

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

NATIONALITY AND BORDERS BILL

Second Sitting

Tuesday 21 September 2021

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 23 September at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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Saturday 25 September 2021

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The Committee consisted of the following Members:

Chairs: SIR ROGER GALE, †SIOBHAIN McDONAGH

† Anderson, Stuart (<i>Wolverhampton South West</i>) (Con)	† McLaughlin, Anne (<i>Glasgow North East</i>) (SNP)
Baker, Duncan (<i>North Norfolk</i>) (Con)	† McDonald, Stuart C. (<i>Cumbernauld, Kilsyth and Kirkintilloch East</i>) (SNP)
† Blomfield, Paul (<i>Sheffield Central</i>) (Lab)	† Owatemi, Taiwo (<i>Coventry North West</i>) (Lab)
† Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab)	† Pursglove, Tom (<i>Parliamentary Under-Secretary of State for the Home Department</i>)
Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab)	† Richards, Nicola (<i>West Bromwich East</i>) (Con)
Goodwill, Mr Robert (<i>Scarborough and Whitby</i>) (Con)	† Whittaker, Craig (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Grant, Mrs Helen (<i>Maidstone and The Weald</i>) (Con)	
† Gullis, Jonathan (<i>Stoke-on-Trent North</i>) (Con)	Rob Page, Sarah Thatcher, <i>Committee Clerks</i>
† Holmes, Paul (<i>Eastleigh</i>) (Con)	
† Howell, Paul (<i>Sedgefield</i>) (Con)	
Lynch, Holly (<i>Halifax</i>) (Lab)	† attended the Committee

Witnesses

Lucy Moreton, Professional Officer, Immigration Services Union

Zoe Gardner, Policy Adviser, Joint Council for the Welfare of Immigrants

Assistant Chief Constable Dave Kirby, Derbyshire Police

Councillor Robert Gough, Leader, Kent County Council

Councillor Rachael Robathan, Leader, Westminster Council

Tony Smith CBE, Global Border Security Expert, Fortinus Global Ltd

Rob Jones, Director of Threat Leadership, National Crime Agency

Public Bill Committee

Tuesday 21 September 2021

(Afternoon)

[SIOBHAIN McDONAGH *in the Chair*]

Nationality and Borders Bill

2 pm

The Chair: I remind Members about the public health guidance, and that electronic devices should be switched to silent.

We will now hear oral evidence from Lucy Moreton, the professional officer at the Immigration Services Union, and Zoe Gardner, policy adviser at the Joint Council for the Welfare of Immigrants. Lucy is appearing in person and has just arrived, and Zoe is appearing virtually. Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill, and that we must stick to the timings in the programme motion that the Committee agreed. For this session, we have until 2.45 pm.

Examination of Witnesses

Lucy Moreton and Zoe Gardner gave evidence.

2.1 pm

Q23 The Chair: I ask the witnesses to please introduce themselves.

Lucy Moreton: Good afternoon. My name is Lucy Moreton, and I am the professional officer for the ISU, which is the union that represents borders, immigration and customs staff.

Zoe Gardner: Good afternoon. My name is Zoe Gardner. I am actually policy and advocacy manager at the Joint Council for the Welfare of Immigrants—I think my title was communicated wrongly before. JCWI is one of the oldest organisations in the country representing migrants and refugees going through the UK immigration system.

Q24 Bambos Charalambous (Enfield, Southgate) (Lab): The premise of the Bill, according to the Government, is to fix the broken asylum system. In your opinion, will the Bill do that? If not, what needs to happen to fix the system?

Lucy Moreton: I think that if we knew how to fix the system, we would all have much quieter and easier lives. The Bill addresses some of the issues with the current asylum system, but without a significant underpinning of resources it will not make the difference that is anticipated. We have reached the situation that we have with the structures, both above and below the border, breaking, if not in fact broken, because of under-resourcing. You can set up an additional fast-track appeals process, for example, but if you do not resource the courts to enable them to have the rooms to hold the hearings, the judges to make those adjudications and the clerks to promulgate them, it will make no difference. You can

express wishes in a Bill to return migrants to a safe third country, process them offshore or turn them back before they reach UK waters, but all that requires the co-operation of international partners, and if you cannot achieve that, it is nothing more than words on a bit of paper.

Q25 Bambos Charalambous: Zoe, do you have a response to that?

Zoe Gardner: Yes. Thank you for the opportunity to speak to you today. The short answer is that the available evidence does not support the approach being taken in this Bill. The aims of the Bill that the Government have put forward are to create a fairer asylum system and to discourage the use of irregular journeys by asylum seekers using smuggling routes. A fair asylum system would provide protection to refugees based on their need. The Bill does not propose a system that would do that. Furthermore, the evidence from similar policies enacted in other countries, or previously enacted in the UK, shows us that this approach is unlikely to deter people from seeking to come to the UK using irregular means, because it does not provide meaningful alternative ways for people to travel. In short, the Bill will not work. The only people who will be celebrating its implementation will be the criminal smuggling gangs.

Q26 Bambos Charalambous: Lucy, according to a recent report there are 399 asylum claims in the system that have taken 10 years and still not been processed. Is that more than just a resourcing issue?

Lucy Moreton: I do not know the details of those 399 cases. If they have been in the system for more than 10 years—about 10 years ago, I was an asylum decision maker—it is likely that there will be other elements within that that are more complex. It is possible to repeatedly delay conclusion of a case through the late submission of evidence, for example. Whether that is the case in any or some of that group, I do not know. Clearly, the needs of anyone genuinely seeking protection in the UK are not served by being stuck in the system for months, let alone years.

Q27 Bambos Charalambous: Clause 10 treats people differently based on how they arrive. If you arrive via regular routes, you are given protection. Lucy and Zoe, do you think that achieves the aims of the Bill?

Lucy Moreton: My understanding is that the stated aim is to deter irregular migration. I cannot see how some theoretical change, which is what it is at the moment, to how you might eventually be treated when you are finally granted asylum here would deter irregular migration. One element proposed for the group 2 refugees—the ones who have entered irregularly—is that it may limit their family reunion rights. Absolutely accepting the political balancing act that has to be done here, if you prevent people from travelling through a regular route, they will use an irregular route, so that alone seems to be circuitous.

Zoe Gardner: I agree with that assessment. The available evidence shows that the people who are making these journeys in order to seek asylum do not know the detail of different refugee protection regimes in different countries. They base their decision making on where to go. Either they do not make the decision at all themselves and it is in the hands of the smugglers who transport them, or

they make the decision based on their connection to a country—so having family members in a country, speaking the language, or having other connections. In the case of Afghans at the current time, they might be ex-colleagues who have worked with the British military in Afghanistan. That might be a reason for their trying to come to the UK. The details of the system will not deter anybody.

With regard to the aims of the Bill, which is concerned with fairness, if we look at how the inadmissibility rules have operated so far, in the first six months of their operation since January, 4,500 people have been issued with a notice of intent under the inadmissibility rules, and 173 of those are from Afghanistan. This means that in effect their asylum claim has been put on hold for at least six months while the Government seek to find another place to send them—anywhere else but here. That is obviously not in the interests of fairness when it comes to people from Afghanistan who are clearly fleeing a dangerous situation.

JCWI has a client from Syria who is 19 years old. He was individually targeted by the Syrian military and was forced to flee at a moment's notice. He had no other option but to take an irregular route. He has two sisters living here in the UK, so that was what motivated his choice to pay a smuggler to make a desperate escape and come to the UK. He is now in the inadmissibility process, and his mental health is deteriorating because of his fear that he will be sent away. The Government have told him that they are considering his removal to Austria or France or to anywhere else—anywhere else being somewhere that has no legal obligation to take him in and where he will have no family members. If he were to be removed, we would potentially be giving the smuggling gangs a repeat customer, because he would obviously have reason to seek to come back to the UK.

It also does not make any sense to pause that client's claim for the time being, and the claims of 4,500 others—probably more at this stage—and have them wait in this limbo system, at great cost to the taxpayer and great harm to their mental health, on the basis of agreements to return people here, there or anywhere that we do not actually have yet. This approach is not going to achieve its aims whatsoever. The only thing it will achieve is cruelty, delay, additional bureaucracy and, as I say, lining the pockets of the smuggling gangs.

Bambos Charalambous: Thank you. I will let other Members ask questions now. If there is time, I would like to ask some more later.

The Chair: I call Stuart McDonald.

Q28 Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): Thank you for your evidence so far. Earlier we heard from Jon Featonby of the Red Cross that there was only one clause in the Bill that would directly impact smugglers themselves, by increasing possible sentences. You have gone further, saying that, on the whole, those gangs would celebrate the Bill passing through Parliament. Why do you go that far?

Zoe Gardner: There is considerable evidence that every time we spend more money on trying to close down a route that is regularly used by smugglers to bring people through irregular means to the UK—indeed,

this is the case in any other country—the people who are desperate to take that route do not simply disappear. In fact, the routes are simply redirected, often to more dangerous paths. It does not stop the journeys, but it does allow the smugglers to charge more, for yet more dangerous journeys and yet more complicated ways of making it through these barriers. There is always going to be more flexibility on the side of the smugglers than on the side of the state. Until we provide people with a regulated alternative means of travel to the UK, every round of security spending that we throw at this and every attempt at this failed model of deterrence and pushbacks will be celebrated by the smugglers, because it simply lines their pockets.

The increased sentences proposed by the Bill are all very well, and would be perfectly reasonable if in reality they were aimed at smuggling gangs. However, what we have seen in the last 12 months is that the Home Office has used legislation that was intended to be used against smuggling gangs and members of international criminal gangs to unjustly prosecute asylum seekers themselves. Several asylum seekers have served jail time on the basis that they were facilitating the entry of other asylum seekers on the same boat.

That practice was being undertaken until, in August this year, the Crown Prosecution Service published some clarified guidance confirming that it is not a crime to enter the UK, even on a small boat or through other irregular means, if your purpose is to present yourself to the authorities and seek asylum. That is the case for almost all, if not all—I think the official figure is 98%—of the people on these boats. It has been confirmed that those people are not committing a crime or an immigration offence.

The danger of the increased sentences is that they will be targeted at the wrong people and that they will be used to punish people who are exercising their right to claim asylum rather than being targeted at the people at whom it should be targeted: the organised criminal gangs. That should be done on the basis of credible intelligence and international co-operation, and not on the basis of picking people up off the beach in Kent when they clearly intend to make an asylum claim.

Q29 Stuart C. McDonald: You have said that you think the policy of trying to disincentivise people from making these crossings is not going to work and that, on the other hand, some of the measures used to pursue that disincentive effect, such as the notices of intent, will have a pretty awful impact on those affected by them. Can you say more about some of the other disincentives? You have mentioned the notices of intent, but obviously there is criminalisation and measures around no recourse to public funds and family reunion. How will those impact on individuals and the local authorities that are trying to support them?

Zoe Gardner: This refers to the differential treatment for people who, once they have arrived and been served with their notice of intent, have to wait six months in this unnecessary and harmful limbo situation in the asylum system. If the Government do not find somewhere else to send them—another country willing to take on our responsibilities for them—as is likely to happen in most cases, they will have their asylum claim assessed in the usual system. Given that the nationalities are overwhelmingly those recognised as refugees in this

country—people from countries such as Afghanistan, Iran, Iraq, Sudan and Syria, which have a high recognition rate—they will be recognised as refugees in need of protection from persecution.

The Government then propose, with this Bill, to offer them only temporary protection status, which is not the same as the refugee protection status that we have provided them with until now. That would mean people having an unstable status that would need to be consistently renewed, potentially once every 30 months, and with no guarantee of obtaining permanent settlement.

That is completely harmful to the mental health and integration prospects of refugees. It runs counter to obligations under the UN refugee convention, which requires that recognised refugees are assisted to naturalise and integrate. It also simply does not work from a practical perspective. We have an example of a JCWI client who is a gay man from Iran. He has been granted a temporary protection status for six months, due to complicated factors of his case. The Home Office proposes to reassess whether this gay man from Iran will be at risk again in six months, and again in six months, and again in six months. If it was every 30 months, I am sure that members of the Committee can see the lack of logic being applied there.

People who obtain refugee protection almost always need long-term, stable protection status. They come from countries where it is very unlikely that it will be safe to remove them again within 30 months. That puts a huge additional bureaucratic burden on a Home Office that is already failing to get through its case load at a reasonable speed and will very seriously hamper those people's integration prospects.

Furthermore, as Lucy Moreton mentioned, those people may be denied the right to family reunification. That means that the largely female or child contingent of refugees who are currently able to get protection through a safe route of family reunion would then be denied that protection. That might mean that, in desperation to join their loved one who has come to the UK, they may then embark on those dangerous irregular journeys, so this may in fact provoke more irregular journeys and, again, enrich and empower the smugglers yet more.

Finally, the proposals also suggest that refugees granted this secondary status of protection would not be granted access to public funds. Aside from being cruel and harmful to refugees, that follows the same pattern of being illogical and impractical. The reality is that if these refugees are destitute, they will be able to apply to have the “no recourse to public funds” conditions lifted. Given that they will have waited for at least six months and then gone into the standard asylum procedure, which at the moment takes well over six months in many cases, and during that time will not have been allowed to work, plus being people who are recovering from trauma, the likelihood that they can go into a job and start earning straightaway is extremely low. The likelihood that they will be destitute under those circumstances is extremely high.

