and the resourcing need, for 29, 30 March, in both a deal and a no deal. Of course, there is a range of other consequences that go beyond just the human resources of Border Force.

Q810 Alex Norris: Presumably any overhang, as you characterise it, around training, would not hang over to the extent that the establishment was fewer than that 600. You are confident and assured of that.

Sir Philip Rutnam: Yes.

Q811 Alex Norris: To continue on staffing, and more broadly than about no deal, if you would let me apply it to Brexit law more generally, Home Secretary, you said in November that the Home Office required 4,100 people to work on Brexit and that at the time of speaking you had nearly 2,700. Are you at that full establishment yet?

Sajid Javid: I think we do have those numbers

Sir Philip Rutnam: Yes, I have the numbers. The 4,100 figure was in relation to a deal scenario. We have continued to refine our needs on a deal scenario, as well as on no deal, and in refinement the 4,100 has moved a little bit to about 4,250. In terms of resourcing, we have, as at a few days ago, 3,321 people in post. We have a further 635 people going through who are expected to be in post before 29 March. They are going through security checks or some other element of our onboarding process. Against the deal scenario, that will leave us with the best part of just about 4,000—just under 4,000. I am comfortable with that. The remainder is also in process in terms of security clearances and so on, but due to arrive a little bit after 29 March.

Q812 Alex Norris: Finally, Home Secretary, in January Border Force predicted that in the event of no deal, cross-Channel freight trade could drop 75% to 87% for six months, if the EU applied legal minimum customs controls. Is that a characterisation that you recognise? Do you think the EU is going to employ such controls?

Sajid Javid: I do not think that assumption has changed. I think you said Border Force said that. There is a cross-Government group looking



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at the impact on the flow of goods and Border Force was part of that, along with HMRC, and DEFRA also, given that a lot of the goods are food imports. Your question was also about whether we think that the EU will apply minimum third-country controls. That is still the working assumption. Yes.

Q813 Alex Norris: You would expect significant impact on trade in the event of no deal, in that order of magnitude.

Sajid Javid: Certainly we would expect applying controls to have a significant impact on the flow of trade.

Q814 Alex Norris: So it would be reasonable for us to take away from this that six months after no deal, cross-Channel freight trade will have fallen by around the order of magnitude of three-quarters, or possibly more.

Sajid Javid: These are cross-Government numbers. The Home Office is not directly responsible for trade flow. We obviously have a huge role to play with Border Force, but a lot of the challenge is going to be linked to customs and customs processes. I do not know what the latest estimate from HMRC is on this in particular. HMRC had been taking its lead from the border delivery group on this. I am going to ask the Permanent Secretary if he has more up-to-date information.

Sir Philip Rutnam: It is important to be clear that that has always been the worst-case scenario. It is not the central scenario. So much in this depends, as you have already alluded to, on the action that is taken, not by the UK—it is not a matter of goods coming into the UK—it depends on action taken by our partners, France and other EU member states, and the oversight thereof by the European Commission. I don't want to say too much. Obviously there is as active discussion as is possible with our European partners and with the European Commission about this, but there are limits on how far we can go. I don't want to say too much about that. However, I would say that we see reasonable signs of pragmatism among our European partners because such a disruption to trade would have very severe consequences for them and for their interests, as well as for us. Without wanting to give a new number, I would say that is right at the limiting end of the scenarios.

Q815 Stephen Doughty: I also have some questions about no deal but first I want to come back to the EU Settlement Scheme.

I have to be honest, Home Secretary. I am really worried by what I have heard today and also in previous sessions. The scheme has been a shambles from start to finish. You have run only a very small beta phase, you cannot do it on one app. To date, one in two of the cases have had to ring up on the phone to get assistance with the scheme. The fact is, if you are saying the people are going to be here potentially not consistent with the immigration rules, in a hostile environment that means they are going to be at risk of not being able to access services, not being able to access housing, potentially at risk of being detained by the immigration authorities. I do urge you to look at this very, very seriously, again



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because the reality is that if people are having to secure their rights when by definition they do not have those rights, it is a very important point that the Chair and my colleagues have been making. I think you are at risk of having Windrush all over again.