This just adds a huge additional bureaucratic burden where there will be application after application for these “no recourse to public funds” conditions to be lifted. In the meantime, there is the risk that people will fall into destitution. From the perspective of fairness and compassion, this plan does not work. From the

perspective of having a functioning asylum system and a Home Office that produces efficient and tolerable procedures that work on a reasonable time frame, again, it completely fails.

Q30 Stuart C. McDonald: Lucy Moreton, do you want to pick up on the issue of additional work that this will create for the Home Office, in terms of having to revisit asylum applications every 30 months, even though someone has been recognised as a refugee, and dealing with applications to lift no recourse to public funds conditions and so on? Also, on another subject: do you think pushbacks at sea are more about headline grabbing than worthwhile legislation?

Lucy Moreton: My colleague's point on the administrative burden of constantly having to reassess and read asylum claims was absolutely right. It feeds back into the point I made about resourcing: you cannot make this work if you do not put the resources in. If you want civil servants to reconsider applications every six or 30 months, you are going to have to put enough civil servants in there to do it.

On the issue of pushbacks, as things stand at the moment, given the instructions that we work under to ensure the safety of life at sea and the legality of it, it seems to us—the trade union, and the members who advise us—extremely unlikely to happen in practice. The restrictions are, quite rightly, very tight. No one wants to see a fatality from what is a very dangerous manoeuvre. It was not expected to be announced as it was. It had been in discussion in various iterations for a couple of years, but for it to be announced suddenly in the press came as a surprise.

It had the unfortunate impact of endangering both border officers and migrants because suddenly migrants feared that they were going to be pushed back, even though they are in circumstances where they never would be—they are vulnerable, the vessel is vulnerable, it has vulnerable people in it and it is not in the right bit of the channel. Because they are frightened of being approached by border officers, they are less willing to be rescued in circumstances where they deeply need rescuing. That was most unfortunate.

I recognise the risk in saying this, but I will personally be very surprised if this ever actually happens and is completed. I would be amazed. We do not see migrant vessels that are not vulnerable in one way or another.

Stuart C. McDonald: Thank you.

Q31 Paul Howell (Sedgefield) (Con): I want to turn to your last point before I come to the one that I was going to make. You say that the people in the boats would be scared of Border Force because of what has been said. We were told by the Red Cross earlier that the people getting into boats were not informed about what was going on or what sort of law applied. How would they have a perception that the law had changed and that they were going to be pushed back, given that, as the Red Cross said earlier, they would not have any perception of what laws applied to them?

Lucy Moreton: There are communications channels between migrants who make it and those who are waiting. Also, the spin put on it by the smuggling gangs is absolutely phenomenal. For example, we were seeing a lot of migrants being told that the small vessel route

over the English channel would become illegal once the UK had left the EU. It was illegal before and it was going to be illegal after: nothing changed. But the gangs used that to pressure more people into taking the route—“Go now, before they stop it!”—and to charge more money for that route. Different vessels have different amounts of information, but this has been reported quite widely in the press.

Migrant groupings in France, I understand, are now aware that this is a risk. We know that they resist approaches by the French; they put themselves at risk in order to prevent the French intercepting and returning them while they remain within French waters. We get reports from our members on the cutters, particularly the smaller ribs, that migrants make absolutely sure that they have got a British vessel. They are far more likely to trust the RNLi or the coastguard, who they recognise because they are on telly and have different uniforms, than to trust us. The last thing we need is someone standing up and going overboard. If they are trying to avoid being intercepted, either by the French, by us or anyone they do not recognise, that is the risk.

Q32 Paul Howell: It just seems a conflict to me that, on the one hand, the witnesses earlier were saying that migrants did not have information, and now you are saying that they do have information.

Zoe Gardner: Can I jump in on that point? There is a difference between having some gossip information or potential misinformation about what will happen directly on the boat journey and what to do immediately on disembarkation, and actually having a complex and sophisticated understanding of the functioning of the asylum system in the UK, especially in comparison to the functioning of the asylum system in France.

Regarding the levels of understanding and information, as Lucy rightly said there is a lot of misinformation going around, but knowing that you need to avoid being intercepted at sea is different from knowing what your entitlements will be once you have got to this stage in the asylum system in the UK. They are different issues.

Lucy Moreton: I think that is a fair point; it is more about misinformation, spin and misunderstanding than about concrete information and a robust or detailed knowledge of what actually happens.

Q33 Paul Howell: I get that, but I think it is in both directions as well.

I will come to the point I was going to make. The number of cases and the backlog are increasing at a faster rate than the number of applications. I would like to try to understand whether that is purely resource—you have indicated there are resource concerns anyway—or whether there are ways in which the Bill could be written so that it was easier to make decisions and the decisions could be clearer and swifter, rather than having too many complexities, which results in longer times before you get a first decision. Is it the Bill? Is it the resources? Is it a combination thereof?

Lucy Moreton: It is a combination, inevitably, but there are elements of both. The rate of cases in decision is increasing in relation to the number of initial applications, but that is because of late and repeated applications that slow things up, and that may well be an element in the 399 that was mentioned earlier.

One provision in the Bill suggests that individuals would be served with a notice of information to say, “If you do not produce all the information that you know at this time, you will not be able to bring it up later—or, if you do bring it up later, much less weight will be given to it.” I am not convinced that that will work as well in practice as it might appear.

There will always be information that changes if someone has been here and been in the system for six months or six years. There can be a change of situation in their home country that might make late information come up, and even if the information comes up late and is given less weight, it must still be considered and will still have some limited access to appeal, albeit I think that the intention is to remove the ability to seek judicial review of the decision by giving an expedited appeal through the immigration tribunals process.

If the immigration tribunals process does not have the capacity to hear that case for six months, it will not make a great deal of difference anyway, but certainly any measures that assist in encouraging migrants to produce as much information as they intend to rely on at the beginning will help. Most migrants do that, but you get to the end of the system and then suddenly you get, “Oh, but hang on a minute—now I’ve changed my religion, recognised my sexuality, the situation at home has changed, I’m married, I’ve got a child, I’ve got closer ties here, I’ve got a medical condition,” or whatever additional applications come in.

Anything that can control and manage that better will help; that is a recognised method of abusing the process, but we cannot shut it off, because there will always be people for whom it is absolutely true that their situation has changed and they do need protection. We need a method for considering that quickly, getting it through the appeals process quickly, if that is relevant, identifying those who are abusing the system and, crucially, removing them. Another large part of the Bill is the ability to remove people who have come to the end of the system, while still identifying and extending protection to those for whom we have an obligation to do so.

Q34 Paul Howell: Do you think the Bill, as written, helps that process?

Lucy Moreton: Everything will be in the detail. The words used will help, but I suspect we will find ourselves in a situation in two or three years’ time where there has been a loophole or a contrary decision by an upper court that has changed the way this works. There will always be genuine last-minute situations; there will always be genuine last changes that merit a fresh application.

If you front-load the resourcing at the beginning, if you can decide an application and have it through the court system in a matter of weeks, the scope for those last-minute changes of situation is significantly narrowed. If you make the whole process faster and tighter, rather than just trying to block the tail end of a very lengthy process, that would probably be more beneficial both to genuine refugees and to the British taxpayer.

Q35 Paul Howell: Does Zoe want to add to that?

The Chair: I do not want to limit anybody’s questions, but there are quite a few people who would like to ask questions. Jonathan Gullis.

Q36 Jonathan Gullis (Stoke-on-Trent North) (Con): Thank you, Ms McDonagh.

I am a bit perplexed. On the one hand, I am hearing that the system is broken; on the other, I am hearing that ultimately this is not going to be good enough. Lucy, on the pushbacks—I think the pushbacks are something that our commanders on those vessels need support and top cover from—you have said that that is not a deterrent, even though you have said that people will be scared of it. We have talked about the fact that people will not be getting access to housing in the legislation, at clause 11—we will use centres such as Napier barracks—which I think is brilliant and is also about the use of public resources; that will not deter. In Stoke-on-Trent they are livid at seeing illegal economic migrants—the ones coming over the Channel at the moment—paying thousands of pounds into the hands—

The Chair: Mr Gullis, I do not want to stop you, but it would be great if there could be a question, so that your colleagues can also ask questions.

Jonathan Gullis: There will be. Illegal economic migrants put thousands of pounds into the hands of people smugglers. Does that not show that these people are not genuine refugees or asylum seekers, like those we have seen from Afghanistan and Syria, who we have brought through safe and legal routes?

Lucy Moreton: It is a system that requires a great deal of money. You are not likely to have that money immediately available to you if you have fled in circumstances of danger. You may be able to gain it from relatives outside the country. Worse, though: you may put yourself into the hands of people traffickers, who will lend you the money for your crossing in exchange for your services in one way or another in the UK, be that in the grey economy or in modern slavery.

If you knew, before you spent all that money, that it was only going to get you a few weeks here until your claim is processed and dealt with, you would be far less likely to spend that money. If you knew that you spend that money and you are going to spend six to 10 years here to get through the system, that money is probably worth it.

Q37 Jonathan Gullis: Which is why the idea in clause 11 or clause 10 that in our United Kingdom we are going to potentially process people offshore, as with Denmark, is a positive and will help deter. If people know they are going to spend all that money and not even end up in the United Kingdom, that is a positive with the legislation.

Lucy Moreton: From what I understand, the experience of Australia has been that it has not been as much of a deterrent as they would have hoped, but certainly, on paper, anything that shortens the system is going to be a positive. The reasons why people travel are so multi-factorial; it is not going to be a 100% answer, but nothing is. If there was an easy answer, we would have done it a decade ago when this started to be a problem. It may help, but it will not be a universal panacea.

Q38 Jonathan Gullis: Zoe?

Zoe Gardner: I would like to pick up on the distinction you were making between Afghan refugees and the people you referred to as illegal economic migrants

crossing the channel. It might interest you to learn that Afghans make up one of the most significant groups of people making those irregular journeys across the channel.

JCWI has some difficulty in ascertaining at what point these people switch from being considered refugees—for example, if they worked with our military, or if they are gay and are facing persecution by the Taliban. Given that the resettlement efforts, as laudable as they are, will necessarily not reach all those people and certainly will not reach even all the people who worked with our troops in that country, if those people are facing being hunted down and murdered by the Taliban and are therefore forced to make a chaotic and immediate escape by whatever means necessary, be that with a smuggler, that does not remove their need for protection. It does not make them any less refugees.

It is really useful that you make that point, because it does point to a wider distinction that the Bill seeks to make, which is to draw a completely false distinction between two groups who are made up of essentially the same people. As I have mentioned, over two thirds of the people who are in Calais at the moment and who are making that crossing are from countries with very high recognition rates as refugees in this country. As I have said, they are from Iran, Sudan, Syria, Afghanistan. They are refugees and they need our protection.

I draw the Committee's attention to the commitment made by the Home Secretary to implement the recommendations of the "Windrush Lessons Learned Review". One of Wendy Williams's recommendations in her review was to avoid viewing policy making on a binary of "Do this or do nothing". That is the binary that, with respect, you are putting forward here. Nobody is suggesting that the status quo is acceptable. Unfortunately, the do-this option, according to all the available evidence, is likely to make the situation significantly worse rather than achieving its ends.

As Lucy mentioned, the evidence from Australia suggests that offshore processing centres for refugees had no discernible impact on the numbers of people attempting the crossing, but it did have a huge impact of cruelty and harm to the refugees who were subject to offshoring. We already have difficulty in this country in ensuring that asylum seekers have adequate access to legal representation, to adequate hygiene and to the other most basic needs. To take that process offshore to somewhere out of sight and away from our ability to scrutinise it would make it much more difficult to ensure that those minimum standards were met.

What I hope would never happen is what happened in the Australian case, where teams of experts from the UN and Médecins sans Frontières, and teams of paediatricians, reported finding the most traumatised population that they had ever seen or worked with, including among victims of torture. There were extremely elevated rates of self-harm and suicide, even among children. It ended in abject failure. Not only had it not deterred people from taking boats to Australia; it ended up with the Australian Government forced to medically evacuate all remaining residents of those camps in 2019, having spent €6 billion on the entire process. That is an absolutely disastrous model for the UK that we absolutely should not pursue.

Aside from the moral objections that may not be shared by all but that the JCWI certainly feels about the UK—one of the richest countries in the world—attempting

to palm off our responsibility to refugees on to a developing country such as Rwanda, the impact was cruelty, and cruelty with no point, no purpose and no achievement. The situation just continued—

The Chair: Ms Gardner, you have put your case extremely well and I do not want to inhibit what you want to say, but I do want to see whether more Members can ask questions.

Q39 Jonathan Gullis: I have one short question. If these people in Calais are legitimate refugees, why are they not claiming asylum in France, Italy, Spain or Greece? Why do they need to come to the United Kingdom?

Lucy Moreton: Many of them have.

Zoe Gardner: As I am sure you are aware because I think the previous witness did say this, the vast majority of people who seek asylum worldwide—86% of refugees and displaced people worldwide—remain in the country neighbouring the one they have fled. So 86% of people remain in developing countries.