On no deal, some specific things. I have been looking in great detail at the documents that were released yesterday. Paragraph 24 says that in the event of no deal, "citizens will no longer be able use eGates "and will have to go through full Schengen checks to enter the EU, which will take longer. Paragraph 48, "UK citizens will need healthcare cover". Also in paragraph 48, "UK citizens will not be able to undertake paid activity in EU member states" despite having visa free access for 90 days in every 180 days. Do you think the public is fully aware of these risks and complications?

Sajid Javid: First, Mr Doughty, if I may, on the EU Settlement Scheme that you started with, obviously securing the rights of EU citizens whether it is through the EU Settlement Scheme or through other work that has been done, is of huge importance. It is one of the most important things for this Government to get right as we exit the EU. There are very few things that are more important than that in terms of showing that we do care about these people who have already contributed so much to our country. I do want to say that. We do take it incredibly seriously. That is why we have been having the different beta testing phases. So far, I think, 125,000 people have gone through the testing phase and none of them has been rejected. We have learned a lot. We have published reports on the things that we have been learning. That is the point of having the testing. We have removed the fee that was originally intended, and I think that was a very important step forward, not just from a financial point of view but to show that we do want to make the process as easy as possible.

You also referred to the way the app works on certain mobile devices—

Q816 **Stephen Doughty:** I understand what you are trying to say, but why is a constituent of mine still coming up to me, a young Somali-British guy—a guy you would understand to be British but who has Dutch citizenship—saying, "Is this Brexit thing anything to do with me? Will I need to register?" having no clue about the service, no clue about what was going to be required, and no clue about how to secure those rights that are going to be taken away from him?

Sajid Javid: I would say, with respect, that in terms of the process that needs to be gone through the EU Settlement Scheme to secure people's rights, to get them to register, we are at the early days of it. We have a comms campaign, which has already started, and lot is planned. We have just allocated £9 million, I think, to a number of community organisations that were working with vulnerable people, and others. We are trying to reach out to every part of the country. We are working with local councils and others—



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Q817 **Stephen Doughty:** But people do not have a clue. You talk about exceptional cases. It is not going to be about exceptional cases. I warn you now. It is going to be about hundreds of thousands of people who are going to be left in legal limbo.

Can you answer the question about no deal? Are you communicating these facts about people not being able to undertake paid activity in EU member states in the event of no deal?

Sajid Javid: You ask me are people aware of that, about the eGates point you made and about British citizens travelling in EU member states, about not being able to work in EU member states. You ask me, "Are people aware?" That is not something that I have gone out there and tested. I don't think the Department has tested the awareness of that point. I do think people are broadly aware that we are leaving the European Union and that does mean—

Q818 **Stephen Doughty:** That they might not be able to work?

Sajid Javid: Yes, that they will not be able to work in other EU countries. I do think people are broadly aware of that.

Q819 **Stephen Doughty:** Regarding Windrush, I asked you if you had requested money from other Departments to bring the Windrush compensation scheme into action. You deftly avoided that question. Can you tell me now? Have you requested money from other Departments and how much?

Sajid Javid: I can tell you that, as you know already and as Parliament knows, we have been working on the compensation scheme now that the consultation is closed. We had a great response in a positive way, great engagement. I have recently met again with Martin Forde, the independent person who was appointed to oversee the scheme. I am very determined that we get it absolutely right.

Q820 **Stephen Doughty:** Have you written to the Treasury, Home Secretary?

Sajid Javid: Right from the start we knew the scheme would require funding, would require to be properly funded, and that cannot come from internal Home Office resources. I don't think that was ever envisaged.

Q821 **Stephen Doughty:** Have you requested funding?

Sajid Javid: We have started what is called the write-round process with Government. Part of that is making sure the scheme is funded.

Q822 **Stephen Doughty:** How much have you requested?

Sajid Javid: I am not at liberty to discuss that.

Q823 **Stephen Doughty:** Is it £150 million?

Sajid Javid: I cannot discuss that. I don't want to give a running commentary on what the scheme may or may not look like. I want to



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make sure that we present it when it is finalised and agreed throughout Government in the right way.

Q824 **Stephen Doughty:** What has the response from your Cabinet colleagues and the Treasury so far?

Sajid Javid: The process is ongoing.