France received three times as many asylum applications as we did last year. Most people stop as soon as they feel safe. The people making their way to England and who specifically wish to come to the UK do so because they have ties to this country, either because they have served with our military, as in the case of people from Afghanistan, or they have family members, as with the Syrian client I mentioned whom the JCWI is representing. They may also speak the language because of our colonial history and have other ties of kinship and history here.

There are people who have legitimate ties to the UK and there is no good reason why they should have their claims assessed in France if they do not wish to. It does not really work for us to say to the French, “Given that we are geographically located slightly to the west of you, none of these refugees is our responsibility. They are all on you,” because France could say the same thing. Then Italy could say the same thing and the entire international refugee protection system will crumble. It is necessary—

The Chair: Ms Gardner, you are making your case really well but I am trying to get a couple more people in before we go to the Minister, if that is okay, so I apologise. Paul Blomfield.

Q40 Paul Blomfield (Sheffield Central) (Lab): Both witnesses have expressed concerns that the Bill’s objectives will not be achieved by the measures that it includes. The Home Office itself goes further in its own impact assessment, saying

“There is a risk that increased security and deterrence could encourage these cohorts to attempt riskier means of entering the UK.”

Could you share your views on that with us—first, Lucy?

Lucy Moreton: That has been the experience to date. There is a large displaced population in Europe. The majority of them have been there for some time. Just under half of them, in the last set of statistics I saw, have a failed asylum claim elsewhere within Europe. Whether they have legitimate ties here or legitimate reasons to be here or not, they will not simply say, “Oh

gosh, it got a bit difficult today. Let’s turn around and go home.” If they do not have another route that they can try, they will simply become—as the risk assessment says—more and more risky.

We built the fence around the edges of where the Eurotunnel trains were, so people moved to Calais. We fortified Calais port, so they moved to Boulogne, went further north, or moved to Le Havre or Ouistreham. Every time we build a wall, they just move a little further down. Nobody wants—I don’t think anybody wants—to build a massive fence along the entirety of northern France, Belgium and Holland, but if we did so, they would come from Spain. Simply reinforcing the border is not effective if we do not also provide some form of alternate route, ideally an expedited route.

Paul Blomfield: Does Zoe have anything to add to that?

Zoe Gardner: Lucy covered it perfectly.

The Chair: Anne and Stuart, you have about a minute to ask your questions and to get some answers before I bring in the Minister.

Q41 Anne McLaughlin (Glasgow North East) (SNP): I had a question for Lucy, which she has partly answered, so I will check with her offline—I thank her for partly answering it. I know that the JCWI has concerns about statelessness, so perhaps Zoe will say something about that. Also, this morning, we talked about the Bill being at odds with our international obligations, so will you comment on the fears that the British Red Cross expressed this morning, that if we do this—you referred to it yourself—there could be a domino effect? If we start to say, “Not on our doorstep”, France could say the same and so, even more worryingly, could countries where most people end up, such as the countries that border Afghanistan, where the hon. Member for Stoke-on-Trent North said the genuine refugees come from. We have asked countries to keep their borders open, but what if they start to say, “No, we’ll not keep our borders open if the UK isn’t going to or France isn’t.” There will be that domino effect, which is worrying.

The Chair: Finally, Stuart.

Stuart Anderson (Wolverhampton South West) (Con): Zoe, I am trying to understand one of the points that you made earlier and your example of the young gentleman from Syria who came over here. You said that, under the legislation, even if he is sent out of the country, he will try to get back in, regardless of the legislation, even though he knows the system. Is that solely because he has family members here, or because, no matter what legislation we put in place, people will still—even when they know the system—try to come back in? Will you expand on that, please?

Zoe Gardner: I certainly would not like to say that I know anything about his intentions individually, but I would say that, as a young person and a refugee, if he were to be sent to another country, anybody in those circumstances would seek to be with their loved ones. That is the natural and human thing that we would all do. As Lucy Moreton explained clearly, once you have taken such a long and dangerous journey, and seen things that we in this room have certainly never seen and hope never to, there is no prospect of going back or

of giving up so, yes, people will try to make the journey back again. It already happens. It is factored into the price in some of the smuggling operations that we hear about, that if you are turned back by the French coastguard, you get one extra shot free on us, half-price or whatever.

People who have made the journey this far and believe that the UK is the place where they will be safe and their human rights respected will seek to come here. We cannot make them disappear, so—this goes to Anne's point—the only credible response is meaningful and good-faith international co-operation. We need to engage with the French, step up to say that we will take our fair share and then speak from a position of moral authority to ask others to do the same. That means taking in people who have connections to the UK.

The Chair: Okay, thank you, Zoe. I will bring in the Minister at this point.

Q42 The Parliamentary Under-Secretary of State for the Home Department (Tom Pursglove): Thank you, Ms McDonagh. I have one question for Ms Gardner. One of the real focuses of the work of your organisation is around welfare. What assessment do you make of our proposals to streamline the judicial process to process cases more quickly and, of course, remove people who have no right to be here more quickly? What do you make of that?

Zoe Gardner: I am quite confused about that being the aim of the legislation that we have in front of us. The measures that have been put forward in the Bill, as far as I can tell, will only serve to exacerbate and complicate the repeated legal claims that will be made. For example, the split standard of proof in the Bill would apply a different standard of proof to different parts of a person's asylum claim. That will be challenged and tested in the courts and will take longer. Obviously, the delays of six months will make the system take longer. On the other side, slapping a priority sign on to somebody's deportation order does not actually make any difference. Again, as Lucy said, that is a matter for having well-resourced court systems and a fair and efficient system, and the Bill just does not do anything to achieve any of that.

The Chair: Apologies, but that brings us to the end of the time allotted to ask questions. I thank our witnesses on behalf of the Committee. Many questions were asked and our witnesses gave evidence that Members wanted to listen to.

Examination of Witness

Assistant Chief Constable Dave Kirby gave evidence

2.45 pm

The Chair: We will now hear oral evidence from Dave Kirby, the assistant chief constable of Derbyshire police. Dave is joining us virtually. We have until 3.15 pm. Will the witness please introduce himself for the record?

Assistant Chief Constable Dave Kirby: Good afternoon. My name is Dave Kirby, assistant chief constable with responsibility for crime and criminal justice in Derbyshire Constabulary.

The Chair: Stuart Anderson will ask the first question.

Q43 Stuart Anderson: Could you give us your opinion of what the legislation will do to help you in your role when you deal with illegal immigrants?

Assistant Chief Constable Dave Kirby: Specifically in relation to the clause 45 defence?

Stuart Anderson: Yes.

Assistant Chief Constable Dave Kirby: If I can start with the background, what we find—forgive me if I tread over ground that you have already been over—is that the defence can be abused either way and there might be ways to alleviate that. We find instances where people who have a genuine claim to be a victim are admitting principal offences—cannabis cultivation or similar—in order to protect the people who exploit them. It tends to have the effect of limiting an investigation, including limiting the examination of telephones or other digital devices that might show us a broader conspiracy, for example. Again, that is because they are still under that control. We see that in an organised way, which I will come to.

Similarly, we see people we believe are genuinely committing offences, such as the organisers of those cannabis growers or people who are in some way managing them, using the defence—some people might use the phrase “Get out of jail free”—to avoid prosecution. In either case, we have seen a high level of organisation, which it is important to point out. I cannot go into the tactical detail in a public forum, but we can see a level of control that goes beyond one organised crime group, for example. Then we see people who are genuinely being exploited perhaps admitting offences and being prosecuted, or being bailed or released under investigation and then simply going round the cycle.

There are two important points around how the legislation currently sits. One is that the defence can be raised at any time, which makes life quite difficult for investigators because they have the original investigation to consider and then they have the secondary, parallel investigation that is required around status. That has to be conducted even if a person has not claimed to be a victim of modern slavery, because that defence could be brought in at any time. I understand that people might initially be hesitant to do that, given that they are being exploited, so it could be problematic to change. However, a second area of interest is that there is no duty for people claiming to be victims to co-operate with the parallel investigation around their status; that is difficult for investigators because there are quite often a few lines of inquiry, with some exceptions.

Q44 Stuart Anderson: We have heard from previous witnesses that the only people who would benefit from the Bill are the people smugglers. Is that your view?

Assistant Chief Constable Dave Kirby: I would be hesitant to make that statement. There could be benefits for victims, with various revisions. I would not want to make that statement directly.

Stuart Anderson: Thank you.

Q45 Bambos Charalambous: Mr Kirby, I want to ask about the issue you raised of people raising a defence and there being a delay. The national referral mechanism is meant to make decisions quite speedily, but it is not doing that. Do you agree that if the NRM were to make decisions more quickly, that would stop this practice?

Assistant Chief Constable Dave Kirby: I think that would assist hugely. The delay can still be there, because people can choose when to bring the defence, and sometimes that is even at trial. But, yes, more speedy decisions from the civil competent authorities would be helpful, because investigators—we all know that resources are very stretched in every force area—could then focus on the areas they really need to.

Q46 Bambos Charalambous: What international co-operation do you have with Europol or countries such as Albania in trying to stop international gangs trafficking people in the first place?

Assistant Chief Constable Dave Kirby: At a national level, we have had some quite good interaction and support from Albania and other countries, including Lithuania—in fact, my own force in Derbyshire has had a joint investigation with the Lithuanian authorities around forced labour exploitation. So I would say that the support is good; in general, it is conducted in conjunction with Europol or the National Crime Agency. Given the complexities in achieving that level of co-operation, it tends to be for our higher level investigations, where we have mapped organised criminality working at an international level, as opposed to the day in, day out criminality and exploitation that we uncover.

Q47 Bambos Charalambous: Final question from me. Do you not think it is right that somebody who claims to be a victim of trafficking should be treated as a victim and that if they choose to disclose something later, that should not count against them?

Assistant Chief Constable Dave Kirby: I think what you are getting at is correct. The reason is that some of these people are under a huge amount of duress, including their families being threatened. Their families remain in Albania and other countries, so they cannot protect them, and violence is often used by these groups. If people are told not to claim that they are a victim and to go through the criminal justice process, and then at some point change their minds for whatever reason, I think that needs to be allowed and not counted against them. The difficulty is, of course, those who would exploit the system and raise a defence at a late stage in order to cause complications for the prosecution and who are in fact criminals, sometimes at a fairly high level. That is where the police and other agencies always need to be cognisant that that defence can be raised and to run those parallel investigations.

Q48 Anne McLaughlin: Good afternoon. I will start by saying that none of us here can possibly understand how complex the work is that you and your colleagues do. I am trying to understand some of it. I know that recently you said that you have spotted a trend of people who were arrested in drug busts claiming to be victims of slavery when you did not believe that to be the case. I think that, as a result of those concerns, the Home Secretary is overseeing plans to roll out a new public order definition that will allow police forces to refuse NRM protection to those committing serious crimes.

That turns the presumption of innocent until proven guilty on its head. Do you think that that is the most helpful way to go forward and, if so, are there other circumstances in which we should not offer support to

people because we do not believe them, before they have had the opportunity to prove otherwise? If you do not think that it is helpful, how would you amend the legislation to be more helpful, while recognising that we do not know whether people are victims of slavery at the point at which they are arrested?

Assistant Chief Constable Dave Kirby: There are a few areas there. First, the existing legislation does not apply to a lot of crime types in any event—some of the more serious crime types that you mentioned, such as kidnapping and manslaughter, and lots of offences included in the Offences Against the Person Act 1861 and firearms legislation, so some of that is there already. I do not think that it is right to say that policing is turning the presumption of innocent until proven guilty on its head. What I would say is that, where we already have information and intelligence in relation to individuals and their place within a criminal hierarchy, at that point it may be appropriate to turn that presumption on its head.

To illustrate, there is a recent case in Derbyshire where an Albanian gang has been dismantled only in the last couple of weeks. There have been 24 arrests, and I think 12 of those people were Albanians, running cannabis growers and other types of criminality in the region. More than one of those people claimed to be victims, but we had a covert investigation behind us that showed their level of control, their ability to communicate, the resources that they had and various things that clearly went against that claim. Absent that information and intelligence, I do not think that we would say, “We don’t believe this person,” in the first instance. An investigator should, and in all investigations does, go into that situation with an open mind. This person could be a victim or could, in fact, be a criminal. They start at that point, not on one side or the other.

The other part of your question was about what we do to make things easier for investigators to understand the true position. I think that, again, that would be some sort of duty to co-operate, because it is quite difficult if somebody claims to be a victim and then, for example, refuses to provide a phone passcode, and so on. Perhaps a duty there would assist us. I mentioned whether a person should have to declare straightaway, because often there are delays, but I think that a lot of genuine victims would suffer that way.

Q49 Tom Pursglove: Clearly it is critical that our resources are focused on genuine victims of modern slavery. Are you able to share any examples or concerns that you have about individuals or groups taking opportunities to misuse the national referral mechanism by falsely claiming to be victims?

Assistant Chief Constable Dave Kirby: Absolutely. I cannot give you names right now. That perhaps would not be appropriate, but in various areas of criminality we have seen that, and again it is for various reasons. One reason that I have alluded to already is to hamper prosecutions, as a tactic. Quite often we can get around that as investigators because we have been looking at the various areas that would prove or disprove a person’s status throughout, but sometimes the defence is raised in order to obtain access, we believe, to other services that we would of course want to provide to genuine victims, such as access to housing and potentially some assistance in securing visas and so on.

We do see those things. I can only say that in some cases we have proved that those people are not victims—for example, through covert activity that was already in place because it was a part of larger operations or because of things such as telecoms investigations and so on, sharing that work. There is a lot of technical detail in how it is done, but we have detected people exploiting the system for those two reasons: benefits and to avoid prosecution.

Q50 Tom Pursglove: Building on that, what, in your experience, is the impact of sequential claims and referrals, and how will the measures in the Bill help to ensure more effective process?

Assistant Chief Constable Dave Kirby: By “sequential”, do you mean repeated?

Q51 Tom Pursglove: Just sequential claims and referrals to the mechanism.

Assistant Chief Constable Dave Kirby: Okay, I am trying to understand where you are going with the question. I am sorry, do you mean if somebody makes a claim and is referred, and then does so again following a criminal justice process? Or have I misunderstood your question?

Q52 Tom Pursglove: It is about issues around repeat claims and those sorts of difficulties that we know exist.

Assistant Chief Constable Dave Kirby: We see victims being referred into the system and then disappearing from it and turning up somewhere else, and then being referred into the system again, and so on. That is an indication, of course, that the control that these criminal gangs have has remained in place and they continue to be controlled, coerced and taken out of that process. Again, in general terms, the speedier the decision that is made in terms of a conclusive grounds decision and the support put in place in a substantive way, the less likely we are to see that because this would be an alternative for people who otherwise are in some sort of a holding pattern, waiting for decisions to be made, perhaps in temporary accommodation and so on. So, for me, the measures that are most effective are those that are going to cement those decisions the quickest and provide real support to those individuals—[*Inaudible*—]—so they can be taken out of that coercive group of organised crime groups.

Q53 Tom Pursglove: I am grateful for that thorough answer. One final question: what assessment have you made of wider criminality resulting from the proceeds of criminal gangs organising dangerous crossings?

Assistant Chief Constable Dave Kirby: Can you repeat the question? I had an issue with the connection. I apologise.

Q54 Tom Pursglove: What assessment, if any, have you made of wider criminality resulting from the proceeds of criminal gangs bringing people across the channel?

Assistant Chief Constable Dave Kirby: The ability of gangs to bring people across the channel is a really important part of how many of those gangs work, particularly when we talk about foreign national offenders and foreign national organised crime. Again, at the risk of being boring talking about west Balkan criminality, I think it is a good way to illustrate that. West Balkan

criminality, Albanian criminality, which is really what we are talking about, has taken more of a foothold since around 2017 in the UK, partly because of a real crackdown in Albania around cannabis cultivation. There needs to be a business model to support that. The gang members themselves do not want to spend long hours in uncomfortable and dangerous cannabis grows, for example, with the risk of being caught. Why would they want to do that? Similarly, if the business model is to exploit people for sexual practices then there need to be people to exploit. The ability to bring people into the country across the channel is hugely important for them.

Of course, there are other rackets such as labour exploitation and so on that have been talked about many times. Focusing on those two, they need people who can be exploited. British citizens form part of that, but people from comparatively poor areas who have comparatively few opportunities are much easier to exploit. In fact, many of those people do not initially believe they are victims—they believe that they are entering into a business deal. “You do this for this long, and then we will fly you back, or there will be some sort of benefit”. Sometimes that is the case. I would suggest that the conditions those people are living in are appalling and that the deal is a terrible one, but for some of them that is a better deal than they had where they came from.

Forgive me, that is a bit of a long answer. The point is that without the ability to bring foreign nationals in-country, those very well-organised criminal gangs—in my experience, many of them are far better organised than our own high-level criminality—would struggle to prosper in the way they currently are.

Tom Pursglove: Thank you, that is very helpful.

Q55 Bambos Charalambous: I have some follow-up questions to that. You mentioned the Balkan states, in particular Albania and Lithuania. Is it generally the Balkan states which are involved in the criminal gangs you have come across?

Assistant Chief Constable Dave Kirby: At the moment, there is a heightened threat from people from those areas. That is what we are seeing most of in terms of foreign national offenders in Derbyshire and the east midlands, and I am fairly confident that is also the pattern elsewhere. To illustrate, we used to see Vietnamese organised criminals involved in cannabis growing, sex trafficking and other issues, but more often than not we now see Albanians in control, potentially exploiting those Vietnamese people, or, if not, working together. Some alleged groups are so well-organised and disciplined that they are able to effectively out-perform other criminal gangs. That is the threat we are seeing most in terms of foreign national criminality.

Q56 Bambos Charalambous: On the issue of how often the slave defence is being used, how much of a problem do you see it as being? Does it happen all the time, not at all, by many people, or a few?

Assistant Chief Constable Dave Kirby: It is happening very regularly. However, we are uncovering victims very regularly, so in their cases that is a very positive thing. Forgive me, could you repeat the last part of the question?

Bambos Charalambous: How often is it occurring? How much of a problem do you see it as being?

Assistant Chief Constable Dave Kirby: I think it is occurring a lot, but whether I would classify it as a problem or not is another issue. When it is being used genuinely for victims in some of the most terrible circumstances imaginable, I would not classify that as a problem. However, the abuse is real; it is actually organised and, in some cases, quite systematic.

Q57 Bambos Charalambous: You mentioned that when you find these criminal gangs, you come across many victims as well. How do you differentiate between the two?

Assistant Chief Constable Dave Kirby: From a domestic point of view, we would look at things like if they have access to communications, do they have their own phone or not? Have they got an evident network of contacts or friends? Have they got control of their own finances? Have they got control of their own documents? Are they able to come and go, or are they locked into a premises, for example? There are not many people within the sex-trafficking area of exploitation who are there voluntarily, of course, so we look at all of those factors.

Really, we are looking at someone's freedoms; their access to resources, including money, telephones, that kind of thing; and whether they have a normal pattern of life, a normal pattern of life for a criminal, or if they are very much restricted in what they can do. That is one of the ways we can identify people as victims. We would also conduct more detailed work around finances. For example, if benefits are being claimed, who are they being collected by? Which accounts are they being paid into? Are we seeing the same account more than once, which might show an element of organisation and coercion? Those kinds of things.

Q58 Bambos Charalambous: Is there not a danger, with some of the clauses, that you will also catch genuine victims of trafficking if they do not disclose something early on?

Assistant Chief Constable Dave Kirby: Again, I think it is really important that victims are allowed to make that claim at any point. I say that because of the coercion that exists, including threats to family members and so on. If somebody is arrested for whatever offence and know that they are a victim, they dare not claim to be so because their bosses say, "Don't do that." They know that if they plead guilty, and indicate that they will do so, the investigation is likely to be stopped short, saving further investigation into the organised crime group. The person is told to toe that line because of the threat to their family. It is difficult to say that they must declare early in those circumstances.

Q59 Bambos Charalambous: But the Bill does not distinguish between the genuine victims and those who are trying to evade the system.

Assistant Chief Constable Dave Kirby: No, it does not, and again, it is down to the skill, knowledge and understanding of the investigators and other agencies to spot the signs and be alive to the fact that they are not just investigating whatever criminality is reported; they are also investigating the status of those involved.

Bambos Charalambous: Thank you.

The Chair: If there are no further questions, I thank our witness for his evidence. We will move on to the next panel.

Examination of witnesses

Councillor Roger Gough and Councillor Rachael Robathan gave evidence.

3.15 pm

Chair: We will now hear oral evidence from Councillor Roger Gough, from Kent County Council, who is joining us virtually, and Councillor Rachael Robathan, from Westminster City Council, who is here in person. We have until 4pm. Would the witnesses introduce themselves for the record?

Councillor Roger Gough: I am Roger Gough. I am the leader of Kent County Council. I also chair the South-East Strategic Partnership for Migration.

Councillor Rachael Robathan: I am Rachael Robathan, I am leader of Westminster City Council.

Q60 Bambos Charalambous: I thank both witnesses for coming today to give evidence. I just wonder about your experience of the pressures of having to look after asylum seekers in your respective authorities. I know that it will be different for each of you but what pressures have your councils been under?

Councillor Rachael Robathan: Just to give a current picture; we have 638 Afghan refugees who have come in as part of the current settlement in one hotel on the Edgware Road. We have a further 589 refugees who were in Westminster prior to that, spread across five hotels. Our experience is that clearly there is a lot of pressure on local services in terms of identifying health, educational and other support needs. There is not always the advance warning that local authorities would wish to have in terms of knowing about the placements before they arrive. Clearly, as much notice as we can be given from the Home Office, Clearsprings or whoever is placing the asylum seekers is very much to our advantage so that we can prepare and know what we are dealing with.

The other thing to stress is that there are particularly significant issues that arise. For example, over a third of the current Afghan refugees placed in Westminster are children and of those 10% are not with their parents or guardians, and have not travelled with them, so there is an immediate safeguarding issue, which the local authority needs to step in and deal with. While there is funding for the people placed in the hotels, there are undoubtedly significant pressures and concerns about how we support other people. It is unclear how long those refugees will be staying in those hotels. We are working on three months, but it could be longer than that, or it could be less. Those are the main things.

The current Afghan refugee settlement has been more co-ordinated than previous asylum-seeker placements, because there has been more of a joined-up approach. Westminster has a lot of tourist hotels in the centre of our city, which currently are not as full as hopefully they otherwise would be, so in areas where there is an availability of hotels there tends to be a disproportionate placement of asylum seekers, without necessarily the recognition of the pressure that that puts on the surrounding area.

Councillor Roger Gough: As you indicated in your question, clearly we have a very specific set of circumstances in Kent which relate to the Channel crossings and in

particular to unaccompanied asylum-seeking children. Taking asylum overall first, most of the adult and accompanied child asylum seekers who arrive in Kent do not spend very long in Kent. There has been an exception to that for the last year, which is the use of the Napier Barracks near Folkestone, which has been a source of some challenge and controversy throughout its period of use. Most adult asylum seekers are rapidly moved on and dispersed. For us, the big issue has been unaccompanied asylum-seeking children. As you may know, we have twice in the last year had to suspend full operation of our statutory duties. Between August and, I think, early December last year and again between June and earlier this month, we did not collect young people from the port because our services at that point were put under extreme pressure.

To give an idea of what that means, there was great pressure on accommodation capacity since, this year in particular, we started to see more younger young people—under-16s—than we had in previous years. That certainly put pressure on fostering placements. For the slightly older young people, there was also pressure on some of the accommodation that they were placed in. That meant that young people were being placed outside the county, which clearly has significant impact in terms of oversight, safeguarding and so on. You must then add to that the fact that case loads and the pressure on our social work teams were reaching levels that we viewed as unsafe. Those are the sort of pressures that we were seeing in that area, and we have been working with the Home Office to try to make that a more manageable situation.

Turning to some of the wider areas, adult asylum dispersal, with the significant exception of Napier Barracks, has not been a factor for us very much in recent years. In terms of resettlement schemes, Kent, along with other parts of the south-east, played a full role in the Syrian scheme and is now looking to do so to the greatest possible extent with the Afghan scheme. We have three hotels in Kent that are being applied to Afghan families who are arriving.

Q61 Bambos Charalambous: I have a follow-up question for you, Councillor Gough. You mentioned the issue around children. The adults, apart from at Napier Barracks, are dispersed: they come in, get processed and are taken to another part of the country. In relation to the children, do you get any additional resources from the Government to deal with the problem? Is it enough or do you need more resources to deal with the issues that you face?

Councillor Roger Gough: Historically, resources in the sense of money have been an issue for us. That has changed in the last year and a bit. Historically, we carried a loss, if you like: a difference between what we received from the various grants—chiefly Home Office grants—and what we spent of between £1.5 million and £2.5 million a year. In the summer of last year, there was a significant increase in the rates paid by the Home Office, particularly targeted on those of us in authorities with large numbers of unaccompanied asylum-seeking children. As part of the launch of the latest version of the national transfer scheme, there were some further enhancements to rates including some things on the care leavers area. That has made a real difference to us financially, so the point that I have made constantly is that when we speak about pressure and the areas in

which Kent is feeling the impact, it is to do with the capacity of our services to respond. It has not been a case of financial resources this year or last, but historically it was.

Q62 Bambos Charalambous: Councillor Robathan, you mentioned the pressure of unaccompanied asylum-seeking children on Westminster City Council's resources. Can you give me an idea of those pressures and whether you have had additional support to deal with that from the Government?

Councillor Rachael Robathan: As Councillor Gough mentioned, it is not currently so much around the financial support; it is more to do with the wider pressure on services across the piece. For example, at the moment, we in Westminster, like Kent, have more than our allocated number of unaccompanied asylum-seeking children, which represents a significant responsibility because of the length of time that they are likely to be in receipt of services. There is a very significant pressure there, but it is more the wider pressure on overall services.