Q825 **Stephen Doughty:** Is that holding up the implementation of the Windrush compensation scheme?

Sajid Javid: No. It is a pretty standard process for any Government policy before it is announced and put into practice, that we have a write round process.

Q826 **Stephen Doughty:** When do you expect a response to your write round?

Sajid Javid: It would probably take another couple of weeks to secure all the responses.

Q827 **Stephen Doughty:** Why are you unable to find that money from within the Home Office's own resources, given that you can find £1 billion for Brexit no-deal preparations?

Sajid Javid: First, we have not found £1 billion for Brexit no-deal preparations.

Q828 **Stephen Doughty:** From the Treasury, you have. You have requested £1 billion.

Sajid Javid: I thought you asked me about our own resources.

Q829 **Stephen Doughty:** I meant that you have managed to get £1 billion from the Treasury for a no-deal Brexit.

Sajid Javid: Yes, but it was not our own resources, so by definition it is extra.

Q830 **Stephen Doughty:** I will clarify what I said. You have managed to get £1 billion out of Treasury—

Sajid Javid: I don't know exactly; we have some.

Q831 **Stephen Doughty:** That is the amount.

Sir Philip Rutnam: We have £495 million in this financial year and £480 million in the next financial year.

Q832 **Stephen Doughty:** The total comes up to about £1 billion.

When we are talking about this, why can you not find that £150 million from within the Home Office resources?

Sajid Javid: First, you are using the £150 million figure, not me. Secondly—

Q833 **Stephen Doughty:** Is that figure wrong?



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Sajid Javid: It is a figure that you have chosen to use. I am not going into the numbers. You also seem to be implying that the money somehow is not there and that is completely the wrong inference to draw. It has been long understood that this is a scheme that the whole of Government wants to get right. It would require to be funded properly and correctly. That is understood.

Q834 **Stephen Doughty:** Let's be very clear. The scheme cannot go ahead unless you get this £150 million.

Sajid Javid: The scheme cannot go ahead unless it is funded, but there is absolutely no reason to think that it will not be funded. The scheme will go ahead.

Q835 **Stephen Doughty:** So the Treasury will grant you £150 million?

Sajid Javid: There will be support across Government for this scheme.

Q836 **Stephen Doughty:** They will give you that £150 million?

Sajid Javid: Again you keep throwing in a number yourself. I am not getting into numbers, but the support will be there for this scheme, across Government.

Q837 **Stephen Doughty:** You surely know what the shortfall is.

One last question. I completely agree with you, Home Secretary, on your decision to proscribe Hezbollah. I think it is absolutely the right decision to take. I have asked you repeatedly about another far-right organisation System Resistance Network. Can you tell me, are there plans to proscribe that organisation and are those plans going to be brought forward in the near future?

Sajid Javid: First, I should not talk about a particular organisation, especially given how we have to make sure, as we constantly review groups that may or may not be proscribed, that it is done objectively and correctly. The organisation you mention is a far-right organisation. We have already proscribed a far-right organisation. We are the first Government to do so. Just as you have seen yesterday with the order in Parliament for three different organisations—this point of constantly reviewing, it is not just me coming up with organisations and asking officials. There is a proscription review group that is constantly looking, working closely with intelligence agencies, with counter-terrorism police and others, to see what more needs to be done.

Q838 **Stephen Doughty:** Can we expect more proscription orders in general rather than for specific organisations, in the near future?

Sajid Javid: I think you can expect a very hands-on process to make sure that not just the Home Office but also our partner Departments take this issue very seriously. If we need to bring a proscription order forward, as we did yesterday, we will not hesitate.

Q839 **Chair:** Some final follow-up questions, Home Secretary. First, still on



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preparations for no deal, do you have detailed protocols that would be put in place in the event of no deal to cover trafficking, abuse images, and child abduction?

Sajid Javid: Protocols with?

Chair: Protocols with EU countries to operate in the event of no deal.

Sajid Javid: Do you mean on a bilateral basis?

Chair: Either bilateral or with the EU.

Sajid Javid: Did you say in the event of no deal?

Chair: Yes, in the event of no deal, so this is about the no-deal preparations. I am asking you whether you have specific protocols agreed, which could be in place in time for 1 April, to cover trafficking, abuse images and child abduction.