At the moment, we have 638 Afghan refugees in one hotel on the Edgware Road. We are having to put significant resources into trying to understand exactly who is there and what their needs are—all that information we need to gather in order to be able to look after those people safely while they are here. There is also the question of uncertainty. We do not know how long they will be within the borough and in need of our services. There are issues around education. Do we provide education within the hotel for those children? Clearly, if they were to go into our schools, that is disruption for the school and for the children themselves, as well as for the other children in that school.

So there are a number of other issues that need to be taken into account so that we can look after the children properly. That is why there needs to be more planning on where the asylum seekers are placed, and full co-ordination between the Government and local authorities on this.

Q63 Bambos Charalambous: On dispersal and asylum accommodation elsewhere, many councils, including those of many of the Members sitting around the table here, take asylum seekers and they are resettled in those council areas, but some do not. Do you think that all councils should have to take their fair share?

Councillor Rachael Robathan: Yes, I think there should be a balanced approach to the whole process. Recognition needs to be made of the services and the housing accommodation that is available in different areas. Clearly, in inner-city areas there is more pressure. For example, the current Afghan refugees that we are seeing tend to have larger families, so there is more of a need for four-bedroom or even five-bedroom properties, which are under more pressure in an inner-city area than in other areas. Some balance needs to be made. Absolutely, in terms of dispersing and further placement, that needs to be balanced.

Q64 Bambos Charalambous: Councillor Gough, what is your view?

Councillor Roger Gough: I agree with that. What we have to remember is that there are different schemes for different groups of asylum seekers and others being

resettled. The rhetoric that is always applied by central Government and the authorities is a place-based approach. Many of us would say that in practice that does not always work out.

When it comes to unaccompanied asylum-seeking children, in Kent we have been vociferous that the scheme should be mandatory. At the moment, the Government are still very much committed to a voluntary scheme. We will have to see how that works out. The Government are seeking to make it work, but we have a view on that.

On adult asylum seekers, part of the difficulty is that you have a very different mechanism being applied and very different responsibilities for the authorities or areas that are taking part. For instance, the south-east is massively under-represented in terms of adult asylum seekers within its population by comparison with, say, the west midlands or the north-west. The problem is not so much that the authorities are unwilling to step up to the plate. It is much more to do with the cost and availability of housing and developing the infrastructure. To some extent, once you have established the infrastructure, it can support more arrivals; it is getting it started that can be the issue. That has generated a slightly vicious circle, in terms of where you get concentrations of asylum seekers. That is something that the Home Office and groups such as the regional migration partnerships were working on over the last couple of years. It was quite a major strand of work prior to the pandemic striking. There is very much a variation.

The other key point, which fits in with what Councillor Robathan has just mentioned, is engagement with local authorities. Many of us would say that the resettlement scheme—what started as the Syrian scheme—has been a great model of very effective engagement with local authorities, and that has been reflected in the fact that authorities across the country have played their part in it. Not all schemes work quite as well.

Q65 Bambos Charalambous: I have one final question for Councillor Gough. You mentioned Napier Barracks in Kent. The Government announced that they want to extend the period of time that they are using Napier Barracks for asylum accommodation. I just wondered what your thoughts were on that, and how it has gone down locally.

Councillor Roger Gough: Clearly, it is not welcome that we have another element of this particular picture in a part of the country that very visibly experiences large numbers of arrivals. In a sense, having a presence of this kind in east Kent is not ideal, and we have always been clear—both Kent County Council and our colleagues in the local district council, Folkestone and Hythe—that this is a decision taken by the Home Office, not by the local authorities, and is not something we were in support of.

That said, I think that a great deal of work has been undertaken to seek to address some of the problems that produced the real crisis in and around Napier Barracks in the early part of this year, where we saw some disorder and a significant covid outbreak. Significant steps have been taken on that, although there are still concerns about that facility.

Q66 Paul Howell: Can we change the direction slightly? We have heard lots about the stresses that illegal immigration is putting on local councils. Looking at the Bill as it

stands, can you tell me whether there are things in there that help the situation for you, and are there things that you would like to have seen in there—things that would have helped if they had been put in? I am trying to see what difference the Bill would actually make to your life.

Councillor Rachael Robathan: Yes, there are certainly some things that we would welcome, although it would be good to see some more detail when the secondary legislation comes forward. Just to back up slightly, a further issue that we have in Westminster, as many of you will be aware, is the significant number of rough sleepers. Our latest count was 171, which is actually fewer than there have been previously. We worked very closely with Government on the Everyone In programme and so on last year, which was very successful, but we still have 70 in a bridging hotel within Westminster, so there is a significant issue around rough sleeping.

Over half of those people have no recourse to public funds. All of the asylum seekers in Westminster have come through the sanctioned route, so they would be in category 1 under this Bill, but one of the concerns for us would be if there is more clarity, if you like, in terms of no recourse to public funds for category 2, whether some of those people who would have no recourse to public funds might slip into rough sleeping. There is always a draw to the centre of Westminster: it is known that an aggressive beggar can make up to £500, or sometimes more, on our streets in Westminster, so if people find themselves on the street, there is an economic pull into the centre. That could lead to increasing numbers within Westminster.

Speaking very specifically about Westminster, the issue is that we then have an issue with tented accommodation, and the point about tented accommodation—I have had a number of meetings with the Home Office and the Ministry of Justice about this—is that there is a very high bar for the police or others to be able to gain entry to the tents. Not only is it difficult to enforce against those who would be illegally there but, much more importantly, it is very difficult to address issues around trafficked women and other people who are on the streets and need support and help, because we are unable to deliver that. That is a concern.

One of the things that we would welcome—I think this has come through in what both Councillor Gough and I have said—is a more organised approach to the way asylum seekers are looked after and accommodated. More planning around the process would help. I think we have also both said that the Afghan resettlement has been much better in terms of being able to have planning and co-ordination with local authorities, so that is something we would welcome.

Also in Westminster, I welcome the measures around modern slavery, but also the greater sanctions to stop people coming back into the country if they have been convicted of criminal activity. Once again, we have people on the streets in Westminster who engage in criminal activity to earn money. That activity is not at a very high level, but they are still things that have a real impact on our residents' lives. We would welcome the moves around electronic travel authorisation and other measures to make re-entry into the country more difficult for those people who are here to commit criminal activity.

Councillor Roger Gough: I would endorse what Councillor Robathan has said; I agree with all those points. There are a couple of specifics from our side. One slightly begs the question as to how effective the measures will be, ultimately, because others looking at the Bill can judge that better than me. The basic principle of seeking to promote safe and orderly routes at the expense of those that involve things like the small boat routes would be very welcome. There is no doubt, and it has been much emphasised, that that route is very dangerous. It creates a degree of political tension because it is so visible. It is something that we very much wish to avoid. Those issues come home to those of us who are border authorities, particularly in the case of the small boats in areas such as Kent. The measures to try to shift the balance between the two ways in which people get here would in principle be very welcome.

The second area I want to touch on relates to age assessment. Broadly, the direction there seems to me to be a favourable one. The attempt to create a national body, not to carry out or provide support to local authorities, unless it is requested, so much as to provide some consistency and regularity to a very time-consuming process that can wrap up huge amounts of time from very qualified social workers and which often has no very obvious end to it because it is relatively loosely guided, is welcome. Establishing best practice as well as providing support for local authorities, many of which will be less experienced in this area than authorities such as mine, would be very welcome.

Q67 Tom Pursglove: First, I have a very Kent-specific question. You will appreciate that I am new in role, but for the benefit of the Committee, could you set out what pressures Kent County Council currently faces as a result of the number of people crossing the channel?

Councillor Roger Gough: We are slightly betwixt and between on that. I apologise if I give an answer that may not be quite as definite as you would like. I shall explain why. If we take this year and last year, the very specific pressures that we have been experiencing were rapid increases in the numbers of young people coming into our care, the end result of which was that social work case loads rose far above recommended levels, particularly for the specialist teams dealing with those cases. We also had reception centres that, particularly with the first wave of big pressure last year, were filling rapidly. That was the point at which placing young people in other accommodation was difficult because of the circumstances of the pandemic.

Just to be clear, it is perhaps worth saying that when we talk about unaccompanied asylum-seeking children, historically, these have been adolescent males. Indeed, if you look at last year's figures, we have very few indeed who were under the age—or stated age—of 16. There was something of a shift in the early part of this year where, from memory, about a fifth of those arriving were of stated age under 16. That tended to push you more towards foster accommodation rather than the semi-independent and other forms of accommodation that we would provide for the 16 and 17-year-olds. That has meant that through the pressures on fostering, and to some extent on other forms of accommodation, we had to place more young people outside the county, and we were certainly heading into that sort of territory at the time when we were closing our doors again in June. That was the biggest area of concern.

One thing that is worth noting, too, and it has a longer lag on it, is care leavers: those who come into our care, or indeed the care of any authority, under the age of 18—they are taken in as children in care—then become care leavers. Councillor Robathan referred to that. Under the changes to legislation that took place three or four years ago, we have a responsibility for them through to the age of 25. While at the moment, we have around 300 under-18s in our care, we have over 1,000 care leavers. In fact, our care leaver service is more ex unaccompanied asylum-seeking children than it is ex Kent children in care. As you can imagine, that generates a number of specific pressures, too. I hope that answers your question. The only reason for my hesitancy at the start was that we have just come out of the period when we were not taking young people into our care, and therefore some of the very large numbers of arrivals that we saw a few weeks ago, of whom typically 10% to 15% would probably be unaccompanied asylum-seeking children, were not having a very direct effect on us at that point. But clearly if those numbers were to continue, we would potentially be in a different situation.

Q68 Tom Pursglove: In terms of the broader measures that we are seeking to introduce in the Bill, how pressing do residents in your communities think they are?

Councillor Roger Gough: First, there is a big variety of views in Kent, as I think there is anywhere. My inbox, my postbag, tells me that about all the issues that are raised, but as I mentioned in my earlier responses, the very visible sense of large numbers of arrivals on the coast has had an effect within the county, and therefore that has made the issue a pressing one. As I say, from a service delivery point of view, for us the most pressing element of it has been to do with the children.

Q69 Tom Pursglove: To touch on age assessments again—I know that you have commented briefly on those—there are almost three elements to my question, and I would be delighted to hear from both of you on this. What pressures do age assessments place on your local authority in resource terms? What safeguarding risks do you think exist as a result of adults successfully posing as children? How many UASCs who approach you for support do you have doubts about in relation to their claimed age?

Councillor Roger Gough: On the first question, it is a demand and I cannot quantify it at this moment, but I can give you perhaps some indications. It is a demand on social worker time, so you will tend to see that a typical age assessment involves two experienced social workers, who will carry out interviews. If you just take everything going smoothly, if I could put it that way, that would involve a couple of half-day interviews followed by extensive paperwork, research and then later stages of the process. In practice, and this goes back to my earlier comments about age assessment, there are a number of ways in which the process may well be less smooth running than that. But you need experienced social workers, and one of the areas in which we have worked with the Home Office has been through their support for us in backfilling posts so that experienced social workers can take that role on.

On safeguarding, clearly there is a significant concern—it is quite hard to specify the full details of it—where you have adults in what one would take to be a young person's space. Clearly, you will have a challenge over

those who are, if you like, on the cusp. What happens—this ties in, perhaps, to your third question—is that we have had historically quite large numbers of young people being put through by the Home Office where doubts have been raised by Border Force regarding their age. There are some of whom they would say—interestingly, recent court findings have helped with this process a bit—“Look, this person is definitely, in our view, out of the reasonable range to be considered a child,” and they would be into the adult part of the process.

That can sometimes come back. For instance, where asylum seekers have been placed in hotels elsewhere, disputes about age assessment then come back as an issue for the new local authority. I know of a number of places across the south-east where that has happened, but in our case, there are a number of cases where any local authority, I think, would take the view that, where it is very hard to establish—again, the guidance around this is relatively loose—that a young person is definitely out of that age range, there is precious little point in pursuing that further.

That still leaves you with a material number. At one point, at the height of things, around half the young people who were arriving arrived with doubts raised about them by the Home Office. We would then probably in practice seriously investigate, because it was considered viable to do so, only a portion of those, but they would very often go into cases where the age dispute would be pushed to the point of saying that this was indeed an adult.

Councillor Rachael Robathan: As Councillor Gough said, this is very time consuming. As he stated, almost all of the UASC are late-teen boys, and it can be very difficult at the best of times to tell someone’s age, so it involves a huge amount of time on the part of the local authority. There is a very clear safeguarding issue, because once someone has been accepted as UAS they are put into a child setting—schools and other child settings—where there is a very clear safeguarding issue. That is something that we are all very conscious of, clearly.

The other point, as we said earlier, is that there is an ongoing responsibility to these young people, because the responsibility to support them carries on until they are 25, so if you have someone who presents as a 16-year-old, let us say, that means that you have almost 10 years during which you will support that young person. In terms of ensuring that there is the best use of public funds, which we all know are always very stretched, we need to ensure that the people coming into the system are the ones who really need that support, and who are legitimately there.

Q70 Tom Pursglove: I noted the broad support for the national age assessment board approach that we are proposing to try to deal with some of this, but what impact do you believe the current judicial review-based processes for settling disputes of age assessments have on your organisation? I am conscious, as a former councillor, that it is not always just financial; it is also around officer time in particular, and the impact on services more generally. What would you say about that?