Sajid Javid: Not with the EU, if it is a no-deal situation, because by definition, the EU is not prepared to discuss any agreement, whether it is on security related issues or others outside a deal, if you are in a no-deal situation, until you are that third country.

That said, first, what is important with the areas that you have mentioned, all vitally important areas, there is a lot of bilateral engagement, especially with the countries that are most interested or have the most at-risk people, who might suffer from trafficking. For example, we have arrangements with Romania, from where people have been trafficked in the past; there are bilateral arrangements with Romania. There are also arrangements outside the EU, multilateral structures for abuse images, which I think you mentioned, for example, and on trafficking. We will continue to use those arrangements. The third thing I would mention is that as well as the current bilateral arrangements, we, both officials and Ministers, have had a series of discussions and meetings with countries on a bilateral basis, to see what we can put in place in the event of no deal. I will not go into the specifics of each of those, but those kinds of discussions are taking place.

Q840 **Chair:** You currently have systems in place with the EU, protocols and other systems, that help in the case of child protection, child abduction, arrangements in place, for example if a child is trafficked from one European country to another, from here to other countries or to here from other countries. The Children's Commissioners have written to you specifically asking whether you have protocols in place around child protection—trafficking, abuse images and abduction—that can operate from 1 April. It sounds as if you have not.

Sajid Javid: I want to be specific in my answer because it sounds like a very specific question. You are talking about a no-deal situation and you are asking about arrangements with the EU as opposed to with our EU partners



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Sajid Javid: No, the Children's Commissioners want to know what will be in place to replicate the existing systems that we will lose, including the information sharing, including the SISII, including the European Arrest Warrant, all those things. What systems will you have in place, specifically around child protection? They particularly ask about trafficking, abuse images and abduction. I assume the reason they are asking this in a letter only in the last few days is because they are worried that you do not have this in place.

Sajid Javid: Clearly the situation you talk about, by definition in a no-deal situation, so there is no deal, that means that the existing systems that we may have access to, for example the SISII system, which is a missing or wanted persons database, which could be relevant in terms of, for example, of missing children, we will no longer have access to that in a no-deal situation. The only way we can secure access to that is in a deal situation.

Q841 **Chair:** Yes. So they are asking what are your no-deal preparations to protect children.

Sajid Javid: Yes. In terms of the mitigants that are being put in place, for example for the missing persons issue that you raised there, that would be more co-operation with our EU partners through Interpol-based systems, Interpol databases. Interpol, as your colleagues might know, has different types of notices, designated by colour, of various descriptions and importance. That is what we use as a system today with non-EU countries.

Q842 **Chair:** Okay. The police have said very clearly that that is a downgrade, a significant downgrade, on what we have at the moment. What the Children's Commissioners say is that if we were to continue to have visa-free travel between Britain and the EU yet not have the police a security co-operation underpinning it, the system would have serious and immediate weaknesses that undermine the protection of children. That is a very serious warning about the security and public safety implications of no deal, is it not?

Sajid Javid: There is a warning from them on that issue and I am not pretending for a second that the Interpol system is a like for like system and that it can mitigate completely against what we currently have from the EU, but it is in an important point that it is a system that has been long in place, including with bilateral arrangements with non-EU countries. For example, you mentioned visa-free travel. We have visa-free travel with many other countries outside the EU and we have good systems of co-operation on both criminal activity and data exchange.

Q843 **Chair:** These are the countries that are close to us. The concern is around a downgrade of the protection that we have in place. Richard Martin, who is responsible for the police preparation for no deal, has said that if we are not to get a deal, we will not be as safe as we currently are. The Metropolitan Police Commissioner has said, "The replacement



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systems are more costly, undoubtedly slower, and potentially, yes, put the public at risk". Neil Basu, the counter-terrorism chief, has said that these will involve serious flaws in our security arrangements. Do you agree that a no deal makes the country less safe than it is today?

Sajid Javid: The first part of the point that you just made, you said of course when I talk about visa-free travel, they are countries that are not close to us and that is important, including in terms of moving people around, trafficking children. That is slightly less of a risk if the countries are close to you. That said, however, it is worth remembering that within Europe there are countries that are not part of many of these systems—Switzerland, Norway—and they have good bilateral co-operation agreements.

Q844 **Chair:** I don't think you are answering the question. The police, the security experts have warned us about the downgrade of those operational systems in the event of no deal. They are saying it will make the public less safe. Are you?

Sajid Javid: They are significant changes. In a no-deal situation, there will be a significant change in capability. We will have some degree—

Chair: A worsening of capability.

Sajid Javid: It is a change in capability. We will have to get used to making better use of the mitigants that we have with other third countries. The suggestion—and I am not suggesting you are making this suggestion, but some people are saying this—that somehow we will become an unsafe country—we will still be a very safe country.

Q845 **Chair:** I am asking you a relative question about whether or not, if we lose these operational systems, in the event of no-deal, we become less safe. If these senior police officers whose job it is to reassure people, to be responsible, to be sensible—they take their responsibilities very seriously—are saying it will involve serious flaws in our security arrangements and it will make this country not as safe as it currently is. I understand why you cannot say that. Do you disagree? Are you disagreeing with them?

Sajid Javid: I listened very carefully to what they had to say and also the suggestions they have about changes that we can make, including how possibly, in a no-deal situation, the situation you are describing, we could take steps to make our security work safer. In a no-deal situation—

Q846 **Chair:** Once again you are dancing around and you are ducking the simple question. Do you think we will be less safe than we currently are if we lose SISII, if we lose the European Arrest Warrant, even with all of those mitigations in place, in the event of no deal? Will we be less safe than we currently are: yes or no?

Sajid Javid: In the event of a no deal, clearly we would lose some capability, certainly in the early period until we are able to have more



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bilateral arrangements in place and perhaps further future arrangements with our EU partners. There will be a significant change in capability.

Q847 **Chair:** Yes or no? Change is not a relative word. Less or more safe?

Sajid Javid: It is a change in capability. We will still continue to be a very safe country.

Q848 **Chair:** Do you realise how your refusal to answer this very basic question, which the police are prepared to answer, undermines your credibility? It makes it look as if you are putting political considerations about how you want to handle this ahead of your responsibilities to give this Committee a clear assessment, your assessment, of the security implications?

Sajid Javid: With respect, I do not accept that. What you are highlighting are changes where we will lose capability. There will be other areas where we will gain some capability.

Q849 **Chair:** What? Give me one example where we will gain more capability than we have at the moment in the event of no deal.

Sajid Javid: I will give you more than one. For example, in the importation of goods, we will be able to have higher standards and tests, for what we buy from third countries.

Q850 **Chair:** In the event of no deal, in April?

Sajid Javid: Yes.

Q851 **Chair:** We have just talked about how you have a period of reducing—

Sajid Javid: I am talking about generally, if it is a no-deal outcome, we will have greater freedom on goods.

Q852 **Chair:** We have just talked about, in a previous question to the Permanent Secretary, that you are going to be reducing some of the checks because you are having to deal with a huge border clog up.

Sajid Javid: If you are referring to just in the first few months, then clearly in terms of goods and imports, that will take longer than the first few months after a no-deal situation, but I will give you an example that would work immediately.

Q853 **Chair:** What will the situation be in April?

Sajid Javid: Deportation thresholds. At the moment, for us to deport an offender from the UK, a foreign national offender if they come from an EEA country, there is a much higher threshold that needs to be applied and we could not apply the same threshold that we might apply to a US citizen, for example. That deportation threshold would be lowered. Also, at the moment, we have—

Q854 **Chair:** What about the European Arrest Warrant, when you will not be able to arrest people in the first place?



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Sajid Javid: I am giving you real-life examples of how we can make the country safer. At the moment, I have had to look at a couple of cases, advice that I have sought on extreme people that I think might be extremists who want to enter the UK, who might whip up extremism and divide communities, and there is a higher threshold that applies to EEA national. In a no-deal situation, that immediately would be different. The threshold would be the same as for everyone else.

Q855 **Chair:** How are you going to get the information on those EU nationals and whether or not they are trying to come into the country if you do not have SISII and the current information-sharing systems such as ECRIS, and other information sharing systems?

Sajid Javid: We will have to rely on the information we receive through Interpol and also bilateral relations, which is what we do with other countries.