Councillor Rachael Robathan: Anything that moves towards a uniform process will greatly help. At the moment, involving the local authorities and putting the responsibility on them is very difficult for what are very often stretched institutions. Having a uniform, joined-up process would be very welcome.

Councillor Roger Gough: Already when you see changes in, for instance, what the courts have found about what is a reasonable basis on which a challenge can be presented by Border Force, as we have seen recently, that has made a huge difference. The proportion of young people coming to us age disputed is significantly lower than it was before that.

When you get changes in the process, it can make a material difference. Authorities like ours are at least experienced in this area, even if we are in the eye of the storm. As dispersal happens, or when, as I mentioned earlier, those who have been placed as adults launch a challenge within their own authority, issues may arise for an authority that is not nearly as well set up to deal with them as we are.

To pick up on the point that Councillor Robathan made, it is worth emphasising what a difference going into the children’s system or the adult system makes. As we have both said, first there are children in care and then there is the care leaver process, all of which, quite properly in their own way, have particular requirements for children’s services departments in authorities. The process around adult dispersal clearly still makes demands on council services, but in the first instance it is a housing-related issue, from which a number of other things follow. It is not quite the same as building in what can be a seven, eight or 10 year process of somebody being part of the children’s services operations of the council.

Q71 Stuart C. McDonald: I thank the witnesses for their evidence so far. I have a couple of follow-up questions on age assessments. You have spoken about the safeguarding issues that arise if somebody who is an adult finds themselves in a space for children, but of course the opposite can also happen; there are huge safeguarding issues if somebody aged 15 or 16 ends up being put in a hotel with adults or dispersed to some other part of the United Kingdom with limited supervision. It is in all our interests to get that absolutely right. Would it make any difference, for example, if we took the pressure off these decisions—I am thinking slightly off the top of my head—by continuing UASC leave to a higher age, say 20 or 21?

Councillor Roger Gough: Sorry, could you just run your last point by me again?

Stuart C. McDonald: It just strikes me that a lot of the pressure around these decisions, and perhaps even a degree of cynicism about where a number of age claims fall, arises from the fact that UASC leave, as I understand it, takes young people up to 17 and a half. If UASC leave carried on until 19, 20 or 21 there would be much less pressure, or motivation—if you are cynical about it—to make a claim that you were 15, 16 or 17 than there is now. Would that be a different way to try to go about fixing this?

Councillor Roger Gough: I need to think about this one, but I suspect my answer will probably be that where the pressure arises is not so much on the immigration side of things as in respect of the children’s services obligations. As long as a young person is identified as being of a particular age that, under the current rules, makes them a child in care for the council, that is where the issues for councils arise. As has been mentioned, that takes those involved through to the age of 25 as

care leavers. The answer almost certainly is that it is Children Act responsibilities that matter in this case. As you say, there is normally UAS leave to remain, which will then usually transfer over into a five-year leave to remain. In a sense, the age issues tie into Children Act responsibilities.

Stuart C. McDonald: Okay, I will give that some further thought.

Councillor Roger Gough: And so will I.

Q72 Stuart C. McDonald: Safeguarding obviously does work both ways. Ultimately it is just imperative that we get this right. I think other local authorities have expressed some concern about this national body possibly taking their decision-making power away from them. Nobody would object to anything that drives up standards and helps to make sure we get these decisions right, but do you have any sympathy with local authorities that say, “Ultimately, it is our social workers who will implement this decision. It should be them who make the decision in the first place”?

Councillor Roger Gough: I am certainly more supportive of something that is there to support local authorities and provide more of a framework and a structure, rather than completely taking the process over—I do not think that that is necessarily what would be envisaged. In short, going back to the two points you have posited, you are quite right that safeguarding arguments would cut both ways. What all of us are asking is simply, how do we find a process that is as robust as it can be and that does not have a hugely distorting effect on local authority children’s services departments in terms of their time, their resources and their officers’ commitment?

In terms of the function that this body could have, there is a suggestion that it could support, and take decisions with, authorities who wish it. But the key thing in many ways is that it provides more of a framework within what, at present, is a relatively hazy area of activity. To the degree that you can do that, I think you would make local authorities’ lives easier and better, and they would hopefully provide better services in this area than would otherwise be the case.

Councillor Rachael Robathan: I would largely agree. In terms of your first point, about moving the age higher, I would be wary of introducing a hurdle or age bar that was different from that for other young people in our care. I would be quite wary about introducing a parallel process that has different criteria. I suspect that you might just push the problem forward a few years; then you would have a 19-year-old, but are they really 19 or actually a 22-year-old who is presenting as a 19-year-old? That might move the issue around, rather than addressing it.

I agree with what Councillor Gough said: having a national process that helps local authorities in determining age would be a support. It is not determining the shape of the services that local authorities then deliver; it is basically saying, “This young person qualifies on this age basis to access your services.”

Stuart C. McDonald: We will have to see what the placeholder clauses in the Bill are replaced with, but thank you both very much.

The Chair: If there are no more questions, I thank the witnesses for their evidence. We will move on to the next panel.

Examination of Witness

Tony Smith gave evidence.

The Chair: We will now hear evidence from Tony Smith, from Fortinus Global Ltd, who is joining us virtually. We have until 4.30 pm. Could the witness please introduce himself for the record?

Tony Smith: Good afternoon, everybody. My name is Tony Smith. I am now an independent international border management consultant, but I am probably better known as a former director general of UK Border Force, with 40 years’ experience of working in the Home Office in immigration and border applications.

Q73 Bambos Charalambous: Mr Smith, thank you very much for agreeing to give evidence today. We very much welcome your insights, with your many years of experience. The premise of the Bill is to fix the broken asylum system. You have mentioned your 40 years of experience, and some of that was as an immigration caseworker, I understand. I just wondered what your ideas were about what needs to be fixed to fix the broken asylum system and whether you think the Bill achieves that.

Tony Smith: I think there is a broad consensus that the system is broken. I spent a great many years working in the areas of immigration enforcement, border control or immigration control, and asylum. I think what has happened recently has been a new method of gaining entry to the UK. This channel crossing was not an issue in my time. I retired in 2013, and at that time most of our energies were devoted to securing the port of Calais and preventing illegal migrants from concealing themselves in vehicles, to reduce that route.

In some respects, we have been victims of our own success, in that the smugglers will not give up; they constantly try new methods to get around our controls. This method has been used only in the last two or three years; they have found a gap in our defences. I think, therefore, the Bill is right to try to distinguish those asylum seekers that enter in this way—coming across the English channel in small vessels and claiming asylum on arrival—many of whom have spent a good deal of time in another safe third country, from those that are being evacuated by the UNHCR or through the Afghan programme. I think the Bill does that. It does attempt to distinguish the method of entry by redefining article 31 of the refugee convention, and to distinguish those people that are immediately fearing persecution from those that are not, so that we can get back some form of control of that part of our border, which at the moment I fear we have lost.

Q74 Bambos Charalambous: You mentioned people coming in via lorries. Clearly, that is still going on. It is not just the channel crossings that are the issue; it is also people who would be coming in via that route.

Tony Smith: Yes, but as I say, I worked in senior positions in the immigration service when we had our really big asylum influx, which was in 2001. I am afraid corporate memory in the Home Office is not all that it might be, but at that time we were on the cusp of introducing the juxtaposed controls in northern France, because over 100,000 came in 2001 and the Government of the day saw it as a priority to reduce asylum intake

from France. The effect of the juxtaposed controls was that by moving the UK border to Calais, it was not possible to claim asylum in the UK, because the applicants were not within the jurisdiction, so people were originally coming on forged passports—initially by air and then by ferry—and claiming asylum. Once we introduced those measures, they resorted to concealment in vehicles. We were then able to establish an agreement with our friends in France that we would have a British control zone in France, which would enable us to conduct our own searches in the UK zone. Subsequently, I was involved in a lot of the berthside checks to prevent people pervading through the fences and getting on to the vessels berthside.

We did a lot of work to secure that part of the border and in collaboration with our colleagues in France. That worked in terms of the targets, which were to reduce asylum intake via these methods, coupled with other measures that were taken, such as the third country unit to return people to safe third countries. We had the detained fast track system for manifestly unfounded cases. A lot of these things were tried previously and did work to an extent. As I say, the maritime environment is an extraordinarily complex one, as the Committee will no doubt be hearing, in terms of the complexities of international law and what we can do in our domestic law to manage that. I do think the attempt is a bold one to make this distinction, because I think we are conflating two different issues here, in terms of people who are travelling across between two safe third countries, and those that are genuinely in need of resettlement—of whom the numbers far outweigh the levels that the western world is prepared to take, I am afraid.

Q75 Bambos Charalambous: You mentioned the juxtaposed controls from 2001. That was done in co-operation with France, but clearly things seem to be very different now. I just wondered what your take was on the need for international co-operation to resolve the issue of illegal migration.

Tony Smith: After the first signs of Brexit, we did have an APPG, more on freight rather than people, about what we were going to do about the border with France. I participated in that with some French officials and a number of MPs. The ending of free movement is in itself a significant challenge for that border. There were certainly some overtures from French politicians that they wanted not just to retain the juxtaposed controls but to work with us on joint enforcement measures because they really did not want international organised crime groups working in the Hauts-de-France region. Nor did they want large numbers of irregular migrants, shall we say, who are already in the Schengen zone—as you know, there are no borders in the Schengen zone—effectively migrating into the Hauts-de-France in the hope of being able to get across to the UK.

I did think there was an element of goodwill there, in terms of continuing to work with them, and we have seen some of that. We have persuaded the French police to conduct checks on the beaches and to prevent people boarding small vessels to get across. The difficulty we have is that once they are seaborne, the French position is that they will not intervene because they see this as a search-and-rescue operation, which is covered by international conventions. The migrants do not want to be rescued by the French police or coastguard because they would be taken back to France. They want to be

rescued by the UK Border Force. For the UK Border Force, our primary mission at sea ought to be the preservation of life on both sides. Once we bring people aboard a Border Force vessel, they are within our jurisdiction, they can claim asylum and that just fuels the business model that the human smugglers are exploiting.

Q76 Bambos Charalambous: On the Border Force issue, what the Bill suggests doing is pushbacks, which many people would agree would be a dangerous activity. What are your thoughts about pushbacks and how that sits with maritime law?

Tony Smith: I think it is highly dangerous. I am in touch with former colleagues from the Australian Border Force, which is often held up as a model for pushbacks. That was an entirely different model from the one that we are proposing. These are dangerous waterways and very vulnerable vessels. I fear for the worst. We have already had drownings. They are not as well reported as they should be but we have had them. We do not know how many, of course, because bodies have not always been retrieved. We will certainly see the smugglers resort to tactics, as we saw in Australia, such as vessels literally being holed so that they sink and lifejackets being thrown overboard in the trust, hope and expectation that those on board will then be rescued, which we have an international duty to undertake.

The only real way out of this is to come to an accommodation with the French Government, which I have been advocating for some time. There is provision under article 98 of the UN convention on the law of the sea for countries to establish regional arrangements, so it is possible, with political agreement with France, that we could have joint patrols on the English channel. We could have British officers on their vessels and they could put French officers on our vessels, but the premise would be that if you are returned to either side, there is no risk of refoulement because both countries are signatories to the 1951 refugee convention and you would get a full and fair asylum hearing on either side. I do think that is possible, but there is a reluctance on the part of the French Government to go down that road at the moment because they have significant immigration problems of their own. They cannot control their own southern border because they are part of the Schengen group and there is a significant lobby in France saying, “Why would we stop people crossing to the UK when we have plenty of irregular migrants already coming into France?”

Q77 Anne McLaughlin: Good afternoon. You have already answered some of what I was planning to ask you about. I read recently that you said the preservation of life should be the UK’s top priority. You have repeated that today, so I do not need to ask you the question about whether you support the pushing back of children, men and women who arrive in boats, because you clearly do not.

You talked about Australia, which I was going to bring up. I am sure I read recently that Australia also criminalised those who rescued people who were seeking asylum and arriving by boat, but made the exception that if the vessel was not seaworthy they would not be criminalised. I think that is what you referred to when you talked about the traffickers putting holes in the boats so that they became dangerous. That sort of thing assists traffickers now that they know what to do. First,

[Anne McLaughlin]

would you caution the UK against making that caveat and perhaps urge it to drop the pushback thing altogether? Would you caution against the criminalisation of people who rescue people at sea?

Tony Smith: We could spend a lot of time talking about the Australian model, which we do not have, but you are talking about a much, much longer stretch of water there. The Australian Border Force—I was down there helping it to set up—took the view that its maritime response was significantly different from ours. The vessels it deployed are significantly different from the UK Border Force cutters. The cutter fleet that we have in the Home Office are legacy Customs cutters. They are not designed to bring people ashore or to process people. They were even processing people on some of the Australian vessels to determine whether they were admissible to the asylum system before they brought them ashore. In the end, they invested in vessels of their own. They could then move the individuals from the unseaworthy vessels that they were encountering into their own vessels that they had purchased and escort them back to Indonesian waters. There was a significant investment by the Australian Government in doing that, which did work, but trying to compare that with what we see on the English channel is a different question.