Chair: Which the police have said are all slower. Okay. We need to stop there because Douglas Ross has one final, very quick question on the Costa amendment, which I think we have all welcomed you supporting.

Q856 **Douglas Ross:** For clarity, Home Secretary, you said, "When were the Government not supporting the Costa amendment?" Would you agree it was about 23 hours ago when the Prime Minister said in her statement to the House of Commons, "A separate agreement for citizens' rights is something the EU have been clear they do not have the legal authority for"?

Sajid Javid: Can you read the quote from the Prime Minister out again? I am afraid I missed that, what the PM said.

Douglas Ross: The PM said, "A separate agreement for citizens' rights is something the EU have been clear they do not have the legal authority for" yet the Costa amendment asks the Prime Minister for a joint UK/EU at the earliest opportunity.

Sajid Javid: Yes, I think the PM is absolutely correct, if I have understood you correctly. She is making a factual point.

Q857 **Douglas Ross:** Do you think that yesterday, in her statement, she was supporting, when she said—I will read it all—"A number of Honourable and Right Honourable Members have understandably raised the rights of EU citizens living in the UK. As I set out last September, following the Salzburg Summit, even in the event of no deal, the rights of the 3 million EU citizens living in the UK will be protected. That is our guarantee to them. They are our friends, our neighbours, our colleagues. We want them to stay. But a separate agreement for citizens' rights is something the EU have been clear they do not have the legal authority for."

Sajid Javid: Yes.

Q858 **Douglas Ross:** That sounds as if what is being asked for in the Costa amendment is not going to be possible.



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Sajid Javid: But I have always said that. If we rewind about an hour or so, when you asked me the question, I think I already said, when I was asked about the Costa amendment, I think you asked me an hour ago whether—

Q859 **Douglas Ross:** You are saying our Government support it, even though they might not get it through with the EU because the EU have said they do not have legal authority, that the Government are supporting something that the EU—

Sajid Javid: I used the phrase that there should be very low expectations. I think it is highly unlikely that the EU will agree to that.

Q860 **Douglas Ross:** You never said that

Sajid Javid: No, I am making it absolutely clear to you now. I did say that there should be very low expectations.

Q861 **Douglas Ross:** So the Government are supporting something they do not think is achievable?

Sajid Javid: This is a Back-Bench amendment and the Government support the amendment—

Douglas Ross: That they are unable to achieve

Sajid Javid: —in the sense that it set out to achieve something and I think we all agree on the principles, but that does not mean to say—

Q862 **Douglas Ross:** But there is no legal authority to do it, according to the EU.

Sajid Javid: For the EU, yes. We do not think the EU has the legal authority to do it.

Q863 **Douglas Ross:** You are going to support something that you know cannot be achieved?

Sajid Javid: I do not understand your point, Mr Ross.

Douglas Ross: I am amazed.

Sajid Javid: You know how Parliament works. Someone has brought an amendment, and the Government then have to make a decision whether they support it or not. Even if what the amendment is asking for—I don't have the exact wording; you may have it—the amendment is asking the Government to ask the EU to do something

Q864 **Douglas Ross:** "To seek at the earliest opportunity a joint UK-EU commitment—"

Sajid Javid: Right. It is asking—and that is up to the EU and our view is that the EU cannot deliver. If the EU are to be taken for their word, and there is no reason why we cannot, they cannot deliver it.

Q865 **Chair:** We are going to have to close the session. In the course of this



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evidence session, however, I have been given a letter that has come from the National Crime Agency following up with the information that I had asked for yesterday. It is very clear. The question we had asked was, "Of the 86 small boats, how are the numbers broken down in respect of beach arrivals in the UK, intercepted boats escorted to the UK, intercepted boats reported by which agency—" and the answer it gives, with a little bit of preamble, is, "The Home Office is responsible for the collation of this data and in order to provide the Committee with the fullest information, the Home Office has asked that they provide the Committee with the necessary information" so it is really clear, what the question is, that the answer is to be provided by the Home Office. We would really love it, Permanent Secretary, if you could provide us with this information this afternoon.

Sir Philip Rutnam: We will write to you as soon as possible.

Chair: Thank you very much.