Yes, of course we should preserve life, and I think the French should do that, too. There is an obligation on both sides of the channel for us to work together to find a way to stop human smugglers. The current model simply demands, “You pay €5,000 to me and I will put you in an unseaworthy vessel, and I really don’t care whether you drown or not because I have got my money.” I am afraid that is the way the mind of the human smuggler operates. They are getting the upper hand, we are seeing numbers going up and we will see more drownings. It is difficult to lay this at the door of the UK Border Force, who have a lot of other pressures on their resources at the moment.

We need to find a way, if we can, of getting common sense to prevail on a joint strategy with France. We already have a significant number of bilateral treaties with the French that have survived Brexit and that would enable us to fix this problem, but I do not think we have been able to find anybody in a senior position in the French Government who would go that far.

Q78 Anne McLaughlin: My second and final question is on international relations. The UK lags behind other European countries in terms of numbers. The British Red Cross said that we were the 17th highest in terms of the number of people that we took in. The Bill basically says to the French, among others, “Not in my backyard—your problem”. What does that do to international relations and what could the UK Government do? I accept what you say about other Governments having to come into these bilateral agreements, but what could the UK Government do to reach out to other countries in Europe to try to work on this together?

Tony Smith: I would dispute those figures. We are probably about fifth in Europe in terms of asylum intake, but you are right that other countries have more asylum applications every year than we have. That is not necessarily because those numbers have been invited by the EU to go and live there. It is because they are unable to control their own external frontier. Because of

the Schengen arrangement, asylum seekers can choose where they would like to go. Many drift north to Scandinavia, Germany, Holland or France, where they would rather be than in some of the southern or eastern European states.

The EU has its own difficulties in determining the allocation of asylum seekers across the Schengen zone because they do not agree among themselves about how they should be distributed. The bigger question is not necessarily a European one but a global one. No doubt you will hear evidence from experts on this. The need for international resettlement is a huge problem. We have seen it in Afghanistan; we have climate change; and we have migratory pressures coming up from South America to the US border. People are going to continue to move in great numbers over the next 20 or 30 years. The question is how the western world is going to cope with that.

I am quite a big fan of the refugee resettlement programme. UNHCR has been going out to western countries for some years saying, “We have 80 million people displaced, and 40 million in different countries in our camps already. These are refugees who have already fled war zones whom we would like you to take.” Even though we were taking only about 5,000 or so, we are still third highest in the world, so we are not really getting to grips with the global challenge of resettling refugees through the resettlement route. It has picked up a bit since Afghanistan, and we are doing more. There is certainly evidence that we are trying to do more, and I think we could become global leaders on refugee resettlement programmes, but it is going to be difficult politically for anyone to sell that when we are seeing uncontrolled migration across the English channel.

It is finding the balance. How can we help to contribute to genuine resettlement for genuine refugees, but at the same time take back control of our borders, which is clearly the Government’s stated intent?

Q79 Tom Pursglove: Is it reasonable to think, based on your many years of experience, that if we do nothing—if we just stand back from the challenge of illegal crossings—the number of crossings will increase and crossing will become even less safe? Do you think that the principle of deterrence is important in all this?

Tony Smith: I do think that. It is absolutely important in all this. While I would not defend the turn back strategy, I can understand why the Government are looking at those kinds of measures to stop the boats. It must be extremely frustrating not to be able to do anything about the ever-increasing numbers, particularly when a succession of Home Secretaries have come in saying that that was what they would do. A number of my successors—civil servants—have given evidence to the Home Affairs Committee, saying that they were going to make the route unviable. I am afraid it is not within their gift to make the route unviable within the current frameworks. One would hope that the new legislation would change things. It certainly changes the dynamic. We can now say, “We know that you arrived by this route. We know that you are not immediately fleeing persecution.”

I am not a big fan of the criminal justice system for migrants. It has not really worked. I am a fan of it for smugglers and facilitators, but putting migrants in prison is not necessarily going to be the answer and will lead to more challenges. The question is how we disrupt the

smugglers and break that business model. The only way is to start seeing people going back to France. Then people will see that there is no point putting their life at risk in a small dinghy. There will be no point in more and more of them spreading up to Calais because that business model is broken. The big difficulty for the Government is how to persuade the French that we ought to have a policy like that and negotiate an agreement, and how to counterbalance that with the other problem of significant numbers of people around the world seeking resettlement. How are we going to contribute to responding to that?

Q80 Tom Pursglove: Notwithstanding what you have already said about collaboration between us and the French to tackle this, what assessment have you made of the work that is already in train to try to improve the situation? Do you think it has improved the situation somewhat?

Tony Smith: Without a doubt. I support the investment of resources in France, and that is something that we have been doing for a long time now. The French could legitimately say, “Actually, why would you not help us to contribute to border security?” Let us not pretend that the French operational arms, including the police aux frontières, the douanes, the various coastal agencies—I used to talk to them regularly when I was in the job—are not supportive of preventing criminality at an operational level.

We can be quite pleased with the work that we have done to at least try to disrupt the smuggling gangs. Quite a few have been prosecuted on the French side, albeit, sadly, more the middle men rather than the big fish who are behind human smuggling gangs. You will hear from other witnesses more qualified than me to tell you about that level 3 criminality, but it is really difficult. How do we disrupt the business model? It is about deterring people from coming. We owe a duty under the 1951 refugee convention to give refugee status to those who are genuinely in need, but I am not sure that it is the same duty for those who are arriving in this way, from a fellow original signatory to that convention, than those coming through evacuation processes such as we have seen recently in Kabul.

Q81 Tom Pursglove: Mindful of the breadth of your professional experience in previous roles, how crucial do you think the streamlining of the processing of applications is to tackling some of these challenges?

Tony Smith: We lived through this before. We had something called the new asylum model when I was in the UK Border Agency, before taking the top job in the Border Force. Previously, I was regional director for UKBA London and the south-east, which meant that my teams were the ones who were processing asylum arrivals coming into the country. I was actually responsible for removals.

Yes, we did have targets in the Home Office in those days for enforcement. It was part of my mission to ensure that those who did not qualify to stay, either because they had arrived under safe third country rules, or they were coming on a manifestly unfounded route, were sent back. The trouble is we have seen a good deal of judicial overreach by the European Court of Justice, and significant interpretations and European directives, which kind of hindered those arrangements on returns.

We have now got to a point where we are not really returning anybody who is coming across on these boats, and people notice that. If we do not start returning people, the numbers will continue to rise. We need to find a way of segmenting those applicants who we know have a genuine claim for asylum in this country from those who have probably been in Europe for a long time and may have had applications for asylum rejected—they have had a notice de quitter from Schengen, sometimes two or three notices—who are not genuine asylum seekers but who would just like to come to live here. That is not effective border control.

It is going to be really, really difficult, but I applaud the authors of the Bill, because it finally gets to grips with the difficulty of the way we have interpreted the 1951 refugee convention and put up what I think is the right interpretation of it in not conflating two different arguments, which is human smuggling across the English channel by criminal gangs, putting lives at risk, and the genuine need to resettle refugees from different parts of the world.

Chair: We only have a few minutes, so I call Jonathan Gullis.

Q82 Jonathan Gullis: Thank you, Ms McDonagh. We are really grateful to hear that more needs to be happening with the French, and recent events seem to be improving matters. Mr Smith, why do you believe that people are choosing to come to the United Kingdom rather than claiming asylum in France, Greece and other parts of the European Union?

Tony Smith: That is a great question. It is called the pull factor. A number of books have been written by people probably better qualified than I am that talk about what that pull factor is. I think there are number of reasons why people would quite like to live in the UK rather than in mainland Europe. Personally, I think the main one is communities. We have a significantly diverse range of communities across the UK where people can feel comfortable in terms of getting the support they need. We are generous—I would not say very generous—in our treatment of asylum seekers. We have hosted conferences in places like Hungary and Croatia—countries where, if you were to ask asylum seekers, they would probably say that you do not get a very good deal from the Government who are supposed to be protecting your welfare, whereas you will get that in the UK; you will also get good legal representation and a very full hearing. These are all things that we should be very proud of, but I think inevitably it does mean that more people want to come to the UK.

The other element is language. English is the second language for many, many people from different parts of the world, which means that this is still—you might not believe it—a very desirable place to come and live. People are prepared to pay a good deal of money to get here on the basis that not only would they have a better life if they came here, but their broader family would have a better life. It is a genuine aspiration for a lot of people.

That is the nature of immigration and border controls. There will be a dividing line. You are going to create legislation and a set of rules. You are going to get people in front of you who do not want any border at all and who think we should let everybody in. You are going to get other people here who want to build a

fortress around Britain. That has always been the case, but in 40 years at the Home Office—I was one of those civil servants who stayed in the Department; I did not bounce around Whitehall like they do nowadays—I never once worked for any Government who said that they were prepared to approach a fully open border and free movement across our borders. In fact, the vast majority have sought to tighten up our immigration and borders system, or at least to make it firmer but fairer.

We cannot lose sight of the firmness bit. There will be a need to arrest people, and there will be a need to deport people. That does not sit well, does it? It does not feel nice, but if you are going to have an effective border control, you have to be able to enforce your laws. At the moment, there is a feeling that with this particular cohort, we are not really doing any enforcement at all.

Q83 Jonathan Gullis: I can certainly assure you that in Stoke-on-Trent North, Kidsgrove and Talke we are keen to see more enforcement, because people are getting sick to death of the boats that are constantly landing on the English shore. My final question is this. We know that out of the illegal economic migrants crossing the English channel, 70% of those who are landing are males aged between 18 and 35. Why is this particular group so attracted? Why are they travelling alone in this instance?

The Chair: Mr Smith, if you could hold your answer to that question, I am going to try to bring in Paul Howell as well.

Q84 Paul Howell: Thank you, Chair. This question is similar to one that I asked a previous witness. Mr Smith, what aspects of the Bill would you particularly welcome, and what do you feel needs to be more robust, or indeed less? Could you cover that at the same time?

Tony Smith: I particularly welcome the distinction between those people who are entering the country from safe third countries, with the new interpretation of article 31 where we can actually test whether they face an immediate fear of persecution in the circumstances under which we find them, and those who are genuinely fleeing persecution coming through refugee resettlement routes. I think that is the part that I favour the most.

The other thing we will have to consider is whether we will have to establish proper arrangements for the reception of people coming via this route. The facilities in Tug Haven—I do not know whether the Committee has been there—are appalling. We have a marquee there and we have Border Force officers changing nappies and ordering pizzas because we simply do not have the infrastructure to cope with these numbers. Other countries at least provide sensible, safe accommodation. You are going to hear lots of evidence about the circumstances at Napier Barracks. There is a real problem in the Home Office right now about being able to manage the proper reception of these people, whether or not we allow them to stay.

Q85 Stuart C. McDonald: Thank you, Mr Smith. As ever, it is very interesting to hear from you. I have two quick questions. I am slightly confused because on one hand, you speak about the necessity of deterrence, but the way you want to go about deterring people from making the crossings is through removals to France.

That is exactly what we have lost because of Brexit and the end of the Dublin regulations at the start of the year, and this Bill does not bring us any closer to removals to France. On the other hand, you think that criminalisation is not the right way to go, but that is what is in the Bill; it criminalises people who make those crossings. Although I understand your logic, I do not understand how that takes you to supporting this Bill.

The Chair: Sorry, Stuart, but I am going to break in here so that we can get an answer. Mr Smith, you have 30 seconds.

Tony Smith: The Dublin convention never worked. It certainly did not work with France even when we were in the EU. In fact, we were in the EU when some of the boats started coming. They still would not take anybody back because it relied on a flawed policy framework. I stand by what I say about the criminal justice system, because we have tried this many times before and people do not fear prison. What they fear is not achieving their ultimate ambition, which is to get settlement in the UK. That is where we need to focus our minds.

The Chair: I am afraid that brings us to the end of the allotted time for the Committee to ask questions. I thank our witness on behalf of the Committee and we move on to our next witness.

Examination of Witness

Rob Jones gave evidence.

4.30 pm

The Chair: We will now hear oral evidence from Rob Jones, director of threat leadership at the National Crime Agency. What a great job title. We have until 5.15 pm. Will the witness please introduce himself for the record?

Rob Jones: My name is Robert Jones. I am one of the operational directors at the National Crime Agency. I tackle all the serious organised crime threats and my particular interest in this is that I tackle organised immigration crime as one of the national priority threats that the agency deals with.

Q86 Bambos Charalambous: I would like ask you some questions about the work of the National Crime Agency in breaking the crime gangs that are smuggling people into the country. Clearly, a lot of those gangs operate internationally. What is your experience around working internationally to try and break those gangs?

Rob Jones: Obviously, there is a lot of interest in the small boats business model. I will talk about the whole route first and then focus on small boats. For some time, we have operated with our international liaison network and international partners to try to deal upstream from the UK with smuggling gangs that are targeting the UK for profit. That is a big part of what we do. That has involved targeting people who use high-risk methods of clandestine entry, where they pack people into concealments in lorries and move them overland from as far afield as Turkey, typically via an overland route.

For a variety of reasons, beginning in 2018 over the Christmas period, we have seen a movement towards the use of the small boats business model to execute clandestine entry into the UK. That has been driven by

a number of factors. Obviously, during the period of lockdown when we had a long period of benign weather, almost perfect conditions and the traffic through the Schengen area and traditional border crossings was suppressed, we saw those same smuggling gangs recognising an opportunity and beginning to exploit the small boats model.

Our stated intent is to disrupt as much of this as far away from the UK as possible. That means operating in a range of different environments, which we do. We also work very closely with French, Belgian and German authorities to try to disrupt smuggling gangs that are much closer to home. The emphasis, particularly post exit and particularly because of small boats, on that relationship in the near continent is ever more important. The centre of gravity for small boats is not in the UK; it is in France, Germany, Belgium and further afield.

Q87 Bambos Charalambous: Could you elaborate a bit? How do you actually break the gangs? How do you stop them operating?

Rob Jones: When we can identify crime groups in the UK, we target them and we use a range of investigative tactics to bring them to justice and take them through the criminal justice system. A big part of what we do is intelligence collection, where we share intelligence about known smuggling gangs with overseas partners. We do that very effectively with the French through a joint unit that we set up; we also work with German and Belgian partners in a similar bilateral way. Crucially, if we have lead intelligence that a boat is being supplied to a smuggling gang, an engine is being supplied to a smuggling gang, or smugglers are moving migrants to lay-up points where they are then going to be involved in small boats crossing, we pass on that intelligence as quickly as possible for action to prevent that crossing from happening. The stated intent for all of this is to prevent loss of life. Our biggest concern is a mass casualty event in the English channel, so everything we do is driven by that article 2 responsibility.

Q88 Bambos Charalambous: Some of the people who have been trafficked do not come in across the channel in small boats. What steps are you taking to tackle people who are trafficked, either for sexual exploitation or modern-day slavery?

Rob Jones: We work closely with national policing and we are one of the first responders for dealing with modern slavery, so we proactively investigate controllers and traffickers who keep people in debt bondage in the UK, and we bring them to justice through the criminal justice system. Through our liaison network, we also try to disrupt that threat further afield. That work has led to some powerful results through Project Aidant, where we worked with policing partners to look at things thematically. You talked about sexual exploitation, and with that, forced labour and all the areas that form the modern slavery threat, and we operate against them to try to disrupt them. That involves encountering victims, setting up reception centres and dealing with the victims of trafficking as well as with the perpetrators who keep them in debt bondage.

Q89 Bambos Charalambous: You have just mentioned victims, and obviously the NCA and most police enforcement operate on intelligence. Some of that intelligence comes from people who have been victims

or who are perpetrators. One thing that concerns me about the Bill is the disclosure of information straight away. I wondered what your experience was of that.

Rob Jones: Some victims disclose relatively quickly. We recognise that others will not and that there are some people who, because of their level of vulnerability, need safeguarding and will need time before they can talk about their experiences. What I would say about the legislation and proposed changes is that we now have a national system for recognising the victim engrained. I do not see any of this changing that. First responders have become very good at recognising a victim, and we have significantly improved the picture nationally with national policing. In the victim-suspect paradigm, what are you dealing with? The intent is always to recognise the victim as quickly as possible. I recognise that it takes some time and is not straightforward.

Q90 Bambos Charalambous: Would that be because of threats back home, or something else?

Rob Jones: A range of different scenarios. Many of these people are in debt bondage and there is leverage on their families, or they have already committed to working in an area that might be illegal, such as cannabis cultivation. It is a complex area, but we have a lot of experience of dealing with it and we deal with victims very carefully to ensure that we get the safeguarding right and whatever intelligence dividend we can.

You mentioned small boats in the context of modern slavery, so to deal with that really quickly, it does not really lend itself to the typical exploitation model. That said, we have seen some evidence of some nationalities coming through on small boats where there are some signs of that business model being used. I say it does not lend itself to that business model because these people are coming pretty much straight into the asylum system and to first responders. Traffickers do not like that; they do not want it. They would prefer those individuals to arrive in a truly clandestine fashion, so that they are not met by first responders and debriefed.

Q91 Bambos Charalambous: So people who are trafficked do not come across the channel in boats, but by some other route—on the back of a lorry, for instance?

Rob Jones: Potentially. I am not saying that it does not happen at all, but that business model does not lend itself to trafficking as much as it does to organised immigration crime.

Q92 Bambos Charalambous: Going back to the question of victims who might not disclose the information early on, one thing the Bill does is treat them differently if they do not disclose that information for some reason—you have given some examples. Again, that might make them less likely to co-operate with the authorities. Do you think that that will be a problem in getting more information to detect the real people behind organised crime?

Rob Jones: This is a really difficult area. In the practical application of those provisions, it is really important that the level of oversight we have now is maintained. The other side of that coin is that you need to ensure that the defences available to people involved as victims in modern slavery are not abused. We see both sides of this. Our tactical advisers and expert witnesses disprove false claims from people claiming to

then concentrate on the worst groups, which pose the highest risk and will potentially be moving people with a criminal history, whom we are most concerned about.

Q100 Stuart C. McDonald: Thank you for your evidence, Mr Jones. I do not think that anyone would beg to differ on the need to deter and disrupt the smuggling gangs and to support safe legal routes; the issue is much more about where we draw the line in trying to deter people who use those gangs, whether it is appropriate to criminalise them, and so on. May I ask you about another challenge on which I think you have given evidence to the Foreign Affairs Committee: the use of social media companies and encryption to try to organise these sailings, and so on? Back then, I think you indicated that there was a lack of co-operation from a lot of the social media companies, which was posing a lot of challenges. Has there been any progress in that regard?

Rob Jones: There has been some progress. We have been working constantly with the social media companies to get a better response, and to ensure that their platforms are not being used to promote dangerous crossings, and there is progress. We are working in a voluntary environment. We are, in some ways, short of regulation, particularly in relation to this element, but we continue to work with those companies on a day-to-day basis to take material down. That response has improved. It is still not as good as I would like it to be, and we are working to an action plan where we have a common agreement of standards in terms of takedown and our aspiration to prevent adverse outcomes in the English channel, which is ultimately what this is all about. It has got better. It is not as good as it could be. Your point on encryption and some of the closed spaces that we cannot see that are being used to promote these crossings remains an issue for us.

Q101 Stuart C. McDonald: Are both these things that you continue to pursue solutions to through agreement, or has the time come for there to be regulation, perhaps through the Online Safety Bill or something else?

Rob Jones: Obviously, we welcome the Online Safety Bill and its passage. It is a complex area, and only some of this can be dealt with in the Bill. We still require platforms and technology companies to be responsible, because however far regulation takes us, we still need the platforms to understand who is using them and to ensure that they are not being abused by organised crime figures, who are making money out of desperate people.

Q102 Stuart C. McDonald: Finally, are there any other barriers that you would highlight, in terms of how we go about trying to tackle the smuggling gangs? Is it resources? Is it co-operation? Over the last four, five or six years that I have been in this place, a number of Ministers have said, “We’re doing a, b and c, and this will solve the issue, or at least drive it down,” yet here we are, and records continue to be set.

Rob Jones: This is a shared endeavour. I say that the centre of gravity for the organised crime element of this is in France—that is really important—so building on the partnership with France in order to deal with the issue is really important, and we continue to do that. We are also working with partners across Europe and developing those relationships. The factors that surround this, many of which are touched on in the Bill—safe

and legal routes, the deterrents effect and so forth—are all important, because there is no silver bullet here. Because of the pull factors, the incentive for organised crime remains, and that is what we are trying to deal with by tackling the problem upstream. It is a range of all those factors, which need concurrent effort, and you cannot underestimate the need for the French to prevent departures in order to allow space for other measures, such as the organised crime element being tackled, to actually kick in and make a difference.

Q103 Stuart C. McDonald: Sure. I would challenge very little of that. The issue we have on this side of the fence is that a lot of the evidence is that some of the deterrents in the Bill, which are aimed not at smugglers but at people using them, will not work and are, in themselves, objectionable from the point of view that if you put someone in prison, they could be an Afghan interpreter who is fleeing because of what happened yesterday. We draw the line there.

Rob Jones: I understand the point you make, but in relation to illegal entry, you do need an offence and you do need to be able to deal with it. None of that should create the issues that you describe, if the legislation is applied judicially and proportionately, and with properly trained people. I say that because we still have a position at the moment whereby, in relation to illegal entry, there is a difference between entry and arrival. In a maritime scenario, that is really unhelpful. It is not helpful for the safety of the migrants who could be on a smuggler’s boat, and it is not helpful for law enforcement.

One of the things that the proposal suggests is tidying up the position around arrival and entry for illegal entry, which is quite important. I recognise what you describe, but the NCA would never be involved in uniformed border control, where the mass criminalisation that you describe as a risk is something that would be the net impact of what we do. We are intelligence-led and deal with organised crime. Looking at it from that angle, I can see the benefit of those measures.

Stuart C. McDonald: Sure, but our concern is that that is exactly what the Bill does, and obviously we will hear evidence from UNHCR and various others who have that concern as well. Thank you for your evidence.

Q104 Paul Blomfield: Clearly, we are all concerned and admire your commitment to stopping these dangerous crossings and the risks at which they put people. Our issue as a Committee is to determine whether the measures in the Bill are the best way to achieve that objective.

You talked about the factors that had led smuggling gangs and others to move from lorry and train crossings to boat crossings. We heard from witnesses earlier that we blocked off the opportunity to board lorries through the fortifications around terminals, which was one of the factors that pushed people to the more desperate route of boats. The Home Office’s own impact assessment of the Bill says that there is a serious risk that these measures could encourage people to attempt even riskier routes. Do you think that is a factor we should bear in mind?

Rob Jones: Displacement, in terms of protecting security measures, is always a potential second-order consequence. Organised crime is flexible, and we will respond to that. In terms of where we are at now with the general maritime

threat, this does need dealing with. We are trying to second guess where people will go next. We had a terrible mass casualty event in Purfleet, where people were locked into a fridge box. We have had fatalities in the channel already, so we know just how ruthless some of the individuals involved are. We are trying to second guess where they may go next. We already know that bigger vessels have been used, and some of these tactics we have spoken about are important in dealing with bigger vessels.

I think we have pretty much got to the point now where a lot of the tactics and trade craft used in the eastern Mediterranean and other areas of the world are now being deployed in high-risk clandestine entry to the UK. That risk has already manifested itself. We need to live with it, confront it and deal with it, because it is happening now. With the numbers that we see and some of the vessels that are in the channel, we do need to do something different. It has grown to the point where you now have 50 or 60 people in vessels that are not licensed and that are taped together with plywood floors. That is, unfortunately, going to end one way unless it is disrupted, so it does need a second look.

On the displacement point, yes, it is a risk, but where is it? We are now living with a range of tactical options from smugglers that pretty much covers all of the modes. The riskiest one right now is, unfortunately, the English channel and small boats.

Q105 Paul Blomfield: I fully accept the risk of the channel. Your general conclusion is that really we need to move to tackle these problems upstream, I think you said, and the more that we can do to invest in safe and legal routes to avoid desperation, the better, from your point of view.

Rob Jones: That would certainly help our efforts, which are always going to be against the subset of the threat of a small number of individuals that are at the higher end of organised crime. That is going to be much more effective if some of those push and pull factors are not there anymore and if the incentivisation of the business model is taken away.

Q106 Anne McLaughlin: You have said a number of times that having safe and legal routes is one of the things that will reduce what some people refer to as the pull factor. I am going to dispute the idea of the pull factor, because of a report a few years back by the Refugee Council that demonstrated that the vast majority of people making their way to Britain had no clue what lay ahead. They just had some idea that Britain would welcome them. I wonder if one of the things we could do is show them clips of Conservative MPs talking about what kind of welcome they will get. Maybe that would reduce the pull factor. Anyway, that was not my question. Are you surprised that there is nothing in this legislation about safe and legal routes? There is nothing about increasing or improving them.

Rob Jones: Thankfully, that is a policy issue, which I do not need to deal with. It is for others to deal with. I can give you my perspective on the impact of tackling organised crime. In relation to the other factors, it is helpful. No doubt, those considerations are under way, but that question is best asked to others.

Q107 Anne McLaughlin: You talked about the concurrent effort needed. I suppose you do not want to agree, but I am going to ask you anyway. Do you agree that it would be better if, at the same time as tackling the small boat crossings, we were doing something as substantive as this legislation on beefing up the safe and legal routes throughout world?

Rob Jones: Concurrent pressure against all of the factors that create a scenario in which thousands of people cross the channel in unsafe boats is absolutely something we need to.

The Chair: If there are no further questions from Members, I thank the witness for his evidence.

Question put, That further consideration be now adjourned.
—(Craig Whittaker.)

5 pm

Adjourned till Thursday 23 September at half-past Eleven o'clock.

Written evidence reported to the House

NBB01 Christiaan Piercy	NBB06 We Belong
NBB02 British Dental Association	NBB07 Jesuit Refugee Service (JRS) UK
NBB03 British Overseas Territories Citizenship Campaign	NBB08 Refugee Council
NBB04 Shelley Omarie Duberry	NBB09 Refugee Law Initiative of the School of Advanced Study, University of London
NBB05 British Association of Social Workers	NBB10 Say It Loud Club
	NBB11 Law Society of Scotland

